



# Oregon Board of Parole & POST-PRISON SUPERVISION

## Special Board Business Meeting Minutes Tuesday, September 8, 2009

**Call to Order and Note of Attendance:** Meeting was called to order at 11:02 a.m., and note of attendance was made: Vicki Walker, Nancy Sellers, Aaron Felton, Candace Wheeler, Darcey Baker and Michelle Mooney.

### **New Business:**

**Rulemaking OAR 255-032-0007:** On May 12, 2008, the Marion County Circuit Court in case no. 07C18859 issued a peremptory writ of mandamus directing the Board to conduct a parole hearing “forthwith” and set an initial release date for a named offender under ORS 144.120(1)(a) (1989).

The Board’s existing rules do not include hearing procedures applicable to persons who, like the named offender, were under the age of 17 years at the time of their crime(s), and who were waived to adult court under ORS 419C.340 through 419C.364, and who were convicted of Aggravated Murder under ORS 163.095, and whose crimes were committed after October 31, 1989, and before May 1, 1991. The Appellate Commissioner subsequently stayed the trial court’s judgment pending appeal. By order on reconsideration dated May 1, 2009, the Court of Appeals vacated the stay.

Although the Board does not agree with the courts’ orders, and without waiving its right to continue pursuing review of courts’ orders, the Board adopted a temporary rule to comply with the circuit court’s judgment. On August 26, 2009, the Board received an order from the Court of Appeals appellate commissioner finding that named offender had raised a colorable claim that the temporary rule is invalid under ORS 183.225(6)(a), because it is identical to an earlier temporary rule, OAR 255-032-0006, which had expired. For this reason, and others, the appellate commissioner granted named offender’s motion to stay the rule pending judicial review of the rule.

The Board voted to adopt OAR 255-032-0007 as a permanent rule; there were no objections.

### **Future Board Meetings:**

- September 21, 2009
- October 19, 2009
- November 16, 2009

Meeting adjourned at 11:10 a.m.

*Minutes respectfully submitted by Michelle Mooney.*