

INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION



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GOVERNOR

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Meeting Minutes August 30, 2018

Call to Order:

Dr. Karen Salmon called the first meeting of the Interagency Commission on School Construction to order at 9:01 a.m. Dr. Salmon welcomed each new member of the IAC

Members in Attendance:

Dr. Karen Salmon, State Superintendent of Schools, Chair
Denise Avara, Appointee of the Governor
Secretary Ellington Churchill, Department of General Services
Brian Gibbons, Appointee of the Speaker of the House
Gloria Lawlah, Appointee of the President of the Senate
Dick Lombardo, Appointee of the Governor
Secretary Robert S. McCord, Maryland Department of Planning

Also in attendance at the public meeting was Todd Schuler, an appointed member who was not yet sworn in. He did not participate in the meeting.

Members Not in Attendance:

Barbara Hoffman, Appointee of the President of the Senate

Revisions to the Agenda

Dr. Salmon noted that Item IV – Statewide Assessment Status and RFP Discussion – would be removed from the agenda and that there would be a closed session at the end of the meeting.

I. Consent Agenda

Dr. Salmon briefly described each item on the consent agenda for the information of the members. She noted that typically items on the consent agenda are approved without discussion. Executive Director Gorrell noted that Contract 2. on Item I. B. Approval of Contracts may not be ready for approval. Clarence Felder, Program Manager and IAC Designee for the Department of General Services (DGS), noted that the Construction Documents package has not been received by DGS and that it should be withdrawn from the item. IAC members consented to the withdrawal.

Upon a motion by Ms. Lawlah and a second by Secretary Churchill, the members voted unanimously to approve the consent agenda.

A. Approval of May 31, 2018 **Motion Carried**

Motion: To approve the minutes of the May 31, 2018 Interagency Committee on School Construction Meeting.

B. Approval of Contract **Contract #2 for Arundel Middle Roof withdrawn; Motion carried**

To approve contract procurement as noted below.

C. Prince George's Reversion of FY 2017 CIP Projects **Motion Carried**

To approve the rescission of funding for the ten projects listed below totaling \$8,620,000 for Prince George's County Public Schools and to approve the transfer of the FY 2017 CIP allocation of \$8,620,000 to the Statewide Contingency Account reserved for Prince George's County Public Schools.

D. Prince George's Request Cancellation of Contract Award William Wirt Middle **Motion Carried**

Motion: To approve the cancellation of the award of contract to JLN Construction Services, Inc. for the piping project at William Wirt Middle School (16.183.14 SR)

E. Baltimore City Reversion of FY 2017 CIP Projects **Motion Carried**

To approve the rescission of FY 2017 CIP funding for the fourteen projects listed below totaling \$14,049,000 for Baltimore City Public Schools and to approve the transfer of the FY 2017 CIP allocation of \$14,409,000 to the Statewide Contingency Account reserved for Baltimore City Public Schools.

F. Completed Project Allocation Reversions **Motion Carried**

To approve, subject to final audit, the reversion of the amounts identified below to the appropriate statewide contingency account.

G. Approval of Closed Projects **Motion Carried**

To approve the final project costs as reflected below and to remove the projects from the active project detailed financial report.

H. Contract Allocation Amendments **Motion Carried**

To approve the revisions to previously approved contract awards to accurately reflect the adjusted State participation.

I. Approval to Establish 2012 Supplementary Allocations **Motion Carried**

To approve the transfer of \$919,796 from the FY 2012 Supplementary Appropriation LEA Reserve Accounts and to establish individual project allocations for the projects approved by the Board of Public Works on May 16, 2018 as shown below.

J. FY 2019 CIP Technical Revisions **Motion Carried**

To approved technical revisions to the FY 2019 CIP, including reductions in allocations for two projects.

K. Sufficiency Standards Technical Edits

Motion Carried

To approve technical revisions to the Sufficiency Standards.

II. FY 2019 Construction Cost per Square Foot

Motion Carried

Executive Director Gorrell noted that the IAC had two motions for consideration. The first motion, an increase of approximately 3.9% over the FY 2019 cost per sf figures for building and site work, is based upon an analysis of the national average and increases in construction cost in Maryland. The second motion is provided as an alternate that considers the loss to the LEAs of the 2½% that was formerly held as a contingency for change orders. The LEAs will have to contribute a bit more as a result. Staff recommended the second motion to increase the cost per sf figures for building and site work by 5%.

Upon a motion by Ms. Lawlah and a second by Mr. Gibbons, the IAC voted unanimously to adopt the FY 2020 Statewide per-square-foot school building costs of \$318 per sf for building only and \$378 per sf for building and site work.

III. COMAR Waiver – Modified CIP for Baltimore City HVAC

Motion Carried

Mr. Gorrell noted that the \$15 million allocated to Baltimore city for HVAC projects is a unique allocation that does not fit well into the structure of the regular CIP as outlined in the COMAR. Staff worked with legal counsel to determine that it is proper to waive certain items, including some ineligible items such as design, local submission dates, requirement for a local match, and project minimum requirements.

Upon a motion by Ms. Lawlah, with a second by Secretary McCord, the IAC voted unanimously to approve the motion, "To avoid delay of HVAC projects critical to support safe, healthy, and educationally sufficient learning spaces, to waive certain State regulations to expedite providing funds to design, construct, and capital equip heating, ventilation, and air conditioning improvements at Baltimore City Public School (BCPSS) buildings as authorized by 2018 Laws of Maryland, Chapter 9.

IV. Statewide Facility Assessment Status and RFP Discussion

Removed from Agenda

V. Reversion of 2014 Security Initiative Funds

Motion Carried

Kim Spivey, Director of Fiscal Services for the IAC, explained that of the \$25 million allocated to the 2014 Security Initiative, there is a remaining amount of \$1,190,911 that has not been requested by the LEAs and that will revert to the General Fund upon approval of the IAC.

Upon a motion by Mr. Lombardo and a second by Ms. Avara, the IAC voted unanimously to approve the reversion of \$1,190,911 in unexpended FY 2014 security initiative funding.

VI. FY 2019 School Safety Grant Program Applications

Amended Motion Carried

The staff recommended motion provided to the IAC was, “To direct staff to release an application to solicit school safety projects from LEAs and Maryland School for the Blind with a maximum total allocation of \$10 million. Each LEA’s distribution will be proportional to the share of the total \$10 million, as identified in Table 1 based upon the September 30, 2017 Maryland State Department of Education (MSDE) full-time equivalent enrollments as defined by Education Article, §5-202 of the Annotated Code of Maryland for each LEA, rounded to the nearest \$1,000.

Joan Schaefer, Deputy Director of the Interagency Commission on School Construction, introduced the School Safety Grant Program (SSGP), and noted that staff is requesting permission to release an application for Round 1 of the SSGP. Ms. Schaefer noted that allocations could be made based upon total square footage or total enrollment for each LEA. Superintendent Salmon noted that eligible projects would include secure and lockable classroom doors, areas of safe visual refuge, and surveillance and security projects, as well as other projects identified by the LEA. Dr. Salmon emphasized that school system needs are valued and that the IAC will consider those needs. Dr. Salmon also requested that the staff take every possible measure to expedite these projects, including accepting projects for approval on a rolling basis.

Secretary McCord stated that there are discrepancies between the two methods of allocating funding, by pupil or by enrollment. He recommended that the IAC consider allocating \$5 million to each LEA by enrollment and \$5 million to each LEA by their proportional square footage. He noted that there may be higher risk for some students if square footage is not considered. IAC members expressed concurrence. Ms. Spivey noted that there is precedent for this kind of formula, and that a combination of per pupil and enrollment allocations had been used in a prior program.

Upon a motion by Secretary McCord, with a second by Ms. Lawlah, the IAC voted unanimously to direct staff to release an application to solicit school safety projects from LEAs and Maryland School for the Blind with a maximum total allocation of \$10 million. Each LEA’s distribution will be based on a combination of their proportion of total enrollment and their proportion of total facility square footage. Allocations in Table 1 and Table 2 will be adjusted to indicate an allocation of \$5 million each, and the LEA allocation will be the combination of both proportional calculations. The IAC delegates authority to approve eligible projects within the total LEA allocation to IAC staff and IAC designees, with a report of project allocations submitted to the IAC at regularly scheduled meetings.

VII. Facility Status Changes

A. Carroll County New Windsor Middle

Motion Carried

Upon a motion by Secretary Churchill, with a second by Secretary McCord, the IAC voted unanimously to approve the lease agreement between the County Commissioners of Carroll County, and New Windsor Holding, LLC, with the agreement that the State will receive its pro rata share of the lease and sale proceeds, as determined by the IAC and county staff, for the disposition of the Former New Windsor Middle School, located at 1000 Green Valley Road, New Windsor, Maryland 21776 with an option to buyout following two years.

B. Kent County Former Millington Elementary Transfer **Motion Carried**

Michael Bayer, Manager of Infrastructure and Development and IAC Designee for the Maryland Department of Planning, noted that there may be a modification necessary to the debt service amount once information is received from the State Treasurer. Any change required will be reported back to the IAC.

Upon a motion by Ms. Lawlah, with a second by Secretary Churchill, the IAC voted unanimously to approve the transfer by the Kent County Board of Education of the Former Millington Elementary School, located at 172 Sassafras Street, Millington, Maryland, to the Kent County Government, with the agreement that the county government will assume the State outstanding debt service in the amount of \$196,524.27, or as adjusted by staff as necessary, based on the repayment schedule. The use is undetermined. The Kent County government shall obtain approval of the Interagency Commission on School Construction before transferring any right, title, or interest of any portion of the property.

C. Washington County Winter Street Elementary **Motion Carried**

Upon a motion by Mr. Lombardo, with a second by Secretary Churchill, the IAC voted unanimously to approve the disposition by the Washington County Board of Commissioners of the former Winter Street Elementary School, located at 59 Winter Street, Hagerstown, Maryland, to a private party.

D. Washington County Former Job Development Center **Motion Carried**

Upon a motion by Secretary Churchill, with a second by Secretary McCord, the IAC voted unanimously to approve the disposition by the Washington County Board of Commissioners of the former Washington County Job Development Center, located at 22930 Federal Lookout Road, Smithburg, Maryland to a private party.

E. Washington County Pangborn Elementary **Motion Carried**

Dr. Salmon asked Mr. Bayer to confirm that if the land ceases to be used as a golf course, the land would revert back to the Board of Education. Mr. Bayer confirmed that this is the case.

Upon a motion by Ms. Lawlah, with a second by Mr. Gibbons, the IAC voted unanimously to approve the transfer of eleven acres of land adjacent to the Pangborn Elementary School, 195 Pangborn Boulevard, Hagerstown, Maryland 21740, from the Washington County Board of Commissioners, for the purpose of transferring the property to the City of Hagerstown for use by the city as a public golf course.

F. Informational Facility Status Changes **Information Only**

Mr. Bayer noted that some items because of type or size do not require IAC approval.

VIII. IAC Organization and Administration

A. Adoption of IAC Letterhead **Motion Carried**

Mr. Gorrell noted that upon approval of the IAC Letterhead, staff will begin to use similar images and styles for the website and other documents of the IAC.

Upon a motion by Mr. Lombardo, with a second by Ms. Avara, the IAC voted unanimously to adopt the letterhead of the Interagency Commission on School Construction.

B. IAC Signature Authority

Motion Carried

Mr. Gorrell noted that the motion simply allows the chair to sign documents to execute actions approved by the IAC in an open meeting.

Dr. Salmon noted that the second paragraph of background information included in the item discusses the potential for approval of emergency allocations by the chair. Dr. Salmon stated that this should be checked for legal sufficiency. Mr. Gorrell noted that approval of emergency allocations is not included in the motion, and staff is simply suggesting further study of the issue to the Commission. Dr. Salmon asked Lydia Hoover, AAG for the IAC, to further study the issue.

C. 2019 IAC Meeting Schedule

Information Only

Dr. Salmon noted that in the new year it might be good to establish a regular meeting time. She proposed the 2nd Thursday of each month. Secretary McCord noted that he may occasionally have conflicts due to quarterly standing meetings.

D. Guidelines and Procedures for Public Comment

Information Only

Dr. Salmon explained that the IAC is a public meeting and that public comment is encouraged as part of the agenda. She noted the importance of the body being able to complete their work, and invited members to review the guidelines suggest improvements. She noted that there were no individuals signed up for public comment for this meeting.

Secretary McCord suggested allowing speakers five minutes, rather than three, if they represent a group. The members concurred with the revision.

IX. Discussion Items

A. Correspondence

Information Only

Dr. Salmon noted that there has been additional correspondence about Talbot Springs Elementary at past meetings of the Committee. Mr. Gorrell elaborated that this elementary school has various options for solution and that the county is not limited by the current planning approval to the identified scope.

B. COMAR Revisions and Recodification

Information Only

Cassandra Viscarra, Programs Support Administrator for the IAC, noted that enacted legislation during the 2018 session has led to regulations that conflict with current statute. She explained that proposed COMAR revisions will be sent to the LEAs to solicit comments before bringing a final draft to the IAC for approval. Staff requests that members also review the COMAR and contact staff with any questions or comments.

C. Change Orders

Information Only

Mr. Felder explained to the IAC that the procedure for change orders will change as a result of enacted legislation, but that there are change orders that have been reviewed and approved by DGS.

X. Executive Session

Pursuant to § 3-305(b)(7)&(14) of the General Provisions Article, Annotated Code of Maryland, and upon motion of Brian Gibbons, seconded by Secretary Churchill and with unanimous agreement, the Interagency Commission met in closed session on Thursday, August 30, 2018 in the Caucus Room, 7th Floor, at the Nancy S. Grasmick Building. All Commission members, including Todd Schuler, who was not yet sworn in, were in attendance except Barbara Hoffman. Also in attendance were Robert Gorrell, Executive Director, Interagency Commission, Alex Donahue, Manager of Special Projects, Interagency Commission, and Assistant Attorneys General, Elizabeth Kameen and Lydia Hoover. The Executive Session commenced at 10:10 a.m.

At that time, the Interagency Commission received advice on procurement law and discussed scope of work for an upcoming procurement.

The Executive Session ended at 11:20 a.m.

Adjournment:

The first session of the Interagency Commission on School Construction was adjourned at 11:20 a.m.

**WRITTEN STATEMENT FOR CLOSING A MEETING
UNDER THE OPEN MEETINGS ACT**

Date: August 30, 2018 Time: 10:10 am Location: MSDE Motion to close meeting made by: Brian Gibbons
Seconded by Sec. Churchill Members voting in favor: Census all
Opposed: _____ Abstaining: _____ Absent: _____

STATUTORY AUTHORITY TO CLOSE SESSION, General Provisions Article, §3-305(b) (check all that apply):

- (1) To discuss the appointment, employment, assignment, promotion, discipline, demotion, compensation, removal, resignation, or performance evaluation of appointees, employees, or officials over whom this public body has jurisdiction; or any other personnel matter that affects one or more specific individuals;
- (2) To protect the privacy or reputation of individuals concerning a matter not related to public business;
- (3) To consider the acquisition of real property for a public purpose and matters directly related thereto;
- (4) To consider a matter that concerns the proposal for a business or industrial organization to locate, expand, or remain in the State;
- (5) To consider the investment of public funds;
- (6) To consider the marketing of public securities;
- (7) To consult with counsel to obtain legal advice on a legal matter;
- (8) To consult with staff, consultants, or other individuals about pending or potential litigation;
- (9) To conduct collective bargaining negotiations or consider matters that relate to the negotiations;
- (10) To discuss public security, if the public body determines that public discussion would constitute a risk to the public or to public security, including: (i) the deployment of fire and police services and staff; and (ii) the development and implementation of emergency plans;
- (11) To prepare, administer, or grade a scholastic, licensing, or qualifying examination;
- (12) To conduct or discuss an investigative proceeding on actual or possible criminal conduct;
- (13) To comply with a specific constitutional, statutory, or judicially imposed requirement that prevents public disclosures about a particular proceeding or matter;
- (14) Before a contract is awarded or bids are opened, to discuss a matter directly related to a negotiating strategy or the contents of a bid or proposal, if public discussion or disclosure would adversely impact the ability of the public body to participate in the competitive bidding or proposal process.

FOR EACH CITATION CHECKED ABOVE, THE REASONS FOR CLOSING AND TOPICS TO BE DISCUSSED:

§3-305(b) (14) To discuss the contents of a procurement proposal and to discuss matters related to the proposal with the IAC members before it is finalized.
§3-305(b) () _____

§3-305(b) () _____
This statement is made by Karen B. Salmon, Ph.D. Presiding Officer: Karen B. Salmon, Ph.D.
SIGNATURE

WORKSHEET FOR USE IN CLOSED SESSION (CHECKLIST OF DISCLOSURES TO BE MADE IN MINUTES OF NEXT REGULAR MEETING- NOT A PART OF THE CLOSING STATEMENT)

PERSONS ATTENDING CLOSED SESSION: members of the IAC
TOPICS ACTUALLY DISCUSSED: State Procurement Laws
ACTION(S) TAKEN (IF ANY) AND RECORDED VOTES: no votes taken

TIME CLOSED SESSION ADJOURNED: 11:20 am.
PLACE OF CLOSED SESSION: Census Room
PURPOSE OF CLOSED SESSION: To discuss procurement process
STATUTORY AUTHORITY FOR THE CLOSED SESSION: §3-305(b) () ; () ; ()
MEMBERS WHO VOTED TO CLOSE: _____