

Ohio Facilities Construction Commission
June 27, 2019 Meeting
William McKinley Room, Statehouse
1:30 PM

MINUTES

Acting Chair Kathleen Madden called the meeting to order at 1:34 PM.

Acting Chair Madden welcomed everyone to the June 27, 2019 meeting of the Ohio Facilities Construction Commission. Acting Chair Madden also welcomed Designee Christina Frass on behalf of Director Mary Mertz from the Ohio Department of Natural Resources.

Roll Call

Members present: Acting Chair Kathleen Madden, Vice Chair Matthew Damschroder, Christina Frass for Director Mary Mertz, Benjamin Lynn for Representative Sobecki, Senator Manning and Joseph Soza for Senator Fedor.

Adoption of the May 23, 2019 Minutes

Vice Chair Damschroder moved to approve the May 23, 2019 minutes. Ms. Frass seconded the motion.

Approval: Vote 3-0.

**ELPP Master Facilities Plan and Project Agreement Approval
Presented by Steve Roka – *Resolution 19-25***

Steve Roka presented a Master Facilities Plan and Project Agreement for the Finneytown LSD (Hamilton) for Commission approval.

OFCC has been working with Finneytown LSD for several years. In March of 2015, Finneytown LSD expressed interest in seeking OFCC approval of a project.

The proposed Master Facility Plan for Finneytown LSD consists of building a new ES to house grades PK-6, building a new MHS to house grades 7-12, and the abatement/demolition of Brent ES, Whitacker ES and Finneytown HS.

Due to declining enrollment the district has opted to combine the grades housed in three buildings into two buildings. The projected enrollment to be housed totals 1,418 PK-12 students.

Finneytown LSD is 117 on the Priority Order of Assistance List. The district entered the active planning process with OFCC in March 2015. Finneytown LSD is estimated to be over 2-years away from eligibility for receiving CFAP funding.

The district has decided to address their most critical facility needs through the ELPP program. In Finneytown's case, the district intends to construct the PK-6 building and include the abatement/demolition of Whitaker ES. Finneytown LSD plans to put a ballot question to district voters this coming November to obtain funding for the discrete portion of their district Master Facility Plan.

Master Facilities Plan:

School District (County)	Master Facilities Plan Scope	Project Budget
Finneytown LSD (Hamilton)	Build New ES/MS to house Grades PK-6. Build MS/HS to house Grades 7-12. Allowance to Abate/Demo: Brent ES, Whitaker ES and Finneytown HS. The school district acknowledges a PA LFI of \$4,636,056 in addition to the amounts listed.	\$27,871,114 State Share \$18,580,742 Local Share
		\$46,451,856 TOTAL

Project Agreement:

School District (County)	Discrete Portion	Project Budget
Finneytown LSD (Hamilton)	Build New ES/MS to house Grades PK-6. Allowance to Abate/Demo: Whitaker ES.	\$22,511,310 TOTAL

Vice Chair Damschroder moved to approve Resolution 19-25.

Ms. Frass seconded the motion.

Approval: Vote 3-0.

Guidelines Approval

Presented by Director Walden – Resolutions 19-26, 19-27, 19-28 and 19-29

Director Walden presented the Emergency Assistance Program Guidelines, Facilities Assessment Program Guidelines, Alternative Facilities Assistant Program and Corrective Action Program Guidelines for Commission approval.

At last month's meeting, Director Walden discussed the proposed changes for these guidelines and that Commission staff would seek your approval at a future meeting. To date, we have not received any comments related to the proposed edits from last month.

Director Walden reminded Commission members that staff is proposing updating these guidelines to make them more transparent for staff, members and stakeholders. The modifications to date, including those discussed today, include recommendations focused on better delineating in the policies/guidelines when its Commission staff action versus when it is an action requiring a Commission vote or Resolution.

Emergency Assistance Program Guidelines-Results from ORC Section 3318.351

As noted at last month's meeting, this guideline relates to the Commission's authority under ORC Section 3318.351. Under this provision, when funds are available, the 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.

The edits under consideration are minimal and primarily clean up edits to make it current with language in the code and to make it more useful for our users. In addition, Director Walden also advised that the edits include the Commission staff action notation versus voted Commission resolution.

Vice Chair Damschroder moved to approve Resolution 19-26.
Ms. Frass seconded the motion.

Approval: Vote 3-0.

Facilities Assessment Program Guidelines-Under ORC 3318.022

Under ORC 3318.022, any school district 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 and are typically not already in a program.

Edits include staff action versus Commission voted action. No substantive edits.

Vice Chair Damschroder moved to approve Resolution 19-27.
Ms. Frass seconded the motion.

Approval: Vote 3-0.

Alternative Facilities Assistance Program (AFAP or 1:1)

Pursuant to ORC 3318.39, districts can receive limited state funding for facilities improvements in lieu of participating in CFAP or VFAP. We have not had a district take advantage of this program to date. This program requires a super majority board vote because these districts receive a reduced amount of assistance from a full program assistance.

Edits include a couple of clean up edits and staff action versus Commission voted action.

No substantive edits.

Vice Chair Damschroder moved to approve Resolution 19-28.
Ms. Frass seconded the motion.

Approval: Vote 3-0.

Corrective Action Program Guidelines

Under ORC 3318.49, allows the Commission to work with districts to fund defective or omitted work for one of our funded program projects. This is an application-based program with limited application and timing requirements. For example, a district must apply within 5 years of occupancy or give the Commission notice of a potential defect or omission.

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

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

No substantive edits.

Vice Chair Damschroder moved to approve Resolution 19-29.
Ms. Frass seconded the motion.

Approval: Vote 3-0.

Guidelines Update Presentation Presented by Jon Walden

Director Walden also presented proposed potential edits to the Maintenance Program Guidelines that would be brought for approval at a future meeting.

Director Walden noted initially that staff is recommending changing the name to the Maintenance Plan Guidelines, as it better matches with the requirements that schools in the main assistance programs include a maintenance plan. The primary edits include adding language for guidance at the beginning for clarity and adding clarifying language coordinated with language in our Project Agreements related to the School District's responsibility to report and Commission staff's ability to evaluate facilities.

Working with School Districts to evaluate facilities is important for multiple reasons One, it allows staff to evaluate our programs and perhaps learn what's working and what could work better. Two, it allows us to report on the State's substantial investment into the State's educational facilities. From visits we have taken, Commission staff have been able to offer suggestions to assist school personnel better manage facilities (which protects the investment of the state and local taxpayers) – for example, suggesting filter changes, etc. Another example would be to compare maintenance and measuring against a car manual - (ideal maintenance versus what's likely practical).

Settlement Agreement Approval Presented by Matt Westerman – Resolution 19-30

Matt Westerman serves as Senior Legal Counsel for OFCC. Mr. Westerman presented a settlement agreement concerning claims against the General Trades contractor, Jack Gibson Construction Company on the Grand Valley LSD project in Ashtabula County.

Following the completion of construction, the school began to experience significant issues with water infiltration related to defective installation of the roof and defective installation of masonry. In addition, there were also issues with the installation of the school parking lots which failed prematurely (we replaced them within a couple of years of occupancy), all of which fell under Gibson's scope of work.

Following many years of attempting to work with the parties to resolve issues, litigation was initiated in 2013 against Gibson and its surety, Hartford Fire Insurance Company and Buehrer Group Architecture on the project.

Nearly four years later, on the eve of trial and after several unsuccessful mediations, the Commission and District reached an agreement with Buehrer to settle the allegations against Buehrer for \$1.5M. In addition, prior to the settlement with Gibson and Buehrer, we reached a settlement agreement with McMillen Paving Company in the amount of \$200,000 early on because they were going out of business.

The causes of action against Gibson and Hartford remained, and following trial; the jury awarded the Commission and the District \$1.6M plus interest against Gibson and Hartford.

To resolve this matter and to prevent further appeals, the Commission and District settled this matter by waiving their right to interest and settling for the \$1.6M awarded by the jury. The District and OFCC will also provide a complete release to Gibson and its surety, Hartford.

As a reminder, Commission staff bring settlements for approval by the Commission where the settlement requires that the Commission waive certain legal rights which in this case, is the release granted to Gibson and Hartford.

Commission staff worked with the AG's office on this matter and Mr. Westerman thanked the AG team for the successful trial and 6 years of efforts on the Commission's behalf, specifically noting David Beals, Jerry Kasai, Erin Bouchane and Amber Smith.

Vice Chair Damschroder moved to approve Resolution 19-30.
Ms. Frass seconded the motion.

Approval: Vote 3-0.

Executive Director Report

Transition

Director Walden began his comments by thanking staff for helping keep the Commission's day-to-day operations moving during the transition. End of fiscal years always bring a lot of work, and OFCC staff continues to work together to get those operations done and continue to address our day-to-day client needs.

Director Walden also thanked Ms. Perry – who for the past six months has been serving as Commission Secretary and filling in as the Executive Admin. Director Walden noted that Ms. Perry is the person most responsible for getting this meeting prepared and on-track. Director Walden also noted the assistance of the Commission's newest staff members Alexis Lewis – who today is assisting with the PowerPoint.

Matthew Dowiatt our legal intern also worked on resolutions. Finally, Director Walden thanked his colleague Matt Westerman for picking up some of the legal slack while he is wearing multiple hats.

Meetings of Interest

Director Walden noted this week Commission staff meet with representatives of the Cleveland Metropolitan School District. Cleveland shared with staff its community discussions and efforts made in its District and it has some exciting programs moving forward within the Community. As a result of the meeting, the assigned Commission Planner, Bill Prenosil, will work with Cleveland's COO to come up with a schedule to help us move forward with Segment 8 of that program. We are excited to work together again and continue with that longstanding relationship with the district.

Project Dedication

This week on June 24, 2019, Director Walden noted that he, along with OFCC Project Manager Milt Lewis joined our state partner DNR as part of the long-awaited opening of the Hocking Hills Visitor Center. Director Walden included a picture of the ribbon cutting ceremony that shows Governor DeWine, his grandson, and Commission Member Mary Mertz – among others. We were thankful that the weather cooperated for that event – as there was a great turnout and the State's park visitors are now well served with some upgraded visitor facilities to match an already GEM park system.

Director Walden further noted that there remains some work to finish and some legal work that will follow to address the contractor's default and attempts to avoid responsibility – but we will work with DNR and the AGO to address that at the appropriate time. A lot of hard work on that project by Commission staff and thanks to Milt Lewis, Jeff Kring, and Christina Miller from the project staff and countless other efforts by staff members in the office.

Next Commission Meeting

Director Walden further noted that the next meeting is scheduled for July 11, 2019. The July meeting is always earlier in the month for school district levy filing, project approvals and ELPP approvals. We will also have additional transactional items on the July agenda.

Miami Valley CTC Presentation

Director Walden introduced one of the Commission's Project Managers, Kim Magovac, who is here today to present the Miami Valley Career Tech Center. Ms. Magovac works on the K-12 South Team under the direction of Rhonda Hagemeyer and works with Project Coordinator, Guadalupe Love. Ms. Magovac and the Miami Valley CTC superintendent – Dr. Nick Weldy will make a brief presentation about this very large project with the help of Lt. Gov. Husted and our own Melanie Drerup (a graduate of the school). Ground Breaking took place on the project in May of this year.

Ms. Magovac stated that this is an excellent project that represents OFCC's Mission statement, "To lead collaboration with our partners in the planning, design, and construction of public facilities through quality service, expertise and knowledge sharing."

The total project budget is \$158M. Construction of this project will occur over approximately 10 phases. The total building size will be roughly 575,000 square feet under one roof, which is about the size of 10 football fields or about half the size of the Rhodes Tower, making this the single largest OFCC K-12 building project to date. Construction began last month, and the completion date is scheduled for Fall 2023.

Ms. Magovac initially met with the district to discuss the project (about a year and half ago), the district explained the “four legs of the chair” analogy that includes themselves, OFCC, and their future private partners, the Architect and Construction Manager teams.

Ms. Magovac believes they have been successful because the team has structure and clarity. Dependability of the team members to get things done on time and meet expectations. Each team member has a seat at the table and a voice, which enables them to resolve issues efficiently. The goal is to have a successful project.

Ms. Magovac expressed that the word “collaboration” is used a lot. But those who have experienced it, understand it’s real. It’s a feeling...and energy. The success of this project must also be attributed to the district for their time and commitment spent engaged in the entire process. This is in addition to their day job of running a school district. During the planning stage, the district sent teams of staff across the country to visit dozens of cutting-edge career centers. In design, district staff personally reviewed every single page of the plans during development (640 pages).

The dedication to their students and programs is just another reason why Ms. Magovac is excited to be a part of this project. Ms. Magovac introduced MVCTC’s vision for the project Superintendent Dr. Nick Weldy.

Superintendent Dr. Nick Weldy thanked everyone on the Commission and staff members at OFCC because without OFCC’s work, he would not be at the Commission today to talk about this project.

Dr. Weldy shared some background with the Commission and indicated that MVCTC is a Career Technical Center. They serve 27 different school districts over 5 different counties. MVCTC started in 1971, and they currently serve 5,000 middle and high school students at any given time on campus in more than 40 career or satellite programs. MVCTC also serves 4,500 adult learners. MVCTC turns away approximately 400 to 500 students every year because they have outgrown their space.

Dr. Weldy expressed that MVCTC staff and the community are extremely excited about the size of the new campus and the ability to serve more students. Dr. Weldy explained how the new buildings are going to be built, and where the various educational programs would be located throughout the new campus. Dr. Weldy stressed that MVCTC’s goal is to prepare the next generation of students who will potentially have a career right away and be college ready.

Acting Chair Madden thanked Dr. Weldy for his presentation, and remarked that this is an exciting project, and this project will be transformative for the area and for the students coming from the districts to attend MVCTC.

Director Walden concluded his report.

Public Testimony

There was no public testimony.

The meeting was adjourned at 2:07 PM.



Kimberly Murnieks, Commission Chair



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