

**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**

**April 13, 2016**

**12:00 noon**

**Kathleen C. Wright Administration Center, School Board Meeting Room**

**1. Call to Order**

Committee Member Wexler called the April 13, 2016 Oversight Committee meeting to order at 12:09 p.m. She advised that the current officers were unavailable, and the past Chair, Committee Member Tingom, was not present, and stated that she would chair the meeting until Committee Member Tingom arrived.

**2. Roll Call**

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

- Eichner, Shelley
- Eisinger, Debby
- Freedman, Abby M.
- Furr, Beam
- Good, Patricia
- Graziose, Jerry
- Naylor, Lew
- Rogers, Roy
- Wexler, Lois

Committee Member Wexler determined that there was a quorum. (Committee Members Cooper and Tingom attended the meeting, but came in after roll call was taken)

**3. Approval of Minutes – January 13, 2016 Meeting**

Committee Member Eisinger made a motion to approve the minutes of the January 13, 2016 meeting. Committee Member Good seconded the motion, and the minutes were approved unanimously.

**4. Additions to the April 13, 2016 Meeting Agenda**

There were no additions to the April 13, 2016 meeting agenda.

## **5. Approval of the Final Agenda for the April 13, 2016 Meeting**

Committee Member Rogers made a motion to approve the final agenda for the April 13, 2016 meeting. Committee Member Graziose 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 Approval and Issuance of the 2015 Annual Status Report on Implementation of the Second Amended Interlocal Agreement for Public School Facility Planning**

Ms. Brown advised that Item 8.1 was for approval and issuance of the 2015 Annual Status Report on Implementation of the Second Amended Interlocal Agreement for Public School Facility Planning (SILA). Committee Member Wexler said she was very concerned about taking action on very important and controversial items without the full complement of the Committee and no current officers in attendance.

At this point of the meeting, Committee Member Wexler turned the meeting over to Committee Member Tingom. Committee Member Good asked if delaying action on any of the items on the agenda would have negative consequences. Ms. Brown stated that the Oversight Committee By-Laws state that approval and issuance of the Annual Status Report occurs at the second quarter Oversight Committee meeting. But she also said that it was at the pleasure of the Committee.

Committee Member Wexler made a motion to approve the 2015 Annual Status Report on Implementation of the SILA. Committee Member Good seconded the motion, and the motion passed unanimously.

### **8.2 Staff Working Group Recommendation Regarding Third Amendment of the Interlocal Agreement for Public School Facility Planning**

Committee Member Good stated that she concurred with Committee Member Wexler's comments regarding not taking action on Item 8.2 and asked that the Committee delay action on the Item and possibly have a special meeting to deal with the issue. Ms. Eichner stated that the Staff Working Group (SWG) recognized the significance of the impact of the various options presented at their last meeting. She said that the issue had a serious, long term impact and agreed that the full Oversight Committee should be present to vet the issue.

Committee Member Wexler made a motion to defer Item 8.2 and requested that the item be sent to a special meeting to be held before the next regularly scheduled SWG meeting. She advised that the SWG had already taken their position on the issue and she encouraged the members to read the minutes from their meeting. Committee Member Furr seconded the motion. Committee Member Rogers suggested that the Committee use the time to hear from Ms. Brown and said he did not want to waste the opportunity to further discuss the item and would rather do so than adjourn the meeting. Discussions followed, and Chair Tingom requested that the meeting proceed with Ms. Brown's presentation. Committee Member Wexler withdrew her motion to defer, but advised that if an action was taken, she would not be present. Committee Member Furr withdrew his second on the motion.

Ms. Brown stated that there had been a very important and rigorous SWG meeting where the three Level of Service Standard (LOS) options were discussed and vetted. She said that one option looked at was the original SWG recommendation which was to continue the LOS at 100% of gross capacity in the 2019/20 school year. Ms. Brown said the alternate option was the ability to use 110% of permanent capacity at schools that did not have relocatables and to use 100% of gross capacity at schools that did have relocatables. She stated that the alternate concept grew out of conversations advising that there were schools which would be penalized if the 110% LOS option was implemented because such schools do not have relocatables. Ms. Brown said that the SWG had spent a considerable amount of time discussing the impact of the two options. She said that staff had provided, in the Oversight Committee back-up, an update of all relocatables and enrollment data and had provided the information in both a table and map format that showed what each option would look like at each school.

Ms. Brown said that a new Florida law stated that school districts must allow students to move wherever there is a seat, which she stated was an important new layer for the Committee to explore. She talked about the student station calculations, student assignments based on LOS, and the Student Success Opportunity Schools (SSOS).

Committee Member Rogers asked Ms. Brown to test how the information in the cadence in the columns of the table worked. Ms. Brown used the example of Country Hills Elementary School which does not have relocatables. She said when you look at 100% of gross capacity, the school is slightly over its LOS in both the 2015/16 and 2019/20 school years which could create a huge boundary challenge, but when you look at the same school using 110% of permanent capacity, the school meets LOS because the school can use an additional 10% of the school space and the permanent capacity. Ms. Brown stated that labs, multipurpose rooms, choral room, band rooms, etc. are not included in the Florida Inventory of School Houses (FISH) capacity and do not count as student stations. She explained that by applying a different calculation (110% of permanent capacity), the school all of a sudden seems bigger.

Committee Member Good asked if programmatically the school could change the use of a certain room for classroom space. Ms. Brown said that a school could change their use, and added that it was allowable by State rule and that the State also expected districts to

use all of the space for class size reduction. Committee Member Good asked how a school could change programmatically the use of a space that is not traditionally used toward FISH capacity. Committee Member Tingom said that if a school had an Exceptional Student Education (ESE) program where the classes are much smaller than regular classrooms, the school could add a wall and make the space into two classrooms. Additionally, he said that if there was a space for a consumer science class and no students signed up for the class, the space could become a science lab, usually at the principal's discretion. Discussions continued regarding classroom size and FISH capacity. Committee Member Rogers stated that all portables are not the same. He stated that the definition of success was putting the student in an appropriate environment. He said that Broward County knows its municipalities and schools, and should use rationale judgment built into an otherwise formulaic process.

Committee Member Wexler stated that the task at hand was to identify a LOS. She said that the SWG minutes showed that many municipalities were not ready to vote on an LOS option. She said that the County had one position, the City of Weston had another position and the majority of the municipalities voted for Option 1. Committee Member Wexler said she wanted to give the schools flexibility, but said that it was important to identify a standard and have a goal.

Ms. Brown said that the LOS was how the District measured mitigation and school impact fees. She stated that it was a calculation based on the current student generation rates and allowed the District to work with developers in the County. Committee Member Good said that the ILA drives the potential mitigation based on a LOS that is delineated in the ILA. She stated that developers have tremendous flexibility because they can use immediately adjacent boundary. Committee Member Good complimented municipal partners for their willingness to work with the District and go above and beyond. She stated that it was important for the District to have as much flexibility as possible, and she talked about the reasons for that. Committee Member Good added that she wanted every school to have an equal opportunity. She said she believed that Option 1 gives the most flexibility, and she concurred that there needed to be a standard.

Ms. Eichner stated that discussions should be limited to the LOS as it relates to public school concurrency (PSC). She said staff made the comment at the SWG meeting that in the absence of an ILA opportunity would still exist for the District to receive mitigation money from developers.

Ms. Brown advised that for the past 10 to 15 years the District has used LOS as one of the conditions regarding whether or not boundary changes are needed, which also includes class size reduction. Committee Member Rogers said that it is in the best interests of developers to realize that they will benefit from having excellent schools, and that quality education is important to be able to sell homes. He said that the Committee needed to look at overcrowding, for the right situation for the students, and to make sure that what was being done worked for the students and is not driven by arithmetic. Committee Member Freedman talked about providing and utilizing appropriate space for children and said that there needed to be flexibility within the document to give communities the

opportunity to want to keep their children in public education. She said that if the District does not give choices, more charter schools will be built and the children will be sent to them. She said the District has the responsibility to deliver what the majority of the people in their communities want.

Committee Member Eisinger said that the Committee wants to do what keeps the Broward County Public Schools whole, prevents the proliferation of charter schools, and maintains a good quality of life throughout all of Broward County.

Ms. Eichner said that the philosophy of the City of Weston was that PSC is no longer required as a matter of state law, therefore, why continue to have it in Broward County as it relates to LOS. Committee Member Eisinger asked what the negative impact would be if PSC were removed from the ILA. Mr. Gabriel advised that Broward County has had school impact fees for many years, and said that before the ILA was in place, there was not cooperation between the Municipalities, the School District and the County. He said that he had been advised by staff that since the mitigation process began, \$21,538,000 had been collected. He stated that if PSC was eliminated from the ILA, the entire process now in place would fall apart. Mr. Gabriel said that a new law adopted approximately one year ago currently gives private property rights to developers and individuals that were not present when the PSC laws and regulations were put in place. He stated that if the process was changed, the door would be open to allow the mitigation process to be attacked. Mr. Gabriel said that if the ILA was stripped to the basics required by law, and if the County, the School Board and the Municipalities agreed to that, there would be unintended consequences that may or may not be realized.

Committee Member Tingom said that Slide 21 of the presentation given last year, stated that there had been no new mitigation projects since 2008. Mr. Gabriel said that because of the voluntary mitigation already in place, the mitigation is being re-evaluated and additional mitigation funds are being charged pursuant to the PSC program in place. Mr. Akagbosu clarified that since implementation of PSC, no developer has been required to pay proportionate share mitigation. He said that the District is still collecting mitigation funds under the old mitigation program. Discussions continued regarding mitigation, PSC school impact fees and keeping communities whole.

Committee Member Good said that the ILA currently dictates a LOS that the developers use and asked if it also involved school boundary changes. Ms. Brown said that School Board Growth Management Policy 1161 is a direct reflection of what the Oversight Committee requests staff to do, and if PSC were eliminated from the ILA, the Policy would also have to be changed to reflect that change. Committee Member Good asked if school impact fees would still be in existence if the ILA were amended to the minimum standards required by law, and Ms. Brown stated that school impact fees are in the County Ordinance and would still be collected. Committee Member Good stated that the money collected from school impact fees is used within four benefit zones in the County, and is used to build schools, for improvements to schools and to pay down the debt service. She said there was no assurance that the County would not change the Ordinance to eliminate school impact fees, even with an existing ILA. Mr. Gabriel said that the ILA created a PSC

system that is in place that includes school impact fees. He said that the District does an analysis to determine what the student generation rate should be, sends a proposal which is submitted to the County and the County makes its determination based on the recommendations submitted by the School Board. Mr. Gabriel said that the County could decide to temporarily withhold school impact fees. Committee Member Good said her concern was that based on the enrollment counts throughout the County, there are very few opportunities for mitigation to occur because of the adjacency opportunities. She asked for staff to advise what the effects to the District would be if PSC were eliminated and how it would affect existing proffers.

Committee Member Wexler stated that there is an inclusive process which must be followed in order to change school impact fees, and she talked about that process. She talked about the mitigation monies collected by the District, and asked what happened to the mitigation monies collected between the years 2008 and 2016. Committee Member Wexler said that every District Report for land use change that comes before the County Commission are all approved by the District because they meet the PSC requirements, and asked if PSC was eliminated from the ILA, how it would negatively impact the District. Ms. Eichner said it was important to point out that the mitigation dollars were proffered voluntarily before PSC was in place. She stated that when there was voluntary mitigation, the developers had to voluntarily agree to mitigate or their projects would be denied. Ms. Eichner said that minimal dollars have been collected in mitigation dollars resulting from the ILA. Mr. Gabriel said that the voluntary mitigation program was incorporated into the ILA and is part of the PSC plan. He said that the program is not voluntary anymore, but is required by law. Mr. Gabriel said that he was concerned that if PSC was eliminated from the ILA, the voluntary mitigation dollars which are still owed to the District may be lost. Additionally, he stated that as part of the mitigation process adopted through PSC, the Declaration of Restrictive Covenant Agreements (DRC) get re-evaluated, recalculated and charged additional fees based upon the current cost per student station schedule. Mr. Gabriel advised that he is currently reviewing three (3) separate mitigation proposals for modification because of updated unit mixes proposed. Discussions continued regarding PSC, LOS and School Impact Fees.

Ms. Brown thanked both Committee Members Wexler and Tingom for stepping in to chair the meeting and sent best wishes to Chair Stermer. She advised that future trends show a considerable amount of growth in Broward County. Ms. Brown stated that Growth Management staff is re-reviewing old developments where the mix is changing and the numbers are going up considerably. She said that if PSC was eliminated, it would reduce the effectiveness and cooperation by all parties. Ms. Brown said that Statute still requires that signatories mutually decide on specific ways to coordinate development approval across the District, and there are no requirements in Statute that prevent local governments from approving new residential developments without regard to school capacity. Additionally, she said that the elimination of PSC may jeopardize previous mitigation commitments and that Broward County Land Development Code may become the sole document that would require developers to consider their impact on public schools. Ms. Brown talked about charter schools and school boundary changes. She advised that staff

would request a written statement from legal regarding the negative effects of eliminating PSC.

Committee Member Eisinger said that even after the great discussions, she did not think the Committee was prepared to make a decision on the options, and asked when the Committee was required to make a decision on the issue. Ms. Brown said that the District provides four years for shifts in student enrollment to allow the students to finish at their schools without disruptions. Ms. Brown said that currently, the District provides choice wherever there is a seat in the school and the control of whether seats are available remains with the School District.

Ms. Brown talked about Option 1, and said she was struggling with the concept of whether it was a choice verses a consistent application. She said that staff verified with the State that the LOS must be consistent with a type of school. Ms. Brown said the consistency in Option 1 is that there is one type of school that is 110% of permanent capacity and another type of school that is 100% of gross capacity, and that the State confirmed that a community could locally establish types of schools. She said Option 1 is a standard that 110% of permanent capacity would be applied to every type of school that only has permanent capacity and there is a standard that there is a type of school that has 100% of gross capacity and the LOS would be applied consistently to those two types of schools. Committee Member Wexler asked for the State's verification in writing.

Committee Member Furr made a motion to table Item 8.2 to the next meeting. Committee Member Good seconded the motion, and the motion passed unanimously.

## **9. NEW BUSINESS**

### **9.1 Legislative Update**

There was no discussion on Item 9.1.

## **10. INFORMATIONAL ITEMS**

### **10.1 January 7, 2016 Staff Working Group (SWG) Approved Minutes**

### **10.2 March 3, 2016 SWG Draft (Not Approved) Minutes**

### **10.3 Next Scheduled Meeting - June 10, 2016 (October 12, 2016 meeting falls on Yom Kippur)**

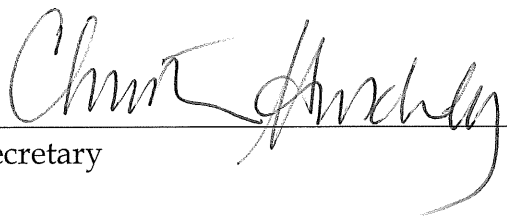
The Committee discussed the next regularly scheduled meeting, and it was decided that the next Oversight Committee meeting would be June 10, 2016. Also, after discussions regarding the regularly scheduled October 12, 2016 meeting falling on Yom Kippur, that meeting was moved to October 19, 2016.

Discussions followed regarding documents requested for the next Oversight Committee meeting as follows: 1) legal response regarding the impact of eliminating PSC, 2) Item 8.2 to be on the next meeting agenda, 3) mitigation fees collected from 2008 to the present, 4) define Option 1, 5) State letter regarding Option 1.

## 11. ADJOURN

Committee Member Rogers made a motion to adjourn the meeting. Committee Member Good seconded the motion, and the meeting was adjourned at 2:15 p.m.

Respectfully submitted by:

  
Secretary

6/10/16  
Date