

*Ohio School Facilities Commission
March 23, 2006
William McKinley Room 1:30 PM*

AGENDA

Meeting was called to order at 1:33 pm.

1. Roll Call

Members present: Director Timothy S. Keen, Director Carol Nolan Drake, Dr. Steve Puckett, Representative Timothy Cassell, Ann McElwee for Representative Clyde Evans, Senator Larry Mumper and Senator Teresa Fedor.

2. Election of Chairperson and Vice Chairperson

a. Nomination of the Chairman

Director Drake moved to nominate Director Keen as the Chairman of the Commission.

Dr. Steve Puckett seconded the motion.

Director Timothy S. Keen abstained from the vote.

Approval: Vote 2-0

b. Nomination of the Vice Chairman

Dr. Puckett moved to nominate Director Drake as the Vice Chairman of the Commission.

Chairman Keen seconded the motion.

Director Carol Nolan Drake abstained from the vote.

Approval: Vote 2-0

3. Adoption of the January 26, 2006 and February 23, 2006 Meeting Minutes

The minutes were distributed prior to the meeting for the members' review.

Vice Chairman Drake moved to approve the January 26th and February 23rd, 2006 minutes. Dr. Puckett seconded the motion.

Chairman Keen stated that Senator Fedor has an attachment for the January 26th minutes. Chairman Keen moved to amend the motion to approve the February 23, 2006 minutes only.

Approval: Vote 3-0.

Senator Fedor distributed an attachment to the Commission Members for the January 26, 2006 minutes. There are three areas that were submitted for change:

Item 2 – expanding on the last comment that was made. Senator Fedor read the change (See Attachment).

Item 9 – Community School Loan Guarantee asking more specific questions. Senator Fedor read the change (See Attachment).

Item 13 – More specific information considering the financial concern of GM Mechanical. Senator Fedor read the change (See Attachment).

Chairman Keen asked for further discussion of the January 26, 2006 minutes.

Vice Chairman Drake asked as a point of order to have Legal Counsel talk about the minutes and what is required to be in the minutes.

Jerry Kasai, Chief Legal Counsel, said from a legal standpoint the minutes are required to record the actions of the public body. There is various case law, but a majority of cases hold that the standard is whether in reading the minutes, you are able to determine the actions taken. There is no requirement that every sentence and word that is stated has to be recorded in the minutes. The reader should be able to find out what action was taken by the public body at the meeting.

Senator Mumper asked whether a public body puts themselves at risk by a secretary's interpretation of what was said and then somebody else assuming something else was meant. Senator Mumper wants to be very careful because of liability issues and asked if that was an issue.

Jerry Kasai said that if Senator Mumper's question is whether the minutes are putting members of the Commission in a position that they don't want to be in, everyone should review the minutes for their accuracy, and second the more you say, the more there is to report. Mr. Kasai again restated that the baseline level of what is required by Revised Code is that someone who reads the minutes of this Commission's meetings is able to determine what action was taken at a particular meeting.

With no further discussion, Chairman Keen proposed that the Senator Fedor's corrections be incorporated into the minutes by means of attachment of her letter to the minutes on January 26, 2006 meeting.

With no further discussion, Chairman Keen moved to approve the amended January 26, 2006 meeting minutes. Dr. Puckett seconded the motion. Chairman Keen abstained from the vote. Approval: Vote 2-0.

4. Maintenance Plans Approval – Presented by Mark Wantage

The School Districts listed below have submitted maintenance plans for Commission approval.

Lima City School District of Allen County
Lorain City School District of Lorain County
Mad River Local School District of Montgomery County

The School Districts have submitted their plan that includes a business plan for preventive maintenance and facility operations. The staff of OSFC had reviewed these plans and recommends their approval.

Dr. Puckett moved to approve Resolution 06-179.

Vice Chairman Drake seconded the motion.

Approval: Vote: 3-0

5. School Energy Conservation Financing Program Approval – Presented by Mark Wantage

Three School Districts listed below have submitted a conservation financing program for Commission approval.

Hilliard City School District:

- Bruner Corporation
- Seven Buildings
- Total Cost \$929,301 (Including Interest @5.0%)
- Annual Savings \$95,726
- Payback Period 9.71 Years
- Boiler Systems Replacement (5)
- Lighting Upgrade (6)
- Lighting Controls (7)

Perry Local School District:

- Honeywell International Inc.
- Four Buildings
- Total Cost \$2,706,897 (Including Interest @3.89%)
- Annual Savings \$389,562
- Payback Period 6.9 Years
- Centralized Outside-air intake
- Building Automation Systems upgrades
- Lighting Upgrades
- Building Envelope sealing
- Water Conservation

Teays Valley Local School District:

- SABO/ Limbach Energy Services
- Three Buildings
- Total Cost \$322,659 (*Not Financed*)
- Annual Savings \$389,562
- Payback Period 2.5 Years
- Centralized Outside-air intake
- Building Automation Systems upgrades
- Lighting Upgrades
- Building Envelope sealing
- Water Conservation

These have been reviewed by the Ohio Department of Development/Office of Energy Efficiency and staff of the OSFC and are recommended for approval.

Vice Chairman Drake moved to approve Resolution 06-180.

Dr. Puckett seconded the motion.

Approval: Vote: 3-0

6. Expedited Local Partnership Program Part Two Agreement Amendments Approval – Presented by Steve Lutz

This amendment is for the Canal Winchester Local School District in Franklin County.

The District and the Commission agreed to a Master Facilities Plan in 2002, which was budgeted at \$89.4 million.

In 2002 the District and the Commission approved an agreement to build a new elementary school and provide an addition at the high school with an estimated cost of \$20.1 million. The district was unable to secure all of the funding required; in April 2004 the District and the Commission amended their agreement to reduce the scope such that 70% of the elementary school would be built along with the addition at the high school with a cost of \$14.1 million.

In November 2004, the District secured additional funding and now seeks to amend the ELPP agreement to complete the elementary school and build a new middle school at an added cost of \$25 million. With this amendment the estimated total value of all ELPP work will be \$39 million.

Staff has reviewed this amendment and recommends approval through Resolution 06-181.

Dr. Puckett asked if the reason for the amendment was due to increased enrollment. Steve Lutz stated that increased enrollment is a factor. Dr. Puckett also asked if this fits into our guidelines. Steve Lutz stated that it is within the total Master Facilities Plan for the School District and is therefore recommended by staff.

Vice Chairman Drake moved to approve Resolution 06-181.

Dr. Puckett seconded the motion.

Approval: Vote: 3-0

7. FERP Amendment Approval – Presented by Lisa Laney

In 2001, the state of Ohio was awarded 27.9 million dollars from the U.S. Dept. of Education for emergency repairs and renovation projects. Ohio was granted an extension of the original deadline by the U.S. DOE. The deadline is now June 1, 2006. The OSFC has closed a number of projects from earlier rounds that did not fully utilize the amount awarded, thus making limited funds available. New Boston Local School District was one of the LEA's that received funds from the September 2005 awards. They requested additional funding of an elevator installation project at the high school with a cost estimate of \$205,000. This represents the last project in the high poverty category that is eligible to receive funds.

OSFC recommends the passage of Resolution 06-182 to amend the New Boston FERP agreement by \$205,000 for a total revised amount of \$1, 077,811.

Dr. Puckett moved to approve Resolution 06-182.
 Vice Chairman Drake seconded the motion.
 Approval: Vote: 3-0

8. Architectural Agreements and Amendments Approval – Presented by Craig Weise

The following architect agreements and amendments were presented for approval.

Agreements:

School District	Project	Architect	Amount	Agreement
Lincolnview	Renovations/additions to Lincolnview Elementary School to house grades K thru 12	Garmann /Miller & Associates, Inc.	\$912,560	Agreement
Waynesfield Goshen	Renovations/additions to the Waynesfield Goshen PK thru 12 facility	Garmann /Miller & Associates, Inc.	\$948,961	Agreement

Amendments:

School District	Project	Architect	Fees to Date	Amount	Total	Amendment
Columbus - Segment 2	East High School for additional survey and geotechnical fees	Moody Nolan, Inc.	\$1,622,622	\$9,061	\$1,631,683	Amendment

Locally Funded Agreements:

School District	Project	Architect	Amount	Locally Funded Initiatives
Lincolnview	Additional Square Footage, Vo Ag/Industrial Arts Renovation, Terrazzo and Lecture Hall	Garmann /Miller & Associates, Inc.	\$194,753	Agreement - LFI
Waynesfield Goshen	Additional Square Footage, Terrazzo, Demolition and Convert 1989 building to District Offices	Garmann /Miller & Associates, Inc.	\$139,251	Agreement - LFI

The staff has reviewed and recommends their approval through Resolution 06-179.

Chairman Keen asked why there were agreements and amendments. Craig Weise said that first there is the agreement for co-funded portion of the project. Any additional items require an amendment and some of those will be LFI (100% locally funded). Chairman Keen asked if there would always be LFI agreements and amendments. Craig Weise responded yes.

Vice Chairman Drake moved to approve Resolution 06-183.
 Dr. Puckett seconded the motion.
 Approval: Vote: 3-0

9. Trade Construction Contracts Approval – Presented by Craig Weise

All of the contracts represent the lowest responsible bidder. The staff has reviewed and recommends approval through Resolution 06-184.

<i>School District</i>	<i>Contracting Entity</i>	<i>Contract Type</i>	<i>\$ Amount</i>
Akron CSD	C T Taylor Company, Inc.	Foundations and Concrete	\$888,000.00
Akron CSD	Novatny Electric Company	Electrical/Fire	\$1,386,000.00
Akron CSD	S A Comunale Co.,Inc.	Sprinkler	\$241,828.00
Akron CSD	The K Company, Inc.	Mechanical/HVAC	\$1,540,000.00
Akron CSD	D & A Plumbing & Heating, Inc.	Plumbing	\$757,943.00
Akron CSD	Brysko Foodservice, LLC	Kitchen Equipment	\$329,625.00
Akron CSD	Summit Construction Company, Inc.	Site Work	\$1,254,344.00
Akron CSD	Summit Construction Company, Inc.	Steel, General Trades	\$3,801,779.00
Cincinnati CSD	Westside Paving & Excavating	Demolition	\$414,600.00
Cincinnati CSD	Tri-Con, Inc.	General Trades	\$7,845,000.00
Dawson-Bryant LSD	J & H Reinforcing & Structural Erectors, Inc.	General Trades	\$6,581,777.00
Dawson-Bryant LSD	A J Stockmeister, Inc.	HVAC, Plumbing & Fire Protection	\$2,701,671.00
Dawson-Bryant LSD	Dixon Electrical Systems & Contracting, Inc.	Electrical & Technology	\$1,822,000.00
Fairless LSD	DiPietro Excavating, Inc	Early Site Package	\$1,766,352.00
Indian Valley LSD	Tucson, Inc.	Early Site Development	\$958,259.00
Jackson CSD	BrenMar Construction, Inc.	Plumbing	\$454,000.00
Jackson CSD	Accurate Electric Construction, Inc.	Electrical/Technology	\$1,648,000.00
Jackson CSD	Howard's Sheet Metal, Inc.	HVAC/Temperature Controls	\$1,583,000.00
Jackson CSD	Brewer & Company of WV, Inc.	Fire Protection	\$133,000.00
Jackson CSD	Stockmeister Enterprises, Inc.	General Trades	\$3,988,000.00
Jackson CSD	Badger Construction Co., Inc.	Demolition	\$126,776.00
Jefferson LSD	Architectural Floors dba Re: Source Ohio	Flooring	\$800,839.00
LaBrae LSD	Total Environmental Services, LLC	Remediation and Demolition	\$40,545.00
LaBrae LSD	Dave Sugar Excavating, Inc.	Remediation and Demolition	\$183,000.00
Parkway LSD	Reese Recreation Products	Playground Equipment	\$148,575.00
South Point LSD	The Kenny Huston Company	Masonry	\$3,642,000.00
South Point LSD	Cabell Sheet Metal & Roofing, Inc.	Roofing	\$693,987.00
South Point LSD	Johnson Controls	Temperature Controls	\$480,000.00
South Point LSD	Cincinnati Floor Company	Wood Flooring	\$188,422.00
South Point LSD	The Commercial Appliance Contracts	Food Service Equipment	\$260,932.00
South Point LSD	TP Mechanical Contractors	Fire Protection	\$320,792.00
South Point LSD	Accurate Electric Construction, Inc.	Electrical	\$1,659,500.00
South Point LSD	J & H Reinforcement and Structural Erectors, Inc.	General Trades	\$7,447,000.00
South Point LSD	A J Stockmeister, Inc.	Plumbing	\$871,040.00
South Point LSD	Mechanical Construction Co.	HVAC	\$1,858,800.00
Tecumseh LSD	Tom Sexton & Associates	Loose Furnishings BP# 3	\$54,912.00

Tecumseh LSD	Tom Sexton & Associates	Loose Furnishings BP# 2	\$170,547.17
Tecumseh LSD	Element IV Interiors	Loose Furnishings BP# 4	\$220,038.45
Tecumseh LSD	Tom Sexton & Associates	Loose Furnishings BP# 5	\$381,808.03
Tecumseh LSD	Thomas W Ruff & Co	Loose Furnishings BP# 6	\$32,922.30
Tecumseh LSD	Martin Public Seating	Loose Furnishings BP# 7	\$301,562.70
Tecumseh LSD	Thomas W Ruff & Co	Loose Furnishings BP# 1	\$319,333.46
Toledo CSD	Bayes, Inc.	HVAC	\$1,618,000.00
Toledo CSD	Folding Equipment Company, LLC	School FFE (Furniture, Fixtures & Equipment)	\$793,295.00
Toledo CSD	National Business Supply aka Navigating Business Space aka NBS	Office FFE (Furniture, Fixtures & Equipment)	\$133,535.27
Toledo CSD	Border Fire Protection, Inc.	Fire Protection	\$156,545.00
Toledo CSD	Hank's Plumbing & Heating Co.	Plumbing	\$443,124.00
Toledo CSD	Rudolph/Libbe, Inc.	Site and General Trades	\$6,061,000.00
Toledo CSD	Brint Electrical, Inc.	Electrical	\$991,290.00
Toledo CSD	McNerney & Son, Inc.	Office FFE	\$245,014.93
Vinton County LSD	Claypool Electric, Inc.	Electrical	\$1,450,050.00
Vinton County LSD	Howard's Sheet Metal, Inc.	HVAC	\$1,629,000.00
Vinton County LSD	Gutridge Plumbing, Inc.	Fire Protection	\$200,000.00
Vinton County LSD	A J Stockmeister, Inc	Plumbing	\$669,263.00
Vinton County LSD	Stonecreek Interior Systems, LLC	Educational Casework	\$308,300.00
Vinton County LSD	S S Kemp & Co	Food Service	\$240,673.00
Vinton County LSD	Wesam Construction, Inc.	General Trades	\$5,345,951.00
Vinton County LSD	Lang Masonry Contractors, Inc.	Masonry	<u>\$1,996,908.00</u>

Representative Cassell asked to bring the Commission up-to-date on A. J. Stockmeister, a contractor on this list, who is on the next resolution under Authority to File Suit regarding the Waverly project.

Rick Hickman responded that A. J. Stockmeister has signed a Memorandum of Understanding to cooperate fully to correct deficiencies once the plans have been drawn up to identify the corrections. Based on that cooperation, we believe it is appropriate to move forward and approve their work at other school districts. Our relationship with Stockmeister in the projects they have worked on generally has been good.

Representative Cassell commented that it states on Resolution 06-185 that Triad has committed various errors and omissions in the design of the project and Stockmeister has committed workmanship errors. Do we feel solid that they are going to do a better job with the other two school districts where they will perform new trade contract work.

Rick Hickman commented that we have an agreement from Stockmeister indicating that they will work in good faith with us and once the workmanship issues have been identified for

correction, they will have 30 business days to begin to cure and resolve those issues and they have committed to do that. Dr. Puckett requested that the Commission be kept apprised of Stockmeister's Memorandum of Understanding.

Dr. Puckett moved to approve Resolution 06-184.

Vice Chairman Drake seconded the motion.

Approval: Vote: 3-0

10. Authority to File Suit – Presented by Jerry Kasai

Jerry Kasai requested approval of Resolution 06-185 Authority to File Suit for Triad Architects at Waverly Local School District.

Rick Hickman commented on reaching a decision to end up in court is difficult as we, as an agency, do not believe it is mutually beneficial for a school district, the state and the party being pursued. These matters are weighed very heavily and it would be our preference to keep the people who are responsible for the problems engaged in the solution. If someone else were brought in to correct the problem, we would have to pay more to that party than we would have to pay to keep the individual that was involved in it. At times in construction, things have a tendency to go wrong and what we are concerned about is making sure that we provide quality buildings and that when they do go wrong, there is someone standing beside us to bring about the appropriate corrections. We want to work with architects and contractors and make sure that they understand that we mean business. If you look at our history, the quality issues are less than 1% of the total construction costs of buildings that have been completed. We've had a success rate of bringing contractors back and making appropriate corrections, and in most cases the contractors have done what we would have expected and they continue to compete for the work on our projects.

Representative Cassell appreciated the fact that we have done a very fine job of dealing with quality schools, but we are asking for a resolution to pursue litigation against a company that we just gave an \$8 million contract. Litigation is the last step in the process, which means we are not getting the results that we need even though Stockmeister is a secondary part in this problem with Triad at Waverly, and that this is the last step in the process of trying to get something fixed at a school project that we have had issues and giving a company \$8 million plus in contracts that we are at the end of our ropes with and that is why I caution and bring this to the board's attention.

Jerry Kasai commented that if we are going to sue at Waverly, we have to sue everybody at the same time and that is the main reason Stockmeister is included on the resolution. The issue centers around the architect's performance and willingness to resolve the issue by making a financial contribution.

Chairman Keen asked for an outline for the timeframe for the MOU with Stockmeister and the timeframe for the potential lawsuit.

Jerry Kasai responded that with the MOU, we would attempt to negotiate separately with Stockmeister rather than together with all the other parties. That should occur in the next

couple weeks to a month and be resolved within the next 60 days. The lawsuit will need to be coordinated with the school district. Special counsel has already been appointed and we anticipate filing suit if agreement cannot be reached very soon.

Chairman Keen asked if there were an appropriate resolution with Stockmeister, would they be removed from the lawsuit. Jerry Kasai responded yes.

Senator Fedor asked how many times has OSFC had to go through mediation process with Triad Architects before this case or any other school that they built. Jerry Kasai responded that on this particular project we had mediation on October 25, 2005 and that was continued to January 20, 2006, which never took place. On other projects, we had a partnering session with Triad last Friday to attempt to resolve issues at Cambridge City School District. That partnering session included the construction team. Cambridge is a project where VCT floor tile is not adhering to the floor on three buildings. Other projects that we are having implications with Triad are: East Muskingum with problems at the intersection of walls and hips of the roof and specification of flashing in the walls.

Senator Fedor asked for the timeframe on Cambridge and East Muskingum Schools. Jerry Kasai replied that Cambridge was a 2000 project and East Muskingum was a 1999 project. For point of clarification made by Commission Secretary, Cambridge was funded in 1999 and East Muskingum in 2000. Senator Fedor asked in our system of building quality schools, the construction manager has oversight on how architects are putting their plans together and how does the construction manager evaluate the quality of the school construction making sure the workmanship is there and the contractors are following all the specifications. Jerry Kasai replied we have a construction team made up of a construction manager and an architect and both have a number of responsibilities. The architect not only has responsibility of design, but he also has observational responsibilities and is obligated to report any material deviation from the plans and specs. The construction manager with respect to constructability has the responsibility to look at plans and specifications as they are being output by the architect and offer input on the preliminary design. In regards to the work in place, the construction manager has inspection responsibilities.

Senator Fedor asked if the construction manager would not evaluate the architect.

Jerry Kasai replied that the construction manager is not responsible for the design, but for making comments on aspects of the design or constructability.

Senator Fedor's concern is whether or not we have the proper checks and balances of evaluation and observation and are evaluations being done by project.

Senator Fedor also asked if we were not working with Triad Architects anymore and if we are not has this partnership broken up and created another team with a new name.

Jerry Kasai replied that our project delivery system is designed to offer a check and balance and to make sure we put a quality product in place. The construction manager and the architect are supposed to work together. The first line of defense for defective work is the actual contractor. In opening over 300 buildings in a short period of time, this project

delivery system has shown that it has worked very well with respect to the dollar value of defective work that we have discovered. Triad Architects are currently working on the Nelsonville-York project. They are still operating and haven't broken up.

Vice Chairman Drake moved to approve Resolution 06-185.

Dr. Puckett seconded the motion.

Approval: Vote: 3-0

11. Presentation – Presented by Crystal Canan

Crystal Canan briefed the Commission on an OSFC management guideline – selection process for trade and consultant contracts. She then provided a presentation on the OSFC bidder evaluation process and how it works.

Representative Cassell asked about the sole discretion of the school district and school board to make the decision on the lowest bidder and according to Section 3.4 in the bid evaluation that is with approval of the Commission. So, the Commission can still override the school board's decision. Crystal Canan replied that is correct, the Commission's authority is separate and distinct and we may come down with a different determination. Our staff works very actively with the district at the school board level. We don't want to surprise them or hide the fact that we may be making a recommendation not to award at this meeting and then inform them the day after that we requested your rejection of a company.

Vice Chairman Drake commented that they also struggle at DAS to make sure that our process is fair and complete because we also award contracts based on this criteria, but also take pride that Crystal Canan, Jerry Kasai and Rick Hickman all worked at DAS and we have a very experienced Commission staff with them on board.

12. Executive Director's Report

Director Hickman shared building groundbreakings and dedications. We have had one dedication for a Toledo elementary school since our last meeting. Today Toledo is celebrating the dedication of East Broadway Middle School with 3 groundbreakings scheduled in the next three weeks. There are 3 building dedications scheduled for Springfield on April 29 and a celebration is scheduled in Cleveland for the renovation of the historic John Hay High School.

Director Hickman shared OSFC's recommendation for funding 28 school districts for FY07. We will begin working with these districts over the next several weeks in preparation for requesting the Commission's approval in July. The map in your meeting packet displays the location of each of these districts in the state.

Director Hickman announced a partnership with OSU's Engineering College that establishes an intern program and co-op program for engineering and architecture students. We will welcome our first co-op student this Monday. The co-op is a mechanical engineering student

who will be spending the spring and summer term with us. In June we will welcome a civil engineering student for the summer term. This will be an ongoing program with OSU.

Director Hickman introduced a new member of the OSFC staff, Lois Snyder, Deputy Chief Financial Officer, who will be working with school district treasurers, auditing and close out.

Meeting was adjourned 3:03 pm.

Timothy S. Keen

These meeting minutes were prepared by:
Carolyn McClure
Executive Assistant
Ohio School Facilities Commission