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KATIE FRAKER, *Executive Secretary*

NEVADA BOARD OF PAROLE COMMISSIONERS

MINUTES

Meeting of the

Board of Parole Commissioners

July 23, 2024

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

The Board of Parole Commissioners held a public meeting on July 23, 2024, beginning at 1:00 PM at the following locations:

Conference room at the central office of the Board of Parole Commissioners, located at 1677 Old Hot Springs Road, Ste. A, Carson City, NV, and video conference at the Parole Board Office, 4000 S. Eastern Avenue, Ste. 130, Las Vegas, NV.

I. Open Meeting, call to order, roll call 1:23 PM.

The meeting was called to order by Chairman DeRicco. Present in the Carson City office were Commissioner Baker, Commissioner Weisenthal, and Commissioner Mellinger. Present in the Las Vegas office were Commissioner Christiansen, Commissioner Schmitt, and Chairman DeRicco. Commissioner Bailey was marked absent, excused.

Support staff in attendance:

Forrest Harter, Hearings Examiner II
Mary Flores, Administrative Assistant III

Members of the public present in Carson City included:

None.

Members of the public present in Las Vegas included:

Adam Honey, Deputy Attorney General

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.

Public comment – Carson City, NV

No public comment.

Public comment – Las Vegas, NV

No public comment.

III. For possible action: Review/Approval of minutes from the June 27, 2024, Board meeting.

Motion:	Approve the minutes from the June 27, 2024, Board meeting as distributed.
Made:	Commissioner Schmitt
Seconded By:	Commissioner Christiansen
Votes in Favor:	DeRicco, Baker, Weisenthal, Mellinger, Christiansen, Schmitt
Votes Opposed:	None
Results:	Motion passed

IV. For possible action: Review and approval of language for institutional parole, standard conditions, and sex offender special conditions for use on future parole orders.

Chairman DeRicco opened this agenda item and stated that the provided documents were reviewed by the Board’s DAG and the Division of Parole and Probation. He invited Commissioner Mellinger to provide the overview on this agenda item.

Commissioner Mellinger instructed the Board to look at the handout titled, “Proposed Institutional Parole Conditions.” She stated that the condition of ‘Directives’ was removed due to it being removed from the Board’s standard conditions. She stated the other change made to this document was the wording in the ‘Release’ condition. She explained this change was made so the wording would reflect the wording in the statute.

Chairman DeRicco opened the floor for discussion on this section. There was no further discussion.

Chairman DeRicco instructed the Board to look at the document without a heading that describes the ‘Search’ condition. He explained that this condition has been proposed to be added to the Board’s standard conditions of parole. He further explained that this condition used to be a condition of parole, but when the Board updated the conditions in 2016 it was removed but included by the Division as part of their parole agreement. After further discussions with the Division of Parole and Probation, it was determined that this ‘Search’ condition should be included in the Board’s standard conditions. Chairman DeRicco explained that this language was previously approved by the Board and has not been changed. He opened this section for discussion. There was no further discussion.

Commissioner Mellinger opened the next section for review, “Proposed changes, updated to NRS 213.1245 and NRS 213.1255 Conditions.” She stated everything in green on this document are the proposed changes. She stated that condition ‘day care’ had been struck out due to this condition being incorporated within other conditions, and to ensure that the conditions matched the NRS.

Chairman DeRicco further explained that the NRS 213.1245 conditions are the mandatory conditions for sex offenders. He stated that these conditions are primarily the NRS 213.1255 conditions for sex offenders with victim(s) under the age 14 and who are Tier III offenders, and who have been convicted of certain qualifying offenses. He stated that statutory language has been added. He noted the last two proposed conditions, ‘Location Restriction’ and ‘Residence,’ were included due to the Mastro case ruling. He stated the court ruled in this case that certain conditions could not be imposed retroactively,

and that these two conditions reflect that ruling. He opened this section for discussion. There was no further discussion.

Chairman DeRicco opened the next section for review, ‘Proposed addition for NRS 213.1258 Conditions.’ He stated there is one proposed condition to be added to this section. He stated upon reviewing the statutes and conditions, there was not a special condition in the system to reflect this statute. He stated this condition would only be imposed on specific qualifying offenses. He stated that it was important for the Board to add this condition so it could be imposed when necessary. He opened this section for discussion. There was no discussion.

Chairman DeRicco closed this agenda item by making a motion.

Motion:	That the institutional parole, standard conditions, and sex offender special conditions be approved as submitted and that their use become effective as soon as the changes for the parole grant orders and worksheets are implemented in the NOTIS system.
Made:	Chairman DeRicco
Seconded By:	Commissioner Baker
Votes in Favor:	DeRicco, Baker, Weisenthal, Mellinger, Christiansen, Schmitt
Votes Opposed:	None
Results:	Motion passed

- V. **For discussion and possible action:** The Board will discuss and may take action to update, modify or approve the “Operation of the Board” document that outlines the procedural functioning of the Board. This document may be updated and modified in the future as needed.

Chairman DeRicco opened this agenda item by stating there are a few sections of the Operation of the Board document that should be updated and corrected, ‘Board Communications,’ ‘Early Discharge from Parole,’ ‘Parole Decisions,’ ‘Parole Hearings,’ and ‘Pre-Release Rescission – Review Previous Order.’ He further stated the Board’s Deputy Attorney General has reviewed the provided documents.

Chairman DeRicco began with the section titled, ‘Board Communications,’ and read through the document in its entirety. He explained the additional wording in subsection 3 was added with the hopes that the Board would be provided with documents earlier than the date of the hearing. He explained this would give the Board ample time to review the submitted documents. In subsection 5, Chairman DeRicco recommended a slash be incorporated in the last sentence to reflect, ‘and/or.’

Commissioner Baker stated that the Board allows victims to speak at a hearing and one supporter. She stated there have been cases in the past in which a law enforcement officer or district attorney wishes to speak at a hearing, and the Board has allowed them to speak. Chairman DeRicco referred to subsection 3 that states the Board may allow verbal testimony from anyone at its discretion. Commissioner Baker asked if the word ‘testimony’ required them to be sworn in. Chairman DeRicco stated no, the Board does not require any person to be sworn in. Chairman DeRicco asked if the word ‘testimony’ should be changed to eliminate confusion. Commissioner Schmitt stated the word ‘comments’ could be used in place of ‘testimony.’ The Board agreed to the use of the word ‘comments.’ There was no further discussion on this section.

Chairman DeRicco read through the section 'Early Discharge from Parole' in its entirety. Chairman DeRicco explained that the change to this section was the same additional wording that was included in the 'Board Communications' section. He explained this would hopefully allow the Board to receive documents prior to the hearing.

Executive Secretary, Katie Fraker, stated that when in-person hearings are scheduled, there is not a specific timeframe or date, in which these are to be set. She further stated that these hearings are scheduled to ensure there is proper time to notify any victim(s) and the parolee. She asked that with the additional wording requesting documents be provided seven days in advance, but only requiring five days to notify the parolee if the language should be changed to include a longer timeframe in order to obtain additional documents.

Chairman DeRicco stated that in-person hearings are infrequent, but when the Board does conduct an in-person early discharge hearing, they are generally scheduled for the last Tuesday of the month.

Ms. Fraker stated that she was unsure if the additional language was necessary in this section since the Board is only required to give five days' notice to the parolee and notify any victims no later than five days after the hearing is scheduled.

Chairman DeRicco stated the intent of the additional wording was to get documents prior to the scheduled hearing. He understood that might be impossible in the case of early discharge hearings.

Commissioner Schmitt stated it would be better for the Board to have all the information earlier, so they are able to adequately prepare for the hearing, rather than receiving documents and information the day of the hearing.

Chairman DeRicco stated that if the Board does set an in-person hearing, the Board needs to give time for people to submit documentation. Commissioner Baker stated the timeframe should be consistent to allow for that time. She also stated that it depends when the recommendation from the Division is received by the Board. Chairman DeRicco asked if the Board included the seven-day language, but the seven days could not be met if the hearing could be scheduled for the subsequent month. Ms. Fraker stated that the new seven-day language should be fine as hearings are generally scheduled at least a week prior to the hearing date in order to give time to notify any victims. She stated this also allows the parolee and any supporters they may have to submit additional documentation. Chairman DeRicco further stated that this additional language was just a recommendation and that the Board will still accept letters later.

Commissioner Baker stated that since the Board is required to notify victims and allow for them to submit any written documentation, that as long as there is consistency in scheduling parolees for a hearing while ensuring there is adequate time to receive additional documentation, that the additional wording is fine.

Chairman DeRicco re-read the additional language and emphasized that it was just a recommendation. He stated he was okay with keeping the additional language and asked the Board if there was any further discussion or if anyone did not want the additional language. The Board agreed to the additional language.

Commissioner Mellinger asked if the Board could go back to the 'Board Communications' section that was previously discussed. She stated that she searched through the rest of the Operations of the Board document and the word 'testimony' was found fourteen times. She asked if the Board still wanted to change the word 'testimony' to 'comment' in this section. She stated she did not feel like it was a good idea to change it in this one section. Commissioner Baker stated that she immediately thinks of testimony as being sworn in, but she looked up the word and it does not require the legal context but can mean 'a statement.' She stated that the word 'testimony' works in the Board's proceedings. She agreed with Commissioner Mellinger that it does not need to be changed.

Chairman DeRicco agreed to revert the previous agreed upon change and the word 'testimony' will remain. The Board agreed.

The next section that was discussed was the 'Parole Decisions' section. Chairman DeRicco began to read through the document. Chairman DeRicco asked if there should be an 's' in the website domain, to read "https." The Board agreed that the website in subsection 1 should read "https." Before reading subsection 13, Chairman DeRicco asked the Board to look at the handout entitled, 'Parole Hearings.' He stated a section was moved from the 'Parole Hearings' section to the 'Parole Decisions' section. He then read subsection 13 in the 'Parole Decisions' section. Chairman DeRicco opened this section for discussion.

Commissioner Christiansen asked about subsection 8. He stated that he has received calls from federal public defenders inquiring about the parole hearing for an offender who is in a federal facility. Chairman DeRicco stated the northern office typically handles out-of-state custody hearings. He stated these are scheduled when they are in a jurisdiction out of state or under federal jurisdiction. He explained that when an offender is on the eligibility list the Board attempts to schedule them for a hearing. He further explained that the problem arises when the Board attempts to get the required documentation from the other facilities. He stated that in order to conduct a hearing the Board needs certain documents that are not easily obtained from other jurisdictions. He stated the Hearings Examiners work to schedule out-of-state hearings with the other facilities, but the Board does have to take No Action on these hearings if the documentation is not received.

Commissioner Christiansen recommended adding "federal jurisdictions" in subsection 8. Commissioner Baker stated that out-of-state custody hearings are difficult especially when the offender is in jail. She stated when the offender is serving a sentence in another institution, the Board is usually able to conduct those hearings, but when the offender is in a jail the Board generally must take a 'No Action,' as they have not received the required documentation.

Chairman DeRicco asked if the Board felt the wording in subsection 8 should be changed to include federal jurisdictions. Commissioners Schmitt and Weisenthal felt as though the language was fine as is. Commissioner Baker recommended the first sentence read, "Inmates housed in other states under compact terms, on residential confinement, or other jurisdictions will be considered...". The Board agreed to the change recommended by Commissioner Baker.

There was no further discussion on this section.

Chairman DeRicco reviewed the next section, 'Parole Hearings.' He explained that the only change was moving one section to the 'Parole Decisions' section as previously discussed.

The final section Chairman DeRicco discussed was the ‘Pre-Release Rescission/Review of Previous Order’ section. He explained that the only change to this document was a typographical error in subsection 3.

He opened the floor for questions or discussions about any sections covered in this agenda item. There was no discussion from the Board. Chairman DeRicco made a motion.

Motion:	To approve the Board Communications, Early Discharge from Parole, Parole Decisions, Parole Hearings, and Pre-Release Rescission/Review Previous Order documents as revised.
Made:	Chairman DeRicco
Seconded By:	Commissioner Baker
Votes in Favor:	DeRicco, Baker, Weisenthal, Mellinger, Christiansen, Schmitt
Votes Opposed:	None
Results:	Motion passed

VI. 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.

Public comment – Carson City, NV

No public comment.

Public comment – Las Vegas, NV

No public comment.

VII. For possible action: The Board may act to adjourn the meeting.

Motion:	To adjourn the July 23, 2024, meeting of the Nevada Board of Parole Commissioners.
Made:	Chairman DeRicco
Seconded By:	Commissioner Christiansen
Votes in Favor:	DeRicco, Baker, Weisenthal, Mellinger, Christiansen, Schmitt
Votes Opposed:	None
Results:	Motion passed