

School Adequate Public Facilities Program and Funding Review Committee

AGENDA
Meeting #8
June 26, 2013
6:00 pm

- Review and Approval of the Meeting Minutes of June 5th
 - Review revised meeting schedule

- Identification of Potential Alternative Revenue Sources to Fund School Construction.
 - Brief Review of Existing Sources
 - Review Potential Alternative Sources
 - Provide direction to staff for further research on specific revenue sources

- Public-Private Partnership School Delivery Option
 - Provide direction to staff if additional research is warranted on this approach.

- Discuss Draft Issue Paper #1: “Timing of providing adequate school facilities to match the planned growth in the County.”
 - Provide direction to Staff regarding the draft recommendations.

- Review and Discuss Draft Issue Paper #2 “Treatment of Minor Subdivisions”

The next meeting is tentatively scheduled for July 17th at 6:00 PM in the County Government Conference Room.

**This agenda is tentative and is subject to adjustment at the discretion of the Committee.*

Public-Private Partnerships for Schools Explored

Background

As part of the APF Committee's desire to "think outside the box" for alternative solutions, Board of Education and County PGM Staff, attended a meeting at Dr. Lever's invitation to explore the possibilities of using Public-Private Partnerships for providing school infrastructure in Maryland. The staff met with firms that have been successful in providing school infrastructure internationally. Recently, the City of Yonkers, New York will be using this approach to provide capital construction needs for the long term. Staff looked at the ability of the approach to expedite school construction and provide "value for money."

Maryland's Public School Facilities Act of 2004 has paved the way for these types of public-private partnerships. The most noteworthy use of the law was Washington County Public School's Barbara Ingram School for the Arts project.

Public-Private Partnerships (P3) Defined

Public School Facilities Act of 2004 defines Public-private partnership agreements when "a county board contracts with a private entity for the acquisition, design, construction, improvement, renovation, expansion, equipping, or financing of a public school, and may include provisions for cooperative use of the school or an adjacent property and generation of revenue to offset the cost of construction or use of the school." These Public-Private Partnerships or P3s, as referred to by the industry, can range from simple Design-Build (DB) arrangements to the Design-Build-Finance-Maintain-Operate (DBFMO).

Advantages and Disadvantages

The Board of Education and County staff were able to identify the following potential advantages and disadvantages of using P3.

Advantages

- Can accelerate a project to address an urgent educational issue that may be too large for the School District to handle. For example, the Yonkers, New York case.
- Can offset the increased finance cost by forestalling construction cost escalation. For example, construction costs are relatively low now, but may not be when the public funding is available to build schools.
- May create efficiencies in the life-cycle costs of the project that can be calculated to show that there is an overall Value for Money. The privatization usually means amortizing the life cycle cost of the infrastructure so it does not allow the local agency to defer the cost of preventative maintenance and repairs.

- Can Reduce risk to the Local Government. The industry points out that the County would be “held harmless” from cost overruns during construction, and material and construction defects as well as the escalation of O&M costs.
- Can free up capital that can be used for other infrastructure projects such as school building upgrades and repairs.

Disadvantages

- The private sector does not have access to funds at the same favorable interest rates as do local and State governments, which can pledge the full faith and credit of the public to support the bonds. For Example, Charles County’s AAA bond rating allows low cost borrowing.
- To prevent the private operators from cutting corners, there needs to be extensive contractual protections and oversight which can be costly when outside legal and management firms must be consulted. There is no question that the institutional structures have been established in other countries to procure, award, and manage public private partnership (P3) contracts; however, they are daunting in their complexity and demands for expertise.
- The threshold size of the program would be about \$200 to \$500 million to attract private investment and to make sense for the School District. Not typically used for one school at a time. The idea of a Consortium of Counties was discussed to get the threshold scale of the program.

Conclusions

Staff believes it is important for the APF Committee to understand that P3 is a potential tool available to counties in Maryland. Currently, there is very limited use so the Maryland and even U.S. experience is limited. The utility for P3 may change if there is a tightening in the County’s or State’s borrowing market. There may be some utility if the County decides to embark on an aggressive infrastructure improvement program that exceeds the County’s resources to execute. Any use of P3 would require a detailed “apples to apples” evaluation to make sure the traditional school infrastructure funding and delivery approach is not more cost-effective.

School Adequate Public Facilities Regulation

Issue 5 -- Minor Subdivisions. Minor subdivisions that would create more than 3 new lots must sit on the school allocation waiting list for an indeterminate number of years until capacity becomes available.

Summary of Findings

This issue was identified primarily from input received at the Public Outreach Meeting. Mr. Boarman stated that he has been on the waiting list since 2006. (See attached letter.) The Committee reviewed the practices of selected counties in Maryland and found that some allow more lots as an exemption to the APF requirements while others are more restrictive than Charles County. Further the Committee found that certain counties cap the number of years a project has to wait for adequate school capacity from 4 to 7 years.

As part of the alternatives evaluation, the Committee looked at the historic use of the amount of capacity being set aside for bulk school allocations. (See attached table and graph.) The trends show that the set aside has declined over time due to reduced excess capacity. The usage has also declined since 2006. This is primarily due to the decline in the inventory of lots of record that were grandfathered under the initiation of the School Allocation Program in 1999. Note that the method of counting the set-aside changed in July of 2008 when the program began setting aside amounts for each school. Cumulatively this would be a large number, so the total for the most limiting school level is used. Finally, in recent years there has been a surplus of dwelling unit allocations reserved for minor subdivisions and existing lots of record.

Alternatives Identification

1. Cap the number of years, say 5 to 6, a minor subdivision must sit on the waiting list before it may receive allocations.
2. Evaluate the allowance for minor subdivisions with more than 3 new lots to pull from the bulk set aside. As part of this alternative evaluate historic use of the amount of capacity being set aside for bulk school allocations.
3. Permit minor subdivisions that are deed restricted for intra-family transfer only to use bulk allocations.

Alternatives Evaluation

1. **Cap the number of years, say 5 to 6, a minor subdivision must sit on the waiting list before it may receive allocations.** From the selected APF programs, it was found that 3 Counties set a cap on the length of time any residential project must wait for adequate school capacity. The number of years range from 4 to 7. If a cap was set for just the minor subdivisions on the waiting list, the impact would be minimal since there are currently only

3 minor subdivisions waiting for school capacity. Two subdivisions have been waiting 7 years and one 2 years.

- 2. Evaluate the allowance for minor subdivisions with more than 3 new lots to pull from the bulk set aside.** As part of this evaluation, the historic use of the amount of capacity being set aside for bulk school allocations was considered. (See attached Bulk Allocation table and graph.) There has been a trend toward excess residential dwelling allocations reserved for minor subdivisions and lots of record. In 2012, there were 89 allocations not used. There were 14 minor subdivisions approved in 2012. For purposes of analysis, it is assumed that all minor subdivisions could receive bulk allocations. Assuming the worst case and they were all the maximum of 7 lots, then that would have used 42 additional bulk allocations from the 89 surplus.

From the Counties Survey it was determined that 3 of the 7 counties allow 5 lot minor subdivisions.

- 3. Permit minor subdivisions that are deed restricted for intra-family transfer only to use bulk allocations.** Intra-family transfer exemptions are used for Forest Conservation and Critical Area Requirements. In the past an exemption was given to intra-family subdivisions for road requirements and there was evidence of circumventing the intent of the law with straw deeds. If this technique is used, there needs to be a mechanism to track the deed restriction over time. One approach is to make the County party to the restriction as we do with age-restricted housing.

Howard County is the only county from the selected APF programs that exempts intra-family transfers. They allow one lot with certain restrictions.

Recommendations

The Committee finds ...

March 28, 2013

Mr. Jason Groth and Mr. Steve Andritz
Co-Chairs of the Adequate Public Facilities Committee
P.O. Box 2150
La Plata, MD 20646

Dear Sirs,

I am writing to ask you to change the way school allocations are distributed in Charles County. Of particular concern are scenarios where applicants have been on the waiting list for several years as a minor subdivision.

I applied for a school allocation in 2006 for a single lot. My property is on Penns Hill Road, Property Number 04008286, Tax Bill Number 111004039. I pay property taxes and income taxes, and I feel I should be afforded the same opportunities to build on my property as others in the county who have been waiting less time. I have been told by Mr. Charles Rice that it could be several more years before I receive my allocation.

I suggest that an equitable alternative to this unfair allocation process would be distribute allocations from the "bulk allocations" to minor subdivisions who have been on the waiting list for 5 years or more. There should be a computer database file that is tracking these requests and making sure all applicants are treated fairly and in a timely manner. No one should have to wait more than 5 years, especially landowners who have paid property and income taxes in this county for decades.

Thank you for your consideration and I look forward to hearing from you.

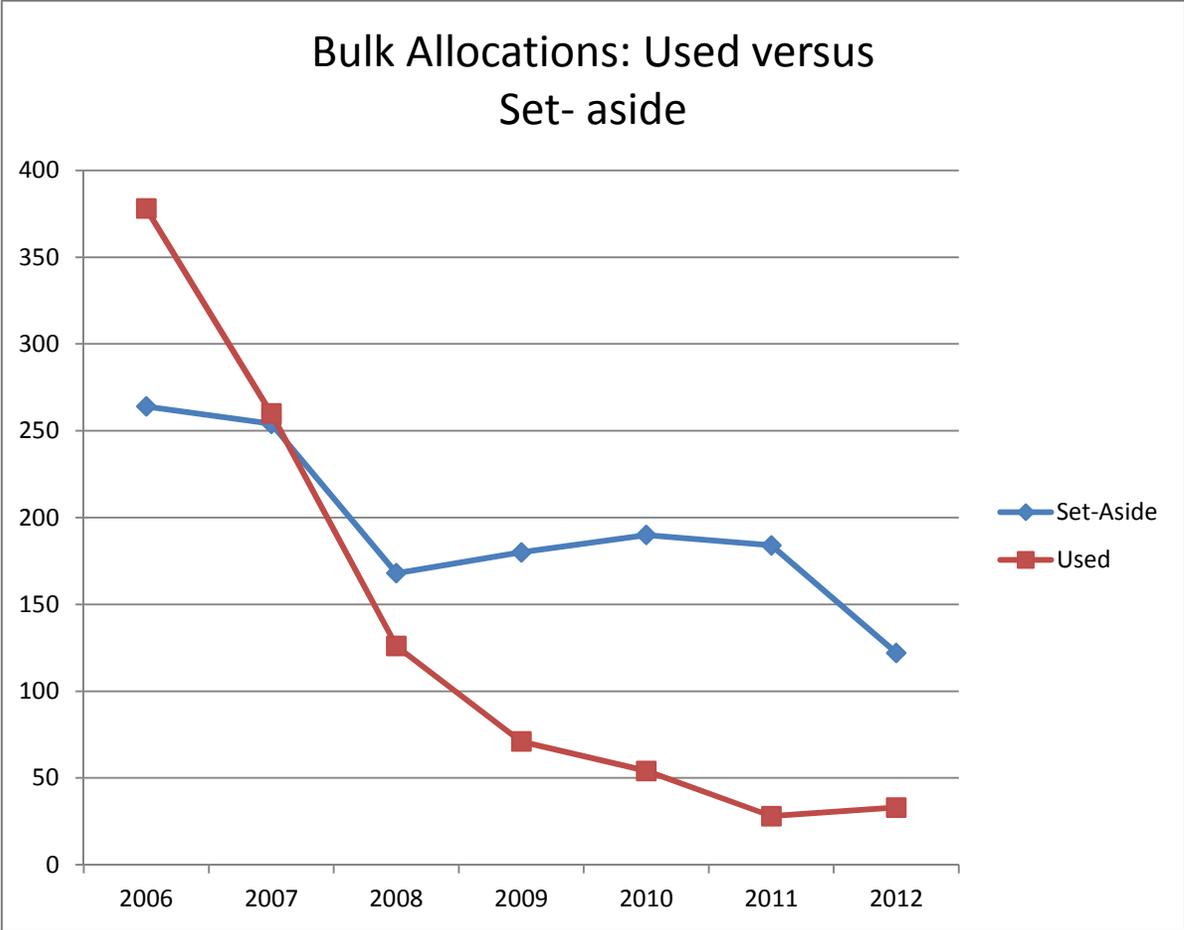
Respectfully,



Robert A. Boarman
11500 BB Farm Pl
Newburg, MD 20664
301-751-9649 cell
301-259-2830 home

Bulk Allocations Used versus Set- aside

Bulk Allocations	2006	2007	2008	2009	2010	2011	2012
Set-Aside	264	254	168	180	190	184	122
Used	378	260	126	71	54	28	33



School APF/Funding Survey for Selected counties
Key Elements of the School APF Programs

County	APF Test Limitations are measured by attendance zone, region, or planning area.	When are schools considered over capacity? (i.e. 115% over capacity, etc.)	Exemptions or Modifications to the School APF Requirements	When are projects tested for School APF?	Do relocatables count in the available capacity used in the APF Test?	Cap for projects on waiting list for school capacity.	Time Limit on Allocations or capacity reserved.	When can Planned Capacity be Counted?
Charles	School Attendance Zone	Exceed SRC	Age Restricted, 3 Lot Minor Subdivisions.	Prior to Final Plat approval	No	None	2 years with one 2 yr. extension.	January prior to the Sept Opening.
Anne Arundel	School Attendance Zone, BOE provides an Open/Closed list. Capacity is projected 3 years in future.	SRC If a school is open by 1 student, the entire project can be approved.	Age Restricted, 3 Lot Minor Subdivisions. Exempt Odenton and Parole Growth Mgmt Areas.	Prior to Final Plat approval. Sketch Plan or Preliminary Plan Optional	No, but impact fees may fund moving relocatables.	6 years	Project must meet required milestones. 1 yr. to submit Final Plat. 1 yr. to approval of plat mtg.	Counts if school capacity is available within 3 year projections.
Howard	Use Elementary as the limiting level. BOE develops an open/closed list. Housing allocations are tied to the Comp Plan Districts	115% of "Program Capacity" as determined by BOE. May be over or under SRC. Projections are by individual school.	Age Restricted and Affordable by Resolution of Council, 1 Lot Minor Subdivisions if meet hardship test.	Sketch Plan or Site Development Plan	No	4 years	Project must meet required milestones. Recordation of project or Phase in 3 years. (Extensions granted during recession.)	Counts if school capacity is available within 3 year projections.
St. Marys	Northern and Southern Regions	107% Elem, 109% Middle, 116% over SRC.	Age Restricted, 2 Lots Minor Subdivisions since 2008.	Prior to Preliminary Plan	No	None	No limit. As long as Preliminary is valid.	1 st 3 yrs of CIP. Site must be secured.
Montgomery	School Clusters (Feeder System) For example all elementary capacity in the cluster is considered	5 year projected enrollments >105% of "Program Capacity" must make school facility payment. >120% under moratorium (Currently none)	Age Restricted, MPDUs, 3 Lot Subdivisions if make School Facilities Payment. Exempt Enterprise Zones. (Wheaton CBD)	Prior to Preliminary Plan	N/A	N/A	Not less than 5 yrs or > 10 yrs after Preliminary approval date. Longer if phased developmt.	Capacity projected to be in place within 5 years including CIP projects.
Calvert	School Attendance Zone	100% of "APF Rated" Capacity. Formula in Zoning Ord. Tends to be a little higher than SRC since additional Rooms are counted.	Age Restricted, 3 Lots after 1988, 5 lots before 1988.	Prior to Final Plat approval	No	7 years	Renewed annually up to 7 years.	N/A
Carroll	School Attendance Zone	Projected capacity including 6 year CIP to be > 120% of SRC for Elem. and High. For Middle > 120% of "Functional Capacity."	Minor subdivisions, Subdivisions of prop. with Ag. Land Preservation Easmt. Age restricted.	Preliminary test at Preliminary Plan. Retested at Final Plat	No	None	May be extended annually by Planning Director.	6 months before opening.
Frederick	School Attendance Zone	2 year projected enrollments >100% of SRC may make school construction payment.. >120% under moratorium.	Age Restricted, Minor subdivisions of 5 lots.	Preliminary Plan approval subject to mitigation.	No	N/A	N/A	2 years prior to opening.

County	Primary Dedicated Revenue Source	Other Sources including Supplementary Fees /Surcharges	Is Mitigation for lack of School Capacity permitted?	Is redistricting used to balance student demand?	Do you forward fund schools.
Charles	Excise Tax (\$13,139 for SFD in FY 14)	See DRRR payments.	Yes, through DRRR. Monetary Payment Approx. \$14,500	Yes	Yes
Anne Arundel	Impact Fee(\$7,141 for 2,499 sq. ft. residential unit.) May be used to move relocatables.	County Issues G.O. Bonds. A new Source is "Casino Money."	Yes, through a School Capacity Mitigation Agmt. Developer must provide capacity, no cash payments.	Yes, currently doing redistricting with no new school. May affect all 15 schools in the feeder zone.	Yes, Usually the forward funding involves funding ahead of State Approp.
Howard	Excise Tax (\$1.21 per sq. ft.) \$3,024 for 2499 sq. ft. residential unit.	25% of Transfer tax goes to School Construction (\$27M)37 % of G.O Bonds goes to School Construction.	No.	Yes, do readjustment redistricting. "30% of Co. in past decade." Currently doing a global redistricting. Building and redistricting 1 school per year in boom yrs.	Yes
St. Marys	Impact Fee (\$3,375 for residential unit.)	Transfer tax. Not dedicated to schools but had been used.	Yes, but only for school site dedication.	Yes, for minor adjustments	No
Montgomery	Impact Fee (\$23,868 for SFD.)	"School Facilities Payment" \$6,493 for SFD in Elementary District. May be paid when school cluster is > than 105% but < 120% over "program capacity."	Yes, through School Facilities Payment when school cluster is > than 105% but < 120% over "program capacity."	N/A	N/A
Calvert	Excise Tax (\$7,800 for SFD)	General Fund	Not by policy, however, recently a school site was proffered as part of an annexation since the Town did not require excise tax or have APF requirements.	Yes, currently doing redistricting with no new school.	No, not at this time.
C Carroll	Impact Fee (\$6,836 per SFD in FY 12) Currently suspended due to excess	N/A	N/A	N/A	N/A
Frederick	Impact Fee (\$14,426 for SFD) Excise tax (0.25 per sq. ft.) \$625 for 2,499 sq. ft. unit. Total \$15,051.	"School Construction Fee" \$3,870 for SFD in Elementary District. May be paid when school is > than 100% but < 120% over SRC.	Yes, by APFO Letter of Understanding and payment of the School Construction Fee.	Yes, If an adjoining school is at least 20% below SRC, the BOE must consider redistricting.	Yes. A couple of times proceeded w/o State Planning approval. Initially, almost all schools are funded by County subject to reimbursement.

N/A - Not Available at this time.

Updated 6/20/2013