

**Ohio Facilities Construction Commission  
May 23, 2019 Meeting  
William McKinley Room, Statehouse  
1:30 PM**

*MINUTES*

Madam Chair Murnieks called the meeting to order at 1:30 PM.

Madam Chair Murnieks welcomed everyone to the May 23, 2019 meeting of the Ohio Facilities Construction Commission. Madam Chair Murnieks also welcomed Designee Christina Frass on behalf of Director Mary Mertz from the Ohio Department of Natural Resources.

**Roll Call**

Members present: Madam Chair Kimberly Murnieks, Vice Chair Matthew Damschroder, Christina Frass for Director Mary Mertz, A.J. Thomas for Representative Jones, Benjamin Lynn for Representative Sobecki, Joseph Soza for Senator Fedor and Kate Millen for Senator Manning.

**Adoption of the April 25, 2019 Minutes**

Vice Chair Damschroder moved to approve the April 25, 2019 minutes. Ms. Frass seconded the motion.

Approval: Vote 3-0.

**Guidelines Approval**

**Presented by Jon Walden – Resolutions 19-19, 19-20 and 19-21**

Jon Walden presented the STEM Program Guidelines, Exceptional Needs Program (ENP) Guidelines and Hardship Loan Program Guidelines for Commission approval.

As you will recall from last month's meeting, I discussed broadly some proposed changes for these guidelines and that we would seek your approval at a future meeting. To date, we have not received any comments related to the drafts proposed.

Again, as a reminder, we are updating these guidelines to make them more transparent for staff, members and stakeholders. Much of the modifications to date, including those discussed today, include recommendations focused on better delineating in the policies/guidelines when it's Commission staff action versus when it is an action requiring a Commission vote or Resolution. Again, as a further reminder, in all the guidelines brought today, we work from this standard (as noted first at the February meeting).

- Where the Commission typically takes voted action, the edits will denote by resolution or similar language.
- If the action is typically and specifically done by Commission staff, that notation has been added.
- Finally, in some places the guidelines more broadly retains “Commission.” This broader use of Commission remains in locations where it is reflective primarily of Commission statutory duties under ORC 3318. For example, the overview portion (which is an introduction) of policies often speaks to the Commission broadly.

### **STEM Program Guidelines - Required under ORC 3318.70 and 3318.71**

Includes both the STEM (Science Technology Engineering and Mathematics) and the Qualifying Partnership STEM program.

Once again, Commission staff versus Commission voted resolution action is included throughout the recommended edits.

Also, throughout the policy, Qualifying Partnership is added for more clarity.

No substantive edits.

Vice Chair Damschroder moved to approve Resolution 19-19.

Ms. Frass seconded the motion.

Approval: Vote 3-0.

### **Exceptional Needs Program Guidelines**

Vice Chair Damschroder moved to approve Resolution 19-20.

Ms. Frass seconded the motion.

Approval: Vote 3-0.

### **Hardship Loan Program Guidelines**

Vice Chair Damschroder moved to approve Resolution 19-21.

Ms. Frass seconded the motion.

Approval: Vote 3-0.

**Guidelines Update Presentation  
Presented by Jon Walden**

Jon Walden presented potential edits to the Emergency Assistance Program Guidelines, Facilities Assessment Program Guidelines, Alternative Facilities Assistant Program (AFAP) Guidelines and the Corrective Action Program Guidelines.

**Emergency Assistance Program Guidelines - Results from ORC Section 3318.051**

Commission can distribute assistance to school districts for emergency projects made necessary by an Act of God - typically thought of something outside of human control and based on natural occurrences or disasters – e.g., tornado (Lake LSD).

Proposed edits are minimal and will primarily be clean up and making the guidelines current. In addition, we also note the Commission staff action versus voted Commission resolution.

No substantive edits to the program.

**Facilities Assessment Program Guidelines - Required under ORC 3318.022**

**Under ORC 3318.022, any school may request an assessment of current conditions of facilities. The guidelines briefly provide a reference point for those districts that want to make that request.**

As part of our programs, assessment plays a large role. When we work with programs throughout CFAP, and as we work our way through the equity list, it is standard course to assess the facilities needs as required under the revised code. ORC 3318.022 allows districts to make a request of us to help them evaluate their buildings to pursue ELPP or other facilities programs, prior to entering one of our programs. The edits primarily include staff action versus Commission voted action.

No substantive edits.

**Alternative Facilities Assistance Program (AFAP)**

Pursuant to ORC 3318.39, districts can receive limited state funding for facilities improvements in lieu of participating in CFAP or VFAP. These districts receive a reduced amount of assistance.

Edits are minimal. A couple of clean up edits include staff versus Commission voted action.

**Corrective Action Program Guidelines**

ORC 3318.49, allows the Commission to provide funding for work found defective or omitted through our CFAP and VFAP programs. This is an application-based program with limited application and timing

requirements. For example, if defective work is found, Districts will have to notify us within 5 years of occupancy of the facility.

Edits are primarily clean up edits for consistency (such as those on page 3 – noting ORC Section).

A couple of edits are included for Commission staff action clarity.

No substantive edits.

Madam Chair Murnieks remarked that the guidelines presented today will be reviewed and will return for a vote at the next Commission meeting.

### **Settlement Agreement Approval Presented by Jon Walden – Resolution 19-22**

Jon Walden presented a proposed settlement on a project the Commission administered on the Southeast Portage Local School District. The Commission and District contracted with Hummel Construction Company as the general trades contractor for the project, specifically to this matter, the new middle school.

After completion of the project, the district experienced water infiltration issues, which after investigation was noted to be the result of design and construction issues. This led to a decision to replace the existing roof. Ultimately, the Commission initiated a lawsuit against Hummel and its surety for the construction defect portion. Through the course of the litigation, the parties participated in a mediation and additional negotiation, which resulted in the contractor offering to pay the Commission \$415,000 to resolve the matter. As part of the settlement, the Commission will be providing Hummel a partial release. Commission staff, specifically Sr. Legal Counsel, Matt Westerman, worked with the Attorney General's office on this matter and recommends approval of the settlement consistent with the terms of the settlement agreement.

Vice Chair Damschroder moved to approve Resolution 19-22.  
Ms. Frass seconded the motion.

Approval: Vote 3-0.

### **Executive Director Report**

David Williamson reported since the last meeting we are still on track with our Commission Task initiatives.

Management Actions/Activities: FY 2020-2021 Operating Budget, FY 2021-2022 Capital Budget, SB 4, K-12 Program Funding (Current & Future), Policies/Guidelines Reviews for Clarity and Transparency and Management Task Actions Programs and Projects.

State Agency & Public Outreach: OFCC Annual Conference, School Safety Task Force, Outreach Presentation to State Agency and Hands on Construction Processes & Procedures.

Current Actions and Topics of Interest: District Communications & Discussions, Legislative Introductions, Orientations and Discussions.

**Personnel Matters**

**David Williamson Resignation Resolution**

**Presented by Madam Chair Murnieks – *Resolution 19-23***

Madam Chair Murnieks acknowledged that Executive Director Williamson submitted his resignation as part of his upcoming retirement from State service. As a result, Madam Chair Murnieks proposed and moved Resolution 19-23 which accepts Executive Director Williamson’s resignation and delegates to the Commission Chair the appointment and compensation of an Interim Executive Director to continue the continuity of operations for the Commission, and further delegates to the Chair administrative process for selecting a potential candidate for an Executive Director, and Resolution will be brought to the Commission for approval in the upcoming weeks or months.

Madam Chair Murnieks moved to approve Resolution 19-23.  
Ms. Frass seconded the motion.

Approval: Vote 3-0.

**Honoring Executive Director David Williamson On His Retirement**

**Presented by Madam Chair Murnieks – *Resolution 19-24***

Madam Chair Murnieks brought fourth Resolution 19-24 honoring Executive Director Williamson on his retirement. Madam Chair Murnieks read aloud a Proclamation from Governor DeWine. Mike DeWine and Jon Husted Governor and Lieutenant Governor of Ohio do hereby officially recognize David Williamson for your service at the Ohio Facilities Construction Commission, on behalf of the State of Ohio, we join with your colleagues in thanking you for over 20 years of public service. Throughout your career, you have been a tremendous asset to the office, to your co-workers who have had the opportunity to work beside you, and to the citizens of Ohio. Thank you for your dedication to the State of Ohio. The Proclamation is signed by Governor Mike DeWine and Lieutenant Governor Jon Husted. Madam Chair Murnieks stated that it was an honor to present the Proclamation to David Williamson today.

Vice Chair Damschroder moved to approve Resolution 19-24  
Ms. Frass seconded the motion.

Approval: Vote 3-0.

**Public Testimony**

No public testimony.

The meeting was adjourned at 1:53 PM.

  
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Kimberly Murnieks, Commission Chair

  
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These meeting minutes were prepared by  
Elizabeth Perry, Secretary to the Commission (Interim)