



OHIO FACILITIES CONSTRUCTION COMMISSION

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**Ohio Facilities Construction Commission**  
**October 24, 2013**  
**William McKinley Room**  
**2:30 PM**

*MINUTES*

Chairman Keen called the meeting to order at 2:37 PM.

**Roll Call**

Members present: Chairman Timothy Keen and Vice Chair Robert Blair.

**Adoption of the July 11, 2013 Minutes**

Vice Chair Blair moved to approve the July 11, 2013 minutes.

Chairman Keen seconded the motion.

Approval: Vote 2-0.

**EXPO Master Plans Update – Bill Ramsey**

Bill Ramsey provided an update on the development and review of the master plan for the Ohio Expo Center. The OFCC and the Ohio Expo Center hired Davis Wince Ltd. to complete a comprehensive master plan of the Ohio State Fair and Expo Center facility grounds. This is a continuation of the master plan completed in 2001 that proposed over \$117 million in infrastructure and facilities projects to be completed over six years. The current 2013 master plan reviews the recommendations of, and work completed since, the 2001 plan; assesses the physical conditions of the grounds and facilities, while evaluating current and future needs for growth or expansion; and the market conditions and business cases to support the Expo grounds and facilities renovations and potential expansions.

In September, the team presented a preliminary report to the Expo Commission. The preliminary reports indicates that there has been infrastructure improvements as proposed in the 2001 master plan, but there remains a fair amount of infrastructure improvement to be completed, including sanitary sewer upgrades and other services improvements. Parking has improved substantially since 2001, but continues to need improvement, and there were several recommendations from the 2001 master plan that have not been completed such as improved signage and way-finding that they haven't been able to move forward due to priority needs for infrastructure and facilities renovations.

The presentation also discussed the business case for the expansion at the Expo grounds. The initial finding has determined no overwhelming need for new exhibition space, as Central Ohio has a substantial amount of convention and exposition space, with the Veterans Memorial,

Convention Center, and university venues available. The Expo Center itself has a full calendar, supporting a solid list of shows and events; this limits the opportunity for new events which could be supported by new or larger facilities.

Based on these initial results, the master plan is being focused on the Expo facilities and grounds to retain existing clients who are requiring improved facilities and increased amenities. This focus includes aesthetics, way-finding, and venue improvements. The Expo Center needs to be able to accommodate a future increase in market share and address demands from clients for breakout spaces and meeting rooms; and support Wi-Fi, and advancing technology that is common for expositions and shows. The draft estimate of potential projects developed from this master plan is in excess of \$100 million.

The Expo Center staff has done an excellent job of taking care of the facilities with the funds available, and this is a key component in the development of this master plan and its future implementation.

Chairman Keen asked if there are costs associated with the way-finding. Mr. Ramsey responded that the projected costs for way-finding total between \$2 and \$4 million, depending on the scope of development considered. The types of way-finding under consideration vary from signage and graphics, to large scale landscaping that would define walkways and routes through the grounds. Prioritization may focus on signage, which will be approximately \$500,000 to \$1 million. Future projects would improve landscaping and plazas. Flexibility will be important as the site has to create a park like atmosphere while addressing temporary venues and vehicle parking needs.

Vice Chair Blair recommended that the Expo Center consider utilizing the ODOT sign shop once the way-finding program is under development. This option may provide savings to the program. Mr. Ramsey responded that he would share that with the EXPO staff.

### **Administrative Rule Approval – Sarah Spence – Resolution 13-06**

Sarah Spence provided Administrative Rules authorizing the executive director to file a proposed rule for the award of a competitive selection process with Joint Committee on Agency Rule Review for Commission approval.

Under current law, general contracting and multiple prime contracts are awarded to the lowest responsive and responsible bidder, with criteria factors set forth in ORC 9.312. If an apparent low bidder is found to be non-responsive or not responsible, that contractor can request a bid protest meeting with the contracting authority, which is an established process in the Ohio Revised Code.

For professional services, Construction Manager at Risk and Design/Build, the Revised Code calls for the use of either a qualified based selection process or a two-step, best value selection process that takes into consideration qualifications and then price. However, neither Revised Code nor administrative rule gives guidance on established, best-practice criteria to public owners on the overturning of a selection committee recommendation for contracts made by

qualified based selection or best value selection, nor does code or rule establish a method for a contractor to appeal a decision if a selected firm is not awarded a contract.

In order to provide additional structure and safeguards to the qualified based selection and best value selection processes, Commission staff recommend creating an administrative code rule that establishes valid reasons why public authorities could deny a selection, and establish an appeals process for the effected contractor.

The attached administrative rule lists the reasons for invalidation as follows:

- The award of contract is otherwise prohibited by law (debarment, findings for recovery under ORC §9.24).
- A court has found the firm in default of a judgment or breach of a settlement agreement.
- A member of the selection committee is found to have a conflict of interest or the selected firm as violated campaign contribution laws.
- A clerical or procedural error in the selected firm's proposal or committee's scoring has been found that would have changed the outcome for award.

For an appeal process, if a public authority denies a selection committee recommendation for one of the first three reasons, then the public authority shall notify the firm in writing and describe the reason(s) for rejection. The firm may protest the decision within five days of receiving notice and request a meeting. No final award shall be made until the public authority affirms or reverses its earlier determination.

Chairman Keen moved to approve Resolution 13-06  
Vice Chair Blair seconded the motion.  
Approval: Vote 2-0.

**Cultural Facilities Project Update and Guidelines Approval – Jeff Westhoven  
Resolution 130-07**

Jeff Westhoven provided a status on the Cultural Facilities project update and guidelines for Commission approval. Commission staff reviewed and analyzed the Project Approval Guidelines used by the former Cultural Facilities Commission, with two goals: to reconcile with law changes under HB 59; and to streamline for efficiency. Each process step within the guideline was traced to its original source. Many of the proposed steps are required by one or more sources including: Ohio Revised Code, Ohio Public Facilities Commission lease, Capital Bill, Internal Revenue Code and the Attorney General’s Office. The proposed procedures not specifically required by these sources were eliminated, shortened, or retained as a best practice for the proper use of public funds.

**Notable Changes:**

<b>Changes to</b>	<b>Old CFC Guidelines</b>	<b>New FCC Guidelines</b>
Law	ORC §3383.01 <i>et seq.</i>	ORC §123.28 <i>et seq.</i>

Local Construction Administration	Detailed analysis of the qualifications of the proposed construction administrator	Detailed analysis only if the organization is self-performing construction administration
Due Diligence	Make determinations relating to a need for the project, substantial regional support, and provision of general building services.	Determinations no longer required to be made. Staff due diligence is centered on eligibility, financial risk, and project risk.
Verification vs. Sponsor Agreement	Staff verification of items such as project impact on farmland preservation and approval of Ohio Historical Preservation Office	In the legal agreement, Sponsor agrees to comply with all applicable laws and rules relating to these items
Commission Delegation of Authority	Project approval authority was delegated to the executive director for projects totaling \$50 thousand or less	Project approval authority is delegated to the executive director for all projects
Reimbursement	Eligible project costs were reimbursed after proof was submitted that the invoices were paid	Eligible project costs are reimbursed after proof is submitted that the work has been completed

Chairman Keen noted that this was a matter of personal interest to him. He has spent a fair amount of time on this, given the fact that OBM has an active role in the preparation in the Capital Bill where all the projects are funded through these particular funds that we are referring to. He commended the work that has been done by Mr. Hickman, Mr. Westhoven and others at the Commission to make these changes and conformances within the statute for the new organization.

Vice Chair Blair also commended the staff. He also asked if we now have a handle on the projects that were done prior to OFCC assuming the responsibilities of the former Cultural Facilities Commission. Mr. Westhoven responded that as far as the existing projects, we have put them into two categories. We have those projects that have already been approved by the previous Commission and are in the process of dispersing funds consistent with the old project approval guidelines. Then we have 42 projects totaling about \$9.5 million that have yet to go to the Commission for approval. The previous projects have basically been executed the way they had been. Most of the due diligences are on the front end. Once the project is built there is some annual reporting to make sure they are continued to be a viable concern, but there is not as much to do on those that have already been approved. A lot of the work is simply on the front end before the project gets approved and that is what we are focused on with these guidelines. Mr. Hickman added the 42 projects that have been funded in the past, some of those projects are quite old and have not been able for a number of different reasons to move forward and so we provided that information to OBM and will be prepared to support OBM as they have discussion with members of the General Assembly, who may have in the past sponsored those projects, to try to determine the best path going forward.

Vice Chair Blair asked who was responsible, for example, if a project has been worked on and say down the road the roof goes bad. Mr. Westhoven responded if there is a project for which we gave a grant and that project is complete, and let's say they have asked for money for a roof and that is completed, but then later on they need theater chairs. That is separate and above what the grant is. The grant narrowly addresses a specific need as it is called out for. The ongoing operation is part of the sponsor's responsibility. Director Hickman added if that roof

subsequently develops leaks or problems, it would be up to the local authority to deal with that issue.

Chairman Keen moved to approve Resolution 13-07.

Vice Chair Blair seconded the motion.

Approval: Vote 2-0.

### **Performance Metrics Update – David Chovan**

David Chovan provided a performance metrics update to the Commission members. In FY13 OFCC measured and tracked over 40 performance metrics covering a wide variety of the responsibilities of OFCC. A year ago we presented to this commission a subset of the metric results for FY12 that were most visible to our customers and to the public. He shared a similar set of the results for FY13. As a construction agency, probably the most telling metrics are those that measure the costs and timeliness of the construction projects for which we are responsible. In FY13, 83% of agency and higher education projects and 67% of K-12 projects were completed on or under budget. This compares the actual costs of the completed project to the original project budget. Of those same projects, 33% of agency and higher education projects and 36% of K-12 projects were completed on time. This compares the actual completion date of construction and closeout to the original project timeline. Of the K-12 projects, an additional 20% did not result in a delay of placing students in their classrooms. These project delays are not acceptable and we are assessing the accuracy of the data and the factors that resulted in these delays and will implement measures to bring about the necessary results. With the implementation of construction reform, we anticipate both these project metrics to improve based on the benefits provided from alternative delivery methods and to complete projects in less time and to cap the price with a guaranteed maximum price. Other results that support the OFCC mission and its customers include: 100% compliance with our schedule to fully update all contract documents; we conducted 16 external events and webinars to support and train our customers; we completed the financial close-out process for 16 school district construction projects; we completed 34 school district projects with an average enrollment variance of 4.8% within our goal of 5%, and 47 buildings achieved LEED certification.

Vice Chair Blair commented that he was particularly interested in trends as we build statistics and build metrics and if you have any comparative data with any other like things it helps a lot too. Mr. Chovan responded that in the future, he would be glad to share that with the Commission. He would also like to show how trends have occurred within our agency.

### **Executive Director's Report**

Director Hickman shared a trend with the Commission members. When the law was changed and there were new project delivery methods available to us, we had approached a couple of school districts who were really reluctant to utilize the construction delivery methods. We stepped back and thought this might be a difficult path for us to get school districts on board, but I am happy to report that we have 47 school projects with a construction value of over \$600 million, but in moving forward with the new delivery methods and the preponderance of those 47 school districts are actually utilizing construction manager at risk and general contracting. We

are using design build for some of the remediation projects that we have on school districts, such as roof replacements or dealing with mechanical system issues. Coventry School District has decided to build an elementary school under Design Build. We have been very cautious with utilization of Design Build because of additional education that we need to do with owners. With Design Build, once you get past the criteria documents you pretty much leave the design process with the Design Build team and so there has been a tendency with owners not to understand that and it is creating a training need that we have to go through before we head down that path. We are very pleased with where we are in the process. We are encouraged about utilization of the new delivery methods, which we believe will save not only school districts, but state agencies and universities some significant construction dollars.

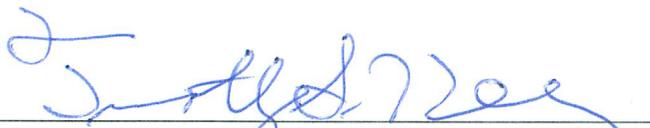
Director Hickman concluded his report by pointing out that included in the meeting materials, are a listing of agencies and higher education contracts that we have executed since our July Commission meeting. He called attention to:

18 Trade Contracts for 10 agencies totaling \$77,997,906  
116 Trade Contracts for 34 school districts totaling \$197,807,870.68

Vice Chair Blair asked if we could keep a set of statistics about showing either increased or decreased time and increased or decreased costs. Director Hickman responded we have thought about the best way to do that and we have reached a path on how we might be able to provide that information. As we bid projects and provide what we think is an appropriate schedule, part of the evaluation process with awarding Construction Manager at Risk contracts and Design Build contracts we provide those that are proposing to be awarded those projects an opportunity to suggest recommendations to the schedule that would actually shorten the time. We will collect that information and believe it is very critical in our being able to evaluate savings of time.

There was no public testimony.

The meeting was adjourned at 3:10 PM.



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Timothy S. Keen, Commission Chair



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