



## MINUTES

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### BOARD OF PRISON COMMISSIONERS MEETING

June 23, 2010

The Board of Prisons Commissioners held a public meeting on June 23, 2010, beginning at 1:00 p.m. at the following locations:

at the State Capitol Building Annex, 2<sup>nd</sup> floor, 101 N. Carson Street, Carson City, Nevada and video conferenced at Grant Sawyer State Office Building, Room 5100, 555 E. Washington Ave., Las Vegas, Nevada.

#### I. Call to Order.

The meeting was called to order by Governor Gibbons with all the Board members present in Carson City. As Chairman, he is going to take out of order the #III agenda item which is an action item, Discussion/possible action relating to the proposed relocation of inmates and staff at the Nevada State Prison (NSP). Mr. Skolnik is present to discuss this issue. Secretary of State Miller asked Governor Gibbons if it was his intention to take public comment before approving the motions. Governor Gibbons stated the Board will take public comment after Agenda Item III is discussed.

Also present Chief Deputy Attorney General Stephen Quinn, Senior Deputy Attorney General Keith Marcher, Director Howard Skolnik, Chief Deputy Secretary of State Nicole Lamboley, and members of the Press. Members of the public in Carson City and Las Vegas were asked to sign-in. *See [Attachment A](#).*

#### II. Public Comment (taken out of order)

Gene Columbus, President of the Nevada Corrections Association requested to speak. He submitted for the record a document The PEW Report. *See [Attachment E.1](#), [E.2](#).* This report filed by credible sources predicts the future growth of Nevada's inmate population. He stated if NSP is closed it will pose a risk since no money exists if there was a need to build future facilities. He stated he wished the Commission with their authority will cease and desist the closure of NSP.

Curt Thomas submitted his statement for the record. *See [Attachment F](#).*

TeJay Harvey submitted his statement for the record. *See [Attachment G](#)*.

Theresa Werner requested to speak. She stated she put together a plan that could save two million dollars instantly. She submitted her statement for the record. *See [Attachment H](#)*.

David Pflieger submitted his statement for the record. *See [Attachment I](#)*.

James Scally, Correctional Lieutenant from the south requested to speak. He stated he has been with the Department for the last 10 years and is confident the Board will listen to Director Skolnik's input and rely on his staff who has the experience to keep the staff, inmates and the public safe.

Kevin Ingram, Employee Development Manager, stated he supported the Director and his decisions and the executive staff who prepared the plan which will outline everything, in order for the Board to make a viable decision. He stated it's really not about NSP but the safety and security of all the institutions. Mr. Ingram stated that his job is to provide the best training for the pre-service training, the POST certified training for the Department's Cat III Peace Officers. Regulations, statutes and the Peace Officers Standards establishes that all correctional officers have to go to additional training every year to maintain their POST certification and without the proper relief factor, the Department will not be able to make those statutory requirements. He stated once the furloughs take place, it will exasperate the situation.

Kevin Ranft requested to speak on behalf of Local 4041 and their concerns regarding staffing and security. He stated Director Skolnik said NSP should close because staff cuts had been made and is a safety risk. AFSCME feels there are staff cuts because the director cancelled an academy class and has frozen all future academy classes in the northern area. He stated NDOC officers leave the Department time and time again because of low morale or because NDOC drove them off because of their policies or their way of thinking. Mr. Ranft requested the Board to call state Personnel or NDOC Personnel and ask how many eligible applications for correctional officers they have on file and they would find there are quite a few. He stated staff shortages are administratively driven. He stated that it is the officers who put requests in to be transferred. Mr. Ranft stated the budget problem was solved at the special legislature session in February and if the 4.6 percent budget cut across the board would have been put in place, it would have stopped the furloughs at DOC. He stated filling those vacant positions would have provided the jobs and security at DOC.

Stephen Houk, Correctional Officer at NSP, stated Director Skolnik has sought to close NSP at all costs. He stated the cost saving plan that has been presented is a smoke dream and it is really about exercising power. Mr. Houk stated there were plenty of places to save money and nine recommendations were submitted to the Interim Finance Committee (IFC) from the employees a year ago. He indicated that only two have been implemented, short staff and elimination of overtime and the closure of NSP. He asked the Director to show them the savings and he had failed to do so on numerous occasions. He stated it isn't a security issue, it's let's see the money.

III. Discussion/possible action relating to the proposed relocation of inmates and staff of the Nevada State Prison.

Director Skolnik gave his opening comments to the Board. *See Attachment B.* He added he did have a copy of the furlough plan if any Board member wished to see it. Director Skolnik stated there have been questions regarding comparable costs that were provided and NSP does not operate at full capacity, neither do the other institutions except of the High Desert State Prison (HDSP). HDSP has four Associate Wardens compared to two Associate Wardens everywhere else. He stated the primary difference at NSP and the other facilities is when the Department of Corrections (DOC) closed the two units during the time period in question, NSP lost those positions for those cell houses that were closed. Director Skolnik stated the balance of state has beds in the existing units that are staffed completely. He presented a Comparison of DOC's Operating Costs *See Attachment C* and Overtime Costs *See Attachment D.* He stated the bottom line is the Department does not have the staff that is needed to operate and when furloughs are implemented on July 1<sup>st</sup>, the Department will be almost 5 percent in the hole across the board. Director Skolnik stated if, in fact, the Department were to phase out NSP and do it without any layoffs or forced relocations it could be done within a six month window and could adequately staff all the institutions in the state to meet the safety and security needs of operating with furloughs.

Governor Gibbons asked Director Skolnik if he was proposing closing NSP primarily for the issue of security for staff, inmates and the communities. Director Skolnik stated yes, that is correct.

Governor Gibbons asked how closing of NSP would enhance or add to the security of the community. Director Skolnik stated the reality of the furloughs and the reality of any overtime reduction, however long it takes, will result in the closure of perimeter security for institutions, it will also increase stress levels for staff and inmates due to the reduction in programming, movement and activities. Gyms will be closed and yards will be closed because there is no other way for the Department to do the furloughs. That will present a risk to the local communities in terms of incidents within the institutions. The Department is already seeing an increase in incidents throughout the state and the nature of those incidents are becoming more and more violent and more serious and at some point will become hazardous to the local communities.

Attorney General Masto asked the Director if he meant that because of the furloughs are to be implemented on July 1<sup>st</sup> and reduction in overtime, there is concern for community safety and those communities where all the institutions are. Director Skolnik stated yes, the Department is going to have a serious shortfall. An example is HDSP will have approximately a shortfall of 250 officers per week in terms of its operations with the furloughs which is already having staffing issues as are all of the facilities. He stated the Department just does not have the people and as the institutions become more and more tense and volatile, it increases the dangers to the staff and to the inmates and ultimately to the local communities.

Attorney General Masto asked how many institutions and communities he was talking about. Director Skolnik stated the communities that are actually in jeopardy are limited at this point to Carson City, Lovelock and Ely. The balance of the Department's facilities are in rural locations and only the staff and inmates would be in significant risk

Attorney General Masto asked if he meant the people in the rural communities were not at risk. Director Skolnik stated they were not as much at risk because the inmates in those communities are in camps and are screened as non-violent. They are presently working in those communities under the direction of the Division of Forestry. The primary concerns are Carson City, Ely and Lovelock.

Governor Gibbons asked about security in regards to the number of incidents that have risen from 700 to close to 1,000 which is also rising in the degree of violence. He asked what was causing that. Director Skolnik stated staff shortage, as much as anything. If you don't have adequate staff to watch the inmates they tend to act in a fashion that they act in and they are not in prison because of their behavior and their self control.

Governor Gibbons asked the Director to describe the security of the staff in the prisons and what his concerns were. Director Skolnik stated towers not only provide perimeter but also provide security internally to most of the Department's medium security institutions. The closure of those towers reduces the security provided to the staff who are working inside those institutions. He stated the same is true of the gyms and the programs and that keeping inmates active and involved with something to give up helps control their behavior. He stated as more is taken away from them they have less and less to lose.

Governor Gibbons stated he presumed it is heighten by inadequate legislative funding as well as the furloughs which take people out of the system. Director Skolnik stated that was correct. Director Skolnik stated as an example, other than an emergency, the Department has not purchased a new piece of equipment in four years and you cannot operate any prison system without any equipment but the Department is doing it.

Attorney General Masto asked the Director if he had closed any towers. Director Skolnik responded that yes, he has. In that six weeks period, 28 shifts worth of towers were closed. Attorney General Masto asked if he had security concerns in closing the towers and why the subject hadn't been brought to the Board before. Director Skolnik stated yes he had concerns and it was brought to the Board in a document and discussed. He stated he did not see it coming either until the Department actually stopped overtime, except for life threatening situations, and those things were covered with overtime. Almost all the closures were at the Southern Desert Correctional Center (SDCC) which occurred a couple of months ago.

Governor Gibbons asked if the reason those towers were closed at SDCC and not other institutions was the design of that facility. Director Skolnik stated that was part of it, the location and the physical plant and the towers are outside of the fence line at SDCC. He stated the Department has pull positions and they cell house approximately 104 inmates each with two positions for the cell house, the bubble or Control Officer and the floor officer. The floor officer is a pull position and anytime they are short a critical staff person; the second officer will be pulled. When overtime was stopped, there were times when there was no one to put in the cell house and the Department can't do that, someone has to be there if there were to be a critical incident, thus, we pulled them out of the towers to do that.

Governor Gibbons asked about the security of the inmates, the rising number of incidents and the level of violence that is increasing. Director Skolnik stated to imagine being in a 72 square foot room with another individual, with the bathroom in your bedroom, being allowed out only five hours a week with a shower every three days and given the fact that 2,500 of the Department's inmates are diagnosed at some level of being mentally ill, there will be people killing their cellmates. There will be more incidents and more violence. The gang members are constantly going up in the Department.

Director Skolnik stated as an example, there were three gang members being transferred from Lovelock to Southern Desert who were going to be release on parole the following day. There was an opposing security threat group member on that bus and they were told to deal with him effectively or their families in the community would be injured. The three physically assaulted this inmate, losing their paroles because that was the choice they made. These are the kind of inmates that the Department is seeing more of and if we don't have the staff to manage them, there will be more and more inmate on inmate incidents. He stated staff of the Department have one of the lowest rates of incidents in the country compared to staff/inmate ratio. As a consequence, no one believes we need more staff or money, so the Department never gets more staff or money.

Governor Gibbons asked Director Skolnik if this has relieved the stress of some by transferring inmates and lowering the population at NSP. Director Skolnik stated yes. Governor Gibbons stated those transfers have been made to facilities within Nevada, within the Department according to his authority under the law. Governor Gibbons stated he presumed the same application of transfer authority took place to existing beds for the remaining prisoners within that prison. Director Skolnik stated the Department transfers hundreds of inmates per week and receives approximately 100 inmates per week in the system and release approximately 100 inmates every week out of the system. He stated those inmates are moved, beds are shifted, a camp bed opens and a medium inmate moves to a camp bed, a maximum security inmates may move to medium security bed, or an incident or a program that they can't get at the institution they are in. He stated moving inmates is a fundamental responsibility of Corrections across the country and it is case law and statutes that authorize the movement of inmates.

Governor Gibbons asked what the number of beds were in the system to absorb the inmates if NSP were to close. Director Skolnik stated there are approximately 2,700 beds throughout the facilities, not including Southern Nevada Correctional Center (SNCC) or NSP, which have no one in them, but he would not want to fill all those beds completely. He stated there were two units at HDSP that are currently vacant with a capacity of 672 inmates. They would be staffed with vacant positions that would be moved down there, however long it took and move inmates.

Governor Gibbons asked Director Skolnik if the recommendation of closing of NSP was a decision of the executive staff and not something the Governor's Office recommend to him. Director Skolnik stated the initial recommendation came from the Department as part of the budget plan for the budget that had to be reduced. He stated today's recommendation came from the combined effort of staff to try and figure out how to operate, not lockdown or warehouse, the DOC effectively, given the furloughs July 1<sup>st</sup>.

Director Skolnik stated overtime will be incurred for a couple of months because it will take time to implement the plan but ultimately overtime and expenses will be reduced and will increase staffing at all of the other facilities in the state making them a lot safer than they are today.

Governor Gibbons stated the plan for closing down and phasing out NSP has been taking place with Director Skolnik's recommendation to the Governor's Office under the executive recommendation to close NSP and there is a plan in place to close in a safe and effective manner.

Director Skolnik stated that he has retained vacancies throughout the state in order to do this without harming staff and if the Department does not do this, the vacancies will be filled. He stated at some point NSP or some other institution will be closed as there will not be money to run it and at that time instead of taking care of staff, assuring continued employment and increasing safety, the Department will lay off whoever is at that institution that day.

Governor Gibbons asked Director Skolnik if the staff currently employed at NSP would be assigned another or equal position within the Department. Director Skolnik stated it would be within northern Nevada. He stated it may take eight months but given the turnover that historically exists in the Department and even under today's economics, all of the staff in the northern part of the state can be absorbed without layoffs or any forced relocations. Director Skolnik stated the plan provided to the Board today is for furloughs which is confidential.

Attorney General Masto asked what date did Director Skolnik make the recommendation to the Governor's Office. Director Skolnik stated it was fairly recent approximately a week and a half. He stated the furlough plan goes into effect July 1<sup>st</sup> of this year.

Secretary of State Miller asked Director Skolnik when he first made the recommendation about a week and a half ago to the Governor's Office was it at that point he gave them the copy of the plan that's in place. Director Skolnik stated he did not give them copies in place but he did advise them that he needed to do this in order to maintain a safe and secure operation. He stated he met with all of the sergeants, lieutenants and above at NSP prior to releasing an email to all staff and discussed what the plan was, why he was doing this and how the Department intended to implement the plan. He stated he spent a substantial amount of time answering questions. Secretary of State Miller then asked what was the secret plan that was given to the Governor and Director Skolnik replied there was no secret plan and it has not been released as it is not the Department's intension to make that plan public. Secretary of State Miller asked if the Director intended to share the secret plan with the Board members. Director Skolnik stated he can share the plan with all of the Board members. He stated the plan the Board had before them was a generalized plan. Secretary of State Miller asked if the Governor's Office had been provided with the secret plan. Director Skolnik, as indicated previously, stated nobody has been provided the plan outside of the Department.

Attorney General Masto asked if Director Skolnik intended to close a state prison without the Board's input. Director Skolnik stated he planned on doing that and previously there have been five closures in the Department that he was aware of without any input that were made either by the Director or by the Director or the Governor. Attorney General Masto asked legal counsel if the Board of Prison Commissioners has the authority to stop the closure of a prison. Deputy Attorney General Keith Marcher stated "he believes it does, yes". He stated under the statutes that establish the Department of Corrections "the head of the Department is the Board of State Prison Commissioners". "The Director is the Chief Administrator and Fiscal Officer of the department. The legislature granted the Board "full control of all grounds, buildings, labor and property of the department". He stated the legislature statutorily mandated to the Board to "regulate the number of officers and employees of the department" so yes, the Board can decide to weigh in and direct the decision of the director concerning the closure of an institution.

Attorney General Masto stated that the Board has previously made it very clearly they wanted to have input on policy decisions such as closing prisons and Director Skolnik had been aware of that. She stated she was disappointed that the Director did not come to the Board to make this important decision. Attorney General Masto stated she thought the community as well as the officers should also have an opportunity to weigh in. She stated that after the Board receives all the facts they may not disagree with Director Skolnik. She asked that the Director provide more information in order to make an intelligent decision and take a motion that the Board have another meeting before deciding to close another prison. She would also like to see more information on the Department's budget as a whole. Secretary of State Miller agreed and he was not prepared to vote on closing NSP until the Board had all the information before them. He stated the closure of NSP should be halted until the Board had a full opportunity to review it.

Governor Gibbons stated he would not allow Director Skolnik to stop transfers when it came to issues of safety and security for staff, inmates and the community. Secretary of State Miller made a motion to temporarily halt closure of NSP pending a full review from this Board. Attorney General Masto seconded the motion. Secretary of State and Attorney General Masto signified by saying aye. Governor Gibbons signified by saying nay. The motion passed.

Director Skolnik stated he would comply to temporarily halt the closure of NSP and not close any units, move any staff and move inmates unless necessary to maintain a safe and secure environment.

#### IV. Board Member Comments.

Attorney General Masto asked Director Skolnik to provide the Board with an analysis of the cost saving. She asked if the furloughs were not implemented at this time would the Director still close NSP. Director Skolnik replied, not at this time.

#### V. Adjournment.

Attorney General Masto motioned to adjourn; Secretary of State Miller seconded the motion. All members signified by saying aye. The meeting was adjourned at 3:30 p.m.

APPROVED THIS DAY \_\_\_\_\_ MONTH OF JULY 2010

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GOVERNOR JIM GIBBONS

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ATTORNEY CATHERINE CORTEZ MASTO

\_\_\_\_\_  
SECRETARY OF STATE ROSS MILLER

RECORDED AND TRANSCRIBED BY SUSAN COCHRAN, EXECUTIVE ASSISTANT, Nevada Department of Corrections

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