

**FAIRFAX COUNTY PLANNING COMMISSION
SCHOOL FACILITIES COMMITTEE
WEDNESDAY, JULY 14, 2004**

PLANNING COMMISSION COMMITTEE MEMBERS PRESENT: Walter L. Alcorn, At-Large
John R. Byers, Mount Vernon District
Suzanne F. Harsel, Braddock District
Frank A. de la Fe, Hunter Mill District

SCHOOL BOARD MEMBERS PRESENT: Catherine Belter, Fairfax County Public Schools (FCPS),
Springfield District
Janet Oleszek, FCPS, School Board Member, At Large
Jane Strauss, FCPS, School Board Member, Dranesville District

STAFF PRESENT: Barbara J. Lippa, Executive Director, Planning Commission Office
Norma J. Duncan, Associate Clerk, Planning Commission Office
Donna McNeally, Assistant Division Director, Zoning Evaluation
Division, Department of Planning and Zoning (DPZ)
Kenneth Williams, Chief, Plan and Document Control, Department
of Public Works and Environmental Services (DPWES)
Gary Chevalier, FCPS, Director, Office of Facilities Planning Services

OTHERS PRESENT: James R. Hart, Commissioner At-Large
Janet R. Hall, Mason District
Kenneth A. Lawrence, Providence District

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Chairman Suzanne Harsel called the School Facilities Committee meeting to order at 7:30 p.m. in the Board of Supervisors' Conference Room of the Fairfax County Government Center at 12000 Government Center Parkway, Fairfax, VA 22035.

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Chairman Harsel welcomed all present, particularly two new attendees from the School Board, Jane Strauss, representing Dranesville District, and Janet Oleszek, Member At-Large.

Chairman Harsel noted that at the last meeting the Committee had discussed proposed language on school proffers, and asked Donna McNeally, Assistant Director, Zoning Evaluation Division, DPZ, to review the alternatives for the benefit of the new attendees.

Ms. McNeally explained that staff was asked to draft some proposed proffer language for school contributions to use in negotiations with developers. She said that based on comments from the

last meeting, Barbara Byron, Director, Zoning Evaluation Division, DPZ, had reworked the draft language. Ms. McNeally distributed handouts of the revised sample proffers and stated her desire to discuss the revisions at the next meeting (copy is included in the date file).

Chairman Harsel asked Commissioner Alcorn to briefly review the purpose of the residential criteria. Commissioner Alcorn explained that criteria had been developed to evaluate rezoning applications for new residential development which considered such items as good site design, affordable housing, and impacts on transportation and public facilities. The intent of the new guidelines, he said, was to determine what public facility impacts were anticipated with proposed rezonings. He referred to a process outlined in the criteria that specifically stated how applicants could offset these public facility impacts, the biggest of which was schools. He said the language was designed to provide guidance only to developers.

Chairman Harsel indicated that Commissioner Alcorn and Gary Chevalier, Director of Facilities Planning Services, FCPS, had developed a formula that dealt with the impact that additional students would have on a particular school. She explained that the formula applied to each rezoning, but only to the number of additional children generated by that application. She emphasized that the County could not legally reject a rezoning because a developer did not offer a proffer and Commissioner Alcorn interjected that this rule applied even if area schools were overcrowded.

Chairman Harsel mentioned that Ms. Byron had brought a chart to an earlier meeting which defined the flow of funds through site planning, and asked if there was a way to expedite receipt of the funds. Ms. McNeally responded that since proffers were triggered at site review, they were only collected if the project proceeded.

Ms. Oleszek thanked them for the "Planning 101" briefing, but noted it was far too complicated to understand in one session. She stated her understanding that the schools would never get the full cost of each student in schools, but was interested in learning more about the process.

Commissioner Hall noted that proffers did not have to be cash alone but could also be for improvements such as construction of a field. Chairman Harsel gave an example of a capital improvement by referencing the grading and installation of a track at Oakview.

Chairman Harsel requested that Kenneth Williams, Chief, Plan and Document Control, DPWES, explain the proffer process once the site plan stage was reached.

Mr. Williams explained that while a number of staff reviewed proffers on the first site plan submission, they generally focused on the amounts expected in cash proffers. Depending on whether the proffer trigger was at site plan approval or first building permit, he said it would be noted by computer to ensure funding was received at the appropriate time. He noted that reviewers were more responsible for ensuring that improvements were completed, such as: storm water management, trails, and dedication of land for schools. He also indicated that plan approval could take 9-12 months from submission to final approval, when most proffers would be collected. He also stated that prior to the bond release, staff would ensure that all proffers had been satisfied.

Commissioner Hall remarked that she heard him say that the money was received at the end of the process. Mr. Williams responded that it could be prior to site plan approval, depending on language in the proffers. Most school proffers, he said, had been written so that money was received prior to final site plan approval, while some, such as housing proffers, would be written to collect money “at time of the first building permit.”

Commissioner Hall suggested that if the intent was to obtain money earlier, the proffers should be written to require receipt of the money at the time the site plan was filed. Mr. Williams said that timing might be difficult since some site plans were filed concurrently with the rezoning. With concurrent filings, he said it would be hard to enforce proffers that may not have been finalized by the Board, until the time of the second submission of the site plan.

Commissioner Hall asked if there would be a problem under concurrent processing to write proffers using different language at the time the rezoning application was finalized by the Board. Mr. Williams said it was possible, but confusing to reviewers and Commissioner de la Fe offered that site plan approval was probably the earliest reasonable time to ask for money. Before site plan approval, he remarked, there was no reason for developers to offer the money since the development might never get finished, whereas at site plan approval, the likelihood of project completion was much better. Ms. McNeally agreed that with Commissioner de la Fe that site plan approval was a better collection time.

Chairman Harsel asked what mechanism his staff would use at site plan approval to show the money had been paid. Mr. Williams responded that following site plan approval, the plan moved to the Bonds & Agreements Branch, where it resided until a number of conditions were met, such as proffers or bond conservation. When a payment was received, he said, it was noted in the computer system as paid, the appropriate agency was notified, and funds were transferred.

Chairman Harsel asked Mr. Chevalier if there was a better way to transfer funds to his staff and he replied that he and Mr. Williams had worked this out in the following manner. Mr. Williams indicated that when a school proffer was received, DPWES would email School Board staff to advise them that the money was collected and the amount. As a follow-up, he noted that within the first 15 days of each month, he would receive official correspondence showing all the proffers collected that month, the amount, the deposit number, and its purpose, with a receipt attached and a copy of the proffer for clarification.

Responding to Chairman Harsel’s question about FCSB’s process, Mr. Chevalier remarked that the money went into the Design and Construction accounts earmarked for the identified school.

Chairman Harsel questioned whether a trust fund should be designated, such as a Robinson Modular fund, for money generated from small rezonings so that the money would apply to a designated capital improvement. Mr. Chevalier said they could certainly do that, and mentioned that one of the handouts showed funded and unfunded CIP projects. He indicated that Robinson and Oakview were probably good examples. He said that Robinson was crowded and needed more space, whereas Oakview was a renewed school with no current overcrowding. He noted they were trying to address the various ways proffers could be written so it would not necessarily be tied to a specific school but to a pyramid or cluster.

Ms. Strauss confirmed Mr. Chevalier's interest in directing money to the neediest schools as being a topic of School Board work sessions. She knew that Mr. Chevalier and his colleagues had suggested the need for a reasonable balance between directing proffered money to a countywide fund versus a specific district. She stated that citizens expected to see the results of the proffer in the area of the development but admitted the School Board's frustration with poor distribution of funds. She acknowledged that Mr. Chevalier's staff knew where to place the money for best results.

In response to Commissioner Byers' question on the endorsement of checks and its process, Mr. Williams replied that checks were endorsed to "Fairfax County" and that each agency had a specific account number that was noted on the receipt. Then, he said, it would go to the cashier for deposit which was automatically transferred into those accounts. Commissioner Alcorn interjected that there was one account each for schools, park authority, housing, and the housing trust fund. Mr. Williams confirmed that money was directly deposited into the school account and that notification was sent that same day stating when the money had been transferred. He also said there was an official monthly memo containing all the details. Chairman Harsel asked if the memo contained source information. Mr. Williams said it identified the developer, the rezoning case, and the appropriate proffer language.

Mr. Chevalier asked the Commissioners to address the issue of money deposited into the Board of Supervisors' account. He thought there was some language in the proffers to that affect. Chairman Harsel recognized that, but stated that she did not understand its source.

Ms. Strauss voiced two issues of concern. One, she said, was when a developer wrote a check to a school principal, and another was whether or not the money went into a BOS account leaving the decision of distribution to them. She believed the money should go to a central School Board account for distribution.

Commissioner de la Fe cited his experience with the Park Authority. He said it took a few years of work, but proffers were currently written so that they went directly to the Park Authority barring some other reason. He thought a recommendation could be made with hope that the BOS would agree. Also, he said, they should make sure that the developers and staff have changed their standard proffer package to reflect that.

Commissioner Alcorn said the Commission anticipated that situation when they developed the residential development criteria. He stated that there was some argument regarding where school contributions should go. So, he continued, with the implementation motion, which went concurrently with the development criteria, they produced a less sophisticated version of the document than was handed out at the current meeting. He said that Commissioner de la Fe was correct that distribution was clearly driven by what was written in the proffer. He said the

Committee should possibly update the implementation motion and develop an approach if there was consensus that funds should generally be directed to a specific school, pyramid, or countywide fund, but noted that some districts might still do it differently.

Mr. Chevalier said that his recollection from the last meeting was that there was agreement in marking up the draft language to delete the reference to the Board of Supervisors in two places.

One, he said, was where the Committee deleted “the applicant contributed x dollars to the Board of Supervisors” and another was deleted under cash contributions to County schools regarding the projects contained in the CIP for public schools in Fairfax County “as determined by the Board of Supervisors.” Commissioner Harsel agreed. Commissioner Alcorn wanted to discuss language in the Comprehensive Plan which said: “All rezoning applications for residential development are expected to offset their public facility impact and to first address public facility needs in the vicinity of the proposed development.” He realized that the statement did not offer the schools the flexibility they desired because, ideally, the funds would be allocated where the need was greatest, but that there was a bit of institutional tension between the land-use approval process and the schools. He said there was a general requirement to ensure that contributions stayed local, because of the impact on the local community. Ms. Strauss stated her assumption that “vicinity” would offer some flexibility.

Chairman Harsel suggested looking at the pyramids rather than the eight sections they were working on. Mr. Chevalier mentioned that there appeared to be some flexibility on this issue.

Ms. McNeally noted that the language directing funds to the Board of Supervisors for transfer came out of the residential density criteria plan amendment and was the reason it was still included. Commissioner Alcorn said it was included as part of the implementation motion and if they wanted to make that kind of change, it could be done and still be consistent with the adopted Comprehensive Plan language.

Mr. Chevalier said they could delete the part referring to projects “as determined by the BOS.” Commissioner Alcorn indicated that these were only recommendations or samples. Commissioner Hart reminded the Committee that when they had spoken previously about pyramid and magisterial districts, there was discussion about the matter of timing and the fact that the school boundaries or something else could change between the time of the rezoning and a later time in the process. He said that if it was not based on something objective like a magisterial district, they should be clear in exactly what pyramid was affected. Chairman Harsel suggested language that identified a pyramid served by a particular development, citing cases where boundaries were switched, thereby resulting in different pyramids.

Mr. Chevalier presented two handouts, contained in the date file, which identified all projects in the school’s capital improvement program and whether projects were funded or unfunded. He explained that if they were funded, it meant that they were included in a bond referendum with action expected soon. Unfunded projects in the CIP, he said, were projects for a future bond. The second handout, he added, listed those same projects but showed magisterial district, school served, and also which districts sent children to that school.

Commissioner Byers asked if the project was funded because of inclusion in the bond referendum, or if it wasn’t considered funded until the bond was sold. Mr. Chevalier agreed but noted that they had authority to sell the bonds. Commissioner Byers argued that the bonds were years behind and therefore not funded. Mr. Chevalier agreed that funds were not there yet other than by virtue of trying to work under a spending limit or simply get planning and engineering done. Commissioner Byers asked if there were some projects still incomplete from the 1998 school bond. Mr. Chevalier acknowledged that there might be some 1998 projects where the tail end of the funding was finishing up, but that those projects would have already been underway.

Mr. Chevalier completed his presentation by restating that the handouts he had presented were extra information on the review list and if the Commissioners had questions as projects came in, to call to discuss that project and its timing.

Commissioner Alcorn offered that if the Commissioners could become more knowledgeable about the specific needs of the school system, highlight those with the developer, and make DPZ staff more aware, that it would be helpful in the process. Ms. McNeally added that it was good information for the developers too.

Commissioner de la Fe used Coppermine Elementary as an example of crossing magisterial districts. He said the proffer took care of the elementary level for that development, but could not have handled the middle school, which already had some funding, and could not fund Westfields High School. He said he was currently looking for 60 acres for a high school site which, unfortunately, was not in the Hunter Mill District.

Ms. Strauss agreed with Commissioner de la Fe because, as a School Board, they had to look at needs county-wide and be less parochial. The issue, she said, was how to get the money to the neediest places and yet inform citizens about money distribution from the proffers.

Commissioner Alcorn suggested sending a policy motion change to the Board of Supervisors, once agreed upon by the Committee.

Chairman Harsel asked the School Board Members to define specific needs in each pyramid or district, and suggested that they find a date in October for the next meeting to finalize specific proffer language.

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The meeting was adjourned at 8:18 p.m.
Suzanne F. Harsel, Chairman

For a verbatim record of this meeting, reference may be made to the audio recording which can be found in the Office of the Planning Commission of Fairfax County, Virginia.

Minutes by: Norma Duncan

Approved on: January 18, 2006

Linda B. Rodeffer, Clerk
Fairfax County Planning Commission