

Texas Board of Criminal Justice
158th Meeting



Minutes

December 9, 2011
Austin, Texas

TEXAS BOARD OF CRIMINAL JUSTICE

Crowne Plaza Hotel – Salons A-D
6121 North IH-35
Austin, Texas 78752

December 9, 2011
2:30 PM

ORDER OF BUSINESS

Call to Order

Reconvene Texas Board of Criminal Justice (TBCJ)

I. Regular Session

A. Recognitions

B. Consideration of Approval of Consent Items

1. Hazardous Duty Pay Authorization Requests
2. Personal Property Donations
3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
4. 157th TBCJ Meeting Minutes
5. Excused Absences

C. Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP) –
Overview of the Board of Pardons and Paroles

D. Report from the Chairman, Judicial Advisory Council (JAC)

1. Discussion of West Texas Community Supervision and Corrections Department (CSCD) Chiefs Meeting
2. Summary of Presentation to the JAC on the Bexar County CSCD and “A 10-Step Guide to Transforming Probation Departments to Reduce Recidivism”
3. Summary of the Assessment Validation Project for Probation

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

1. Sunset Update
2. Central Unit Update
3. Staffing Update
4. Health Care Update

- F. Report from the Chairman, TBCJ
 - 1. Update on Offender Health Care
 - 2. Chairman's Fitness Challenge Encouragement
 - 3. Board Member Site Visitation
 - 4. Holiday and End of the Year Message
- G. Internal Audit Status Report for Fiscal Years 2011-2012
- H. Discussion, Consideration, and Possible Action Regarding Purchases and Contracts Over \$1 Million
- I. Discussion, Consideration, and Possible Action Regarding Contracts for Offender Health Care
- J. Discussion, Consideration, and Possible Action Regarding the Resolution Authorizing a Request for Financing with the Texas Public Finance Authority, Authorizing a Financing Agreement and Other Matters
- K. Discussion, Consideration, and Possible Action Regarding Annual Review of Board Policy 14.01, "Investment Policy," and Resolution Adopting the Investment Policy
- L. Discussion, Consideration, and Possible Action Regarding Adoption of Repeal Title 37 Texas Administrative Code Section 159.17, Employment Referral Services for Offenders/Memorandum of Understanding
- M. Discussion, Consideration, and Possible Action Regarding Proposed Amendments to Board Rules, Title 37 Texas Administrative Code
 - 1. 159.13, Educational Services to Released Offenders/Memorandum of Understanding
 - 2. 195.81, Temporary Housing Assistance
 - 3. Chapter 152 Subchapter A, Missions and Admissions
 - 4. Chapter 152 Subchapter B, Correctional Capacity
- N. Discussion, Consideration, and Possible Action Regarding Proposed Repeal of Board Rules, Title 37 Texas Administrative Code
 - 1. 152.29, Standards for Functional Areas
 - 2. 152.31-152.37, Addition to Unit Capacities
- O. Discussion, Consideration, and Possible Action Regarding a Proposed Land Transaction for a Pipeline Easement at the Eastham and Ferguson Units in Houston and Madison Counties

Adjourn TBCJ

The TBCJ may discuss and/or take action on any of the items posted on this meeting agenda. The TBCJ may also convene into Executive Session on any of these matters when attorney-client privilege is warranted.

MINUTES OF THE TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 158

The Texas Board of Criminal Justice (TBCJ or board) convened in regular session on Friday, December 9, 2011, at 12:46 p.m. at the Crowne Plaza Hotel in Austin, Texas, and adjourned immediately into executive session. The board reconvened in regular session at 2:50 p.m. and finally adjourned at 4:05 p.m.

TBCJ MEMBERS PRESENT:

Oliver Bell, Chairman
Tom Mechler, Vice Chairman
Leopoldo (Leo) Vasquez, III, Secretary
Eric Gambrell
Judge Larry Gist
Janice Harris Lord
Terrell McCombs
J. David Nelson
Carmen Villanueva-Hiles

TEXAS DEPARTMENT OF CRIMINAL JUSTICE STAFF PRESENT:

Brad Livingston, Executive Director
Bryan Collier, Deputy Executive Director
Jeff Baldwin
Mike Bell
Melinda Bozarth
Rudolph Brothers
Matt Demny
Scott Hornung
Frank Inmon
Sherry Koenig
Lannette Linthicum, M.D.
Angie McCown
Jerry McGinty
Susan McHenry
Ron Steffa
Rick Thaler
Bruce Toney
Carey Welebob
Dee Wilson

OTHERS PRESENT:

The Honorable Mary Anne Bramblett, Chairman, Judicial Advisory Council; Rissie Owens, Presiding Officer, Texas Board of Pardons and Paroles; Candace Nolte, Office of the Lieutenant Governor; John Newton, Legislative Budget Board; the Honorable Dale Spurgin, Jones County Judge; Debbie Roberts, Superintendent of the Windham School District; and members of the media.

Convene the Texas Board of Criminal Justice

Chairman Oliver Bell convened the 158th meeting of the Texas Board of Criminal Justice (TBCJ) on Friday, December 9, 2011, at 12:46 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated that the board would adjourn into executive session, which is closed to the public in accordance with Texas Government Code Sections 551.074 and 551.076, the *Open Meetings Act*.

Reconvene Texas Board of Criminal Justice

Chairman Bell reconvened the regular session of the 158th meeting of the TBCJ on Friday December 9, 2011, at 2:50 p.m., noted that a quorum was present, and declared the meeting open in accordance with Texas Government Code Chapter 551, the *Open Meetings Act*. He stated the board would be conducting business from the agenda posted in the Texas Register.

Chairman Bell requested that cell phones or pagers be placed on the silent or vibrate mode. He recognized John Newton, Legislative Budget Board (LBB) and the Honorable Dale Spurgin, Jones County Judge, thanking them for their interest in the board.

Chairman Bell 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." He reviewed the requirements for speaker registration. As no registration cards were received prior to the required deadline, the TBCJ would not hear public presentations on posted agenda topics during the meeting.

Recognitions

Chairman Bell recognized Raymond Pyeatt, former director of the Internal Audit Division who retired in August 2011 after serving the state of Texas for 27 years. He highlighted Mr. Pyeatt's career, which is marked with honor and distinction. Brad Livingston, Executive Director of the Texas Department of Criminal Justice (TDCJ), thanked Mr. Pyeatt for his dedication, invaluable insight, and his ability to work with senior staff for the effective and efficient use of state resources. He appreciated Mr. Pyeatt's leadership of the Internal Audit Division as a team that assists senior staff in achieving the best possible management of TDCJ's functions. Chairman Bell asked Tom Mechler, former chairman of the Audit and Review Committee, if he would like to say a few words. Mr. Mechler stated it was a delight to work with Mr. Pyeatt whose honesty and straight forwardness was refreshing. He noted that Mr. Pyeatt's leadership of the Internal Audit Division allowed TDCJ to excel in all areas. Mr. Mechler stated it had been his privilege to work with Mr. Pyeatt. Leo Vasquez, present chairman of the Audit and Review Committee, concurred with Mr. Mechler's comments, adding that Mr. Pyeatt's insights always instilled confidence. Chairman Bell presented Mr. Pyeatt with a Resolution of Commendation, while photos were taken. Mr. Pyeatt thanked the board and Mr. Livingston for their kind and generous words. He noted that under the leadership of Scott Hornung, Division Director, and his deputy Linda Brackett, the Internal Audit Division is in excellent hands.

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35, and 40 or more years of service with the state of Texas during the months of October and November 2011. The TBCJ, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the TDCJ's staff. To each of these employees, the TBCJ offered congratulations and thanks for their unwavering loyalty and dedication to the citizens of Texas. As a symbol of appreciation, these individuals will receive a TBCJ certificate along with a personal letter of gratitude.

(Attachment A – Employee Names)

Chairman Bell recognized Candace Nolte, Office of the Lieutenant Governor, and thanked her for attending the meeting.

Chairman Bell stated that the agenda format for the meeting had been adjusted to reflect only those standing reports that will actually be presented at the meeting. This practice will be continued for future meetings.

Consideration of Approval of Consent Items

- 1. Hazardous Duty Pay Authorization Requests**
- 2. Personal Property Donations**
- 3. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property**
- 4. 157th TBCJ Meeting Minutes**
- 5. Excused Absences**

Chairman Bell asked if there were any amendments or objections to the proposed consent items, which included an excused absence for Mr. Vasquez for the August 2011 meeting due to personal business. Eric Gambrell stated that as his firm represents the San Antonio Food Bank and Wal-Mart, and as there are personal donations from both entities, he would abstain from taking part in the approval of the consent items. Chairman Bell asked if there were any other objections or amendments. Seeing none, he stated the consent items were approved, noting that the record should reflect Mr. Gambrell abstention.

Report from the Presiding Officer, Texas Board of Pardons and Paroles (BPP) – Overview of the Board of Pardons and Paroles

Rissie Owens, Presiding Officer of the BPP, presented an overview of the BPP's Annual Report for Fiscal Year (FY) 2011. Ms. Owens reviewed the mission of the BPP, its organizational structure, and the function of the parole panels. The types of release, mandatory supervision, and discretionary mandatory supervision were also discussed. The parole review process, voting factors, and voting options were highlighted. Ms. Owens stated that the BPP considered 77,406 cases for parole in FY 2011 with 24,092 releases granted. A ten-year review of parole considerations was provided. The BPP reviewed 20,878 discretionary mandatory supervision

considerations in FY 2011 with 10,149 releases granted. A ten-year review of discretionary mandatory supervision considerations was included. Ms. Owens also discussed the actions the parole panel may take during the revocation process. Approximately 23,000 cases were reviewed during the revocation process. The executive clemency activity was also reviewed. Ms. Owens paused for questions.

Mr. Mechler asked Ms. Owens how the recent law regarding incarcerated illegal aliens has impacted the BPP. Ms. Owens responded that the BPP, the TDCJ, and the United States Immigration and Customs Enforcement (ICE) are continuing to conduct meetings on the recent changes in the law regarding illegal aliens. She noted that she and Bryan Collier, Deputy Executive Director, had met with Representative Jerry Madden concerning this area. ICE is working to ensure that the BPP has final orders of deportation before it considers the offender for release. Once the procedure is in place, the BPP can move forward with imposing that special condition. Mr. Mechler asked if the law applied to only nonviolent illegal alien offenders. Ms. Owens responded that the law mandated conditions be placed on all foreign-born illegal offenders releasing from the TDCJ prison system. If the offender is not being released and returned to his country of origin, he is revoked and returned to prison.

Referring to slide 12, Terrell McCombs asked how the BPP factored in letters of support when considering the parole file of an offender. Ms. Owens responded that it depended on the content of the letter, explaining that the letters carried more weight if the writer includes how they can help the offender achieve success in the community, such as offering the offender employment. Mr. McCombs asked if it was common to receive letters from victims asking for parole or release of offenders and if so, do those letters have extra influence. Ms. Owens responded that the BPP does receive letters of support from the victims, and the amount of influence depends on what the victim has to say. Each offender case is considered on a case by case basis; the board must consider the elements of the offense along with many other factors.

Chairman Bell asked if there were any more questions for Ms. Owens. Seeing none, Chairman Bell thanked Ms. Owens and the BPP for their diligence and hard work.

(Attachment B – BPP Presentation, December 9, 2011)

Report from the Chairman, Judicial Advisory Council (JAC)

1. Discussion of West Texas Community Supervision and Corrections Department (CSCD) Chiefs Meeting

The Honorable Mary Anne Bramblett, JAC Chairman, reported that probation chiefs along with Texas Representatives Jerry Madden and Susan King, and TBCJ Vice Chairman Tom Mechler, attended the West Texas CSCD Chiefs meeting. She noted that this was an excellent opportunity for attendees to exchange ideas and information regarding probation to benefit Texas.

2. Summary of Presentation to the JAC on the Bexar County CSCD and “A 10-Step Guide to Transforming Probation Departments to Reduce Recidivism”

Judge Bramblett stated that at the October JAC meeting, Dr. Tony Fabelo from the Justice Center updated the JAC on the model called “A 10-Step Guide to Transforming Probation Department to Reduce Recidivism,” which is being used at the Bexar County CSCD. She explained Dr. Fabelo’s research, its methodology, and assessment strategies, noting that the judiciary and the district attorney’s office were thoroughly briefed on the tools available.

3. Summary of the Assessment Validation Project for Probation

Judge Bramblett advised that with the Justice Center’s assistance, there has been some improvement in the recidivism numbers. However, it was too early for the hard data to be made available for a conclusive projection. She noted that other states, such as New York and Pennsylvania, have contacted the Justice Center about using this guide for their probation departments.

Judge Bramblett advised that a skills conference to be held in Austin is in the planning stages. It will also be available as a webinar to help facilitate participation by those unable to attend due to financial considerations. Judge Bramblett mentioned that the JAC is also considering holding regional sentencing conferences to help with the budget constraints of many counties throughout the state.

Chairman Bell asked if there were any questions. There were none. He thanked Judge Bramblett and the JAC for their support and wished them all happy holidays.

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

1. Sunset Update

Mr. Livingston reviewed the Sunset Advisory Commission’s mission and composition. The Sunset review of TDCJ began in the summer of 2011. Thus far, commission staff has been provided a wide range of documents in addition to meeting with senior staff, front line staff and other officials. The Sunset team will also be seeking the board’s insight and input. In April 2012, the Sunset team will issue staff recommendations to the Sunset Advisory Commission. The Sunset Advisory Commission will adopt a version of the recommendations that will later be included in proposed legislation during the next legislative session. Mr. Livingston encouraged the board’s participation in the Sunset review process.

2. Central Unit Update

Mr. Livingston stated that the Central Unit was closed August 31, 2011, as required by legislative mandate. The ability to close the unit was due to the success of the TDCJ’s treatment programs and the fairly flat offender populations. The offenders assigned to the Central Unit

were transferred to a range of TDCJ facilities. The beds (bunks) from the Central Unit were also transferred to those units. Melinda Bozarth, TDCJ General Counsel, will be presenting an item later on the agenda that will establish the necessary procedures to adjust the capacity at a variety of other units. Regional support functions located at the Central Unit, such as freight transportation, will remain in operation pending their relocation. Mr. Livingston expressed his pride that TDCJ had the opportunity to respond confidently to the legislative decision to close the Central Unit.

3. Staffing Update

Mr. Livingston noted that during FY 2007, TDCJ had a correctional officer (CO) vacancy of over 4,000. Currently, the CO vacancy level is slightly over 2,000, which is a manageable level. The Human Resources, Business and Finance, and Correctional Institutions divisions have been working together to expedite CO recruitment, and employment offers, in addition to recruitment bonuses on units where CO vacancies are critical. Mr. Livingston noted that the senior staff is committed to working through these challenges to keep the CO vacancies at a manageable level.

4. Health Care Update

Mr. Livingston advised the board that health care contracts are on the agenda for consideration later in the meeting. Since Dr. Linthicum presented an update on the contracts to the Health Care Committee earlier in the day, he stated he would not spend much time going over the contracts. TDCJ has reached contract agreements with both health care partners. The contract with the University of Texas Medical Branch (UTMB) will cover FY 2012 while the Texas Tech University Health Sciences Center (TTUHSC) will cover the biennium. With respect to the UTMB contract, TDCJ will begin to finalize contracts with a number of other hospitals and providers that will allow the TDCJ to diversify the treatment delivery at a number of other locations in the biennium. Mr. Livingston expressed his confidence that this was another opportunity to reduce expenditures while continuing to deliver appropriate health care to the offender population.

Report from the Chairman, TBCJ

1. Update on Offender Health Care

Chairman Bell reported that at the Health Care Committee meeting earlier in the day, Dr. Linthicum updated the board as to the progress of health care discussion with the two university partners and state leadership. He stated it was his pleasure to report that finalized agreements have been reached with both university partners. With TTUHSC, the offender health care agreement with TDCJ will be through the biennium of FY 2012-2013. The agreement with UTMB will be for the remainder of FY 2012. Consistent with the provisions in the UTMB contract, TDCJ has requested the LBB's approval to use FY 2013 funds for health care in the current fiscal year. If approved by the LBB, UTMB and TDCJ staff will reconcile expenses quarterly in determining the allocation of these funds. As previously mentioned by Mr. Livingston and Dr. Linthicum, TDCJ staff have begun the process to develop separate contracts

for hospital and clinical care with other state medical schools and established hospitals to maximize the use of these entities and in an effort to reduce expenditures.

Chairman Bell praised Mr. Livingston and his staff in finalizing these agreements that will be on the agenda for approval later in the meeting. He stated the board looks forward to receiving updates at future board meetings on the progress in ensuring appropriate offender health care for FY 2012 and beyond.

2. Chairman's Fitness Challenge Encouragement

Chairman Bell stated that the first quarter of the 2012 Chairman's Fitness Challenge "Training for the Gold" ends on December 11, 2011. He remarked that he looked forward to announcing the top category winners. Chairman Bell expressed his appreciation to the participating staff. The second quarter challenge, "Winter Olympic Games," will soon kick-off. This quarter will focus on inside physical activity and team sports. He encouraged the board and staff to support and participate in this fitness endeavor.

3. Board Member Site Visitation

Chairman Bell reviewed the board member site visitation initiative, which began in 2008. He related that these visits are valuable tools in helping members understand front line operations surrounding the supervision of offenders. They also provide an avenue for suggestions to be expressed back to leadership, and show support and appreciation to the staff. Mr. McCombs made the most recent visits of the initiative, to the CSCDs in Pecos and Val Verde counties.

Chairman Bell encouraged members to take the time to make announced or unannounced site visits to any unit, parole office, or local CSCD and visit with the staff. He emphasized that it was important that the board listen to what staff have to say and that the members let them know the board appreciates their hard work.

4. Holiday and End of the Year Message

Chairman Bell noted that this past year was a challenge for state government, both fiscally and operationally. Through decisive, innovative steps and careful fiscal planning, the TDCJ was able to maintain a sound, operational level that will sustain its mission within reduced appropriation levels. The TDCJ leadership team and TDCJ staff are dedicated public servants who are committed to making a difference. Chairman Bell expressed his pride in their work and efforts. Each employee, from the front line staff to the TDCJ's leadership team, works as one to keep TDCJ on the forefront.

Chairman Bell remarked that with the holiday season near, he wished to express the board's respect and appreciation to all TDCJ employees, thanking each of them for their service. He also recognized the members of the board for their service and hard work. Chairman Bell extended the board's best wishes for the Holiday Season and for the New Year ahead.

Internal Audit Status Report for Fiscal Years 2011-2012

Mr. Hornung provided the following revisions to the handout of the Internal Audit Status Report for the FY 2011 and 2012:

FY 2011 Internal Audit Status Report:

- **1107 – Information Technology Division, Telecommunications Network:** Management responses to the draft report are due the week of December 13, 2011.
- **1109 – Facilities Division, Maintenance:** The proposed final report will be released on December 12, 2011.
- **1115 – Human Resources Division, Correctional Officer Application Processing:** The final report was released on December 5, 2011.
- **1117 – Business and Finance Division, Agribusiness, Land and Minerals; Correctional Institutions Division, Food Services:** The proposed final report is being prepared for release.

FY 2012 Internal Audit Status Report:

- **1219 – Parole Division, Warrants Section:** The audit has moved into fieldwork.

(Attachment C – Internal Audit Status Reports for Fiscal Years 2011 and 2012)

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

Chairman Bell stated there were no items to present.

Discussion, Consideration, and Possible Action Regarding Contracts for Offender Health Care

Jerry McGinty, Chief Financial Officer, referred to the handout with the health care contracts. Item 1 is the health care contract with UTMB for the remaining nine months of FY 2012. Item 2 is the health care contract with TTUHSC for the remaining 21 months of the biennium. The dollar amounts are representative of those appropriated to TDCJ for those purposes. Item 1 includes \$45 million, of the FY 2013 Health Care Appropriations, which is subject to the LBB's approval. Mr. McGinty said he would be pleased to answer any questions.

Mr. Mechler praised Mr. McGinty, his staff, and Dr. Linthicum for their excellent efforts, noting it was some of the finest work that he has seen in the six years he has been on the board. Chairman Bell asked if there were any other comments. Seeing none, he called for a motion and a second.

Mr. Mechler moved that the Texas Board of Criminal Justice approve the health care contracts, as presented.

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

(Attachment D – Handout for Health Care Contracts)

Discussion, Consideration, and Possible Action
Regarding the Resolution Authorizing a Request for Financing
with the Texas Public Finance Authority, Authorizing
a Financing Agreement and Other Matters

Mr. McGinty explained the request for financing through the Texas Public Finance Authority, totaling \$50,000,000 for the repair and rehabilitation of TDCJ facilities, as appropriated by the 82nd Legislature.

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

Mr. Vasquez made a motion that the Texas Board of Criminal Justice approve the resolution ratifying a request for financing with the Texas Public Finance Authority, as presented.

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

Discussion, Consideration, and Possible Action
Regarding Annual Review of Board Policy (BP) 14.01, “Investment Policy,”
and Resolution Adopting the Investment Policy

Mr. McGinty reviewed the revisions to BP-14.01, “Investment Policy,” which primarily related to the reporting of investments; however, these revisions did not change the TDCJ investments reporting and processes. The TBCJ receives the Investment Report in the Informational Section of the board agenda.

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

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve the revisions to Board Policy 14.01, "Investment Policy" and approve the resolution adopting the investment policy, as presented and that the chairman and secretary sign the resolution adopting the policy.

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

Discussion, Consideration, and Possible Action
Regarding Adoption of Repeal of Title 37 Texas Administrative Code
Section 159.17, Employment Referral Services for
Offenders/Memorandum of Understanding

Melinda Bozarth, TDCJ General Counsel, advised this rule was posted in the October 28, 2011, issue of the Texas Register. The 30-day comment period has passed with no comments being received. Ms. Bozarth requested that the TBCJ adopt the repeal of the rule.

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

Eric Gambrell made a motion that the Texas Board of Criminal Justice adopt the repeal of Title 37 Texas Administrative Code Section 159.17, Employment Referral Services for Offenders/Memorandum of Understanding, as published in the Texas Register, and that the Chairman sign the order to this effect.

Carmen Villanueva-Hiles seconded the motion, which prevailed unanimously when called to a vote.

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

1. 159.13, Educational Services to Released Offenders/Memorandum of Understanding

Ms. Bozarth noted that the proposed amendments to this rule are pursuant to Texas Government Code §2001.039, which require rule review every four years. The proposed amendments are necessary to delete an unnecessary legal reference and adopt a new memorandum of understanding. She requested that the TBCJ authorize staff to publish the rule in the Texas Register for public comment.

Chairman Bell asked if there were any questions or comments. Seeing none, he requested a motion and a second.

Ms. Villanueva-Hiles made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code Section 159.13, Educational Services to Released Offenders/Memorandum of Understanding, to receive public comment, as presented.

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

2. §195.81, Temporary Housing Assistance

Ms. Bozarth stated that the revisions to Section 195.91, Temporary Housing Assistance were pursuant to legislation passed by the 82nd Legislature in House Bill 1770. Subsection (b) Criteria for Temporary Housing Assistance was added. Subsections (c)(2)(F) and (G), containing language listing kitchens, cooking utensils, food, and hygiene items as factors to consider regarding halfway houses not under contract with the TDCJ, were deleted. Subsection (d) regarding payment for temporary housing assistance was deleted as it is mentioned in state law. Ms. Bozarth requested that the TBCJ authorize staff to publish the rule in the Texas Register for public comment.

Chairman Bell asked if there were any questions or comments. Seeing none, he requested a motion and a second.

Janice Harris Lord made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Texas Administrative Code Section 195.81, Temporary Housing Assistance, to receive public comment, as presented.

Mr. Mechler seconded the motion, which prevailed unanimously when called to a vote.

3. Chapter 152 Subchapter A, Missions and Admissions

Ms. Bozarth stated there were two revisions to note in Chapter 152 Subchapter A, Missions and Admissions. Under subsection (h)(5), language was added that offenders may be placed in a state jail serving a county other than their county of residence if alternative placement is necessary to provide medical or psychiatric care to the offender. An updated map was also included in the rule to reflect changes in CSCD configurations. Ms. Bozarth noted that Edwards County is in Region 6 and Crockett and Sutton counties are in Region 9. She requested that the TBCJ authorize staff to publish the rule in the Texas Register for public comment.

Chairman Bell asked if there were any questions or comments. Seeing none, he requested a motion and a second.

David Nelson made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code Chapter 152 Subchapter A, Missions and Admissions, to receive public comment, as presented.

Mr. Gambrell seconded the motion, which prevailed unanimously when called to a vote.

4. Chapter 152 Subchapter B, Correctional Capacity

Ms. Bozarth reviewed proposed amendments within Chapter 152, Subchapter B. In Section 152.21, Purpose, subsections (a)-(e) were deleted because they appear in law and were unnecessary. In Section 152.23, Definitions, the definition of de minimus increase in capacity was revised to reflect maximum rated unit capacity and to clarify the addition of 2% or fewer beds to the capacity of a unit on a one-time basis.

In Section 152.25, Maximum Rated Capacity of Individual Units, additions to capacity were categorized using three methods. (1) Increases previously approved by the TBCJ, such as the 34-bed increase to the Skyview Unit in 2006. (2) The de minimus rule was applied representing 2% or less of a capacity increase. (3) The House Bill 124 Capacity Process was applied, which requires TDCJ to conduct a functional analysis of 15 different areas of prison operations. Staff recommendations to increase capacity are proposed within this rule for approval. The LBB is required to prepare cost estimates of the proposed increases. If the TBCJ approves the increases, the governor and attorney general must approve the capacity increases. The TDCJ completed a functional analysis to add 378 beds at 21 units. During that analysis, it was determined 63 showers needed to be added at a cost of \$137,000. On December 11, 2011, the LBB indicated that the additional beds would not significantly impact the TDCJ's operational costs.

The law also requires that offenders receive notice of these proposed increases to capacity and have the opportunity to comment on the revisions. Ms. Bozarth and Mr. Thaler will review any offender comments received. Ms. Bozarth noted that on page 81, the Michael Unit, the number 3,221 should appear as a strike through format.

Chairman Bell asked if there were any questions. Mr. Mechler asked about the Marlin Unit capacity. Ms. Bozarth responded that the Marlin Unit was previously approved by the TBCJ when TDCJ assumed responsibility of the unit; she noted the repeal of Section 152.29, to be presented next, would eliminate any problems or redundancies.

Chairman Bell asked if there were any further questions. Seeing none, he asked for a motion and a second.

Judge Gist made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register, the proposed amendments to Title 37 Texas Administrative Code Chapter 152 Subchapter B, Correctional Capacity, to receive public comment, as presented.

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

Discussion, Consideration, and Possible Action
Regarding Proposed Repeal of Board Rules,
Title 37 Texas Administrative Code

1. 152.29, Standards for Functional Areas

Ms. Bozarth stated that this rule was proposed for repeal because it was a restatement of state law. She requested that the board authorize staff to publish the proposed repeal in the Texas Register.

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

Mr. Mechler moved that the Texas Board of Criminal Justice approve for publication in the Texas Register the proposed repeal of Title 37 Texas Administrative Code Section 152.29, Standards for Functional Areas, to receive public comment, as presented.

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

2. 152.31-152.37, Addition to Unit Capacities

Ms. Bozarth explained that as proposed amendments to Section 152.25 incorporated these approved additions to capacities, Sections 152.31-152.37 are now obsolete. She requested that the board authorize staff to publish the proposed repeal in the Texas Register.

Chairman Bell asked if there were any questions. Ms. Lord asked about reference to the Texas Youth Commission (TYC). Ms. Bozarth responded that the repeal of the rules would eliminate any need to reference TYC or the Juvenile Justice Department.

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

Mr. Vasquez made a motion that the Texas Board of Criminal Justice approve for publication in the Texas Register the proposed repeal of Title 37 Texas Administrative Code Sections 152.31-152.37, Addition to Unit Capacities, to receive public comment, as presented.

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

Discussion, Consideration, and Possible Action
Regarding a Proposed Land Transaction for a Pipeline Easement at the
Eastham and Ferguson Units in Houston and Madison Counties

Matt Demny, Director of Agribusiness, Land and Minerals Department, presented the request from Navidad Resources, LLC for an easement at the Eastham and Ferguson units consisting of 18.76 acres of land being 20 feet in width by approximately 40,849.70 feet in length to be used for the installation of a gas pipeline. The request includes a temporary workspace totaling 46.89 acres for use during pipeline construction and installation. Navidad Resources, LLC has agreed to pay \$506,942 for the easement with a ten-year term.

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

Mr. McCombs made a motion that the Texas Board of Criminal Justice approve the request for a pipeline easement at the Eastham and Ferguson units in Houston and Madison counties, as presented.

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

Chairman Bell thanked everyone for attending the meeting, and announced that the next meeting of the TBCJ will be February 9-10, 2012, at the Crowne Plaza Hotel, in Austin.

Adjournment

There being no further business, the 158th meeting of the Texas Board of Criminal Justice adjourned at 4:05 p.m.

*

Chairman

*

Secretary

**Signature on file*

Note: Attachments for the minutes are available upon request from the Office of Record, Executive Services.