

# **CAPITAL PLANNING ADVISORY BOARD**

## **Minutes of the 4th Meeting of the 2023 Calendar**

**August 9, 2023**

### **Call to Order and Roll Call**

The 4th meeting of the Capital Planning Advisory Board was held on Wednesday, August 9, 2023, at 1:00 PM, in Room 169 of the Capitol Annex. Senator Phillip Wheeler, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Phillip Wheeler, Co-Chair; Representative Nancy Tate, Co-Chair; Senator Adrienne Southworth, Representative William Lawrence; Pat Abell, Katie Comstock, Carole Henderson, John Hicks, Bryan Hix, Patsy Jackson, and Holly Johnson.

Guests: Dr. Bill Payne, Vice President for Finance and Administration, Shaun McKiernan, Director for Finance and Budget, Dr. Doyle Friskney, Senior Fellow, Council on Postsecondary Education; Carole Henderson, Budget Director, and Jenny Lafferty, Director of Office of Finance and Administration, Administrative Office of the Courts; Katie Smith, Deputy Secretary, Kentucky Cabinet for Economic Development; and Aaron Jones, Branch Manager, Office of State Grants, Department for Local Government.

LRC Staff: Liz Columbia and Jennifer Luttrell.

### **Approval of Minutes**

A motion to approve the minutes of the May 17, 2023, June 14, 2023, and July 20, 2023, meeting was made by Senator Wheeler, seconded by Mr. Hicks, and approved by voice vote.

### **Welcome New Judicial Member**

Katie Comstock, Director of the Administrative Office of the Courts, was appointed by the Chief Justice to replace Laurie Givens.

### **Information Items**

Senator Wheeler said two information items were included in the meeting materials in response to questions raised at the board's July 20 meeting regarding proposed capital projects for Kentucky State University and the following amended capital plans.

The capital planning system is open ten days after the monthly board meeting. During that time, agencies may amend their capital plans as needed. Since the July 20

meeting, the University of Kentucky/Hospital added the following projects: Construct/Improve Medical/Admin Facility 9 (C-O), 2024-2026 Biennium, \$500,000,000 OT-LTF; Implement Land Use Plan 2 (C-O), 2024-2026 Biennium, \$150,000,000 RF; Construct/Improve Medical/Admin Facility 7 (C-PI), 2024-2026 Biennium, \$500,000,000 RF; Construct/Improve Medical/Admin Facility 8 (C-PI), 2024-2026 Biennium, \$500,000,000 RF; Improve State Street Medical Facilities (C-PI), 2024-2026 Biennium, \$50,000,000 RF. The University of Louisville added the International Center Expansion (C-PI), 2026-2028 Biennium, \$1,500,000 RF; Cultural and Equity Center Expansion (C-PI), 2026-2028 Biennium, \$1,500,000 RF; Purchase-Next General Financial System (IT), 2026-2028 Biennium, \$20,000,000 OT-LTF; and deleted Purchase-Next Generation/ERP Support System - 11 (IT), 2024-2026 Biennium, \$20,000,000 GF/\$20,000,000. The Kentucky State University added Construct STEM Building (C-O), 2028-2030 Biennium, \$65,000,000 GF, and deleted Expand Campus Communications Infrastructure - 3 (C-O), 2024-2026 Biennium, \$2,407,000 GF; Construct Business & Technology Center (C-PI), 2028-2030 Biennium, \$42,717,000 GF; Replace Enterprise Resource Planning System - 4 (IT), 2024-2026 Biennium, \$7,000,000 GF.

### **Presentation - Postsecondary Capital Project Review**

As part of the capital planning process, the Council on Postsecondary Education (CPE) is responsible for reviewing and evaluating capital construction and information technology (IT) projects submitted by postsecondary institutions. Dr. Payne, Mr. McKiernan, and Dr. Friskney discussed the review process and the results.

In response to questions from Senator Wheeler, Dr. Payne replied that the \$7.3 billion would be divided among the institutions, with a significant amount going toward UK and Murray State University, research institutions with more extensive facilities footprints with a more substantial need. The University of Kentucky cannot contribute the funds toward asset preservation because 94 percent are restricted funds endowed for a specific purpose, like a scholarship fund or to support an endowed chair. The proceeds from that endowment cannot be used as a match for asset preservation funding. With input from the universities, CPE decided it would be fairer to every institution to suggest no match for the upcoming biennium. The council's budget needs to be finalized and voted on, so it is advocating that there not be a required institutional match for the upcoming biennium.

Responding to a question from Mr. Hicks, Dr. Payne said the match value to the \$959 million since 2014 on asset preservation was \$815 million in 2021, with approximately \$1,000,000,000 in additional matching funds added in the last two years. He agreed that the asset preservation fee adopted by the council allowed institutions to go above the tuition and fee caps, and those guidelines specified that the proceeds from those asset preservation fees could be used for an institutional match.

In response to a question from Representative Tate, Mr. McKiernan and Dr. Payne responded that Kentucky State University (KSU) requested \$25 million in its capital plan for asset preservation. The council recommends a \$16.6 million appropriation for the 2024-2026 biennium. It is an overlap. KSU has a great need for asset preservation, but this allocation method would only provide \$16 million in state funds plus whatever institutional funds it adds toward asset preservation.

In response to a question from Representative Tate, Dr. Friskney replied that the institution will look for departmental fund balances within the university, or the university collects fund balances within the approved criteria to upgrade a campus-wide network or add a new learning management system instead of asking the General Assembly for funding.

In response to questions from Senator Southworth, Dr. Payne said that over the last 12 years, \$815 million in institutional resources were used to match \$959 million of state funding to address the original starting point of \$7.3 billion in assessed capital needs. With construction costs increasing, topping potentially 30 percent over three years, that \$7.3 billion projection made in 2021-22 has risen significantly. CPE can provide the board with an updated number, but Vanderweil Facilities Advisors (VFA) would have to complete an updated study on its cost projections. Then CPE would have to use the calculations Mr. Hicks mentioned and subtract the institution contributions and state funding over the past 10 to 12 years to get to that exact number. Mr. McKiernan added that the \$2.8 billion is the sum of all projects that request general funds for asset preservation. The total scope of those projects is a subset of all the requested asset preservation projects for the biennium, and the institutions won't be able to start all these projects in two years. Still, there will always be a larger total than the institutions can reasonably accomplish.

Dr. Payne added that the \$6.9 billion is the total project cost from any funding source, including the \$2.8 billion. The bond funds were paid for in the current biennium. The debt service in the regular appropriation of the institutions in the first biennium is authorized. The debt service payments are transferred to the Finance and Administration Cabinet, and the state pays the debt service on the state-funded portion of those bonds. The institution bears the debt service if it issues agency bonds. The extent of debt at the institutional level and whether it can issue more agency bonds factor into the council's decision on a required match because interest rates are currently high, so this is not a suitable time for the institutions to issue agency bonds to meet those matching requirements. CPE's responsibility is to identify resource needs for asset preservation funding. CPE relies on the board, the General Assembly, and the governor to determine how much, if any, to fund and if the source of funding would be debt financing or cash.

In response to a question from Dr. Jackson, Dr. Friskney said all institutions, including the Kentucky Community Technical College System, would be included in the KyWired network program.

In response to a question from Representative Tate, Mr. McKiernan stated that there were no duplications across agency budget requests.

### **Review of Agency Capital Plans**

The Capital Planning Advisory Board received testimony regarding four state agency capital plans: the Council on Postsecondary Education, the Kentucky Economic Development Cabinet, the Kentucky Court of Justice, and the Department for Local Government. The testimony included a discussion of capital construction, information technology, and equipment needs for 2024-2030.

#### Council on Postsecondary Education

Mr. McKiernan clarified that no projects were included in the Council on Postsecondary Education's capital plan.

#### Kentucky Court of Justice

Ms. Henderson and Ms. Lafferty provided a brief overview of the Kentucky Court of Justice capital plan.

In response to questions from Senator Southworth, Ms. Lafferty said the Court of Appeals building is being constructed on vacant land adjacent to the Administrative Office of the Courts (AOC) building on Vandalay Drive, Frankfort, Kentucky. The Owsley County Court Facility's requested amount is more to include multiple courtrooms with more expensive construction material costs and to address security concerns. The Court of Appeals building is more like an office building with only one courtroom and cheaper construction material costs. AOC, which occupies the courthouses, pays 100 percent of the debt service and operating costs associated with all courthouses and no longer accounts for county growth. Since the pandemic, project construction costs have been approximately \$575 per square foot.

In response to a question from Dr. Jackson, Chair Wheeler said the General Assembly could decide to fund partial requests, if necessary.

#### Kentucky Cabinet for Economic Development (CED)

Katie Smith, Deputy Secretary, briefly overviewed the cabinet's capital plan.

In response to questions from Senator Southworth, Ms. Smith said \$30 million was included in the last budget for the program. Some larger commitment projects were unsuccessful, so those funds were used for other projects.

In response to questions from Chair Wheeler, Ms. Smith stated there is a statutory requirement called the "but for" requirement. "But for" the incentives, the project would not locate or expand in Kentucky. In all certifications, applications, and fact sheets, CED

notifies the projects not to spend money, make press releases, or sign agreements unless there is appropriate contingency language. The project would share those agreements with CED to ensure the correct contingency language. The Kentucky Business Investment Program is one of CED's most popular incentive programs. CED informs small businesses about the small business tax credit. Under that program, the project would perform before it applies and may be eligible as a small business, statutorily defined as 50 or fewer employees. For larger businesses, CED has another program, the Kentucky Enterprise Initiative Act, that allows the business to start. However, it would not be eligible for a sales and use tax refund on potential construction materials and building fixtures. Under that program, only eligible expenses can be incurred after the project has been approved. CED cannot incentivize an investment that is completed. CED informs the businesses that it will take that investment into consideration for future projects with them.

#### Department for Local Government

Aaron Jones, Branch Manager, Office of State Grants, gave an overview of the department's capital plan.

Mr. Jones agreed with Mr. Hicks that the department needs funding in the budget to provide for unforeseeable circumstances.

In response to a question from Dr. Jackson, Mr. Jones stated that FEMA has requirements and strict procedures that guarantee funds are correctly distributed, and the US Army Corps of Engineers' feasibility studies help ensure certain disasters do not occur again.

#### **Board Discussion of Planning Issues**

Representative Tate stated that as part of the capital planning process, board members select projects they would like to see highlighted in a separate section of the capital plan for funding consideration by the General Assembly. The selections encompass state general fund projects for the 2024-2026 biennium. Three worksheets containing projects in the categories of new construction, construction to protect investment in plant (maintenance and renovation construction), and information technology will be e-mailed to members after the meeting. Instructions and a link to the project descriptions will also be provided. If they choose to participate in this portion of the planning process, members are to identify up to 15 projects in each category and return them to the board's staff no later than September 20 for staff to have them ready for the last meeting on October 11.

#### **Adjournment**

The next meeting is Wednesday, September 13, 2023, in Room 169 Annex starting at 1:00 PM. There being no further business, the meeting adjourned at 2:59 PM.