

The Minutes of the Meeting

STATE VETERANS AFFAIRS COMMISSION

July 19, 2018
9:00 A.M.

An official meeting of the State Veterans Affairs Commission (VAC) convened on Thursday, July 19, 2018 at the W. D. (Bill) Hefner VA Medical Center, Salisbury, NC. Attendance as noted:

Commission Members

Jimmy G. (Tony) Braswell, Chairman
Elree T. Smith, Vice-Chairman
Etteinne (E.T.) Mitchell (Absent)
William Shillito
Leonard (Mike) Scruggs (Absent)
Carol Phelps
Terry T. Hales
Joseph (Joe) W. Adamczyk
Gregory R. Woodard
Rev. Lenwood V. Long, Sr.
Michael Worley (Absent)
John C. Boesch
Larry Townsend

Advisory Committee Members

Jeffrey D. Jones (Absent)
Marine Corps League
Jacob Roth, Commander (Absent)
American Ex-Prisoners of War
Evan Thompson, Commander (Absent)
The American Legion
Buddy Waller (Absent)
AMVETS
Jeremy Roberts, Adjutant
Disabled American Veterans
Greg Stafford, Commander (Absent)
Veterans of Foreign Wars
James Hicks
Military Order of the Purple Heart
Rossie M. Nance, Jr. (Absent)
Vietnam Veterans of America
David Lee, President (Absent)
North Carolina Council of MOAA

Assistant Secretary for Veteran Affairs
Deputy Director, NC Division of Veteran Affairs
NCDVA Facilities Manager
Administrative Assistant
Administrative Assistant
Administrative Secretary

James (Jim) Prosser
Martin Falls
James (Jimmy) Woodard
Diane Norris
Ken Castille
Angela Heilig

Guests:

Secretary Larry D. Hall, Department of Military and Veterans Affairs
Wes Kyatt, Administrative Assistant, Department of Military and Veterans Affairs

Chairman Braswell opened the meeting at 9:01a.m. with the Veterans Affairs Commission and asked Assistant Secretary Prosser to conduct a roll call to determine if there was a quorum of the Commission present. After determining a quorum was present, Chairman Braswell called the attention of the Commission regarding any conflicts of interest and if any should arise the affected Commission members would recuse themselves from any discussion and deliberations. Chairman Braswell then called for a motion of the Commission to enter into Closed Session to begin a review of State scholarships. A motion was made by Commissioner Shillito and seconded by Commissioner Adamczyk. After a unanimous vote, the Commission entered into Closed Session at 9:03a.m.

After Scholarship discussions, a motion was made by Vice-Chairman Smith and seconded by Commissioner Hales to exit from Closed Session. The motion was approved and the Commission exited Closed Session at 9:28a.m. and the Commission recessed until 10:00a.m.

At 10:00a.m., Chairman Braswell called the meeting back into Open Session then called on and asked Commissioner Rev. Long to give the invocation and Commissioner Townsend to lead the Pledge of Allegiance.

Chairman Braswell dispensed with a Roll Call and Assistant Secretary Prosser acknowledged attendance of Mr. James Hicks from the NC Military Order of the Purple Heart. Chairman Braswell called attention to the minutes of the Veterans Affairs Commission meeting of April 25, 2018 and was seconded by Vice Chairman Smith. A vote was taken and the minutes were accepted.

Chairman Braswell asked for the Agenda be changed to add Commission voting for scholarship action taken in Closed Session be included in the report of Assistant Secretary Prosser. The motion was made by Commissioner Shillito and seconded by Commissioner Townsend. A vote was taken and approved to amend the Agenda.

Chairman Braswell recognized attendance of Secretary Larry Hall, Department of Military and Veteran Affairs and offered Secretary Hall the opportunity to address the Commission.

Secretary Hall began his remarks by thanking the Commission for the service they are giving on the Commission with certain times that service means more than others and that's when they are guarding the purpose and fulfilling the fiduciary responsibilities they have and sworn to uphold. He further stated as difficult issues come, the history and purpose of the Commission are tested and hoped that they would seek out whatever remedies are available to ensure that is served and protected especially consistent with the oath they have taken. Secretary Hall stated there are budget issues that will come up for discussion and in that context he is making these statements because people are relying on the Commission to vote for the current residents of our State Veterans Nursing Homes and facilities and future veterans who will come in to take advantage of or receive services the Commission and their duties with the Trust Fund they will affect are preserved, protected and enhanced. Secretary Hall applauded the Commission for the service they have given and encouraged them to be steadfast and continuing to carry out their oath in the interest of the veterans going forward and thanked them on behalf of the Department.

Chairman Braswell thanked Secretary Hall for his remarks and allowed a few moments if any Commission members had any questions to address to Secretary Hall. Commissioner Shillitio asked if there was anything they should be looking for or could be directed to assist in the budget debates regarding the State Veterans Home Trust Fund. Secretary Hall said there is a history of the creation of the trust fund and who contributed and what the conditions of it were and that consistency has held fast until now. Secretary Hall said that was a guide for what the intent was and who was involved that would have standing to intervene or push back any efforts to invade the Trust Fund. Further, Secretary Hall stated trust laws are pretty specific on creation of a trust and utilization consistent with the creation document and anything that deviates from that is a disservice. An overall trend that will start in State government touching more than one Trust Fund and how the funds are utilized. If the trend starts and the Legislature can start it here invading trusts and taking proceeds intended for one purpose and using them for another unauthorized purpose without consulting, or discussing the idea in front of the Board that is required to administer that fund creates a bad precedent that could spill out all over not just in the interest of these trust funds the Veterans Affairs Commission oversees but all statewide because there is a tremendous number of trust funds that have been created because of organization's who have a common interest coming together and putting forward funding and agreeing to be bound by the terms of their trust agreement. There is a compact and a contract to prevent people from coming in indiscriminately taking money out without being bound by the terms is a bad precedent.

Commissioner Shillito asked if there was sufficient support in the Legislature that this will never come to pass. If there isn't sufficient support and allow it to come to pass, Commissioner Shillito believes it could come to a legal environment or judicious side. Assistant Secretary Prosser stated that the fund transfer had already passed and Commission Shillito asked if we would challenge it on the judicious side. Chairman Braswell stopped further discussion and directed the issue be discussed later in the meeting.

Chairman Braswell thanked Secretary Hall for coming to the meeting.

Chairman Braswell called on Mr. Jimmy Woodard for a report on State Veterans Homes and Cemeteries.

Mr. Woodard began by announcing he would leave shortly to attend a meeting with State Construction staff and designers regarding the future Wake County site.

Mr. Woodard started with Fayetteville State Veterans Home and the emergency HVAC system replacement is underway but a little slow due to getting equipment deliveries. The cooling towers have been on order for several months. While they have been shipped, the pumps/accessories will be shipped on July 26th and the heat pumps will be shipped on August 10th. The sprinkler system will be inspected since the building has been there since 1999. There have been some leaks and a few pipes were looked at with State Construction recommending a system inspection but that has been put off until October 1st due to excessive heat in the summer to enter the attic space

In Salisbury, Mr. Woodard updated on the elevator replacement project has been designed or in the process but with building renovation with the generator project in progress, the designers preferred we not have two different contractors in the building at the same time possibly interfering with each other's work and having issues.

Commissioner Hales asked, with the construction of two new homes, based on that critical-path method of how we will do business with one team in there and another team ready to go in will there be an interference issue? Mr. Woodard said that doesn't normally happen but due to the circumstances when the generator went out, projects were prioritized. Commissioner Hales expressed concern when construction begins on the two new nursing homes we have a conversation about this and based on the money we'll pay for the new construction method. Mr. Woodard stated State Construction says they've been doing this for a few years and the process is changed. He said all the projects are usually completed 4-6 months early under CMR (Contractor Management at Risk).

Mr. Woodard continued to discuss the Salisbury Nursing Home project. He said the project for the renovation and activity room, there are problems with the contractor that started in January and is three months behind schedule. He said the contractor has said he's unable to get help or sub-contractors have left the project. Mr. Woodard stated there are weeks where no work is done in the building. He has spoken with the designers who are also concerned and a meeting is scheduled for the July 25th to speak with the contractor. Mr. Woodard has spoken with State Construction who has said if the contractor fails to show up, they will call a meeting in Raleigh where the contractor will be put on notice for non-performance. Mr. Woodard is concerned that work is continuing to drag out and State Construction has the authority to go to the bonding company to report this contractor isn't working and they can get another contractor to complete the project.

Commissioner Shillito asked when was the original completion date for this project. Mr. Woodard said February 2019 and it won't happen. This delay is affecting everything. Furniture is being shipped in and there are no finished areas to set furniture or areas to store. Commissioner Shillito asked what the typical duration of this project. Mr. Woodard said, because of construction phasing, the work takes a little longer since only four rooms can be done at a time; on a with a week to week basis.

Commissioner Adamczyk asked if the contractor has been paid anything and Mr. Woodard said there was very little payment and payments will be held until State Construction gives the okay and only for work completed that has been accepted. Commissioner Woodard asked if there were any penalties in the contract. Mr. Woodard said \$250/day and the current penalty amount is in six figures and stated the issue will likely go to the State Attorney General's office.

In Black Mountain, Mr. Woodard said the security projects are completed and currently working on the punch list.

In Kinston, work on the emergency sprinkler system is complete and in operation but only have a few minor punch list items. On the roof project, recommendation is to replace the roof rather than repair and will need to discuss with State Construction. Commissioner Woodard asked about the sewer project and Mr. Woodard said work has been done and while the piping isn't what it should be, there have been no problems only to clean screens frequently and the system is force-fed rather than gravity-fed to allow greater flow. While there is a 6" or 8" pipe across the road, Commissioner Woodard asked if we could spend money now to connect but Mr. Woodard said repairs and installation of pumps and grinders have been sufficient.

Regarding the two new homes, preliminary work is underway and Mr. Woodard said reports are due next week and will be inputted into the VA system in Washington, DC. He further stated that the 35% drawings are done and the environmental assessments are almost done. The Wake County site has gone through government operations and the Council of State has approved. An email has been received from State Property to get a check for the \$3,420,000 and sent next week. Final deed will take some time. In Forsyth county, environmental assessments are being done and clearing house is in process with 25-30% of drawings complete. Mr. Woodard has stated the need for quality building at \$250/sq. ft. compared to \$130/sq. ft. for other homes and the use of metal roofs, brick and hardiplank siding.

Discussion was held regarding the NC State Veterans Home Trust Fund balance and encumbered funds. Chairman Braswell asked for a true value of the fund each month for a better picture of the fund balance.

Mr. Woodard began his report on the NC State Veterans Cemetery Program with an update on the Sandhills State Veterans Cemetery expansion project bid approved and is currently awaiting approval from VA in Washington to move forward. Also at Sandhills, Mr. Woodard said the O&M Project is approved and bids are being requested. At Western Carolina State Veterans Cemetery, the grant has been approved and working with State Construction for an award letter. At Coastal Carolina State Veterans Cemetery, Mr. Woodard said the O&M Project grant is out for bid and three companies have responded with hopes one will bid on it.

Mr. Woodard pointed to R&R funding requests that will be submitted:

Western Carolina SVC: Administration/Chapel-replacement of the roof

Coastal Carolina SVC: Gazebo (rusted beams, leaking roof (repair \$65,000 or replace \$130,000); Administration Office carpet replacement (\$14,000); Chapel refurbishment (\$25,000)

Mr. Woodard discussed the current receipt balance for the NC State Veterans Cemetery Program. He stated the amount is not significant but reminded the Commission of the upfront money that was used for the expansion and once permission is given to start, we'll be able to receive reimbursement funding from Washington.

Vice Chairman Smith asked, based on current commitments, if there was a projected end-of-life for the cemeteries. Mr. Woodard responded that there is. For Goldsboro, expected end-of-life is 35 years. For Black Mountain, the current expansion project could be the last one. For Sandhills, there is area beyond the nearby railroad tracks that could be considered for more space and for Coastal Carolina, there is an

area available for expansion. The most critical is Black Mountain with expected end-of-life in 5-10 years after the current expansion.

Chairman Braswell asked about the cemetery program receipts fund balance and if any was encumbered. Mr. Woodard responded that salaries are. Chairman Braswell then requested reporting a projection on an annualized basis of the fund balance to give an honest look at funds available. Chairman Braswell also asked if there are any budgetary expenses coming, we show allocation or funding for them whether in the State Nursing Homes or State Veterans Cemeteries to show what our true fund balances are. Assistant Secretary Prosser then stated NCDVA will provide the information on the obligation of the funds now to work with the Legislature for next year's budget.

Commissioner Shillito referred to columbarium space at Black Mountain and Sandhills cemeteries and if any thought has been given to expanding those spaces. Mr. Woodard replied at Black Mountain there is consideration and at Sandhills as well but doesn't currently have a columbarium structure. Assistant Secretary Prosser then provided information on the difference between urn burials and columbarium burials in the cemeteries. Additionally, Assistant Secretary Prosser stated NCDVA will provide a copy of the report sent to the VA showing the exact number of burial spaces each cemetery has left and projected date expected to be filled.

At this point, Chairman Braswell directed appointment of a Financial Committee to work closely with the fund balances of the State Cemeteries and State Nursing Homes to keep the Commission informed. Commissioner Townsend was appointed as chairman with Commissioner Boesch and Commissioner Rev. Long to serve.

Vice Chairman Smith offered a comment to Mr. Woodard regarding the requirement of Senate Bill 62, Veterans Affairs Commission Strategic Plan to provide annual reports to the NC legislature. He asked that reports received from Pruitt Health pertaining to the satisfaction of the contract be received on a quarterly basis then provide summary information to the Commission for inclusion in the annual report to the NC legislature on Nov. 1, 2019.

Chairman Braswell then proceeded to address other business items in the agenda prior to Mr. Woodard's departure. Chairman Braswell confirmed the allocation of funds approved in a conference call on June 6, 2018 for additional \$9,000 due to the change in acreage for acquiring land for the new State Nursing Homes above the original approved amount of \$4M.

With no further questions, Chairman Braswell thanked Mr. Woodard for his report.

Secretary Hall, Mr. Woodard, Mr. Wes Kyatt and Ms. Norris departed at 10:46a.m.

Chairman Braswell called on representatives from the Advisory Board for a report. Mr. James Hicks reported NC MOPH is struggling and has no questions for the Commission. Dr. Jeremy Roberts reported on NC DAV and VA Mission Act for benefits for caregivers. He referred to the gap between the Vietnam generation and the OIF/OEF Post 9/11 generation and push for caregiver benefits for that population. Dr. Roberts said NC DAV is looking forward to the two new State Nursing Home locations, disappointment in the project delays in Salisbury and encouragement for ongoing projects at Kinston, Black Mountain and Fayetteville. He further offered any help from NC DAV to the Commission.

Chairman Braswell called on Assistant Secretary Prosser for his report for NCDVA. Assistant Secretary Prosser then asked Chairman Braswell to call for a vote on scholarship reviews conducted during closed session earlier. Chairman Braswell called for a motion to revoke two scholarships and continue review of two other scholarship applicants. A motion was made by Commissioner Woodard and seconded by Commissioner Hales. A vote was taken and all approved the motion.

Assistant Secretary Prosser continued his report by informing the Commission that after a direct lobbying effort, NCDVA was successful in getting \$2.4M in escheats for scholarships but it was not identified as a recurring allocation so additional lobbying will be needed for next year's budget. Also, the Legislature did a change amendment to Class II and III scholarship eligibility that will now include step-children with language using the DoD definition of child (CFR 37) rather than the VA definition of a child (CFR 38). This change will not cost the State but will increase the pool for selection.

Assistant Secretary Prosser proceeded to brief the Commission on a new partnership between NCDVA and the National Veterans Legal Services Program (NVLSP) out of Washington, DC. A Memorandum of Understanding (MOU) has been signed between the organizations to review results from claim review boards with recommendations for escalation of claims to the Veterans Court in DC where they will then represent the Veteran and allow NCDVA to still have access ability to assist the Veteran. Additionally, they will provide 12 hours of training a year on appeals to VSOs at both State and County levels. Also, NLVSP will conduct initial training on the VA appeals process and how the system works with 60 slots per year, at no cost to us.

To give a quick update on the Department of Military and Veterans Affairs, Assistant Secretary Prosser announced Mr. Keith Whitfield, the State Cemeteries Program Manager, has resigned as of July 25, 2018 and the Department will be looking to fill the position. Also, Ms. Kelly Jackson, retired Colonel from the NC National Guard, has been hired as the Family Member Coordinator and appointed as the State Women Veterans Coordinator replacing Ms. Terri Kane. Assistant Secretary Prosser also announced the hire of Mr. Robert Johnson, formerly a VSO in Winston Salem, as the Military Installations Coordinator in Military Affairs and hire of Mr. Ariel Aponte, retired U.S. Army, as the Interagency Coordinator replacing Mr. Jeremy Collins.

Related to Commission appointments, Assistant Secretary Prosser addressed redistricting in North Carolina and said there will be no changes to the districts until the 2020 Census. He said the Governor wants to redo the Commission to ensure people are identified to represent the proper districts where they reside. Redistricting isn't expected until 2021-2022. Hales asked if the Legislature would solicit names from the districts and Assistant Secretary Prosser said he had contacted the congressional representatives, Vet Councils and VSOs in affected districts for some names to begin the process. Commissioner Townsend brought up a case that came up several years ago where the Legislature made the law to appoint to boards and the Court ruled it was overstepping. Assistant Secretary Prosser then referred to a proposed amendment to the NC Constitution giving appointment capabilities to the Legislature taking that power away from the Governor.

Assistant Secretary Prosser continued his report by addressing staffing of the Facilities section currently managed by Mr. Jimmy Woodard. Current staffing is insufficient to manage current facilities and with expansion and additions, positions will need to be created and more staff will be needed. Also, we'll have to address salaries to attract personnel to fill positions. Further discussion was held on staffing, facilities and funding. After presenting a proposal for staffing changes, Assistant Secretary Prosser asked the Commission to proceed with addressing changes. Chairman Braswell asked for a motion to allow Assistant Secretary Prosser to realign as appropriate. The motion was made by Vice Chairman Smith and seconded by Commissioner Woodard. The motion was approved.

To conclude his report, Assistant Secretary Prosser wanted to recognize Mr. Jeff Smith from Department of Health and Human Services for his work supporting NCDVA.

Dr. Roberts asked about marginal ratings for the cemeteries and if any help could be given. Assistant Secretary Prosser explained the inspection process and NCDVA's response with funding, equipment and personnel.

With no further questions for Assistant Secretary Prosser, Chairman Braswell asked Deputy Director Falls for a report. Deputy Director Falls began by addressing personnel items related to new hires, current vacancies and personnel issues.

Deputy Director Falls reported there are 5 VSOs in training and 13 VSOs were accredited this past Spring and more accreditation testing will be conducted at the State/County Conference in October. He reported NCDVA has 27 State VSOs across the State and 4 in State Nursing Homes with 15 VSTs. There are 161 County/Tribe VSOs but that number fluctuates with hiring and resignations.

Deputy Director Falls also reported NCDVA is conducting Regional and District Schools across the State to provide continuing education credits (CEUs) for both State and County/Tribe VSOs. In addition to the NCDVA schools, VSS (Veterans Service Specialist) training was conducted in Catawba County on May 23, 2018 to train VSOs on interview and counseling skills.

In the Field, Deputy Director Falls announced Disciplinary-Grievance Training conducted in Raleigh for Supervisors, a regional outreach event in Winston Salem for faith-based and community leaders, Governor's Working Group addressing homeless veterans and training for Regional Managers in Raleigh on team communication.

Deputy Director Falls then gave a rundown of upcoming activities for Veterans across the State and reported on events that took place over the past three months where NCDVA provided personnel and support.

In the NCDVA State Service Office in Winston Salem, Deputy Director Falls reported statistics of the office's assistance to Veterans and their dependents with scheduled hearings before the VA Board of Appeals. Over the past three months (April-June), there were 133 hearings scheduled and 90 conducted (17 in the Regional Office and 39 by BVA travel or video). He went on to mention the State Service Office is shorthanded now due to personnel departures and medical leave.

Chairman Braswell thanked Deputy Director Falls for the report and called for a lunch break at 11:50am.

After a lunch break, Chairman Braswell called the Commission back into session at 12:30pm.

Chairman Braswell then asked the Commission to ratify scholarships. Vice Chairman Smith made a motion to ratify awarding the list of scholarships approved from April 25, 2018-July 18, 2018. The motion was seconded by Commissioner Hales. After a vote with no discussion, the motion was approved.

Moving on to other business, Chairman Braswell called on Assistant Secretary Prosser to address the transfer of funds from the State Veterans Home Trust Fund. First, Assistant Secretary Prosser referred to the current budget submitted did not have language for two new State Veterans Homes. NCDVA informed the Legislature that money had been set aside from the State Veterans Home Trust Fund. He stated that since the last two State Veterans Homes were built (Black Mountain and Kinston), the Legislature passed a new law stating anytime funds are taken from a State account, there has be an appropriation attached. Since the Nursing Home Trust Fund is in a State account, in order for us to take money out of that account, the Legislature/General Assembly has to approve an appropriation. All that was needed was to put in the budget that NCDVA had permission to use our money for the two new State Nursing Home Contracts. When they failed to do that, the Office of State Management and Budget (OSBM) wouldn't allow us to move forward until we receive approval from the General Assembly. After asking during the last week of the legislative session, language for new legislation for Budget Technical Corrections & Study (SB335) was drafted to include the authorization rather than lose \$53M in federal grant money. After sending the proposed legislation to the Homeland Security, Military and Veterans Affairs committee, Additional language was added to SB335 to include a transfer of \$500,000 of non-recurring funds from 2018-2019 fiscal year from the NC Veterans Home Trust Fund to OSBM to provide

a grant-in-aid to the Veterans Leadership Council of North Carolina Cares to be used for the Veterans Life Center in Butner they will be considered appropriated for this purpose. Assistant Secretary Prosser then reviewed for the Commission NC General Statute 143B-1293 & 1294 regarding the North Carolina Veterans Home Trust Fund.

After discussion, Commissioner Woodard made a motion to reject transferring \$500,000 from the State Veterans Home Trust Fund to OSBM and the motion was seconded by Commissioner Townsend. With additional discussion, a vote was taken. The Veterans Affairs Commission voted unanimously to approve the motion to reject the transfer of funds.

Chairman Braswell called on Vice Chairman Smith to give an update on the Veterans Affairs Commission Strategic Plan. Copies of the current draft document were passed out and members were asked to review and submit comments and/or suggestions. Vice Chairman Smith discussed the minor changes from the last revision, highlights of important sections and upcoming deadlines.

Chairman Braswell asked Mr. Castille if all was okay with filling out I-9 Forms required from Temporary Solutions for members of Board and Commissions. Mr. Castille replied that most documents have been completed and received but some Commission members had not been to meetings and he was attempting to get those documents completed as required.

Assistant Secretary Prosser brought to the attention of the Commission the next meeting of the Veterans Affairs Commission will be held at the conclusion of the Joint State/County Fall Conference in Atlantic Beach, NC on October 26, 2018 with the Closed Session to begin at 9:00a.m. and the Open Session to include the VAC Advisory Board and guests to convene at 10:00a.m.

In closing, Chairman Braswell announced his intent to retire from the Veterans Affairs Commission effective January 1, 2019. Based on reorganization of the Commission, Chairman Braswell will make the intent public and send letters to Governor Cooper and Secretary Hall. Chairman Braswell encouraged attendance to the State/County Fall Conference banquet and the Commission meeting in October.

With no further business, Chairman Braswell called for a motion to adjourn. A motion was made by Commissioner Woodard and seconded by Commissioner Townsend. After a unanimous approval vote, the Veterans Affairs Commission meeting was adjourned at 1:28pm.

Jimmy G. Braswell
Chairman

James E. Prosser
Assistant Secretary for Veterans Affairs