

**Ohio School Facilities Commission
January 22, 2015 Meeting
William McKinley Room, Statehouse
1:30 PM**

MINUTES

Chairman Keen called the meeting to order at 1:34 PM.

Roll Call

Members present: Chairman Keen, Dr. Richard Ross, and Goran Babic for Senator Manning.

Election of the Chair and Vice Chair

Director Keen called for the nomination of Chair. Dr. Ross nominated Director Keen. Director Keen seconded.

Director Keen closed the nominations and called for the vote for Director Keen as Chair of the Ohio School Facilities Commission.

Approval: Vote 2-0.

Chairman Keen called for the nomination of Vice Chair of the Commission. Chairman Keen nominated Bob Blair as Vice Chair and Dr. Ross seconded.

Chairman Keen called for the vote for Director Blair as Vice Chair of the Ohio School Facilities Commission.

Approval: Vote 2-0.

Adoption of the October 23, 2014 Meeting Minutes

Chairman Keen moved to approve the October 23, 2014 meeting minutes.

Dr. Ross seconded the motion.

Approval: Vote 2-0.

**Authority to File Administrative Rules Approval – Sarah Spence –
*Resolution 15-01***

Sarah Spence provided Administrative Rule Approval authorizing the executive director to file a proposed rule for the Expedited Local Partnership Program (ELPP) for Joint Vocational Districts also known as VFAP ELPP for Commission approval. The program was established in 2003 through Legislative language that required the Commission to create the program through Administrative Rule and have it mirror the Expedited Local Partnership Program for traditional

districts. House Bill 487 in the 129th General Assembly gave the Commission the option to offer off-cycle funding to ELPP participants that had enough credits and funds to complete either a segment or the remainder of the Master Facilities Plan without returning to the ballot. These offers can only be made after any lapsed districts have first been funded. This rule adds that same option to the VFAP ELPP participants to maintain the parity between the two programs. Currently in the VFAP ELPP Program there are two Joint Vocational districts that have credit. There is a third one that is going through the process to earn credit.

Chairman Keen asked that after the approval of this resolution, when will the rule get to Joint Committee on Agency Rule Review (JCARR) and what is the expected approval time. Sarah Spence responded that once we have Commission approval, the rule will be filed with JCARR to start the JCARR clock and then it is 65 days through the JCARR process and once they are final filed it is an additional 10 days before it goes into effect. Chairman Keen asked if we expect in the period after approval and adoption that one of these districts that you referred to might avail themselves of the opportunity. Sarah Spence responded that if we have funding available, we believe the two districts that have credit would like to look at that option.

Dr. Ross moved to approve Resolution 15-01.

Chairman Keen seconded the motion.

Approval: Vote 2-0.

Accelerated Urban School Districts Update and Approval – Melanie Drerup

Resolution 15-02 and Resolution 15-03

The Commission approved a Master Facilities Plan in 2002 for \$1.51B divided into 9 segments for 111 buildings to house 72,500 students for Cleveland Metropolitan School District. The Commission has approved 6 segments to date. The Commission amended the Master Facilities Plan in 2014 to reduce the plan by 32,443 students.

Resolution 15-02 Cleveland Segment 6, Amendment 3

Melanie Drerup presented the Cleveland Metropolitan School District Segment 6, Amendment 3 for Commission approval. The previously amended Segment 6 agreement provided \$11.7 M for no buildings, but significant demolition. The proposed amendment adds one new *building*. The Campus International School is a 720 student PK-8 facility. The Cleveland Segment 6 budget is increased by \$21.3M for an updated budget of \$33M.

Dr. Ross asked if the projected enrollment was 32,000. Melanie Drerup responded that the current enrollment being utilized is 32,443 students and before we enter into a subsequent segment we would update that enrollment. Chairman Keen asked what period of time is that projection made. Melanie Drerup responded that it was actually updated in 2014. Chairman Keen asked if the \$21M addition would be subtracted from the future funds available. Melanie Drerup responded that was correct.

Chairman Keen moved to approve Resolution 15-02.

Dr. Ross seconded the motion.

Approval: Vote 2-0.

The Commission approved a Master Facilities Plan in 2002 for \$488M divided into 4 segments for 34 buildings to house 19,039 students for Dayton Public Schools District. The Commission has approved 3 segments to date. The Commission amended the Master Facilities Plan in 2010 for 14,254 students.

Resolution 15-03 Dayton Segment 3, Amendment 3

Melanie Drerup presented the Dayton Public Schools District Segment 3, Amendment 3 for Commission approval. The previously amended Segment 3 agreement provided \$184.9M for 11 buildings. The proposed amendment increases the budget for additional expenditures to address increased enrollment at time of occupancy and to reconcile the project fund to support the closeout of this segment. The Dayton Segment 6 project is increased by \$319,432 for an updated budget of \$185.2M. This Segment 3 scope will complete the work for Dayton Public Schools District and support the closeout of this segment.

Chairman Keen asked when all the construction will be expected to be completed. Melanie Drerup responded all the construction has concluded. This is reconciling the project account. Chairman Keen asked what the additional \$300,000 was attributed to. Melanie Drerup responded that the \$300,000 is attributed to expenditures associated with furniture and miscellaneous items because the enrollment at the time of occupancy was not exact to the projection. Dr. Ross understood that the enrollment increased over the projections. Melanie Drerup responded that the enrollment started out around 19,000, then it went down as low as 13,000 and then went back up to 14,000, but it is still going to ultimately decline to a further number.

Dr. Ross moved to approve Resolution 15-03.
 Chairman Keen seconded the motion.
 Approval: Vote 2-0.

Fiscal Year 2015 Projects Approval – Melanie Drerup

CFAP Amended Approval – Resolution 15-04

Melanie Drerup presented an amendment of one previously approved Fiscal Year 15 Classroom Facilities Assistance Program project for Commission approval. Urbana CSD has requested a site access safety allowance be added to both the new elementary/middle school and the new high school increasing the total project cost by \$600,000.

School District	County	State Share	Local Share	Total Budget
Urbana CSD	Champaign	\$37,300,422	\$23,847,811	\$61,148,233

Dr. Ross asked if this was for safety additions. Melanie Drerup responded this is what we call site access safety allowance. It allows the district to do some work to make sure entering and exiting the site is safe.

Chairman Keen moved to approve Resolution 15-04.
 Dr. Ross seconded the motion.
 Approval: Vote 2-0.

CFAP Lapsed Approval – Resolution 15-05

Melanie Drerup presented one school district with a lapse of one year certification for participation in the Fiscal Year 15 Classroom Facilities Assistance Program for Commission approval. In July, approval was sought for 13 projects and 3 in October. Since that time FY14 projects that did not obtain their funding have lapsed and those dollars have been released to support additional projects. This project was originally approved at the July 2008 Commission Meeting.

School District	County	State Share	Local Share	Total Budget
Eastwood LSD (Seg.1)	Wood	\$7,007,419	\$12,457,634	\$19,465,053

Chairman Keen asked how Eastwood LSD obtained their local share. Melanie Drerup responded Eastwood LSD was approved and set their budget at the July 2014 Commission meeting as a renewal district. The district is using COPs funding. David Chovan added this would be the first district that we would be funding that is generating 100% of their local contribution from Certificates of Participation. We have had discussions with the district and they do have their full funding at this time.

Dr. Ross moved to approve Resolution 15-05.
 Chairman Keen seconded the motion.
 Approval: Vote 2-0.

CFAP Renewal Approval – Resolution 15-06

Melanie Drerup presented a Classroom Facilities Assistance Program renewal project for one school district for Commission approval. Pursuant to ORC Section 3318.054, the Commission is charged with establishing the new scope, estimated basic project cost and estimated school district portion for a lapsed project if the school district desires to seek a new conditional approval of its project. This district has requested a new conditional approval and the master facility plan has been developed by Commission staff and the local school district. The project scope and estimated costs established will be valid for one year. This district is on the May ballot.

School District	County	State Share	Local Share	Total Budget
Lake LSD	Stark	\$42,034,217	\$47,400,287	\$89,434,504

Chairman Keen moved to approve Resolution 15-06.
 Dr. Ross seconded the motion.
 Approval: Vote 2-0.

**Project Agreement and Master Facilities Plan Amendments Approval –
Melanie Drerup – Resolution 15-07 and Resolution 15-08**

Melanie Drerup presented a Project Agreement Amendment for one school district for Commission approval. This is the third amendment to the Elyria Exceptional Needs Project Agreement. The district requested to pro rate the ½ mil maintenance requirement pursuant to ORC 3318.37.

Chairman Keen asked if the proration was a law change. Melanie Drerup responded there was a law change that allowed for a proration of the ½ mil maintenance requirement for the Exceptional Needs Program, as well as Segmented Classroom Facilities Assistance Program. Chairman Keen asked if they do not need to do the full ½ mil levy now and when they get a full district fix they will need to do the full ½ mil levy. Melanie Drerup responded that was correct. Dr. Ross asked as they extend this does the proration continue. Melanie Drerup responded that ultimately they will have to have a total of a ½ mil for 23 years. This amount of money is associated with the Exceptional Needs project and as they complete the remainder of their work under the Classroom Facilities Assistance Program, it would add up to a total of ½ mil for 23 years. When they enter the Classroom Facilities Assistance Program and if in fact they segment, they could actually do a proration again. Chairman Keen asked if they passed a full ½ mil and then just talked to the Auditors to only impose a portion of it or they are coming up with some alternate. Melanie Drerup responded they are actually assigning their Permanent Improvement funds to the ½ mil and so what will happen is we will reduce that assignment, but they are keeping the first four years at the original amount. Then the remainder of the ½ mil will be prorated. Chairman Keen asked for a list of how the participating school districts are generating their ½ mil maintenance and how many actually have a voted levy, how many have prorated and have assigned otherwise voted levies or inside levies or other alternate arrangements that we provide by law. Interim Director Chovan responded that we can definitely do that. One of the stipulations in that law is that if you are using a ½ mil levy and your voters pass that, you do need to contribute that each year to the maintenance fund. The only way you can prorate is if you are using something other than a voter approved ½ mil levy. What we have seen over the last several years is a pretty high usage of Permanent Improvement funds, but we can definitely put that together.

Dr. Ross moved to approve Resolution 15-07.

Chairman Keen seconded the motion.

Approval: Vote 2-0.

Melanie Drerup presented Amendments to the Master Facility Plans for five school districts for Commission approval.

School District (County)	Recommended Modifications to the Master Facilities Plan	Recommended Modifications to the Project Budget
Amanda Clearcreek LSD (Fairfield) Amendment 2	The project budget is insufficient for the design and construction work required to close out this project due to post construction issues related to the shingle roofs (deficiencies with air/vapor barrier, vented nail-base insulation system and adjacent components) on the new K thru 2 and 3 thru 12 facilities.	\$3,143,616 State Share \$561,275 Local Share \$3,704,891 TOTAL

School District (County)	Recommended Modifications to the Master Facilities Plan	Recommended Modifications to the Project Budget
Arcanum Butler LSD (Darke) Amendment 1	This amendment funds masonry repairs and roof repairs as the result of defective and non-conforming work at the new K thru 12 facility. The Ohio Facility Construction Commission seeks to recover associated costs from responsible parties.	\$1,998,890 State Share
		\$1,124,376 Local Share
		\$3,123,266 TOTAL

School District (County)	Recommended Modifications to the Master Facilities Plan	Recommended Modifications to the Project Budget
Circleville CSD (Pickaway) Amendment 1	Delete the scope and budget for the new middle school. Build a new middle/high school to house Grades 6 – 12 & Career Tech. Delete the allowance to abate and demolish Atwater, Court Street and Mound Street elementary schools.	(\$931,149) State Share
		(\$1,285,872) Local Share
		(\$2,217,021) TOTAL

School District (County)	Recommended Modifications to the Master Facilities Plan	Recommended Modifications to the Project Budget
East Palestine CSD (Columbiana) Amendment 1	An increase to the project budget is necessary due to an extended design schedule. The original agreement contemplated concurrent design of both buildings. During the reconciliation of the project, additional expenditures were required including CM fees.	\$160,909 State Share
		\$15,912 Local Share
		\$176,821 TOTAL

School District (County)	Recommended Modifications to the Master Facilities Plan	Recommended Modifications to the Project Budget
Wheelersburg LSD (Scioto) Amendment 4	This amendment reconciles the account so that the project may be closed out.	(\$148,131) State Share
		(\$52,049) Local Share
		(\$200,180) TOTAL

Chairman Keen moved to approve Resolution 15-08.

Dr. Ross seconded the motion.

Approval: Vote 2-0.

Settlement Agreement Approval - Jon Walden – Resolution 15-09

Jon Walden presented a settlement agreement with T&F Systems on the Elyria City School District project for Commission approval. This settlement agreement was not included in the book because the matter was recently settled and the information is included with the resolutions. This settlement is on behalf of OSFC and Elyria City School District. In April of 2010, a contractor walked off the job and was terminated for defaulting on its contract. Several months later the contractor sued the state for damages claiming wrongful termination. OSFC pursued a counter claim against the contractor for defective work and to recover the additional funds necessary to pay the replacement contractor. The case tried in April 2013 and it took another year before we received a decision, but OSFC prevailed thanks to the good efforts of the Attorney General's Office. The trial court issued an opinion affirming the judgment after objections to the referee's decision, but increasing the amount in OSFC's favor. Both parties filed a notice of appeal, but in lieu of proceeding, the parties have reached a compromise so that

we can end the five-year journey and get the money for the state and the school district. The settlement forgoes interest on the judgment so that we can receive the \$525,000 payment sooner.

Chairman Keen asked if the settlement amount was between the two court judgments. Jon Walden responded yes. Dr. Ross asked if this judgment was satisfactory with the Elyria City School District. Jon Walden responded that it was, and that we worked with the school district's counsel.

Chairman Keen moved to approve Resolution 15-09.
Dr. Ross seconded the motion.
Approval: Vote 2-0.

Authority to File Suit Approval – Resolution 15-10

Jon Walden presented an authority to file suit with Messer Construction on the Arcanum Butler Local School District project for Commission approval. Messer Construction served as the general trades' contractor on the on the Arcanum Butler Local School District PK-12 project. The District experienced leaking in the roof. Consultants found it was related to the construction of the roof. The Commission is exploring a potential resolution with Messer, but seeks authority to file suit to pursue recovery against all responsible parties to offset any costs incurred in remedying the defective work in the event a resolution is not reached. We are currently working with the Attorney General's Office in pursuing this matter.

Dr. Ross asked if this request matched the Master Facility Plan amendment that was just approved for Arcanum Butler Local School District. Jon Walden responded that there are two parts to the litigation, so this would be related to one portion of that, but it is the total dollar amount that you approved on the budget adjustment.

Chairman Keen moved to approve Resolution 15-10.
Dr. Ross seconded the motion.
Approval: Vote 2-0.

Executive Director's Report

Interim Director Chovan reported that since the last meeting, there were 3 dedication ceremonies in Piqua City School District, Botkins Local School District and Bath Local School District. He had the privilege of being at the Botkins Local School District dedication. It was a great experience. It is a school district of 600 students, and there must have been 300 people in attendance at the dedication. The community was very excited. We received several thank you notes from the district, and they were very pleased with our help. There was one groundbreaking at Brown Local School District in Brown County. There were 11 closeout reports. The significance of that is that it reduces the future liability of the state. It does recover funds. We have been able to recover around \$20M in closeouts over the last year.

Interim Director Chovan reported on contracts executed since the last meeting. Executed were 7 HB 264 projects totaling \$10.4M, and all of those projects are currently required to provide savings guarantees; professional design services and amendments; CM; CMR; Design Build Services and Single Prime contracts totaling approximately \$120M. We continue to see high use

of the alternative delivery methods that were authorized with Construction Reform, and we see continuing growth in those areas.

Interim Director Chovan recognized new staff that were in attendance: Julie Barnosky, Khori Baylor, Sarah Haight and Peter Renner. Chairman Keen welcomed the new staff. This is a good organization and good folks. He looks forward to their contributions toward the work of the Commissions.

Interim Director Chovan concluded his report by showing a slide presentation of schools completed over the last few months and stats on our work over the last year.

There was no public testimony.

The meeting was adjourned at 2:09 PM.



Timothy S. Keen, Commission Chair



These meeting minutes were prepared by
Carolyn L. McClure, Secretary to the Commission