

# INTERAGENCY COMMISSION ON SCHOOL CONSTRUCTION



**LARRY HOGAN**  
GOVERNOR

**KAREN SALMON, PhD.**  
CHAIRPERSON

**ROBERT A. GORRELL**  
EXECUTIVE DIRECTOR

200 WEST BALTIMORE STREET  
BALTIMORE, MD 21201  
410-767-0617

IAC.MARYLAND.GOV

PSCP.MSDE@MARYLAND.GOV

## Meeting Minutes

### May 9, 2019

#### Call to Order:

Dr. Karen Salmon called the meeting of the Interagency Commission on School Construction to order at 9:01 a.m.

#### Members in Attendance:

Dr. Karen Salmon, State Superintendent of Schools, Chair

Denise Avara, Appointee of the Governor

Clarence Felder, Designee for Secretary Ellington Churchill, Department of General Services

Brian Gibbons, Appointee of the Speaker of the House, via teleconference

Gloria Lawlah, Appointee of the President of the Senate

Robert S. McCord, Maryland Department of Planning

#### Members Not in Attendance:

Barbara Hoffman, Appointee of the President of the Senate

Dick Lombardo, Appointee of the Governor

Todd Schuler, Appointee of the Speaker of the House

#### I. Consent Agenda

#### Motion Carried

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

##### A. Approval of April 11, 2019 Minutes

To approve the minutes of the April 11, 2019 Interagency Commission on School Construction Meeting.

##### B. Approval of Contracts

To approve contract procurement as presented.

##### C. Closed Projects

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

##### D. Completed Project Allocation Reversions

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

##### E. Rescission of Supplemental Appropriation Funding – Baltimore City

To approve the rescission of two (2) Baltimore City Supplemental Appropriation projects and to transfer \$26,000 to the LEA Reserve Contingency Account

## II. Facilities Status Changes

Michael Bayer, Manager of Infrastructure and Development, Maryland Department of Planning, explained the facilities status changes.

### A. Baltimore City #107 Gilmor ES Closure and Transfer Motion Carried

Upon a motion by Ms. Lawlah, seconded by Ms. Avara, the members voted unanimously to approve the closure and transfer of Gilmor Elementary School, #107, 1311 N. Gilmor Street, Baltimore, MD, 21217, from the Baltimore City Board of Commissioners (BOC) to the Mayor and City Council of Baltimore, as approved by the BOC on January 8, 2019, in accordance with the *Memorandum Of Understanding For The Construction And Revitalization Of Baltimore City Public Schools*, dated October 2013 and amended August 2017.

### B. Baltimore City #82 Dr. Roland Patterson Sr. Building Closure and Transfer Motion Carried

Upon a motion by Ms. Lawlah, seconded by Secretary McCord, the members voted unanimously to approve the closure and transfer of the Dr. Roland N. Patterson Sr. Building, #82, located at 4701 Greenspring Drive, Baltimore, MD, 21209, from the Baltimore City Public Schools Board of Commissioners (BOC) to the Mayor and City Council of Baltimore, as approved by the BOC on January 8, 2019, in accordance with the *Memorandum Of Understanding For The Construction And Revitalization Of Baltimore City Public Schools*, dated October 2013 and amended August 2017.

### C. Baltimore City #40 Lake Clifton Transfer Motion Carried

Upon a motion by Ms. Lawlah, seconded by Secretary McCord, the members voted unanimously to approve the transfer of the Lake Clifton Building, #40, 2801 St. Lo Drive, Baltimore, MD, 21213, as of December 31, 2019, from the Baltimore City Board of Commissioners (BOC) to the Mayor and City Council of Baltimore, as approved by the BOC on March 26, 2019.

### D. Baltimore City #227 St. Helena Transfer Motion Carried

Upon a motion by Ms. Lawlah, seconded by Secretary McCord, the members voted unanimously to approve the transfer of the St. Helena Building (formerly #227), located at 6509 Colgate Avenue, Baltimore, MD, 21222, from the Baltimore City Public Schools Board of Commissioners (BOC) to the Mayor and City Council of Baltimore, as approved by the BOC on February 26, 2019.

### E. Informational Property Change Items Information Only

Mr. Bayer presented the informational property change items.

## III. Innovation Incentive Pilot Program Motion Carried

Cassandra Viscarra, Programs Support Administrator, presented draft procedures for the Innovation Incentive Pilot Program, created in statute in 2018 as a pilot program for Harford, Prince George's, and Washington Counties to provide additional State funding for projects with a cost that is 30% or more below the rolling State average for the type of school.

Upon a motion by Ms. Lawlah, seconded by Ms. Avara, the members voted unanimously to approve the draft Innovation Incentive Pilot Program Administrative Procedures Guide, pending non-substantive edits by staff.

**IV. 100% FY 2020 Capital Improvement Program Approval Motion Carried**

Arabia Davis, Funding Program Manager, presented staff recommendations for the FY 2020 CIP. The recommendation included \$251.8 million in new authorization, an amount less than was originally anticipated. Because the reduction in new authorization resulted in allocations to projects less than the LEAs were expecting, staff is recommending that the IAC allow LEAs to adjust funding between their approved projects to provide the greatest possible flexibility as the LEAs respond to this change. Ms. Davis noted that this poses a greater challenge for small LEAs with only one project. The IAC will be working with the LEAs and will present an amended CIP at the June IAC meeting to make adjustments as necessary.

Mr. Gorrell informed the IAC that recently, IAC staff have seen higher than normal roof costs and introduced Chris Morton, Facility Planner for Harford County Public Schools. Mr. Morton explained that in Harford typically roofs are design-bid-build. On a recent project, Harford experienced an unusually low number of bidders and exceptionally high bids, nearly twice the anticipated cost. Harford requested pricing from a cooperative purchasing consortium and modified the project design in order to reduce costs. Pursuing the cooperative pricing agreement significantly reduced the prices, but the project still exceeds the anticipated budget. Mr. Morton also explained that from contractors that bid the project, the LEA learned that market conditions for labor and material are unfavorable for buyers right now because the unusually high amount of rain in 2018 resulted in an unusually high number of roof projects occurring in a small window of time. Director Gorrell commended Harford for pursuing the cooperative use agreement after bids were unfavorable so that all avenues were pursued and the LEA was able to keep their projects moving. Director Gorrell also noted that there needs to be a provision that allows the IAC to adjust project cost to account for factors outside of the LEA's control.

Upon a motion by Ms. Lawlah, seconded by Ms. Avara, the members voted unanimously to approve the fiscal year 2020 Capital Improvement Program allocations and planning projects as specified for each local school system in the attached document dated May 9, 2019 in the total amount of \$350.812 million, consisting of \$251.800 million in new bond authorization in accordance with the Maryland Consolidated Capital Bond Loan of 2019, \$25.111 million in reserved funds, \$3.499 million in Energy Efficiency Initiative funds, and \$70.401 million in supplemental EGRC funds. Authorizing the IAC staff to make minor adjustments to project allocations per worksheet calculations to avoid the over-funding of a project and to make adjustments between projects that were funded below the preliminary anticipated funding amounts within each LEA's total FY 2020 allocation.

**V. FY 2021 State Cost per Square Foot Motion Carried**

Kim Spivey, Director of Fiscal Services, presented the staff recommendation for an increase of 3.4% over the FY 2020 Statewide per-square-foot building cost for the FY 2021 cost per square foot figure. The cost per square foot is a factor used in the CIP to determine the State's participation in projects. To determine the staff recommendation, the IAC looked at nine bids over the last year as well as other available market information. Dr. Salmon noted that this action factored into the COMAR revisions that would be discussed later in the meeting.

Upon a motion by Mr. Felder, seconded by Secretary McCord, the members voted unanimously to adopt the FY 2021 Statewide per-square-foot school building cost of \$329 per sf for building only.

**VI. Gross Area Baselines**

**Motion Carried**

Alex Donahue, Manager of Special Projects, explained that the Workgroup on Educational Development Specifications was charged by HB 1783 (2018) with reviewing the State's Maximum Gross Area Allowances (MGAAs). IAC staff has been working with MSDE's program curriculum offices to revise square footage estimations to create the Gross Area Baselines (GABs). The GABs were presented to the Workgroup in April and subsequently recommend that the IAC adopt the baselines, allowing for variances when an LEA can demonstrate that the baselines are not sufficient to deliver their educational program, and that the IAC review the baselines for needed improvements periodically and at least every two years. Mr. Donahue noted that in almost all instances, the Baselines are a slight increase over the existing MGAAs.

Dr. Salmon asked how increasing the allowable square footage would increase the total cost of ownership of facilities. Director Gorrell explained that in order to determine State participation, the dollar per square foot is multiplied by the allowable square footage as determined by the Baselines. In general, larger facilities cost more to own and operate. If LEAs were building to State funding, this change could increase the total cost of ownership. However, LEAs typically build above what the State participates in. This action aligns the square footage eligible for State funding with what the State analysis determined was a sufficient square footage to provide an educational program. The Ed Spec Workgroup is looking at ways to incentivize a lower total cost of ownership with additional State funding to reduce the cost to own and operate the entire school facilities portfolio.

Upon a motion by Ms. Lawlah, seconded by Mr. Felder, the members voted unanimously to adopt the proposed Gross Area Baselines to replace the Maximum Gross Area Allowances used per COMAR 23.03.02.06 in calculating state construction allocations as presented; and to enable an IAC variance process by which the IAC may grant additional square footage allowances on a case-by-case basis upon an LEA's request and presentation of sufficient data supporting the need for additional square footage.

**VII. Facilities Planning Guide for Maryland Schools**

**Motion Carried**

Mr. Donahue explained that over the last year IAC staff has worked with MSDE and DGS to compile content input and receive feedback from LEAs to design a Facilities Planning Guide as an introductory resources. The information is at a general level to help guide LEAs and stakeholders through the process of planning for and designing a school facility. Upon approval, the document will be published online and is intended to be revised as often as necessary as conditions change. Director Gorrell emphasized that the document makes it clear that design decisions are local decisions. The guide encourages local autonomy so that LEAs can decide what works best in their community.

Upon a motion by Ms. Lawlah, seconded by Ms. Avara, the members voted unanimously to adopt the IAC Facilities Planning Guide as presented and to undertake revisions and updates to the Guide over time as the IAC deems advisable.

## **VIII. Ed Spec Total Cost of Ownership Estimation**

Director Gorrell told the members that in any decision a consumer makes, they should consider whether they can afford to own an item before they decide to purchase it. In Maryland, we have built more school facility space than we can afford to own. The cost to own a facility for 30 years often exceeds the first cost to build the facility. By requiring total cost of ownership information upon the submission of educational specifications, comparable information becomes available to the State and to the public. The tool developed by IAC staff in consultation with the LEAs will demonstrate differences in the cost to build and own facilities over time that are built at the State allowable space amounts against those that are built above or below the allowable amounts. The information will be comparable from one project to another and provides valuable information to the local steering committees making decisions on the educational specifications for a new, replacement, or renovated facility. The tool could also inform some potential incentives that are being considered by the Ed Spec Workgroup. Mr. Gorrell noted that a draft tool will be presented to the LEAs at an upcoming Facility Planner Meeting.

Upon a motion by Ms. Lawlah, seconded by Secretary McCord, the members voted unanimously to require, beginning July 1, 2019, that estimated total cost of ownership information be submitted by the LEAs to the IAC and the Maryland State Department of Education with Educational Specification submittals in a tool developed by IAC staff with input from LEAs.

## **IX. COMAR Revisions**

### **Motion Carried**

Ms. Viscarra presented draft COMAR revisions originally seen by the IAC at their August meeting. Subsequent drafts have been circulated and revised based upon feedback from LEAs and legal counsel. Most of the proposed revisions are a direct result of statutory changes, with two exceptions. Staff recommends two process changes to better support the LEAs. First, to allow LEAs with available contingency to increase the State participation in systemic projects that come in over. Second, to allow any LEA, not just LEAs in One Maryland Counties, to be eligible for a project cost increase.

Ms. Viscarra directed IAC members to correspondence from Washington County expressing concern that the COMAR is being revised to remove the calculation of a contingency amount. Ms. Viscarra explained that the State participation in a project is calculated by multiplying the cost per square foot by the allowable square footage, both of which were increased by the IAC. Prior to the FY 2020 CIP year, a contingency amount of 2.5% was added to the State participation. HB 1783 prohibits the IAC from reviewing or approving change orders and from withholding funding for change orders. For the FY 2020 cost per square foot amount, the IAC recognized that the LEAs would experience a reduction of funding because of the contingency change and therefore adopted a cost per square foot 0.9% higher than the cost per square foot increase originally recommended by staff to reduce the impact to the LEAs. Also, systemic allocations are based on the estimate provided by the LEA, which should include cost escalation factors into the estimate they provide. The draft COMAR revisions also allow the IAC to adjust project participation on a case-by-case basis. The adopted changes to the cost factors and the proposed changes to the COMAR address the root issues in the program and support the LEAs better than a blanket contingency amount.

Director Gorrell also noted that the Ed Spec Workgroup has discussed that the IAC could potentially reserve 2.5% of the new authorization funding for the CIP each year to address case-by-case cost increases. Dr. Salmon reminded the members that the approval is not for the final adoption of COMAR changes but just for the preliminary changes to be published and made available for public comment. Elizabeth Kameen, Principal Counsel for the Maryland State Department of Education, explained that upon preliminary approval, the draft regulations will be submitted to the AELR and the legislature and held for 15 days for review. If they release the regulations, they will be published in the Maryland Register and will be available for public comment. Those comments will then be submitted to the IAC to determine if changes are necessary or if the proposed regulations should be promulgated as published.

Upon a motion by Ms. Lawlah, seconded by Ms. Avara, the members voted unanimously to approve the recodification of COMAR 23.03 to COMAR 14.37 and amendments to the regulations as identified.

- X. Locally Funded Change Orders** **Information Only**  
Ms. Spivey explained that the item is informational only and is the last of several items presented to the IAC to close out change orders that will be “locally funded” as a result of changes in HB 1783 (2018).
- XI. Baltimore City HVAC Project Status** **Information Only**  
Jamie Bridges, Baltimore City Project Manager, provided a status update of Baltimore City HVAC projects funded with the additional \$15 million appropriated to Baltimore City in the Fiscal Year 2019 budget.
- XII. FY 2019 School Safety Grant Program Applications Report** **Motion Carried**  
Joan Schaefer, Deputy Director, briefed the members on the status of the School Safety Grant Program project approvals.

### Adjournment:

Upon a motion by Ms. Lawlah, seconded by Secretary McCord the meeting of the Interagency Commission on School Construction was adjourned at 10:09 a.m.