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**LITCHFIELD PLANNING BOARD**  
**September 7, 2010**

Minutes approved 10/5/10

**Members present:**

- Edward Almeida, Chairman
- Leon Barry
- Frank Byron, Selectmen’s Representative
- Carlos Fuentes
- Barry Bean

**Members not present:**

- Jayson Brennen, Clerk
- Joel Kapelson, Alternate
- John Miller, Alternate

**Also present:**

- Joan McKibben, Administrative Assistant
- Steve Wagner, Nashua Regional Planning Commission, Senior Planner, Circuit Rider

**AGENDA**

**1. IMPACT FEE - Discussion with Town Administrator Jason Hoch**

**Any Other Business**

**Minutes:** 8/3/ 2010 and 8/17/2010

**Correspondence**

At 6:30 p.m. The Board met in Nonpublic Session per RSA 91-a:2, I, (B) consultation with legal counsel.

**1. Impact Fee - Discussions with Town Administrator Jason Hoch**

Town Administrator Jason Hoch met with the Board to discuss impact fees. The Board is looking for help in figuring out Bruce Mayberry’s study and its implementation into the impact fee schedule. Mr. Mayberry’s report focused mainly on the police and fire impact fees. Mr. Byron pointed out a concern that the collection of school impact fees may not still be justified. He further pointed out that there were police impact fees returned having expired in 2006 and notice was made to those who paid those fees. The elementary

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1 school impact fees are due to expire in December unless they are utilized. The recreation  
2 impact fees are also due to expire next year if they are not used.

3  
4 Mr. Barry asked if it is the Planning Board's responsibility to spend the money rather  
5 than returning the impact fees. Mr. Byron responded that it is up to the people responsible  
6 for the fees such as recreation, library, etc. All departments were notified of the impact  
7 fee amounts and the expiration dates of those fees. Mr. Byron stated that he was informed  
8 the School Board is planning on using the high school impact fees to pay off the bond. In  
9 regards to the elementary school impact fees, a new school has been rejected a few times  
10 by the voters, and if the school is planning to use the fees for kindergarten, the fees  
11 cannot be used for that purpose because kindergarten is mandated by the State.

12  
13 As to the recreation impact fees, Mr. Byron told the Board that there is more than enough  
14 money in the recreation impact fees to create fields that the Town desperately needs.  
15 There is property on Talent Road owned by the Town that could be used for new fields  
16 and impact fees could be used for that purpose.

17  
18 Mr. Hoch: And remember the fees that can be used for steps in advance of actually  
19 approving a project...you can use impact monies if you have a certain project. If you  
20 have additional recreation facilities in the plan, you can spend the fees as they come in  
21 for engineering, for design, for site prep, etc. You do not have to wait until you finally get  
22 the approval from Town Meeting for the big project. You can use those monies in  
23 advance in preparation for all that. For example, the impact fee system we had in  
24 Plaistow we were collecting for a public safety facility. The question never made it to the  
25 ballot to build a new public safety facility; however, we hired architects, we hired site  
26 engineers, we did some site prep on the site that we were going to do it on because we  
27 had some culverts to move around and all of those are eligible expenses with the money  
28 that didn't have to wait till Town Meeting to approve the whole package for the end use. I  
29 think that is important particularly as you are looking now over the next couple of years  
30 of smaller amounts of money starting to expire to really kind of get people thinking and  
31 start getting the plan together. You do not have to go to Town Meeting in March and ask  
32 for everything but use this to best better position yourself to get that vote a couple years  
33 out.

34  
35 Talk ensued as to recreation impact fees and use of Talent Road property. Mr. Byron said  
36 that the only thing needed is a vote by the Board of Selectmen to approve the use of the  
37 impact fees to a particular project. To this, Mr. Kevin Lynch, present, said the land is  
38 controlled by the Board of Selectmen and they would have to authorize the use of the  
39 land. Mr. Byron is certain that the Selectmen would approve the use of the land. Mr.  
40 Lynch further stated that the Recreation Commission is starting to get on board as to the  
41 impact fee usage, etc. Mr. Byron mentioned that the Recreation Commission is  
42 considering putting some of the fields on school property, which could be a problem as to  
43 control of the fields - the town or school. It gets complicated.

44  
45 Mr. Almeida: So, the next step as far as adopting the Mayberry report, obviously, we

1 need to make a motion. What do we need to do from a clerical perspective?

2

3

4 Mr. Hoch: My recollection is that the Mayberry report is almost done but not quite and I  
5 need to figure out what the almost done part is. Steve you may remember there has been  
6 correspondence back and forth on this.

7

8 Mr. Wagner: I am not really clear what the deficiency is in the Mayberry safety line. I  
9 guess there was somewhat of a wish list that the Chief had for fire equipment. I think  
10 when I was making a recommendation last meeting was to take and consider the  
11 approach and look at just replacement equipment, not new equipment, and use the fee  
12 that is associated with that. And only use the residential portion of the fee because  
13 everything else we do for nonresidential district implies a road impact fee. So, just for  
14 this year, moving forward, the only thing that would change would be to replace the fire  
15 and police, stick with road impact fees for all nonresidential development and apply the  
16 escalation factor to everything else. I was just concerned with returning monies, the  
17 police whether that, in fact, what is the point of the new fee when we are working on an  
18 addition here.

19

20 Mr. Byron: It has been done for a year. The only thing we would be doing here is  
21 potentially adding on but it does not appear in the CIP right now, I do not believe,  
22 adding on potentially an addition for more office space or a safety complex.

23

24 Mr. Wagner: I guess that is why I am confused, if the police haven't been able to use  
25 their fees to the point that we are returning it, would we consider...

26

27 Mr. Byron: The problem was the following: that some of the fees that were collected for  
28 the police were collected starting in 2000 and those fees expired in 2006. The Board of  
29 Selectmen did not take any action until 2009 to make those additional changes in there.  
30 Therefore, we spent police impact fees; we spent some impact fees that were technically  
31 already expired unknowingly. So, what we had to do is go in and fix that. So, the way we  
32 fixed it is we took money out of the budget to make up the difference and we used any of  
33 the unexpired fees to pay off some of that. Then the money we had to take out of our  
34 budget, we noticed the payees, the people who paid the fees were sent the notices. I think  
35 there were 15 notices and we probably returned somewhere in the neighborhood of those  
36 15 letters, 8 or 9...

37

38 Mr. Hoch: About a dozen out of the fifteen.

39

40 Mr. Wagner: So, it would be separate, or it would be part of the new management plan  
41 with the CIP, to track these six year rolling fees...

42

43 Mr. Hoch: That part is done. The trick now is to roll those into a spreadsheet so we know  
44 what is there. That is kind of the missing piece now is nobody really has a great road map  
45 of what is going to happen. We may, or may not, propose the next couple of years the big

1 ticket items that the Mayberry Plan anticipates but we can certainly be taking steps  
2 in that direction for which we would want to use the money.

3  
4 Mr. Wagner: I guess as far as making recommendations to the current fee schedule to the  
5 Selectmen, what do you guys feel about the proposal?

6  
7 Mr. Barry: Well, I thought at one time we were discussing that we thought the  
8 percentages for some fees seemed to be very, very low and we were discussing can't we  
9 tweak those a little.

10  
11 Mr. Wagner: I think that is part of what Bruce Mayberry, or NRPC, or whoever has to  
12 come in to determine what the need is and the need above current demand because I do  
13 not think you can just raise the amount of fees say for example let's say...

14  
15 Mr. Barry: Just take the Town's portion of it - is it so minute. Now, this is interesting  
16 where the Recreation Commission is moving up pretty good but it is on the verge of  
17 giving a lot of money back because they are not using their monies - is the percentage too  
18 high? Where we sit here, the building is not big enough, yet, it is the smallest amount of  
19 money in the CIP. How do we get that number to move up?

20  
21 Mr. Wagner: My understanding is the 2000 Dave Gilmore report adjusts each one of  
22 those and, at that point in time, there were projects that basically drove what the fee  
23 would be in determining what was the deficiency, what was the future need for the things  
24 that were listed there and the fees were based on that. So, now for the future over the next  
25 year, we have to look at the new list of items, figure out the deficiencies, what future  
26 growth and develop a new schedule for those fees; or, in some cases, the transfer station  
27 could be a new fee. It just depends on the need.

28  
29 Mr. Barry: But Mr. Gilmore was 10 years ago...and things have changed, the needs and  
30 the ones that Mayberry did only addressed two areas - police department and fire  
31 departments. The fire department is moving in leaps and bounds and starting to build a  
32 force in this Town. The Town is getting bigger and we have the same Fire Department.  
33 There are some deficiencies in there. I do not know how the numbers move. How did you  
34 move them in Plaistow?

35  
36 Mr. Hoch: We had what our base needs were and actually we ended in a similar situation.  
37 We inherited an old plan where all the ratios were in place on an old plan and that is  
38 where we were in the process of trying to reallocate those similar to what you have here.  
39 Early on you had a school project and you had the lion's share that went to the school that  
40 school needs went down and public safety went up; so, ironically we got to a similar  
41 position had Mayberry get through about 90% of the report and then the Planning Board  
42 got fatigued and moved on to other things. That is what was driving us too. We had a  
43 very different situation we had a lot of growing commercial development so we were able  
44 to soak the retail development for a lot of it. We were not looking at a lot of residential  
45 development to pass the fees on to. There was at a point of which you build everything all

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1 up and everyone is struggling and you are now the second generation of that. The  
2 economy is flat you are not seeing as much growth. You have done all your first wave of  
3  
4 big ticket items and trying to figure out how to keep the system going because nobody  
5 wants to walk away from free money but it is harder to justify. You are at a difficult point  
6 in a lot of things. Your growth has been relatively flat so pushing and saying a lot of your  
7 new service needs are coming from growth is going to become tougher to argue.  
8 Unfortunately, more of what you are doing is addressing deficiencies on the back of the  
9 existing local taxpayer, not the impact fee system.

10  
11 Mr. Wagner: When you said you decided to act on some of the capital projects, it is  
12 actually going to bring the impact fees down because now your deficiency keeps growing  
13 each year.

14  
15 Mr. Hoch: Yes, there is an unfortunate relationship there and, of course, how do you  
16 figure out at what point does it become impact fee growth eligible, and at what point is it  
17 a deficiency because you are now at this point for some of the things right now are  
18 deficiencies.

19  
20 Mr. Byron: The schools are at a deficiency point. Town school age population is going  
21 down; there is no driver there for the schools any more.

22  
23 Mr. Hoch: And I think the healthiest way for you to think about this going forward you  
24 still are not looking at a lot of money the next couple of years. Impact fees are not going  
25 to make a dent in most of your capital needs but the reason you are planning for it now  
26 and keeping the right system in place is this will turn around and there is a ton of  
27 development hurling towards us, north and east, quickly, which means it will be here and  
28 you want to be in position with the system. So, when the next wave comes, you are  
29 catching it. That is why you are continuing to do this today...impact fees are not going to  
30 get you a fire station.

31  
32 Mr. Barry: Well, I agree but it is nice to have a little cushion there rather than having the  
33 Town pay for everything.

34  
35 Mr. Hoch: If the six-year window does not work because the project is not there and the  
36 purse is not there, there is no shame in giving it back. I think it is important to keep it  
37 going.

38  
39 Mr. Wagner said that the next step would be to get the new fee schedule adopted, hold a  
40 public hearing and then have the Selectmen approve. Also, he suggested talking with  
41 Bruce Mayberry as to getting the police and fire schedule in place and amend the fees  
42 accordingly with the escalation factors. Talk ensued.

43  
44 Mr. Byron: I think, in summary, what you have to do is you have to take the Mayberry  
45 work that was done, roll that in as an appendix into the update that goes to the Board of

1 Selectmen and make that adopted and that should replace the work that was done by  
2 Gilmore back in 2000. Then you need to look at the other impact fees that are being  
3  
4 collected such as recreation, municipal, etc. and adjusts those using the multiplier that  
5 Steve has already come up with for this year. Then you should include in there is some  
6 type of calculation that shows how those fees, that you are going to collect, will be  
7 apportioned to all of the categories which I think maybe Mayberry has in his report but  
8 also from municipal, police, what have you, so, that then, becomes the go to document. I  
9 would then suggest having it reviewed by Buckley and then schedule your public hearing.

10  
11 All in all, Mr. Wagner will review the Mayberry report to see what is missing.

12  
13 Mr. Byron: All you have to do is append that somehow...and amend the existing report  
14 that you have already drafted to refer to the Mayberry report. I would recommend you  
15 gather the data in the Mayberry report, as well as the data you already generated, into one  
16 table so that you do not have to go to multiple places to find it...because the building  
17 department is going to need some way of understanding where to get the data and if you  
18 exert that data out through and put it into the body of your table just reference where that  
19 information came from...you probably do not need to do anything at all with that.

20  
21 Mr. Lynch asked since the school is not going to build an elementary school, should the  
22 school impact fees be adjusted because the needs are changing. This was discussed. It  
23 was said that it would require a new study. Mr. Byron: The way we did it in 2000...this  
24 many officers, this many calls and there are this many homes in Town and you had so  
25 many calls per home and then you extrapolate that. So, if you grow by another 5,000 or  
26 another 2,000 homes that means there will be another x number of calls and there will be  
27 an x number of police officers associated with it, or cruisers, and that was quite honest  
28 the way, at that time, that the report was done. In order to change the basis, you have to  
29 do that type of thing all over again.

30  
31 Mr. Hoch: Unfortunately, you cannot easily move money from one bucket to the other.

32  
33 Mr. Byron: Once you collect it, it is stuck forever and ever.

34  
35 Mr. Hoch: You may not need it. I am back to my point a couple of years out you may  
36 need it and if you go to nothing right now and say you do not need it, then, unfortunately,  
37 you realize too late usually when you are in the midst of the next growth pattern to try to  
38 scramble to bring it back in. It may well mean that you may have to do refunds for a  
39 couple of years. There is no shame in doing refunds. You asked for the money  
40 rationally...Town Meeting did not vote for it but you did your part to give the community  
41 a tool to be responsible at the time.

42  
43 Mr. Lynch. The key part is the CIP as much as it is a burden the thing is to draft it up and  
44 get it changed each year but the key is not to lock it in. You can make it diversified so

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1 that it works like remodeling, renovations, anything can be listed as an impact and that  
2 money can be associated with it.

3  
4  
5 Mr. Byron asked if Mr. Mayberry fulfilled his obligations to the Town under the contract.  
6 Mr. Almeida replied that as far as the Board knows, he did. The RFP will be reviewed.

7  
8 On another matter, Mr. Lynch will provide copies of his recommended zoning changes  
9 for review by the Board. With this, Messrs. Hoch and Lynch left the meeting.

10  
11 **ANY OTHER BUSINESS**

12  
13 **Gilcreast Farms Subdivision** - The Board is in receipt of a letter from the Association  
14 regarding the shut off of streetlights in the development. On August 2, 2010, they had  
15 met with Kevin Lynch to discuss the situation. The letter states that it is very difficult to  
16 walk around the development after 11:00 p.m. when the lights shut off and also when  
17 there are functions at the clubhouse that end after 11:00 p.m. Note 1 on the recorded site  
18 plan states *timers to allow deactivation no later than 11:00 p.m.* and this was an  
19 agreement between the original owner and the Planning Board. The Association is  
20 requesting the plan be amended to have the Association have complete control of the  
21 lighting shut-off. The letter also states that there are cars driving through the streets after  
22 the lights are out that do not belong in the development.

23  
24 The Board was not certain how to proceed with the request from the Association. It was  
25 noted that there is no such requirement imposed on the other older person developments.  
26 Gilcreast Farms was the first one to come before the Board. It is not certain as to whether  
27 or not all of the residents in the development actually voted on the request. Talk ensued.  
28 Mr. Barry felt that there is a safety issue involved with cars not belonging in the  
29 development driving through the subdivision. Mr. Byron recommended that the  
30 Association fill out an application and notify abutters. If the request is granted, record  
31 the letter and this way they would not have to go through the expense of changing the  
32 recorded plan. Mrs. McKibben will respond back to the Association.

33  
34 **Annandale** - The Board is in receipt of a letter from the Board's engineer Lou Caron  
35 recommending a "planting plan" be submitted to the Planning Board from the owner  
36 Manny Sousa.

37  
38 **Minutes** - Mr. Barry **MOTIONED** to accept the minutes of August 3, 2010 as amended.  
39 Mr. Almeida seconded. Motion carried 4-0-1.

40  
41 Mr. Byron **MOTIONED** to accept the minutes of August 17, 2010 as amended. Mr.  
42 Fuertes seconded. Motion carried 4-0-1.

43  
44 **New member** - Mr. Byron welcomed Mr. Barry Bean to the Planning Board.  
45

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1 **2011 Budget** - Chairman Almeida has been working on the 2011 budget for submittal to  
2 the Selectmen. It was suggested adding money in the 2011 budget for Mr. Mayberry's  
3 services under line item Special Projects. The NRPC fees for circuit rider are going up  
4  
5 from \$60 to \$65 an hour effective January 2, 2011. The 2011 budget needs to be adjusted  
6 to reflect the planner's increase.  
7

8  
9 There being no further business, Mr. Byron **MOTIONED** to adjourn the meeting. Mr.  
10 Bean seconded. Motion carried 5-0-0. The meeting adjourned at 9:28 p.m.  
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Edward Almeida, Chairman

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Leon Barry

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Frank Byron, Selectman

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Carlos Fuentes

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Barry Bean

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30 Lorraine Dogopoulos  
31 Recording Secretary