



Ohio Facilities Construction Commission  
July 11, 2013  
William McKinley Room  
2:30 PM

MINUTES

Chairman Keen called the meeting to order at 3:57 PM.

Roll Call

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

Adoption of the April 25, 2013 Minutes

Vice Chair Blair moved to approve the April 25, 2013 minutes.  
Chairman Keen seconded the motion.  
Approval: Vote 2-0.

Construction Reform Summary – Craig Weise

Craig Weise provided an update on construction reform to the Commission members.

Delivery Method	%	Projects	Dollar Amount
Multiple Prime (MP)	63%	100	\$955,357,101
Construction Manager at Risk (CM@R)	25%	14	\$384,129,465
General Contracting, Single Prime (GC)	8%	22	\$121,552,872
Design Build (DB)	4%	11	\$61,060,251

The figures are based on a timeframe of January 1, 2013 to July 1, 2013. Coventry Local School District with a project budget of \$28 million will be the first school district using Design Build. General Contracting has one K-12 school district and the rest consists of state agencies. Multiple Prime is the largest group because the design and construction takes several years to implement, so we will continue to see Multiple Prime as we progress through the current workload. We will track and provide the Commission members this information on an annual basis.

Vice Chair Blair asked if we are able to capture what we might have saved in time and money. Craig Weise responded we are trying to develop metrics to do that. With Construction Manager at Risk and Design Build, we are getting between 4 to 21 proposers with an average level of interest of 8 proposers. In comparison, Multiple Prime averaged approximately 4 bidders. There

is a high interest from the industry, but with new bidders there is more competition which results in a significant drop in fees we pay. We were at 2% fees and we are now as low as 1.28%.

Director Hickman added that our new space was Design Build. It was completed start to finish in 100 days. It would have taken one year with Multiple Prime. The Department of Agriculture wild animal facility was a \$3 million project and was completed in 125 days. If built under Multiple Prime, it would have taken approximately one year to build. The new delivery methods are doing the things we expected them to do. As we move on we are optimistic on the utilization of the new delivery methods. There have been a number of focus groups with: AIA, ACEC, Contractors (union and non-union), Ohio State, Mechanical/Electrical/Plumbing providing feedback and issues of the new delivery methods. Our current focus is updating the contract documents.

Vice Chair Blair asked if there was any way to compare expenditures on state versus local buildings (libraries, municipal buildings, etc.) Craig Weise responded that it would be hard to track and monitor expenditures for something we do not control or monitor.

### **Cultural Facilities Grants Program Status – Jeff Westhoven**

Jeff Westhoven provided a status on the Cultural Facilities Grants Program to the Commission members. The purpose is to oversee capital improvement projects for theatres, museums, arts and education facilities, state historical sites and publicly-owned professional sports venues. In the 25 year history of the Cultural Facilities, the scope has changed. In 1988 it was the Ohio Arts Facilities Commission. In 1996, responsibilities were added: science and tech museums, historical facilities, publicly owned pro sports and it became the Ohio Arts and Sports Facilities Commission. In 2004 it became the Cultural Facilities Commission. The budget bill abolished the Cultural Facilities Commission and transferred its obligations, including contracts and records, to the Ohio Facilities Construction Commission. The procedures of rules, orders and determinations stay the same unless modified or rescinded. No cultural facilities projects are expected to need approval before our October meeting, which gives us time to review and modify procedures. We expect to come back in October with any major procedural changes and specific project approvals. The Cultural Facilities Commission adopted its most recent project approval guidelines in February 2013. Appropriations were created in the capital bill. Local community partners initiate the process through the Cultural Facilities Commission on-line questionnaire. These are reviewed for eligibility of project, facility and sponsor; determine need for project; regional support of local matching, fully funded; qualifications of construction administrator; experience in general building services and scope, budget and schedule. The Commission staff completes a review, analysis, assessment; develops a report that includes a recommendation to the Cultural Facilities Commission with concurrence of the executive director. The report and proposed authorizing resolution is presented to the Commission at its quarterly meeting. Project approvals for \$50,000 or less are delegated to the Executive Director. The breakdown of appropriations is: 113 appropriations with funding remaining; 37 projects in the amount of \$9.3 million are yet to be approved; 29 projects are \$200,000 or less and 16 are \$50,000 or less. Mr. Westhoven introduced two new employees: Chris Bruner, Grant Financial Analyst and Jessica DeLong, Grant Administrator who have been hired to work in the Cultural Facilities Grants Program at OFCC.

Vice Chair Blair asked if we have reached out to the 37 projects yet to be approved. Jeff Westhoven responded that a notice of change was sent to all entities. A notice was also given to all state agencies of the name change. Chairman Keen asked what comprised the 113 appropriations with funding remaining. Jeff Westhoven responded the 81 were cultural facilities, 30 were historical and 2 were sports related. Vice Chair Blair asked if there was any long-term capital planning. Chairman Keen responded that we need to take the opportunity to engage legislature to understand some of the processes to ensure project funds are appropriately used and appropriately safeguarded and funded as was intended.

**Resolutions Pertaining to the Former Cultural Facilities Commission Organization  
Approval – Jon Walden**

**Rescinding Rules of the Former Ohio Cultural Facilities Commission - Resolution 13-03**

Jon Walden presented a resolution rescinding the rules of the former Ohio Cultural Facilities Commission for Commission approval. H.B. 59 of the 130<sup>th</sup> Ohio General Assembly abolished the Ohio Cultural Facilities Commission and transferred its obligations, records and assets to the Ohio Facilities Construction Commission. H.B. 59 Section 282.90 stipulated that all rules, orders, and determinations related to the design, planning, and construction and related management functions of the Ohio Cultural Facilities Commission continue in effect as rules, orders, and determinations of the Ohio Facilities Construction Commission until the Ohio Facilities Construction Commission modifies or rescinds them. Those internal management rules are no longer relevant to the administration of cultural facilities grant projects under the management of the Ohio Facilities Construction Commission. The rules requested to be rescinded are:

- Chapter 3383-1: Principal Office
  - 3383-1-01 Principal offices Effective: 08/28/06
  
- Chapter 3383-3: Meetings
  - 3383-3-01 Annual organizational meeting Effective: 08/28/06
  - 3383-3-02 Regular meetings Effective: 08/28/06
  - 3383-3-03 Special meetings Effective: 08/28/06
  - 3383-3-04 Place of meeting Effective: 10/26/02
  - 3383-3-05 Notice Effective: 08/28/06
  - 3383-3-06 Quorum Effective: 08/28/06
  - 3383-3-07 Voting rights Effective: 08/28/06
  - 3383-3-08 Organization Effective: 10/26/02
  - 3383-3-09 Notice to the public Effective: 08/28/06
  - 3383-3-10 Open meetings act Effective: 08/28/06
  
- Chapter 3383-5: Committees
  - 3383-5-01 Standing committees Effective: 08/15/94
  
- Chapter 3383-7: Officers
  - 3383-7-01 Officers – numbers Effective: 08/28/06

3383-7-02 Officers – election and term of office	Effective: 10/26/02
3383-7-03 Officers – vacancy	Effective: 08/28/06
3383-7-04 Executive director’s powers & duties	Effective: 08/15/94
3383-7-05 Secretary-treasurer	Effective: 08/28/06
3383-7-06 Consultants to the commission	Effective: 08/15/94

Chapter 3383-9: Annual report  
 3383-9-01 Annual report Effective: 08/28/06

Chapter 3383-11: Amendments  
 3383-11-01 Amendments Effective: 08/28/06

Vice Chair Blair moved to approve Resolution 13-03.  
 Chairman Keen seconded the motion.  
 Approval: Vote 2-0.

**Confirming Non-Transfer of Ohio Cultural Facilities Commission Positions - Resolution 13-04**

Mr. Walden presented a resolution confirming the non-transfer of Ohio Cultural Facilities Commission positions for Commission approval. H.B. 59 Section 282.90 provides that the Ohio Facilities Construction Commission shall designate the positions, if any, to be transferred from the Ohio Cultural Facilities Commission to the Ohio Facilities Construction Commission. Section 123.21(B) of the ORC provides that the Executive Director of the Ohio Facilities Construction Commission shall exercise all powers that the Ohio Facilities Construction Commission possesses and perform such other duties as delegated by the Ohio Facilities Construction Commission. The Ohio Facilities Construction Commission staff recommended that no positions transfer from the Ohio Cultural Facilities Commission.

Vice Chair Blair moved to approve Resolution 13-04.  
 Chairman Keen seconded the motion.  
 Approval: Vote 2-0.

**Confirming and Ratifying Termination of Employee Exchange Agreement - Resolution 13-05**

Mr. Walden presented a resolution confirming and ratifying the termination of the employee exchange agreement for Commission approval. H.B. 59 Section 282.90 stipulates that all obligations of the Ohio Cultural Facilities Commission under agreements to which it is a party transfer to the Ohio Facilities Construction Commission. H.B. 59 Section 282.90 further stipulates that any reference to the Ohio Cultural Facilities Commission in any contract is deemed to refer to the Ohio Facilities Construction Commission. The Ohio Cultural Facilities Commission had entered into an Employee Exchange Agreement in September 2012, between the Ohio Cultural Facilities Commission, the Ohio Cultural Facilities Commission’s then Executive Director Kathy Fox, and the German Marshall Fund of the United States (German Marshall Fund) to allow the temporary assignment of Ms. Fox to the German Marshall Fund’s Strong Cities, Strong Communities Fellowship in Youngstown, Ohio until September 23, 2014. The Employee Exchange Agreement contains a termination provision that among other reasons provides for termination immediately upon the termination of Ms. Fox’s employment with the Ohio Cultural Facilities Commission. Ms. Fox’s employment with the Ohio Cultural Facilities Commission terminated as of July 1, 2013, as a result of HB 59 Section 282.90’s abolishment of

the Ohio Cultural Facilities Commission and Ms. Fox's position was not transferred to the Ohio Facilities Construction Commission. The Ohio Facilities Construction Commission staff notified the German Marshall Fund and Ms. Fox of the termination of the Employee Exchange Agreement by letter dated July 3, 2013.

Vice Chair Blair moved to approve Resolution 13-05.

Chairman Keen seconded the motion.

Approval: Vote 2-0.

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

Director Hickman asked Sarah Spence to update the Commission on HB59 Main Operating Budget as enacted. Ms. Spence provided that the effective date is September 29, 2013. The executive director of OFCC will serve as the executive director of OSFC. Elimination of the Ohio Cultural Facilities Commission and transfers its construction administration functions to the OFCC with an effective date of July 1, 2013. Transferring of construction authority from Department of Natural Resources to OFCC with exception of certain dam, waterway, wildlife and roadway projects. The law also amends the local administration law to add the Bureau of Workers' Compensation as an agency that may administer capital facilities projects under \$1.5 million and requires all eligible local administration agencies to make the request through OAKS-CI and use OAKS-CI to track project information based on OFCC guidelines. Transfers the power to declare a public exigency from DAS to OFCC and transfers the power to take and use lands, materials and other property necessary during a public exigency from DAS to OFCC.

Director Hickman provided a summary report on design, construction or other contracts approved, awarded or amended by the Ohio Facilities Construction Commission:

#### **For State Agency and Higher Education Projects:**

9 Design Agreements & 2 Contract Amendments serving 7 Agencies totaling \$2,333,558.24

1 CM as Agent Amendment for NEOMED Project totaling \$12,588.62

1 Trade Contract for ODOT Project totaling \$1,602,400.08

11 Professional Services Agreements & 10 Contract Amendments serving 7 Agencies and 1 University totaling \$795,841.67

#### **School District Projects:**

6 design agreements, 3 design agreements co-funded amendments and 2 LFI design agreements totaling \$6,272,995.55

2 CMA agreements; 2 CMA amendments co-funded; 4 LFI CMA agreements totaling \$2,031,835

1 Owner Agent Amendment totaling \$78,728

3 CMR agreements; 1 CMR amendment co-funded totaling \$41,984,129

2 DB agreements for Remediations totaling \$143,080

2 Specialty agreement amendments; one for auditing and one Design manual totaling \$91,000

65 Trade Contracts totaling \$85,443,866.15; 4 to 2<sup>nd</sup> low; 13 QSCB's; 1 PLA

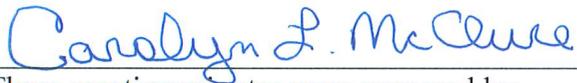
Director Hickman concluded his report by sharing with the Commission the tentative dates for the OSFC and OFCC Commission meetings for 2014. He also pointed out that the OFCC will only meet in January and July of 2014 with an April and October scheduled as needed.

There was no public testimony.

The meeting was adjourned at 4:45 PM.

A handwritten signature in blue ink, appearing to read "Timothy S. Keen", written over a horizontal line.

Timothy S. Keen, Commission Chair

A handwritten signature in blue ink, appearing to read "Carolyn L. McClure", written over a horizontal line.

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