

**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**

**August 9, 2017**

**12:00 noon**

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

**1. Call to Order**

Chair Stermer called the August 9, 2017 Oversight Committee meeting to order at 12:15 p.m. He advised that the meeting had to be adjourned by 2:00 p.m. to accommodate another meeting that was scheduled in the Board Room.

**2. Roll Call**

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

- Cooper, Joy
- Eichner, Shelley
- Eisinger, Debby
- Freedman, Abby M.
- Good, Patricia
- Hunschofsky, Christine
- Naylor, Lew
- Olbel, Mikelange
- Rich Levinson, Laurie
- Rogers, Roy
- Stermer, Daniel J.
- Tingom, Peter
- Wexler, Lois

**3. Approval of Minutes – June 14, 2017 Meeting**

Committee Member Cooper made a motion to approve the minutes of the June 14, 2017 meeting. Committee Member Eisinger seconded the motion, and the minutes were approved unanimously.

**4. Additions to the August 9, 2017 Meeting Agenda**

Mr. Akagbosu stated that Broward County requested a letter from the Oversight Committee to address the Third Amended and Restated Interlocal Agreement for Public School Facility Planning (ILA). He said that District staff drafted a letter for Chair Stermer's signature and said that the topic may need to be added to the agenda. He asked whether a similar letter should be generated to the Municipalities. Chair Stermer advised that he signed the cover letter that was addressed to Mayor Sharief informing Broward County of the action taken by the Oversight Committee at the June 13, 2017 meeting regarding the initiation of the Third Amended and Restated ILA which included a tentative schedule regarding that process. He stated that he requested staff to prepare a similar letter for transmittal to the Municipalities. Committee Member Rogers suggested that the Chair execute the letters without further action from the Committee since the action to initiate the Third Amended and Restated ILA had been addressed at a previous meeting. Mr. Akagbosu pointed out that the schedule provided to the

Committee was a tentative schedule, and that the dates would be adjusted after further communication with the Municipalities. Committee Member Freedman suggested that the three (3) School Board Members that are members of the Committee, should divide the meeting schedules according to their districts and plan to attend those meetings accordingly. Committee Member Tingom asked what percentage was needed for the amendment to pass. Mr. Gabriel advised that in order for the amendment to pass, at least 75% of the Municipalities which includes at least 50% of the population of Broward County, must approve the adoption of the amendment. Committee Member Eichner suggested that the letter to the Municipalities also advise them that Broward County will be voting on the amendment on September 14, 2017 and that if the County does not approve the Third Amendment, the process would end.

#### **5. Approval of the Final Agenda for the August 9, 2017 Meeting**

Committee Member Cooper made a motion to approve the final agenda. Committee Member Eisinger seconded the motion, and the motion passed unanimously.

#### **6. Excused Absences for August 9, 2017 Meeting**

Chair Stermer advised that he received requests for excused absences from Committee Members Good and Resnick and that Committee Member Schwartz would be calling in. Committee Member Cooper made a motion to accept the requests for excused absences. Committee Member Eisinger seconded the motion, and the motion passed unanimously.

#### **7. PUBLIC INPUT**

There was no public input.

#### **8. SUBCOMMITTEE REPORTS**

None

#### **9. OLD BUSINESS**

##### **9.1 Draft Report - Student Generation Rate and School Impact Fee Study Update**

Chair Stermer advised that the most recent draft of the Study Update was provided to the Committee in the back-up materials. He said that he would continue where the Committee left off at the last meeting which was with Committee Member questions. Mr. Akagbosu advised that staff was making copies of the strike through, under-lined version of the Study Update which would be distributed. Chair Stermer stated that staff had just distributed a copy of a letter from the Broward County Planning and Development Management Division regarding questions County staff had with the draft Report. He stated that it had been given to him by County staff prior to the meeting, and he had requested that copies be distributed to the Committee Members.

Committee Member Wexler asked if monies collected for school impact fees could only be used for new additional student stations to a facility or general fund to service the debt. Nilgun Kamp, consultant for Tindale Oliver, said school impact fees could only be used for debt service that was related to capacity. She said that regardless of the pledge funding source, as long as debt service was used to build capacity, impact fee revenues could be used to pay off the debt service. Ms. Kamp said that Tindale Oliver had asked the District's Finance Department to provide how the

original issue of each COPS had been used. She said Tindale Oliver then calculated the percent that was allocated for expansion. She said that in regard to the \$900,000,000 bond, most of it was allocated for expansion. Ms. Kamp stated that school impact fee revenue can be used for any outstanding debt service that is related to capacity.

Chair Stermer asked for the statutes, code, rule, or exact authority that allows the use of school impact fees to pay debt service. Ms. Kamp said the state legislature is not specific. She said Tindale Oliver discussed the inquiry with its attorney as to whether there was any case law prohibiting the use of impact fee monies for debt service. She said that the attorney's opinion was that the common practice is that impact fee revenue can be used for debt service as long as the debt service was used to provide capacity. Ms. Kamp said there have been no court cases challenging the use of impact fees to pay down the debt. Additionally, Steve Tindale commented that impact fees are not based on state legislation but for many years have been based on court cases. He said that legislation does not address impact fees, court cases do. Mr. Gabriel said he had not seen the information, but that historically, other jurisdictions use impact fees to pay debt service. Chair Stermer also asked about transportation impact fees, and Ms. Kamp said the same methods pertained to all impact fees. Chair Stermer said that it sounded like a lottery scheme. He said he understood that impact fees were being used to pay for new capacity and paying off debt service on bonds that built capacity, but how could transportation and ancillary facilities fit into that same category. Mr. Tindale said it was not uncommon for major facilities to use bonds to provide for schools, transportation, utilities, etc. Discussions continued, and Mr. Gabriel added that Broward County adopted the rules and regulations that the School District and the County follow regarding impact fees. Additionally, he said that the information is submitted to the County and the County reviews what is appropriately being used and holds the impact fee money pursuant to the County ordinances. Committee Member Eichner asked if future revenue for impact fees were included as the method of repayment when the bonds were originally issued. Ms. Kamp answered no, that they were used as a secondary pledge. Committee Member Eichner asked how Ms. Kamp could validate that not all the debt service was utilized to build expanded capacity, and what portion of the debt service was specifically attributed to the bonds that were used towards capacity. Ms. Kamp stated that every bond issue that had an outstanding payment was reviewed to see what they were used to build, and that Table 8 on page 23 of the Report listed the expansions and the amounts. She said that she could provide a supplementary table which would show a list of each bond issue and which projects were built with bond money and determine the dollar amounts that were used for capacity. Discussions continued regarding debt service, operating costs, and impact fees.

Chair Stermer stated that the Study has been updated, and asked if nothing further was done with the Study, has the District complied with the Second Amended ILA? Mr. Gabriel said yes, and that had already occurred in the past. He said it is the County who adopts the Study, and the School Board can make a recommendation to the County to adopt or not adopt the Study Update.

Committee Member Wexler said she did not realize that a portion of school impact fees went to pay the actual debt service. She commended the consultants on the depth of the Report, and said it was a very good work document. Committee Member Wexler stated that it was very important to pay attention to the letter from the County to Mr. Akagbosu dated July 28, 2017. She said there is great compassion on the Board of County Commissioners for affordable housing and she did not think that they would embrace anything that might impact affordable housing. Committee Member Wexler asked how the School District currently addresses affordable housing. Committee Member Rich Levinson advised that the District had set aside \$375,000 per year for school impact fee waivers for very low-income housing of which only \$60,000 was expended. Lisa Wight advised

that the District has an annual allocation of \$375,000 set aside for very low-income affordable housing projects. She said it is on a first come first serve basis with a \$25,000 maximum amount per project. Ms. Wight said the maximum amount was determined because the District did not want one or two projects consuming the total amount allocated. She said District staff had discussions with affordable housing community stakeholders regarding modifying and expanding the affordable housing effort. Discussions continued regarding the affordable housing process and the continuing efforts of both the District and the County to work together.

Committee Member Eichner said that the affordable housing issue is a huge concern among the development community. She pointed out that with the School Board Policy of a \$25,000 maximum amount per project, when looking at the proposed rates for a typical 3-bedroom very low income project, that amount would only be waiving the fees on four (4) units. Committee Member Rich Levinson said that as the School Board moves forward it would discuss expansion of the school impact fee waivers, and said she appreciated all the feedback. Committee Member Cooper expressed concerns regarding the housing caps, and said she thought all very low-income projects should have the impact fees waived and that the low-income projects should have a percentage of the fees waived. She said that there needed to be a shared responsibility on the developer's end to make sure that they are paying their fair share to the system, and that there should be a fair and equitable distribution of affordable housing throughout the County. Committee Member Naylor asked how many affordable housing units are being built in the community. He said that trying to find places for low income people to buy does not work. Committee Member Naylor said that builders are not building affordable housing, and that may be the reason why the District funds have not been tapped. He said that developers are chasing people out of the community.

Committee Member Naylor asked about the sample size used in the previous Study. Mr. Tindale said that the data was not provided by the previous consultant. Mr. Akagbosu stated that he would follow up with Mr. Keller to obtain that information. Chair Stermer said that the Study Update was easy to understand and an in-depth analysis, but expressed his frustration that staff did not have the underlying data from the previous Report. Mr. Akagbosu advised that staff was not provided with the back-up data used to generate the Report, but that staff received the total number of units that were utilized to match against the student addresses to determine the generate rates. Mr. Tindale stated that the benefit of receiving that data would make the sample size increase from 60% to approximately 70-75%. Ms. Kamp said the County was asking for a 100% sample. Mr. Tindale commented that when they started the Study, counties that used to issue 10,000 new home permits were only issuing 1,000 permits. He said they looked at all the data, all the years, all the sample sizes, and all the homes over a thirty (30) year cycle and that he feels comfortable that if people pull permits in the next five (5) to ten (10), years those homes will average the number of students contained in the Study.

Committee Member Rich Levinson advised that staff needed to have the County staff questions answered prior to the School Board Workshop scheduled on August 15, 2017. Mr. Akagbosu said the answers to the County's second set of questions are already being generated, and that District staff planned to meet with County staff. He said a Memorandum had been sent to the School Board members to advise them of the questions being generated. He stated that the Memorandum was sent prior to receiving the second set of questions from the County; and that staff would provide the answers to the County's second set of questions. Committee Member Wexler said District staff only had three (3) days to facilitate a meeting with County staff. Discussions continued regarding the facilitating of a meeting between District and County staff prior to the Workshop scheduled for August 15, 2017.

Committee Member Hunschofsky asked how much of the current impact fees goes towards debt service and how much goes towards additional capacity. Mr. Akagbosu said that he would contact the Capital Budget Department for the answers to those questions. Committee Member Hunschofsky said that the PowerPoint Presentation talked about new capital facility capacity, and that unless new capital facility capacity was being built, she did not advise putting that in the Presentation. Additionally, Committee Member Hunschofsky said she was concerned after reading the comments from County staff stating that the student station cost was too high. She asked for an explanation. Ms. Kamp said that slide 42 of the Presentation shows that the net cost is 40% higher, and that there are two (2) components to the net cost; the actual cost portion and the credit portion. Ms. Kamp said the actual cost portion was 25% higher and the total cost went from \$31,000 to \$39,000 per student station. Ms. Kamp stated that Tindale Oliver looked at school construction costs, talked with architects, looked at local data, and then supplemented with data from comparable jurisdictions. She said that the other component, the credit portion, only increased slightly.

Committee Member Freedman asked whether the consultants were looking at creating a new facility or adding capacity to an existing core when they figured the net impact per student cost; because there were major differences between the two in the dollar costs. Ms. Kamp stated that the figure listed was the cost for an entire school and is charging new development for what it is consuming. Discussions continued regarding the fact that school impact fees are countywide.

Committee Member Good advised that the concern that school impact fees are countywide was raised at a School Board Workshop, and that the District wanted to work with the County and understand what concerns they have, and said it must be a collaborative effort. Committee Member Good said that the District needed to provide open and transparent information. She said that after hearing the issues and concerns that have still not been addressed, she did not think the District was ready to meet next week for a workshop. Additionally, she said that as long as the County has open seats, the State would not allow the School District to build new capacity. Committee Member Good said the District needs to continue to pay down the debt service and find other ways impact fees can be used for the benefit of the students of the County.

Chair Stermer asked what District staff's recommendation was. Mr. Akagbosu responded that staff did not have a recommendation at this point. He said that staff was comfortable with the third hybrid approach, but would receive direction from the School Board at the School Board Workshop scheduled for August 15, 2017. Mr. Tindale suggested dealing with the generation rate without looking at the final fee and then making a decision regarding the impact fees. Chair Stermer asked Mr. Akagbosu what he wanted from the Committee. Mr. Akagbosu said the Report was being presented because it was requested at the last meeting to show the changes made, and to show the methodology for the third hybrid approach. He said staff was comfortable with the hybrid approach contained in the Study. Mr. Akagbosu said no formal recommendation was needed from the Committee at this time. Discussions followed regarding the hybrid methodology, and Mr. Akagbosu clarified that the intent of the Presentation was for the consultants to present the hybrid approach which came about after taking all the comments into consideration.

Committee Member Cooper said that as long as the Report is legally defensible and as long as the fees could be phased in, she was in support of the Report, but stated that she was also extremely concerned about the affordable housing policy and she supported waiving the fees for very low-income housing and looking at a percentage across the County for decreasing impact fees as a set policy. Committee Member Tingom said he concurred with Committee Member Cooper's

comments, and stated that he felt this Study was significantly better than the previous Study. He also agreed that a two-year phase-in approach would be more successful, and that he thought the questions asked by the County needed to be answered before the School Board Workshop. Chair Stermer said that the Study made certain recommendations to the County Property Appraiser to collect certain data, and asked what would require the Property Appraiser to collect such data. Ms. Kamp said the Property Appraiser is not required to collect that data, but that the data would be useful. Chair Stermer said that in Table 10 which is the hybrid method, some of the fees increased from 15% to 861%, and if the fees were phased in at the highest level they would be phasing in 430.5% per year for two (2) years. He asked that the Committee look at Table 10. Mr. Tindale commented that the numbers changed dramatically upward, but that the second Study went down 1,000% from the previous Study and now looking at the proposed Study, the numbers are back up to where they were in the first Study. He said that he felt the recommendations were reasonable when you look at the size of the different fees and the volatility between the different studies. Discussions continued regarding the increased percentages of the impact fees.

Chair Stermer asked Mr. Akagbosu if staff was expecting a recommendation from the Committee. Mr. Akagbosu said that the Study was complete, and staff would take the feedback from the Oversight Committee back to the School Board. Chair Stermer stated that the Committee was thankful for the work done by the consultant, and no one was questioning the work product. He said that the Study Update is dramatically better than the previous Study. Chair Stermer asked if any Committee Member wanted to make a recommendation or did the Committee want to let the comments stand for themselves. Committee Member Good said that the School Board had an obligation to update the Study every three (3) years. Chair Stermer said that the Study had been done, and that the County could choose to keep the current fees. Committee Member Eichner suggested that the focus be on the student generation rate data and then on the cost per student station data, and where those numbers came from in terms of the bond. She said she was having a hard time looking at future cost per student stations when the District is not building any new student stations. Discussions followed regarding the costs for the most recent schools that were built.

Committee Member Wexler said that phasing the costs in was a no brainer. Additionally, she said that she was shying away from the all homes methodology because the impact fees have already been paid on those homes. Committee Member Wexler said the new homes methodology will negatively impact those already struggling to live in Broward County. She also said it was important to have the exact dollar amounts for the old debt that is being paid off. Committee Member Wexler suggested keeping the status quo unless staff can adequately answer all of the County staff's questions. Committee Member Naylor asked if the cost of overall construction from 2014 to 2017 had been taken into consideration. Mr. Tindale stated that it was looked at statewide. He said in 2008, the whole state of Florida was exploding, but now only certain parts of the state are exploding. He said there was wide variation in the cost of construction in geographic areas. Mr. Tindale said Tindale Oliver had much data, but needed to be careful because construction costs in the growth areas went up 40 - 50%; but the rural areas were not growing and the cost of construction was moderate. He stated that the urban counties in general were experiencing some dramatic changes in the cost of construction. Mr. Tindale said the bigger question was whether Broward County was developed to the point to where the marginal cost was not going to be like that of any other county. He said he felt comfortable with their construction cost figures.

Committee Member Rogers said the Committee was at the point of action, and he asked that the Chair sum up the meeting. Chair Stermer requested that the minutes reflect the various opinions of the Committee Members and that should be what is moved forward.

## 10. NEW BUSINESS

There was no new business.

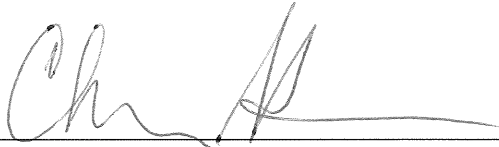
## 11. INFORMATIONAL ITEMS


11.1 Next Scheduled Meeting – October 11, 2017

## 12. ADJOURN

Chair Stermer adjourned the Oversight Committee meeting at 2:03 p.m.

Respectfully submitted by:

  
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Christine Hunschofsky, Secretary

  
\_\_\_\_\_  
Date