
Arkansas Division of Public School



Academic Facilities & Transportation

**COMMISSION ON PUBLIC SCHOOL ACADEMIC FACILITIES
AND TRANSPORTATION**

Dr. Ken James, Chair

MEETING AGENDA

**March 17, 2008
9:00 A.M.**

Arkansas Department of Education Auditorium

Call to Order/Roll Call

- 1. Minutes Meeting January 2008**
- 2. Immediate Repair Project Status Report**
- 3. Transitional Program Project Status Report**
- 4. Partnership Program Project Status Report**
- 5. Computerized Maintenance Management System**
- 6. Master Plan Submission Update**
- 7. Millage Election Results Report**
- 8. Statewide Fuel Contracts**
- 9. Rule Presentation: Master Plan Program Rule**
- 10. Rule Presentation: Appeals Rule**
- 11. Rule Presentation: Partnership Program Rule**
- 12. Appeals**

SUMMARY MINUTES OF
COMMISSION ON PUBLIC SCHOOL ACADEMIC
FACILITIES AND TRANSPORTATION

Date: March 17, 2008

Place: ADE Auditorium, Little Rock, AR

Attendees: Dr. Ken James, Director Arkansas Department of Education
Mr. Richard Weiss, Director Arkansas Department of Finance and Administration
Mr. Mac Dodson, President Arkansas Development Authority
Mr. Douglas Eaton, Director PSAFT
Dr. Charles Stein, Assistant Director PSAFT
Barbara Dobbs, Admin. Assistant PSAFT

Call to Order/Roll Call. Dr. Ken James called the meeting of the Commission on Public School Academic Facilities and Transportation to order. All Commission members were present.

Tab 1: January 2008 Minutes

MR. EATON: opened the meeting with the minutes from the January 29, 2008 Commission Meeting. The minutes were approved.

Tab 2: Update on the Academic Facilities Immediate Repair Program

MR. EATON: The Academic Facilities Immediate Repair Program closed on December 31, 2007. School districts were notified via commissioners' memo 07-118 on May 3, 2007, that all projects must be complete and all documentation submitted to the division by January 1, 2008 and at your request, via commissioner's memo 08-006 on July 24, 2007.

The final status of this program is: 244 completed and closed out and 59 school districts cancelled projects. The division recommends that it be allowed to transfer the balance remaining in this program of \$6,920,046.19 in the Partnership Program Fund.

The motion to accept the Division's recommendations is approved.

Tab 3: Update on the Transitional Academic Facilities Program

MR. EATON: In January 29, 2008 we reported that the Division would be recommending additional funds be transferred to those projects upon completion of the project scope. The recommendation would begin in March 2008 upon the financial closing of the Academic Facilities Immediate Repair Program. We have concluded the Immediate Repair Program and our review of all projects in this program, which had not begun as the last Commission meeting. Based on the current status of ongoing projects and clarifications as to the cancelled projects, we are not recommending a fund to be transferred into this program.

The motion to accept the Division's recommendations is approved.

Tab 4: Update on the Partnership Program 2006

MR. EATON: Since the January 2008, Commission meeting we began an intense examination of all projects that our records showed had not begun. We identified almost \$46.7M of projects on

this list that will not be accomplished. These projects were affected by failed millages, lack of funds and more accurate screening of Division records. I thought this time I would just roll this up, rather show you how much money our program is worth against the original allocation of projects. The first figure is the total amount of Legislative appropriation for this program which is \$637,920,046 which includes \$6,926,000 (transfer from the Immediate Repair and to be presented to the peer group 4/3/08). The second figure is the total of committed projects between two years 2006 and 2007 which totals \$628,198,400. The third figure of 9.7 million dollars is the difference between the two and the fourth figure is \$76,614,748 total funds distributed to date.

CHAIRMAN JAMES: If there are no other questions from the Commission what we'll need is a motion to accept the updated Partnership list as presented by the Division, with the explanation on those numbers. And, again, to stress for everyone's benefit the funds distributed today equals about 12 percent, correct, Mr. Eaton?

MR. EATON: Yes, sir. That's combined over the two programs.

COMMISSIONER WEISS: I move we accept the Partnership update, Partnership list as presented.

COMMISSIONER DOBSON: I'd second the motion but I would like to hear if Doug has any kind of projection on distribution of funds, if you think we're going to get close to 100 percent of it eventually or if there's going to be other projects continuing to fall out of this.

MR. EATON: There will be other projects that will fall out of this. The reason is the millage elections. Each time they have an election, if there's a failure unfortunately we have to go back. Most likely it will continue to move down.

CHAIRMAN JAMES: Make sure as we come back each time that you give us and provide us with those timely updates based upon that's happened in the field on the millage, so that we can keep a running tally here in terms of where we are.

The motion to accept the Division's recommendations is approved.

Tab 5: Computerized Maintenance Management System

MR. EATON: In January 2008 the Division reported the following to the Commission:

1. The Division plans to implement a statewide Computerized Maintenance Management Systems.
2. The purpose of this system.
3. Completed procurement actions to date.
4. Ongoing actions.

The Division's proposed strategy for implementing this state wide system is as follows:

1. The first year of the initial two year contract is estimated \$572,163.00 for 12 months. This will consist of a system setup, statewide training, operating costs and preventative maintenance tracking components along with a training allowance.

2. The second year of the contract and subsequent renewals, the Division and the school districts will co-share the system cost.
 - a. The division will budget for initial access for each school district.
 - b. The school district will fund any additional users they choose to have.
 - c. The school district cost will be determined utilizing a size formula based on district enrollment. The states estimated share: \$178,367.00.
3. The Division will not reimburse school districts for the following:
 - a. Any district presently on the SchoolDude System for neither training nor operating cost.
 - b. Tracking components above the work order and preventative maintenance tracking components. The Division will allow credits for remaining costs, to end of contract year to be applied to district user and tracking components.
 - c. Any costs disbursed or obligated under existing contracts, nor provide financial assistance for any termination charges for any maintenance system with companies other than SchoolDude.6.
 - d. Financially support those contracts for districts that choose to remain and not convert to the state wide system. If the school district converts to the SchoolDude system, the Division will pay the first year cost under the state contract.
4. The Division will not incur any cost associated with conversion from any existing systems presently used by school districts to the system implemented under the terms of the state wide contract, outside of the provision stated in 1 above.
5. All school districts will have the first year paid in accordance with paragraph 1, above and subsequent years paid as per paragraph 2 above, regardless of starting date.
6. Subsequent renewals after the initial two year contract are subject to availability of state funds.

The motion to accept the Division's recommendations is approved.

Tab 6: Special Report Facility Master Plans

MR. EATON: School districts are required by Arkansas Code Ann. 6-21-806 to submit their ten year facilities master plan to the Division before or on February 1st. This master plan shall include at a minimum the following items:

1. Schedule of custodial services, maintenance repair and renovation activities.
2. Documentation that describes preventive maintenance work.
3. Annual expenditures of the school district for all custodial maintenance repair and renovation activities.
4. A projected replacement schedule for major building systems.
5. Identification of issues regarding public school facility program access to individuals with disabilities.
6. Identification of committed projects within the school district.
7. Annual expenditures of the school district for capital outlay.
8. Description of planned new construction projects with cost estimates.
9. Evidence of the school district's insurance coverage.

The Division will review and approve the school district's facilities master plan no later than September 1 of each even numbered year.

The school district master plans were all received by closed of business on February 1, 2008. The Division is in the process of reviewing these master plans at this time and coordinating with the school district on deficient areas.

The division has no recommendation with regard to this update.

Tab 7: Failed Millage Districts

MR. EATON: The Division of Public School Academic Facilities and Transportation is required to take action pursuant to act 996 of 2007 regarding school districts who have sustained a millage election failure to support their master plan. The division is responsible to notify the school district and meet with them within ten days of the date of the failed election.

On March 11, 2008 millage elections were held in the following school district. For those district's whose millage election was unsuccessful, a letter has been sent requesting a meeting to determine the impact of the failed millage on the district Master Plan and to discuss courses of action.

Benton	Passed
Bentonville	Failed
Cabot	Passed
Harmony Grove (Saline) Athletic Facility	Failed
Harrison	Failed
Norphlet	Passed
Twin Rivers	Failed

Millage elections schedule for the coming months include:

Cutter-Morning Star	4/8/08	
Hampton	4/8/08	
Horatio	4/8/08	
Mena	4/8/08	2nd election
Mt. Home	4/8/08	2nd election
Mt. Pine	4/8/08	
Quitman	4/8/08	2nd election
Strong-Huttig	4/8/08	2nd election
Huntsville	4/8/08	2nd election
Dollarway	5/20/08	
Green Forest	6/10/08	2nd election

CHAIRMAN JAMES: Commission members, you have heard the report as submitted. Any questions that you have on the millage elections, most recent ones and the ones that are forthcoming?

CHAIRMAN JAMES: To say for on behalf of the Commission members make sure that we do keep informed on this as we continue to move down this path because, and to remind the Commission members, you know, they do have some severe potential ramifications as we go down this path in look at what we do with respect to districts on facilities distress.

Tab 8: Statewide Fuel Contracts for School Bus Transportation

MR. EATON: The Division of Public School Academic Facilities and Transportation was a proponent of the ideal of statewide fuel contracts to support bus transportation. In May 2006 we began researching the possibilities of multiple state contracts for the purchase of diesel, bio-diesel and gasoline to meet the transportation needs of Arkansas school districts. The purpose was to examine whether large state contracts could result in a cost savings to school districts on fuel and insure a more stabilized price and delivery schedule. Of the 211 responses, a total of 166 school districts indicated an interest in the multiple state contracts for fuel.

A committee was formed coordinated by the Senior Transportation Manager and consisted of school district superintendents and transportation directors.

Several discussions were held with the Oil Marketers Association. They explained the state fuel distribution system in detail, and that there are only three distribution terminals in Arkansas. We discussed the volatility of fuel prices and the reluctance of major distributors to sign a long term contract for determined price.

Discussion with the school districts was optimistic toward the program, but they believe they were receiving the best price available because of their ability to advertise and procure locally. The committee reached the conclusion with so few competing bidders and the fact that the distributors had the state divided into regions and they would not compete amongst each other, it was best at this time to leave the fuel purchase in the hands of the school districts.

CHAIRMAN JAMES: Well, thanks for the report. I do think it's wise to go ahead and share this with the oversight committee in terms of what process you went through and what the results were. Do you know how many districts are participating in the green diesel?

MR. EATON: There are a lot of them.

CHAIRMAN JAMES: I do think that would be good information for us to have just so that we can know how many districts are participating, if you can share that with us.

MR. EATON: Okay.

CHAIRMAN JAMES: There's no action needed on this particular report.

Tab 9: Rules governing the 10 Year Facilities Master Plan Program

MR. EATON: Legislation enacted during the 86th legislative session, notably Act 989 required changes to be made to the rules administering the Academic Facilities Master Plan Program.

Today we bring to you the recommended rule with additional changes and/or corrections as a result of the open comment period and public meetings.

The motion to accept the Division's recommendations is approved.

Tab 10: Rules Governing Commission Appeals

MR. EATON: Scott Smith will present Tab 10 to the Commission.

MR. SCOTT: On February 15th of 2008, this Commission gave permission that allowed us to file for public comment these Appeals Rules. These rules went out for public hearing on February 20, 2008 and the 35th day time period ended on March 11, 2008. We are back today asking for final approval of these rules and it's our intent to go to the Rules Committee on Thursday with these rules if we are able to get final approval from you today.

We have established clearly that there is a 60 day time from the time that the Division issues a written termination at the request of the district by which a district must issue an appeal. In addition to comments that come from the State, we have changed the standard of review from clearly erroneous to that of substantial evidence. We have established a briefing schedule that would be submitted to both the State and to the parties. Some districts were concerned that Mr. Eaton and the State had an additional opportunity to address the Commission that they did not have an opportunity to do, so the intent now is when a district submits its appeal the State will send out briefing schedules and both sides will be required to submit their issues in writing to this Commission.

CHAIRMAN JAMES: Commission members, you have heard the explanation any further comments, questions based upon the presentation.

MR. SMITH: Mr. Chair, let me make a correction. Representative Mahoney noted an error. On Section 4.06 it talks about after asking question that it wished to as of the party the Commission may deliberate, vote and then orally announce its decision. That should be the Commission shall deliberate and my vote and orally announce.

The motion to approve the rules and submit it and a second with the changes as noted in 4.06.

Tab 11: Rules governing the Academic Facilities Partnership Program

MR. SMITH: The Division of Public School Academic Facilities and Transportation had a Public Meeting on February 20, 2008. The Division has received fifteen (15) public comments concerning the proposed Commission for Arkansas Public School Academic Facilities and Transportation Rules Governing the Academic Facilities Partnership Program (Partnership Rules). After having reviewed those comments we office changes in Section 3.01.05 to indicate clearly that facilities owned by co-ops, leased buildings, modular buildings, things of those natures are not academic facilities for purpose of the Partnership rules and are not covered under this program. We offered changes in Section 3.04 with regards to the definition of an add on and 3.08 concerning a conversion project. Conversion projects are no defined to only be those projects for which there's an add on that's taking place and there happens to be a need to change space in relationship to that additional space that's being added or in those situations where a district has not suitability need.

The definition of FCI was made clear in Section 3.10. Section 3.2.01, Project Cost Funding Factors was made clear that the soft cost within the means, that being the price per square foot that the State used to fund the project. It will include a certain amount for asbestos abatement and demolition cost for the project that the State approves. The state is not putting any additional money in for asbestos abatement or demolition, it's just saying if the means cost is \$135 a square foot then you can use all of that means factor and if there's any asbestos or demolition that portion related to that can be used in that direction.

Section 3.25 with the definitional schematic drawings. The state is not requiring that at the time of application districts submit a drawing indicating what their project will consist of with sufficient information to Mr. Eaton and the Division to be able to look at that project and later on when the blueprints are submitted compare the two. There were some concerns by districts that they didn't want to pay for an architect prior to receiving approval from the State on these projects. We said fine, you don't pay for an architect but Mr. Eaton has the right to say whether there is sufficient information in that drawing for him to approve or deny the project.

The definition of waiver and variance was made clear in Section 3.30. A waiver or a variance is something that the Division gets.

We realigned the submission process in Section Four. Specifically there is four or five type of projects that may be applied for under the Partnership Program. Warm, safe and dry, this is a high priority project above all other projects. A new facility which is commonly understood to be a new school or add on projects where someone is seeking to add space to an existing facility or a conversion project.

Section 7.0 is the timeline section. We are now requiring that the projects be, if it's approved, that an agreement be entered into between the state and the district within 60 days of the time frame and that the district be required to break ground on that project within 18 months of that approval. The district is required to complete that construction project within four years. As you will recall part of the reason why we're doing that is because we have several projects that have begun to back up on the State. A district can go to the Division first and ask for a waiver they always have their right to appeal to you, the Commission on any decision by the Division.

Finally, Section 8.0 of the rules refers to the new appeals rule now. That's where the old appeals section used to be and it will now be governed under the new appeals rule.

Mr. Copas wants to address the 19 months time frame on the breaking ground and with the Chair's indulgence I'll allow him to make comments on that issue.

CHAIRMAN JAMES: That's fine. For the record, will you introduce yourself?

MR. COPAS: I'm an ex-officio member of the Advisory Committee to the Public School Academic Facilities. We did make a recommendation for six months instead of two for the simple reason that you're asking somebody to sign a contract and they have gone before it and then they passed a millage and didn't even know if they could do the project. The one that concerns me the most, even in the best or smallest type of project is the 18 month time frame. We have recommended or the Facilities Committee had recommended a 24 month process. If you think about that, if you get a May approval to the school district and you can't go out and pass a millage until September, then at that point the school district hasn't done anything because right now all they've got two things that have to happen. They have to have your approval and then they have their millage passage. In reality, even on small schools that's not necessarily going to happen.

We agree with the 48 months, we think the 18 months is too short. This was a group of contractors and design professionals that made these recommendations.

CHAIRMAN JAMES: Scott, would you respond?

MR. SMITH: In looking at this matter we, of course, checked with various folks and Mr. Wood, who is not here today with us, the Superintendent of the Searcy School District was one of the primary advisors. We did, in fact, contact him again and just to reiterate this point it's his opinion that 18 months, a year and a half is a reasonable time frame to try and break ground. The situation that Mr. Copas explained should be the exception rather than the rule. If there is a problem for whatever reason, we've built a circuit breaker they can go to Doug and ask for a waiver.

CHAIRMAN JAMES: Do we have any questions or discussions points on this time?

COMMISSIONER WEISS: Under what condition would you deny a waiver?

MR. SMITH: I suspect it's going to be a case-by case basis depending on what the facts are in any particular circumstance. Mr. Eaton may be better prepared to answer that since he would be the one who would usually decide whether to grant a waiver or not.

MR. EATON: Mr. Dobson, What I originally expect to be requested to grant waivers would be in the 60 days period. If we feel that a district has proven that there an architect and engineer, and the dates they have laid out says, look, we cannot physically break ground for 21 months and if they can prove that and show that to us, we simply come to a meting of the minds and we grant them a waiver. There's going to be those exceptions. And in discussing this with Mr. Smith and the other members of the committee, in 18 months it seems the larger project is not plausible. But the waiver ability gives us the right to negotiate that date.

CHAIRMAN JAMES: Commission members, you have heard the explanation and the rule as presented. And, Doug, just to, in fact, I think state the obvious what I think I'm hearing you say is that you're okay given the waiver process that is in place in terms of the circuit breaker to move forward with this?

MR. EATON: Yes, sir

CHAIRMAN JAMES: The rules will move forward to the committee on Thursday.

MR. EATON: Before we close there is one other thing I may mention, the fourth rule dealing with High Growth. It's been a tremendous mental challenge for those of us that are managing projects. We've been in close contact with that act. February 20, 2008 we had the public meeting on high growth. We've talk with Senator Bisbee since then and we got a lot clarified. We need to sit down one last time with him.

CHAIRMAN JAMES: Do you have any other questions for the Commission members at this time?

CHAIRMAN JAMES: I would like to acknowledge the significant work that went into the Partnership revisions, in terms of not only public comment but the countless hours that have been spent by staff members here at the agency, as well as at the Division, and as well as Tom Kimbrell, Senator Broadway, School Smith, Diana Julian, Chuck and Doug and they've spent countless hours on the document that we have before us. And it's the result, again, as we talked here many times at the Commission of collective work across the state and designed to stream line the process and make this process work much more smoothly for all concerned.

Commission meeting adjourn.