

MINUTES
Of the meeting of the
BOARD OF PAROLE COMMISSIONERS

February 27, 2009

NOTE: The following minutes have not yet been approved and are subject to revision at the next meeting of the Board.

The Board of Parole Commissioners held a public meeting on February 27, 2009, beginning at 3:30 pm at the following location:

Conference room at the central office of the Board of Parole Commissioners, located at 1677 Old Hot Springs Road, Ste. A, Carson City, NV. video conference to Parole Board Office, 4000 S. Eastern Avenue, Ste. 1360, Las Vegas, NV.

I. Open Meeting, Call to order, roll call 3:45 p.m.

The meeting was called to order by Chairman Bisbee. Present in Carson City were Chairman Bisbee, Commissioner Jackson and Commissioner Baker. Present in Las Vegas were Commissioner Keeler and Commissioner Gray. Not present was Commissioner Silva.

Support staff in attendance:

Kathi Baker, Executive Secretary
David Smith, Hearing Examiner III
Cynthia Hoover, Deputy Attorney General

Members of the public in attendance in Carson City:

Tanya Brown
Pat Hines
Gem Gokmen, Channel 4
Julie Rexwinkle, Hearing Examiner
Scott Weisenthal, Hearing Examiner

Members of the public in attendance in Las Vegas:

Flo Jones
Don Hinton, Spartacus Project
Michelle Ravell
Juli Star-Alexander

II. Public Comment. No action may be taken upon a matter raised under this item of the agenda until the matter itself has been specifically included on an agenda as an item upon which action may be taken pursuant to subparagraph (2) of NRS 241.020.

Chairman Bisbee asked any member of the public that would like to make comments regarding anything other than the items listed on the agenda to come forward and limit their comments to 3 minutes.

Ms. Pat Hines inquired if there would be public comment allowed in the agenda items. Chairman Bisbee confirmed. Ms. Tanya Brown stated a complaint regarding the agenda item. Chairman Bisbee explained this segment of the meeting is for comments other than the items on the agenda. Ms. Florence Jones asked for clarification on NRS 233B.067.100 since the Legislative Counsel Bureau (LCB) has determined that is not an accurate NRS. Chairman Bisbee stated a clerical error was made and the NRS in the agenda should refer to is NRS 233B.100.

III. Discussion and possible action on the request for repeal of Legislative Counsel Bureau (LCB) file No. R018-08. The Board may take action either to initiate the regulation process pursuant to NRS 233B.100 or deny the request.

Chairman Bisbee stated for the record that this meeting was originally scheduled to take place on February 19, 2009, which was postponed due to some petitioners claiming they were not properly notified in accordance with the open meeting law. Chairman Bisbee stated the Board maintains the February 19, 2009 meeting notification was properly noticed in strict compliance with the open meeting law. The Nevada State Mail room received the February 19, 2009 meeting notifications on February 13th; however the Supervisor of the State Mail Room does not understand why the notification was not metered until February 17, 2009, and apologized. Although the meeting of February 19th was properly noticed, the Board felt that since one of the petitioners of the meeting was unable to attend, it would be in the best interest of the meeting to continue until February, 27, 2009.

Chairman Bisbee allowed up to 5 minutes per public member to speak individually or up to 20 minutes if the petitioner's wanted just one representative to speak. The petitioners wished to speak individually.

Pat Hines wanted clarification about which items would be addressed today. Chairman Bisbee stated the only purpose for this meeting is to address the petition for the repeal of R018-08. Ms. Bisbee stated that the Board is limited to discussing the request for the repeal. She further stated that the two items listed under the petition were objectivity and mandatory parole release

Tanya Brown stated the petitioners were entitled to a 15-day notice. Ms. Brown read and put on the record the petition submitted to the Board. Ms. Brown stated that the Board did not respond in writing within the 30 day compliance response period, which makes R018-08 null and void. Ms. Brown stated that she believes all of the denied Parole Board absentee hearings are illegal and that the Parole Board has operated without authority since April 17, 2008 when the Governor's emergency regulation expired. Ms. Brown also demanded that all mandatory parole release inmates, under NRS 213.1215 whose release was denied after April 17, 2008, be immediately released to parole custody, unless their sentence has expired. Ms. Brown said all illegally denied Parole Board hearings held after April 17, 2008 must be reversed and the inmates released immediately. Ms. Brown read NRS 233B.100 and stated the petitioners need to interact with the Board other than only allowed public comment. Ms. Brown stated they will need to take this further into the court system if the Board cannot sit down with them today and go line by line through R018-08. Chairman Bisbee explained to Ms. Brown that failure to respond within 30 days does not mean the regulation is

automatically repealed. Ms. Bisbee said the petition would have been properly addressed on February 19, 2009 except that Ms. Brown's complaint that the meeting was not properly noticed resulted in delaying the February 19, 2009 meeting until today's date.

Ms. Jones stated the major and legal issue is reporting back to the legislative body. Ms. Jones said the Legislature put in place a reporting standard under NRS 213.01885 which requires the Parole Board to register statistics regarding Board Releases with the Legislature every year just prior to the Legislative session. Ms. Jones stated the Parole Board has effectively removed the law under NRS 213.01885 due to R018-08, so the Legislature cannot monitor the Parole Board. Ms. Jones believes the only thing the Parole Board has to do is "consider" an inmate for a parole release. Ms. Jones stated NRS 213.100 allows her to follow through with NRS 213.110 and she wanted it put on record that she intends to follow through with that.

Michelle Ravelle said she believes the petitioners are not members of the public. Ms. Ravelle stated that she had not received notification regarding the February 19, 2009 meeting. Chairman Bisbee reminded Ms. Ravelle that the petitioners only gave an email address and that the Board only responds to those who are on the Board's mailing list. Ms. Ravelle said it was her belief that a person could only get on the mailing list if the person was a victim. However, Chairman Bisbee informed Ms. Ravelle her information is incorrect and that several members of the public are present because they have requested notification of public meetings and have submitted their address to the Board for such notification. Ms. Ravelle stated all items should be discussed in the document attached.

There were no more public comments and the meeting closed to the public at 4:07 p.m.

Chairman Bisbee explained that a requirement of a request to repeal must list specific reasons for such a request for consideration. The petition the Board received identifies 2 areas; it speaks specifically to objectivity and mandatory parole release. Chairman Bisbee said that although NRS 510, Sec. 8.3 does not exist (which is used in the repeal letter), that she believes the petitioners meant to refer to Assembly Bill 510 which actually refers to the "Risk Assessment". The criteria for the Risk Assessment used by the Board was created as the result of an independent contractor whose expertise includes the creation and validation of statistical parole risk instruments. Chairman Bisbee said the criteria changes requested by the petitioners aren't consistent with the information contained in the validated risk assessment currently in use. Chairman Bisbee felt it unwise for the Board to modify the current risk assessment without validation. The Board has requested funding in the 2010/2011 fiscal budget to re-validate the parole risk documents and guidelines. If the funding is available, the contractor will have the opportunity to review the risk information and any suggestions for changes to the risk assessment at that time. Chairman Bisbee felt that may be an appropriate time for members of the public to make their comments or recommendations. To do anything else to the instrument would invalidate it and leave the Board in a position of using an invalid objective risk assessment until the re-validation was funded.

Chairman Bisbee said the other issue appears to be mandatory parole release. Although the petitioner referred to NRS 510, Sec. 8.55. Chairman Bisbee believes the

petitioner meant to refer to A.B. 510. The Legislative Counsel Bureau has stated that the way mandatory parole release is handled by the Board is correct. Chairman Bisbee informed the public that there is a bill before the legislature that may make mandatory release – mandatory and that would mean that the Parole Board would not hear those cases.

Chairman Bisbee said the Board will make changes to mandatory parole release regulations if there is a new law that directly addresses that issue.

Chairman Bisbee said she could not see that the petitioner has made any specific or compelling reasons why the regulatory changes specified in R08-018 pertaining to Chapter 213 of the NAC, properly adopted on April 17, 2008, should be repealed. Chairman Bisbee requested comments from each member of the Board.

Commissioner Gray stated no comment. Commissioner Keeler agreed that once a risk assessment has been validated, adjustments cannot be made to it without having to re-evaluate it. Commissioner Keeler agreed with Chairman Bisbee. Commissioner Baker commented she attended the October 2008 meeting where the Board went over R08-018 line by line and discussed R08-018 with Senator Parks, Ms. Jones and other members of the public. Commissioner Baker's concern is that the Legislature is considering some changes to State law which could impact the regulations and believes it is not a good time to take action. Commissioner Jackson made a motion to deny.

Motion: Petition be denied

Made by: Commissioner Jackson

Seconded by: Commissioner Baker

Votes in Favor: Gray, Keeler, Baker, Jackson, Bisbee

Votes Opposed: None

Petition Denied.

IV. Adjournment

Meeting adjourned at 4:16 p.m.