

Ohio School Facilities Commission
February 24, 2011
B. Harrison Room
1:30 PM

MINUTES

Chairman Keen called the meeting to order at 1:36 PM

Roll Call

Members present: Chairman Keen, Vice Chair Blair, Senator Sawyer, Senator Lehner, Representative Gentile and Scott Evans for Representative Johnson.

Adoption of the January 27, 2011 and February 22, 2011 Meeting Minutes

Vice Chair Blair moved to adopt the January 27, 2011 and the February 22, 2011 meeting minutes. Chairman Keen seconded the motion.

Approval: Vote 2-0.

Interim Director's Report

Eric Bode presented his report to the Commission.

Deaf/Blind School: There is an Executive Partnering Session coming up on March 10 and we look forward to working with both schools. We can make some decisions on design and move forward with that project.

Furniture: Last week several of the staff met with Senator Tom Patton on an issue the senator has talked about before with us—bidding for furniture. This is a difficult topic because it is different from masonry or plumbing and there are certain challenges to bidding furniture. We had a good meeting and Senator Patton brought to light some information that we're now analyzing. We promised to get back to him and I'm sure we'll have more discussions.

Election: We did have an election the beginning of February. We only had one district on the ballot, Warren Local School District (Washington County). Their bond issue did not pass. So far, this year we have nine projects that the Commission approved last summer and four of them have funding. Of the remaining five, many are going back to the ballot in May to see if they can pass their bond issue. Chairman Keen asked if the other districts had funds available previously, or did they just not go to ballot as of yet. Bode responded that he believed that all of the districts did go in November, which is a much more common time to go to the ballot. In February, districts have to pay to get on the ballot as a special election. It is more typical for districts to go in November and May. Of course, they have until August to come up with their local share within their one-year window.

Toledo City School District: The meeting agenda item for Trade Contracts approval includes the last building in the Toledo City School District project. It's been a long road since 2000, but here we are with the 44th out of the 44 buildings.

Training webinars: OSFC has hosted a lot of training sessions within the last month. Sue Meyer on our staff has done a great job in pulling them together. Lisa Laney, our LEED administrator, hosted three of the webinars: LEED Trends, LEED Gold and under Budget, and Daylight Credits.

Resource Guide: Another product of Sue Meyer's is the OSFC Resource Guide—a reference guide that was distributed to each Commission Member.

Staff Response to Resolution 11-02

Eric Bode provided a memorandum to the Commission members that explained and updated the agency's response to the Inspector General's report of August 2010. The memo complies with the charge made by the Commission under Resolution 11-02 approved at the January 24, 2011 meeting. Mr. Bode then presented the actions taken and staff recommendations.

Mr. Bode first provided a timeline:

- August 5, 2010 - Inspector General issues Report 2010082 on the OSFC.
- August 26, 2010 - Commission approves Resolution 10-123 as a response
- September 24, 2010 - Chair Sabety delivers response, including 10-123
- January 27, 2011 - Commission approves Resolution 11-02 requesting further review and report

Mr. Bode noted that the Commission asked staff to report two things: the actions that we've taken to date from the response to the Inspector General report and also whether we recommend any new actions. We have a good staff group that has been working on this over the last month. In particular, Steve Berezansky, Mike Mendenhall, Bill Taylor, Bob Slagle and Cheryl Lyman, among others, have been very helpful with preparing this report.

Mr. Bode talked about three areas:

1. Bidder Information Center
2. Bidder Review
3. Post-Occupancy Review

He stated that all three areas have to do with trade contractor evaluation. For each trade contract that goes out for competitive bidding, a review happens with the lowest bidder to see if they are a responsible contractor. All of these areas relate to the question of are we good at doing that review and making sure that we have contractors that are acceptable and not approving ones that aren't acceptable?

Bidder Information Center

IG recommendation: OSFC should track trade contractor performance and use data in a consistent evaluation process

The first area, Bidder Information Center, involves a database issue. The challenge is to have good, comprehensive data at our fingertips and to be able to use that data when we are then presented with a new contract. The IG had said that the OSFC should track

Trade Contractor performance and use that data in the evaluation process. Mr. Bode informed the Commission that the OSFC has been working on that, actually before the IG report. Bill Taylor, Chief of IT, has done a very good job on that system.

- *Actions taken: Vendor hired for system improvements, staff hired to track evaluations*
- *Additional recommendations: Continued improvements, more reporting, increase completeness of evaluations*

There are a couple things the OSFC staff wants to do to improve the system. One is to increase the reporting. Bill Taylor is working on more comprehensive reporting where we can get a picture of how many evaluations are have been entered for a contractor, how many are passing or failing, if there are particular items of importance that they've failed on noted in the evaluations. We are specifically looking at 72 hour notices. We are also working on the evaluation response. We went from the paper process to the on-line process. The response rate went from about a 10 percent response up to about a 50 percent response. We are asking that construction managers, architects and school district staff all evaluate the trade contractors. The CM response rate is approximately 90 percent. We need to work on increasing the evaluations from architects and school districts.

Bidder Review

IG Recommendation: Develop a standardized bid checklist

When bids are received on a project, there's an analysis that is performed on bidder responsibility. We contract with both the CM and the architects to get their professional judgment on whether those are acceptable bidders. The IG challenged us to develop a standardized bid checklist. The OSFC does take that to heart. We think there is something of a balance. On the one hand, we do want to make sure that every time there is a bid, the CMs go through and perform certain items to make sure those low bidders are the best for the job. On the other hand, we are leery of developing a standard checklist that would be the same for all contracts. We would send the message that as long as your box is checked; it's ok to go ahead.

- *Actions taken: Initial steps for a CM/Architect advisory committee*

We have done some steps that we have promised before which were to set up an advisory committee of CMs and Architects.

- *Additional Recommendations: Monitoring bid reviews, expanded committee for best practices*

We recommend going ahead with a different version of that advisory committee. The product would be not so much a checklist as best practices. We want to learn from the CMs and architects that are doing a thorough job.

Post-Occupancy Review

IG Recommendation: Document post-occupancy problems

The IG noted that post-occupancy, which can be 3, 4, 5 years after a building opens, we are sometimes become aware of defects in the building. We do have a very active response to those situations. We have a couple of staff members that go out to school districts and work on those issues. Usually what happens is a school district calls us. The IG has challenged us to document those problems, and particularly document them in terms of the Contractor evaluation.

- *Actions taken: Issue report form drafted*

We have drafted an issue report form so that we can document every time we get a call or notification and we have a database of information.

- *Additional Recommendations: Conduct post-occupancy evaluations, report on contractor issues*

We want to be a little more proactive. We recommend not just waiting for a phone call, but to actually do an outreach to districts at a certain points in time after the building is open to see if there are any of these that have come up. We also want to also tie this back into contractors involved, so that database of contractor evaluations reflects this post-occupancy activity.

Director Blair asked if there is an appeal process to the evaluation.

Mr. Bode responded that there is not an appeal process of such. He did note that we keep track of those evaluations. In the past if there is a bad evaluation, the OSFC has brought people in and talked with them about the evaluation. Sometimes it could be a misunderstanding.

Director Blair also questioned if the OSFC has ever banned someone from actually bidding on or being selected for a particular project.

Mr. Bode responded that we have not banned any trade contractor; we look at each bid individually. He noted that we have been looking at a process for debarring a contractor. That is something that we do not have statutory authority to do.

Chairman Keen thanked the staff for going back and reviewing what had been done to date in regards to Resolution 11-02. The Commission will take the recommendations under advisement. It is Mr. Keen's intention to discuss this report with the new permanent Executive Director, who will determine what actions to take.

Resolution 11-14

Chairman Keen introduced a resolution that appointed Richard M. Hickman as the new Executive Director, effective March 1, 2011. Chairman Keen noted that were a number of applications received and reviewed and he and Vice-Chair Blair determined that the most qualified person for the position was Mr. Hickman.

Vice Chair Blair moved to adopt Resolution 11-14.

Chairman Keen seconded the motion.

Approval: Vote 2-0.

Resolution 11-15

Vice Chair Blair introduced a resolution recognizing and commending Eric Bode for his service as Interim Executive Director. At the Chairman's request, the Commission Secretary, Cheryl Lyman, read Resolution 11-15. Director Blair then thanked Mr. Bode for his commitment to OSFC. Representative Gentile also expressed his appreciation and thanked Mr. Bode for his assistance. Chairman Keen noted that he has had the privilege of working with Mr. Bode for a number of years. Chairman Keen acknowledged Mr.

Bode's fantastic work and professionalism as Chief Financial Officer and his service on both occasions that he was Interim Executive Director. In both capacities, Mr. Bode has served the Commission and the public very, very well. Mr. Bode thanked everyone for their comments and noted that the staff at the OSFC was second to none. He stated his appreciation for all the opportunities he's had over the past 10 years with the Commission and he is looking forward to the new opportunities at his next position.

Vice Chair Blair moved to adopt Resolution 11-15.
Chairman Keen seconded the motion.
Approval: Vote 2-0.

Resolution 11-16

Chairman Keen introduced Resolution 11-16 Rescinding Resolutions 07-98 and 07-16. At the Chairman's request, the Commission Secretary read the resolution aloud.

Representative Gentile asked how many school districts adopted some or all of the criteria that the Commission is considering rescinding.

Mr. Bode responded that 13 districts had approved project labor agreements and another 15 districts that have prevailing wage requirements.

Representative Gentile also wanted to know as the Commission considered this decision, or prior coming to this decision, how many districts have we spoken to regarding their experience with using the model bidder requirements?

Chairman Keen responded that it's his sense the Commission interacts with school districts on an on-going and regular basis as to whether those specific questions proposed to them, he allowed Mr. Bode to address the question.

Mr. Bode responded that the staff works daily and weekly with school districts, so we have a sense of their experiences both in terms of the work that is performed as well as the effect on bidding and prices.

Representative Gentile said that he was just trying to get a sense of the dialogue we have with the district and whether or not this is working as we call for a change in policy. He believes that feedback is important. He asked if there been a comparative analysis done regarding the number of change orders between projects that were adopted under the responsible contracting criteria and perhaps those who were not.

Mr. Bode responded that not recently comparing these contracts, we had done some comparisons in the past but it has been a while since we have done that and not with these specific 28 districts.

Representative Gentile noted that this vote would essentially eliminate the requirement that construction workers on projects have OSHA 10 hour and 30 hour safety training courses. That provision, that work safety is important, is part of those criteria that would

be rescinded. He asked if this is something that we could possibly leave in as the Commission considers revision of the entire proposal.

Chairman Keen commented that this resolution repeals a resolution that set up a list of what were termed as model bidder criteria that at the option of the school district could be selected. In some instances they were and many instances they were not. Chairman Keen stated that this is a resolution that was prepared at his direction. It is not a resolution that the staff of the OSFC advanced, as it is not their job. He suggested that the rescinding of this resolution does not mean that any particular conditions would not be available to school districts if they were so inclined, other than those that specifically would not be considered by the Commission. For the first ten years of its existence the OSFC, with regularity, considered requests for special conditions to the terms of contract for the projects that it governed. As the resolution indicates, it is intended that the Commission will continue to consider requests for special conditions. What the resolution does is outline certain special conditions that the Commission will not be considering. The Chairman stated he does not think that the resolution precludes the subject matter that Representative Gentile referred to in the question.

Representative Gentile then asked about point number three and projects that may have been agreed to under 07-98. Going forward, will they be grandfathered in or does the Commission reserve the right to go back and take a look at those, opposed to what will be operating effective today?

Chairman Keen reiterated the fact that Representative Gentile pointed out point number three speaks to effective date in the first sentence, which is essentially projects have not been advertised for bid as of today. The terms of this resolution will apply however; the wording commencing with the word "*however*" does provide a grandfather clause opportunity for selected projects that meet criteria outlined therein, that is to say if there is a previously approved contract that the Commission will review the terms of that agreement and make a determination as to the applicability of this resolution. The intent here is to recognize that there are certain school building projects that are in process and we have to consider how appropriately this resolution would be applied.

Representative Gentile then asked why we would want to terminate school districts ability to require workers who were completed or currently enrolled in a Federal-State apprentice or career tech program. He stated his concern that we may be limiting a district's ability to require construction workers who have gone through those apprenticeship programs. Chairman Keen acknowledged the concern.

Senator Sawyer asked, in regards to the 07-98 resolution, if the decisions with regard to the applicability of the Commission discretion would be entirely up to the discretion of the Commission and if there are contemplated standards by which those decisions would be made. Or would be simply on a case by case basis and largely subjective?

Chairman Keen suggested that it would be in fact on a case by case basis, and it would be governed by the terms and conditions of agreements that may have been previously put in place.

Senator Sawyer asked if we would turn to the contract itself for guidance with regard to the appropriateness.

Chairman Keen replied that we would review the agreement that was in place, and its legal applicability.

Senator Sawyer also asked what is meant by special conditions in item 4 and if there were examples or circumstances that would not be in conflict with this resolution.

Chairman Keen responded that there are a set of general conditions that are applicable to all of the projects and contracting documents and bidding documents that are associated with Commission projects. The Commission has historically, in discussions with school districts and based on individual circumstances of projects, put in place certain special conditions that are particular to that particular project. Steve Berezansky, Chief of Projects, then gave an example of special conditions during a renovation where there may be constraints on when contractors can work and when they can't.

Senator Sawyer then noted that in point 2, the Commission will not approve any contracts that require the adoption of any agreements or specifications that attempt to impose any of the following requirements as a condition of submitting a bid or entering into a construction contract for or relating to a Commission project: (d) requires proprietary training programs or standards. He asked what the purpose of limiting training programs and standards is.

Chairman Keen replied that the wording does not limit training programs and standards but it limits the requirement that proprietary or specific training programs and standards be required.

Senator Sawyer asked if the district were to require training programs and standards, but did not specify the exact training program, but generally describes them, then that would be permissible?

Chairman Keen agreed and confirmed that we were not ruling out training programs.

Representative Gentile asked how many lawsuits have been related to poor workmanship that has adopted model bidder criteria.

Assistant Attorney General Jon Walden replied that many of the projects that have adopted model bidder criteria have not even begun, so he was not sure we had any lawsuits yet.

Representative Gentile asked if this was because the previous way was effective and that's why there are no lawsuits. Mr. Walden responded the he didn't have an answer to that question.

Chairman Keen moved to adopt Resolution 11-16.

Vice Chair Blair seconded the motion.

Approval: Vote 2-0.

School Energy Conservation Financing Program Approval

Tom Brannon, Senior Post Construction Administrator, provided a brief overview of the Energy Conservation Financing Program (HB264). In this program districts identify energy saving facility improvements. Projects must pay for themselves through the result and reduction of energy consumption within a fifteen-year period. School districts are required to prepare and submit project proposals for review and approval by the Commission. Commission approval allows the school district to obtain financing and proceed with its program.

Mr. Brannon presented Crooksville Exempted Village SD (Perry), Coshocton County Career Technical School (Coshocton), Lebanon City SD (Warren) and South-Western City SD (Franklin) requests to participate in the Energy Conservation Financing Program. The projects were reviewed by the Ohio Department of Development/Office of Energy Efficiency and the staff of the OSFC. The Commission staff recommended approval of Resolution 11-17.

Chairman Keen moved the Commission to approve Resolution 11-017.

Vice Chair Blair seconded the motion

Approval: Vote 2-0.

Accelerated Urban School District Agreements and Amendments Approval

Melanie Drerup, Deputy Chief of Planning, provided an urban update and presented two new segment agreements and two amendments which will bring us current with the changes to the six urban master plans.

Senate Bill 272, passed by the General Assembly in May 2000, created the Accelerated Urban Initiative. It accelerated the access to state funding for the six largest urban districts due to the size and the complexity of their programs, which at the time included almost 500 buildings and approximately 16 percent of the Ohio student population. Canton and Youngstown, the other two districts comprising the "Big Eight," had previously become eligible for the Classroom Facility Assistance Program.

Projects are broken up in segments to allow for adjustments to scope of work due to changes in enrollment and other factors.

In 2002 the Commission approved the project scope for the six Urban Districts which included 462 buildings with 265,630 students. At total projected cost of \$5.74 billion, of which \$2.95 billion was to be at state expense. The largest of the projects at that time was the Cleveland program at \$1.5 billion (including \$1 billion – state funding). The state share varied with each of the Urbans, ranging from a low of 23% for Cincinnati to a high of 77% for Toledo.

In 2006 the Commission approved updates to the six urban master plans which showed a decline of 84,000 students, a \$1B reduction in cost and a reduction of approximately 100 buildings.

In 2010 the Commission approved additional updates to the six urban master plans.

Just over 50 percent of the anticipated dollars for the overall program has been disbursed to date. Remarkably all six are making forward progress despite many leadership changes and the economy. Spending varies by district but the districts are spending between \$50 and \$100 M per year. The accelerated urban program is truly a success story.

The urban program has been challenging due to the length of the program, declining enrollment which has required a continuous planning effort. Three of the urban districts are completing their final segment (Dayton, Toledo and Cincinnati). Three of the urban districts (Akron, Columbus and Cleveland) will require additional local share to complete their building programs.

Akron City Schools

For Akron City schools, the Commission approved a Master Facilities Plan in 2002 for \$693M divided into an estimated four segments for 57 buildings to house 30,971 students. The Commission has approved three segments to date. The Commission amended the Master Facilities Plan in 2010 for 20,703 students;

Ms. Drerup presented for consideration the approval of a new Segment 4A agreement which provides \$65.6M for the construction of one new building and an allowance for abatement/demolition of 10 buildings.

There is one additional segment being planned for Akron which will be brought to the Commission at a later date. The estimated budget for the remaining segment is \$129 M.

Staff recommended the Commission’s approval of Resolutions 11-18 for the new Segment 4A project agreement for Akron City schools.

School District	County	State Share	Local Share	Total Project Cost	Program
Akron City SD	Summit	\$38,709,097	\$26,899,542	\$65,608,639	Accelerated Urban

Chairman Keen asked for confirmation that Akron has the resources to proceed with 4A and then they will need to come up with additional funding. He wanted to know if Akron was using a property tax levy or were they using alternate arrangements.

Mr. Bode clarified that was correct. Akron has unusual arrangements. The city actually raised the money for Community Learning Centers, they are not called schools in Akron, and they were very successful in making that happen.

Chairman Keen asked if this was an income tax. Mr. Bode verified that it was. Chairman Keen then asked if the school district has consumed their allocation of income tax money.

Mr. Bode said that the city with this income tax has a full future revenue stream and was able to borrow against that. There of course were provisions of contingency with that. Because it’s not a bond levy, it’s unknown exactly just how much revenue will come in. Mr. Bode stated his understanding was that the city borrowed money to do the first segments, and then was able to borrow against the future revenues without having to go back to the voters.

Vice Chair Blair moved the Commission to approve Resolution 11-18.
 Chairman Keen seconded the motion
 Approval: Vote 2-0.

Cleveland Metropolitan Schools

Mrs. Drerup then presented updates for Cleveland Metropolitan Schools. The Commission approved a Master Facilities Plan in 2002 for \$1.51B divided into nine segments for 111 buildings to house 72,500 students.

The Commission has approved 5 segments to date. The Commission amended the Master Facilities Plan in 2010 for a projected enrollment of 36,000 students. The estimated projected total cost for the project is \$1.16B

Staff recommended Commission approval of Resolutions 11-19 for the new Segment 6 project agreement for Cleveland Metropolitan Schools agreement which provides \$52.4M for the construction of three new buildings and an allowance for abatement/demolition of 15 buildings.

School District	County	State Share	Local Share	Total Project Cost	Program
Cleveland Metropolitan SD	Cuyahoga	\$35,653,230	\$16,777,991	\$52,431,221	Accelerated Urban

Vice Chair Blair moved the Commission to approve Resolution 11-19.
 Chairman Keen seconded the motion
 Approval: Vote 2-0.

Resolution 11-20

Mrs. Drerup also presented a resolution adopting an amendment to the Segment No. 5 Project Agreement for the Cleveland Metropolitan School District Project. The previously approved Segment 5 agreement provided \$203.8 for 9 buildings. The proposed amendment:

- Decreases the enrollment and grade configuration at one building due to reduced enrollment
- Increases the enrollment at one building
- Decreases the allowance for swing space

The Cleveland Segment 5 budget is reduced by \$2.5 M for an updated budget of \$201.3M.

Staff recommended the Commission’s approval of Resolutions 11-20 for the amendment of Segment 5 for Cleveland Metropolitan Schools.

Chairman Keen asked about Cleveland’s funding. Mr. Bode responded that Cleveland’s Segment 6 is essentially the end of their money. They had a bond approval in 2002

around \$335 M, and this is the end of that. If they wanted to do more they would need to go back to the voters or come up with the funds.

Chairman Keen moved the Commission to approve Resolution 11-20.

Vice Chair Blair seconded the motion

Approval: Vote 2-0.

Dayton City Schools

Mrs. Drerup presented a resolution adopting an amendment to the Segment No. 2 Project Agreement for the Dayton Public School District Project.

The Commission approved a Master Facilities Plan in 2002 for \$488.2M divided into four segments for 34 buildings to house 19,039 students. The Commission has approved three segments to date. The Commission amended a Master Facilities Plan in 2010 for 14,254 students.

The amendment before the Commission was for one previously approved segment agreement (Segments 2) for Dayton City schools. The previously amended Segment 2 agreement provided \$148.8M for 10 buildings. The proposed amendment deletes the allowance for abatement and demolition of one building. Dayton's Segment 2 budget is decreased by \$345,941 for an updated budget of \$148.4M.

Staff recommended the Commission's approval of Resolution 11-21 for the amendment of Segment 2 for Dayton City schools.

Chairman Keen asked where Dayton CSD is with their overall budget.

Mr. Bode verified that Dayton had enough money in their original bond to fund all the segments plus all the locally funded initiatives they wanted to do. Overall they will actually end up under budget.

Chairman Keen asked about Segment 3 and if Dayton CSD could fund it. Mr. Bode answered that Segment 3 had been approved and is well under way.

Chairman Keen moved the Commission to approve Resolution 11-21.

Vice Chair Blair seconded the motion

Approval: Vote 2-0.

Master Facility Plan Amendments Approval

Steve Lutz, Chief of Planning, presented the First Amendment to the Master Facilities Plan for the Geneva Area LSD in Ashtabula County for their 2006 participation in the Classroom Facilities Assistance Program (CFAP). This Amendment supplements the Master Plan budget with \$5.7 M; a 7.8% increase. The Amendment incorporates \$3.9 M of increased credit- established by the district through the completion of their New High School under Expedited Local Partnership Program (ELPP). Within the ELPP credit there is \$1.7 M of corrective work to remediate defects in the roof of the High School. The district is pursuing cost recovery from the potentially responsible parties. All funds

recovered will be offset by an equal reduction of the refund which is due to the district under the ELPP agreement for their expenditures in excess of the required local share for participation in CFAP.

The First amendment also provides just over \$2M to fund the following changes to the CFAP project:

1. Fund market conditions at bid of the 3 ES
2. Provide the LEED allowance at all 4 schools
3. Provide swing space at the MS project.
4. Reduce the abatement and demolition allowance at all 4 schools due to bid savings.

Our staff worked closely with the district and their designer to manage the project cost. The elementary schools were first bid in the spring of 2010, with bids coming in 13% over budget. The buildings were redesigned and then rebid and awarded in November 2010. Staff recommended approval of the First Amendment to the Master Facilities Plan for Geneva Area LSD by adoption of Resolution 11-22.

Geneva Area Local School District Master Facilities Plans Amendment

School District (County)	Recommended Modifications to the Master Facilities Plan	Increase to the Project Budget	
Geneva Area Local SD (Ashtabula)	Increase ELPP credit for HS construction by \$3,982,507. Due to market conditions & LEED allowance, the project budget must be increased for the design and construction work required to build three new elementary schools to meet minimum Design Manual standards; the project budget must be decreased due to an adjustment to all abate/demo allowances; the project budget must be increased due to the incorporation of swing space at the Middle School.	\$4,159,919	State Share
		\$1,538,600	Local Share
		\$5,698,519 TOTAL	

Chairman Keen moved that the Commission approve Resolution 11-22.
 Vice Chair Blair seconded the motion
 Approval: Vote 2-0.

Mr. Lutz also presented for consideration the First Amendment to the Master Facilities Plan for Huber Heights City SD of Montgomery County for their 2008 participation in the Classroom Facilities Assistance Program. The Amendment reduces the budget by \$5.9M – a 3.6% reduction. This resulted from the good bids received on this project. The district has requested an amendment at this time to allow them to release a portion of local share of the bid savings from the construction fund. The district wishes to build certain sports facilities concurrent with the CFAP project, using \$2.8M of the local share portion of the bid savings. The amendment also reconciles minor changes to the student population assigned to 5 buildings. Student enrollment is increased in 3 buildings and decreased in 2 buildings with no net change in the total number of students served. Staff recommended approval of the First Amendment to the Master Facilities Plan for Huber Heights City SD by adoption of Resolution 11-23.

Huber Heights School District Master Facilities Plans Amendment

School District (County)	Recommended Modifications to the Master Facilities Plan	Increase (Decrease) to the Project Budget	
Huber Heights City SD (Montgomery)	Due to bid savings, the project budget is to be reduced.	(\$3,076,389)	State Share
		(\$2,839,744)	Local Share
		(\$5,916,133) TOTAL	

Chairman Keen moved that the Commission approve Resolution 11-23.

Vice Chair Blair seconded the motion

Approval: Vote 2-0.

Construction Manager Agreements and Amendments Approval

Mr. Berezansky, Chief of Projects, presented Construction Manager and Design Professional agreements and amendments for the Commission's Approval.

The Construction manager agreements for approval included Austintown Local School district with Hammond Construction Company and Vanguard Sentinel Joint Vocation School District with Rupp/Rosebrock, R.J. Runge and McCarthy & Smith, LLC. Both agreements are within the budgeted amount and the overall scope includes a new PK-2 ES, a new 3-5 Intermediate School and a new MS & HS for Austintown LSD & renovations & Additions to the Vanguard Sentinel JVS. These facilities will ultimately accommodate over 5,114 students in approximately 731,421 SF.

The Commission staff reviewed and recommended approval of Resolution 11-24.

School District	County	CM Firm	Total CM Compensation
Austintown Local SD	Mahoning	Hammond Construction Company	\$2,572,413
Vanguard Sentinel JVSD	Sandusky	Rupp/Rosebrock, R.J. Runge and McCarthy & Smith, LLC	\$1,398,128

Chairman Keen moved the Commission to approve Resolution 11-24.

Vice Chair Blair seconded the motion

Approval: Vote 2-0.

Mr. Berezansky then presented the Construction Manager Amendments to an Agreement. The construction manager amendments for approval include Ross Local School District with The Skillman Corporation and Strasburg Franklin Local School District with Regency Construction Services, Inc. Both amendments are for additional onsite construction supervision and the overall scope includes additional site work and construction renovation scope due to state and local code requirements.

The Commission staff has reviewed and recommended approval of Resolution 11-25.

School District	County	Construction Manager	Amount
Ross Local SD	Butler	The Skillman Corporation	\$51,266
Strasburg Franklin Local SD	Tuscarawas	Regency Construction Services, Inc.	\$90,659

Chairman Keen moved the Commission to approve Resolution 11-25.
 Vice Chair Blair seconded the motion
 Approval: Vote 2-0.

Mr. Berezansky also presented Amendment to a Construction Manager Agreement for an LFI. The construction manager locally funded amendments include Ross Local with Skillman Corporation and Vanguard-Sentinel JVSD with Rupp/Rosenbrock, R.J. Runge and McCarthy & Smith, LLC. These amendments are 100% locally funded and the overall scope includes additional SF above the Master Plan, renovations to non-funded spaces and athletic facilities.

The Commission staff reviewed and recommended approval of Resolution 11-26.

School District	County	Construction Manager	Amount
Ross Local SD	Butler	The Skillman Corporation	\$36,050
Vanguard-Sentinel JVSD	Sandusky	Rupp/Rosebrock, R.J. Runge and McCarthy & Smith, LLC	\$165,092

Chairman Keen moved the Commission to approve Resolution 11-26.
 Vice Chair Blair seconded the motion
 Approval: Vote 2-0.

A/E Agreements and Amendments Approval

Mr. Berezansky presented the Professional Design Services Agreements, Amendments and Locally Funded Initiatives. The Design professional agreements for approval include Circleville City School District with SHP, Shelby City School District with MKS Associates and Toronto City School District with Lesko Associates. All three agreements are at the budgeted amount and the overall scope includes 2 new ESs, a new MS, 2 new HSs and a new M/HS for a total amount over \$152,111,269M for these three agreements.

Agreement:

School District	Project	Architect	Agreement Amount
Circleville City SD	Build new elementary school, middle school and high school	SHP Leading Design	\$3,572,973.45
Shelby City SD	Build one new elementary school and one new high school	MKC Associates, Inc.	\$1,238,113.05
Toronto City SD	Build one new middle/high school	Lesko Associates, Inc.	\$1,010,359.60

There was one architectural agreement for approval, Huber Heights City School District with Fanning/Howey Associates. The scope is for additional design services for site layout and grading due to unforeseen soil conditions. We actually relocated the school so we would not have to move those unsuitable soils.

Amendments:

School District	Project	Architect	Fees to Date	Amendment Amount	Total
Huber Heights City SD	Additional design services due to unforeseen soil conditions and redesign of interior spaces	Fanning/Howey Associates, Inc.	\$8,897,139.00	\$27,124.00	\$8,923,135.00

Lastly Mr. Berezansky presented the Locally Funded agreements and amendments. These include Circleville City School District with SHP Leading Design, Huber Heights City School District with Fanning/Howey Associates, Shelby City School District with MKC Associates and Washington Nile Local School District with Tanner Stone Holsinger. These are 100% locally funded and the overall scope includes additional SF above the master plan, auditorium space, design enhancements and athletic facilities.

Locally Funded Initiatives:

School District	Project	Architect	LFI Amount
Circleville City SD	Additional square feet and design enhancements	SHP Leading Design	\$392,100.00
Huber Heights City SD	Additional design services for athletics facilities, demolition and offsite technology	Fanning/Howey Associates, Inc.	\$25,996.00
Shelby City SD	Additional square footage above the Master Plan for academic and auditorium space and design enhancements	MKC Associates, Inc.	\$251,930.25
Washington Nile Local SD	Additional site work and material upgrades	Tanner Stone Holsinger Donges & Company	\$3,988.51

The Commission staff reviewed and recommended approval of Resolution 11-27.

Chairman Keen moved the Commission to approve Resolution 11-27.

Vice Chair Blair seconded the motion

Approval: Vote 2-0.

Construction Trade Contracts Approval

Mike Mendenhall, Chief of Quality Construction, presented the construction trade contracts for Commission approval. He noted that the totals in the Commission books were different from the totals in the Resolution packet because one contract was added.

On the agenda for the Commission's approval were a total of 57 contracts with a total value of \$48,000,458.31. Mr. Mendenhall also noted that all 57 contracts were awarded to the apparent low-bidders. The Commission staff recommended approval of Resolution 11-28.

	School District	Contracting Entity	Building Type	Scope Of Work	\$ Amount
1	Cincinnati Public SD	Simplex-Grinnell LP	Oyler School	Fire Protection	\$289,000.00
2	Cincinnati Public SD	Timberland Landscape, Inc.	Chase School	Landscaping	\$110,700.00
3	Cincinnati Public SD	Beacon Electric Company	Oyler School	Electrical/Technology	\$1,604,700.00
4	Cincinnati Public SD	Monarch Construction	Oyler School	General Trades	\$9,877,000.00
5	Cincinnati Public SD	Triton Services, Inc.	Oyler School	HVAC	\$2,061,000.00
6	Cincinnati Public SD	Queen City Mechanicals, Inc.	Oyler School	Plumbing	\$1,268,800.00
7	Gallipolis CSD	Continental Office Furniture Corp.	Gallia Academy MS	Loose Furnishings	\$69,458.94
8	Geneva Area CSD	North East Fire Protection, LLC	Cork & Austinburg ES	Fire Protection	\$156,470.00

9	Geneva Area CSD	Detrick Industrial Piping Co.	Cork & Austinburg ES	Plumbing Combination	\$795,000.00
10	Hamilton CSD	Environmental Demo Group	Pierce ES	Abatement	\$63,000.00
11	Hamilton CSD	LVI Environmental Services	Van Buren ES	Abatement	\$55,300.00
12	Hamilton CSD	Environmental Demo Group	Monroe ES	Abatement	\$14,000.00
13	Hamilton CSD	Logan Creek, LLC	McKinley ES	Demolition	\$78,000.00
14	Hamilton CSD	Logan Creek, LLC	Monroe ES	Demolition	\$112,000.00
15	Hamilton CSD	Logan Creek, LLC	Van Buren ES	Demolition	\$147,000.00
16	Jonathan Alder LSD	Beacon Electric dba Beacon Technologies	Canaan MS & New Plain City ES	Technology	\$949,000.00
17	Jonathan Alder LSD	Continental Office Environments	Canaan MS & New Plain City ES	Loose Furnishings	\$374,062.37
18	Jonathan Alder LSD	Library Design Associates, Inc.	Canaan MS & New Plain City ES	Loose Furnishings/Media Center	\$67,949.00
19	Maple Heights SD	R.M. Riggle Enterprises, Inc.	New HS	Fire Protection	\$554,900.00
20	Mount Healthy CSD	Environmental Demolition Group, LLC.	Existing HS & MS	Asbestos Abatement	\$182,000.00
21	Mount Healthy CSD	GreenTrac, LLC.	Existing HS & MS	Demolition	\$510,111.00
22	Newark CSD	Farnham Equipment Company	McGuffey ES	Casework	\$198,400.00
23	Newark CSD	Vaughn Industries	McGuffey ES	Technology	\$725,300.00
24	Newark CSD	Guenther Mechanical	McGuffey ES	Plumbing/HVAC	\$1,727,000.00
25	Newark CSD	Simplex Grinnell	McGuffey ES	Fire Protection	\$99,440.00
26	Newark CSD	City Electric Inc.	McGuffey ES	Electrical	\$894,497.00
27	Northwest LSD	Coleman Trucking, Inc.	Stinson-Intermediate School	Hazardous Materials Abatement	\$84,000.00
28	Osnaburg LSD	Coleman Trucking Inc	E. Canton Primary & HS	Abatement	\$234,899.00
29	Osnaburg LSD	J. Eslich Construction & Equipment Corporation	E. Canton Primary & HS	Demo/Site Improvements	\$407,000.00
30	Switzerland of Ohio LSD	LOGOS Communications, Inc.	New Beallsville PK-12	Switches, Servers & Wireless Access Points	\$120,268.00
31	Toledo CSD	Irish Construction Company	Pickett ES	General Trades	\$3,233,800.00
32	Toledo CSD	Lakeside Interior Contractors, Inc.	Longfellow ES	Flooring	\$187,910.00
33	Toledo CSD	OCP Contractors, Inc.	Longfellow ES	Painting	\$74,929.00
34	Toledo CSD	OCP Contractors, Inc.	Pickett ES	Acoustical Ceilings	\$58,360.00
35	Toledo CSD	OCP Contractors, Inc.	Longfellow ES	Acoustical Ceilings	\$99,490.00
36	Toledo CSD	Crestline Paving & Excavating, Co., Inc.	Pickett ES	Landscaping	\$38,888.00
37	Toledo CSD	Transtar Electric	Pickett ES	Technology	\$420,000.00
38	Toledo CSD	Transtar Electric	Pickett ES	Electrical	\$619,900.00
39	Toledo CSD	Schoen, Inc.	Pickett ES	Site work	\$623,000.00
40	Toledo CSD	Quality Environmental Services, Inc.	Robinson JHS	Abatement	\$56,100.00
41	Toledo CSD	Brookside Lawn Services, Inc.	Longfellow ES	Landscaping	\$89,750.00
42	Toledo CSD	Stenco Construction Company, LLC	Pickett ES	Metal Studs & Drywall	\$371,056.00
43	Toledo CSD	Lakeside Interior Contractors, Inc.	Longfellow ES	Metal Studs and Drywall	\$437,910.00
44	Toledo CSD	B. William Bucher, Inc.	Pickett ES	Flooring	\$122,450.00

45	Toledo CSD	Transtar Electric	Longfellow ES	Technology	\$524,500.00
46	Toledo CSD	Accel Fire Systems	Pickett ES	Fire Protection	\$75,780.00
47	Toledo CSD	Bayes, Inc.	Pickett ES	Plumbing	\$308,000.00
48	Toledo CSD	Industrial Power Systems, Inc.	Pickett ES	HVAC	\$1,110,500.00
49	Toledo CSD	Geddis Paving & Excavating, Inc.	Pickett ES	Asphalt	\$75,560.00
50	Toledo CSD	Smith Paving & Excavating, Inc.	Pickett ES	Concrete Paving & Curbs	\$86,750.00
51	Toledo CSD	B. William Bucher, Inc.	Pickett ES	Painting	\$65,600.00
52	Whitehall CSD	Converse Electric Inc.	Beechwood ES & Etna ES	Electrical	\$1,560,000.00
53	Whitehall CSD	Complete Fire Sprinkler and Safety LLC	Etna ES	Fire Protection	\$89,900.00
54	Whitehall CSD	Complete Fire Sprinkler and Safety LLC	Beechwood ES	Fire Protection	\$91,900.00
55	Whitehall CSD	H & A Mechanical, Inc.	Beechwood ES & Etna ES	HVAC	\$1,547,000.00
56	Whitehall CSD	Robertson Construction Services, Inc.	Beechwood ES & Etna ES	Masonry/Site work	\$11,232,770.00
57	Whitehall CSD	General Temperature Control	Beechwood ES & Etna ES	Plumbing	\$968,400.00
				Total	\$48,000,458.31

Chairman Keen moved the Commission to approve Resolution 11-28.
Vice Chair Blair seconded the motion
Approval: Vote 2-0.

Settlement Agreements Approval

Jon Walden, AAG presented the Settlement Agreement and Release of Claims with Spectrum Control System, Inc. and Travelers Casualty and Surety Company of America on the Jackson City School District Project. This concerns a product that was discussed in the last Commission Meeting. There was a Corrective Action Grant approved by the Commission requesting that approximately \$122,000 to cover the local share. It was also noted then that we were going to mediation on January 31st. That mediation occurred and we do have a settlement contingent on the Commission's approval. This was for an Energy Management contract at three school buildings in the Jackson City School District. Originally the contract was with Spectrum Control System, Inc. Their contract consisted primarily of installing and programming the controls that help heat and cool the building. The controls appeared to go in properly, but once the buildings were loaded and the systems were turned on, the district had trouble with them immediately in getting them to work properly. There were several issues with that system. The district tried working with the contractor, but the issues were not resolved. Ultimately the district and the Commission had to supplement that contractors work to get all the issues related to this corrected. The settlement was for \$183,000.

The Commission staff recommended approval of Resolution 11-29.

Chairman Keen moved the Commission to approve Resolution 11-29.
Vice Chair Blair seconded the motion
Approval: Vote 2-0

Mr. Walden also discussed the Settlement Agreement and Mutual Release with Triad Architects, Inc. on the Waverly City School District Project in Pike County. This is one of two lawsuits filed against Triad Architects for negligent design on Commission projects. Motions to move the jurisdiction of this lawsuit were filed several times, prolonging this lawsuit. There were multiple problems with the design. The design professionals did not meet the Design Manual standards, once this was brought to their attention; they only corrected a portion of it. The settlement amount recommended is \$125,000 recovery.

The Commission staff recommended approval of Resolution 11-30.

Chairman Keen moved the Commission to approve Resolution 11-30.

Vice Chair Blair seconded the motion

Approval: Vote 2-0

Authority to File Suit

Jim Rook presented a request to initiate litigation against Schmid Mechanical, Inc. and Loopmaster International, Inc. on the Sandy Valley School District Project.

This involves a geo-thermal HVAC system. In this case it was broken up into two different contracts. One was for the interior work, the other was the exterior. When they tried to hook the two systems together, it did not work. The OSFC has hired a consultant that confirmed there are claims to be made on both contracts.

The Commission staff recommended approval of Resolution 11-31.

Chairman Keen asked if the Commission was withholding certain payments as a result of this. Is that the basis of the suit by the firms?

Mr. Rook replied in part. There's some retainage that is still out there. They are claiming that some of the additional work that they did, they have not been compensated for. Our problem is when they weren't fixing the problem; we didn't want to be paying them anymore money.

Chairman Keen moved the Commission to approve Resolution 11-31.

Vice Chair Blair seconded the motion

Approval: Vote 2-0

Public Testimony

D. Michael Collins addressed the Toledo Public SD plans for demolition for Libby. Mr. Collins provided a copy of his presentation and clarified that he was speaking as a private citizen on behalf of the association.

Vice Chair Blair asked for the staff's input on this issue.

Mr. Bode responded that he became aware of this issue the day before, so he had gathered some information. He knows that the team had been working on this as far as timelines and finishing the segment.

Chairman Keen asked if this was the only demolition work, or was there other demolition work.

Mr. Bode verified that there were many buildings being demolished. Of all the projects up in Toledo there is only one renovation.

Mr. Collins did make the Commission aware that this was not a school that was being torn down to be replaced, it is being demolished and nothing is going to replace it.

Chairman Keen noted that he previously received a letter from the association, and it is his understanding that this is a decision that was solely within the Toledo Board of Education. There were some timelines that do need to be followed. Mr. Keen reiterated the fact that the Commission cannot override the decision that was made with the Toledo Board of Education. If they made the decision to demolish the facility, the Commission cannot over rule that decision.

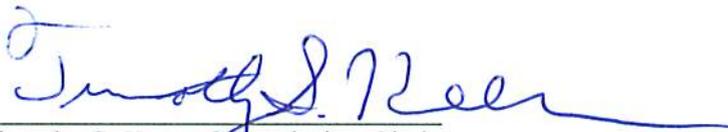
Mr. Collins said that the Toledo Board of Education has stated that it must have this in process by December 31, 2011. If they do not then they will lose their 77% funding. He was not asking the Commission to intervene with the Toledo Board's decision making process, what he is asking is for a resolution to extend for five years, the period of time in which they can still be qualified for that 77%. If they can't find, as a community, a viable alternative for that project, then so be it. They at least want the window of opportunity.

Chairman Keen offered a 30 day delay in the scheduled timeline.

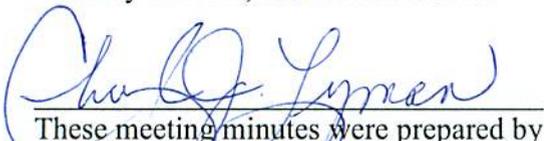
Mr. Bode added that a delay of a matter of weeks would certainly give the OSFC staff time to delve into this a little further on this issue. The senior staff would understand the issue and come back with a recommendation and decide what to do on this.

Chairman Keen stated that we would relay to the district the Commission's intent for a 30 day delay. From there it is a decision of the local school board as to how they plan to proceed. He asked Mr. Bode and his predecessor to keep the Commission informed about this issue and think about the outcome.

The meeting was adjourned at 3:34 PM.



Timothy S. Keen, Commission Chair



These meeting minutes were prepared by
Cheryl J. Lyman, Commission Secretary