

PLANNING BOARD MEETING

TOWN OF LITCHFIELD

Held on March 18, 2014

Minutes approved 4/1/2014

The Litchfield Planning Board held a meeting in the Town Hall conference room 2 Liberty Way, Litchfield, NH 03052 on Tuesday, March 4 at 7:00 p.m.

MEMBERS PRESENT: Russell Blanchette (Chair), Tom Young (Vice Chair), Frank Byron (Selectmen's Rep), Michael Croteau (8:00), Michael Caprioglio, Bob Curtis, and Jason Guerrette (alternate)

MEMBERS ABSENT: Joel Kapelson, Kevin Bourque (Selectmen's Rep)

ALSO PRESENT: Jen Czysz (NRPC Senior Planner), Joan McKibben (Administrative Assistant)

CALL TO ORDER

Mr. Blanchette called the meeting to order at 7:00p.m. and led the Board in the Pledge of Allegiance.

Public Input:

No members of the public present

Mr. Guerrette was asked to be a voting member this evening.

1) Annual Meeting - Election of Planning Board Officers

Postponed to after the discussion with Mr. Mayberry

2) Discuss Bruce Mayberry Impact Fees Documents

Mr. Bruce Mayberry of BCM Planning LLC came forward and looked through the questions of the Planning Board regarding the drafted impact fees. Mr. Mayberry developed an out line to go through with the Planning Board. Mr. Mayberry stated that everyone has an

opinion on what the statute means, but there is very little case law on what it means. Mr. Mayberry stated that he was going to go through the statutory review and the ordinance because there are two legs that define the scope of what you can do. Any of the improvements that you do with impact fees have to be specifically authorized by the statute and the list that is in the statute are a pretty prohibited list, it is included and limited to. Mr. Mayberry explained that whatever facilities that are subject to impact fee must be municipally owned or operated, or operated by the school district in which this town is a member, so there is no state highways included in road impact fees. The statute talks about occasion by development, and what that typically means is its the standard of connection between the fee and the facility which are reasonably related to the facilities you need to enroll. If there is not a need to that particular facility, is necessary for a particular development in a location; that is where exactions for off site improvements come in. In the same statute there are other provisions for offset exactions for certain water, sewer and road improvements. Mr. Mayberry stated that the statute also talks about the paying of a development, construction or improvement of capital facilities. Mr. Mayberry stated that the most confusing sentence in the statute is that it goes on saying that "the upgrading of existing facilities and infrastructures, the need that which is not created for new development, shall not be paid for with impact fees. The problem is that in this context is that almost every capital improvement you do has some benefit to new development, it is an improvement or new construction or whatever it is, there is always some share of that that is going to benefit new development." If we are upgrading a facility it could generally involve an upgrade and expansion. Mr. Mayberry said the other area he thinks that is not often recognized is that the statute talks about paying for essentially setting money aside to pay for future improvements and expansion, but also to recoup the cost of capital facilities built in anticipation of new development, so if you have a facility such as Town Hall that was built in anticipation of the Town's future needs, then certainly a portion of that might be recoverable in an impact fee, Mr. Mayberry stated that is where people will differ on how far back can one go and look at the improvements. Mr. Byron asked for clarification, because they built the core of the School to handle 800 students for Campbell High School, but they built the rest of the School for about 600, so there is an excess capacity for 200 people in that core, to him that is something built in anticipation of future needs, but he is hearing Mr. Mayberry saying something different. Mr. Byron stated that he would say that this was built to utilize the capacity needed at the time it was built. Mr. Byron asked if you can only charge for impact fees for items that were built bigger than need be versus those items that were built for what you have to deal with today. Mr. Mayberry said he thinks that if it is an existing facility and it is not being expanded, there has to be some demonstration that it is capable of handling some additional new development. Typically, one thing that is common in impact fees that he has seen all across the country, is that there is always some common standard that you use to define the outset, what is our proportionate ratio we are

defining as a space need or a capital improvement need that is relative to a population, relative to some demand factor, so that you applying the same standard to existing use as you would to new development. In the old days, before there were impact fees, new development would come in and sometimes town's would ask for a new fire truck, fire station and so forth all to be built by one developer and when impact fees came in they would say no, it has to be proportionate. Mr. Mayberry stated that he thinks Mr. Byron's question on core capacity versus the classroom capacity, there was evidence there that there was anticipation of a certain number of students, and that capacity may go even further if enrollment declines. Mr. Mayberry stated that the other question is how broadly this recoupment can be defined. Mr. Mayberry feels that under some theories of capital improvement, if you have a building that was constructed and has remaining capacity for the future, and it is entirely paid for, there is one school of thought, that said that is not worth anything, new development shouldn't have to pay for that, it is already paid for, who paid for it, everybody else in the past. All the existing development has paid for it in the past, so the idea of recoupment is that you can essentially recover something from new development in the future, if there were no debt service on a particular facility and it had capacity for meeting future needs, new development might not pay anything towards that construction. Mr. Guerrette stated that we have a High School that has a greater core capacity than classrooms, but we are not even near capacity now. In the future, lets say that enrollment continues to decline, but there are new developments, are you saying that impact fees collected for the development could still be used considering that we have the capacity, but it is increasing capacity? Mr. Mayberry stated that the way he looks at it is that there are some folks that would say if enrollment is in decline, do away with the whole thing, there is no growth. Mr. Mayberry stated that the other school of thought is that when he looks at it, like any other capital improvement, if you have a facility that can handle the amount of new development, and that enrollment ratio is going down, then the useful life of that building is even longer. Mr. Mayberry stated that when he looked at the enrollment numbers by year built of houses, about 52% of the resident students in town, live at homes that were built since you enacted the impact fee ordinance. If that new development had never been built, you might half the number of students you have today, even at a certain point you will have a declining enrollment, which we will probably have for quite a while; the way to adjust for that, if you want to keep an impact fee, you have to keep your enrollment ratio at the current average, if that average continues to go down, then you charge a fee based on that proportionate demand on the facility. Mr Mayberry stated that if you look at the national literature, the general theory about impact fees is that the country has trillions of dollars in unfunded capital improvement needs and part of that problem is unwillingness of the existing taxpayers to pay more taxes. The existing tax base tends to subsidise the new development because of that. Mr. Guerrette stated that after 6 years we are returning the funds, so if we have a declining enrollment, the proportion is lower because there is less of

a need for building capacity. Mr. Mayberry stated that what he is saying is that if you look at it from a demand standpoint, he tries to look at each impact fee as a unit cost kind of approach. Mr. Mayberry stated that the Board mentioned the 6 year refund rule, which comes into play if you have either developed the capacity for the demands on service or there simply isn't any projects, then those fees need to be refunded like the Town does for Griffin School. Mr. Mayberry stated that they talked about the statutory overview and what he has given here is his opinion, when he looks at the context and what is done in the rest of the country, this is a very concise stature, it is not elaborate and have a lot of does and don'ts on how to do it. Mr. Mayberry thinks that in most legal situations, what prevails is how reasonable is it, what ever the Town is doing, is it making reasonable assumptions and does it have a logic to it's approach and is it proportionate to the demands of new development. If it is a proportionate impact; Attorney's will tell you that they can tear apart any impact fee in the state or they can defend any impact fee because it is so open ended. If it passes a test of reasonableness you will be okay, obviously the higher the level of impact fees it becomes more and more money than obviously that is a point where it will get more scrutiny in terms of methodology. Mr. Mayberry commented that the Board has the statute to think about, what the statute would allow us to do and how we interpret that, and then the local ordinance, in which Mr. Mayberry submitted some comments to the Chairman and to Jen about the current ordinance and there is a draft ordinance that NRPC was working on with the Board; and the current ordinance had a few concerns to him about the level of recoupment, the new language would permit recoupment but it also expressed an intent that the things funded by impact fees here in Litchfield would tend to be new and expanded facilities, and thinks that terminology is used in several places in the ordinance; about expansions and something that is new. Mr. Mayberry's concern was if the intent of the ordinance originally was only to pay for new infrastructure, new things, new capacity, that would put a limit on what he would be doing in these methodologies; because if you are doing a road impact fee, the road impact fee is really not based on new or added capacity, it is based on assuming the capacity is there, and you are extracting capital value from that and reimbursing yourself for that. The same for the schools; we just talked about recoupment, we are saying the existing schools had capacity to conserve the future, might be a candidate for an impact assessment, but if you're ordinance is implying that it has to be new or expanded then perhaps we just limit it to those things that are just new or expanded since 1990 when the original fee went into place. Mr. Mayberry stated that those are the pros and cons to what can an impact fee be and what can it address, so we are limited to what statute dictates on what can be assessed, but it is very broad in his opinion on what's the proportioned impact on new development. Mr. Mayberry wanted to touch on the schools and break and let Mr. Cochrane come in, because he has comments on the school situation. Mr. Mayberry stated that the Board had questions about the schools and he would talk about a few of them: the original impact fee that was done here

around 1990 was similar to what was done in 4 or 5 other communities in New Hampshire and Vermont where the fees were based on the maximum capacity of the schools in place at minimum NH standards and the full development cost of the school from ground up. The approach was modified in 2000 to focus on 2 individual school construction projects, which was Griffin Memorial School (being replaced rather than expanded) and Campbell High School which was recently constructed at that point in time. The approach Mr. Mayberry took here was a little different, it will change and he has put out a number of options for the Board to look at, for how it could be structured. One of the questions was about the deficiencies in the school system, and Mr. Cochrane provided a list of quite a few things, and there is a whole history on Griffin School, in terms of a lot of deficiencies, quality and space utilization. Can you pay for those by themselves, can you pay for those deficiencies with an impact fee. Mr. Mayberry stated that he does not think you can do that, he thinks if you had a comprehensive program where the capacity of the School is going to be sustained, he thinks in this particular case, where that school has such a long history of attempts to correct deficiencies in both space and quality, it is an issue he would certainly be concerned about. You could do a recoupment, but the problem there is, when he looks back at Brian's notes and some of the older capacity estimates, there were some lower capacity estimates than in what he had in this reports, and if he went in to those then we would be in deficiency certainly in terms and especially if we adapted so some of these additional conditions that Brian mentioned in his memo. Mr. Guerrette mentioned that as an example we had chosen in the past to take the population of the 5th grade and move it up to LMS because they were running out of space, if that decision was we want our 5th graders back at GMS, that's a demonstrating need, would that not be something you can access an impact fee for. Mr. Mayberry said sure, what he would like to look at is the capacity of the whole school system, or do it in components, K-8 or sometimes 9-12 or the individual school components of it, but he thinks the main thing is to look at the overall capacity issue, his question would be if you had say K-4 facility that is deficient in space, then can you still recover impact fees for that part of it. Mr. Mayberry stated that he has seen that done, but it raises questions. Mr. Byron asked if you can recoup impact fees on the capital investment you would have to make required if that school that turned some of the space that is currently now not usable for the students for various reasons, into usable space. Mr. Mayberry stated that he thinks you could as long as you ended up with a project that went beyond the base line need that you have today, if you did just barely enough to meet existing enrollment demand, that might not be quite enough, but if you continue to do that, continue to improve or add space, so you kept up with whatever pace is required for a new development, that would probably pass. He would just be concerned with charging an impact fee and go out and resurface the basketball court or the cafeteria. Mr. Guerrette stated that the issue is Kindergarteners require restroom and all these other mandated things, so there is no real space inside the building, so if you are looking to bring

those in and or bring 5th grade back, you're really expanding. Mr. Mayberry stated that it is really going to depend on the standard set in terms of the total spatial requirement. Mr. Mayberry looked back at the proposal for the new school and it came out to 132 square feet per pupil, but that is with an efficient layout, and does not think that applies with the current one. Mr. Mayberry said the other question is the validity of fees during a period of enrollment decline; most of the communities out there that have school impact fees, are now experiencing enrollment decline. In the local situation, there is a little bit of debt service left on the High School, but not a whole lot of capital expansion projects that he knows of that are likely to occur in the immediate future. Based on that history that is his primary concern, that it has to be an object to the fees, that you can collect them based on any theoretical basis you want, but then it has to be a place to spend that that accomplishes the purposes. Mr. Mayberry told the Chairman that this might be a good place for Mr. Cochrane (Superintendent of Schools).

Brian stated that he handed out two documents, one was a request for information. Mr. Cochrane stated that the first 3 pages were from the GMS principal, describing the space needed and their current situation and then the 4th page is LMS stating that they have the same space needs. The GMS building stated in the 1930's and have had several additions to it, and those were built on the standards at the time, and believes the standards are higher now, but the rooms may still meet the minimum requirements. The second document just explains how the situation impacts the running of the schools from an educational perspective. Mr. Cochrane stated that if you look at what you need a facility to do, it is impacted by what's an existing facility, one of the regulations that stipulates what has to be provided and then the number of students. If you look at the building, most schools are overcrowded, the portable are there and most of the storage space at GMS is actually is not used for storage, storage is pushed outside the building. Areas that were built for storage are currently being used to provide services to students and if you look at the second paragraph, it basically explains that. The use of storage space at both schools are used for storage outside the building in other ways. GMS budget for 2014-2015 has \$1,250 budgeted for pods for storage, for materials that have more value than the cost to store them. Things that would normally be stored inside the 30's building, can't be stored because of fire regulations and so we actually have to pay to store something. One of the reasons that the storage situation is what it is, is explained in the second paragraph. The special Education Law and requires two things, one which is for services for providing for much more substantial and appropriate services for identified students, and the students be educated in the least restrictive environment. The definition of least restrictive environment is inside the school where the child would normally attend. Other than some very special situations. We now provide, which we didn't when the school was built: occupational therapy, physical therapy, speech services, psychological services. We have

title one tutoring, a reading specialist, math tutoring as well as reading. We have all these services required by federal law that not only have to occur, but now it has to occur on site because they have to be delivered in the least restrictive environment. This is the challenge of GMS.. Brian explained that the last paragraph deals with the Planning Board function which is we are expecting enrollments to slowly decrease, we not decreasing quite as fast as the original projections anticipated, but again, like politics all real estate is local as well. New development will either increase the student base, overtime if the decrease in population continues, we would say 20 years from now, the building might be the appropriate size to service the needs that are there, it depends on the amount of balancing development that happens in the town. The need for these services is not going to decrease. We have a lot of students who require some extensive services. Mr. Cochrane stated that there is a range of services and needs, how that intersects with the requirements for the school and the Planning Board and impact fees, is a decision for the Board. Mr. Cochrane stated that development will impact the building.

Mr. Mayberry stated that if you need more space to do all of those functions, you need more square footage per pupil regardless of whether the house exists today. Mr. Mayberry stated that the way he would reflect that, is that if there is going to be an expansion to solve those issues that provide for all the services, then that raises the square footage required per pupil and that is how we would reflect it in the impact fee. Mr. Mayberry stated that he does not know if you have to be so hard and fast to say it wasn't there then, so therefore it can't be subject to the impact fee because it is a construction or improvement that has a benefit to new development. Mr. Guerrette stated that the word improvement means exactly that, you're improving capital value of your space based upon what it is you are doing so we may have the same number of children, but we are certainly getting more identified children. Three kids graduate and three replace them, but these kids may require services that were not already there. You're not increasing the number, but you are certainly increasing that intensity, Mr. Gurette believes that is growth on the improvement side, we might not need more space but we need capital improvements to maximize what we have to benefit who is going there. Mr. Mayberry stated that the other thing to realize is the impact fee statute does not ever say anything about growth, it says new development; what is proportionate impact of development. The only growth used in the context is the Growth Management Ordinance.

Mr. Mayberry suggested that if Mr. Cochrane is willing he would like to go back and forth by e-mail and get a little more detail, especially on Griffin and the classroom configuration. Mr. Cochrane stated that he hopes the information that he has shared tonight is helpful, and would come back anytime to provide more information if it would be helpful.

Mr. Cochrane excused himself.

Mr. Mayberry stated that just to finish up on the schools, the models on the report are all adaptable to change in terms of how we define capacity. If we go through the Griffin School and determine a different capacity ratio, which he believes we will based on rereading the old design reports and what Brian just commented on, that will definitely change. The model is set up for illustration where it is simply trying to express you need a certain amount of capacity per square footage per pupil, and this is the cost of that capacity based on the average enrollment ratios in town which are measured locally. Mr. Mayberry stated that using those ratios, we can come up with a number of different approaches. In your 2000 update the town assessed for Griffin and the High School and not the middle school. You might end up with something if you feel the Griffin Memorial School is just never going to be expanded, the need remains, but you could just not include that as part of the impact fee assessment or you can assess only for the high school or the parts you are comfortable with looking at that existing capacity. There is a number of ways to go. Mr. Guerrette mentioned to Mr. Mayberry that he mentioned earlier about breaking it up as K-8 and 9-12th, would that be a better approach. Mr. Mayberry stated you would be fudging it a little bit because you are merging a school that most people consider substandard with a school that is in pretty good shape.

Mr. Byron stated that one of the things he noticed in the report is that Mr. Mayberry suggested that there are two recommended ways of doing this, one would be the five structural categories and the other way would be a fee per square foot which generally what Litchfield tends to do now. Mr. Byron mentioned to Mr. Mayberry that he would assume that he is looking for the Board to make a decision on one of these two approaches, and would like to understand that while these two approaches will yield relatively the same exaction, it is not clear to Mr. Byron that if you have a 5 structural category, how you would change the fees in those categories. Mr. Byron said that he could understand how you would do it on a square foot category, but how would you do it on the five category structure. Mr. Mayberry said that you can spot check the enrollment ratios periodically, what he has done in some cases is just take the Town's average enrollment per housing unit and just change all the enrollment ratios proportionally from whatever the base line is. Mr. Mayberry said if you are doing a square foot based fee, the same thing would apply and it would get looked at the ratios of enrollment to square footage in general. The only difference is that he does not recommend the bedroom base fee, it is really a messy way to do it. Mr. Mayberry said the square foot fee is a rational way to do it especially in a place that has mostly single family homes because the ratios tend to be pretty constant. Mr. Mayberry stated that the only thing he recommends is that you have an upper limit on the square footage that is assessed because there tends an inflection point

when you get up to the halatio size homes, they really don't have that much more enrollment after you get beyond maybe 2,600 - 3,000 square feet. You might want a stop point of how much is assessed because you can get into some very high numbers there. Mr. Caprioglio asked if there was a cap on that now. We do not. Mr. Byron question if he wouldn't change the cost per square foot based upon like we do today, the engineering. Mr. Mayberry said he likes using replacement costs, because you get a new insurance schedule each year and that would ratch it up a little bit. Mr. Mayberry explained that he started using this because most of the fees today are based on some older existing buildings, and started to be concerned that if things are ratcheting up because of construction costs, as if they were being built new, for example in the Griffin School, the original 2008 cost ratio, if you included all of the administrative costs and everything, it came out to about \$239 per square foot and the building alone is 193, so if ratchet that out overtime, you would be at a pretty large figure with very large impact fees for schools. Mr. Mayberry stated that it is just a concern that he has, is it really new construction that we are doing or is it better to use a replacement cost and have a more conservative number that is a little easier to live with. Mr. Mayberry stated that the approach the town uses now is used commonly, use the engineering news record and push the base cost of a road for example. The difference with the schools, when you're dealing with an enrollment variable, he likes to look at both; if you're going to increase the cost of square foot, you would want to review the square foot per pupil and see if that is staying up to the standard and the enrollment per square foot or per house, because that is the part that is potentially declining over time and so those might come out to a number that does not change as much as it would if it was just being ratcheted up as to cost each year. Mr. Curtis asked Mr. Mayberry to explain the difference between a replacement cost and new construction cost. Mr. Mayberry stated that he is not sure, the replacement cost specifically deals with (an assured value for the building and contents) what the ratios used by the insurance industry are supposed to be similar to what you have on your home, where you probably assume there is some salvage value in the foundation and the masonry components of it and the rest would have to be rebuilt, so the numbers tend to be quite a bit lower than if you were going out and doing brand new construction from the ground up, you also don't have to pay for land or site improvement costs. Mr. Mayberry said if there were a live proposal out there to build a new school, at Griffin Memorial, he would probably use that value for the value of the school based on new construction or expansion, that would be the current cost of doing that. Mr. Mayberry stated that it is a matter of convenience, it makes the fee easier to update if you review your enrollment ratio and look at a new replacement cost, and of course if the building is improved or expanded, its replacement cost would go up, it is a choice. Mr. Byron asked Mr. Mayberry to address a questions he had regarding a statement that he had in his report on the matter of the assessment value usually done by the community to determine the assessed value of a building, over estimates the living space or the utilizable space in the

building. On page 4 of the report it says note that the assessment data reflects the effective area used for property appraisal formula, which in most cases exceed the actual living area of a residence, this means that enrollment per square foot measured by the effective area will yield the enrollment ratios that are likely to be lower than if measured by living space and asked Mr. Mayberry if his data was correct for that. Mr. Mayberry stated that it reflects effective area at this point, what he used was Avitar and they used a formula that is based on effective area, there are some that will show you a gross living area, which is the actual heated space, what we think of as our actual habitable area that is usually heated and above grade, and effective area is a different measure because it comports with their ratios with however they determine the mass valuation equations that they have on an effective area basis. Mr. Mayberry stated that he left it at effective area, thinking that it at least would underestimate on a square foot basis. Mr. Byron stated that it sounds like it is not really necessary either. Mr. Mayberry said in his opinion, if you're ending up with a fee that is a little less than it should be you are okay. Mr. Caprioglio asked if you do the replacement cost and then to say a school is on a ballot in the future and it passes, then it is a new building and you need more impact fees, how would you make up for that. Mr. Mayberry said it depends on how frequently you do the updates. Mr. Mayberry gave examples of different Town's and the way they do their impact fees. Mr. Mayberry stated that any factors that he looks at, we know that for new development, the newest homes have the highest enrollment ratios, so if we use an enrollment ratio .9 pupils per unit instead of .58, what happens to the fee, it is way up here, but on average that is not your long term impact., which is what we use in the fee basis. Mr. Caprioglio asked if we update every five to six years and Mr. Mayberry said that seems to be the cycle. Mr. Mayberry stated that the other aspect of it is sort of a reality check, he has gone back to a lot of communities where the fee was put into place 5 or 10 years ago and here are the assumptions for what we are going to do for our road system, and then you look back and the budget was slashed, we did those improvements and know what do you do, you have the fee system based on cost per year that are up here but then you cut it in half, so your fee is out of scale to what the investment is. A reality check now and then is probably a good idea. In some cases it may be time for an impact fee to end if the improvements just aren't forth coming. the other way to do the impact fee when it is an uncertain situation is your safety valve is always there for doing a refund. Mr. Mayberry said there was another question, someone asked about in the memo if a fee sort of trigger on and off depending on the growth rate. Mr. Mayberry opinion is that's true of growth management ordinances where you want to limit the development based on the pace of growth, the problem for the impact fee is an equity problem, if it is on and off, then some development pays a lot and some pay nothing and you don't know what the growth rate was until it is already over, it is almost better to have one even amount and the safety valve is the refund situation. If you look back and haven't done any improvements that should of been done, then you can have

a full or partial refund of the fee and kind of continue your system. If the community failed to fulfill the improvements that safety valve exists.

Mr. Mayberry said he want's to work with Brian a bit and go back to that team design study and maybe use that format and see if they can come up with a different capacity figure based on the current use of the classrooms and get that figure fixed because he does not think it is right. Mr. Mayberry will give the Board enough options so they can pick and choose among the different models, but it will change the numbers somewhat. Mr. Mayberry stated that he owes the Board a second meeting and a final report. Jen asked if it would be helpful if we narrowed it down those table, because she knows when he looked at the options two weeks ago there were some that you said yes maybe and some that you said you don't think so. Jen stated that some of what she heard was looking at the fee table for the two school options, which was the fee per unit per structure type with the five structure types and the fee per square foot with two structural groupings. Some of the other things she heard was the different breakouts by school facility be it elementary, middle high school, K through 8 opposed to just K-12. Mr. Mayberry stated that he broke into 3 groups for some of them to keep them separate. Mr. Mayberry stated that also allows you to eliminate one, if you decided the elementary was not a vital part of this, you could lop that part off and charge for the other 2 levels. this gives you the most flexibility. Mr. Mayberry stated the elementary school is the most need but the least up to par in terms of the existing needs. His argument if he was looking in from the outside, if you build a brand new school this would be great, then you have a demonstrable capacity for the future. He would still give a credit for at least part of the debt service on it because some of that would have to happen in serving existing deficiencies. Mr. Mayberry stated that what he tries to look at is usually from a space limitation standpoint rather than a quality standpoint. Mr. Mayberry stated that the other thing he mentioned on that table is the question of how many assessment categories to have in terms of structural types and the only advantage to 5 structure types, those run along census categories and it gives you the ability, if you did have some new multifamily construction of apartments, you would be able to show a lower fee based on those typically lower enrollment averages. Folks looking at affordable housing would look at that kindly in terms of the ability to adjust for those individual situations that you may or may not encounter. Mr. Mayberry stated that you could perhaps do a special case if someone argued that they deserve the lower assessment because of the type of construction. When you merge to many things together, that is the problem you lose proportionality. Mr. Byron stated that he thinks if you stick with the 5 categories, which does model the census date, we would be better off, it allows just enough discrimination in terms of assigning impact fees to make it simple and it pretty much mirrors what we have or could potentially have in the town going forward. Mr. Curtis stated that he thinks if you do that you basically eliminating a consideration of the sizes of houses in each of those

categories. Mr. Byron stated that there is another decision they need to make and it is if you go by square foot or the structure category. Mr. Curtis stated that he thinks that the square foot basis is far better. Mr. Blanchette stated square feet but with a cap. Mr. Blanchette believes if the house is much bigger you are not contributing more wear and tear to the roads and not contributing additional students in the school system, there has to be some reasonable cap. Mr. Curtis asked what you would base it on. Mr. Mayberry stated that you have the data to show where it tails off. Mr. Mayberry stated that what he sees typically is after you hit around 2700 - 2800 square feet, you don't get any more kids for that extra room. Mr. Mayberry stated the trouble is that we don't have a lot of units here that are town houses, multifamily and manufactured to compute a square foot fee, which is why he merged the categories for the square foot basis. Mr. Mayberry stated that the square foot seems to work out pretty well even with multifamily. Mr. Mayberry stated that he has all the models to do it, so they don't have to choose tonight. Mr. Blanchette stated that his preference is square feet with a cut off point. Jen stated that she would have Bruce do a scatter plot for the Board that shows their enrollment per house size and see where that tapers off and then you have that scientific basis for where you draw that cap line. Mr. Mayberry stated that those are the two things as to get the Griffin School ratios proper and to do some type of credit allowance that may be different from what we have here. Mr. Mayberry stated that the fact that the High School is paid for, you still have that capacity value there that serves new development, and that is one of the things the statute doesn't really address is if you are recouping an impact fee based on that value it is pretty clear you can apply it to debt service in a lot of places. Once you recouped, if your recouping then he has always said you still need to use it for capital improvement. You can't let it go to the general fund so it would have to be used for some other school improvement, somewhere in the system. In most jurisdictions, a recoupment means you spent the money, did the improvement and now you have recouped it and the money is now available for other things. He certainly thinks it should be kept in the same category, for some improvements for a long useful life. Mr. Byron asked if the Board has agreed upon that they want to use square footage. The Board answered yes that was their preference.

Roads. Mr. Byron stated to Mr. Mayberry that he trying to understand how he assesses the road impact fees. Mr. Mayberry stated that the Town has had the road impact fee since the beginning of the impact fee system back in 1990, the way the fee was done was a lane mile approach. Mr. Mayberry stated that you take a sample of a segment of a class 5 road and you assign a value to it based on construction cost. Mr. Mayberry said this where the fees differ because in the original study and in your update, it was valued at a full construction cost of a roadway starting from bare earth. That cost tends to be pretty high. Mr. Mayberry stated that it goes back to the idea of recoupment. This method came out of places that have a lot of growth and traffic, typically places like Florida where the impact

fee stuff originated, where you have large metropolitan or county governments spread across a very big area, you can look at a very large area, large expenditures, major highways, and because there is so much traffic you get to a point where you need to add more lanes for the highway to accommodate traffic growth, so that is sort of where that approach originates. Road impact fees you could use that replacement cost and if the road as it stands has excess capacity, you are basically assessing for the value for whatever number of lane miles you encumber by your development and it is cost per linear foot through the various equations to back out what's your share of the capital improvement cost to create that roadway, so your current system really talks about recovering the full value of building that road from scratch, trip rates come into play. What that system does is fix a segment of road and it has a certain capacity for that segment, how many cars can flow through, average daily trip length, daily traffic generated and you come up with basically how much of that roadway surface is encumbered by the traffic generated by a particular development and what is its value. It is usually expressed on a per trip basis or a vehicle mile unit, that is an approach which Mr. Mayberry has seen used in a number of places. A lot of places that are using this are not adding lane miles and are just recovering the cost of that roadway in place. Mr. Mayberry stated that he calls this the theoretical approach to road impact fees. Mr. Guerrette asked if you are recouping that cost how do you disburse those funds back, or where are you dispersing those funds to? Mr. Mayberry answered by saying in theory you would be recovering it and in most cases you would be reinvesting it in the road system. As long as it stays in the road capital improvement category and you are not at terrible levels of service on your classified roads. Mr. Guerrette asked if that was not maintenance of the road. Mr. Mayberry stated that he saw that in the questions, and nobody really knows the answer, the dividing line between that. Mr. Mayberry said the way he looks at it is that he has looked at a number of these systems, and they have really high fees, if you look at the cost to build a brand new classified road, which almost nobody is doing, the developers are building small subdivision roads, but municipalities are generally not out there adding lane miles to the classified system on their own dime, most of them are resurfacing, reclaiming, and their keeping the capacity going, by reinvesting in the roadway and making sure that capacity is there in the future. Mr. Mayberry stated that his other approach is to use a capital value that is lower based on reclamation, whatever the Towns improvement program is, Bruce stated with the example he used he is not using \$300 a linear foot, it is about \$95 a linear foot which is based on the most recent spread sheet he had from Mr. Hoch was the 2013 draft improvement plan for the roads based on the RSMS inventory. The other way to do, is to see the dollars reflect what the Town is actually doing, it seems that recovering a full value of a roadway that was built maybe 100 years ago, might be why the numbers end up so high, but nobody is doing that, do we want to extract that much capital value out of an existing roadway The other way he has done it is to look at what is the Towns improvement program, especially if

it is based on RSMS type of inventory where you are prioritizing, looking at the pavement condition index and you are trying to maintain or at least prevent deterioration and sustain that capacity, so if you have a program with regular maintenance, Mr. Mayberry believes it goes beyond that, especially reclamation. You are really reconstructing the road, but you are doing it at a lower cost rather than a brand new construction value. Mr. Guerrette made a comment about doing a development on the southern end of town, these are roads some people never see in their lifetime, how do you then equitably assess them of that? Mr. Mayberry stated that was kind of the nexus question, if development a is here paying an impact fee, do they derive a benefit from improvement z down at the other end of town, and the way these fees are structured under this lane mile type of approach or even the RSMS approach, is just looking at the road system. The road system is what is being assessed. That entire system has to function, especially the major thoroughfares within the town that are class 5. If you look at that as a system, then the nexus is between the development and the road network. If you look at it as an exaction, then you look at the development or the improvement has to be here. If a development is in zone A it still has an impact on zone C, because there is a travel path involved. Mr. Mayberry stated that if you look at the old case law on impacts with roads they almost all pertain to the exaction process. Mr. Mayberry stated that in his view, impact fees are based on a more general association between a capital system or a set of capital improvements, and development in general, so it is not necessary to be as location specific with that type of fee. With an exaction you would have to do that. Mr. Mayberry stated that he thinks with a fee, you have to be careful that you are doing a system of improvements, so that you don't just do one or two things here, it is a system wide effort. Mr. Mayberry believes if you follow an RSMS approach, and periodically review the system needs, he believes you can probably justify on that basis. Mr. Mayberry said to him the question is what can be recovered, can you or should you recover that full system value from bare earth. Mr. Mayberry stated that he likes tying it to the capital improvements that are being done in as close a way as we can and it makes it updatable. Mr. Mayberry stated that he thinks you are safer if you have consistency with what you are actually doing and what you charge. Mr. Byron stated that right now we are taking about 170 thousand dollars in Highway Block Grant money from the State each year, and there was a warrant article that went through and passed for an additional 177 thousand dollars. Mr. Byron stated that he was not sure if that additional \$177,000 is something that you can expect to see every year as an on going basis, so he thinks the number you use (\$377,000?) is probably in excess of what the Town will spend going forward. Mr. Mayberry stated that he went back to the 2000 report that originated the RSMS, he believes if you brought that average forward, he believes they were recommending about \$265,000 a year in 2002 dollars in what it would take to keep the roadway surface from deteriorating. Mr. Mayberry stated that there was one thing that he wanted to correct in his report, he talked about the block grant (on page 24, the 5th bullet

down) just mentions in the last sentence, it says: block grant receipts can be applied to a number of highway department expenses. It should and are not specifically required to be dedicated to road improvements. The word "not" is missing. Mr. Mayberry stated that what he was trying to point out there is that the block grant receipts, in his understanding is that they can be used in any highway department expense, they do not have to be dedicated to a road improvement. Mr. Byron stated that his understanding is that they can only be used for maintenance on the roads. Mr. Mayberry mentioned that if you have dedicated revenues coming from a federal or state source, if they are really specifically dedicated to a particular type of improvement, then you usually want to back that out of the fee calculation, so you are not assessing something you are getting from another source, but if it is a more general fund that is not specifically dedicated to road improvements, then you would really have to consider that. Mr. Mayberry will look into this and see what the department says about that. Mr. Mayberry stated that he believes this is another point of confusion; where can the money come from, because the block grant should be serving new and existing development, it shouldn't really be categorized in terms that it is only for existing needs, the major point is what is the total amount of improvement that one can expect in the system in terms of what he uses as reclamation base cost. In the lane mile model he just based in reclamation cost and on the RSMS base model, he based it on the whole schedule of improvements, because it is part of a system and part of a structure that is for a classified road system. Mr. Mayberry stated that the other reason that he likes it is because it is sort of a reality check, if you go back to the approach that says this road is worth \$298 a linear foot, we are going to take that from your development and we are going to use it for something else, personally it is a convenient and easy method, but he is not as comfortable with that, because he does not know exactly where that is going. Mr. Mayberry stated that you can use the lane mile approach but apply it to your RSMS program, it is a question of do you use a generic formula that is based on unit cost or do you look at a schedule of improvements and try to fund out of that. Mr. Mayberry mentioned that there was also a question of what the 95 linear foot was based on and that came from the Town's spreadsheet in terms of what the assumptions were going for reclamation cost per linear foot. If you took the 2002 study that you did on roads, back then if you took the average reconstruction cost for a road with open drainage, you would come out to 95 today. Mr. Byron stated that he thinks the reclamation cost for the road was given to us a couple of years ago by Charbonneau. Mr. Mayberry stated that if you went to the full replacement cost or even the full depth reconstruction cost, you would have a different capital basis that would be higher, that would push the fee up. Your current method averages out reclamation with open versus closed drainage. Mr. Mayberry stated that the options are to do the updates of the existing model with some modification and maybe a different cases or the old cost basis, or base on the RSMS plan and back it out. Mr. Mayberry stated that those are the two things he showed in there, but again the variables are how much you assume

for the cost per foot or in the other model how much annual road reconstruction improvement you are going to do, part of that budget was broken into reclamation and overlay, two levels of improvement in the spreadsheet so when you put those together that is where he came up with the dollar amount per year. Mr. Byron stated that there is a couple of things to maybe consider and that is if you look at the budget, the Town receives money from Highway Block grant to the tune of \$175-\$177 thousand, but there is also money that is in the budget itself that is used for road work, there is an additional usually \$25,000 in the budget that is used for just general purpose road maintenance, there is an additional usually 15-\$18,000 that is in there for culvert repair and replacement, there is all types of other stuff that is in the body of the budget that is not reflected and not part of that Highway Block Grant money. There may be an underestimation if you use the \$177,000, there may be an underestimation as to what the Town puts towards actual highway repair and maintenance. Mr. Guerrette mentioned that is more of the maintenance of the road, that would mean impact fees. Mr. Byron stated that he is trying to get a cost on what we spend on that on maintenance. Mr. Mayberry stated that it depends on where you draw the line, he looks at the RSMS as a way, if its a long term plan, if it has components to it, which it might be just minor improvements on or to full reclamation and rebuilding, so if we put a cost to that program, but he does not know where you draw the line to just maintenance and highway improvements. A lot of Town's have separate budgets for that. They will have a highway maintenance budget which is obviously sand and salt, and then there is a separate budget for whatever they term highway improvements which are more the long term rebuilding types of projects and often it occurs in stages where you might rebuild something one year and put the top coat on the following year to two years after so they are staged. We are looking for what we can reasonably expect for devoted to the RSMS program. Mr. Byron stated that the RSMS program is really we send the road agent as well as an engineer out to the field and we say look, we have to build the road from point A to point B, what is the cost for that, then we go out to bid for it and then we use most generally the highway block grant money to pay for that. During the cost of the year, there may be other small things that the road agent is doing that are also trying to keep the road open, and that is why he said it is contained in the body of the budget generally. Mr. Mayberry asked if there was any way to tease that out of there in terms of a dollar figure? Mr. Byron said probably the best one to work on that would be Jason Hoch. Mr. Mayberry said when he and Mr. Hoch had talked to Jack before briefly, he thinks the thing in the past would of been about \$200,000 a year but it has gone to the \$170,000's as you mentioned, but mostly block grant expenditures and not as much from the town, but he does not know what the whole town highway budget is., and what proportionate of that would be reasonable, the problem is in road terminology, say the 2002 report, its just called road repair. Mr. Guerrette stated that in 2008 there was clarification on that point that these were upgrades and improvements and then this was called maintenance because we

couldn't include the road maintenance items in any of the capital so we had to segregate our reports in that fashion.

Mr. Mayberry stated that he is not a highway engineer specialist, but what he has read mostly it talks about the fact that most of the improvements are more time and deterioration related than saying it is a certain amount of new traffic. Mr. Mayberry stated that he thinks on this one there are two approaches, there is the current approach with some modifications and does not know how the Board feels about trying to carry that original total construction value in there, but it would be quite a high figure and would probably give you a road fee of about \$4,500 which is high, or to use the reclamation type cost as the cost basis to figure the replacement cost of that roadway which he believes comes out more reasonable, so it is that way or these two models going to annual reasonable budget estimate for how much we can term as a highway improvement program. Mr. Mayberry stated that he will see if he can talk to Jason again and see what they can come up with. Mr. Mayberry asked if there were any other questions that he did not cover. No one on the Board had any further questions. Mr. Mayberry said that when it all boils down to something, he thinks if you had a methodical approach and you had a reasonable base for your assumptions, he does not think they would have a problem with the fee system. Mr. Byron stated that the basic question he needs the Board to answer is how do we establish these fees, whether it is lane mile or the RSMS system. Mr. Mayberry said either way, it implies a commitment to improvements of some level. Mr. Guerrette stated that there is no doubt that the RSMS system is the way to go, the problem is how follow through because it is so uncertain. Mr. Mayberry stated that even if it varied from year to year and you came out with an overall average, over the course of a 15-20 year period. Mr. Mayberry asked if it was a budgeted amount or does it go out to voters each year for rebuilding a segment of a road. Mr. Byron stated that they sent a warrant article three or four years ago to the voters, to say basically that they would take the highway block grant money and put that into the budget and that it would be shown for road repairs, maintenance and that is what they have done ever since, there is a couple of reasons for it. Anything in addition to that would go into the budget in some level or if they wanted to have that match, which is what happened this year, then that would go to the voters in form of a warrant article. Mr. Guerrette stated that even if it went into the operating budget, it would still have to pass folks in town. Mr. Mayberry asked if there have been any issues that have come up with the current system of people pointing out any discrepancies. Mr. Byron stated no, they have not had any suits to his recollection over any of the impact fees. Mr. Mayberry stated that there is enough here to show alternatives, but he will talk to Jason again to see if there are other assumptions and what he felt about that range they are showing and do a little more research on the block grant to see what is covered or not. Mr. Coteau mentioned that another question that was in his report has to do with basically improvements to major roads versus that would have more benefit than other smaller. Mr.

Croteau asked the board if they want to look at this as a whole on all the roads in town or are we focusing on the ones that need improvement. Mr. Mayberry stated that the reason he did this, this mostly comes from some other town's that haven't done RSMS like Litchfield has, is that if they wanted an impact fee, he would advise them to stick with the major arteries in town only because that nexus question they talked about, because it is easier to show a connection to the network that everybody travel from one part of town to the other to get to the state roads then it is to take every cul-de-sac and include it in the road system. There is nothing wrong with it as long as you have a program, if you have an RSMS program then he does not see a problem putting all of it in there, but it is a little safer from a nexus point of view to say the purpose of this program is to maintain a capacity of the central highway system or our classified roads. In his report Jack and himself talked about what he considered major roads and he added some others but when he started drawing the map, he saw there was some that don't connect and said what if I connect these together, does that form a network. He would have to have the staff look at that and see if it is reasonable. Mr. Mayberry stated that all that does is that it cuts down a little bit on the scope of the improvements and the capital value you would be assessing for, but in it might make it unnecessarily complicated if you have been doing this system for many years and you have the RSMS basis, if the improvements are going to go where they say they should go then that should not be a problem. Mr. Byron asked what methodology they were going to use for roads. The board decided the RSMS was their preference. The RSMS and the budget actuals will give them a good basis. Mr. Mayberry stated that he will do a little more research on that, but what he would like to do is to put the other models in their just to show again, because the numbers come out about the same. The Board thanked Mr. Mayberry for his time. Mr. Mayberry thanked the Board for taking the time to listen to him. Mr. Mayberry said he wants to go to the schools and go to Jason about the roads and ask a few questions and refine it a little more based on what they talked about tonight and he can come back for a second meeting to go over those issue. Mr. Mayberry stated that he has not gotten to the other part of the study which was to look at other facilities, he does not have that purchase order yet.

Approve minutes of March 4, 2014

Motion: by Mr. Young to approve the minutes of March 4, 2014

Second: Mr. Curtis

Vote Passes: 6-0-1

Other Business

Jen stated that on the other business page, the Board has two different memos posted, one is from about a month ago just closing out the Ag overlay piece of the CPG grant, just

laying out some recommendations, because you laid in on the table, so the point when the Board chooses to pick it up again, it tries to say here are some of the concerns that were raised, here are some ways that they could be accommodated or a more palatable approach taken and it also points out some areas where perhaps no action should be taken.

The other memo just posted today: This morning NRPC hosted meeting for municipalities to talk about brownfield success ments and the EPA grants that are available. Every community in the region has brownfields, and in the memo Jen has attached those sites that have been identified as possible brownfields in Litchfield. They are smaller sites that have some sort of environmental contamination and the idea in the point is that by cleaning up a brownfield site you can do some economic benefit to your community and what they are trying to do is talk with communities to see of there are any specific sites in the region where communities are looking to do further study on the site and what is required of the site. It is an assessment grant and what there is for information out there relative to those. It was just a preliminary conversation, but if there was something on one of those sites or a site that wasn't on the inventory, that the Town was interested in moving forward for some economic development. The goal is to identify within the region 3 different places and submit atleast 3 applications. The EPA brownfield grants have become extremely competitive, and it is on a point system.

Mr. Blanchette took a moment to share the results of the recent election. Voting for article. Article 2 (The Aquifer Protection District) Yes -1072, No-470. That carried. Article 3 (Multifamily Overlay District). Yes - 750, No - 859. Article 4 (the amendment of Commercial Districts) . Yes - 1025, No - 551.

Mr. Blanchette returned back to the 1st item on the Agenda.

Annual Meeting - Election of Planning Board Members

Mr. Blanchette stated that they are on hook to elect a new Chairman, a Vice Chair and it is in the by-laws, section 5 - Election of officers. The Board shall elect by a majority vote at its annual meeting as established in section 5 the following officers:

Chair:

Motion for Mr. Caprioglio to be Chairman of the Planning Board.

Vote carries: 6-0-1

Vice Chair:

Motion for Mr. Young to continue as Vice Chair of the Planning Board.

Vote Carries: 6-0-1

Secretary/Clerk:

Motion for Mr. Croteau to be Secretary/Clerk

Vote Carries: 6-0-1

Mr. Blanchette stated that Mike Croteau and I are both up for re-appointment . Their terms expire at the end of this month. Mr. Blanchette asked if it was the will of the Board that they should continue on as members of the Board? The Board stated yes.

Motion to make the recommendation to the selectmen

Vote carries: 7-0-0.

Mr. Byron told the new Chairman that he has to write a letter to the Board of Selectmen requesting the appointment of Mike Croteau and Russ Blanchette.

Motion: by Mr. Young to Adjourn

Second: by R. Blanchette

Vote: 7-0-0

The Next Planning Board meeting will be held on April 1, 2014 at 7:00 pm.

The meeting adjourned at 9:30 pm

Minutes taken by: Donna Baril