



Western Virginia Regional Jail Authority

Serving the City of Salem and Counties of Franklin, Montgomery, and Roanoke

ACTION AGENDA

APRIL 2, 2009, 9:00 A.M.

Western Virginia Regional Jail
5885 West River Road
Salem, VA 24153

A. CALL TO ORDER

1. Introduction and Roll Call – Chairman Gerald Holt

Chairman Holt called the meeting to order at 9:05 a.m. The roll call was taken.

Members present: James Taliaferro, II; Jane Johnson; Eric Atkins; Christopher Whitlow; Ewell Hunt; L. Carol Edmonds; Doug Marrs; James Whitt; John Chambliss, Jr.; Michael Altizer; Gerald Holt; Diane Hyatt; Vicki Meadors; Mike Winston; Robert Hall

Members absent: Charles Wagner; Frank Turk; Randy Foley; Keith Mucha; Richard Huff, II; Wayne Angell; Gary Creed; Butch Church

Others present: Charlie Poff, Bobby Russell, Barry Tayloe, Jim Guynn, Brad Spain, Mary Brandt

B. REQUESTS TO POSTPONE, ADD TO, OR CHANGE THE ORDER OF AGENDA ITEMS

Mr. Poff requested that Item E. 3 be removed from the agenda. It was the consensus of the Board to remove Item E. 3.

C. APPROVAL OF MINUTES

1. March 5, 2009

Mr. Altizer motion to approve the March 5, 2009, minutes. The motion was seconded by Mr. Marrs and adopted by unanimous voice vote.

D. REPORTS & BRIEFINGS

1. Financial reports for the month of February 2009

Ms. Hyatt advised that the current cash balance is \$27,818,485. The construction costs as of February 28, 2009, totaled \$12,590,444 and operating expenses totaled \$4,299,089. She reviewed the change order and payment summaries for Hayes Seay Matern & Mattern and Howard Shockey & Sons.

2. Superintendent's Report—Charlie Poff, Superintendent

- a. Project Update
- b. Transition Team Update

Mr. Poff advised that the project is now 24 days past the March 9 construction completion date. He reported that after the contractor missed the initial completion date, he was advised by the contractor that the building would be completed by March 13; however, the contractor did not meet that deadline and has subsequently offered four additional completion dates that have also not been met. Mr. Poff advised that there were still several outstanding deficiencies including the jail security system, intercoms, doors, and pod control panels.

Mr. Poff advised that he met with the vice president of Howard Shockey and Sons in February who remained on site for approximately two to three weeks and who advised him that the building would be completed on time. He reported that work on the project was poorly coordinated and did not progress despite that individual's presence. As a result of this poor effort, Mr. Poff reported that he contacted the senior president and requested that he come to the site to review the situation. Mr. Poff advised that after this project review, another president was called to the site who remained on site. He reported that these two executives took over management of the project with positive results. He added that both executives will remain on site until the project is completed. Mr. Poff reported that as a result of the increased activity, the majority of the work should be completed today.

Mr. Poff advised that the facility will need to be searched once construction is completed. He stated that the computers, vehicles, and telephones are in place and that food and medical services are ready to begin operation. He reported that the staff has responded magnificently doing whatever is asked of them.

Mr. Poff reported that smoke evacuation in the program area needs to be further addressed since this area failed the smoke test initially and required improvised seals at the doors in order to pass. He added that the facility has received its final occupancy permit and that Brooks Ballard has passed the facility. He reported that commissioning is complete and that the Roanoke County Fire Department has performed an on-site fire drill. He added that staff plans to begin taking inmates as soon as it is safely possible.

In response to an inquiry from Mr. Marrs, Mr. Poff reported that the control room is ready, and staff is now testing the video visitation equipment. He added that vendor representatives for the various systems used throughout the facility will be on site during the jail's opening week.

Mr. Poff advised that the facility is incurring costs including the cost to extend the CDG contract, and he reported that the Compensation Board began funding the facility's staff on March 1, 2009, and that this funding will expire in 45 days.

In response to Mr. Marrs inquiry, Mr. Poff advised that Shockey is incurring \$15,000 per day in penalties and that these penalties will continue until substantial completion is reached. Mr. Spain added that the penalties now total \$360,000 and that once substantial completion is reached, the contractor will have 45 days to complete any outstanding items.

Mr. Whitt inquired if the order of inmate intake could be revised due to the delay. Mr. Poff advised that he would review the schedule as well as any staffing issues that may have arisen as a result of the delay. Mr. Holt noted that he would have to pay the per diem for the inmates incarcerated in his facility whether they are housed at the regional jail or at the facilities where they are currently housed. He added that he felt that the safety of the regional jail's staff was of paramount importance and should be taken into account when determining when to open the facility or transport prisoners. Mr. Poff stated that it will take approximately three to four days to transport the inmates and that he will do whatever he can to accommodate the local jails. He noted that Roanoke County will be undergoing an accreditation audit in the near future, so they need to move their surplus inmate population as soon as possible. He reported that he, Mr. Holt, and Mr. Taliaferro had met with the contractor Wednesday, April 1, to apply additional pressure.

Mr. Holt reported that he had participated in two meetings with the contractor and that the contractor is finally doing what they should have been doing since March 9. He added that the contractor's mind set seemed to be that their efforts were good enough which may be acceptable with a commercial project but will not work on a jail project. He added that a great deal has been accomplished in the last 24 to 36 hours.

Mr. Taliaferro inquired if the Board would entertain a motion to enter closed session to discuss pending litigation. It was the consensus of the Board to hear the motion, and a closed meeting was added as Item E. 1.

E. NEW BUSINESS

1. Closed Meeting

Mr. Taliaferro motion to enter closed session pursuant to the Code of Virginia Section 2.2-3711 A-7, legal matters, namely pending litigation. The motion was seconded by Mr. Altizer and adopted by unanimous voice vote.

The closed session was held from 9:40 a.m. until 10:35 a.m.

Mr. Taliaferro motion to certify the closed session. The motion was seconded by Mr. Whitt and adopted by unanimous voice vote.

RESOLUTION CERTIFYING THE CLOSED MEETING WAS HELD IN CONFORMITY WITH THE CODE OF VIRGINIA

WHEREAS, the Western Virginia Regional Jail Authority Board has convened a closed meeting on this date pursuant to an affirmative voice vote and in accordance with the provisions of The Virginia Freedom of Information Act; and

WHEREAS, Section 2.2-3712 of the Code of Virginia requires a certification by the Western Virginia Regional Jail Authority Board, that such closed meeting was conducted in conformity with Virginia law.

NOW, THEREFORE, BE IT RESOLVED, that the Western Virginia Regional Jail Authority Board, hereby certifies that, to the best of each member's knowledge:

1. Only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting which this certification resolution applies, and

2. Only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Western Virginia Regional Jail Authority Board.

2. Request to appropriate \$57,809 for Change Order Number 20 to Howard Shockey & Sons—Jay Taliaferro, Building Committee Chair; and Charlie Poff, Superintendent

Mr. Taliaferro advised that this change order was for several small items, and he asked if there were any questions. There was no discussion on this item.

Mr. Taliaferro motion to appropriate \$57,809 to Howard Shockey & Sons for Change Order Number 20. The motion was seconded by Mr. Marris and adopted by unanimous recorded vote.

AYES: James Taliaferro, II; Jane Johnson; Eric Atkins; Christopher Whitlow; Ewell Hunt; L. Carol Edmonds; Doug Marris; James Whitt; John Chambliss, Jr.; Michael Altizer; Gerald Holt

NAYES: None

3. Request to appropriate \$158,380 for Change Order Number 21 from private contingency—Jay Taliaferro, Building Committee Chair; and Charlie Poff, Superintendent

Mr. Taliaferro requested that this item be removed from the agenda. It was the consensus of the Board to remove the item.

4. Request to appropriate \$9,466 to CDG to extend their contract to March 20, 2009—Jay Taliaferro, Building Committee Chair, and Charlie Poff, Superintendent

This item was removed from the agenda earlier in the meeting at the consensus of the Board.

5. Request to appropriate \$18,476 to IES Commercial for additional electrical work outside the scope of the building contract—Bobby D. Russell, Deputy Superintendent

Mr. Russell advised that staff had contracted with IES to complete additional electrical work which was outside the scope of the building contract to ensure that the project would not be delayed. There was no discussion on this item.

Mr. Taliaferro motion to appropriate \$18,476 to IES Commercial for additional electrical work outside the scope of the building contract. The motion was seconded by Mr. Chambliss and adopted by unanimous recorded vote.

AYES: James Taliaferro, II; Jane Johnson; Eric Atkins; Christopher Whitlow; Ewell Hunt; L. Carol Edmonds; Doug Marrs; James Whitt; John Chambliss, Jr.; Michael Altizer; Gerald Holt

NAYES: None

6. Request to appropriate \$5,600 to Overhead Door Company for installation of door controllers in the lawn equipment building—Bobby D. Russell, Deputy Superintendent

Mr. Russell advised that this request was for the installation of door controllers in the lawn equipment building which were not included in the original construction contract. This work was performed by Overhead Door Company which was the company that provided and installed the doors. There was no discussion on this item.

Mr. Taliaferro motion to appropriate \$5,600 to Overhead Door Company for installation of door controllers in the lawn equipment building. The motion was seconded by Mr. Marrs and adopted by unanimous recorded vote.

AYES: James Taliaferro, II; Jane Johnson; Eric Atkins; Christopher Whitlow; Ewell Hunt; L. Carol Edmonds; Doug Marrs; James Whitt; John Chambliss, Jr.; Michael Altizer; Gerald Holt

NAYES: None

7. Request to adopt a resolution authorizing the purchase of past service credit for VRS on a pre-tax basis—Diane Hyatt, Treasurer

Ms. Hyatt advised that this was a housekeeping matter to allow employees of the jail to purchase past service credit on a pre-tax basis which would result in savings for the employees. She reported that this item will not have a fiscal impact. There was no discussion on this item.

Mr. Chambliss motion to adopt a resolution authorizing the purchase of past service credit for VRS on a pre-tax basis. The motion was seconded by Mr. Altzer and adopted by unanimous voice vote.

**Authorization to Pick up the Employees Contribution to VRS
for Past Service Credit under § 414(h) of the
Internal Revenue Code**

WHEREAS, the Western Virginia Regional Jail Authority desires to provide its employees with tax deferral pursuant to § 414(h) Internal Revenue Code with respect to their member contributions to the Virginia Retirement System, the State Police Officers Retirement System and the Judicial Retirement System (collectively referred to as VRS) for the permissible purchase of past service credit by picking up member contributions to the VRS; and

WHEREAS, the pick up is authorized under Virginia Code Sections 51.1-142.2; as such Code has been or may be amended from time to time; and

WHEREAS, the VRS keeps track of such picked up member contributions, and is prepared to treat such contributions as employee contributions for all purposes of VRS.

NOW, THEREFORE, IT IS HEREBY RESOLVED that effective the first pay day on or after the later of April 2, 2009, or the date the member executes a binding and irrevocable salary reduction election relating to the past service permitted to be purchased, the Western Virginia Regional Jail Authority shall pick up all or a portion of the member contributions of its employees to VRS based on the terms of the salary reduction election, and such contributions shall be treated as employer contributions in determining tax treatment under the Internal Revenue Code of the United States; and

IT IS FURTHER RESOLVED, that the binding salary reduction election to be executed by the member shall include the following: (1) the beginning and ending date of the election; (2) the amount of the salary reduction on a pay period by pay period basis; (3) the total amount of contribution expected to be involved; (4) a statement that the member may not receive the contributed amounts instead of having them paid by the Western Virginia Regional Jail Authority to the VRS; and (5) an agreement that the member will not purchase the service credit through a lump sum payment during the period in which the salary reduction election is in effect, and

IT IS FURTHER RESOLVED, that the member may revoke the salary reduction election only in the event of an unforeseeable emergency as that phrase is used and defined in IRC Section 457 and Treasury Regulation Section 1.457-2(h)(4) and if such a revocation is made, the member may not make a new salary reduction election during his period of employment, and

IT IS FURTHER RESOLVED, that such contributions, although designated as member contributions, are to be made by the Western Virginia Regional Jail Authority in lieu of member contributions; and

IT IS FURTHER RESOLVED, that pick up member contributions shall be paid from the same source of funds as used in paying the wages to affected employees; and

IT IS FURTHER RESOLVED, that member contributions made by the Western Virginia Regional Jail Authority under the pick up arrangement shall be treated for all purposes other than income taxation, including but not limited to VRS benefits, in the same manner and to the same extent as member contributions made prior to the pick up arrangement; and

IT IS FURTHER RESOLVED, that nothing herein shall be construed so as to permit or extend an option to VRS members to receive the pick up contributions made by the Western Virginia Regional Jail Authority directly instead of having them paid to VRS; and

IT IS FURTHER RESOLVED, that notwithstanding any contractual or other provisions, the wages of each member of VRS who is an employee of the Western Virginia Regional Jail Authority shall be reduced by the amount of member contributions picked up by the Western Virginia Regional Jail Authority on behalf of such employee pursuant to the foregoing resolutions.

F. CITIZEN COMMENTS AND COMMUNICATIONS

There were none.

G. REPORTS AND INQUIRIES OF AUTHORITY MEMBERS

There were none.

H. REPORT OF STANDING COMMITTEES

1. Administration
2. Finance
3. Building and Property
4. Human Resources
5. Operations

There were none.

I. ADJOURNMENT

(Next meeting date: May 7, 2009, at 9:00 a.m. at the Western Virginia Regional Jail, 5885 West River Road, Salem, VA 24153.)

Chairman Holt adjourned the meeting at 10:43 a.m.