

Texas Board of Criminal Justice
186th Meeting



Minutes

June 24, 2016
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

Embassy Suites Hotel – Longhorn Room, Austin Room
5901 North IH 35
Austin, Texas 78723

June 24, 2016
10:45 – 11:45 AM

ORDER OF BUSINESS

Call to Order

Convene Texas Board of Criminal Justice (TBCJ)

I. Regular Session – Longhorn Room

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. 184th TBCJ Meeting Minutes
4. Excused Absences

C. Report from the Executive Director, Texas Department of Criminal Justice (TDCJ)

D. Report from the Chairman, TBCJ

E. Internal Audit Status Report for Fiscal Years 2015 – 2016

F. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

G. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rule Title 37 Texas Administrative Code Section 163.39, Residential Services

H. Discussion, Consideration, and Possible Action Regarding Adoption of Amendments to Board Rule Title 37 Texas Administrative Code Section 155.41, Procedures for Resolving Vendor Protests

I. Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

1. Request for Sale of 8.00 Acres at the former Marlin Veterans Affairs Hospital in Falls County, Marlin, Texas
2. Request for Renewal of Lease of 13.407 Acres at the Wynne Unit in Walker County, Huntsville, Texas
3. Request for Electrical Easement at the Ramsey Unit in Brazoria County, Rosharon, Texas

J. Discussion, Consideration, and Possible Action Regarding Facilities Division Construction Project to Replace Roofs at the Polunsky Unit in Polk County, Livingston, Texas

K. Discussion, Consideration, and Possible Action Regarding the Selection of the Executive Director of the Texas Department of Criminal Justice

II. Executive Session – Austin Room

- A. The TBCJ may convene into Executive Session.
- B. Discussion of Personnel Matters Relating to the Executive Director, the Inspector General, the Director of the Internal Audit Division, the Director of the State Counsel for Offenders, and the Prison Rape Elimination Act Ombudsman (Closed in accordance with Section 551.074, Government Code).
- C. Discussion Regarding Deployment of Security Personnel, Devices, or Security Audits (Closed in accordance with Section 551.076, Government Code).
- D. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda; or Consultation on a Matter Where the TBCJ Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).

Adjourn

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda.

**MINUTES OF THE
TEXAS BOARD OF CRIMINAL JUSTICE
Meeting No. 186**

The Texas Board of Criminal Justice (TBCJ) convened in regular session on Friday, June 24, 2016, at 11:00 a.m. at the Embassy Suites Hotel, Austin, Texas. The TBCJ adjourned at 1:24 p.m.

TBCJ MEMBERS PRESENT:

Hon. Dale Wainwright, Chairman
Terrell McCombs, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Thomas Fordyce
Judge Larry Gist
Larry Miles
Eric Gambrell
Derrelynn Perryman
Thomas P. Wingate

TDCJ STAFF PRESENT:

Brad Livingston, Executive Director	
Bryan Collier, Deputy Executive Director	
Jeff Baldwin	Dr. Lannette Linthicum
Mike Bell	Bobby Lumpkin
Rudolph Brothers	Angie McCown
Christopher Cirrito	Jerry McGinty
Jason Clark	Oscar Mendoza
Lorie Davis	Paul Morales
Matt Demny	Madeline Ortiz
Marie Freeland	Ron Steffa
Sharon Howell	Bruce Toney
Frank Inmon	Carey Welebob
Stuart Jenkins	April Zamora
Sherry Koenig	

OTHERS PRESENT:

Anna Barnett, Senator Birdwell's office; Terra Willett, Senator Kacal's office; Saul Mendoza, Senator White's office; David Gutierrez, Chairman of the Board of Pardons and Paroles; The Honorable Judge Dale Spurgin, Jones County; Tom Mechler, former TBCJ member; Oliver Bell, former chairman of the TBCJ, and his wife Stacy Bell.

Convene Texas Board of Criminal Justice

Chairman Dale Wainwright convened the 186th meeting of the TBCJ on Friday, June 24, 2016, at 11:00 a.m. He noted that a quorum was present and declared the meeting open in accordance with Chapter 551, Texas Government Code, the *Open Meetings Act*. He stated that during the regular session, the TBCJ would conduct business from the agenda posted in the *Texas Register*.

Chairman Wainwright recognized Anna Barnett, Senator Birdwell's office; Terra Willett, Senator Kacal's office; Saul Mendoza, Senator White's office; David Gutierrez, Chairman of the Board of Pardons and Paroles; The Honorable Judge Dale Spurgin, Jones County; Tom Mechler, former TBCJ member; Oliver Bell, former chairman of the TBCJ, and his wife Stacy Bell.

Chairman Wainwright stated that the TBCJ is committed to providing the opportunity for public presentations on topics posted on the meeting agenda in accordance with Board Rule 151.4, "Public Presentations and Comments to the Texas Board of Criminal Justice." Since no speaker registration cards were received, no public comments were heard.

Recognitions

Chairman Wainwright recognized former TBCJ Chairman Oliver Bell. First, he presented a certificate from Governor Gregg Abbott in recognition and appreciation for Mr. Bell's years of meritorious service to the state of Texas. Next, Chairman Wainwright shared his own thoughts outlining Mr. Bell's accomplishments in his career with the U.S. Army, creation of his own company, and service as a TBCJ member and chairman. He highlighted many contributions Mr. Bell made during his tenure with the TBCJ, especially his outstanding leadership skills and commitment to the people. Texas Department of Criminal Justice (TDCJ) Executive Director Brad Livingston, former TBCJ member Tom Mechler, and other TBCJ members spoke as well, thanking him and indicated what an honor it was to serve with him noting his leadership skills. Mr. Bell acknowledged everyone and spoke about many fond memories over the past 11 years.

Chairman Wainwright recognized Executive Director Brad Livingston for his 25 years of service with the state of Texas. He highlighted Mr. Livingston's career and commended him for his valuable contributions. He noted several awards Mr. Livingston received from various associations and thanked him for his service. Mr. Livingston expressed his gratitude to Chairman Wainwright.

Mr. Livingston recognized Patty Garcia, Human Resources Division Director, for 20 years of service with the state of Texas. He acknowledged her strong career and willingness to grow as a leader. He highlighted the various roles Ms. Garcia had during her tenure with TDCJ that contributed to the effective and efficient operation of the Human Resources Division.

Mr. Livingston recognized William Stephens, former Correctional Institutions Division (CID) director, for 35 years of service to the state of Texas. He highlighted Mr. Stephens' career and commended him for his valuable contributions. He expressed his appreciation for Mr. Stephens'

exemplary leadership and explained the major impact it had on others throughout TDCJ. Mr. Stephens' thanked Mr. Livingston, the TBCJ, and other division directors for their support.

Mr. Livingston presented Lorie Davis as the new CID director. He highlighted her career with TDCJ noting that she has served in every security position, in various tough positions, throughout the state of Texas. He acknowledged her strong leadership skills and hard work. Ms. Davis was thankful to Mr. Livingston for the kind words.

Ms. Davis presented Leonard Echessa as the new deputy director for Support Operations. She recognized him for 24 years of service with TDCJ. She presented Billy Hirsch as the new deputy director for Prison and Jail Operations. She recognized him for 29 years of service with the TDCJ. She highlighted their careers and educational background, and acknowledged the exemplary leadership team in CID.

Chairman Wainwright recognized the TDCJ employees who have dedicated 25, 30, 35, and 40 plus years of service with the state of Texas during the months of April and May 2016. He stated these individuals represent the strong commitment of the TDCJ staff systemwide. On behalf of the TBCJ and Mr. Livingston, he expressed deepest gratitude for the continued service of these employees.

(Attachment A – Employee Names)

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. 184th TBCJ Meeting Minutes**
- 4. Excused Absences**

Chairman Wainwright asked if there were any amendments, abstentions, or objections to the proposed consent items. Mr. Gambrell abstained from taking action due to his firm representing the San Antonio Food Bank listed on the personal property donations list. Mr. Miles abstained from taking action due to his church, Trinity Fellowship Church, donating items for consideration. Chairman Wainwright stated he would facilitate the handling of this matter but also abstained from taking action. Chairman Wainwright acknowledged the abstentions and, seeing no further questions, the consent items were approved.

**Report from the Executive Director,
Texas Department of Criminal Justice (TDCJ)**

Update on Recent Flooding and Unit Evacuations

Mr. Livingston reported when areas of southeast Texas received a significant amount of rain within a short period of time in May 2016, the State Operations Center was activated in Austin and the TDCJ participated in that process. The TDCJ opened a command center and began making plans for the evacuation of offenders from certain units. The TDCJ evacuated approximately 2,600 offenders from the Stringfellow and Terrell units and another 1,700 offenders from the Ramsey Unit. Over the next several weeks, offenders from those three units were housed temporarily in 19 other host units across the state and were then repopulated to the Stringfellow, Terrell, and Ramsey units. Mr. Livingston stated that while it is easy and quick to outline evacuations and repopulation of three units, in reality it is a monumental task involving every division and function within the TDCJ. He stated staff was committed, focused, operationally driven, and worked as a team. He acknowledged the leadership displayed in the command center. He mentioned the importance of the safety of the offenders and staff. He stated he was very impressed with the operational and leadership strengths the team displayed. He then stated there was minimal damage even though there was significant flooding. The main housing areas within those units escaped flood damage; however, there was flood damage in the out buildings and agriculture facilities. The Terrell Unit trusty camp sustained minor flood damage. It will be some time before TDCJ can reoccupy that trusty camp as well as the Region III training department.

Report from the Chairman, TBCJ

Pretrial, Probation, and Parole Supervision Week

Chairman Wainwright stated during the week of July 17-23, 2016, the TDCJ will join other state and local agencies across the nation in recognizing and honoring pretrial, probation, parole, and community supervision officers for their dedication and public service. He stated in Texas, more than 4,600 probation and parole staff work tirelessly to supervise nearly 330,000 offenders each and every day. This may take the form of interviewing, home contacts, drug testing, making sure offenders attend counseling sessions, or helping find suitable housing and employment. Officers must be on the cutting edge of supervision and technology because of changes in a fast paced society. Pre-trial, probation, and parole staff commit to a task which is very challenging. Each officer is responsible for decision points which impact the lives of offenders under supervision and affect the safety of the public. On behalf of the TBCJ, Chairman Wainwright voiced appreciation of the men and women who supervise offenders in the community and recognized their efforts.

Internal Audit Status Report for Fiscal Years 2015 – 2016

Christopher Cirrito, Director for Internal Audit, provided the following updates to the handout of the June 16, 2016, Internal Audit Division Status Report for the Fiscal Years (FY) 2015 - 2016:

- **1518 – Parole Division, Sex Offender Caseload:** Audit has moved to report writing.
- **1603 – Manufacturing and Logistics Division, Marketing:** Audit has moved to draft report.
- **1604 – Facilities Division, Employee Licensing and Certification:** Audit has moved to draft report.
- **1605 – Parole Division, Interstate Compact:** Audit has moved to report writing.
- **1608 – Windham School District, Information Security – Access Controls:** Audit has moved to report writing.

Chairman Wainwright asked if there were any questions. There were none.

(Attachment B – Internal Audit Division Status Report, Fiscal Years 2015-2016)

Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million

Chairman Wainwright abstained from participating in the discussion, consideration, and action regarding purchases and contracts over \$1 million due to his firm representing AT&T which is a party to one of the contracts coming up for consideration, and handed the gavel to Vice Chairman Terrell McCombs.

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over \$1 million. He presented the list of items, grouped according to similar services or circumstances. Item 1 is a renewal of a current contract FY 2015-2016 which also adds treatment for 64 additional substance abuse felony punishment beds at the Henley Unit. Item 2 is a renewal item for FY 2016-2017 bulk fuel contracts that is utilized at 29 different units where fueling depots allow for use of bulk fuel. Additional costs are avoided by buying it in bulk. A 10% variance is being requested. Items 3-9 are renewals for FY 2016-2017 for TDCJ halfway house contracts. Items 10-18 are renewals for FY 2016-2017 for substance abuse felony punishment (SAFP) and In Prison Therapeutic Community (IPTC) contracts. Item 19 is a renewal for FY 2016-2017 for the State Jail Substance Abuse Treatment program. Item 20 is a renewal for FY 2017-2018 for electronic monitoring of offenders that are on parole, to include GPS and radio frequency monitoring. Item 21 is for FY 2017 for cellular equipment and service. Items 22 and 23 are for FY 2017 for commissary items. He then reviewed the FY 2017 food purchases requiring board approval for 53 different food items. He noted that beginning with item 37 the purchases are less than \$1 million, and noted the TBCJ reviews any purchase of food items over half a million. Historically, the TBCJ has approved a 10% variance on food items.

Judge Larry Gist asked if the SAFF/ITC vendors for renewals are evaluated in regards to the outcome they achieved. Mr. McGinty answered yes it is part of the renewal review as well as any new contract evaluations.

Mr. McCombs noted the abstentions of Mr. Gambrell, Mr. Vasquez, and Chairman Wainwright. Seeing no further questions, he called for a motion and a second.

Thomas Wingate moved that the Texas Board of Criminal Justice approve the purchases and contracts over \$1 million, as presented.

Tom Fordyce seconded the motion which prevailed when called to a vote.

(Attachment C – Purchases and Contracts Over \$1 Million Handout)

Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules Title 37 Texas Administrative Code

1. Section 163.39, Residential Services

Sharon Howell, TDCJ General Counsel, presented the proposed amendments to Board Rule 163.39, Residential Services. She explained the proposed amendments were necessary to add clarity, conform the rule to current practice, and update formatting. Ms. Howell requested the TBCJ approve the amended rule for publication in the *Texas Register*.

Chairman Wainwright asked if there were questions. Seeing none, he called for a motion and a second.

Judge Larry Gist moved that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Board Rule Title 37 Texas Administrative Code section 163.39, regarding Residential Services, to receive public comment, as presented.

Derrelynn Perryman seconded the motion which prevailed unanimously when called to a vote.

2. Section 155.41, Procedures for Resolving Vendor Protests

Ms. Howell presented the adoption of amendments to Board Rule 155.41, Procedures for Resolving Vendor Protest. She stated the TBCJ approved the proposed amendments presented at the April 15, 2016, TBCJ meeting, and the rule was posted in the *Texas Register* for comments, which none were received.

Chairman Wainwright asked if there were questions. Seeing none, he called for a motion and a second.

Eric Gambrell moved that the Texas Board of Criminal Justice adopt the amendments to Board Rule Title 37 Texas Administrative Code section 155.41, regarding Procedures for Resolving Vendor Protests, as published in the Texas Register, and that the chairman sign the order to this effect.

Judge Larry Gist seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding Proposed Land Transactions

1. Request for Sale of 8.00 Acres at the former Marlin Veterans Affairs Hospital in Falls County, Marlin, Texas

Matt Demny, Director of the Agribusiness, Land and Minerals Department, presented the resolution request to authorize the General Land Office to sell, on behalf of the TBCJ in accordance with § 496.0021 of the Government Code, an 8.00 acre tract of land formerly known as the Marlin Veterans Affairs Hospital in Falls County, Marlin, Texas. Mr. Demny recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Seeing none, he called for a motion and a second.

Derrelynn Perryman moved that the Texas Board of Criminal Justice approve the request for the sale of 8.00 acres at the former Marlin Veterans Affairs Hospital in Falls County, Marlin, Texas, as presented.

Leo Vasquez seconded the motion which prevailed unanimously when called to a vote.

2. Request for Renewal of Lease of 13.407 Acres at the Wynne Unit in Walker County, Huntsville, Texas

Mr. Demny presented the request for renewal of the lease of 10.303 acres of land to Pilot and 3.104 acres of land to TTT Hope, Inc., totaling 13.407 acres located at the Wynne Unit in Walker County, Huntsville, Texas. Mr. Demny recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Seeing no further questions, he called for a motion and a second.

Tom Fordyce moved that the Texas Board of Criminal Justice approve the request for renewal of lease of 13.407 acres at the Wynne Unit in Walker County, Huntsville, Texas, as presented.

Terrell McCombs seconded the motion which prevailed unanimously when called to a vote.

3. Request for Electrical Easement at the Ramsey Unit in Brazoria County, Rosharon, Texas

Mr. Demny presented the request from Sage Energy Company for an electrical easement at the Ramsey Unit located in Brazoria County, Rosharon, Texas. The easement requested is for a power source encompassing an area equivalent to 1.176 acres of land consisting of two segments together being 2,561.2 feet long and 20 feet wide with a total payment of \$2,653 for a ten-year term.

Mr. Demny recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Seeing no further questions, he called for a motion and a second.

Larry Miles moved that the Texas Board of Criminal Justice approve the request from Sage Energy Company for an electrical easement at the Ramsey Unit located in Brazoria County, Rosharon, Texas, as presented.

Tom Fordyce seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding the Request to Replace Roofs at the Polunsky Unit, Polk County, Livingston, Texas

Frank Inmon, Director of the Facilities Division, presented a new project for consideration requesting to replace roofs at the Polunsky Unit located in Polk County, Livingston, Texas. The project includes replacement of over 500,000 square feet of roofing material, removing the existing roof system, and insulation and flashing. If approved, the work will be performed by Texas Liqua Tech Services, Inc. out of Houston, a HUB vendor, with a projected cost of \$9,068,466.00. Mr. Inmon recommended the TBCJ approve the request.

Chairman Wainwright asked if there were any questions or comments. Seeing no further questions, he called for a motion and a second.

Leo Vasquez moved that the Texas Board of Criminal Justice approve a not to exceed budget of \$9,068,466.00 to replace roofs at the Polunsky Unit located in Polk County, Livingston, Texas, as presented.

Derrelynn Perryman seconded the motion which prevailed unanimously when called to a vote.

Discussion, Consideration, and Possible Action Regarding the Selection of the Executive Director of the Texas Department of Criminal Justice

Chairman Wainwright stated Mr. Livingston announced his retirement at the end of August 2016. He stated Texas Government Code § 492.013 makes it the responsibility of the TBCJ to appoint the executive director to serve as the administrator of the TDCJ. He named an executive director search committee composed of himself, Vice Chairman Terrell McCombs, Secretary Leo Vasquez, and TBCJ member Eric Gambrell. He mentioned the position was posted for 15 days, the committee selected qualified candidates, and interviewed the candidates on May 24, 2016. Further discussion among the committee members occurred on June 1, 2016, and on June 7, 2016, the committee presented its findings to the full TBCJ for the discussion of this personnel matter during executive session emphasizing the selection of the executive director would not occur until the June 24, 2016, TBCJ meeting in open session. He asked for a motion.

Terrell McCombs moved that the Texas Board of Criminal Justice approve the selection of Bryan Collier as the Executive Director of the Texas Department of Criminal Justice to be effective August 1, 2016.

Leo Vasquez seconded the motion which prevailed unanimously when called to a vote.

Chairman Wainwright asked Bryan Collier to approach the podium and was pleased to announce that Mr. Collier would serve as the next executive director of TDCJ. He expressed the TBCJ was confident in Mr. Collier's ability to serve and lead. Mr. Collier thanked them and stated he was honored. Chairman Wainwright acknowledged Jerry McGinty, Chief Financial Officer, as another highly qualified candidate and thanked him for applying. He thanked everyone for coming, and announced the next meeting of the TBCJ will be Thursday, August 18th, 2016, at the Omni Austin Hotel at Southpark.

Adjournment

There being no further business, Chairman Wainwright adjourned the 186th meeting of the Texas Board of Criminal Justice at 1:24 p.m.

Chairman*

Secretary*

*Signature on file

Note: Attachments to the minutes can be obtained by contacting the Office of Record, Executive Services.