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SUMMARY OF THE MINUTES FOR
TEXAS BOARD OF CRIMINAL JUSTICE

Meeting No. 139

Convene – Texas Board of Criminal Justice

Chairman Oliver Bell convened the 139th Meeting of the Texas Board of Criminal Justice (TBCJ or Board) on Friday, September 26, 2008, at 9:01 a.m. and adjourned the meeting into executive session. Chairman Bell reconvened the 139th Meeting of the Board on Friday, September 26, 2008, at 10:10 a.m., and declared the meeting open in accordance with Chapter 551, Texas Government Code, the Open Meetings Act. Chairman Bell noted that during the regular session, the Board would conduct business from the agenda posted in the Texas Register.

Recognitions

Chairman Bell recognized the TDCJ employees who have achieved 25, 30, 35 and 40 plus years of service with the State of Texas during the months of August and September 2008. The Board, along with Mr. Livingston, expressed their deepest gratitude for the continued service of these employees who represent the commitment of the Agency’s staff. To each of these employees, the Board 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 board certificate along with a personal letter of gratitude. Chairman Bell congratulated Greg Coleman and Eric Gambrell on their selection amongst the “Super Lawyers” as chosen by Law and Politics for 2008. He further noted that Mr. Coleman was among the top ten (10) within the State of Texas.

Discussion, Consideration and Possible Action Regarding Consent Items

Chairman Bell stated that the approval of the Consent Items would include changes to the 139th Meeting Minutes with the replacement of Attachments A and D as provided. Also included were excused absences for Pastor C. L. Jackson, who has been unable to attend more than two (2) consecutive regularly scheduled meetings of the full Board. Chairman Bell called for any additional amendments or objections to the proposed Consent Items. Seeing none, the Consent Items were approved as presented.

1. Hazardous Duty Pay Authorization Requests
2. Multiple Employment Authorizations
3. Personal Property Donations
4. Sale or Disposal of Surplus Agricultural Goods and Agricultural Personal Property
5. 139th TBCJ Meeting Minutes
6. Excused Absences

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

Ms. Rissie Owens, Presiding Officer of the BPP, had no report.

Report from the Chairman, Judicial Advisory Council (JAC)

Judge Larry Gist, Chairman of the JAC, had no report.

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

Brad Livingston, Executive Director of the TDCJ, reported on the Agency’s recovery from Hurricane Ike. He recognized the TDCJ staff, all of whom went beyond the call of duty prior to, during and after Hurricane Ike. The Command Center staff and the front line staff exceeded every expectation as the Agency weathered the storm. With respect to facility damage caused by Hurricane Ike, Mr. Livingston stated that TDCJ took on minor to moderate damage on some of its facilities, which was much less than the damage caused by Hurricane Rita. Staff have already begun the minor construction efforts necessary to put the facilities in good working order. Pre-landfall activities included evacuating over 5,400 offenders from six (6) units. Additionally, 1,100 parole offenders were evacuated. Until Hospital Galveston can reopen the prison side of the hospital, the
University of Texas Medical Branch (UTMB) is accomplishing responsibilities and tasks for medical services for acute and specialty clinics through a variety of other mechanisms. Some of these services are being provided through sub-contracts with other medical providers. Mr. Livingston reported that Texas City and the Estelle Unit have increased medical activities. Significant staff resources are being used to address the medical challenges that Hurricane Ike has presented. He advised the Board that it is unknown how long services will be suspended at Hospital Galveston, providing assurances that the Agency is prepared for the short-run or the middle-run scenarios.

Mr. Livingston stated that another significant challenge is dealing with parolees and halfway house resources. While halfway house facilities are not owned by the State, the largest halfway house (Houston area) suffered major damage. This particular halfway house is under contract with TDCJ for parolee beds, resulting in the displacement of several hundred halfway house offenders for an extended period. He noted that the use of trusty camps is one (1) option for beds for these offenders. Some parole offenders have been transported to the El Paso area halfway house vendor. Mr. Livingston expressed his pride in the manner in which TDCJ staff prepared and handled operations during Hurricane Ike. He praised front line staff and senior staff for their innovative thinking.

**Report from the Executive Director, Correctional Managed Health Care Committee (CMHCC)**

Chairman Bell stated that normally Allen Hightower, Executive Director of the CMHCC, presents a verbal report. However due to the shortened agenda, Mr. Hightower submitted a written report for the Board’s information.

**Report from the Chairman, Advisory Committee on Offenders with Medical or Mental Impairments (ACOOMMI)**

Ms. Judy Briscoe, Chairman of ACOOMMI, had no report.

**Report from the Chairman, TBCJ**

Chairman Bell praised staff for their efforts before and after the hurricane. He noted that the Command Center activity was well run and that the movement plan worked out very well. The Emergency Action Center (EAC) was recognized for its participation in this effort. Chairman Bell extended appreciation to Agency staff for their planning and hard work. He expressed the Board’s gratitude to the Agency’s partners in private facilities for their efforts. He also mentioned TDCJ’s assistance to the Texas Youth Commission (TYC) in moving the young people assigned to TYC facilities out of potential harm’s way.

Chairman Bell stated that when the town of Presidio became in danger of being flooded, the State Emergency Action Center requested assistance from TDCJ. In response, TDCJ provided 170 offenders to sandbag flooding areas, which helped contain the floodwaters. He expressed the Board’s appreciation for these efforts during times of emergency.

Chairman Bell provided an update on the Board’s visitation schedule to Agency facilities as well as private facilities. He noted that the community supervision and corrections departments (CSCDs) and parole facilities have been added to the visitation schedule. Bonita White, Director for the Community Justice Assistance Division, and Stuart Jenkins, Director of the Parole Division, were recognized for their efforts in assisting the Board to include these facilities. The Board’s visits to the CSCDs would be coordinated to ensure that the areas the Board would like to review would be available. Chairman Bell stated that the visits to the Parole Division facilities could be unannounced site visits.

**Discussion, Consideration and Possible Action Regarding the Selection of the Safe Prison Ombudsman/Liaison**

Chairman Bell stated that during the past legislative session, the legislature required a position be created for an ombudsman/liaison regarding safe prison issues, with the position reporting directly to the Board. Chairman Bell reviewed the process for the selection of this position. Upon vote, Ralph Bales was selected for the position.

**Internal Audit Status Report for Fiscal Year 2008**

Raymond Pyeatt, Director for Internal Audit, had no verbal report. A written report was provided in the agenda booklet.
Discussion, Consideration and Possible Action Regarding
Purchases and Contracts Over One (1) Million Dollars

Jerry McGinty, Chief Financial Officer, reviewed the purchases and contracts over one (1) million dollars. Items one (1) through six (6) are for increases to six (6) residential and outpatient substance abuse services that are usually referred to as transitional treatment centers (TTCs). Item seven (7) is an increase to the Fiscal Year (FY) 2009 contract for 1,899 temporary beds, due to a 2.8% increase in the per diem. Staff will continue to monitor the capacity needs of the Agency, utilizing the Legislative Budget Board’s update on offender population projections that will be available in January 2009. Items eight (8) through 16 are food items, which exceeded the one (1) million dollar threshold to the contract approved in May 2008. Staff will continue to monitor food contracts. Item 17 is an FY 2009 contract renewal for swine feed premixes for pork production. Items 18-22 represent five (5) of seven (7) correctional centers and the Lockhart Work program which have been operated by private vendors since their construction in the 1980s. The Private Facilities Contract/Monitoring and Oversight Division developed a request for proposal (RFP), in coordination with the Correctional Institutions Division (CID) and the Parole Division, as well as a number of the other operational divisions. Mr. McGinty then explained the RFP process. He announced the names of the facilities and the proposed vendors:

- Item 18. Sanders Estes Correctional Center - Management and Training Corporation
- Item 19. Diboll Correctional Center - Management and Training Corporation
- Item 20. Cleveland Correctional Center - GEO Group, Incorporated
- Item 21. B.M. Moore Correctional Center - Management and Training Corporation
- Item 22. Lockhart Correctional Center Work Program Facility - GEO Group, Incorporated

Mr. McGinty explained the terms of the contracts, which were for a two (2) year, seven (7) and one-half (1/2) month base period. These contracts will begin January 16, 2009. The contract also provides for two (2), renewal periods of two (2) years each. The proposed contracts provide an increase of approximately 2.5% of the current rate. Chairman Bell inquired if any of the proposed vendors were current vendors. Mr. McGinty responded that Items 18, 19 and 21 would have new vendors operating those facilities. Items 20 and 22 would not be changing the current vendor.

Chairman Bell asked who the former vendors were. Mr. McGinty responded that the former vendors were GEO Group for Item 18 and Corrections Corporation of America for Items 19 and Item 21.

Mr. Mechler asked how many units are privately operated and if these facilities were being renewed at the same time. Mr. McGinty responded that there are seven (7) correctional centers, five (5) privately operated state jails and the work program at the Lockhart facility. Five (5) of the correctional centers contracts were rebid; the other two (2) facilities’ contracts will be rebid in 2010. The privately operated state jail contracts will be rebid in 2011.

Janice Lord asked how many vendors operated substance abuse facilities and if the vendors are licensed. Mr. McGinty responded that the vendors were licensed per terms of the contract. He noted that staff work with the Department of Health Services, and the Private Facilities/Contract Monitoring and Oversight Division provides monitoring and oversight of the contracts. There are roughly 20 TTC contracts.

Terrell McCombs inquired if the increases to food contracts were also about 2%. Mr. McGinty responded that on average the increases to food contracts are 25-30%. Mr. McCombs asked if the increases are based on last year’s pricing. Mr. McGinty responded affirmatively.

Discussion, Consideration and Possible Action
Regarding the Proposed New Board Rule §151.77, Purchasing and Contracting with Historically Underutilized Businesses (37 TAC §151.77)

Melinda Bozarth, TDCJ General Counsel, stated that in accordance with state law, through this new rule, the Board will be adopting the rules promulgated by the Comptroller of Public Accounts for purchasing and contracting with historically underutilized business. Board Policy 14.67, “Purchasing and Contracting with Historically Underutilized Businesses,” which currently addresses this area will be repealed once this new rule is adopted. Ms. Bozarth requested that the Board move forward with authorizing the proposed rule’s publication in the Texas Register to allow for the public’s comments.
Mr. Coleman asked Ms. Bozarth if she was confident that the rule meets compliance with federal and state laws concerning race, gender and minority issues. Ms. Bozarth expressed her complete confidence that the rule met and most likely exceeded the requirements of federal and state law requirements.

**Discussion, Consideration and Possible Action Regarding Proposed Land Transactions**

1. **Request for Utility Easement at the Halbert Unit in Burnet County, Burnet, Texas**

   Mr. McGinty reviewed the transfer of 75 acres with a 70-foot access easement to Burnet County, pursuant to Senate Bill 1533, 80th Legislative Regular Session, and approved by the Board in September 2007. The county requested that the access easement be amended to include utilities and an additional 1.32-acre variable width utility easement on the Halbert Unit. The easements will allow service to the new county jail currently being constructed on the 75-acre tract.

   Mr. McCombs asked if the Agency was receiving fair market value compensation. Mr. McGinty responded that no compensation is required since the transfer and amendments were a legislative directive.

2. **Request for Pipeline Easement at the Ellis Unit in Walker County, Huntsville, Texas**

   Mr. McGinty stated that ONEOK Arbuckle Pipeline, L.L.C. requested an easement to construct, maintain and operate a 16-inch pipeline, which will travel 3,100 feet at the far south end of the Ellis Unit. It will be used to transport natural gas liquids to the Mount Belvieu area for further processing. ONEOK Arbuckle Pipeline, L.L.C. agrees to pay $81,224.82 for the easement with a ten (10) year term.

   Mr. Coleman asked if the easement was in addition to what is on the chart marked as “Existing Pipeline.” Mr. McGinty responded affirmatively.

3. **Request for Pipeline Easements at the Stiles Unit in Jefferson County, Beaumont, Texas**

   Mr. McGinty stated that HSC Pipeline Partnership, L.L.C. (HSC) and TE Products Pipeline Company, L.L.C. (TEPPCO), both entities of Enterprise Products L.P., request to construct, maintain and operate three (3) pipelines on the Stiles Unit in Jefferson County. The total rods for all three (3) pipelines equals 651.9 rods. HSC and TEPPCO agree to pay $260,476 for the easements with a ten (10) year term.

**Discussion, Consideration and Possible Action Regarding Proposed Facilities Division Construction Projects**

1. **Request for Additional Program Budget for Kitchen Renovations at the Ferguson Unit in Madison County, Midway, Texas**

   Ron Steffa, Deputy Chief Financial Officer, stated that the Board originally approved the kitchen renovations project at the Ferguson Unit in April 2006 with a project budget cost of over $4.3 million. Additional funds are requested to allow for the increase to the Architects/Engineer (A/E) design fee, not originally included in the program budget. Mr. Steffa requested that the Board approve an additional $279,300, which would increase the total project budget to $4,607,100 million. He noted that the project is 99% complete and scheduled for completion in October 2008.

   Mr. McCombs inquired why the design fee was not included in the original budget approval. Mr. Steffa responded that the original estimated construction budget was $1.8 million with an estimated design fee of $150,000; however, the actual construction bid came in considerably higher. The increase to the design fee, based on the new construction costs, was inadvertently omitted. Mr. McCombs asked if the vendor made the error when the project first was bid. Mr. Steffa responded that the design fees were contingent upon the construction cost, noting the original design fee was based on the estimated construction cost, which was much lower than the actual bid. Mr. Steffa stated that the design fee increase was not included in the total project cost when brought to the Board for approval in April 2006. He emphasized that under current A/E contracts, the design fee is not contingent upon the construction cost.

   Mr. Mechler asked Mr. Steffa if the Board was contractually obligated to approve the increase. Mr. Steffa responded affirmatively.
Chairman Bell asked if, in terms of the omission, if the bidder was at fault by not including the increase or if staff forgot to include the design fee increase in the final project approval. Mr. Steffa responded that when the Facilities staff compiled the project budget for approval, they failed to increase the design fee based on the new construction totals.

Ms. Lord asked Mr. Steffa to clarify the budget request total. Mr. Steffa responded that the total project amount is $4,607,100, of that total there is an increase of $279,300 for the design fees. Chairman Bell explained for clarification that the total original project budget was just above $4.3 million and the adjustment to the design fee is what the Board stands to approve. Mr. Steffa added that the total project budget was $4,607,100.

2. Request for Approval to Replace High Mast Lighting at the Garza West Unit
   in Bee County, Beeville, Texas

Mr. Steffa reviewed the job scope and budget to replace the existing lighting system with 16 high mast poles. The reduction of lights and poles will provide an energy savings as well as provide increased lighting levels across the unit. The proposed system meets all federal and state requirements, including “Dark Sky” standards. Additionally the old lighting system would be too costly to repair and maintain. Mr. Steffa requested that the Board approve the total program budget of $1,004,500. The contractor is the Levy Company, Inc., San Antonio, Texas.

Mr. Coleman asked if the present poles have one (1) light while the new poles will have six (6) or eight (8). Mr. Steffa responded that he believed there are multiple light fixtures on the high mast poles, which can illuminate a large area, noting that he could provide the exact number of fixtures after the meeting.

Mr. Nelson asked if this high mast system had been installed at other units. Mr. Steffa stated that while he did not have that information with him, he could provide it after the meeting. Mr. Nelson suggested that these lights be installed on a system wide basis in areas that need them.

Adjournment

There being no further business, Chairman Bell adjourned the regular session of the 139th meeting of the Board at 10:57 a.m.