

The **School Board** of ORANGE COUNTY, FLORIDA

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September 20, 2019

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Dear Commissioners:

On August 22, 2019, Commissioner Steinhauer submitted a proposal for a new charter amendment addressing school concurrency and overcrowding that, if passed, would negatively impact Orange County Public Schools' ability to meet the needs of our growing student enrollment. This proposal would result in more overcrowding, not less, and it would reduce the progress that we have made in ensuring that schools are a critical part of the infrastructure necessary to create a strong and sustainable community.

By way of introduction, prior to being elected School Board Chair, I was Mayor of Orange County (“County”) and prior to that I served as the District 1 Commissioner, representing southwest Orange County, which includes Horizon West. In 2004, I proposed a charter amendment to address the impact of new residential developments on school overcrowding by requiring the County and all municipalities to seek certification of school capacity from OCPS prior to approving residential rezonings and land use amendments that would cause or exacerbate school overcrowding. That amendment passed by 84.7% and was reauthorized in 2012 by 65.9% of the voters. It was codified in Article VII, section 704B.2 of the Orange County Charter and is referenced in Commissioner Steinhauer’s August 22, 2019 memorandum.

Mr. Steinhauer’s proposal seeks to greatly diminish the effectiveness of Article VII, section 704B.2 by allowing developers to request, and individual municipalities to approve, zoning and land use changes that would cause extreme school overcrowding and do so without requiring the developers mitigate the additional impacts of that residential development in all situations where the impacted school(s) already exceed capacity by 120%.

The impetus for the 2004 charter amendment was a decision by the City of Orlando to approve a rezoning application for a multi-family development complex that would add a large number of students to an already significantly overcrowded elementary school in unincorporated Orange County. Parents from the impacted school attended the public hearing to urge the City Council to deny the application until a new school was built or improvements could be made to their current school to accommodate the additional students.

Those parents quickly discovered they lacked representation on the City Council because none of the students in the impacted elementary school lived within the City limits. Simply put, those students and families were experiencing taxation without representation. Not monetary taxation, but taxation on the quality of their children’s education; taxation on the ability of their children to have lunch at a reasonable time because the cafeteria wasn’t large enough to handle so many students; and taxation on recess and physical education because the playground and ball fields would be filled with even more portables.

While this was unfolding, as the County Commissioner for that district, I received hundreds of phone calls asking the County Commission to intervene on their behalf, but the County had no authority over land use decisions within municipalities, and the rezoning was subsequently approved. It was for that reason, I proposed an amendment to Orange County’s Charter, which was to ensure that every citizen was represented by at least one local elected official on matters that would exacerbate school overcrowding. As a result of Article VII, section 704B.2, the County and every city must seek certification from OCPS before voting on any residential zoning or land use amendments to determine if sufficient capacity exists for the additional students. If capacity does not exist, OCPS and the applicant can enter into an agreement requiring the appropriate mitigation from the applicant, generally in the form of a monetary fee, to ensure the additional students can be accommodated. Once both OCPS and the applicant agree on the appropriate mitigation to ensure the existing school overcrowding is not exacerbated by the proposed residential development, the application can move forward.

This process is further addressed in an interlocal agreement that has been negotiated and entered into by OCPS, the County and the cities. The interlocal agreement was negotiated after a committee was formed comprised of various stakeholders in the community that vetted a number of issues over a year long process related to the implementation of the charter amendment, the capacity enhancement process, and the state concurrency processes. This existing interlocal agreement complies with the requirements of Section 163.3180, Florida Statutes and specifically sets forth the procedure for the capacity enhancement process and state’s concurrency mitigation process, as well as the adoption of required levels of services and continued governmental coordination and planning efforts.

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The proposal outlined in Commissioner Steinhauer's memorandum attempts to invalidate the existing interlocal agreement that was meticulously negotiated by the parties and would negatively impact OCPS' ability to provide for the educational facilities necessary to accommodate our students. This proposal would further exacerbate school overcrowding by (1) weakening the intent of Article VII, section 704B.2, (2) allowing developers to bypass the current process and cause already significantly overcrowded schools to become extremely overcrowded without a requirement for the necessary school infrastructure to be in place or mitigation to be required, and (3) potentially preventing certain communities from having proper representation when proposed developments are being considered. However, the most detrimental aspect of this proposal is that it would incentivize developers to build residential projects in areas zoned for significantly overcrowded schools (in excess of 120% of capacity) because projects impacting schools that are at 120% of capacity or more would be exempt from paying or contributing the necessary mitigation to address the impact on the overcrowded schools whereas, projects built in areas zoned for schools with a lesser degree of overcrowding (101% to 119%), would be required to pay or contribute the necessary mitigation.

In closing, I wish to thank Commissioner Steinhauer for his concern regarding school overcrowding, a concern I share. However, our efforts to find a solution to the problem of school overcrowding must be a collaboration with all of our community partners and stakeholders, and should not only benefit select stakeholders in the development community. Since the adoption of the 2004 charter amendment, OCPS has engaged in a number of collaborative efforts to help meet the needs of our growing student population, most of which have included the development industry. Unfortunately, while OCPS has previously granted concessions requested by the development industry, none of those concessions have ever resulted in less overcrowding, only more. Nonetheless, the 2004 charter amendment and our existing interlocal agreement, a true collaborative effort with the County, cities, and our community stakeholders, has helped identify and alleviate some of the overcrowding issues Orange County has experienced by setting forth a process whereby the development community is required to contribute to the solution of school overcrowding. Since 2007, the student population of Orange County has increased by over 22,000 students while OCPS has decreased the number of portables by over 50%. We are moving in the right direction to provide for the growing student population. Therefore, we respectfully ask that you not support this amendment which will weaken those tools we have implemented over the last two decades to attain this progress.

For these reasons, I request that you oppose the proposed charter amendment. Thank you for your consideration of this request and thank you for your service to the citizens of Orange County.

Sincerely,



Teresa Jacobs
School Board Chair

cc: Orange County School Board
Barbara M. Jenkins, Ed.D., Superintendent
Diego "Woody" Rodriguez, General Counsel