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**LITCHFIELD PLANNING BOARD  
MAY 18, 2010**

**Minutes Approved 6/15/10**

**Members present:**

- Alison Douglas, Chairman
- Edward Almeida, Vice Chairman
- Frank Byron, Selectmen’s representative
- John Miller, Alternate

**Members not present:**

- Jayson Brennen, Clerk
- Leon Barry
- Carlos Fuertes

**Also present:**

- Joan McKikbbsen, Administrative Assistant
- Steve Wagner, Nashua Regional Planning Commission, Circuit Rider

**AGENDA**

- 1. IMPACT FEE REVIEW**
- 2. NEW MEMBER INTERVIEW**

**Any Other Business**

- Blossom Court/Heritage Park
- Minutes
- Site Plan Ordinance review

**Correspondence**

Chairman Douglas called the meeting to order at 7:12 p.m.

**1. IMPACT FEE REVIEW**

The Board reviewed information provided from Steve Buckley regarding the impact fee study and CIP update. He recommends that the CIP adopted in 2008 must be amended regarding the methodology for collecting fees. Mr. Wagner said that he went back and reviewed the 2002-2006 CIP to see if it addresses what Steve was talking about and to some extent it does.

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Mr. Wagner: What I think Steve Buckley is saying is we need to add a component to the CIP that contains a methodology for assigning funds from the Capital Improvement Plan. In this CIP we have the capital projects and we have what is in the impact fee account but we do not have what impact fees are going to which capital project now and which may need to go to capital projects in the future.

Mrs. Douglas asked how the 2006 CIP differs from the 2009 CIP.

Mrs. McKibben: It is not so much that it differs, what Buckley was saying you can't just take everything from the CIP and charge impact fees. You have to pick and choose what is really rational...

Talk continued. Mr. Byron: What has to happen each time we do a revision on the CIP we never really tie it back to what has been done, what we are going to collect them for, or that type of thing. I think what Steve is saying we need to make that tie in.

Mrs. McKibben: Things have been done that would come up but this Town did not spend capital money in the past.

Mr. Wagner: What is being done is not related to the CIP directly. For example the elementary school we may have four projects listed but there is nothing that says which ones are eligible for impact fees and which ones are not. I think that is what Steve is looking for some kind of process for assigning the fees to a specific project...He wants us to have a methodology how to make those determination and maybe go to the impact fee schedule.

Mr. Miller: He is quoting the sections saying this is what is required so what has changed? Are these new regulations or is this something we never did before and we need to fix it?

Mr. Wagner: I think he is looking for something new with this appendix. This Section 5 seems partially to address what he is talking about but we took it out inadvertently.

Talk ensued. Mr. Miller: If we come up with a process which whether it is the Selectmen or School Board they will be held to whatever the process is...the thing is we can say we are going to put a process together...this is the process.

Mr. Wagner: I think it is more going to be the Planning Board and the Selectmen to make the final decisions.

Mr. Miller: Remember the presentation that we received on the impact fee review it wasn't just charging impact fees to say do something to one of the schools it would be literally if it is an expansion. He (Mayberry) was very specific that we have to make sure

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1 it is used to expand even if it is classified as a capital improvement. If you are not  
2  
3 expanding the capability, then you have an issue with the impact fee.  
4  
5 Mr. Miller further stated that the security system might be a capital project but not  
6 eligible for impact fees...it is not an expansion. A lot of things could be in the CIP but  
7 not every capital improvement is a growth item.  
8  
9 It was never stated in the CIP what projects were eligible for impact fees. Mr. Byron: If  
10 you look at some of the projects listed by the Road Agent he has all types of hot top  
11 resurfacing and stuff like that. That is not a capital project in my mind nor is it eligible  
12 for impact fees; it is not an expansion of services. It is just a maintenance function...I  
13 think what Steve is saying you have to take and include in there some methodology you  
14 are going to use for determining what those impact fees are and how they are going to be  
15 collected.  
16  
17 Mr. Wagner: Recreation might be a good example because they have a number of  
18 projects...you look at field expansion at Roy Memorial park...those are partially eligible  
19 for impact fees because they are related to future growth but then you have fencing and  
20 lighting at Roy Memorial Park and lighting would be a real stretch...and not impact fee  
21 eligible.  
22  
23 Mr. Miller: The GMS roof and boiler are capital projects but not impact fee eligible  
24 because you are fixing the thing...expanding the parking lot might be eligible.  
25  
26 Mr. Wagner further stated that Steve wants us to put some series of steps in place that are  
27 consistent from year to year. Mr. Byron indicated the problem is the CIP does not  
28 include some of the methodology that is needed in order to assign the fees to be collected.  
29  
30 Mr. Byron: Steve Buckley keeps going back to the CIP done in 2000 using that and the  
31 methodology associated with it because that is the one that gave the methodology and  
32 anything since then basically does not relate back to the 2000 and there is a disconnect.  
33 That is what Steve is talking about. While we revised the CIP, we did not tie it into the  
34 original 2000 study that was done...all the CIP's done after 2000 do not refer back to the  
35 2000 one done by David Gilmore. The other problem all the CIP done since then all have  
36 different projects and no sense of tie back how they relate back to the earlier projects and  
37 disappeared off the radar screen.  
38  
39 Mr. Byron: Mr. Gilmore put together a whole methodology section and applied all the  
40 projects in that CIP that was done in 2000. What Steve is saying is we have to take at  
41 least the latest CIP and go through how we are going to assign impact fees based on that.  
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43 Mr. Miller: We also have to take the feedback that we received because actually he had  
44 some pretty good insight into the how's and whys when I look back on my notes when he  
45 talked about recreation being too high...

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Mr. Byron: That is a different issue. That is not part of the CIP. I agree with what you are saying but I am saying that is a different section. The CIP only deals with the main projects that the Town is looking to do.

Mr. Miller: I think he also had some process ideas...so, I just think it is something we have to review at the same time. The only other pieces as we go through the reviews, you just have to be mindful of how, when the projects are on or off the list and how they tie back into the Master Plan itself. Because when you a look even at this 2009 list every one of them you should be able to link it back in because one of the points he was making was when we talked about the growth rate for 2030 and we talked about the police square footage based on population that we need to build and that is not in any of the plans.

Mr. Byron: Right, that is what he is saying.

All in all, Mr. Wagner has more work to do on the study and the members will review it further. Mrs. McKibben will provide a copy of the 2000 CIP to the members. This will be discussed at the June 15, 2010 meeting.

**2. NEW MEMBER INTERVIEW**

Mr. Joel Kapelson came before the Board to talk about serving on the Planning Board. He served for about five years on the Planning Board back in the 90's until he had to leave because it became too demanding. He told the Board he would like to serve as an alternate. He will fill out an application and then the Board of Selectmen would have to approve.

**ANY OTHER BUSINESS**

**Blossom Court** - Mrs. McKibben said the Association President Mr. Perham is looking for information regarding the road bond. The town attorneys have been working on trying to release the bond. The Board is in receipt of a letter from Jay Hodes responding to Dan Dionne's attorney as to when the work would begin. Mrs. McKibben read the letter aloud. So, there is still no money and they are still trying to get the work completed. Mrs. McKibben informed the Board that the drainage is in and the clubhouse is being worked on. Mrs. McKibben will send a letter to Mr. Perham stating the attorneys are working with the concerned parties.

**Heritage Park** - It was said that the property went to auction and Butler Bank bought it back.

**Minutes** - Chairman Douglas appointed Mr. Miller as a voting member. Mr. Miller **MOTIONED** to accept the minutes of April 20, 2010 as amended. Mr. Almeida seconded. Motion carried 4-0-0.

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**Rolling Acres III & IV** - The Board sent a letter regarding Rolling Acres IV to the owner saying the bills need to be paid and asking him to come to the meeting on June 1, 2010 to discuss it. This would be on the June 1st agenda if they contact the Board.

On Rolling Acres III certified letters went out to all the abutters saying there is the intention to revoke the plan. Another letter will be sent stating a hearing date but the owner has to request the hearing. The Board had voted to revoke the subdivision. It was suggested that if Mr. Manoukian comes in on June 1, 2010, that the meeting could start at 6:30 p.m. It was agreed to hold the public hearing on Rolling Acres III on June 15, 2010, if the Board receives a request in writing from the owner.

**Site Plan Regulations** - Chairman Douglas wanted to familiarize the Board with the ordinance in order to better understand it. It was stated that if an applicant does not provide the requirements, the application is subject to denial. The ordinance does state waivers are to be requested in writing with the application. The applicant has to prove that there is no space available on other towers for co-location. If waivers are denied, what does that do for the completeness of the application? It was said the applicant has to fulfill that requirement.

Talk ensued as to accepting an application conditionally which would depend on the nature of the waiver and that would be a decision of the Board. Mr. Wagner: Now if it were a waiver from completing the traffic study, that is completely missing the component if they deny the waiver so that would be an incomplete application.

Mr. Byron: To me acceptance of the application is more of a checklist paperwork review...either there is a request for a waiver or a document that satisfies what you are looking for. If there is a request for a waiver, then you can accept the application while you are considering the waiver under approval of the application you can then consider a waiver at that point. Mr. Wagner feels if the waiver is not granted, then the component is lacking.

Mrs. Douglas: That is how we have been doing it. We have been taking action on the waivers at the time of acceptance of the application.

Mr. Wagner: I think it is the preference of the Board.

Mrs. Douglas: If we continue to do that at time of application acceptance and the waiver is denied, at that point we are missing a piece of the component so we deny the application...and the applicant has to start all over with new notices and new fees or should the waivers be addressed at the time of the approval...

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1 Mr. Almeida: When you accept an application as complete means you have all the  
2 information you need to make a decision. So, if you don't feel you have all the  
3 information, then you should not accept it.

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5 It was noted that once the application is accepted, the 65-day clock begins. It was said  
6 that the Board is well within its authority to decline approval if the application is  
7 incomplete. Talk continued as to waivers being denied.

8  
9 Mr. Wagner: Even if you deny that waiver after approval it is a key component of the  
10 approval - that case is dead. Take that 150% height, if they ask for a waiver, you deny it,  
11 whether it is in the acceptance stage or the approval stage, that kills that...

12  
13 Mrs. Douglas: They would have to start all over again.

14  
15 Mr. Wagner: It is the Board's choice whether to accept the application and then approve  
16 or deny the waivers. The Board has always approved the waivers during application  
17 acceptance because it is part of the checklist. The issue is if the waiver is denied, then the  
18 Board is missing a piece of the checklist, then the application is denied and the applicant  
19 is back to square one.

20  
21 Mr. Miller: So, on the application acceptance they come in with their waiver for 150%  
22 height and it is denied...are they allowed time to see if there is a remediation plan  
23 because the waiver is only one option...say they are going to move it...they are not going  
24 to decide that in front of the Board. So, there has to be some time between that denial  
25 before the true denial of the application.

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27 Mrs. Douglas: The way we do it, there is no time...you provide it or you do not.

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29 Mr. Wagner said that the statutes have become stricter...it has to be a true hardship. He  
30 believes that it is up to the Board and suggested checking with Town Counsel as to what  
31 route the Board wants to go but make sure it is not contrary to any statute...as long as the  
32 waiver is submitted, it could be done during the approval process.

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34 Mr. Almeida: With the approval process there are some options you can approve  
35 conditionally or disapprove but acceptance, it is either complete or it is not.

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37 Mr. Miller: For a waiver, what is the evaluation process and how do you evaluate the  
38 waiver and it seems like you cannot evaluate the waiver until the application is accepted.

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40 Mrs. Douglas: We do not accept the application until we act on the waiver.

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42 Mr. Byron mentioned that if the Board goes back to correspondence from Town Counsel  
43 when he (Byron) was Chair, the Board would find that it is a paperwork review compared  
44 to a checklist. You would go through the checklist to make sure all of the items are there  
45 and criteria for the application is there, including waivers and that information is

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1 sufficient to invoke the authority of the Planning Board to accept the application and then  
2 under approval of the application, determine if the information is sufficient including the

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5 waivers. You may not grant the waivers because of whatever and they would have to  
6 provide that before you approve it.

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8 Mr. Miller: What is the timeframe?

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10 Mr. Byron: Sixty-five days.

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12 Mr. Douglas: In the past we have acted on the waivers at the time of application  
13 acceptance, not the approval.

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15 Talk went on as to waiving the fees and the process of getting an application on the  
16 agenda. According to the RSA's plats are required to be submitted 15 days prior to the  
17 meeting and then abutters have to be noticed and notice put in the newspapers.

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20 There being no further business, Mr. Almeida **MOTIONED** to adjourn the meeting.  
21 Mr. Byron seconded. The meeting adjourned at 9:19 p.m.

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Alison Douglas, Chairman

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Edward Almeida, V. Chairman

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Frank Byron, Selectmen's Representative

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John Miller, Alternate

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37 Lorraine Dogopoulos  
38 Recording Secretary  
39 (transcribed from tape)