

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

MINUTES

Chairman Keen called the meeting to order at 3:06 PM.

Roll Call

Members present: Chairman Timothy Keen, Vice Chair Robert Blair and Mr. Gary Mohr.

Election of the Chair and Vice Chair

Director Keen called for the nomination of Chair. Director Blair nominated *Director Keen*. Director Mohr seconded.

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

Approval: Vote 3-0.

Chairman Keen called for the nomination of Vice Chair of the Commission. Director Mohr nominated Bob Blair as Vice Chair and Chairman Keen seconded. There were no other nominations.

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

Approval: Vote 3-0.

Adoption of the October 25, 2012 Minutes

Vice Chair Blair moved to approve the October 25, 2012 minutes.

Director Mohr seconded the motion.

Approval: Vote 3-0.

Capital Plan Report – David Chovan

David Chovan presented an overview of the capital budget to the Commission members. The vast majority of the OFCC capital budget is for the K-12 program. A small amount is appropriated for OAKS CI and energy improvements. The Ohio Facilities Construction Commission received \$675 million from the FY13-14 Capital Budget. We offered funding to 28

districts with total project costs of \$1.2 billion and a state share of \$511 million or 44 percent of the project costs. Fifteen of those districts have now obtained their local share. Seven additional districts have failed at the ballot so far this year and of the 13 districts that have yet to acquire their local share, most of these districts are expected to be on the ballot in May or August. We expect about 75 percent of the dollars that were offered this year to be utilized for funding schools. The FY14 plan is to offer funding to 25-30 districts in July. Our assumptions are: average project size of \$40 to \$45 million, 45 percent State share, 70 percent levy passage or utilization of funds and it may allow us to offer to additional districts in off-cycle if the failure rate is higher. The Projected Funding Needs shows the projected spending by fiscal year for various categories of projects. FY13 spending levels bottom out at \$337 million and then increase each year over the planning period to \$583 million in FY16. This is down from a high of spending of \$1 billion in FY10. So the assumptions are that there will be similar levels of appropriation for the school building program for the 15-16 biennium and similar levels of offers to the districts. The strategy is to level out spending consistent with appropriation levels. The Appropriation Requirements shows the gradual usage of the capital funds over the planning period.

Director Mohr appreciated Mr. Chovan's capital plan report. Having been a *Board of Education* member years ago and looking at the School Facilities approach; this is pretty neat to see a structured analytical approach. Chairman Keen added that tobacco money is gone and there have been no new money allocations for some time. So as we look ahead where this program peaked was when the securitized tobacco proceeds escalated the revenue support and with constraints on the state capital bill there is not always precedence to there being available resources.

Authority to File Suit Approval – Jon Walden
Resolution 13-01

Jon Walden presented an authority to file suit against the Poggemeyer Design Group and Mosser Construction to recover costs associated with necessary remediation that needs to occur to the Toledo Correctional Institution for Commission approval. Toledo Correctional Institution has water leakage due to roof issues and structural precast issues regarding the structure. Poggemeyer served as the architect and replacement construction manager on the project, and Mosser served as the general trades contractor and its contract had both the roof and precast as part of its package. Toledo Correctional and the Department of Rehabilitation and Correction attempted to address the water leaks through warranty calls for several years, but after continuing efforts with no resolution the state engaged a consultant to review the building and assess responsibility. The report determined that there were parties that are responsible for failure to either follow the construction documents in constructing the roof or the precast panels or fully fulfill their obligations under architect or construction management agreements to both oversee that work and protect the owners from defective work. Since that time the state has attempted to re-engage the parties to come out and correct the work and/or seek some kind of financial contribution. Discussions are still ongoing and to date have not been successful. Although settlement discussions will likely continue, to protect the state's interest, Commission staff recommends initiating litigation against the responsible parties. Initiating any litigation requires approval of the Attorney General's Office as well.

Chairman Keen asked if Mr. Walden would report back to the Commission if this matter is resolved prior to the actual filing of a suit. Mr. Walden responded that he would.

Vice Chair Blair moved to approve Resolution 13-01.

Chairman Keen seconded the motion. Director Mohr abstained.

Approval: 2-0.

ODNR Report – Craig Weise

Craig Weise presented the Ohio Department of Natural Resources Integration Feasibility Study that was performed over the past five to six months. H.B. 487 directed staff to conduct this research. Mr. Weise read a short excerpt from the H.B. 487: “OFCC and the Department of Natural Resources (DNR) shall cooperate in the study to determine which operational functions, if any, of the DNR Division of Engineering should be integrated and consolidated into OFCC.” OFCC engaged Project Management Consultants to perform a feasibility study. They analyzed and interviewed both organizations between September and December of 2012 to understand how this potential integration could occur. Some of the key recommendations from the report are:

- **Consistent Project Administration of DNR Projects by Commission Staff**

Project administration similar to the local administration structure that is in place for all other state agencies. Currently DNR has separate authority for the management of their construction projects and so this recommendation is to treat them like all other state agencies. The current process of administration of projects for state agencies is that any projects that are \$1.5 million or smaller, the state agency has the ability to request local administration. Anything above \$1.5 million would be administrated by the Commission staff. The recommendation is to follow that same threshold and process for DNR projects with two recommended exceptions:

- Roadway projects that are within their facility or properties of DNR where they currently use Ohio Department of Transportation (ODOT) to manage those construction projects and they just develop a list of those projects that are ultimately managed by ODOT. The report recommends that the practice of having ODOT manage the horizontal construction of roadways continue in the future.
- Dam Safety Program for dam repair projects. Given the characteristics and specialty of those projects and the dissimilarity of an earthen dam to a vertical construction facility, DNR will retain authority to administer these projects. Subsequent to this report staff has had dialogue with DNR and they have raised some other potential exceptions to the local administration authority and they include projects that are funded through the Ohio Waterway Safety Fund and the projects funded through the Wildlife Funds. We have continued to cooperate with the DNR and working through these issues in determining what is appropriate for those exceptions for project administration.

- **Education and Training of Staff**

As indicated in previous Commission meetings, H.B. 153 allowed the state public authorities to have alternative project driven methods available to them. Over the past 18 months we have engaged industry in trying to orient them to the new delivery models and what the laws mean to all the stakeholders as well as on the public owner's side. A recommendation is to focus additional training of the DNR staff in the Division of Engineering to get them up to speed on the new delivery models, in particular Design Build, CM at Risk and single prime general contracting.

- **Master Planning**

DNR in the past has identified key projects in relationship to their Dam Safety Program for the earth and dams to identify priorities of levels of danger if it ever was to occur in those dams. It was a mutual agreement having master planning and the resources that the Commission can provide them for all the other kind of facilities (i.e. lodges) within their park system and properties of DNR.

- **Expanding the Use of our OAKS-CI Web-based Project Management Tool**

It is a module of our OAKS system and so that is a recommendation for projects that are completed by DNR either locally or by Commission staff.

- **Establish a Key Point Liaison between the OFCC Office and the DNR Office**

Typically with state agencies we have a key point of contact that is always available to resolve issues that are project related, but it could also mean common issues that are across multiple projects for that agency. We will identify a key point contact that can interface with their office and our office to make sure that things run smoothly during this transition period and likewise well after the transition period on an on-going basis.

Director Blair commented that he had talked several times to Director Zehringer and Director Zehringer has been pleased with the cooperation. It is a great sign that two agencies are working so well together. Kudos to everyone that is making this work. Director Hickman added that we are in a good place and just because there are exemptions for several types of projects really does not mean that our office will not be involved. I think that the discussions with ODNR, they want our staff involved with the Dam Projects. As you know we have not built any dams in our program either for state agencies, higher education or school districts and so it was their belief that they are a little bit different and because they would be new to our staff that we need to go through a transition. It is our expectation that we would be involved in some fashion with regards to the dams and down the road we will re-evaluate whether that exception is appropriate. They have the same types of issues with watercraft and wildlife facilities and so we intend to work closely with them. Over time you should expect to see some of those exemptions removed. It is a good transition plan. It is a good process that we went through and we are really excited about this new work and working cooperatively with DNR.

What Can OFCC Do to Support the Efficient Use of State Buildings/Property

Director Gary Mohr

Director Mohr was not sure this was a purview within the organization, but felt that it should be debated and discussed. We have seen and are going to continue to see a reduced footprint of management within agencies and state government. As we continue to become more efficient and as we continue to do things such as consolidation this is really the ultimate master planning. We are now seeing the beginning of excess space of state facilities. State facilities used to house many more state employees, management employees typically, and we are beginning to see more and more excess of those facilities. We are going to continue to see efficiency in state government as we continue to look at consolidation and shared services as has been the focus of this administration. Due to these significant trends that we are seeing and believing that these trends will continue and some state agencies are looking at doing de-centralization and reducing their headquarters significantly, as Director Mohr could specifically attest to, Director Mohr then asked for the Commission's consideration for the OFCC staff to engage in true master planning. By looking at the state equipment, working in conjunction with state agencies across the board, looking at the five year plan of their vision of how we can manage these operations, the number of staff at this location and compare that in working with the Department of Administrative Services (DAS) with existing state offices that at that point we would have data that would suggest a gap between the amount of space needed being much less than the amount of space available. Once that information is solidified Director Mohr asked this organization to consider legislative strategies to allow greater flexibility and to allow DAS to enter into agreements with private sector vendors knowing that the state agency rate is for square footage based on the geographic account is far less than what most private sector agencies are paying for local property.

Vice Chair Blair responded that Director Mohr's assessment of the reduction in state workers is correct with the state workforce down about 4,000 people. He also added that they were looking at a tool called lease/leaseback which ties a direct revenue to a particular building. The North High project could be used as a pilot for lease/leaseback. Director Hickman was encouraged with the discussion and felt it was a great thing for construction and construction planning in the state. In serving the School Facilities for a second time he was even more supportive of the importance of master planning facilities. This has been one of the benchmarks of the School Facilities program to go into each school district and take a thoughtful approach of what the vision is for the school district years in the future, taking into consideration things like enrollment, the economic impact of the community of the school district it comprises and what is happening with new housing starts and plant openings/closings to get some sense of where the enrollment is headed and then to take that information to make sure that we master plan a project for the district that results in the most efficient operation of whatever buildings are determined to be required based on projected enrollments. We have not done that heretofore with state agencies. State agencies do not tend to stand back and look at all the buildings that are under their preview and take a thoughtful approach towards putting together a plan that really goes beyond a single capital bill to fix issues as they arise. We have been fortunate to have some early volunteers. ODOT entered into some master planning efforts a number of years ago. ODOT has appropriated more money to fixing facilities than they otherwise might have had they not gone through this master planning process. With the Director Keen's support, we are now working with the EXPO Commission. We are looking at their current facilities and doing a

facility assessment as well as looking at the activities that are expected to book events at EXPO Commission facilities. We will put together a fiscal financial plan. We are also working on a master plan project with ODNR for their park facilities. Director Hickman added that he would like to meet with Director Mohr and begin to think about what might be the first phase in looking at the DRC facilities and determining where the highest needs are and how we might work together to make sure that we take into consideration both current and future needs. Chairman Keen added if we look statewide it is a great opportunity for facilities construction staff to work with staff of a number of the different agencies and get a sense of the expertise and the specialized knowledge that exists throughout many of the agencies with regard to particular types of facilities that they are responsible for. Agencies need to look at their statutory mission and the services they provide throughout the state for their agency, but there has been a tendency not to look at opportunities to share facilities where you end up reducing overall facility cost, but yet provide the same level of services that you expect to provide to your constituencies. It is a great opportunity to really look at things from that perspective as well. Director Mohr agreed, but thought that we do not think far enough or expand our thoughts enough in order to get to where we want to be. It is time to look at state facilities and look at partnerships with the private sector. If we have a state office building that has five floors that have become vacant or we anticipate becoming vacant over the next three to five years that DAS should have the flexibility to literally go in and enter into private sector agreements. It is going to require what does the data say, what are the space needs and there needs to be a analytical study. OFCC staff can engage in that. DAS should have greater flexibility in being able to manage those state properties beyond boundaries of state government. Vice Chair Blair responded that Director Mohr was absolutely right and we have been looking at that. One of the problems we have is with bond counsel and its legal issue. We have been struggling to lease out the third floor at the SOCC Center with all kinds of legal requirements and hope it does not take a constitutional change, but if it takes a constitutional change, then we will ask for that. Chairman Keen added that this is a good suggestion and we will continue with this dialogue and asked Director Hickman to begin to think about this and engage on these suggestions that Gary has raised.

Executive Director's Report

Director Hickman asked Ramzi Najjar to report on energy projects that were under way for state agencies and higher education. Mr. Najjar reported on three energy projects that have been initiated in this last quarter.

Performance Contracts:

Hocking College for \$432,680 with a payback period of 9.3 years

The Ohio State University for \$6,560,435 with a payback period of 5.1 years

Energy Capital Project:

ODOT District 10 Garage Lighting and Generator Upgrade for \$155,171 with a payback period of 5 years

Director Hickman concluded his report with executed agreements since the October 25, 2012 meeting.

For State Agency and Higher Education Projects:

A/E Agreements and Amendments:

3 Agreements for 3 agencies for \$1,580,886.63

- Perspectus Architecture LLC for the Health Science Center for Belmont Technical College
- Acock Associates architects for a North High Complex, 4th Floor, Phase 5 renovation for DAS
- BHDP Architecture for the Brown County Campus at Southern State Community College

2 Amendments for the Department of Rehabilitation and Correction

- Renouveau Design for the Terry Collins Re-entry Center at Ross Correctional for \$265,082
- Archatas for Roof Replacement at Pickaway Correctional for \$18,443

Trade Contracts:

4 contracts for 3 agencies (Department of Rehabilitation and Correction, Department of Public Safety and Department of Veteran Services) and 1 Community College (Terra State Community College) for \$3,929,464. Two of those projects are executed for delivery under single prime. They are the HVAC upgrade at Warren Correctional and the utility line project at Terra State Community College.

Architect/Engineer Consultant List:

20 Contract for 10 agencies for \$1,010,080

Architect/Engineer Consultant List Amendments:

7 contracts for 3 agencies for \$142,253

School District Projects:

A/E Amendments Approved for 3 Districts:

- Cleveland MSD – Segment 4 – Cleveland Educational Design Alliance for \$13,500 for additional services for demo and abatement at Mound School.
- Cleveland MSD – Segment 5 - R.P. Madison International for \$1,000 for additional design services for a water meter vault.
- Huber Heights CSD – Fanning/Howey Associates, Inc. for \$185,914 for added design and extended construction schedule.
- Lorain CSD – ThenDesign Architects for no dollar change for added scope identifying number of drawings per phase and percentage of fee for LFI work.

Trade Contracts Approved:

39 contracts for 15 districts totaling \$27,396,023

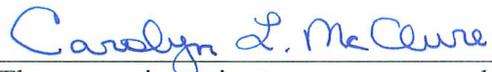
- One contract was awarded to the 2nd low at Wadsworth City School District
- Six contracts with QSCB federal prevailing wage: one contract at Bellevue City School District and five contracts at Cleveland Municipal School District
- Five contracts with PLA for Switzerland of Ohio School District for work on their final building Skyvue PK – 8 Elementary School

There was no public testimony.

The meeting was adjourned at 3:56 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