

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

**Final Minutes
Oversight Committee Public Meeting
April 17, 2019**

12:00 p.m.

Kathleen C. Wright Administration Center, School Board Meeting Room

1. Call to Order

Chair Stermer called the April 17, 2019 Oversight Committee meeting to order at 12:14 p.m.

2. Roll Call

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

- Alhadeff, Lori
- Eisinger, Debby
- Good, Patricia
- Hunschofsky, Christine
- Klopp, Keven
- Rogers, Roy
- Stermer, Daniel J.
- Tingom, Peter
- Wexler, Lois

3. Approval of Minutes – January 9, 2019 Meeting

Committee Member Eisinger made a motion to approve the minutes from the January 9, 2019 Oversight Committee meeting. Committee Member Rogers seconded the motion, and the minutes were approved unanimously.

4. Additions to the April 17, 2019 Meeting Agenda

There were no additions to the April 17, 2019 meeting agenda.

5. Approval of the Final Agenda for the April 17, 2019 Meeting

Committee Member Tingom made a motion to approve the final agenda for the April 17, 2019 meeting. Committee Member Hunschofsky seconded the motion, and the motion passed unanimously.

6. Excused Absences for April 17, 2019 Meeting

Chair Stermer stated that he received excused absence requests for the April 17, 2019 meeting from Committee Members Curtin, Fisher, Resnick and Rick Levinson. Committee Member Tingom made a motion to accept the excused absence requests. Committee Member Hunschofsky seconded the

motion, and the motion passed unanimously. There were brief discussions regarding member absences, and Chair Stermer said that Ms. Brown, Ms. Houchins and himself would review the matrix of members attendance and as necessary send out reminders of the need for all members to attend the meetings.

7. PUBLIC INPUT

There was no public input regarding any issues not listed on the April 17, 2019 Oversight Committee agenda.

8. SUBCOMMITTEE REPORTS

None

9. OLD BUSINESS

9.1 Approval and Issuance of the 2018 Annual Status Report on Implementation of the Second and Third Amended and Restated Interlocal Agreement for Public School Facility Planning

Ms. Leslie Brown, Chief Portfolio Services Officer, advised that the 2018 Annual Status Report on Implementation of the Second and Third Amended and Restated Interlocal Agreement for Public School Facility Planning (2018 Report) was provided in the back-up materials. She asked for any comments regarding the 2018 Report. Chair Stermer stated that the Draft 2018 Report was provided at the January 9, 2019 Oversight Committee meeting. Committee Member Klopp asked for a brief summary of the two (2) findings that were not in compliance. Lisa Wight, Planner, Facility Planning and Real Estate Department, said that Items 8.2 and 8.7 of the 2018 Report both dealt with updates to comprehensive plans and land development regulations (LDR). She said that since adoption of the TRILA, the municipalities need time to update their comprehensive plans and LDRs to be in compliance with the TRILA.

Committee Member Klopp said the City of West Park had not attended any Staff Working Group (SWG) meetings in 2018, and he would reach out to the City and encourage them to attend the meetings. Chair Stermer advised that letters were transmitted last year to certain municipalities that were not attending the SWG meetings to encourage them to attend. Committee Member Klopp made a motion to approve the 2018 Report. Committee Member Tingom seconded the motion, and the motion passed unanimously.

9.2 Student Generation Rate and School Impact Fee Study Update

Ms. Brown gave background information as to where the School District is regarding the Student Generation Rate and School Impact Fee (SGR/SIF) Study Update. She stated that in May 2018, the School Board had requested a six-month hold on the recommendations, and thereafter, staff brought the SGR/SIF Study Update back to the Oversight Committee in January 2019. Ms. Brown said that at that meeting, the Committee asked staff to orient the new Committee Members on the process and learning curve of the SGR/SIF Study Update. She said staff conducted the orientation, and that the new members appreciated the orientation.

Ms. Brown said School District staff had attended many meetings over the past eighteen (18) months to answer questions from Broward County staff and the community regarding the

SGR/SIF Study Update. She said that Broward County questioned the methodology on the housing units sample size, which the consultants addressed by using a hybrid model that recognized the most recent data and connected that data to the data from the past seven (7) years. Ms. Brown said that Broward County also asked staff to look at issues regarding affordable housing. She said staff had convened several meetings with a group of affordable housing advocates and worked on a modified process for the school impact fee waiver applications. Ms. Brown said staff modified the processing timeline, increased the per project cap from \$25,000 to \$50,000, and included school impact fee waivers for low income housing units in addition to the very low-income housing units. She stated that staff took the modifications to the School Board and the School Board approved the modifications. She said School Board Growth Management Policy 1161 was also approved by the School Board.

Ms. Brown said the SGR/SIF Study Update had significant fee increases in certain unit types, and staff met with the District's Chief Financial Officer and the consultant and determined that those significant fee increases could be capped at 75%, which would mean all fee increases would be no more than 75%. Ms. Brown gave an example using the garden apartment unit category and said that the consultant advised that capping the fee increases at 75% was legally defensible. She advised that any changes resulting from the calculation must be de minimus; which means that any change made to the rates should have an impact in lost impact fee revenue of no greater than 5%. Committee Member Rogers said staff provided a great data set and thanked staff. Ms. Brown said the District was unable to move forward with the request to phase the school impact fees. She stated that the School District had honored every request made to move the SGR/SIF Study Update forward to the County, except for the phase in request. Ms. Brown stated School District staff's recommendation was to move the SGR/SIF Study Update to the School Board and have them make the decision in moving it forward to the County. She said the County is the final decision maker. Brief discussions followed regarding the condominium, mid-rise and high-rise categories, students being generated from those categories, and the possibility of adding rental apartments as a unit type in the next Study. Ms. Brown advised that the definition of a mid-rise unit is four (4) to eight (8) stories and a high-rise is defined as nine (9) or more stories.

Ms. Wight said that Evy Kalus, the Ex-Officio on the Oversight Committee, could not attend today's meeting, but Ms. Kalus wanted to convey that at their last meeting, the SWG did not express an opinion regarding school impact fees, but as planners, they had concerns about not adopting the new student generation rates portion of the SGR/SIF Study Update. She said that the SWG felt that for planning purposes, it was important to capture as accurately as possible what the student impact will be, and they asked that the Committee consider having the County adopt the new student generation rates. Ms. Brown talked about the importance of the SGR/SIF Study Update, not only for the School District but for the entire County.

Chair Stermer reiterated that the SWG planners believe that a student generation rate needs to be adopted, but they took no position regarding the school impact fee issue. He asked School District Cadre Attorney, Alan Gabriel, if the Committee could recommend one thing regarding the student generation rates and something different or say nothing regarding school impact fees? Mr. Gabriel said it was the Committee's choice what they wanted to recommend. Committee Member Good said it was her opinion that a recommendation should be made, but ultimately it was up to the County Commission. She said the Committee needed to make a recommendation that they were comfortable with, and it was her hope that they could provide guidance to the School Board. Committee Member Wexler said she did not agree with addressing the student generation rates portion of the SGR/SIF Study Update and not

addressing the school impact fees portion. She said that the County had issues with the methodology of the SGR/SIF Study Update, but she believed that everything had been addressed and asked if the County was satisfied that the methodology was not flawed. Ms. Brown stated that questions on the methodology were 100% addressed, and the only outstanding issue was the request of phasing in the fees. Deputy County Attorney Maite Azcoitia concurred. Committee Member Wexler said the County could reject the SGR/SIF Study Update, however; they must have a reason to do so. She said they could add into the SGR/SIF Study Update a phasing in of the fees which had been done on the previous SGR/SIF Study. Committee Member Wexler said that 2020 is around the corner when another SGR/SIF Study would be due. Committee Member Good asked if the recommendation could include the fact that if the SGR/SIF Study Update moved forward and goes before the County Commission, could the 2020 review be eliminated. Ms. Brown said that had been discussed with the Committee. At this point, Chair Stermer asked for Mr. Jernigan's input.

Skeet Jernigan, President of the Community and Economic Development Council, said The School Board of Broward County, Florida is not in a legal position to raise impact fees or to continue to collect impact fees. He talked about the Auditor General's Report that questioned the use of school impact fees by the School Board to pay debt service and the Superintendent's response to the Auditor General's Report. Mr. Jernigan said that since school year 2010, and to date, the School District has misappropriated \$78,000,000 and used those funds to pay debt service. Chair Stermer asked that Mr. Jernigan submit anything further that he would like for the record.

Committee Member Wexler stated for the record that Attorney Robert Gang, Greenberg Traurig, P.A., was also the counsel for some of the other counties in Florida. She said he was respected throughout the State of Florida. Committee Member Wexler said that she did not believe that how the money is spent by the School District has anything to do with the decision that the Oversight Committee would make about school impact fees or student generation rates. She said that the generating of the money and the spending of the money are two (2) different issues. Committee Member Good concurred. Committee Member Klopp agreed and clarified that the Oversight Committee is not an advisory board to the School Board, but more of a clearing house for local governments in the County. Brief discussions followed regarding rental apartments, condominiums, and forms of housing ownership for consideration in the next SGR/SIF Study.

Committee Member Tingom said he was in favor of moving forward with the SGR/SIF Study Update. Committee Member Rogers said he also wanted to move forward with the SGR/SIF Study Update but said that school capacity needed to be addressed. He said the School District is continuing to pay down debt with school impact fees while capacity is decreasing and asked to be shown the legal nexus. Committee Member Good said the ability for any school district to collect impact fees and be expected to create an immediate improvement to address issues of capacity is not logical and said that buying a home and mortgaging it out for several years is the same logic used to pay debt service. Committee Member Good said the School District creates opportunities for schools which cost millions of dollars and have allowed for increased capacity within a variety of areas throughout the County. She said that the School District is divided into various benefit districts. Committee Member Good said there is a need to address the issue of impact fees and their collection, and said she believes the logic is sound and that a recommendation needed to be made.

Ms. Brown talked about the tentative Auditor General's Report and said the Auditor General is collecting information from the School District which supports the rational nexus in the use of

the collection of school impact fees. She said the School District will continue to work with the Auditor General's Office. Ms. Brown said the impact fees are available every year and should be used to pay for the growth necessitated school facilities that were needed to serve students that are currently and continuing to be needed to serve students in areas from which the impact fees were derived. Ms. Brown said the School District can prove that every penny went back to the County designed impact fee areas. She stated that Broward County is divided into four (4) areas because that is how the money gets sent back into those communities, and the impact fees have separate trust accounts for each of the four (4) impact fee areas. Ms. Brown said that is how the fees are applied to the debt that is created by those actual schools that have been built using long term funds. She stated that the availability of the seats that were paid by prior impact fees, takes thirty (30) years to pay off so that concurrency is satisfied within the School District. Ms. Brown said the SGR/SIF Study Update included the most recent residential information from the local areas which is what is required by State Law. She said the SGR/SIF Study is done to make sure the School District is not charging more than is legally authorized. Ms. Brown said the impact of the fees is directly accountable to the classrooms the School District must provide before the students show up. She said that all impact fees are done by incurring debt for future growth, whether it be sewer lines, roads, parks, infrastructures, etc. Ms. Brown said there has been a total misrepresentation of how the School District is using impact fees when it comes to the replacement of relocatables. She stated for the record, that bond money is being used for the replacement of relocatables and not school impact fee money. Ms. Brown said that the School District is using the bond dollars appropriately as well as the school impact fees. She said the School District will continue to monitor new developments and also monitor the legislative process.

Chair Stermer asked how many vacant seats currently exists in the School District. Ms. Brown said approximately 20,000 empty seats exist in District schools and approximately 22,000 empty seats in Charter Schools. There were brief discussions regarding the use of impact fee money for transportation costs, and Ms. Brown stated that impact fee money is not used to pay for transportation costs. Omar Shim, Director, Capital budget stated that the use of school impact fees is used only on capacity additions.

Committee Member Wexler said she was struggling with economic challenged housing in Broward County. She said that if a significant increase in school impact fees passes, the developers will pass those increases on to the families buying or renting the homes. Committee Member Wexler thanked staff for putting a cap on some of the outrageous increases, but said she still felt some of the rates were too high, and she is concerned about the economic negativity and torn about how to move the SGR/SIF Study Update forward. Committee Member Eisinger said that school impact fees are very important, and the School District needs to be able to provide quality public education for every child in Broward County. Committee Member Good suggested that the Committee have a special meeting as soon as possible when more members could attend. She said that she was amenable at looking at a different cap rate and asked staff to calculate a different cap rate for the Committee's consideration.

Chair Stermer said he did not think any member had an argument with the student generation rate issue, and said he was not opposed to staff doing additional work and calling a special meeting in order to get something accomplished. Committee Member Rogers said Ms. Brown had a good response to his comments and said that the SGR/SIF Study Update did deserve a further look. Committee Member Good made a motion to continue discussions on the matter and to schedule a special meeting before the July 2019 meeting but no later than the end of May 2019, to bring the SGR/SIF Study Update back to the entirety of the Committee. Committee

Member Rogers seconded the motion. Ms. Brown said that staff had looked at capping the impact fees at 49% and said she could provide copies for anyone who would like to see those figures. She also said that once things are separated, it is hard to put them back together, and stated that a significant amount of time had been spent by the Oversight Committee working on the SGR/SIF Study Update, significant revenue had been spent by the School District, and she felt that separating the SGR/SIF Study Update would create two different worlds, while they really are connected. Chair Stermer said he was not a proponent of looking at new numbers for the sake of moving the SGR/SIF Study Update forward. He said that the School Board needed to be recognized and commended for what had been done regarding the affordable housing policy and the expansion taking place across the community. At this point, a vote was taken on the motion, and the motion passed with three (3) no votes from Committee Members Eisinger, Klopp and Tingom.

Chair Stermer said he would work with Ms. Houchins on the availability of the School Board Meeting Room for a future meeting in May 2019.

10. NEW BUSINESS

10.1 Legislative Update

There was no discussion on Item 10.1.

11. INFORMATIONAL ITEMS

11.1 February 13, 2019 Workshop Presentation to New Oversight Committee Members Draft Minutes


11.2 March 7, 2019 Staff Working Group Draft (Not Approved) Minutes

11.3 Next Scheduled Meeting - July 10, 2019

11. ADJOURN

Chair Stermer adjourned the meeting at 1:45 p.m.

Respectfully submitted by:



Christine Hunschofsky, Secretary



Date