



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

**Dr. Ken James, Chair**

**MEETING AGENDA**

**July 13, 2007  
8:00 a.m.**

**Arkansas Department of Education Auditorium**

**Call to Order/Roll Call:**

1. Commission Meeting Minutes April 30, 2007
2. Permanent rules governing Property Insurance Requirements
3. Propose changes to rule governing Academic Facilities Distress Program
4. Propose changes to rule governing Academic Facilities Catastrophic Program
5. Proposed changes to rule governing Academic Facilities Partnership Program
6. Propose changes to rule governing Ten Year Facilities Master Plan Program
7. Immediate Repair Program update
8. Transitional Program update
9. Partnership Program 06 projects update
10. Partnership Program 07 projects update
11. Special report School Districts
12. Division Architect/Engineer Contracts
13. Master Plan Guidelines
14. Facility Manual Revisions
15. Appeal hearings

COMMISSION MEETING  
DEPARTMENT OF PUBLIC SCHOOL ACADEMIC  
FACILITIES AND TRANSPORTATION  
July 13, 2007

DR. KEN JAMES: The first item before the Commission is the meeting minutes for April 30, 2007. Commission members have had an opportunity reflect and read those minutes. Any questions by the Commissioner members?

MR. WEISS: Mr. Chairman I move for the adoption.

MR. DODSON: Second.

DR. KEN JAMES: We have a motion to approve the minutes of (Inaudible). All in favor say aye.

DOUG EATON: Yes, sir. At the April board meeting we presented to you the emergency rules and the Commission voted on the permanent rules. We have gone through the necessary procedures required after the Commission's approval. We've had the open comment period, we've had the public meeting and presented to you today is the comments from the public comment meeting and, also, the final rules as we would suggest them. The recommendation to the Commission is that they please approve the permanent rule, as submitted, and we will go forward to the Legislature with these.

MR. WEISS: Mr. Chairman, I'd just say that I was pleased to see the fact that you got the expert from the Insurance Department and comments of users, too, so that it seems like everyone who is going to be dealing with this issue was well represented and we have a document that -- that, in it's face, anyway won't be too controversial. So if there are no questions, Mr. Chairman, I'd move that we follow the Division's recommendations and approve the permit rules.

DR. KEN JAMES: We have a motion to approve the rules as submitted with the changes that have been made as a result of the public comment. Is there a second?

MR. DODSON: Second.

DR. KEN JAMES: We have a second to the motion. Any further discussion?

DR. KEN JAMES: Opposed? None. Motion carries.

DOUG EATON: Yes, sir. Item number three is the first rule revision as a result of the Legislative Acts of 2007, and in some

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cases Legislative Acts in 2006, Special Session. We have four rules here. The first of these that we'd like to discuss with you is the rules governing the Academic Facilities Distress Program. By legislation that was enacted this last year, notably Acts 989 and 996 it required changes be made to the rules administering the Academic Facilities Distress Program. The recommendation as to the Commission is that you please approve the Facility Distress Program rules as presented and authorize the Division to go forward with the public hearings and comment period.

MR. WEISS: Doug, did I understand you to say you wanted us to approve these and approve them going out for comment or just approve them going out for comment?

MR. DODSON: I have a question. How many districts didn't submit a plan?

DOUG EATON: Everybody submitted a master plan.

DR. KEN JAMES: We have a motion on the floor to approve the rules as submitted going out for public comment, and we have a second.

MR. WEISS: Mr. Chairman, if we could I would like to, if it's possible to have a listing of all of the folks who participated who did make public comment whenever you come back with the results of this.

DR. KEN JAMES: All right. We have the motion on the floor with a second and with the understanding that the Commission members will receive a list of those that participate in the public comment section. Any further discussion pertaining to this item?

DR. KEN JAMES: Hearing none, all of those in favor say aye.

DR. KEN JAMES: Opposed? None. Motion carries. Mr. Eaton item four.

DOUG EATON: Item four is the next set of rules to be presented to the Commission and deals with the Academic Facilities Catastrophic Program.

If there are no further questions our recommendation to the Division is that you approve the Catastrophic Program rules for us to go forward for the public comment period.

MR. DODSON: I move we go forward and approve.

MR. WEISS: Second.

DR. KEN JAMES: -- to move these out for public comment and a second

DR. KEN JAMES: Opposed? None. Motion passes. Next item, Mr.

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Eaton.

DOUG EATON: Mr. Weiss' comment from the last rules be brought forward for the next three rules and we'll provide them. Item five is changes to the rule governing the Academic Facilities Partnership Program. Our recommendation is that the Commission please approve these for us to go forward for the open comment period and for the public hearing.

DR. KEN JAMES: All right. You've heard the recommendation as put forth to put these out for public comment. Any questions from Commission member?

(No response)

MR. DODSON: I move they be approved and go forward for public comment.

MR. WEISS: Second.

DR. KEN JAMES: We have a motion to go out for public comment and a second on these rules as submitted.

DR. KEN JAMES: None opposed. Motion passes.

DOUG EATON: Item six are changes dealing with the rule governing the Ten Year Facilities Master Plan Program

DR. KEN JAMES: Okay. You have heard the explanation and the recommendation for these rules governing the master plan to go out for public comment. Any questions from Commission members?

DR. KEN JAMES: We have a motion to move these out for public comment. Do I have a second?

MR. DODSON: Second.

DR. KEN JAMES: I have a second. Any further discussion? All those in favor say aye.

DOUG EATON: Item seven is an update for the Commission on the Academic Facilities Immediate Repair Program. As reported to you in April, this is still going slowly, perhaps more slowly than it needs to be. The school districts were notified via Commissioner's memo dated 3, May, 2007, noted under 07118, a reminder in the recap of all of the legislation that effected the Division that there is a sunset on this program, as well as a sunset on the transitional program.

DR. KEN JAMES: You have heard the recommendation on the immediate repair program to approve the transfer of funds meeting the obligation. Any questions from Commission members?

MR. WEISS: Doug, do you think that there's going to be some of these -- well, these remaining 313 projects (Inaudible) that will never get done for one reason or another?

DOUG EATON: Well, sir, I would hope not, because by definition they were repairs that the district said they had to do.

MR. WEISS: Well, let me ask this, are there any of those remaining 303 that have not yet been started?

DOUG EATON: Yes, sir. Well, again, we don't know. We think a lot of them are doing it this summer. In fact in August when the school starts we will start getting those (Inaudible).

MR. WEISS: I'd move to recommend the transfer of funds.

MR. DODSON: Second.

DR. KEN JAMES: A motion to move the transfer of funds and a second. All right. We have a motion on the floor and a second. All those in favor say aye.

DOUG EATON: Tab eight is an update to the Commission on the Transitional Academic Facilities Program. We're not making any recommendations with regard to the monies at this time. We think they should remain the way they are and just run this program out and then see where we are with regard to the balance.

DR. KEN JAMES: Thank you for that report, we'll move to the next item, number nine.

DOUG EATON: I have number nine as the update on the Partnership Program of 2006.

MR. DODSON: Doug, one question on Malvern. Have they established a date or informed us as to when they're going to go back out for -

DOUG EATON: No, sir, they have not

MR. DODSON: Where does Dollarway fit in this?

DOUG EATON: Dollarway. Okay. Dollarway's millage -- Dollarway's millage election the second time, as you know, was passed. They have hired an architect/engineer, they are proceeding to do a redesign to build a new junior high school at the site of the old junior high school.

DR. KEN JAMES: You've heard the recommendation that the Commission accept the update partnership list as presented and you've heard the explanations in terms of where we are.

MR. DODSON: I move we accept the partnership list.

MR. WEISS: Second.

DR. KEN JAMES: We have a motion to accept the partnership program as submitted with the updated list and we have a second. Any further discussion?

DOUG EATON: Number ten is an update on the partnership program from 2007.

DR. KEN JAMES: You heard the presentation and the recommendation from Mr. Eaton. Any questions from other Commission members?

DR. KEN JAMES: Hearing none, do we have a motion to accept the updated partnership?

MR. DODSON: I move we accept the updated partnership list.

MR. WEISS: I second.

DR. KEN JAMES: There's a motion and a second to accept the updated partnership. And just to clarify, the Division is not recommending any transfer of funds at this point in time. We are not considering transferring funds between programs, so hearing no further discussion, all those in favor say aye.

DR. KEN JAMES: Opposed? None. Moving onto the next item, number 11, Mr. Eaton.

DOUG EATON: Number 11 is a special report that we want to give to the Division or the Commission for a couple of reasons. One, to make you aware of this particular aspect of the program and, also, to solicit any comments you might have on how you would like any explicit reports on school districts presented to you.

But the reason I wanted to bring this to the Commission was twofold. First of all, we've been doing this for awhile. And, secondly, I like to think that the legislation that came out in 2007, had a lot to do with how the Division was already operating.

And, secondly, to give a chance to talk to these 13 school districts, to make them aware of the fact that this was a change in the law and this was a change in the law that we had to enforce in February, and to remind them that needed to lean forward and start participating in these programs.

MR. WEISS: I move we accept the report.

DR. KEN JAMES: We have a motion to accept the report.

MR. DODSON: Second.

DR. KEN JAMES: We have a second. All of those in favor say aye.

DR. KEN JAMES: None opposed. Moving onto item number 12, Mr. Eaton.

DOUG EATON: Yes, sir. Item number 12 is a report back to the Commission on the contract actions that the Division is going to take this year.

We're requesting or recommending that the Commission approve the Division awarding these contracts.

MR. WEISS: I so move, Mr. Chairman.

DR. KEN JAMES: We have a motion to approve the recommended contractors. Do we have a second?

MR. DODSON: Second.

DR. KEN JAMES: Any further discussion?

DR. KEN JAMES: All those in favor say aye.

DR. KEN JAMES: None opposed. Moving onto the next item, number 13.

DOUG EATON: Yes, sir. Number 13 is a very significant item. That is the changes we intend to make to the master plan guidelines. Again, I remind the Commission that the cost of the master plan process started out differently than originally intended and that wasn't a ten year plan, it was three and seven. We've had to go back and make some significant changes to the guidelines. It is recommended to the Commission that they please consider and approve the master plan guidelines as submitted. If there's any questions, I will be glad to answer.

DR. KEN JAMES: You've heard the presentation from Mr. Eaton. Any questions with respect to the guidelines that have been submitted to the Commission?

DR. KEN JAMES: The only other question I've got is on summary reports you mentioned the fact that districts were asking for a better formatted summary report.

DOUG EATON: Yes, sir.

DR. KEN JAMES: Are we talking with Magellan about that or where are we with that?

DOUG EATON: We made the comment to Magellan last time that we -- that what we were getting was individual reports for projects. And we asked them for a way to amend the (Inaudible) that we can get back to the districts. There needs to be a way the district can just simply download a listing of school projects or whatever data they would like to have in just -- in one page

DR. KEN JAMES: I'd just like to say that with respect to that if in your contacts with Magellan that you run into issues, or problems, or roadblocks that you let the Commission members know that. Because as we look at these contracts -- in other words, we need to make sure the contracts that we have with folks, that they're being responsive to our needs, and if they're not then we need to make the necessary adjustments.

DR. KEN JAMES: And so if that is not the case and we're not being

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able to provide that in a fashion that is sufficient for district use, then we need to -- we need to know that.

DOUG EATON: And we know they have the ability to do it because we've asked for special reports right from the districts.

DR. KEN JAMES: Well, I would suggest that we pursue that aggressively with Magellan and that we get a model from some districts in terms of what meets their needs and that we provide that to Magellan and make sure that they adhere to that and bring it forward, if that's agreeable to --

MR. WEISS: I'll second that.

DR. KEN JAMES: -- other Commission members. Go ahead, Mr. Dodson.

MR. DODSON: I move we accept or approve master plan guidelines.

MR. WEISS: I second.

DR. KEN JAMES: We have a motion and a second to approve the master plan guidelines as submitted with the caveats, Mr. Eaton, and staff, that we made with respect to Magellan and the summary reports and all of those kinds of things that were so noted. All those in favor say aye.

DR. KEN JAMES: None opposed. Moving onto item 14, Mr. Eaton.

DOUG EATON: Item 14. The Division is prepared to undertake or review the Arkansas Public School Facility Manual with the goal of clarifying portions of the manual that were not completely reviewed upon completion of the manual by the Facilities Task Force. The Legislature gives us the ability to review this manual at least annually. This was -- this was a meeting that I asked Senator Broadway or came out of the meeting we asked Senator Broadway to host to answer the very basic question regarding the State's posture and position as to whether or not the State has the right to establish the minimum standard, and whether or not the interpretation and manual by the Division, which is that the minimum State standard established by the Division and by the program requirements equates to two things. The minimum size to which a school will be built, or an existing school measured and the fact that it establishes the gross financial funding that the Division will participate in.

In the meeting that we held with Senator Broadway, I mentioned to you we ended up with a divided house. So as a result of that I went to Senator Broadway and I said we need to get together one more time. I need to hear -- I would like to hear for my own sanity what the attorneys' say is the interpretation of the Supreme Court decision. The result of that meeting was exactly what we had been told back in January 4, 2007, when we met with the attorneys

from the Attorney General's Office and that is that they, the State has the right to establish that minimum standard and in order to enforce that minimum standard it also comprises a gross amount of money that the State will pay for each school to attain that standard.

That is the document that's presented here to you today, plus requesting or acknowledging, get the Commission to support our position of going forward with the reviews. We're going to conduct the reviews in three different ways.

The first of these, as explained in paragraph one is the review of Chapter 7.

I'm using the Advisory Committee to the Division that was established by legislation that allowed us to pull certain members of the committee and districts together to provide them. We have also, in doing that change, have also incorporated comments from other outside entities. For example, we had a very in depth review, believe me, from the wood industry over comments and standards that were established. The second part of the review I've gone back to the consultants and I said, look, you've got the basic tapes and put this thing together. We have simple organizational errors in this thing, typos and things of that nature, so we need to do a administrative review.

The third review is the most critical. The third review is dealing with the program of requirements. The suggestion made to the Division when we met this last week with the attorneys was that perhaps the starting point was to go in there and identify every single space in the program of requirements and why that space was identified the way it was.

The program of requirements essentially does two things. It establishes the minimum standard, but it also establishes the minimum standard at what the State, what I believe the State wants to see as the target for its new schools.

Hopefully when we are done we will end up with a better refined list, certainly a list that we'll be able to explain to the school districts why the space was in there, so they would understand.

I advise the Commission that that's going to put us in a very precarious road juncture. And the reason I say that is because we have two different paths that we can take when we get done with this.

In the meeting that we held here that was hosted by Senator Broadway with the Task Force we heard statements made by certain parties that said we could live with the State telling us what those required spaces were. And that statement was clearly heard.

What I'm not sure was clearly heard by all of the parties was, yes, but we want the State to fund above that if we want to build something, which is basically back to we'd like to establish a standard but we wondered if you would fund above that.

If you decide that way you're in essence telling the districts exactly what space to put in the building. There are arguments for and against that. I'm not in a position to present that to you at this time.

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The other path is to end up essentially back where we are now, with a refined program of requirements and the ability to tell the district, ladies and gentlemen or Mr. or Ms. Superintendent, we're not going to tell you what to put in that building. That is your call. You're going to teach the program, you're going on a hook to make sure those children graduate with a suitable adequate education. All I'm saying is I'm going to fund 50,000 square feet of academic space. You figure out what it should look like. Step one is as I have outlined here. The first is the review of Chapter 7, dealing with the standards. Again, this will be done by the Advisory Committee and the folks that they decide to contact. Secondly, the grammar and content review of the remaining portions of the manual, typographical errors, things of this nature. The last is the review of the program requirements, which is clearly the most -- the most important.

So what we are asking, we are asking that the Commission for Public School Academic Facilities and Transportation support the concept that the minimum size facility, as determined by the program requirements is the minimum required size to which all new facilities are to be built and that that size constitutes the maximum gross square footage to be funded by the State. And, secondly, that the Division be given support to proceed with the facility manual reviews as outlined above, unless the Commission so states that they would like to see a different review aid

MR. WEISS: Does item number three, the review of the program requirements, this is essentially coming out of the meeting that I had where we're here asking us to let you do is making that review to determine whether the sum of the parts should equal the total or not.

DOUG EATON: Yes, sir. So this will be the steps needed to make that review and to try to tackle that issue and come up with a -- with a final result on that?

DOUG EATON: Yes, sir.

DR. KEN JAMES: Other questions?

DR. KEN JAMES: So, Doug, just to clarify again, with respect to the reviews you're going to go away from here and begin your review and then upon the conclusion of your review then those review elements will be brought back to the Commission?

DOUG EATON: Yes. And then we'd like to go out and get comments and we'll probably get some comments before we even come back to you.

DR. KEN JAMES: And I also heard you say in terms of that review process that you were going to engage practitioners in that conversation.

DOUG EATON: Yes, yes, we need to. We really do.

DR. KEN JAMES: Practitioners, meaning from my perspective, superintendents and those folks that are dealing with facilities on the campuses.

DOUG EATON: But, sir, in honesty, we're already started on the first part. We started on the first part of the deal in Chapter 7 when the -- when the Advisory Committee first met in October of 2006. So we've got that one pretty well done. In fact we may come back to you with Chapter 7 before the rest.

MR. DODSON: Well, there are two recommendations. Under recommendation one is that to continue the present policy? Is that what that --

DOUG EATON: The recommendation one is if we get the Commission to bless our understanding that we have been told that this is the way it was supposed to be and this is what we're doing.

MR. DODSON: And that's the way you've been treating that for how long?

DOUG EATON: We've been enforcing that exactly the way it was written and we have not changed it. As to the second part of it, if we get the Commission's support and going in and starting making these changes.

I am -- I am very supportive of you continuing to go through the study that you're talking about doing, proceed with the study and the review of all of those requirements. And I would make that motion that we do that. Now, how that exactly comports with what you've written here, I'm not sure. I guess it's that number two that we proceed with the review of the -- of the manuals.

DR. KEN JAMES: And just so I understand what's on the floor at this point in time in terms of a motion. What I'm hearing is that we've got some level of confusion in terms of recommendation number one and whether recommendation number one, as so stated, will lead us to the point of what we've been talking about here today in terms of the review and then bringing this back before the Commission for subsequent decision.

DOUG EATON: Yes, sir.

MR. DODSON: So you need to -- to make the decision on recommendation one before you can do the review because it tells you how to make the review? Or can you make the review and then --

DOUG EATON: We can do the review without it. Because, see, when the review process was set up it was set up with the intent that any part of the manual can change, therefore, the Division can

conduct reviews and bring it back to the Commission.

DOUG EATON: Step number one is the most critical.

MR. SMITH: The issue with the meeting with the Attorney General's Office the other day came out of the meeting that we had with Mr. Weiss the other day. There are two opinions out there basically on the issue of what is the required -- I don't think there's any debate that the State can set a minimum standards. The issue is the current rules that are in effect, the current facility manual that's in effect, the interpretation of that by -- by certain parties is that, yes, the State has established a minimum standard when you add up the sum of the parts that equal the minimum standard. The problem or the confusion that related to that is that number doesn't necessarily equate to this space calculator number that was produced out there.

The question that was presented to the Attorney General's Office attorneys when they came over it was does the State have the right to establish a minimum standard, the answer, naturally, in my opinion is, yes, they do. The issue that's probably up for debate is will the State, can the State require a minimum standard, allow districts to meet that minimum standard, but also be willing to pay to a higher level, which is to the space calculator concept or some number up above that.

I guess what Mr. Eaton is asking for today is go ahead and go through the process of trying to begin looking at establishing a simple minimum standard and only funding to that standard.

MR. WEISS: And my concern here is if we adopt recommendation one, what does that do in the space calculator issue? Is that, in effect, saying the Commission is adopting one side or the other without doing this study? That's the concern.

MR. SMITH: He would like to move in a direction of establishing a single standard and funding to that standard. And not going to the direction of having a single standard but the State possibly funding above that standard.

DR. KEN JAMES: The confusion expressed is just in terms of whether in fact in your review and getting the participant participation that we talked about if we adopt recommendation number one it appears, I think, on the surface to the Commission members, based upon what I've heard that that precludes that comment and that participation or shuts the door on that as we move forward. That's what I'm hearing the Commission members express in terms of concern about adopting number one. I'm hearing full support of moving forward with the facility manual review. What I'm hearing concern about is whether, in fact, the adoption of item number one or recommendation number one would preclude any of that participation that you've noted that you want to get from superintendents and practitioners and whether, in fact, if we adopt that then does

that, in fact, close the door before the conversation ever starts.

DOUG EATON: Well, sir, that was clearly not our intent. I was trying to approach this as two different issues. One was the philosophical issue that the Commission agrees with the concept that whatever that number is in the program of requirements, that that number is, in fact, the minimum State standard for size and the maximum gross square footage to be funded regardless of what that number is. And then to agree to allow us to look at how that number may be adjusted. That even after we adjust the number, if we come back we'll ask the same question. And all I'm trying to do, and perhaps maybe I didn't word it right, is I would like to have the Commission's support in saying, yes, whatever that number is, whatever it is now, whatever it is in the future after we get the comments, the definition of that number is the minimum size based on the number of students and the maximum gross square footage to be funded and the Division has the right to come back to the Commission with input to change that number, which is what we're doing now.

DR. KEN JAMES: Well, let me -- Senator Broadway, do you want to have a comment?

SENATOR BROADWAY: Maybe I can help clarify where I think -- what I think this means in terms of the recommendation. The recommendation one is the way we currently interpret the manual. That is the way right now; currently every project is approved, based on that standard. The way we interpret the manual, which is correct and we figured that out in those series of meetings that the Division is interpreting correctly the manual that was given to them.

DR. KEN JAMES: Thank you, Senator Broadway.

DR. KEN JAMES: Hearing the conversations and the discussions with respect to where we are, this is what I would be comfortable with at this point in time. Based upon all of the dialogue that we've had here today, with the clear understanding that number one is the beginning point of the conversation. That's how we begin the conversation with the practitioners, public comment and things of that nature, that that's where we are now with the clear understanding that when we have the dialogue then whatever that dialogue brings forward, then all of those things would be subsequently brought back before the Commission as a part of this total review process. So my motion would be that we move ahead with the recommendations, with the understanding that number one recommendation means that that is the beginning point of the conversation. And that we're going to solicit openly dialogue and feedback from practitioners and then that that comment from those practitioners be a part of the review that's brought back by the Division to the Commission at a later point in time in terms of

making a final decision. And that's probably the longest motion I've ever made in my life. And do we understand what the motion is after that?

DR. KEN JAMES: Let me repeat the motion. I would move that the Commission moves forward with the recommendations as presented to the Commission with the caveat that under number one, that the clear understanding of the Division, that that's the beginning point of the conversation, and that we would solicit feedback from the practitioners in the field to further refine that prior to bringing back the full revisions to the Commission.

MR. WEISS: I second that.

DR. KEN JAMES: We've heard the detailed motion with a detailed second, properly and duly recorded in the minutes. Do we have further questions from Commission members?

DR. KEN JAMES: Hearing none, all those in favor of the motion as presented signify by saying aye.

DR. KEN JAMES: None opposed. So we'll move forward with item 14 in that vein. And at this time the Commission, before moving into the appeals is going to take --

DOUG EATON: Gentlemen of the Commission, Arkansas Annotated Codes allow for the school districts to appeal decisions by the Division of Public School Academic Facilities and Transportation to the Commission. These appeal procedures are outlined in the rules, such as the ones that you approved today. We are presented here today six appeals. These six appeals are from the Batesville School District, the El Dorado School District, Manila School District, Lavaca School District, Charleston School District and Ouachita School District. I would advise the Commission that we have pulled, at the request of the Batesville School District, the Batesville appeal.

MR. SMITH: Mr. Chair, Members of the Commission, as was indicated Arkansas Code 6-20-2513 gives school districts a right to appeal any decision of the Division to the Commission. Today the five appeals that remain before you are concerning decisions related to the partnership program.

MR. DODSON: Do we need a motion to give the continuance to Batesville? How does that work?

MR. SMITH: I think it would be appropriate.

DR. KEN JAMES: I think that would be appropriate, yes.

MR. DODSON: I'd like -- I make a motion that we give Batesville a

continuance.

MR. WEISS: Second.

DR. KEN JAMES: We have a motion to approve the requested continuance from Batesville for their hearing and a second. All those in favor say aye.

DR. KEN JAMES: Opposed? None. Motion approved.

MR. SMITH: And then as a second point of inquiry, does the Commission know which -- which appeals they want to hear today and do they know if you wish to not hear any appeals, as far as a formal hearing goes?

MR. WEISS: Mr. Chairman, I would move today that we do hear the appeals of El Dorado and Manila.

MR. DODSON: I second that.

DR. KEN JAMES: Okay. We have a motion on the floor to hear the appeals for the Manila School District and the El Dorado School District today. Any further discussion?

DR. KEN JAMES: Hearing none, all of those in favor of that motion signify by saying aye.

DR. KEN JAMES: Any opposition?

DR. KEN JAMES: Hearing none, the motion is approved to hear those two appeals today.

MR. SMITH: Before we begin the process of hearing those two appeals, does the Commission wish to deal with the other three districts today or do you wish to take them under advisement?

MR. WEISS: Well, Mr. Chairman, I -- I personally can go either way on it but I have read the appeals on Ouachita, Charleston and Lavaca and I don't -- I don't find in my review of those that they -- that I would have any inclination to overturn the Division's recommendation at this point.

MR. WEISS: I can make that a motion if you would --

MR. SMITH: Let me do it this way, I would suggest that we handle each one of them on an individual basis, since they are individual appeals, so if you have reached a determination just issue -- do an individual vote on each of those three cases.

MR. WEISS: Mr. Chairman, I would move that we abide by the decision reached by the Division on Ouachita.

DR. KEN JAMES: We have a motion on the floor to not hear in the

formal setting an appeal for the Ouachita School District, based upon the prima facie material that has already been presented and has been read by Commission members.

DR. KEN JAMES: Okay. We have a motion on the floor to deny the appeal from Charleston and a second to deny that appeal, and now we have discussion or questions.

MR. DODSON: My question was is the -- is the building of a new rest room a code upgrade?

DOUG EATON: Yes, sir. The question was about the addition of the rest room. Charleston was a code upgrade. The basic premise when the assessment was done that all buildings met code at the time they were built. The rest rooms that are in the building presently, which is a combination auditorium and academic space meet the code at the time it was built. What the district wanted to do was just add additional rest rooms to it. We did not fund in this cycle support facilities. That was the basis of the written determination.

DR. KEN JAMES: All right. We have the motion on the floor to deny the appeal from Charleston based upon the information presented and the additional clarification of information presented by Mr. Eaton. Any further discussion?

DR. KEN JAMES: Hearing none, all those in favor of the motion signify by saying aye.

DR. KEN JAMES: Opposed? None. Motion approved to deny.

DR. KEN JAMES: Why don't we begin with the El Dorado presentation.

MR. SHEPHERD: My name is Matthew Shepherd. The El Dorado School District appears before the Commission today asking that you help the District sustain the momentum and growth which it has presently experienced over the last five months by approving partnership program funding for a new high school.

DR. KEN JAMES: Okay. And that was the opening statement and then Mr. Eaton's opening statement as well.

DOUG EATON: Yes, sir. The issue, as far as the Division is concerned, is whether or not the Division has the right to add a project to an approved list the Commission approved in May of 2007, without the required master plan being submitted by the District.

MR. WEISS: Well, Mr. Chairman, I believe and I guess the book didn't tell us what we want to do, but I believe I'd make a recommendation that we approve this request, so that they can get it on the ballot and get something done in the September election.

DR. KEN JAMES: There's a motion on the floor to move forward with

respect to and grant the appeal with respect to moving ahead for a new facility. Do we have a second?

MR. DODSON: Mr. Chairman, I'm going to second the motion. I actually -- if this weren't such an extraordinary circumstance I probably would say wait, but I think this is a great opportunity for Arkansas and we need to -- when a corporation steps up and does something like this, we need to give it our full support, so I'm going to second the motion.

DR. KEN JAMES: We have a motion on the floor to move forward with this project in concert and collaboration with the Division.

MR. WEISS: I would just make sure that my motion does have the stipulations that you put in of living with all of the rules and regulations that the Division otherwise asks

DR. KEN JAMES: All right. That motion and those statements will be duly recorded. With respect to that, all those in favor of the motion at this time signify by saying aye.

DR. KEN JAMES: Any opposed? None opposed. Motion approved to move forward on the project.

DR. KEN JAMES: At this time, Commission Members, we will move ahead with the second appeal, and that's the Manila School District.

MS. CASTOR: I am Pam Castor, Superintendent, Manila School District.

MS. CASTOR: This appeal is related to Partnership Project 4712-001, New Elementary School Project Case Four, related to my qualified, not funded status.

In addition, I ask you to consider this statement the Arkansas Code, 6-20-2507(f)(1)(a), "If a school district qualifies for State financial participation under this section, the Division shall certify the amount of State financial participation to the Commission for Arkansas Public School Academics Facilities and Transportation."

I would argue for the sake of this appeal that the qualified in this process must mean qualified for funding.

DOUG EATON: Yes, sir. The issue with the Division was whether or not the project was approved or it was qualified, but not funded. The Division considered the Manila project qualified but not funded because it -- and I will explain to you later as to why we did that because we did not consider it to be a prudent use of State funds, based on the ARFCI. That's why we categorized it that way.

MR. WEISS: Mr. Chairman, I would like to take this under

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advisement and get further information, I think. Im not comfortable making any other---recommending any other direction at this point and I dont have enough information, I dont think, and Im---on the issue of this case.

MR. DODSON: Mr. Chairman, Id also like to point out weve been given a fairly large book to look at and Id like a chance to go through this before I made a decision.

DR. KEN JAMES: Is there a motion on the floor to take this under advisement and look at additional information that was provided today to the Commission?

DR. KEN JAMES: Hearing none, all those in favor of the motion signify by saying aye.

DR. KEN JAMES: Any opposed? None. That concludes the appeal process and at this time the Chair would entertain the motion to adjourn.