

**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
June 19, 2019**

12:00 p.m.

Kathleen C. Wright Administration Center, School Board Meeting Room

1. Call to Order

Vice Chair Rich Levinson, called the June 19, 2019 Oversight Committee meeting to order at 12:15 pm

2. Roll Call

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

- Alhadeff, Lori
- Kalus, Evangeline
- Eisinger, Debby
- Fisher, Lemar
- Good, Patricia
- Hunschofsky, Christine
- Klopp, Keven
- Resnick, Gary
- Rich Levinson, Laurie
- Rogers, Roy
- Tingom, Peter
- Wexler, Lois

Evangeline Kalus, the new Ex Officio member of the Oversight Committee appointed by the Staff Working Group (SWG), introduced herself and advised that she is a city planner for the City of Wilton Manors.

3. Approval of Minutes – April 17, 2019 Meeting

Committee Member Rogers made a motion to approve the minutes from the April 17, 2019 Oversight Committee meeting. Committee Member Eisinger seconded the motion, and the minutes were approved unanimously.

4. Additions to the June 19, 2019 Meeting Agenda

There were no additions to the June 19, 2019 meeting agenda.

5. Approval of the Final Agenda for the June 19, 2019 Meeting

Committee Member Rogers made a motion to approve the final agenda for the June 19, 2019 meeting. The motion was seconded, and the motion passed unanimously.

6. Excused Absences for the June 19, 2019 Meeting

Ms. Houchins stated there were no excused absence requests; however, after the meeting concluded, Ms. Houchins realized that Chair Stermer had requested an excused absence for the meeting.

7. PUBLIC INPUT

Vice Chair Rich Levinson asked for public input. Skeet Jernigan, President of the Community and Economic Development Council (C&EDC), spoke on Item No. 9.2, the Draft Student Generation Rate/School Impact Fee Study Update (Study Update). He said that the C&EDC believes that the School District should establish that they have the legal right to continue collecting school impact fees by justifying that they are meeting the requirements of case law and fulfilling the dual rational nexus test as required by state law. Mr. Jernigan read the requirements for the dual rational nexus test. He said that it appeared that the District had failed both components of the dual rational nexus test. Mr. Jernigan said there is no need to collect school impact fees because of sufficient capacity in the District, and also said that the District could not use school impact fees to build capital facilities because the facilities are not needed, and the District has no plans over the next five (5) years to build capital facilities. He stated that the student population in Broward County has dropped every year since 2006. Mr. Jernigan said he thought it was inappropriate for the District to use school impact fees from recent developments to pay for capacity that was built more than fifteen (15) years ago. Additionally, he said that calculating the fee is vastly different from collecting the fee. Mr. Jernigan said the SWG had reviewed the consultant's report and voted that the report should be taken and used for data, but they did not take a position on increasing the school impact fees.

Committee Member Wexler commented that Mr. Jernigan's position had been heard multiple times before, and she appreciated his tenacity. She said that the Committee had also received the District's cadre attorney's opinion and advice. Committee Member Wexler stated that the Committee does not want to be in violation of the law, and asked Mr. Gabriel for his advice in respect to Mr. Jernigan's comments and the document read. Mr. Gabriel said it was his opinion that the District has always followed the County regulations and has always met the dual rational nexus test. He said there have been questions regarding whether it is appropriate to utilize school impact fees to pay the existing debt and commented that there is adequate capacity in the District today because the District had the foresight to build the seats for the students as they came forward and that those seats were built with bond money. Mr. Gabriel said the debt still needs to be paid even though there is now excess capacity. He commented that the discussions have been ongoing throughout the State of Florida and the legislature had approved a new statutory provision that adopts the nexus test and follows along with the conversations the Committee has been having and, in his opinion, has acknowledged that it is acceptable for bond debt to be utilized for that purpose.

Committee Member Rogers said that in the back-up legislature package, House Bill 207, line 55, (g) states "the impact fee must be reasonably connected to, or have a rational nexus with, the expenditures of the revenues generated and the benefits accruing to the new residential or commercial construction", and said that the money is being paid into by reducing the debt to a specific district or zone. Ms. Brown advised that line 62 states that the local government cannot use debt unless the expenditure is reasonably connected to or has a rational nexus with the increased impact. She said the debt from

construction was what the funds were being used for, and it was connected to debt that has a rational nexus. Ms. Brown congratulated the Board and staff for following the law and said that everything had been aligned exactly as the law expected. Committee Member Rogers said that this was a defining moment for him regarding the rational nexus and the choice of reducing the debt as a means by which that obligation is connected.

8. SUBCOMMITTEE REPORTS

None

9. OLD BUSINESS

9.1 Legislative Update

Ms. Brown said much of the legislative update had been discussed under Item No. 7. She advised that House Bill 207 passed and concurred with the use of debt in the manner that is appropriate and what the School District has done all along. She also stated that there was an update to House Bill 7103 repeating the process of the use of school impact fees to pay debt if it had a rational nexus, which was confirmed by the Auditor General. She stated that the District, with the help of the Oversight Committee, shifted its response time for affordable housing reviews and that State Legislation had followed a similar pattern to get the affordable housing waivers passed in an easier fashion (Line 171 (1)). Ms. Brown said as the District was working through how to work with the affordable housing community regarding providing waivers, they were cautioned that it was not in State Statute, and the Board took a stand and now as seen in Line 444, waiver opportunities for affordable housing are now allowed, and the District is in full compliance with the State Statute.

9.2 Recommendation on Percentage Increase of the Student Generation Rate/School Impact Fee Study Update

Ms. Brown stated that at the last Oversight Committee meeting there were discussions regarding putting a cap on the increased school impact fees. She said the current proposal shared with the Committee and the community showed a 75% cap for those units that exceeded 75% and explained the calculations. Ms. Brown said at the previous Oversight Committee meeting there had been discussions regarding whether the percentage could be increased. Committee Member Good said she thought it was prudent to move the Study Update forward. She said the District is part of the community and the increases will have an impact on development and affordable housing. Committee Member Good said she was interested in looking at what the rates would be if capped at 50% for those fees that have significantly increased. Ms. Brown advised that staff had calculated another cap at 49% and passed out the matrix for the Committee's review. Committee Member Good stated that the amounts are not significant, but she believed that the message to the County Commission would show that the District was taking the fee increases very seriously, but said she felt it was necessary to consider an increase because the fees have not increased in five (5) years.

Committee Member Wexler said the school impact fees are a very sensitive issue in Broward County where there is such a need for affordable housing. She talked about the increase in the school impact fees in the draft Study Update and said that she understands that the Committee needs to try and make a recommendation based on logic, data, need, sensibility, and fairness. She said it was important for Committee Member Fisher to hear the conversations because even

though there will be an opportunity for public input, he will have to give the explanations when the matter is before the County Commission for formal action. She said if she was to vote in support of the draft Study Update, it would be hesitantly. She asked what the rationale was if the percentage was changed. Ms. Brown stated that staff had been advised that the District must modulate around a de minimus level which must be consistently applied across all unit types. She said that the District feels there is a rationale for the 49% reduction, and that it is defensible. Committee Member Hunschofsky asked how the de minimus level was established. Ms. Brown advised that District looked at the standard from the reviews of student generation rates across the state. There were discussions regarding the rational nexus for impact fees for new areas that were not previously part of Broward County and the District's four impact fee benefit zones.

Ms. Brown advised that getting a recommendation from the Oversight Committee regarding the Study Update had been an eighteen (18) month process, and staff had incorporated everything that Broward County had asked for into the Study Update except for the phase in process including the affordable housing recommendations. Discussions continued regarding the school impact fee increases in the Study Update and enrollment projections for planning purposes.

Committee Member Fisher made a motion to move the draft Study Update forward to the School Board for formal action, capping the school impact fee calculations at 49%. Committee Member Eisinger seconded the motion. Committee Member Wexler said she did not want to do anything to negatively impact the cost of housing and construction in Broward County, but also said she understands the need for additional dollars. She said that the community cannot sustain higher costs and that the homes are no longer affordable. Vice Chair Rich Levinson stated that the goal was not to rush to start a new study and increase the fees again, but to update the Study from five (5) years ago. Lengthy discussions continued regarding the school impact fees, the rational nexus, unit types and the generation of students. Ms. Brown said there has been much development from 2014 through 2019. She advised that the District's Facility Planning and Real Estate Department has done more development reviews than ever before. Ms. Brown also stated that the District has helped the community by doing significant work on affordable housing. Committee Member Resnick said that he had to leave the meeting but stated, for the record, that his vote on the motion would be no. He said the 49% was much higher than the other increases being proposed. Additionally, he said he had not heard that the \$57,000,000 currently being paid in impact fees is insufficient to cover the debt. Committee Member Resnick said he did not know what the reasoning was for increasing the revenue to cover the debt. He stated that he supports no changes to the current school impact fees. Ms. Brown said it was important to note that the amounts and rates shown are a representation of dollar amounts at the new rate and what could be generated. Ms. Brown explained that the Sample of Units column listed on the 49% cap matrix was projected by the consultant based on data over the past seven (7) to ten (10) years that may materialize.

Committee Member Fisher made a motion to call the question. Committee Member Resnick seconded the motion, and the motion passed unanimously. Thereafter, a roll-call vote was taken on the motion to move the draft Study Update forward to the School Board for formal action with the 49% cap on school impact fees. The motion passed by a vote of 7 to 3. The no votes included Committee Members Hunschofsky, Resnick and Wexler.

9.3 Forward Student Generation Rate/School Impact Fee Study Update to the School Board and the Broward County Commission for Formal Action

See Item 9.2 above.

9.4 Subsequent Iterations (3 Year vs. 5 Year) of the Student Generation Rate/School Impact Fee Study Update

Ms. Brown said the District is currently in a three (3) year cycle of updating the SGR/SIF Study. She advised that the draft Study Update began in 2017 and another update is due to begin in 2020. She said if a five (5) year cycle is agreed upon, the Study Update would be due in 2022, the District would begin work on the new Study Update in 2021, and discussions would begin with the Oversight Committee in 2022. Mr. Gabriel advised that the Third Amended and Restated Interlocal Agreement for Public School Facility Planning (TRILA) provides that the District update the SGR/SIF Study every three (3) years. Mr. Gabriel said that staff is inquiring whether there may be interest in extending the three (3) year period to five (5) years. He stated that because the TRILA provides for the three (3) year update, there needs to be discussions regarding the process to change that timeframe. Mr. Gabriel stated that formal amendment of the TRILA would be one option. Additionally, he said if the Committee agrees, there is an interpretation process for making modifications to the TRILA, and he said there is justification for changing the timeline. After brief discussions, Committee Member Tingom made a motion to change the timeline for commencing the update of the SGR/SIF Study from every three (3) years to every (5) years and asked staff to provide language in the Interpretation Document for the Committee's approval at the next scheduled meeting. Committee Member Eisinger seconded the motion. After brief discussions, the motion passed unanimously.

10. NEW BUSINESS

There was no new business.

11. INFORMATIONAL ITEMS

11.1 Next Scheduled Meeting – July 10, 2019

Committee Member Wexler made a motion to cancel the July 10, 2019 scheduled meeting. Committee Member Klopp seconded the motion, and the motion passed unanimously. Committee Member Klopp asked that the Committee stick to the regular meeting schedule.

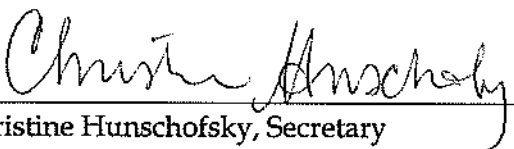
11.2 October 9, 2019 Scheduled Meeting

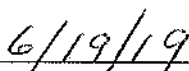
After discussions regarding the scheduled October 9, 2019 meeting being a holiday, Chair Rich Levinson changed the October 9, 2019 meeting to October 16, 2019.

11: ADJOURN

Vice Chair Rich Levinson adjourned the meeting at 2:05 p.m.

Respectfully submitted by:


Christine Hunschofsky, Secretary


Date