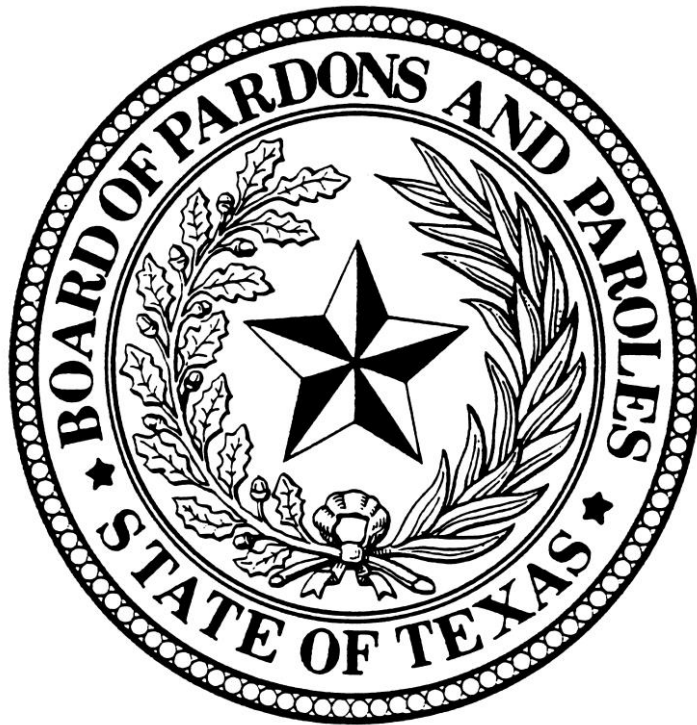


TEXAS BOARD OF PARDONS AND PAROLES

MINUTES

Board Meeting No. 21-1021



October 21, 2021

Austin, Texas

TEXAS BOARD OF PARDONS AND PAROLES

Board Meeting

Thursday, October 21, 2021

Holiday Inn Austin Midtown
(Hill Country C Room)
6000 Middle Fiskville Road
Austin, Texas

9:00 AM

Order of Business

1. Call to Order
2. Convene Texas Board of Pardons and Paroles Open Meeting
3. Recognitions
4. Consent Items – Minutes for the July 15, 2021, Board Meeting and Workshop
5. Chairman’s Report – David Gutiérrez, Chairman
6. Discussion and Consideration of Board Designee Hearing Manual – Michael Adams, Director of Hearing Operations
7. Discussion and Consideration of Resolution Regarding New Release Certificate
8. Discussion and Consideration of Board Policy, BPP-POL. 145.263 Special Condition “X” (Sex Offender Condition)
9. Discussion and Consideration of Board Policy, BPP-POL. 141.200 Board of Pardons and Paroles Mission Statement
10. Discussion and Consideration of Board Policy, BPP-POL. 141.201 Policy Statement on Internal Audit Procedures
11. Discussion and Consideration of Board Policy, BPP-POL. 141.204 Negotiated Rulemaking
12. Discussion and Consideration of Board Policy, BPP-POL. 141.400 Offender Transfer from TDCJ CID to Federal Custody
13. Discussion and Consideration of Board Policy, BPP-POL. 145.200 Extraordinary Vote (SB 45)
14. Discussion and Consideration of Board Policy, BPP-POL. 145.207 Extraordinary Vote (HB 1914)
15. Discussion and Consideration of Board Policy, BPP-POL. 145.209 Pre-Parole Release
16. Discussion and Consideration of Board Policy, BPP-POL. 145.266 Gang Renunciation and Disassociation
17. Discussion and Consideration of Board Policy, BPP-POL. 146.255 Revocation Hearing – Pending Criminal Charges
18. Initial Readoption without Amendments in 37 TAC, Chapter 141, Subchapter C
 - A. §141.60 Submission and Presentation of Information
 - B. §141.71 Minutes of the Board
19. Initial Readoption without Amendments in 37 TAC, Chapter 141, Subchapter E
 - A. §141.91 Purpose

B. §141.92 Record

20. Initial Readoption without Amendments in 37 TAC, Chapter 141, Subchapter F, §141.101 Issuance of Subpoenas
21. Initial Readoption with Non-Substantive Amendments in 37 TAC, Chapter 141, Subchapter G, §141.111 Definition of Terms
22. Convene Texas Board of Pardons and Paroles Closed Meeting – Executive Session
 - A. Consultation with Legal Counsel Regarding Pending or Contemplated Litigation or Settlement Offers; to Receive Legal Advice on Items Posted on this Agenda (Closed in accordance with Section 551.071, Government Code).
 - B. Consultation with Legal Counsel on Matters Where the Texas Board of Pardons and Paroles Seeks the Advice of its Attorney as Privileged Communications under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas (Closed in accordance with Section 551.071, Government Code).
23. Reconvene Texas Board of Pardons and Paroles Open Meeting
24. Adjourn



MINUTES OF THE TEXAS BOARD OF PARDONS AND PAROLES BOARD MEETING

THURSDAY, OCTOBER 21, 2021

REGULAR SESSION

The Texas Board of Pardons and Paroles (Board) met in open session on Thursday, October 21, 2021, at 9:00 a.m., Holiday Inn Austin Midtown, 6000 Middle Fiskville Road, Austin, Texas 78752.

BOARD MEMBERS PRESENT

David Gutiérrez
James LaFavers
Brian Long
Linda Molina
Ed Robertson

OTHERS PRESENT

Bettie Wells, General Counsel
Tim McDonnell, Chief of Staff
Jessica Dillard, Board Administrator
Rachel Alderete, Director, Support Operations
Kyle Britt, Budget Director
Michael Adams, Director of Hearing Operations
Kelsey Stratton, Director of Staff Development
Libby Hamilton, Director of Victim Liaison Program
Barry Bertocki, Clemency Director
Clinton Gunnels, Director of Institutional Parole Operations
Pamela Thielke, Governmental Affairs
Terence Hall, Systems Analyst
Estela DeHoyos, Program Supervisor
Rene Hinojosa, TDCJ Parole Division Director

CONVENED – TEXAS BOARD OF PARDONS AND PAROLES

Presiding Officer (Chairman) David Gutiérrez convened the meeting of October 21, 2021, at 9:00 a.m. in accordance with Chapter 551, Texas Government Code, Open Meetings Act. After roll call, the Chairman stated a quorum was present and declared the meeting open.

RECOGNITIONS

General Counsel Bettie Wells introduced the new Board Attorney, Valerie Cortez. She highlighted her background.

NAMES OF BOARD RETIREES (ATTACHMENT A)

Chairman Gutiérrez recognized the employees that retired and stated the names of the retirees will be included as part of the official minutes of the meeting.

NAMES OF SERVICE AWARD RECIPIENTS (ATTACHMENT B)

Chairman Gutiérrez recognized the Board employees who have dedicated 5, 10, 15, 20, 25, 30, 40, and years of service to the state of Texas. He expressed his deepest appreciation for their dedicated service. He stated the names of the service award recipients will be included as part of the official minutes of the meeting.

Chairman Gutiérrez recognized the individuals that assisted during the 87th Legislative Session and thanked them for their service.

CONSENT ITEMS

Chairman Gutiérrez stated the Board had an opportunity to review the Consent Items listed on the agenda prior to the meeting and asked if there were any objections. Hearing no objections, the Board approved the minutes from the July 15, 2021, Board Meeting and Workshop.

CHAIRMAN'S REPORT

Chairman Gutiérrez provided an agency report, discussing the agency's activities and initiatives moving into Fiscal year 2022. He stated the agency continues to remain steadfast, working to provide continued training, as well as embracing technological opportunities. He shared the updates of the progress in the respective areas.

Annual Board Operations Training Seminar

Chairman Gutiérrez thanked Michael Adams, Director of Hearing Operations, and his staff for their coordinated efforts in preparing an excellent Agenda, which included various presentations from Board staff, who provided updates from their respective departments. He also noted Rene Hinojosa, Parole Division Director did a great job providing division updates which reflected continued growth and changes within the Parole Division. The 2 1/2-day seminar included mock parole revocation hearings, which helped identify challenges and strengths. The seminar wrapped up with a presentation on Leadership, given by David Yebra, TDCJ, Training & Leader Development Division Director.

OIMS System

The Chairman reported FY22 first month's stats reflect slightly over 55 percent of cases are being voted electronically, stating this is a monumental accomplishment. The agency embraces the electronic advancement as legacy paper files slowly become obsolete.

The Chairman stated his vision and goals for the Agency is to provide all employees with the tools needed to perform their responsibilities. The objective is to operate without setbacks and add productivity, efficiency and increase performance.

DISCUSSION AND CONSIDERATION OF BOARD DESIGNEE HEARING MANUAL (*ATTACHMENT C*)

Chairman Gutiérrez introduced Michael Adams, Director of Hearing Operations, to present for discussion and consideration agenda item #6, Board Designee Hearing Manual.

Mr. Adams introduced and thanked his two regional operations supervisors, Heather Clark, and Joel Butler for their assistance in reviewing and discussing the needed updates in the Board Designee Hearing Manual. He briefly highlighted the proposed changes made, which include grammatical updates, added language for hearing officers to announce on the record whether the hearing is in person or video, updated scripts on status of charges related to the 41-day order set by the Court of Criminal Appeals, and added language regarding attorney determination questions. Mr. Adams asked for the Boards consideration of the manual.

Motions

Mr. Long moved to adopt the Board Designee Hearing Manual, as presented.

Mr. LaFavers seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF RESOLUTION REGARDING NEW RELEASE CERTIFICATE

Chairman Gutiérrez stated agenda item #7 will not be considered by the Board at this meeting.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.263 SPECIAL CONDITION "X" (SEX OFFENDER CONDITION) (*ATTACHMENT D*)

Chairman Gutiérrez yielded the floor to Board Member Ed Robertson, Chair of the Special Conditions Workgroup to present for discussion and consideration BPP-POL. 145.263 Special Condition "X".

Mr. Robertson discussed the recommended amendments to Board Policy, BPP-POL. 145.263, which include non-substantive protocol updates as well as substantive language updates related to warrantless search and child safety zone provisions referenced where appropriate in the policy

Motions

Mr. LaFavers moved to adopt the revisions to Board Policy, BPP-POL. 145.263 Special Condition "X" (Sex Offender Condition), as presented.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 141.200 BOARD OF PARDONS AND PAROLES MISSION STATEMENT (ATTACHMENT E)

Chairman Gutiérrez yielded the floor to Bettie Wells, General Counsel to present for discussion and consideration BPP-POL. 141.200 Board of Pardons and Paroles Mission Statement.

Ms. Wells stated that in reviewing Board Policy 141.200 it was determined no revisions are required.

Motions

Mr. Long moved to adopt the Board Policy, BPP-POL. 141.200 Board of Pardons and Paroles Mission Statement, without revisions, as presented.

Mr. Robertson seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 141.201 POLICY STATEMENT ON INTERNAL AUDIT PROCEDURES (ATTACHMENT F)

Chairman Gutiérrez yielded the floor to Bettie Wells to present for discussion and consideration BPP-POL. 141.201 Policy Statement on Internal Audit Procedures.

Ms. Wells discussed the recommended amendments to Board Policy 141.201, which include non-substantive revisions primarily protocol updates on pages one, two and three.

Motions

Ms. Molina moved to adopt the revisions to Board Policy, BPP-POL. 141.201 Policy Statement on Internal Audit Procedures, as presented.

Mr. LaFavers seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 141.204 NEGOTIATED RULEMAKING (ATTACHMENT G)

Chairman Gutiérrez yielded the floor to Bettie Wells to present for discussion and consideration BPP-POL. 141.204 Negotiated Rulemaking.

Ms. Wells discussed the recommended amendments to Board Policy 141.204, which include protocol updates and a substantive change, relating to the language of proposed rule as opposed to an adoption of a rule to clarify the policy is specifically for consideration of proposed Board rules.

Motions

Mr. LaFavers moved to adopt the revisions to Board Policy, BPP-POL. 141.204 Negotiated Rulemaking, as presented.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 141.400 OFFENDER TRANSFER FROM TDCJ CID TO FEDERAL CUSTODY (ATTACHMENT H)

Chairman Gutiérrez yielded the floor to Bettie Wells to present for discussion and consideration BPP-POL. 141.400 Offender Transfer From TDCJ CID to Federal Custody.

Ms. Wells discussed the recommended amendments to Board Policy 141.400, which include a non-substantive protocol update and a substantive change on page one, for the definition of “secure correctional facilities.”

Motions

Ms. Molina moved to adopt the revisions to Board Policy, BPP-POL. 141.400 Offender Transfer from TDCJ CID to Federal Custody, as presented.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.200 EXTRAORDINARY VOTE (SB 45) (ATTACHMENT I)

Chairman Gutiérrez yielded the floor to Bettie Wells to present for discussion and consideration BPP-POL.145.200 Extraordinary Vote (SB 45).

Ms. Wells discussed the recommended amendments to Board Policy 145.200, which include non-substantive protocol updates as well as clarification in the language.

Motions

Mr. Long moved to adopt the revisions to Board Policy, BPP-POL. 145.200 Extraordinary Vote (SB 45), as presented.

Mr. LaFavers seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.207 EXTRAORDINARY VOTE (HB 1914) (ATTACHMENT J)

Chairman Gutiérrez yielded the floor to Bettie Wells to present for discussion and consideration BPP-POL.145.207 Extraordinary Vote (HB 1914).

Ms. Wells discussed the recommended amendments to Board Policy 145.207, which include non-substantive changes to protocol and clarification in the language.

Motions

Ms. Molina moved to adopt the revisions to Board Policy, BPP-POL. 145.207 Extraordinary Vote (HB 1914), as presented.

Mr. Robertson seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.209 PRE-PAROLE RELEASE (ATTACHMENT K)

Chairman Gutiérrez yielded the floor to Bettie Wells to present for discussion and consideration BPP-POL.145.209 Pre-Parole Release.

Ms. Wells discussed the recommended amendments to Board Policy 145.209, which include non-substantive updates in the authority section as well as the header.

Motions

Mr. LaFavers moved to adopt the revisions to Board Policy, BPP-POL. 145.209 Pre-Parole Release, as presented.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 145.266 GANG RENOUNCIATION AND DISASSOCIATION (ATTACHMENT L)

Chairman Gutiérrez yielded the floor to Bettie Wells to present for discussion and consideration BPP-POL.145.266 Gang Renunciation and Disassociation.

Ms. Wells discussed the recommended amendments to Board Policy 145.266, which include non-substantive changes to ensure the policy recognizes the GRAD Program term.

Motions

Ms. Molina moved to adopt the revisions to Board Policy, BPP-POL. 145.266 Gang Renunciation and Disassociation, as presented.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

DISCUSSION AND CONSIDERATION OF BOARD POLICY, BPP-POL. 146.255 REVOCATION HEARINGS PENDING CRIMINAL CHARGES (ATTACHMENT M)

Chairman Gutiérrez yielded the floor to Bettie Wells to present for discussion and consideration BPP-POL.146.255 Revocation Hearings Pending Criminal Charges.

Ms. Wells stated Board Policy 146.255 is a new policy being recommended for adoption in light of the court of criminal appeals opinion regarding revocation hearings for offenders with pending criminal charges.

Motions

Mr. Long moved to adopt Board Policy, BPP-POL. 146.255 Revocation Hearings Pending Criminal Charges, as presented.

Mr. LaFavers seconded the motion, which prevailed when called for a voice vote.

BOARD RULES (ATTACHMENT N)

Chairman Gutiérrez yielded the floor to James LaFavers, Chair of the Rules Committee, to present the rules listed in agenda items #19 - #22.

INITIAL READOPTION WITHOUT AMENDMENTS IN 37 TAC, CHAPTER 141, SUBCHAPTER C

Mr. LaFavers, Chair of the Rules Committee, presented the rules in agenda item #18, stating the Rules Committee met and considered the rules in Chapter 141. The Rules Committee recommends the initial readoption without amendments to the rules listed in agenda item #18. The proposed rule review was published to the Texas Register and the General Counsel reports that no comments were received.

Motions

Ms. Molina moved for the Initial Readoption without Amendments of Chapter 141, General Provisions, Subchapter C, Submission and Presentation of Offenders, §141.60 Submission and Presentation of Information; §141.71 Minutes of the Board.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

INITIAL READOPTION WITHOUT AMENDMENTS IN 37 TAC, CHAPTER 141, SUBCHAPTER E

Mr. LaFavers presented the rules in agenda item #19, stating the Rules Committee by unanimous vote recommends the initial readoption of Chapter 141, General Provisions, Subchapter E, without amendments to the rules.

Motions

Ms. Molina moved for the Initial Readoption without Amendments of Chapter 141 General Provisions, Subchapter E, Interviews, §141.91 Purpose and §141.92 Record.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

INITIAL READOPTION WITHOUT AMENDMENTS IN 37 TAC, CHAPTER 141, SUBCHAPTER F, §141.101 ISSUANCE OF SUBPOENAS

Mr. LaFavers stated the Rules Committee by unanimous vote is recommending the initial readoption of without amendments to the rule listed in agenda item #20.

Motions

Ms. Molina moved for the Initial Readoption without Amendments of Chapter 141, General Provisions, Subchapter F, Subpoenas, §141.101 Issuance of Subpoenas.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

INITIAL READOPTION WITH NON-SUBSTANTIVE AMENDMENTS IN 37 TAC, CHAPTER 143, SUBCHAPTER G, §141.111 DEFINITION OF TERMS

Mr. LaFavers presented the rule in agenda item #21, stating the proposed non-substantive amendments include protocol updates for uniformity and consistency. The Rules Committee is recommending the initial readoption with non-substantive amendments to the rule listed in agenda item #21.

Motions

Ms. Molina moved for the Initial Readoption with Non-substantive Amendments of Chapter 141 General Provisions, Subchapter G, §141.111 Definition of Terms.

Mr. Long seconded the motion, which prevailed when called for a voice vote.

EXECUTIVE SESSION

Chairman Gutiérrez recessed the Regular Session at 10:05 a.m. and convened the Board into Executive Session (closed under Section 551.071, Government Code).

RECONVENE TEXAS BOARD OF PARDONS AND PAROLES

Chairman Gutiérrez convened the Board back into Regular Session at 1:20 p.m. and proceeded with the order of business.

ADJOURNMENT

Having completed all posted items on the agenda, Chairman Gutiérrez adjourned the Board Meeting at 11:26 a.m.

ADOPTED BY UNANIMOUS CONSENT OF THE BOARD ON THE 10th DAY OF MARCH 2022.



DAVID GUTIÉRREZ, PRESIDING OFFICER (CHAIR)