CAPITAL PLANNING ADVISORY BOARD

Minutes of the 2nd Meeting
of the 2007 Calendar Year

June 14, 2007

The 2nd meeting of the Capital Planning Advisory Board of the 2007 calendar year was held on Thursday, June 14, 2007, at 10:00 AM, in Room 169 of the Capitol Annex. Representative Reginald Meeks, Presiding Co-Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Jack Westwood, Co-Chair; Representative Reginald Meeks, Co-Chair; Senator David E. Boswell; Representative Ron Crimm; David Fleenor; Bill Hintze; William May; Jason Nemes; Laurel True; and Judge William Wehr.

Guests: Deborah Clayton, Commissioner, Department of Commercialization and Innovation, and Donna Duncan, Commissioner, Department of Financial Incentives, Economic Development Cabinet; Dan Waits, Executive Director, Financial Management and Administration, Myralee Smith-Cowley, Executive Director, Office of Federal Grants, Jody Hughes, Executive Director, Kentucky Infrastructure Authority, and Renee Craddock, Chief of Staff, Governor's Office for Local Development; Dr. Robert Tarvin, Executive Director, School Facilities Construction Commission; and Steve Reeder, Executive Director, and Don Morse, Staff Assistant, Kentucky River Authority.

LRC Staff: Pat Ingram, Kim Link, Nancy Osborne, Shawn Bowen, Kristi Culpepper, and Debbie Rodgers.

Senator Boswell’s motion to approve the minutes of the May 9, 2007 meeting was seconded by Representative Crimm and approved by voice vote.

At the request of Representative Meeks, Committee Staff Administrator Pat Ingram introduced staff who would be working with the Board during the 2008-2014 planning process. Ms. Ingram first introduced Kimberly Link, who joined the staff of the Board on June 1. She also introduced CPAB Committee Assistant Debbie Rodgers, and Nancy Osborne and Shawn Bowen, staff of the LRC Capital Projects and Bond Oversight Committee who will also be working with the Board. Ms. Ingram noted that CPAB staff also work with the Oversight Committee.

Representative Meeks offered condolences to Senator Westwood on the recent loss of his mother.

Representative Meeks then noted that the major responsibility of the Board every two years is the development of a statewide capital improvements plan. Before beginning the review of the six-year capital plans of the various agencies, he asked Ms. Ingram to provide an overview of the planning process.

In her presentation, Ms. Ingram reviewed the statutory basis for the Board's development of a six-year statewide capital improvements plan and the typical content of the plan. She also described the content of the agency six-year plan submissions as approved at the December 2006 CPAB meeting, the Board's meeting schedule for development of the 2008-2014 statewide plan, and the format for the review of the agency plans at the upcoming meetings. Noting that the agency plans contain a large amount of information, Ms. Ingram also reviewed the summary materials that would be provided to the members as the "CPAB Staff Analysis and Comments" for each plan.

Representative Meeks said the first agency plan to be reviewed would be the Cabinet for Economic Development. Representing the Cabinet were Deborah Clayton, Commissioner of the Department of Commercialization and Innovation (DCI), and Donna Duncan, Commissioner of the Department of Financial Incentives.

Commissioner Clayton explained that the Cabinet's capital plan relative to DCI is directed to the high tech investment and construction pools that emphasize high tech jobs and knowledge-based companies. She said in the last two years, DCI's operation has changed to place more emphasis on job creation and growth in new high tech companies. DCI works closely with the Innovation and Commercialization Centers (ICC) and Innovation Centers (IC). In 2005, a system of performance metrics was implemented, and an incentive program based on the ICC/IC performance related to high tech company establishment and growth was recently initiated. Examples of how DCI has intensified its marketing efforts were also cited. Commissioner Clayton said the projected job creation from DCI funding awards has been approximately 1,000 high tech jobs. She explained the eligibility criteria for a company to receive high tech funding includes having a technology consistent with one of DCI's five focus areas and having a business plan.

Commissioner Duncan addressed the two programs operated through the Department of Financial Incentives - the Economic Development Bond (EDB) program and the Kentucky Economic Development Finance Authority (KEDFA) Loan programs. The EDB program makes grants or forgivable loans through local government entities to companies that are locating or expanding their manufacturing or distribution facilities in Kentucky. There are payback provisions if commitments to create or retain jobs are not fulfilled. She said the proposed funding of $20 million in each of the next three biennia for the EDB program will be sufficient to ensure adequate funding for the number and size of projects that are anticipated. There are two KEDFA loan programs. The Fixed Assets Loan Program provides low interest loans for the acquisition of land, buildings, or equipment for non-retail economic development. The Small Business Loan Program, created in 2005, is a higher risk loan pool geared toward helping to start or grow small businesses. Commissioner Duncan said KEDFA also makes loans available to local governments and economic development authorities. She said the demand for KEDFA loans is typically higher when market rates increase or when the business cycle is in an expansionary phase, and the $15 million proposed for each of the next three biennia is intended to meet the needs in either environment.

Senator Boswell asked how the performance of loan recipients is monitored. Commissioner Duncan said KEDFA operates much like a bank including requiring borrowers to have adequate collateral and actively working to ensure payments are made.

In response to Senator Westwood's questions about compliance with job creation/retention requirements, Commissioner Duncan said she did not have the percentages with her but would provide them. She explained that when job requirements are not met, a proportionate payback is made to the local government, which must then use the funds for future economic development purposes.

Noting that EDB funds have been awarded to the Purchase Area Regional Industrial Authority, Mr. True asked if it is a strategy of the Cabinet to develop industrial parks on a regional rather than county basis. Commissioner Duncan said the Cabinet does not specifically suggest the development of multi-county projects, but there are several regional industrial parks in the state, particularly where coal severance funds were involved in their establishment.

Relative to the high-tech pools, Mr. True noted that many of the early awards were grants to universities, but the trend now seems to be toward forgivable loans and away from university projects. Commissioner Clayton said when the funding was started in 2000 there were a lot of awards for infrastructure and for supportive academic programmatic activities. That established the basis of opportunity for intellectual property to be spun out from the universities. The funding now needs to be directed to start-up companies that are being established, and there will no longer be a focus on university building construction. Commissioner Clayton further explained that the trend toward forgivable loans – rather than grants – will probably also continue because return on investment can be tracked more accurately, and there is an opportunity for more interaction with the recipient. When there is a payback, the funds are returned to the state.

The next plan to be reviewed was the Governor's Office for Local Development (GOLD). Representing GOLD were Dan Waits, Executive Director of Financial Management and Administration; Jody Hughes, Executive Director of the Kentucky

Infrastructure Authority (KIA); Myralee Smith-Cowley, Executive Director of the Office of Federal Grants; and Renee Craddock, Chief of Staff.

Mr. Waits explained that GOLD has two primary functions. It is a grant source as well as a financial oversight entity for local governments across the state. GOLD is comprised of the following offices - State Grants, Federal Grants, Legal Services, Field Services, Financial Management and Administration, and the Commissioner's Office. The Kentucky Infrastructure Authority (KIA) is also attached to GOLD.

Ms. Smith-Cowley said the Flood Control Matching Program was first funded in the 1994-1996 budget to help communities meet the matching requirements for federal flood control projects. This has been important for communities who otherwise would not have resources to access federal funds. Additionally, the current (2006-2008) budget included funding for repair of state-owned dams in the appropriation for this program. GOLD is currently working with Bullock Penn Lake as the top priority for state-owned dam repair funding.

In response to questions from Senator Boswell, Ms. Smith-Cowley said this funding is not involved in the Wolf Creek Dam issue, but GOLD is working with the affected communities relative to other funding sources to help with wastewater and water in-takes and to help with boat ramp extensions.

Mr. Hughes next discussed the KIA programs including the Federally Assisted Wastewater Revolving Loan Program (Fund A) and the Federally Assisted Drinking Water Revolving Loan Program (Fund F), both of which are 83% federally funded with a 17% state match requirement. He noted that the 100% state-funded Infrastructure Revolving Loan Program (Fund B) is the most flexible program because the moneys can be used for any type of infrastructure project. Currently, about $6 million is available in the Fund B program.

Mr. Hughes said the Broadband Development program was proposed but not funded in the current budget, so other programs – including Fund B – are currently being used for some broadband initiatives across the state. In response to Representative Meeks' question about the eligibility criteria for the broadband program, Mr. Hughes said the possibility of making awards to private entities was considered, but it was decided that the recipients will have to be governmental entities. Senator Boswell noted that the broadband initiative in the seven-county Green River Area Development District, which received KIA assistance ($1.2 million from Fund B), is a model for the nation.

Senator Westwood expressed concern about a looming problem and asked about assistance available to address wastewater facilities in older cities that were constructed during the 1930s and earlier and that are now beginning to fail. Mr. Hughes explained that the interest rates for KIA loans can be 0% under some circumstances. He added that the $121 million currently available in Fund A could be exhausted in a short time and that concentrated planning efforts need to be undertaken to create sanitation districts for entire counties before the city systems begin to fail.

In response to Representative Meeks' questions about the state's success in the expansion of broadband, Mr. Hughes said Kentucky has one of the better coverage rates in the nation, but – whether in water, sewer, or broadband - the "last mile" is always the most expensive to accomplish.

Responding to Mr. True's questions about planning efforts for water and wastewater, Mr. Hughes said the planning initiative is focused with the Area Development Districts, which then bring the prioritized needs to KIA's funding process and to the General Assembly.

To conclude the GOLD presentation, Renee Craddock reviewed the Community Economic Growth Grant program, which was funded only in the 2004-2006 budget, and the Renaissance on Main program.

The next plan to be reviewed was the School Facilities Construction Commission (SFCC). Dr. Robert Tarvin, Executive Director, said the state currently supports $1.1 billion in bonds with $98 million in annual debt service. This has been done in concert with local efforts resulting from provisions of the Kentucky Education Reform Act that got more local tax dollars into the process.

Dr. Tarvin said there have been mixed reactions to recent initiatives, which targeted some funding to facilities that were in the worst condition. He said the Urgent Needs Advisory Committee established in the current budget established a new method of distributing the targeted funding.

Dr. Tarvin also referenced a handout summarizing the work of the School Facilities Task Force that was also mandated by the current budget. He said there has been little action so far on the Task Force's recommendations since many of them require changes in regulations or statutes. He did note that legislation sponsored by Senator Westwood and enacted by the 2006 General Assembly extends the terms of SFCC offers of assistance to eight years. Referencing Mr. True's prior questions about local school maintenance, Dr. Tarvin said the Task Force developed some good recommendations which need to be put into state regulation.

In response to Representative Meeks' questions about distribution of the targeted funding, Dr. Tarvin explained it was based on a rating system involving ten statistical factors. Senator Westwood asked how rapid growth districts were handled in the rating system. Dr. Tarvin said the Advisory Committee did not give a high rating to the factor addressing rapid growth areas. SFCC did, however, later award funds to one specific high growth district, Boone County. Senator Westwood said the state has been successful in using tax dollars to help some districts that did not have the funds to address their facilities needs, but some high growth districts do not have a large tax base and now they need help. He thinks the formula needs to be re-examined in terms of how high-growth districts are addressed.

Mr. Hintze asked about the SFCC program as compared to approaches used by other states. Dr. Tarvin said in Kentucky, the Department of Education handles programmatic planning, and SFCC addresses only funding issues. The comparable agency in Ohio controls the entire process. Ohio has been using tobacco settlement funds for some school construction. In West Virginia, Virginia, Tennessee, and Indiana there is little state assistance for school construction. Wyoming and Arizona have commissions similar to the one in Ohio.

Noting that it was a departure from the usual practice of providing debt service and bond authority for SFCC, Mr. Hintze asked about the $5 million in cash appropriated in the SFCC operating budget for 2006-2008. Dr. Tarvin explained that in a prior budget, districts that had dedicated 5 cents of their local tax to buildings were to receive equalization funding. However, some eligible districts had been overlooked in the funding provided for that purpose in the 2004-2006 budget. Therefore, $2.6 million of the $5 million is being used to provide equalization for those districts. Another $1.2 million was allocated to Boone County to help with new facility start-up costs. (Dr. Tarvin explained that high growth districts, such as Boone County, may have difficulty with both construction and start-up costs.) Other amounts from the $5 million appropriation will be used to address construction cost increases for projects funded from the targeted programs in the 2004-2006 budget.

The final plan reviewed by the Board was the Kentucky River Authority (KRA). KRA was represented by Steven Reeder, Executive Director, and Don Morse, Staff Assistant.

Mr. Reeder reported that funding authorized in the 2006-2008 budget is being used to address Dam 9 (Jessamine County), which impounds the water supply for Lexington and other nearby communities, and Dam 3 (Owen County), which would secure the water for a proposed new treatment plant to supply additional water. The treatment plant as proposed by Kentucky American Water Company (KAWC) would treat an additional 20 million gallons per day for Lexington and communities served by KAWC. The Bluegrass Water Supply Commission would like to be able to expand the plant to treat an additional 5 million gallons per day for its member communities, which include Winchester, Frankfort, Nicholasville, Paris, Cynthiana, and Lancaster. Mr. Reeder explained that Dam 9 is being constructed to allow for a crest gate to be added later to raise the pool if needed during a drought. The plan is to eventually provide for a crest gate on Dam 3 as well.

Mr. Reeder said the 2006-2008 authorization is also being used for work on Locks 3 and 4 in Owen and Franklin Counties. The locks, which are separate from the dams, serve the purpose of transporting boats from one pool to another. The Kentucky River has a 300 foot drop from Beattyville to Carrollton so there is an average 20-25 foot drop from one pool to another. Concrete barriers have been installed on Locks 5 - 14 (except 10) to keep them from collapsing. Only Locks 1 through 4 are still open and operating, but they are in poor condition. Since there is no commercial navigation on the Kentucky River now, the US Corps of Engineers no longer maintains the locks, and they will eventually transfer the last four (1 - 4) to the state. Locks 5 – 14 were previously transferred. (The lock, dam and adjacent real estate are transferred simultaneously.) Mr. Reeder said the intent is to keep Locks 1 - 4 open for Ohio River boat traffic. Preliminary estimates are that repairs for Locks 3 and 4 will cost $5 million each. Locks 1 (Carrollton) and 2 (Henry County) are older, but in better condition so the plan is to address them later.

Mr. Reeder also reported on the project to repair Dam 10 (Madison County), which is proceeding slowly pursuant to federal funding authorizations. Because of the slow progress and the dam's importance to East Kentucky Power, KRA is proposing to use its Restricted (agency) Funds to install a concrete cut-off wall as an interim stabilization measure.

Senator Boswell asked if the communities and industries that depend on the Kentucky River are engaged in any type of long-range, cooperative planning effort. Mr. Reeder said they primarily rely on his agency to develop solutions and approaches to address issues relating to the River. He said KRA has an internal planning function and contracts out for some planning. An effort is made to prioritize and address the most dangerous conditions that are identified.

In response to Representative Meeks' question about the impact on water withdrawal fees when KRA issues agency bonds to finance its projects, Mr. Reeder said the average household will pay an additional 20 to 30 cents per month to cover the cost of the bonds that will be issued for the Dam 9 project. Mr. Morse said they are trying to negotiate better terms for the financing since double coverage is currently being proposed as a requirement (that is, raising fees twice the amount needed to cover the actual debt service cost). Mr. Hintze noted that KRA has had authorization to issue fee-supported bonds for the last decade, but these would be the first bonds actually issued by the agency.

Senator Westwood asked if KRA had intervened with the Public Service Commission relative to the construction of a new water treatment plan at Pool 3. Mr. Reeder said the agency has requested to intervene in support of the proposed KAWC treatment plant. He explained that if a source other than the Kentucky River (e.g., the Ohio River) is used to increase the water supply for the Lexington area, the erosion of

KRA's fee base would adversely impact its ability to address the needs of other dams on the Kentucky River. He added that Dam 3 needs to be repaired whether or not the new treatment plant is approved. However, the scope of the project could possibly be scaled back. He said the dams are like a set of dominoes such that the instability of one threatens the stability of others.

After noting the interesting discussions that had taken place during the meeting, Representative Meeks asked members to advise staff if they had identified any items or issues for which recommendations should be drafted to consider for inclusion in the statewide capital improvements plan. He also announced that the Board's next meeting would be a full day meeting beginning at 9:00 a.m. on Friday, July 20.

There being no further business, the meeting was adjourned at 12:35 p.m.