



MINUTES

of the meeting of the

BOARD OF PRISON COMMISSIONERS MEETING

July 13, 2010

The Board of Prisons Commissioners held a public meeting on July 13, 2010, beginning at 2:00 p.m. at the following locations:

at the State Capitol Building Annex, 2nd 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 Commissioners present in Carson City.

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. Acceptance and Approval of Minutes – April 20, 2010 and June 23, 2010 meetings.

Motion to approve the minutes was made by the Secretary of State and seconded by the Attorney General. The Governor commented he had not reviewed the minutes of June 23, 2010 as he had just received a copy of them. The record reflects the motion passed to approve the minutes of April 20th and June 23rd with Secretary of State Miller and Attorney General Masto signifying by saying Aye and Governor Gibbons signified by saying Nay.

III. Discussion/possible action relating to the proposed relocation of inmates and staff of Nevada State Prison – Howard Skolnik, Director.

Director Skolnik stated he had provided the members of the Board with an overview of the plan to close the Nevada State Prison (NSP). He stated the Department has been talking about closing NSP for approximately 15 years now beginning with then Director Robert Bayer and that the Department has never been adequately staffed. With furloughs, the Department will be at 80% minimum staffing and with people calling in sick, military leave, FMLA etc. it will be closer to 75%.

Director Skolnik stated Nevada is the lowest in staff to inmate ratio in the United States. There are increases in assaults and just yesterday an inmate assaulted a staff member who had to be hospitalized. Between last year and the first half of this year there has been a 100% increase of assaults in the institutions. NSP has the highest of staff per inmate ratio because of the design. Director Skolnik stated this was just not about NSP but all the medium institutions throughout the state to have adequate staff for public safety and for the safety and security of staff and inmates. The cost to run NSP exceed the costs of other facilities and to bring it up to code is almost 30 million dollars. It does not meet code when it comes to health and safety requirements. The Department has never been funded for overtime and in 2011 will face a deficit and will have to ask for money that frankly doesn't exist. He stated the staffing ratio was established probably in the late 70s or early 80s.

Governor Gibbons asked that the plan be made public and Director Skolnik stated he would have staff put it on the Department's website.

Attorney General Masto stated the Legislature funded the Department to keep NSP open at the last session and the special session through 2011. Director Skolnik stated that was correct and the Department has historically gone to the legislature during the end of the fiscal year to request the funds necessary to cover the overtime and other expenses. This year, the Department requested approximately 2½ million dollars and in the past it was as high as 8 million dollars. If NSP stays open the dollar amount will be greater. The Department has never been adequately staffed. Attorney General Masto asked if there was concern for the safety at NSP with the furloughs occurring. Director Skolnik stated there is concern for the safety of the Department, across the board. Towers have been closed at Southern Desert Correctional Center (SDCC), visiting has been closed on numerous occasions at various institutions, programs have been phased out and there are controlled movement issues because the Department does not have enough staff. Closing NSP will help with the overtime problem because staff will move to other locations and the relief factor will increase. By moving staff and inmates and closing NSP no staff will be laid off. Director Skolnik stated there has been a substantial increase in the security threat group population and inmates are getting younger and more violent.

Attorney General Masto stated she would like to see the grievances and what concerns the employees had from NSP over the last five years. There was discussion on the budget reduction that was provided in the plan. For the record Attorney General Masto stated it was clear from the documentation that was provided that the age of the facility obviously had something to do with the operating costs being so high, more so than any of the other medium facilities. Director Skolnik stated it was the design, not just the age of the facility and since technology has improved the ability to run facilities and the inmate to staff ratio has improved as well. It is not a sufficient design. In the plan, the maintenance concerns at NSP are defined by Public Works as critical costing approximately 30 million dollars and does not meet code for repair renovation. That was projected two or three years ago and the Department has not been funded. If NSP were to close it's very doubtful the Department could open it again without doing the repairs and renovation.

There is a projected population increase from JFA & Associates of less than a half percent each year over the next 10 years. The Department has enough beds to accommodate that projection as long as there is no change in that projection. If there were a change in the projection, Southern Nevada Correctional Center (SNCC) would be reopened. An additional 240 beds could be added to the Florence McClure Women's Correctional Center (FMCC) and Warm Springs Correctional Center (WSCC).

Attorney General Masto asked if Director Skolnik believed he has the authority to move inmates and staff from NSP without the Board's approval. Director Skolnik stated yes he has the authority to move inmates but not confident about staff. There is case law throughout the federal courts throughout the country and statutes in the State of Nevada that provide the authority of the movement of inmates to the Director of the Department of Corrections.

Secretary of State Miller asked the Attorney General and counsel if the Director was responsible to the Governor as his recollection to the statute is the Director is responsible to the Board. Chief Deputy Attorney General Stephen Quinn stated the Director is appointed by the Governor but the Director operates through the direction of the Board and there is some conflict in that the Governor can say "okay, I'm terminating your employment".

Secretary of State Miller wanted to know why 12 hour shifts weren't implemented and what the cost savings would be if they were. Director Skolnik outlined the reasons to eliminate 12 hour shifts at some of the institution; there are 71 fewer days that an employee is available and any absence requires two employees to provide overtime because no one can work more than 16 hours a day. All staff do not want 12 hour shifts, some want 8 hours, and some want 10 hour shifts. Lovelock (LCC) and Ely State Prison (ESP) have some 12 hour shifts. As for cost savings, Director Skolnik stated he was told by the employee associations that he could eliminate 71 positions and he is still waiting to find out which 71 positions he could eliminate. Secretary of State Miller stated the savings would be 7½ million dollars and Director Skolnik stated he could not support that figure.

Overtime was discussed. There was a significant portion of overtime costs coming from Northern Nevada Correctional Center (NNCC) and NSP, approximately 40% of overtime and that in part was due to holding vacancies open. If NSP were to close the Department would have vacant positions that staff could fill. The Regional Medical Facility (RMF) is also located at NNCC and transportation for inmates to the RMF has never been adequately funded. If those institutions were staffed fully, it would reduce overtime.

Andrew Clinger, Director of the Department of Administration, stated the money for furloughs, 4 million dollars, was appropriated by the Legislature and when the Board of Examiners (BOE) approved the exemptions, it was projected at that time that 3.8 million of that would be used. When it came to the end of the year, 2.5 million was used. The 1.5 million that is left will not get the Department through FY 2011 with furlough exemptions. The Department is anticipating being short roughly 4 million. Director Clinger pointed out that supplementals are typically funded out of excess funds and at this point in time they are not projecting having any excess funds.

He stated as of right now, he did not know where a 4 million dollar supplemental or a 2 ½ million dollar supplemental to cover furloughs would come from. In the projections they do not have sufficient funds to make supplementals starting in the 2011 Legislature session. The 4 million that was appropriated to cover furloughs was not enough and it was not enough to cover the exemptions that were approved by the BOE just for the DOC. Director Clinger stated the DOC is projecting that without closing NSP, they will be short in FY11 by approximately 4 million dollars. He stated if NSP is not shut down he didn't know where the 4 million dollars will come from, that was the supplemental he was referring to.

Director Skolnik stated it was a combination of overtime, medical costs which are unpredictable, reduced revenues from Prison Industries and the community programs because there are fewer jobs. Attorney General Masto stated that we never know where the money is going to come from, it's just going to occur and hopefully with a low amount, but ultimately it's covered and asked if that was correct. Director Skolnik stated ultimately it *has* been covered. Director Clinger stated this time is a little bit different because the state has been facing severe cuts for the last three years and typically going into a session, by now we know if we are going to have excess funds at the next Legislative session. What he is telling the Board is that they do not anticipate having any excess funds to cover the supplemental for Corrections or for any other department.

Secretary of State Miller stated the Director needs to come up with a plan to extend the exemption of furloughs to the line correctional officers and to do budgetary analysis of what that would take. He also asked the Director to prepare an analysis of the impact it would have if he were to fully staff the correctional officers in northern Nevada. In the interim, his motion is to halt the closure of NSP and preclude the Director from taking any steps to effectuate the closure of NSP and to prepare additional financial analysis as to implementing the furlough exemptions and to further come back to the BOE with a plan.

Attorney General Masto stated that the agenda item is really a discussion/possible action relating to the proposed relocation of inmates and staff of NSP. She asked the Secretary to amend the motion to include not just the closure but the actual halting of the relocation of inmates and staff at NSP with the ultimate goal of closing the prison. The Secretary stated "absolutely". Governor Gibbons objected stating the statute does not allow the Committee to address the relocation of inmates. It is the realm and priority of the Director, not this Committee and they could not ask the Director to violate the state law. The Attorney General cited NRS 209.291 and 209.131. She stated it is ultimately the Board's decision what to weigh in on that.

Director Skolnik stated he will not close NSP until such time as there is another meeting, nor will he relocate staff. He will move inmates for safety and security reasons. He stated he will begin to fill all of the vacancies because of the Board's decision not to make a decision will further increase overtime. If the Board chooses to eventually implement the plan, there will probably be lay offs because the Director cannot continue to operate without filling those vacant positions.

Attorney General Masto made the motion that there is not going to be any decision made on movement of inmates and staff for purposes of the closure of NSP other than safety issues. The Board will come back and revisit this at the next meeting with additional information with respect with the proposal that Director Skolnik will provide to the Board and to elaborate on some of the concerns that were addressed. Director Skolnik stated his understanding is the Board would like a breakdown of grievances from staff relating to safety concerns, what the relief factor impact will be with the closure and what full staffing will do to overtime. Secretary of State Miller seconded the motion. Attorney General Masto and Secretary of State Miller signified by saying Aye. Governor Gibbons signified by saying Nay. The record reflects the motion passed.

IV. Discussion/possible action regarding State Administrative Regulations (Attachment 1) – Howard Skolnik, Director.

The breakdown and modification in the Administrative Regulations (ARs) were given to the Board previously. Secretary of State Miller moved to approve the ARs as outlined in the agenda. Attorney General Masto seconded the motion. All members signified by saying Aye. The record reflects the motion passed.

V. Board Member Comments.

There were no comments from the Board members.

VI. Public comment.

Tonya Brown, advocate for the inmates requested to speak. Ms. Brown stated she has concerns regarding the closure of NSP and LCC is overcrowded and double bunking and in violation of ADA. She submitted two letters from inmates for the record. *See [Attachment B](#)*. She expressed her concerns that there isn't an oversight committee.

Richard McCann, Nevada Association of Public Safety Officers, stated it was frustrating to constantly see the ARs changed and it is a concern for correctional officers. He stated he will be back to discuss the closure of NSP since it was tabled.

Gene Columbus, President of Nevada Correctional Association, submitted *[Attachment C](#)*. He stated the Nevada Supreme Court has ruled that with the Legislature appropriates money for a specific purpose, neither the Governor nor executive branch agencies may disregard the Legislature's mandate that the money be spent. He interpreted that to mean those monies are to operate NSP and continue through the next Legislative session.

Donald Hinton, Spartacus Project, stated there has been two death notifications at the institutions that were never delivered. The inmates were never notified and that should be looked into. One was Brian DeBarr whose grandmother died, the other David Phillips #74167 whose mother died.

Mr. Hinton stated Director Skolnik was to come back to this Board and tell them of all the firings he made of his top employees and he questioned how many did he fire and who they were. He stated with the continuing on with the ARs introductions is above cruel and unusual punishment and they are all designed against the inmates and their families. Mr. Hinton stated the inmates are tired of these ARs and of the treatment they're receiving by the guards and he stated there was going to be a riot. He stated Director Skolnik should be fired as it's time and he be replaced. He wanted to know if an investigation has been concluded on Officer Bennett at LCC of planting illegal evidence on inmates and threatening other inmates to plant items in other inmate's cells.

Curt Thomas, Correctional Officer, submitted his statement for the record. *See [Attachment D](#).*

Lee Rowland, Northern Coordinator, ACLU of Nevada, submitted her comments for the record. *See [Attachment E](#).*

Kevin Ranft, AFSCME Local 4041 stated there has always been concerns for ARs but specifically today, ARs 339, 340, 341. He stated there has always been a problem with the investigation adjudication process, it needed to be fixed as they have been fighting this for three years. He stated manuals that are put forth could be a liability and are not reviewed by the Board for approval. He asked the Board to email the Department to get the manuals for review. Mr. Ranft stated furloughs at NSP are a major concern because they know that NSP is safe and furloughs should have the exemption. He stated funding is available through savings with officers submitting over 100 various ideas to save the Department money. He asked that list be reevaluated to come up with some savings and to come up with the 1.5 million which will put the Department through the next fiscal year. The officers and the families of these officers are at the lowest possible level of morale.

Edward DeBarr requested to speak. He wanted to add to Don Hinton's comment on notifications of deaths outside of the prisons to the inmates. His son is one of the ones Mr. Hinton was speaking of. He stated he made three separate calls, one to the Warden's office, one to the Chaplain and one to the night shift officer. That officer told he him he would notify his son. Mr. DeBarr stated that three days later he received a call from his son and he was the one who had to tell him that his grandma passed away. After he called the Director's office the next morning, he did receive a phone call from Warden Neven who apologized.

Pat Hines submitted her statement for the record. *See [Attachment F](#).*

Mercedes Maharis submitted her statement for the record. *See [Attachment G](#).*

Mr. Gerry Spence submitted his statement for the record. *See [Attachment H](#).*

VII. 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 3:40 p.m. The next Board of Prison Commissioners meeting is set for October 12, 2010.

APPROVED THIS DAY _____ MONTH OF OCTOBER 2010

GOVERNOR JIM GIBBONS

ATTORNEY CATHERINE CORTEZ MASTO

SECRETARY OF STATE ROSS MILLER

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