

**Ohio Facilities Construction Commission
October 26, 2017 Meeting
First Meeting of Consolidated OFCC/OSFC per HB49
William McKinley Room, Statehouse
1:30 PM**

MINUTES

Chairman Keen called the meeting to order at 1:32 PM.

Roll Call

Members present: Chairman Timothy Keen, Vice Chair Robert Blair, Representative Hambley and Tim Villari for Senator Manning.

Election of the Chair and Vice Chair

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

Approval: Vote 2-0.

Chairman Keen called for the nomination of Vice Chair of the Commission. Chairman Keen nominated Director Blair as Vice Chair. Director Blair seconded. Chairman Keen closed the nominations and called for the vote for Director Blair as Vice Chair of the Ohio Facilities Construction Commission.

Approval: Vote 2-0.

Adoption of the October 27, 2016 and the July 13, 2017 Minutes

Vice Chair Blair moved to approve the October 27, 2016 and the July 13, 2017 minutes. Chairman Keen seconded the motion.

Approval: Vote 2-0.

Administrative Rules Approval – Presented by Jon Walden – *Resolution 17-01*

Jon Walden presented 29 Administrative Rules for Commission approval. The Commission now has oversight of approximately 58 rules. Section 515.10 of HB49 transferred all the previous OSFC Rules to the OFCC until otherwise modified or rescinded by the OFCC. Commission Rules that we have are

currently under ORC153 and 3318, as they are set forth in the Administrative Code. When we consolidated the State Architect's Office with the staff of the OFCC, we had formal rules under OAC123. Administrative Rules have a 5-year review period set out by JCARR. Once it became apparent that OSFC was going to be further consolidated with OFCC, we worked with JCARR to extend all the 2017 new rules until December 2017 to make it more efficient both for staff and this Commission and its consideration of the rules. By doing this it allowed us to work to file the rules. In our office, legal works with legislative and communication staff to evaluate the rules and confirm the rule updates and timelines. Most of the proposed rules are either no change rules or merely a revision to the actual name of the rule going from OSFC to OFCC within the body. There are about four rules that we are asking for rescission related to the consolidation. Those will be the rules concerning OSFC makeup and meetings and access to confidential information which will be redundant with rules we already have for OFCC. There is an additional rule that we are asking for rescission which was modified and basically made redundant by an earlier code change concerning the consolidation. The more substantive changes that we have for your consideration concern the actual OFCC makeup which now that we have four non-voting members, it recognizes those members and deals with the quorum and how we approach the meeting minutes.

Chairman Keen added regarding substantive changes. Essentially substantive changes are confined to changes attributable to the statutory change in the organization and governance of the entity. There are really no changes to the operation of programs. Jon Walden responded that was correct. It is conformance with the more substantive changes and are conformance with the code section now that it changed with the consolidation. In the coming months, we may have some additional rules that are more substantive where we work with our customers and industry, but we would more clearly delineate what those are and those rules would also go through the appropriate JCARR process.

Vice Chair Blair moved to approve Resolution 17-01.

Chairman Keen seconded the motion.

Approval: Vote 2-0.

Metrics Update – Presented by David Chovan

David Chovan presented a performance metrics update to the Commission members.

- 94% of projects on or under budget
- 66% of projects on or ahead of schedule
- 50% of agency facilities condition assessed
- Enrollment projections within 3.4% of actual
- 70 day average to procure 65 PS contracts
- Closed out 36 school district projects
- 8.5% of expenses made to EDGE firms
- Launched 84 cultural projects worth \$32.8M

Chairman Keen asked at what point are we measuring the enrollment projection within 3.4% of accuracy against. David Chovan responded that we do an enrollment projection and will make it the projection for the year. If a district is declining in enrollment, we will project it out to the 5th year. That is what we will build to. If a district is growing, we will build out to the 10th year. Once we start that process, we begin

comparing the actuals to the projected each year. We are really looking at that accuracy over the first 5 years of a project. We think that 4% or 5% seems to be a national trend of what is being looked at. The aggregate here is about 50 school districts that would make up this 3.4% and we are looking over a 5-year period.

Auditor of State Audit Update – Presented by David Chovan

David Chovan presented the Auditor of State Audit update to the Commission members.

- AOS FY16 audit completed
- Covered GAAP reporting, payables, receivables and compliance with laws, rules, and processes
- No findings
- 3 non-material concerns
 - a. Timely Deposit of Revenues – The State has a guideline of 2 days of receiving a check. The State found one check that was over 2 days.
 - b. Fraud Hotline Notification – requirement for every new employee that is hired. The employees that were hired, there were a couple that had not signed the notification within the time period.
 - c. Documentation of payroll approval – not properly documented when we have an employee that is not in the office and able to record their time accurately when a supervisor has to do that for them when they are out sick.

These areas are currently being addressed and will ensure that they are corrected for future audits. The audit reflects a great job by the Commission staff in our thorough, accurate and complete dealings with businesses.

Priority Order of Funding List – Presented by David Chovan – *Resolution 17-02*

David Chovan presented the Priority Order of Funding List for Commission approval. The Commission has a Priority Order of Funding Guidelines. These guidelines specify an orderly process in the priority of how we award to school districts between the various state programs. The Commission also maintains a Priority Order of Funding Assistance list based on those guidelines. The Commission last updated and approved this list October of 2016. The equity list provided by the Department of Education and from that it determines what the state and local shares are for each district. We then work with the district at least two years before they have a funding offer. This list is in place to help guide that process so that districts are given the opportunity to join the state program in a fashion consistent with the way that we are working with them. The list below will guide the funding order over the next year.

- Remove 12 districts that started new projects in the last year that were lapsed or deferred
- Add 5 districts to CFAP list
- Add 9 segmented districts
- Add 3 lapsed districts
- Add 3 JVS districts to VFAP list

Vice Chair Blair moved to approve Resolution 17-02.

Chairman Keen seconded the motion.
Approval: Vote 2-0.

**Alternative Facilities Assistance Program Guidelines (AFAP) Approval
Presented by David Chovan – Resolution 17-03**

David Chovan presented AFAP Guidelines for Commission approval. This program allows eligible school districts to receive limited State funds to make facility improvements in lieu of participating in the Classroom Facilities Assistance Program or Vocational Facilities Assistance Program. The project must still be consistent with the Ohio School Design Manual and the district's master plan. The planning process would consist of a full assessment and a master plan for each district. The reduced amount is the greater of either \$1M or 10% of the State Share or what the district would have received had it participated in the Commission's CFAP or VFAP programs. It would require by law 4/5s majority of the school board to approve that.

Chairman Keen asked when will notices be sent to the school districts and when might we start to work with the districts under this program. David Chovan responded that outreach will start in December 2017. We would then expect some districts to become interested in the program at that time. We are working with approximately 50 districts in our planning process right now, so it could be another year or so until the first district is starting on a project under the AFAP program.

Vice Chair Blair moved to approve Resolution 17-03.

Chairman Keen seconded the motion.
Approval: Vote 2-0.

STEM Guidelines Approval - Presented by David Chovan – Resolution 17-04

David Chovan presented STEM Guidelines for Commission approval. This clarifies provisions similar to other OFCC Programs including: site acquisition, maintenance plan funding and 20-year eligibility. This includes specific provisions for no budget increases, no segmenting and discretion for Commission involvement in the project. To date the Commission has funded and is in the process of building 3 schools under this program.

Chairman Keen moved to approve Resolution 17-04.

Vice Chair Blair seconded the motion.
Approval: Vote 2-0.

Community School Guidelines Approval – Presented by Jeff Westhoven – Resolution 17-05

Jeff Westhoven presented Community School Guidelines for Commission approval. Significant updates to the guidelines were:

- School year data requirements

- ODE has created operator reports that streamline the qualifying process for newly established community schools
- For school models outside Ohio with no 2017 data, the four most recent years' data will be used
- Financial Condition (Added): A grant may be declined due to a weak or deteriorating financial condition of the Community School

Chairman Keen asked when would we move forward with the second round. Jeff Westhoven responded, with the Commission's approval of the guidelines we expect to open applications on November 20th, there would be 60-day window for openings and in mid-January those applications would be accepted. There would then be a 30-day evaluation and we would go to the Controlling Board for approval in March/April of 2018.

Vice Chair Blair moved to approve Resolution 17-05.

Chairman Keen seconded the motion.

Approval: Vote 2-0.

Accelerated Urban School District Amendments Approval – Presented by Bill Prenosil – Resolutions 17-06 and 17-07

The Commission approved a Master Facilities Plan in 2002 for the Cleveland Metropolitan School District for \$1.51B divided into 9 segments for 111 buildings to house 72,500 students. The Commission has approved 7 segments to date. The Commission amended the Master Facilities Plan in 2016 for 36,300 students.

Cleveland Segment 6, Amendment 6 - Resolution 17-06

Bill Prenosil presented the Cleveland Metropolitan School District Segment 6, Amendment 6 for Commission approval. The previously amended Segment 6 agreement provided \$27.2M for construction of 1 building and abatement and demolition of 14 buildings. The proposed amendment increases the enrollment at the Campus International K-8 by 235 students. The Cleveland segment 6 budget is increased by \$5.1M for an updated budget of \$32.4 M.

Vice Chair Blair moved to approve Resolution 17-06.

Chairman Keen seconded the motion.

Approval: Vote 2-0.

Cleveland Segment 7, Amendment 2 - Resolution 17-07

Bill Prenosil presented Cleveland Municipal School District Segment 7 – Amendment 2 for Commission approval. The previously amended Segment 7 agreement provided \$184.4M for construction of 9 buildings and abatement and demolition of 11 buildings. The Cleveland Segment 7 budget is increased by \$11.4M for an updated budget of \$195.9M due to market conditions at 6 buildings.

There are additional segments being planned for Cleveland which will be brought to the Commission at a later date. The estimated budget for the remaining segments is \$260M.

Vice Chair Blair moved to approve Resolution 17-07.

Chairman Keen seconded the motion.

Approval: Vote 2-0.

Storm Shelter Delegated Authority Approval – Presented by Bill Prenosil – *Resolution 17-08*

Bill Prenosil presented Storm Shelter Delegated Authority for Commission approval. With the recent occurrence of national disasters in our country, it seems only fitting that the State of Ohio would enact changes in our building code to accommodate storm shelters for our schools. That is exactly what this change is doing, it is making our schools stronger. Storm shelters provide a safe place for our students, teachers, staff and essentially all the occupants in case of a severe storm and is specifically targeted for tornados. Although storm shelters have been in consideration by code for some time now, it was not until this year that the building code implemented this requirement and is effective November 1, 2017. The code requirements provide a space in all our schools large enough to house the typical occupants and strong enough to withstand a 250-mph wind. The designer would need to fortify the foundation, the walls and the roof of the selected space. The shelter is also equipped with certain life safety features such as lighting, restroom facilities and other things that would keep all the occupants safe. This code requirement has a cost impact that would increase a typical school by 2.5%. This will affect approximately 31 districts and 68 buildings. In looking at the average costs, the impact to a school would be approximately \$500,000. Districts that we are working with that are impacted have already been notified. We are also developing a list of districts that currently have funding offers to notify them of the possible impact to their project cost. It does not just affect schools that are being funded by OFCC, but anyone building a school using their own money would also be impacted. This resolution would delegate authority to the Executive Director to approve storm shelter amendments.

Chairman Keen clarified his understanding. The Ohio Board of Building Standards (OBBS) adopted this requirement. It is definitive and specific that any plans approved after November 1, 2017 must meet this requirement. There is no discretion for the OFCC to wave or modify this in any way. This resolution is addressing what the costs might be and potentially make budget adjustments for projects that are underway and moving through the process at some point. Bill Prenosil responded that was correct. We have no authority. The authority is with the Department of Commerce through OBBS, which then goes to the local jurisdictions. We are positioning ourselves so that if we need to fund them we have a system in place to do that.

Jon Walden clarified that the resolution is a very specific and narrow resolution that amends the project agreement that would be caused by increased costs related to the storm shelter requirement and the implication of it going forward. If there are any other reasons for a project amendment, those would be brought back to the Commission for an approval as it is done project by project.

Vice Chair Blair moved to approve Resolution 17-08.

Chairman Keen seconded the motion.

Approval: Vote 2-0.

Fiscal Year 2018 Projects Approval – Steve Roka
CFAP Approval – Resolution 17-09

Steve Roka presented the Master Facilities Plan for the following school districts for the Classroom Facilities Assistance Program for Commission approval.

School District	County	State Share	Local Share	Total Budget
Talawanda CSD – Seg. 2	Butler	\$3,380,169	\$10,703,870	\$14,084,039
Warrensville Heights CSD – Seg. 1	Cuyahoga	\$8,318,300	\$17,676,388	\$25,994,688

David Chovan acknowledged that Mr. Mike Davis, Talawanda City School District Treasurer was in the audience.

Chairman Keen moved to approve Resolution 17-09.
 Vice Chair Blair seconded the motion.
 Approval: Vote 2-0.

CFAP Amended – Resolution 17-10

Steve Roka presented a Classroom Facilities Assistance Program amended project for one school district for Commission approval.

School District	County	State Share	Local Share	Total Budget
Southwest LSD – Seg. 1	Hamilton	\$14,711,471	\$41,871,110	\$56,582,581

Vice Chair Blair moved to approve Resolution 17-10.
 Chairman Keen seconded the motion.
 Approval: Vote 2-0.

CFAP Renewal – Resolution 17-11

Steve Roka presented a Classroom Facilities Assistance Program renewal project for one school district for Commission approval.

School District	County	State Share	Local Share	Total Budget
Marlington LSD – Seg. 1	Stark	\$13,524,922	\$14,651,999	\$28,176,921

Vice Chair Blair moved to approve Resolution 17-11.
 Chairman Keen seconded the motion.
 Approval: Vote 2-0.

STEM – Resolution 17-12

Steve Roka presented a STEM School Facilities Program project for the following school district for Commission approval.

School	County	State Share	Local Share	Total Budget
Bio-Med Science Academy STEM	Portage	\$12,380,192	\$12,380,192	\$24,760,384

Vice Chair Blair moved to approve Resolution 17-12.
 Chairman Keen seconded the motion.
 Approval: Vote 2-0.

Master Facilities Plan Amendments Approval – Presented by Steve Roka - Resolution 17-13

Steve Roka presented amendments to the Master Facilities Plan for the following school districts for Commission approval.

School District (County)	Recommended Modifications to the Master Facilities Plan	Recommended Modifications to the Project Budget
Lakewood CSD (Cuyahoga) Amendment 2	During the course of the project, the district requested the PA LFI be reduced. To confirm the PA LFI reduction and status of the co-funded life safety items for the non-OSDM spaces, the Commission undertook a study to compare the planned scope of work with the built scope of work. It was determined during the course of that study that a reduction to the co-funded scope and budget is required in the amount of \$76,770.	(\$23,799) State Share (\$52,971) Local Share (\$76,770) TOTAL

School District (County)	Recommended Modifications to the Master Facilities Plan	Recommended Modifications to the Project Budget
Waverly CSD (Pike) Amendment 5	As a result of settlement, the funding provided via Amendment 4 is no longer required. In addition to settling with the roofing manufacturer, other parties in the litigation have settled allowing excess litigation proceeds to be released from the project fund to serve other projects. The district has previously been made whole for its contributions to the remedial project related to the litigation. The litigation is ongoing and several defendants remain which may produce additional recovery dollars.	(\$2,722,842) State Share (\$597,695) Local Share (\$3,320,537) TOTAL (\$4,597,695) State Share Litigation Proceeds

Chairman Keen asked that we have these proceeds from litigation that are now substituting for new expenditure of resources. It is not that the project is getting smaller, we just have a different revenue source. David Chovan responded that there were a number of defendants in this case that we have settled with a sub-set of that and this brought funds into the project fund of the district. We will be using those to pay for the improvements in lieu of additional funds being added to this project. Chairman Keen again we are not shrinking the size of the Waverly project. We are in sense committed to new resources because we have this other revenue stream from the litigation. David Chovan responded that was correct. Jon Walden added we have recovered some of the funds that we were out and we are placing the new funds. We also have some in-kind work that is going to be done in lieu of paying additional funds for some of the remaining roof work as well.

Chairman Keen moved to approve Resolution 17-13.

Vice Chair Blair seconded the motion.

Approval: Vote 2-0.

ELPP Master Facilities Plan and Project Agreement Amendment Approval - Presented by Steve Roka – Resolution 17-14

Steve Roka reviewed Resolution 17-17 that was tabled at the July 13, 2017 OSFC meeting regarding the Berea City School District. After further discussion and evaluation, Commission staff went through all its prior recommendations related to the Berea project that would have allowed the district to withdraw from an ELPP agreement foregoing earned credit and enter into a new ELPP agreement with a reduced local share. Commission staff has discussed this action with the district and the district has indicated that it will continue with its initial ELPP agreement. Counsel has advised that there is no further action necessary for the Commission. Chairman Keen thanked Steve Roka for the update.

Steve Roka presented a Master Facilities Plan Amendment and a Project Agreement Amendment for Commission approval.

Maser Facilities Plan Amendment:

School District (County)	Master Facilities Plan Scope	Project Budget
Licking Heights LSD (Licking) 2 nd Amendment	<ul style="list-style-type: none"> • Budget adjustments due to increased enrollment • Changes to grade configurations • Remove Middle School 	\$6,190,785

Project Agreement Amendment:

School District (County)	Discrete Portion	Project Budget
Licking Heights LSD (Licking) 1 st Amendment	<ul style="list-style-type: none"> • Summit ES – Increase enrollment and grade configuration change • Central MS – Addition renovation scope and grade configuration • New ES #1 – Increase enrollment; 2011 OSDM • New HS – Increase enrollment 	\$64,124,392

Vice Chair Blair moved to approve Resolution 17-14.
 Chairman Keen seconded the motion.
 Approval: Vote 2-0.

Delegation of Authority Approval – Presented by Jon Walden – Resolution 17-15

Jon Walden presented a Delegation of Authority for Commission approval. This is a recommendation from staff for another delegation of authority this time from the Commission itself to the Chairman of the Commission related to limited authority to approve COLA or non-performance based compensation increases for the Executive Director. Under chapter 123.21(B), the Commission has authority to appoint and approve compensation for the Executive Director including any compensation adjustments whether they be COLA based or substantive in nature. Because of the Commission’s quarterly meeting schedule, it is not always convenient to meet the requirements necessary if salary adjustments occur for all State of Ohio employees, but those Boards and Commissions that typically have the same language is required to go before those Boards and Commissions to get approval. We have surveyed those other Boards and Commissions and typically they have delegated that function because it is very ministerial and inconsistent with other actions, but does not remove the entirety of the process. We would recommend that this Commission delegate to the Chair the authority to approve any COLA or non-compensation based adjustments so that they can be processed through the State’s accounting system.

Chairman Keen pointed out to the members of the Commission, that for many years there were no compensation changes for state employees and so the concept of how to deal with this issue fell off the radar screen and when there were in fact some compensation changes in this last agreement, it became clear that this issue arose and working with the staff, I support this mechanism to provide those limited across the board increases to the Executive Director just like all the other employees of the Commission and other state employees would receive as well.

Chairman Keen moved to approve Resolution 17-15.
 Vice Chair Blair seconded the motion.
 Approval: Vote 2-0.

LEED 300 Recognition – Presented by Jeff Westhoven

Jeff Westhoven shared a LEED milestone achieved by the Commission. Ten years ago, our predecessor, the Ohio School Facilities Commission, passed a resolution in September 2007 that required all school designs to incorporate LEED standards. LEED is an environmental friendly rating system and it has been the guiding principle for school design since then. Now 10 years later, we have had 308 schools LEED certified with 446 that are in the pipeline either registered or certified. The next closest state to Ohio in terms of LEED certified schools is California with 148. USGBC had a design meeting in Columbus a couple weeks ago where the President of the US Green Building Council, recognized Ohio for being #1 in the world. The next closest country with LEED schools is Canada with 62. Ohio is not only the best state with LEED, but it is also ahead of any other country and there are over 100 countries that use LEED. It is the foresight of this Commission. It is our design teams, architects, the construction folks, our staff in planning and projects and the legislature for the funding for the K-12 program. There are different levels of LEED and OFCC requires LEED silver. We have 206 LEED silver, 93 Gold, 3 Platinum and 6 certified. The impact of that is if you have a LEED certified building, they are designed to be much more energy efficient and much more water efficient. Some of the things that it encourages in its point system is recycling of construction debris and if you take all those buildings and you put them together, we have diverted more than ½ million tons of construction debris over those projects. Another thing it encourages is use of local materials. If you use materials locally, less transportation, more energy efficient. With these programs, we have purchased over \$1.5B worth of materials within 500 miles of the sight. These schools are also less costly to operate. LEED usually means better air quality, better acoustics, better daylighting and a better environment for learning. Mr. Westhoven thanked the Commission for their support with LEED over the years.

Chairman Keen presented the Commission a resolution from Governor Kasich and Lt. Governor Taylor that recognizes the OFCC on the achievement of the 300th LEED certified school. Chairman Keen then read the resolution: On behalf of the State of Ohio, we are proud to recognize the Ohio Facilities Construction Commission on successfully helping over 300 schools in our state achieve LEED certification. LEED certification helps schools reduce their operation costs, more importantly helps their environmental impact. We commend the staff of the OFCC and all those that worked together to achieve this important milestone. Congratulations, best wishes for continued success. John R. Kasich and Mary Taylor.

Executive Director Report

David Chovan reported since the last meeting there were 7 school district groundbreakings, 11 school district dedications, 1 cultural facility groundbreaking, 3 cultural facility dedications, 3 community school dedications and 2 agency ribbon cuttings. 12 school districts were closed out. 2 projects were initiated under the School Performance Contracting program (HB264). There was an Executive Director Delegation of Authority for a Master Facility Plan Amendment for Streetsboro CSD (Portage) with a decrease to a budget scope, but there is no scope change. Of the 659 school districts (including JVS school districts) a total of 391 or 59% have done work with the OFCC since 1997.

Contracts executed since the July 2017 meeting for agency, higher education and cultural Grants projects totaling approximately \$79.3M and the K-12 program projects totaling approximately \$185.4M. To date 1,502 facilities have been constructed or renovated between the K-12 program, state agencies,

colleges/universities and cultural facilities. There are 192 projects currently in construction for that same group with a total dollar value of \$1.68B. In closing, David Chovan shared the Commission meeting dates for 2018: January 25, 2018, April 26, 2018, July 12, 2018 and October 25, 2018.

There was no public testimony.

The meeting was adjourned at 2:44 PM.

Kurt Kauffman, Acting Chair

These meeting minutes were prepared by
Carolyn L. McClure, Secretary to the Commission