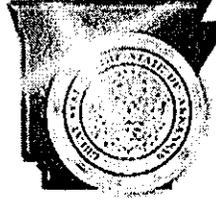

Arkansas Division of Public School



Academic Facilities & Transportation

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

Dr. Ken James, Chair

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MINUTES OF
COMMISSION ON PUBLIC SCHOOL ACADEMIC
FACILITIES AND TRANSPORTATION

Date: November 30, 2005

Place: ADE Auditorium, Little Rock, AR

Attendees: Dr. Ken James, Director, Arkansas Department of Education
Richard Weiss, Director, Arkansas Department of Finance and Administration
Mac Dodson, President, Arkansas Development Authority

- I. Call to Order/Roll Call. Dr. Ken James called the sixth meeting of the Commission on Public School Academic Facilities and Transportation to order. All commission members were present.
- II. Approval of October 13, 2005 Commission Meeting Minutes. Dr. James stated that the minutes were received in time for review and asked for questions or a motion. **Mr. Weiss moved to approve the minutes. Mr. Dodson seconded the motion. The minutes of October 13, 2005 as submitted were approved unanimously.**
- III. Immediate Repair Program. Dr. James acknowledged Dave Floyd who directed everyone to the foldout sheet (immediately after page 5 of the minutes), which is the latest update on the Immediate Repair Program. At the last Commission meeting the Division received permission to review the districts that had submitted late due to the postmark date not being used (Norphlet, Greenland, IZARD County Consolidated and Ozark School Districts). These districts have been visited by the appropriate architects and engineers, have been graded and found to indeed be eligible. These are the shaded items on the list. Norphlet had five projects and the first three are listed on the first page. IZARD County Consolidated had a combination project at the elementary school that included roof repair, ADA requirements, and replacement of ceilings, septic lines and doors. On the second page, Norphlet had two more projects that were approved and are self-explanatory of what will be repaired. Ozark, on the last page, has a fire alarm project. The page after the foldout shows that Greenland School District had made a request for roof repairs and the total is shown. Greenland is on fiscal distress and if approved their funds will be released upon notification from the Fiscal Distress Committee. There were no further questions and the recommendation was made that the Commission approve the Immediate Repair projects for Norphlet, IZARD County Consolidated, Ozark and Greenland. **Mr. Weiss made a motion to approve the projects as submitted and highlighted in the report. Mr. Dodson seconded the motion. Dr. James again stated that Greenland School District was still under review by the agency as the district remains under fiscal distress and that the agency will come back with a recommendation on their status, but this will not change the recommendation that is now being made for the Immediate Repair Program. The motion on the immediate was approved unanimously.**
- IV. Bonded Debt Assistance Appeals. Mr. Floyd stated that each school district in the state received a 10% reduction of its bonded debt assistance based upon the assumption that at least 10% of the bonded debt assistance had been used for nonacademic purposes. The districts had the opportunity to submit documentation to request a reversal of the percentage of the 10%. The "Bonded Debt Assistance Appeals" document lists the percentages the Division is recommending to the Commission for the reversal of the 10%. Atkins, for example, has a recommendation that 66% of the 10% be reversed which mean that 96.6% would be their total payment on the bonded debt assistance. These recommendations to the Commission were sent out Monday, November 28, 2005. Districts have the right to request a hearing if they do not agree with our recommendation. The Division has received calls from several districts asking questions and for an explanation of what this meant. Mr. Floyd asked if there were any questions and if not would recommend that the reversal of the 10% reduction for the districts that made application be approved as listed.

Mr. Weiss asked for a further explanation and that he had understood that it was recommended initially that 10% would be set aside because of the possibility of nonacademic expenditures. Mr. Floyd responded that the law was written that way. Mr. Weiss said that these districts are now coming back to appeal the 10% and Brinkley shows 0 which means you are staying with the 10% and Black Rock shows 100%. Mr. Floyd said Black Rock would get the full 10% back.

Mr. Dodson asked for an explanation of nonacademic facilities. Mr. Floyd said athletic facilities are nonacademic facilities but gyms may have a certain amount of space used for physical education – then it becomes a factoring situation or a percentage of the debt as to whether it is a nonacademic facility or not.

Dr. James asked if there was a closure date for a request for a hearing. Mr. Floyd responded December 9, 2005. Mr. Weiss asked for the basic matrix that was used. Mr. Floyd said what had to be done was review the data, the bond issues, certificates, the applications submitted to the Department of Education to sell bonds, what the bonds would be

used for and then track them from the beginning in order to take the percentage of each issue, and if one was refinanced determine how much of that came forward. It was a very arduous task. Mr. Dodson asked the percentage of school districts that requested an appeal. Mr. Floyd responded 113.

Dr. James asked for questions. **Mr. Weiss then made a motion that the staff recommendation on the Bonded Debt Assistance Appeals be accepted. Mr. Dodson seconded the motion. The motion was approved unanimously and the Division was told to move ahead on that process.**

V. Consideration of Rules. Mr. Floyd stated that these would be discussed as outlined in the agenda and as follows:

- A. Public-Public Partnerships allows school districts and another public entity or entities to go together in the construction of school facilities. There were no comments, written or oral. It was recommended that these rules be approved. **Mr. Weiss made a motion to accept the Public-Public Partnerships rules as submitted. Mr. Dodson seconded the motion. With no questions the motion was approved unanimously.**
- B. Energy Conservation Measures permits school districts to enter into contracts with energy savings providers where the energy savings provider has a guaranteed cost of energy savings over a period of time. This is actually an amendment of an existing law. There were no public comments and the Division recommended approval for this rule. **Mr. Dodson made a motion that the Energy Conservation Measures rule be approved. Mr. Weiss seconded the motion and the motion was approved unanimously.**
- C. Academic Facilities Partnership Program will be the final program that will be in place and will then be used to fund projects once the transition period is over. One public comment was that this might be a detriment to districts with older facilities that need money for renovations or additions rather than complete construction of new facilities. Mr. Floyd stated that is not the intent of the law nor is it stated there. The Division will work during the approval process of projects to ensure proper handling of projects as the process goes along. The Division recommended that these rules be approved. **Mr. Dodson made a motion to approve the Academic Facilities Partnership Program rules. Mr. Weiss seconded the motion. With no further discussion the motion was approved unanimously.**
- D. Bonded Debt Assistance. One written public comment was submitted and the Division agreed with the point made. Turn to page six of the rule, 4.01, the change adds in the language *“except mandatory callable debt payments which shall be calculated using the formula set forth in §4.01.1. The amount of scheduled debt payment calculated shall be reduced”*. The language *“and reduce the amount of the payment”* is to be deleted. Two districts use mandatory callable bonds rather than the standard bonds for school construction. All funds from a mandatory callable bond must be used towards payment on a particular project. Mandatory callable bonds are defined earlier in the rule. After checking with Dr. Davis, ADE Assistant Commissioner, Division of Fiscal and Administrative Services, the Division recommended that with the changes mentioned the rule be approved. **Mr. Weiss made a motion that the Bonded Debt Assistance rule with the amended changes be approved. Mr. Dodson seconded the motion and the motion was approved unanimously.**
- E. Ten-Year Facilities Master Plan. A written comment has been received regarding this rule but all of the comments within the letter addressed items directly in the law as to the need for so much information and this type of thing, so it really has nothing to do with the rule. The rule is written specifically as the law that is in effect. With that said the recommendation was made that the rule be approved.

Mr. Weiss stated that this was an extension of the period of time for school districts to submit. Mr. Floyd said that what will happen is that the districts will submit master plans for the first three years in detail with a brief mention of the next seven years by February 1, 2006. Districts will then have until February 1, 2007 to complete the entire master plan.

Mr. Weiss made a motion to approve the Ten-Year Facilities Master Plan rule. Mr. Dodson seconded the motion. With no questions the motion was approved unanimously.

- F. Academic Facilities Distress Program. A letter with public comments was received and the concerns were with the law itself. This rule was written with language that is exactly out of the law. One concern was that there would not be an appeal process if a district were put into academic facilities distress prior to this Division going back under the State Board of Education. Again nothing in this rule is different than what is stated in law and approval is recommended. **Mr. Dodson made a motion to approve the Academic Facilities Distress Program rule. Mr. Weiss seconded the motion. Dr. James requested that a communication be made back to those**

concerned about the lack of appeal to let them know there is no latitude because of the law. Mr. Floyd responded that nothing had been put in writing but there had been verbal communication and a follow-up will be made to those that have not been contacted. With no further questions the motion was approved unanimously.

- G. *Design-Build Construction*. This governs the use of design-build construction by public school districts. Several changes are from public comments and some are technical changes or corrections made by the staff. Under 2.01 the italicized last sentence (*Justification for utilizing the Design-Build method must be provided in accordance with Section 5.00.*) is a recommendation added for further clarification of the purpose of the law. On page 2, 4.01.2, the italicized change (*furnish a 100% Performance and Payment Bond in accordance with state law.*) is a result of a public comment to remove a general statement by striking *be responsible for the bonding of the project* and clearly states that the design-builder has to furnish a 100% Performance and Payment Bond. The last item 4.01.4 is being stricken entirely (*Design builders shall be required to obtain at least three bids for all construction trade packages.*) as this is in direct conflict with the purpose of the law that would allow districts, should they chose, to enter into a design-build process without competitive bidding. Again from a written public comment, 5.01, the language *by official vote of the school board as reflected in the minutes of said board*, has been added and allows districts to make that decision. On page 3, 6.01, as a result of written public comment the reference to the federal government was stricken, as the federal statutes do not apply to state projects and the staff agreed with that change. 6.01 now reads, "School districts shall use a two-step selection process." 6.04.9, 6.04.10, and 6.04.12 - have been stricken as a matter of clean up and clarification. 6.06.5 - staff recommended a change of should to "may". 6.06 talks about the selection panel. The staff recommends that 6.06.3, 6.06.4 and 6.06.6 be stricken. Mr. Floyd asked for questions and if there were none recommended that with the changes noted, the Design-Build Construction rule be approved.

Dr. James had a question regarding 4.01.4 and asked for further clarification and why it was being stricken. Mr. Floyd stated that the purpose of the entire law is to allow a district to join with a design professional and a contractor. The design-build team will guarantee the price of the project on the front end in working with the school district to determine what type of facility is needed, financial resources, etc. and this is the process that will allow the design-build team to guarantee this on the front end. The designer and the contractor work with or work through gaining the sub-contractors that will be used. Dr. James asked if there was anything in here that was in conflict with bidding procedures, etc. Mr. Floyd said no because there is no design-build process right now. This will be the first time school districts will have this opportunity.

Mr. Weiss asked if there were criteria for selection of the design-build team and a record. Mr. Floyd said there is a strict criterion for whichever approach the district chooses as to the background, qualifications, etc. of the firm/firms (may not be just one firm that has both design professionals and construction professionals). Mr. Weiss asked if there was a system set up for the Division to track how this compares to the old way of getting bids, etc. Mr. Floyd said it could be established and that a proposal is being working on now to be brought forward and hopefully put in place. Mr. Weiss stated that even after this Commission goes out of existence this would be very important. Mr. Floyd said it would be important to track this and have control over this type situation. Mr. Floyd stated that in the design-build as well as construction management there is going to have to be a tight monitoring of the processes used by districts, a uniform method of informing the Division as to what process is going to be used. There needs to be a tighter framework and a uniformity of contracts and permission/notification process and follow-up to avoid problems that might arise. Mr. Weiss stated that there had to be oversight of the process. **With that having been said, Mr. Weiss made a motion to approve the Design-Build Construction rule. Mr. Dodson seconded the motion and with no further questions the motion was approved unanimously.**

- H. *Construction Management* – Mr. Floyd said written comment was received requesting a deletion of one item and the Division felt it was in conflict with existing state law. The Division recommends that the rules be approved as originally presented. Dr. James asked what the comment referred to. Mr. Floyd said it was a request that 3.04.3 be eliminated, that trade contracts not have to put out for bid and under construction management it is in conflict with state law. **After no further questions, Mr. Dodson made a motion to approve the Construction Management rules. Mr. Weiss seconded the motion and with no further discussion the motion was approved unanimously.**

- I. *Maintenance and Custodial Manual* and *J. Academic Equipment Program*
These two rules went through the public comment process but the Division is recommending that these be pulled down. The Division has not had time to investigate and there are concerns. Also there has not been sufficient time to finish the maintenance and custodial manual. The Legislative Committee has been notified that it the Division's

recommendation that these rules will be pulled down. Dr. James asked if these were expected to come back at the next meeting. Mr. Floyd responded hopefully so. Dr. James stated that no action would be taken on Items I. and J.

- VI. Executive Session – Dr. James said the Commission would go into executive session regarding personnel and should only take a few moments. The Commission would then come back into open session. The room was cleared. After the Executive Session was concluded and those in attendance had returned, **Mr. Dodson moved that the Commission go back into open session. Mr. Weiss seconded the motion and it was approved unanimously.** Dr. James then turned the floor over to Mr. Floyd.

Mr. Floyd stated he had informed the Commission that due to health issues over the last several weeks he was retiring effective December 31, 2005. He stated he had very much enjoyed his years at the Department of Education and the time working with the Commission and appreciated the support of all the Commissioners, Senator Broadway and all the other legislators he had worked with during the development of the Task Force. Mr. Floyd stated he had really enjoyed his work with the school districts in the state but the decision was not really hard as it was a decision that had to be made.

Dr. James wanted to say publicly that this is a sad day for us, a sad day for the State of Arkansas. Mr. Floyd has done a great job, a marvelous job given the short time frame for all that has happened. Mr. Floyd and the staff as well are to be commended in terms of supporting what has transpired in developing a program from the bottom. Mr. Floyd and his service are going to be missed but we fully respect his decision. It is a sad day for us and our hope is that someone can be found to step in and continue the good work Mr. Floyd has done with the facilities division. It is crucial and key to the success of not only this agency but to the 252 school districts in the state. Dr. James wanted to personally thank Mr. Floyd and say that it had been a pleasure to work with him since he has returned to the state. Mr. Floyd is a man of vision, a man of dedication, a man who works extremely hard and a man who has been a pleasure to work with and support. Dr. James commended Mr. Floyd for all his years of service, but most especially for what he had been able to do in a short period in of time establishing the facilities division from the ground up. Mr. Floyd has had a lot of support but it always takes someone guiding the ship in the proper direction and Mr. Floyd has fit that need as we continued to move forward. We are all going to sorely miss Dave Floyd and wish him the best of luck and want him to know that we are always here for him.

Mr. Dodson said he had not known Mr. Floyd long but really appreciated the work he had done and how much easier Mr. Floyd had made the job for him. Mr. Dodson wished Mr. Floyd good luck and good health.

Mr. Weiss said he seconded what everyone else had said. Mr. Floyd is an outstanding public servant and the state will sorely miss him.

Senator Broadway said he and Mr. Floyd had been through a lot of battles together. When all of this started it was just the two of them and Mr. Floyd had been a steady hand, someone you could always count on through thick and thin, and an advisor of great wisdom. For years Mr. Floyd has been the only person in Arkansas that knew anything about school facilities; he has been our only expert. It was a sad day when Dave called to notify me, but I am happy for him. It is the best choice, as I would rather have Dave around so I can consult with him in good health than to not have him at all. This is the right choice for Dave, but I echo all the other sentiments. Dave has been a great public servant and we would not be in the position we are in now without him. I know I wouldn't have been or had the level of understanding I have about the issues of school facilities. Initially Dave was kind of reluctant to take on the task but he has proven in the last several weeks, months and years that he was up to the task. He has gotten us off the ground, gotten us to this point. There is a long way to go but without Dave, his leadership, vision and understanding of the process, we certainly wouldn't be this far. I appreciate the chance to comment. Dave, I appreciate you very much and you will always hold a special place.

Dr. James stated this is a 99 level position so the filling of this position falls with the Commission who will begin identifying those who can follow the direction and strong foundation that has been established. Dave's last day will be December 12 and so we will be on a fast tract to get someone in place to continue on and not miss a beat. Again Dave thanks you for your hard work and service to the Commission.

Mr. Weiss made a motion to adjourn, Mr. Dodson seconded the motion and it was approved unanimously.

MINUTES OF
COMMISSION ON PUBLIC SCHOOL ACADEMIC
FACILITIES AND TRANSPORTATION

Date: December 12, 2005

Place: ADE Auditorium, Little Rock, AR

Attendees: Dr. Ken James, Director, Arkansas Department of Education

Richard Weiss, Director, Arkansas Department of Finance and Administration

Call to Order/Roll Call. Dr. Ken James called the seventh meeting of the Commission on Public School Academic Facilities and Transportation to order with one item to be considered. Dr. James stated Mr. Dodson was ill; two commission members were present.

I. Personnel: Consider the Hiring of a New Director of Facilities and Transportation.

Dr. James stated that Dave Floyd has submitted his letter of resignation and his last day officially is today. The Commission has been looking at who might be found to replace Mr. Floyd and this is something of great concern. The Commission has been fortunate to find the director of facilities in the Little Rock School District who has been instrumental in overseeing all of the projects in Little Rock for a number of years. He brings expertise to the job and has the background and ability to interact with those involved. The Commission feels fortunate to recommend the appointment of Mr. Doug Eaton to replace Dave Floyd as Director of the Division of Public School Academic Facilities and Transportation. If approved here today Mr. Eaton will start work on December 19, 2005. Little Rock School District administration has been contacted and is supportive of accepting Mr. Eaton's resignation. **Mr. Weiss made a motion to accept Mr. Eaton's candidacy and hire him as of today. Dr. James seconded the motion and asked for discussion. All were in favor and the motion passed unanimously.**

Dr. James extended his congratulation to Mr. Eaton and welcomed him and offered him the opportunity to address the group in attendance.

Mr. Eaton stated that it was nice to look around and know just about everybody in the room and promised to do everything possible to carry on what Mr. Floyd has started. There is a good staff and much has been accomplished in the enactment of rules. This is a monumental task and is very important; anything we can do to enhance the educational system needs to be done for facilities, academic programs, etc. Thank you very much for the opportunity.

Dr. James stated that Mr. Eaton has a lot of expertise, brings a lot to the table and has great respect across the state in terms of facilities. The Commission appreciates Mr. Eaton's willingness to step up to the plate and this is going to be crucial as we continue to go forward. Mr. Floyd has done a yeoman's job and Senator Broadway has, of course, been instrumental in getting us where we are today. Dr. James requested that Mr. Eaton meet with Mrs. Williams for the necessary paperwork.

Dr. James asked Mr. Floyd if he had any comments. Mr. Floyd said he had worked with Mr. Eaton since he first started with the Little Rock School District on various projects and Mr. Eaton is extremely qualified, knows facilities from the school district side, is familiar with all that has come about from the last session and his expertise will go a long way in helping the Commission and the Division get where we need to be with the legislation. Mr. Floyd congratulated Mr. Eaton and stated he was as close as a telephone call if there were any questions that needed to be answered.

Dr. James asked if Senator Broadway would like to make any comments. Senator Broadway expressed appreciation to the Commission and to Mr. Eaton and was pleased with Mr. Eaton's wealth of experience with Little Rock's great number of facilities, the number of issues faced while at the Little Rock School District, educational background and experience with the Corps of Engineers. When you lose someone like Mr. Floyd it is often hard to find someone to follow and someone who is willing to stand up to the task and this is a huge task to take over in trying to implement so many things. Mr. Floyd and the staff have done a great job and we will be here to support in any way we can.

A motion to adjourn was made by Mr. Weiss, seconded by Dr. James, and unanimously approved.