

**THE OVERSIGHT COMMITTEE FOR
THE IMPLEMENTATION OF THE SECOND AMENDED INTERLOCAL AGREEMENT FOR
PUBLIC SCHOOL FACILITY PLANNING, BROWARD COUNTY, FLORIDA**

**Final Minutes
Oversight Committee Public Meeting
January 8, 2014**

12:00 noon

Kathleen C. Wright Administration Center, School Board Meeting Room

1. Call to Order

Chair Tingom called the January 8, 2014 Oversight Committee meeting to order at 12:15 p.m.

2. Roll Call

Linda Houchins took roll call, and the following Committee Members were in attendance:

- Eichner, Shelly
- Eisinger, Debby
- Freedman, Abby M.
- Good, Patricia
- Klopp, Keven
- Krishnaiyer, Latha
- Naylor, Lew
- Rich Levinson, Laurie
- Rogers, Roy
- Tingom, Peter S.
- Wexler, Lois

Chair Tingom advised that Committee Members Resnick and Stermer had requested excused absences.

3. Approval of Minutes - October 9, 2013 Meeting

Committee Member Eisinger advised that the minutes were not verbatim, and that she felt they were incomplete. For the record, she requested that the following sentence be added to the October 9, 2013 minutes on page 4 in the fourth paragraph: "As a long-time Board of Director of the Broward League of Cities, she has always viewed the impact of all government activity on a countywide level". Committee Member Wexler made a motion to approve the minutes of the October 9, 2013 meeting as amended. Committee Member Good seconded the motion, and the motion passed unanimously.

4. Additions to the January 8, 2014 Meeting Agenda

There were no additions to the January 8, 2014 meeting agenda.

5. Approval of the Final Agenda for the January 8, 2014 Meeting

Committee Member Wexler made a motion to approve the final agenda for the January 8, 2014 meeting. Committee Member Naylor seconded the motion, and the motion passed unanimously.

6. PUBLIC INPUT

There was no public input.

7. SUBCOMMITTEE REPORTS

None

8. OLD BUSINESS

8.1 Definition and Application of Hardship Schools as it Relates to Public School Concurrency

Leslie Brown, Chief Portfolio Services Officer, advised that she would share information which combined Sections 8.1 and 8.2. She stated that at the October 2013 meeting there were discussions regarding the Hardship School Concept, and that the Committee had looked for a way to bridge the gap between the current Second Amended Interlocal Agreement (SILA) which stated that all relocatables would sunset in the 2018/19 school year and whether there might be a circumstance when the School District could continue to use relocatables. Ms. Brown advised that the SILA stated that the sunseting of relocatables in the 2018/2019 school year should be reviewed in the 2014 school year. She said that the School District believed that there would be a need to use relocatables after 2019.

Ms. Brown defined a hardship school as a Concurrency Service Area (CSA) that does not have sufficient available capacity in the adopted five-year work plan to meet the Level of Service Standard (LOS) and there was insufficient excess permanent capacity available in an immediately adjacent CSA in the same Planning Area to relieve the LOS deficiency. Ms. Brown said that using the Hardship School Concept would apply the same rules that now apply for developers, which was if there was adjacent capacity, the developer would not have to mitigate its anticipated development impact. She stated that starting in the 2019/20 school year, the LOS for each school would be 110 percent of permanent Florida Inventory of School Houses (FISH) capacity, but if the Hardship School Concept was applied, the LOS capacity could be increased up to 100 percent of gross capacity (using relocatables) for the subject school until such time as sufficient permanent capacity became available at that school.

Committee Member Wexler asked for clarification on how decisions would be made when multiple adjacent CSA's are involved. Mr. Akagbosu said that School Board Growth Management Policy 1161 was very clear on the process, and additionally that the process was consistently and uniformly applied to all developers. He said that one single adjacent CSA must be in the same Planning Area and must have sufficient capacity to satisfy the development. Committee Member Wexler asked staff to identify the methodology that would be used in the Hardship School Concept, and Committee Member Rogers said that however the determination is made, the same School District methodology should be used regardless of the source. Ms. Eichner reminded the Committee that the ILA deals with public school concurrency and not the School District boundary process, and that development was the source that generated the need for additional capacity. Discussions followed regarding the hardship school definition with regard to adjacent CSA's. Committee Member Eisinger commented that meeting the requirements of the ILA impacts the school boundary process, how charter schools significantly

impact school enrollment, and the importance of keeping communities' whole and protecting the integrity of the Broward County Public School system.

Ms. Brown continued her presentation and talked about the three options available to implement the Hardship School Concept beginning in the 2019/20 school year as follows:

- 1) Amend the LOS in the SILA to specifically provide for the Hardship School Concept.
- 2) Integrate the Hardship School Concept into the five-year Adopted District Educational Facilities Plan (DEFP) which would provide a mechanism to implement the Hardship School Concept and not amend the SILA. Ms. Brown said that the SILA delegated to the School Board the responsibility to establish a process to ensure that the LOS could be met at all CSAs, and also allowed for the utilization of portables on a temporary basis under certain circumstances. She said that the DEFP was updated and approved annually by the School Board, adopted by Broward County and the Municipalities, and thereafter sent to the State of Florida for review.

Discussions followed regarding adjacent CSAs and the hardship school definition, and Mr. Akagbosu clarified that the total amount of capacity needed must be sufficient from one single CSA in the same Planning Area; but if the development boundary crossed two CSAs, then there was flexibility. He said that School Board Growth Management Policy 1161 stated that the total capacity needed must be available within a single adjacent CSA. After lengthy discussions, Committee Member Rogers said that the Committee needed one fair, clear solution for the complex item and that there needed to be an interpretation process from one authority. He said that there needed to be an understanding of what the motion would be, and that it should include a solution for everyone and a process for going to the School Board to get a legally sound interpretation.

Committee Member Klopp said the wording in the PowerPoint stated "available in an immediately adjacent CSA" and suggested that the wording be revised to say "available in immediately adjacent CSAs". Discussions continued regarding adjacent CSAs, and Alan Gabriel, the School District Cadre Attorney, said that the language of "an immediately adjacent CSA" was intended to mean one CSA, and said that there must be consistency. After lengthy discussions regarding the Hardship School Concept, Lisa Wight, School District Planner, advised that limiting the adjacent CSA to one area benefited the developers because it allowed for more opportunity to use relocatables. Also, it benefited the School District because it would limit the reliance on school boundary changes to meet LOS.

Committee Member Wexler made a motion stating that if the Committee decided to approve the Hardship School Concept, that it mirror the same process, intent, and language that was already being utilized for school concurrency. Committee Member Krishnaiyer seconded the motion. Mr. Gabriel stated that the proposed language for the hardship school definition was the same language that was used in school concurrency, and that the language must be consistent. He also stated that the language proposed for the hardship school definition was the same language and intent already utilized in the SILA. He said that School Board Growth Management Policy 1161 would have to be amended to adopt the Hardship School Concept.

Committee Member Klopp asked what would happen if a Municipality did not adopt the DEFP? Mr. Akagbosu answered that the State along with the SILA required that the Municipalities adopt the DEFP, and if the Municipalities did not adopt the DEFP, it would be inconsistent with their Capital Improvement Elements.

Mr. Gabriel stated that Option 3 of the implementation of the Hardship School Concept allowed for the implementation of Option 2. He said that when there had been a question of interpretation, Option 3 was the process that was followed.

Committee Member Klopp said that Section 8.10(a) of the SILA allowed for the use of portables on a temporary basis and that Ms. Brown had said that use would be defined in the DEFP, but asked if it would be in compliance with the SILA. He stated that there were three scenarios in Section 8.10(a) that allowed for the use of portables on a temporary basis; 1) to facilitate a construction project, 2) for Exceptional Student Education cluster sites, and 3) during a disaster or emergency. He stated that the SILA does not state that portables could be used for capacity purposes. Mr. Gabriel explained that the LOS would be changing in the immediate future and that the Cities and the School District are charged with maintaining the LOS including the change of capacity to 110%. He said that under current regulations of the SILA, Section 8.2 specifically puts the burden on the School District to prepare and update the DEFP and to establish a process to ensure that schools operate at or below the adopted LOS. Additionally, Mr. Gabriel said that because the burden of maintaining the LOS was on the School District, the Five-Year Plan could be used to help provide for the LOS plan. Mr. Gabriel stated that because Section 8.10 of the SILA currently allowed for the LOS to revert back to 110 percent of permanent FISH capacity and also allowed for the utilization of portables on a temporary basis, he had suggested incorporating the Hardship School Concept into the Interpretation Document. He said the interpretation would be to incorporate the concept of a hardship school as part of the temporary basis. Mr. Gabriel said the other option was to modify the SILA to address the hardship school concept directly. Committee Member Klopp said the issue was how to define temporary. He stated that he did not think the intent of the language in the SILA regarding the temporary use of portables, included use for construction of permanent capacity, but rather because it would solve the problem for as long as there was a problem, which he felt meant permanently.

Committee Member Good said she was supportive of the motion on the floor, but asked for clarification saying that if the motion passed, would the proposed action come back to the Committee at the next meeting. She said that in an effort to communicate effectively with all signatories, that she thought it would be beneficial for the Chair to send correspondence to the signatories advising them of the issues to give them the opportunity to voice their concerns. Committee Member Wexler said that she wanted a document for the next meeting with definitions, and amended her motion to add that there be a defining document attached that would identify the language "on a temporary basis" and its intent. Ms. Eichner added that a hardship school was defined by the relationship between the enrollment and the capacity and said that every year the enrollment changes. Additionally, she said that whether a school was over or under capacity could change every year based on the enrollment, and what may be a hardship school one year may no longer be a hardship school the following year; therefore, the Hardship School Concept was a temporary concept.

Committee Member Klopp asked that the motion be restated. Committee Member Wexler said the intent of the motion was to move forward language for the definition of a hardship school and its implementation process to mirror the language of school

concurrency and how it is implemented in Broward County, and that the language be added to a draft Interpretation Document. Committee Member Krishnaiyer, who seconded the motion, agreed. Committee Member Eisinger asked if she voted for the motion was she voting to incorporate it as part of the SILA. Committee Member Wexler said that was not her intent. Committee Member Rogers asked that a vote be taken, with the understanding that there was always the opportunity for clarification within the School Board and there was an avenue in place without changing anything in the motion or the second. A vote was taken, and there were two no votes from Committee Members Klopp and Rich Levinson.

8.2 Clarification/Information on Portable Plan in the District's Educational Facilities Plan Fiscal Year 2013/14 to 2017/18

There was no discussion on this item.

8.3 Third Amendment to the Interlocal Agreement for Public School Facility Planning

There was no discussion on this item.

8.4 Status of Update of the Student Generation Rate/School Impact Fee Study

Mr. Akagbosu said that in December 2013 the School Board approved a contract with Walker H. Keller to update the current Student Generation Rates/School Impact Fee Study. He said that the timeline would be to transmit the School Board adopted recommendations from the Study to the Broward County Commission and to amend the Broward County Land Development Code to incorporate the recommendations in June 2014. Mr. Akagbosu said the contract requires Mr. Keller to explore two methodologies; 1) based on the census, and 2) based on address matching. Furthermore, that the schedule required Mr. Keller to appear before the Oversight Committee to share the draft Study. He said the District would work closely with the SWG and the County, and the goal for the District was to transmit the updated Study to the County Commission in June 2014. Ms. Brown said that the Board wanted to see methodologies used for both regional and district-wide student generation rates so that they would be able to make the appropriate recommendation.

9. NEW BUSINESS

9.1 Draft 2013 Annual Status Report on Implementation of the Interlocal Agreement for Public School Facility Planning

Mr. Akagbosu said the 2013 Annual Status Report was generated by the SWG, and was being presented as a draft for review by the Oversight Committee. He advised that the Report showed how the SILA was implemented in 2013, and only one Subsection needed resolution. He said the Subsection needing resolution pertains to the fact that some Municipalities have yet to amend their comprehensive plans and Land Development Regulations to address provisions of the SILA. He stated that overall, the SILA had been implemented successfully and cooperatively by all parties.

10. INFORMATIONAL ITEMS

10.1 December 5, 2013 Staff Working Group (SWG) Draft Not Approved Minutes

There was no discussion on this item.

Committee Member Rich Levinson voiced concern that there had been no discussion on making a recommendation regarding the Hardship School Concept or even whether the Members thought that was the direction they should go. Committee Member Eisinger agreed and said that the back-up materials implied that the Committee would be making a recommendation on how to incorporate the Hardship School Concept. She said she was concerned about the timeframe listed under Next Steps on the Presentation. After brief discussions, Committee Member Wexler said that the timeline may need to be modified. She said there were extensive discussions regarding the definition, LOS, and implementation, and said the motion gave direction to staff to proceed to create documents. She said her final vote would be at the April 2014 meeting and would be based on what staff provided in writing and after understanding the impact of the issue. Committee Member Wexler said the Hardship School Concept did not affect many schools in Broward County, and the intent was to give a mechanism for communities to stay in their neighborhood schools. She said that she wanted more information, and that by making the above motion, it did not mean that she was in support of the Hardship School Concept.

Committee Member Rich Levinson stated that the discussion she wanted to have was about the impact of the Hardship School Concept on the communities, and said that she felt the concept was very much a boundary issue. She said that as a School Board member, she must look at the impact of retaining the students in the traditional Broward County Public School system. Committee Member Klopp advised that he voted no because he felt the impact was too clear, and went back to what the purpose of the Subcommittee meeting had been which was to start to generate ideas of how to define what "temporary" meant. He said that he was in agreement with trying to find a solution, but he did not think that "temporary" had been defined. Committee Member Eisinger said that the concept of the motion differed from the Next Steps back-up materials which implied that the Committee would be moving forward with adopting the Hardship School Concept based on the timeline, and said the minutes needed to reflect that the motion did not incorporate the recommendations of the Next Steps.

Ms. Brown advised that the Next Steps document was intended as a guide for discussion and was never meant to be a final recommendation from the Committee. Ms. Eichner said that as the Chair of the SWG, the group would spend time discussing the Hardship School Concept and the SWG may have alternate or additional recommendations. She said the SWG needed broad recommendations as to where the Oversight Committee was going in order to talk to each Municipality and work through the process at the March 2014 SWG meeting.

Discussions followed regarding what staff needed to provide for the next Oversight Committee meeting. Committee Member Good asked staff to provide additional options and what they would entail. Committee Member Wexler said she did not think that staff should be burdened with providing additional options, and talked about the options available. Chair Tingom said

that the consensus was that staff would provide concrete scenarios of what hardship would mean to specific areas, and said that the burden rested more on the members than on staff. Ms. Eichner said if the decision of the Committee was to amend the SILA, what would the implication be if the result indicated that the required 75 percent of the Municipalities did not agree to sign a Third Amendment to the ILA. Committee Member Klopp commented that if the Committee was concerned that an Amendment to the SILA would not get approved, then why would they vote for it. Committee Member Eisinger said that circumstances have changed since the last time the ILA was amended and that public school enrollment was down and charter school enrollment was up. She said that the Committee needed to discuss what was in the best interests of the students in the Broward County Public School system.

Committee Member Eisinger asked what the requirements were regarding attendance for members of the Committee. Committee Member Klopp stated that if there were two unexcused absences in a row, the Committee was to notify the appointing body that their membership had decreased by one. Chair Tingom asked if it was the will of the Committee that he write a letter regarding the need for attendance to all members, whether they have excused absences or not. After brief discussions, Committee Member Eisinger requested that the letter emphasize the importance of the decisions made by the Committee and the importance of having a full Committee in attendance at each meeting.


10.2 Next Scheduled Meeting - April 9, 2014

Chair Tingom advised that the next Oversight Committee meeting was scheduled for April 9, 2014.

11. ADJOURN

Committee Member Rogers made a motion to adjourn the meeting. Committee Member Klopp seconded the motion, and the meeting was adjourned at 2:00 p.m.

Respectfully submitted by:


Marilyn Soltanipour, Secretary


Date