

**MEMORANDUM**

TO: Mayor and Town Council

FROM: W. Calvin Horton, Town Manager

SUBJECT: Update on Work on Schools Adequate Public Facilities Ordinance

DATE: September 24, 2001

This is an update on our work on the Schools Adequate Public Facilities Ordinance.

**BACKGROUND**

The Town Council has been very interested in this initiative to link development approvals with determinations of adequate school facilities. The initiative is being led by the Schools and Land Use Council (made up of elected officials representing each elected board in Orange County). Primary staff support comes from the Orange County Planning Department. Last spring the Schools and Land Use Council forwarded a draft Memorandum of Understanding and a model ordinance to local governments for consideration.

The proposed Memorandum and Ordinance contemplate that the local governments and school districts would endorse similar regulations and execute Memoranda of Understanding and that the zoning jurisdictions would enact similar regulations requiring a certificate of adequate school capacity in order for an application to be filed (or issued) for most residential development.

On April 23, 2001, members of the Town Council and citizens raised several questions regarding the proposed Schools Adequate Public Facilities Ordinance and Memorandum of Understanding. Suggestions were made to modify the process by which a school capacity certificate would be issued.

We noted at the hearing that, because the Chapel Hill-Carrboro School District includes Carrboro, most of Chapel Hill, and some unincorporated areas in southern Orange County, and because a key to the program is common Memorandum of Understanding between the three governments and the Chapel Hill-Carrboro City Schools, it would be necessary for the three governments and the School Board to concur in any changes in the proposed Ordinance. Otherwise the program would not be able to coordinate development and school capacity. Unilateral changes in the Ordinance without the concurrence of the other public agencies would affect the ability of any proposed ordinance to achieve the desired goals. (We note that a separate Memorandum of Understanding is proposed to be established among Orange County, Orange County Schools, and Hillsborough.)

Accordingly, we suggested that it would be appropriate for the staff work group of planners and attorneys, with representatives from the various agencies, to meet in order to consider the issues which were discussed on April 23, along with any other issues that might have been raised during the consideration of this proposal by the governing boards of the County and other municipalities.

### RECENT DISCUSSIONS

We have offered oral updates to the Council at recent Council meetings. Our last formal reports were in June 11 and May 7 (copies of memoranda attached). As we reported to the Town Council in August, it proved difficult for the staff work group to make progress on this project over the summer. A meeting was scheduled for a time in August when Town staff could not attend. At that meeting, new issues/concerns were raised by staff from other jurisdictions. Neither Carrboro nor Hillsborough has yet had a Public Hearing on this proposal (required before enactment of an ordinance). A subsequent staff work group meeting was held on August 28. Attending were staff and attorneys from Carrboro, Hillsborough, Orange County, and a staff representative of the Chapel Hill-Carrboro City Schools.

At the August 28 meeting it became clear that there has been a divergence on some key issues, including how school capacity is measured, the timing of applications for and issuance of Certificates of Capacity, and allocations of capacity across jurisdictions. Questions about impacts on affordable housing initiatives continue to be discussed.

The staff work group agreed to meet again on September 10 (the first available time when all could attend or be represented). The objective of that meeting was to address the outstanding issues and prepare a report to bring to the next meeting of the Schools and Land Use Council, which had been scheduled for September 12. The objective was that a proposal might come out of that Schools and Land Use Council meeting that could then be brought back to the Chapel Hill, Carrboro, Hillsborough, and Orange County governing and school boards.

The September 12 Schools and Land Use Council meeting was cancelled by the Chair, citing the need to have material from the staff work group completed and ready to read in advance of a meeting.

On September 10, the staff group made progress on a number of the points being discussed, and focused on the need for a commonly-agreed-upon methodology for projecting future student membership in schools before the ordinance could move forward. Key points involve standardizing methods for measuring existing membership and existing capacities, agreeing on methodologies for projecting future membership, and agreeing on the point at which new, planned school facilities could be counted as new capacity.

The key point to report is that staff and elected officials from Carrboro and Orange County are stating the need to agree on these specifics - - methodologies and definitions of capacity - - prior to bringing the draft Adequate Public Facilities Ordinance forward for public hearings.

The target audience for staff work remains the Schools and Land Use Council, which is next scheduled to meet on October 10.

### **NEXT STEPS**

We believe that the draft ordinance that was considered by the Chapel Hill Town Council at the April 23, 2001 Public Hearing is no longer viable. Other governments that need to adopt such an ordinance along with Chapel Hill to make it operative have not brought it forward yet for public hearing, and have expressed reservations and desire for changes and additional detail before public hearings are scheduled. These are in addition to the issues raised by the Chapel Hill Town Council last spring.

It is our intent to continue to work with our staff and Attorney counterparts in Carrboro, Hillsborough, and Orange County to produce a revised Memorandum of Agreement and revised model ordinance to present to the Schools and Land Use Council on October 10. At some point (on October 10 or thereafter), we expect the Schools and Land Use Council to refer a revised Agreement and Model Ordinance to the governing boards for consideration. We anticipate that the revisions will be of a nature that would require the Town Council, at a future date after the revised model ordinance is referred for consideration, to re-open the April 23 Public Hearing.

### **ATTACHMENTS**

1. Memorandum from Commissioner Alice Gordon, canceling 9/10/01 meeting (p. 4).
2. June 11 Memorandum from Town Attorney (p. 5).
3. May 7 Memorandum from Town Manager and Town Attorney (p. 7).