

# **Limited Review of Orange County Public School's Use of School Impact Fees**

**Report by the  
Office of County Comptroller**

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June 15, 2004

Richard T. Crotty, County Chairman  
And  
Board of County Commissioners

We have conducted a limited review of Orange County Public School's use of School Impact Fees. This included examining compliance with Orange County Ordinances (Nos. 92-28 and 98-31) as codified in County Code Chapter 23, Article V. A review of the School Board's internal controls including those relating to receipt of fees, recording, investment income, expenditures, and reporting of fund activities was not performed. The audit period was July 1, 2002 to September 30, 2003. Our audit was conducted in accordance with generally accepted government auditing standards, and included such tests as we considered necessary in the circumstances.

Responses to our Recommendations for Improvement were received from the Orange County School Board's Director of Finance and are incorporated herein.

We appreciate the cooperation of the personnel of Orange County Public Schools during the course of the audit.

Martha O. Haynie, CPA  
County Comptroller

c: Orange County School Board  
Ron Blocker, Superintendent, Orange County Public Schools  
Ajit Lalchandani, County Administrator

# EXECUTIVE SUMMARY

## Executive Summary

We have conducted a limited review of Orange County Public School's (OCPS) use of School Impact Fees. This included examining compliance with County Ordinances (Nos 92-28 and 98-31) as codified in County Code Chapter 23, Article V. A review of OCPS internal controls including those relating to receipt of fees, recording, investment income, expenditures, and reporting of fund activities was not performed. Also, we did not review the OCPS procurement function. The period audited was July 1, 2002 through September 30, 2003. Based upon work performed, OCPS was in compliance with provisions of Article V, [Sec. 23-143(a, b, c and d)] of the Orange County Code. OCPS was not in compliance with the reporting requirements [Sec. 23-168]. During our review, we noted the following:

As of the end of audit fieldwork (February 29, 2004), the impact fee study and review of the related ordinance were fifteen months overdue.

The annual impact fee reports for fiscal years ended June 30, 2001, 2002, and 2003 were not submitted by OCPS to the County within the designated period.

After construction, the Eagles Nest elementary school, built with school impact fee trust funds (\$9,141,816 expended in fiscal year 2003), was temporarily used to accommodate the entire student population (663 students) from Orlo Vista elementary school instead of to accommodate overflow students (200 from Orlo Vista and 500 from Metro West elementary schools). This temporary arrangement was utilized so that the old Orlo Vista school building could be razed and a new school constructed at the same location, after which, the students are to be returned to the new Orlo Vista School. Since school impact fee funds may only be used for growth-necessitated capital improvements, the use of the new Eagles Nest Elementary School to accommodate 463 students not resulting from growth was not consistent with County Code section 23-143(b).

No school impact fees were received from the City of Eatonville during the audit period, despite the City's agreement to participate in the inter-local agreement to collect and remit such fees. Also, there were no donations to the impact fee fund from the cities of Bay Lake and Lake Buena Vista during the same period. These cities had pledged to make donations equal to any fees that would have been charged.

OCPS concurred or partially concurred with all but one Recommendation for Improvement and implementation is either underway or planned. OCPS did not agree to implement a policy to ensure the impact fee trust fund is reimbursed for the fair value of accommodating students on a temporary basis not related to growth.

# ACTION PLAN

Limited Review of Orange County Public School's Use of School Impact Fees  
Action Plan

NO.	RECOMMENDATIONS	MANAGEMENT RESPONSE			IMPLEMENTATION STATUS	
		CONCUR	PARTIALLY CONCUR	DO NOT CONCUR	UNDERWAY	PLANNED
1.	We recommend OCPS ensures School Impact Fee Studies are completed in a timely manner to allow required reviews of the School Impact Fee Ordinance.		✓		✓	
2.	We recommend OCPS establishes appropriate procedures and a review process to ensure compliance with the County Code with respect to the submission of the annual impact fee report to the County.		✓		✓	
3.	We recommend OCPS reviews the current arrangements and implements a policy to ensure the impact fee trust fund is reimbursed for the fair value of accommodating students not related to growth on a temporary basis.			✓		
4.	We recommend OCPS perform the following:					
A)	Investigate whether any residential construction has occurred in Bay Lake and Lake Buena Vista and, if so, request applicable donations from these cities; and,	✓				✓
B)	Contact Eatonville and determine whether impact fees have been collected and are owed to OCPS. If no fees have been assessed, take appropriate action to ensure the fees are assessed, collected, and remitted in the future.	✓				✓

# INTRODUCTION



**Background**

The initial Orange County School Impact Fee Ordinance (No. 92-28) was adopted by the Orange County Board of Commissioners (Board) on September 22, 1992, with an effective date of January 1, 1993. A review of the Ordinance, based upon an updated impact fee study, was done in November 1998. Provisions were made in the review for the increase of school impact fees to the current levels, which are as follows:

- Single family detached house .....\$2,828
- Multi family dwelling unit .....\$1,907
- Mobile home .....\$2,329

The Ordinance was codified in Chapter 23, Article V, of the Orange County Code. The intent of the Ordinance is to ensure growth contributes its fair share of the cost of growth necessitated capital improvements to the school system. In addition, section 23-167 requires that every four years an impact fee study be conducted and the ordinance be reviewed.

The following cities and towns within the County are parties to the collection of school impact fees by means of inter-local agreements with the County and Orange County Public Schools (OCPS): Apopka, Belle Isle, Edgewood, Maitland, Oakland, Ocoee, Orlando, Winter Garden, Winter Park, and the Towns of Eatonville and Windermere.

During the five-year period (fiscal years 1999 – 2003) ended June 30, 2003, a total of \$125 million in impact fees was collected and remitted to OCPS. During the audit period, Orange County government collected and remitted to OCPS approximately \$24.2 million of impact fees. Total expenditures during the same period were \$24.8 million.

**Scope, Objectives,  
and Methodology**

The audit scope included a limited review of OCPS' use of school impact fees and compliance with Orange County Ordinances (Nos. 92-28 and 98-31) as codified in County Code Chapter 23, Article V. A review of OCPS internal controls including those relating to receipt of fees, recording, investment income, expenditures, and reporting of fund

activities was not performed. The audit period was July 1, 2002 to September 30, 2003.

The objectives of our review were to determine OCPS' compliance with the following provisions of Section 23, Article V of the Orange County Code:

- A) School impact fee reporting requirements to the Board of County Commissioners [Sec. 23-168];
- B) Accounting for impact fees received from the County [Sec. 23-143(a)];
- C) Investment of impact fee trust fund balances and accounting for the investment income [Sec. 23-143(d)]; and,
- D) Conditions for expenditures from the impact fee trust fund [Sec. 23-143(b and c)].

To achieve these objectives, we performed the following:

- Obtained the annual impact fee reports for fiscal years 2001, 2002, and 2003 and examined them for management certification as well as the dates submitted to the County;
- Prepared a schedule of impact fee remittances to OCPS and traced amounts to the bank account, accounting records, and the annual impact fee reports;
- Verified the investment strategy for funds not needed for immediate use, the methodology for computing investment income for the impact fee portion of the invested funds, and traced applicable impact fee investment income to the impact fee trust account; and,
- Examined sampled expenditures of land acquisitions, new school construction, furniture, fixtures and equipment for budget provisions, justification,

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## INTRODUCTION



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adequate supporting documentation, proper authorization, and accurate recording and reporting.

## Overall Evaluation

Based upon work performed, OCPS was in compliance with provisions of Article V, [Sec. 23-143(a, b, c and d)] "School impact fees" of the Orange County Code. OCPS was not in compliance with the reporting requirements [Sec. 23-168]. Recommendations for improvement are noted herein.

# RECOMMENDATIONS FOR IMPROVEMENT

**1. Updated Impact Fee Studies Should Be Completed on a Timely Basis**

As of the end of audit fieldwork (February 29, 2004), the impact fee study and review of the related ordinance were fifteen months overdue. The most recent impact fee study, "Impact Fees for Educational Facilities in Orange County, Florida," dated October 21, 1998, was presented by OCPS and adopted by the Board of County Commissioners (Board) on November 3, 1998.

The review requirements (Section 23-167) of the County Code stipulate, "This article and the impact fee study shall be reviewed by the Board, in consultation with the School Board and cities, at least once every four (4) years." Historically, OCPS commissions, obtains, and presents the impact fee study to the Board. This study is the basis upon which the Ordinance is reviewed. The County cannot complete the school impact fee review process until the OCPS forwards the impact fee study. Without the updated study and revision of the Ordinance, growth may not contribute its fair share of the cost of growth necessitated capital improvements to the school system.

**We Recommend** OCPS ensures School Impact Fee Studies are completed in a timely manner to allow required reviews of the School Impact Fee Ordinance.

**Management's Response:**

Partially Concur. The update of the impact fee study was delayed due to the efforts required in support of the immediate need to fund the capital needs of our existing schools. This pressing issue which was supported by the citizens through their approval of the sales tax referendum took precedence over the review and update of the impact fee study. However at this point in time, the district is now finalizing the review and update of the impact fee study for approval by the School Board and submission to the Board of County Commissioners.

**2. Annual Impact Fee Reports Should Be Submitted Within the Designated Period**

The annual impact fee reports for fiscal years ended June 30, 2001, 2002, and 2003 were not submitted by OCPS to the County within the designated period. These reports were obtained from OCPS on November 5, 2003. Orange County Code, Section 23-168 requires that within 90 days after the end of the School Board's fiscal year, the superintendent shall deliver to both the County, and the School Board a report containing the following:

- Amount of impact fee revenue received during the fiscal year;
- Investment earnings received;
- Balances in the school impact fee trust account;
- A summary of expenditures made during the fiscal year including a list of school construction and any other School Board capital projects funded during the fiscal year in whole or in part from monies on deposit in the school impact fee trust account; and,
- Any other data and information necessary or useful for the County and the School Board.

As a result of prior non-compliance with this requirement, additional arrangements were made in March 2001 for OCPS to submit the annual reports. However, the reports were not provided as required. As a result, the County was not kept abreast of impact fee trust fund activities during the period.

**We Recommend** OCPS establishes appropriate procedures and a review process to ensure compliance with the County Code with respect to the submission of the annual impact fee report to the County.

**Management's Response:**

Partially Concur. While the reports have always been completed timely and made available upon request, the distributions of the reports back to the County were never formalized in the District's procedures. Subsequent to this

review, we have been provided complete addresses for distribution and those are now part of the District's procedures.

**3. The Impact Fee Trust Fund Should Be Reimbursed the Fair Value of Temporary Accommodation for Students from Orlo Vista Elementary School**

In fiscal year 2003, OCPS expended \$9,141,816 from the school impact fee trust account for the construction of Eagles Nest elementary school at 5353 Metrowest Boulevard. The documentation for this expenditure noted that Eagles Nest was to accommodate overflow students from Orlo Vista and Metro West elementary schools. According to the pupil assignment projections, the new school was to receive 200 students from Orlo Vista and 500 students from Metro West elementary schools in fiscal year 2003-04. However, on completion of construction, the entire student population at Orlo Vista was transferred to Eagles Nest. We were informed the plans are to house these students at Eagles Nest for the fiscal year 2003-04 pending the demolition of the old Orlo Vista school building and the construction of a new school building at the same location.

County Code section 23-143 (b) states that school impact fee trust funds "...shall be used solely for the purpose of providing growth-necessitated capital improvements to educational plants and ancillary plants of the school system which are approved by the School Board in its capital improvements budget consistent with the state school plant survey." It follows that assets acquired with school impact fees must be used for the purposes stipulated by County Code. Based upon the code, construction of Eagles Nest to accommodate student overflow from Orlo Vista and Metrowest due to growth was appropriate. However, as of February 29, 2004, Eagles Nest has not been used entirely for this purpose. Thus, OCPS, during audit fieldwork, was not in full compliance with County Code section 23-143(b). Since the intention was to accommodate only 200 of the projected 663 students moved from Orlo Vista, the impact

fee trust fund is bearing the cost of accommodating the other 463 students for the fiscal year.

Upon further discussing this issue with OCPS, we were informed that this type of arrangement could and likely will occur in the future because it makes good business sense. While we agree it could likely make good business sense, the new construction is not being utilized solely for growth, albeit on a temporary basis. A policy establishing an equitable sharing based upon the fair rental or depreciation of the building should be made to the impact fee trust fund.

**We Recommend** OCPS reviews the current arrangements and implements a policy to ensure the impact fee trust fund is reimbursed for the fair value of accommodating students not related to growth on a temporary basis.

**Management's Response:**

Do Not Concur. Eagle's Nest Elementary School was constructed for the purpose of providing growth-necessitated classroom space resulting from an increase in student population. The decision to temporarily house Orlo Vista Elementary School students in the new Eagle's Nest school while Orlo Vista Elementary School was demolished and rebuilt does not alter the purpose for which Eagle's Nest Elementary School was constructed. Utilizing Eagle's Nest to accommodate the temporary displacement of Orlo Vista students was a good business decision because of its close proximity to Orlo Vista Elementary School and the fact that the Orlo Vista Elementary School site was too small to accommodate sufficient temporary portables during reconstruction. Eagle's Nest will be utilized as a relief elementary school beginning August 2004.



**4. The Potential Non-payment of Impact Fees/Donations by Certain Cities Should Be Investigated**

Regarding the collection and remittance of school impact fees, we noted the following:

- A) OCPS' impact fee receipts records indicate that no school impact fees were received from the City of Eatonville during the audit period. The Inter-local Agreement between the County, the School Board and the City of Eatonville dated November 20, 1992 requires the City of Eatonville to collect school impact fees beginning January 1, 1993 and to remit such fees to OCPS at least quarterly.
  
- B) There were no donations to the impact fee fund from the cities of Bay Lake and Lake Buena Vista during the audit period. These entities did not sign the inter-local agreement between the County, OCPS, and other municipalities in 1992 when the impact fee ordinance was crafted. However, in lieu of the inter-local agreement, the cities of Bay Lake and Lake Buena Vista issued letters to OCPS with copies to the County attorney. These letters stated that while the cities had no legal obligation to participate in the collection of the School Impact Fee described in Orange County Ordinance 92-28, they agreed to give to the OCPS a donation equal to the impact fee described in the Ordinance to the extent the impact fee would otherwise be due pursuant to the terms of the Ordinance from residential property owners within the jurisdictional boundaries of their cities.

To ensure all applicable monies are collected (if any), the OCPS should further investigate the above situations to determine if any funds are due. Further, a system should be developed to ensure future potential revenues from these cities are obtained in a timely manner.

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## RECOMMENDATIONS FOR IMPROVEMENT



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**We Recommend** OCPS perform the following:

- A) Investigate whether any residential construction has occurred in Bay Lake and Lake Buena Vista and, if so, request applicable donations from these cities, and,
- B) Contact Eatonville and determine whether impact fees have been collected and are owed to OCPS. If no fees have been assessed, take appropriate action to ensure the fees are assessed, collected, and remitted in the future.

**Management's Response:**

Concur. The District's general counsel will be contacting each of these municipalities to determine if any funds are owed to the District.