

## BELMONT PLANNING BOARD

Monday, December 5, 2005  
Belmont Corner Meeting House  
Belmont, New Hampshire

Members Present: Chairman P. Harris; J. Pike, G. Flack, W. Peterson, C. Patten, J. Marden and R. Caldwell (Selectmen's Representative).  
Selectmen Present: Chairman B. Watterson; Member R. Cormier.  
Alternates Present: C. Shibles.  
Alternates Absent: C. Gilbert.  
Staff: J. Beaudin, C. Daigle and R. Ball.

The chairman opened the meeting at 7:00 p.m. and welcomed those present. M. Cozort, E. Hawkins.

**IMPACT FEES:** Bruce Mayberry and Russ Thibeault were present. Mr. Mayberry presented a slide show of his report, *Public School Impact Fees: Feasibility Review Belmont, NH*.

Mr. Mayberry noted he had been contracted to initially look at school impact fees and at the feasibility of other fees. The draft to date does not include the actual fee methodology. Mr. Mayberry reviewed the statute for impact fees to pay for new capital facilities relating to growth and its proportionate demand for those facilities. Fees have to be reasonably related to that growth and can only be assessed on new development. Communities are allowed to recoup previous capital costs for facilities that provide for future growth. The town first needs an ordinance. Impact fees cannot be used to fund operating costs or upgrades. Communities have six years to use the funds appropriated. At that time they would be returned if the target project does not occur.

There are two types of impact fees – exactions for off-site improvements and impact fees. The only area for which the Planning Board can use existing authority is for off-site exactions. These are improvements close to, and specific to the development. Off site exactions can be authorized under the Subdivision and Site Plan Regulations. It's a negotiated process. Off-site exactions can be used only for water, sewer, drainage and highway improvements.

Everything else has to be under a pre-determined charge on an impact schedule. Impact fees have to be assessed equally to all similar new development. They have to be enabled by an ordinance. There is a pre-set schedule of fees and they are generally not negotiable although waivers may apply.

There are two parts of the Impact Fee process - the Ordinance and the Basis of Assessment. The Ordinance is 5% of the work. It enables the process. It can be fairly brief. It usually defines what will constitute new development (expansion of floor area, new homes, conversions, etc.). It may establish waivers, for instance waiving school fees for age-restricted housing. It also lays out the administrative procedures for appeals, refunds, etc. More often than not the Ordinance is adopted without the specific schedule. Most communities establish the Ordinance and then

follow that up with specific studies and establish the schedule. The Ordinance can appoint either the Planning Board or the Selectmen to be the authority that adopts the actual schedules.

The Basis of Assessment is the type of report he's begun. It determines how to define a proportional charge to new development. An impact fee schedule provides advanced notice of what the fees are going to be for development.

Mr. Mayberry reviewed the existing status of Belmont's school capacity. The elementary school is virtually at capacity, the middle school has exceeded capacity, and the high school is very close to capacity. Within the Shaker Regional School District it's obvious that most of the growth has been from Belmont, not Canterbury. He reviewed specific school enrollments. Enrollment is been driven by housing development and also by demographics. There tends to be a delay between the time new housing is constructed and when it impacts school enrollment.

Although housing number grew quite quickly in Belmont, enrollment grew at a slower pace because the number of school children per household actually decreased from .58 in 1980 to .42 today. In looking at the number of children per household in different types of development (single family detached, town houses, manufactured housing, etc.), the highest per number is found in single family detached – the most prevalent type of current development in the community. Impact fees would be proportional to the type of housing. Mr. Mayberry's findings showed fairly similar results in declining enrollment, but he noted that the findings depend on the projected housing growth. From Mr. Thibeault's study, it appears Belmont will be experiencing an increase in housing.

Mr. Mayberry explained different enrollment scenarios based on housing starts. With no new housing units enrollment would obviously fall. If there were 30 additional units per year enrollment drops through 2020 and then increases towards 2025. With 60 new units per year the increase begins sooner, just after 2010 and continues to increase through 2025. At 90 new units per year it again begins to increase at 2010, but then escalates more quickly thereafter. The amount of growth pushes the numbers up. At 60 units per year the net growth in school age children between 2005 and 2025 would be 134. At 90 units it would be 342. Such growth could result in a very different scenario than the decline that is predicted.

In determining the basis for the impact fee, elements of assessment include the number of pupils per unit, square feet per pupil, cost of schools per square foot and adjustment for tax payments. This results in a uniform assessment schedule with adjustments for housing type. Such a fee can only be used to offset school capital costs.

As the Town considers how to fund capital improvements some of the things to keep in mind are that impact fees are only for capital costs, they are proportionate to the demand regardless of assessment value, paid only by new development and increase the front-end cost to the developer. He finds developers are comfortable in knowing the cost up front. With impact fees the Town obtains revenue as development occurs instead of postponing those needed capital improvements until a crisis point. There is a limited time to appropriate the matching funds necessary for the capital development.

Impact fees do not solve all of the cost problems of growth and cannot be used to cover operating costs which are the worst impact of growth.

Mr. Mayberry also reviewed the assessment and collection of fees. Fees are assessed at the time of Planning Board

approval and normally collected at the Certificate of Occupancy. The issue of approval vesting for impact fees is the same as for other Ordinances under 674:39. The same protections apply to approvals if active and substantial development occurs within one year. Lots undeveloped at the end of the 4-year vesting would be subject to the fees.

Mr. Mayberry gave an example of fees vs. no fees. For a 100-lot subdivision, with no impact fee ordinance, if all homes are built w/in 4 years, no impact fee can ever be assessed. If the Town subsequently adopts an impact fee ordinance with a sample impact fee of \$5,000 per unit, the Town would forego \$500,000 in fees and the capital costs for facilities required to serve that growth would be borne in whole by the taxpayers.

Growth Management Ordinances (GMOs) and Impact Fees are very different. The GMO may affect timing and therefore the need for capital improvements. The nature of a GMO is temporary. Impact Fees and GMOs can operate together but cannot both be assessed on the same units. A GMO can help control operating costs which are the big expense. But, if the nature of a GMO is temporary than an impact fee would help pay for the cost of development.

To move forward with impact fees now, the Town would need to develop an Ordinance, complete the school fee calculation and report and consider other areas for assessment. He suggested that some of the other items in the CIP might also be eligible for impact fees. Upon adoption of the Ordinance the Town would move forward to adopt individual schedules and then assess the fees to new development.

J. Marden asked about assessing other types of fees along with school fees. Mr. Mayberry explained that each fund established would get the amount of dollars proportioned for each fee. Each fee is destined for a separate capital reserve account. It can come in on one check but then it is split. The Planning Board would make that determination at the time of the approval. That would be the fee unless it was not built out within 4 years. In that case it would be subject to whatever fee was in place at the time it was built. The fees can be banked towards a new improvement or used to recoup past facilities which still have growth potential.

P. Harris asked if monies are returned with interest if the capital project is not built. Mr. Mayberry said the statute does say with interest. Monies are also returned to the then owner of record, not to the original developer. If the project is not started within six years the fees would begin to flow back. If the community bonds the project up front, then there would be no question of refunds being returned because the town already appropriated the funds and now is recouping the cost through the fees.

R. Thibeault noted that the Concord ordinance requires that the refund be applied for by the owner of record at the end of 6-year term. If it isn't applied for, it remains in the fund. B. Mayberry noted some ordinances put the onus on the Town and some on the owner of record.

P. Harris asked if the Town built a town hall next year, and adopted an Ordinance/fee schedule for it, would everyone that builds after have to participate. Mr. Mayberry stated they would, but only for that portion of the capital facility that is evidenced by growth, not that portion of the cost to cover what the Town needs to serve existing residents.

B. Watterson asked how long after the Town builds the improvement can the fee be charged, i.e. until the bond is

paid? Mr. Mayberry answered, yes. And that is a prime example of why the Ordinance and schedules should be reviewed on a regular basis. You would not want to continue to collect the fee after the bond is paid off. The Town would have to remain cognizant of that.

But Mr. Mayberry cautioned that everyone remember that the amount collected will not come close to paying the cost of the facility because only that portion relating to growth can be paid by impact fees. The Ordinance should include a requirement that a review be done every few years regarding the status of facilities and fees. Fees are not locked in forever.

B. Watterson asked about the cost factors to administer such fees. Mr. Mayberry did a survey with OEP in 2000. They polled 21 communities that had adopted impact fees as of that time. Almost all said the administration of the fees was not a large burden, but most were larger communities with more staff than Belmont. They seemed to be able to integrate it without too much expense except for one town that had very complicated funds. They hired a full time fund administrator. It's mostly a matter of assessment, collection and tracking of funds with most of the emphasis on tracking.

Some of the polled communities said appeals were awkward. The Ordinance can be clearly written as to appeals though, and they can be directed to the ZBA or some other board. R. Thibeault noted that Concord has a very complicated traffic fee ordinance. It requires the land use office to estimate the trips per day so there have been issues such as determining whether a restaurant is "fast food" or not. That increased the likelihood of appeals. He would not recommend a traffic ordinance for Belmont. It's difficult to calculate and requires input from a traffic engineer. It may be that the only determination to be made when assessing Belmont's fees is the housing type. That would simplify its administration. On the public safety side you might have fees for commercial development, but you would probably not have a very high level of detail.

B. Watterson asked what Mr. Mayberry's general feeling was of the towns that have adopted fees? Mr. Mayberry noted that only one town he was aware of had rescinded the fees because the revenue was low and they build the improvements. There have been some limited refunds in a couple of instances. Most have gone for some minor improvement at least or towards something already funded. The fees are something that you're happy if you get it in place just before the wave, but not so much if you miss it. A lot of communities were hesitant at first because it was a new thing.

R. Cormier asked if there was a time limit between building the improvement and adopting a fee for repayment. For instance could we recoup a fee for the existing high school bond? Mr. Mayberry answer it could be done only if there is still capacity, because fees can only be imposed for future growth. At the elementary and middle school level probably not. The concept of the fee is capacity related. Fees are usually assessed when there's a capital improvement imminent or just completed. The fee needs to be proportional and reasonable.

J. Pike asked that if GMOs are temporary, but fees are not, can the fees be used for other capital debt service? Mr. Mayberry clarified that the fee schedule will break down how much of each fee goes into each specific capital project account. Basically you have a separate fee that is assessed for each project. Excess fees in one account can not be used to fund another project. That's why it's so important to review the schedule on a regular basis. Once adopted, the Ordinance and schedules stay in effect until amended/rescinded. The fees become a predictable cost

for developers.

J. Marden asked how the Canterbury/Belmont split gets applied with impact fees. Mr. Mayberry stated the fee would be based on the cost of absorbing enrollment costs from Belmont. It's applied to the bill that the SAU sends to Belmont. The bill will show impact fee revenue to the district and as a credit for that particular town. It's just a matter of paying Belmont's share. The collected fees should be held by the Town until actual costs of the project are assessed on the bill to the community. They should not be paid to the school in advance/anticipation of the project.

J. Marden asked for a clarification on applying fees to lots approved prior to the adoption of the Ordinance. Mr. Mayberry noted that vesting would have to be determined on a case by case basis under RSA 674:39.

W. Peterson asked when the 6-year deposit term begins, at the time of the Planning Board approval or upon payment of the fee. Mr. Mayberry stated it began as of the date of collection. W. Peterson stated the need to track the fees per lot instead of per approval could make them more difficult to track. Mr. Mayberry stated they can just be entered into a spread sheet for tracking purposes.

J. Beaudin asked how a joint facility such as a combination PD/Town Office building would be assessed. Mr. Mayberry stated fees need to be specific to the project. With a combined municipal facility there would be a composite of two separately calculated fees. As an aside, Mr. Mayberry did not feel that public works garages are eligible improvements as only roads and rights-of-way are identified in the statute.

P. Harris expressed his concern that if we enact schedules for several projects, the Town has committed to building all of them within the 6-year window. Mr. Mayberry stated he felt there was some room within the statute as it specifically requires the Town to "appropriate" funds towards the proposed improvement within the 6 years. He felt that if some significant expense towards the improvements occurred prior to the 6 year limit it would be accepted as meeting the intent of the statute. There are cases where it could be an incremental thing.

J. Marden asked if Mr. Mayberry had reviewed Belmont's existing Impact Fee Ordinance. Mr. Mayberry stated it had been some time since he read it, but his recollection is that it was an exaction ordinance, not intended or appropriate to develop actual impact fees. The Town would not want to try and adopt a schedule of fees under the Ordinance and find that it would not withstand challenge. Again, the Ordinance does not have to be long. Many Ordinances are only 3 pages. It's really just enabling legislation at the local level.

Mr. Thibeault referred to his recent presentation to the Planning Board where he developed an opinion of the economic impact on the community from 4 separate subdivisions totaling approximately 150 total units. If the Town had had a \$6,000 impact fee on the books at the time those 150 lots were approved, the Town would have received \$900K towards those capital improvements. Schools are certainly a close call in Belmont. He's run the numbers for the type of growth Belmont is likely to incur and it looks like 60 to 100 units per year. At 60 units, enrollment stays relatively constant. But it doesn't look like it's going to stay at the 60 unit level. With this discussion about impact fees, there's a lot of money on the table for a town that needs it.

Mr. Thibeault clarified the questions before the Board tonight. The Boards are considering whether to authorize Mr.

Mayberry to go through the school analysis because that's where the money is. It's a close call on schools but certainly close enough to take it before the town to let them decide if that's what the Boards want to do. That's the primary question. In addition, he would also recommend that the scope of the project be expanded to include schedules for other eligible projects in the CIP including a combined PD/Town Office Building, Fire Sub-Station, Library and Community Center. If the Town authorizes Mr. Mayberry to go forward they would be the first community in the Lakes Region to have impact fees and probably the first town north of Concord. But impact fees are now essentially in every community from Concord south along I-93. And Belmont is getting a similar pace of development as is being experienced in those communities. It may feel aggressive to the Board members, but impact fees are quite common in communities experiencing growth. They are very common south of us. It's fair to the development community although they'll initially come out to complain against it.

R. Carbone asked about the anticipated fee. Mr. Mayberry stated that preliminary numbers might fall somewhere between \$6,000 and \$7,000 per unit including both municipal and school fees. Mr. Mayberry stated that somehow people are left with the impression that this is just a general revenue generating mechanism. He cautioned the Members to remember that its purpose is to pay for capital facilities that they are going to build or that have already been built. Mr. Thibeault noted that on the other hand if you don't collect some of that cost from new development it's all going to fall on the taxpayer. The intent of the statute is that new development pays its fair share of the cost of new capital facilities. Mr. Mayberry noted that most of the developer objections to the fees have been related to vesting issues, not the amount of the fee being assessed. Much of that has been taken away with the clarifications found in the 2004 Statute amendments.

E. Hawkins asked if any studies have been made on towns having instituted impact fees to show whether there is a corresponding reduction in the tax rate. Mr. Mayberry said he is not aware of any, however, you could show what the rate would have been if the improvements had been paid in whole by taxes. The problem with doing that kind of study is that operating costs continue to rise in providing the service, beyond the cost of the capital improvements. Mr. Thibeault agreed that there are many factors that cause the tax rate to rise making such a study difficult. He was also not aware of any such studies.

W. Peterson asked that if fees have to be related to growth and capacity, how is a project like a gym or auditorium assessed in comparison to something more easily defined like classrooms. Mr. Mayberry stated you always try to reduce it to a per unit cost. In a school setting you can look at things like square feet per pupil. It's a little trickier in public safety ratios, but you could look at the number of officers per thousand residents, how many officers are served by the ancillary facilities - can you make assumptions like "x" square fee per officer, etc. Then determine about what future population the facility would serve. That would give you an idea of what portion of the improvement would be proportioned to growth versus existing population. As much as possible try to get it down to a unit cost. Mr. Mayberry reminded the members that qualitative improvements that don't allow for growth are an example of an improvement that would not support an impact fee. But if you were building a new facility with more area for growth, then you try to ascribe the extra to future growth. Sometimes you can look at comparable facilities in larger communities.

J. Marden asked about a time table to develop an ordinance and fee schedule. Mr. Mayberry explained that the existing contract budget would cover the school impact fee and he could have it within a month or so. For more schedules he would need more information and could provide the Town with an estimate of the cost. He would

have the general numbers at the time the ordinance goes before the voters. Mr. Thibeault told the members that they have an excellent CIP. The document is very good and very thorough. It has provided a great deal of information for these projects.

B. Watterson felt the Planning Board may need financial assistance from the Selectmen to continue on with this project. P. Harris asked how the Selectmen felt about proceeding.

**MOTION:** J. Marden moved that Mr. Mayberry be directed to continue with the project and finish the school methodology and to also include schedules for the Library, joint PD/Town office facility, fire sub station, and recreation facilities. J. Pike seconded the motion.

Mr. Mayberry clarified that he can finish the school schedule and provide a generic draft ordinance for the Board's review under his existing fees. He can generate a budget within a week or so for the rest of the schedules.

J. Pike asked that J. Marden add the following to his motion:

**MOTION:** The approval for the additional 5 schedules is dependent upon receipt of an approved estimate. J. Marden accepted the addition which was also seconded by J. Pike. The motion, as amended carried unanimously. (7-0)

W. Peterson asked about the timeframe for the 5 additional schedules. Mr. Thibeault recommended that it would be more efficient for Mr. Mayberry to undertake them all at one time. Mr. Mayberry agreed he could develop realistic estimated schedules by the March town meeting.

R. Carbone noted the impact fees would not act as a GMO in the town. Mr. Thibeault stated that was correct. Impact fees are a revenue generating device; they are not intended as a GM device. It will help people who are concerned about the cost of growth because it will help with the initial cost, but not the long-term operating cost. Studies have shown that impact fees do not impact the rate of growth, positively or negatively.

There are a lot of variables that go into the tax rate and having an impact fee will not affect the rate of growth. If you think 5 years ahead and you compare one Belmont with an impact fee ordinance and one without, the rate will be lower because some of the initial cost would have been borne by the developers. The concept here is that you are going to get the growth regardless and you are going to build the capital facilities anyway, this simply pays part of the cost. Remember, you are not building a PD because you have an impact fee ordinance; you have an impact fee ordinance because you are going to be building a PD. B. Watterson stated that the Selectmen will be meeting on the 19<sup>th</sup> if Mr. Mayberry's figure could be available by then.

Mr. Thibeault restated that impact fees are a way to raise money, not a way to change how your town grows. Your CIP has a projected tax rate. E. Hawkins asked again about the need for further studies as to the effect on the tax rate. Mr. Thibeault noted he does not believe there has been a study like that. He was asked if there have any studies that show the relationship between a \$7,000 impact fee and the cost of the house. Mr. Thibeault referred to Dr. Nicholas, Professor in the Department of Urban and Regional Planning at the University of Florida who

pioneered the first impact fees and with whom Mr. Thibeault has collaborated on several impact fee projects. Dr. Nicholas talks about the fee being absorbed between the developer and the homebuyer. The price of the house is always set at what the market will bear. Over a long time impact fees may have an impact on the cost of the land. There's some give and take on that. There is a notion there that communities that are trying to improve facilities and raise money for that could be viewed as more attractive communities.

J. Marden asked about recreational facilities. The acquisition of open space is not eligible for impact fees, so in the methodology you need to draw the line between properties acquired for open space versus those acquired for recreation facilities. You may need land for both, and some open space may come as accessory to constructed recreation facilities, but you can collect the impact fee only for the recreation "facilities", not the passive recreational areas. There has to be some reasonable test. If it's destined for conservation, it's not eligible. It has to have built facilities (playgrounds, ball fields, etc.).

There being no further comment or question, P. Harris thanked both Mr. Mayberry and Mr. Thibeault for their presentation.

**Other Business:**

C. Daigle reminded the members of next week's meeting with representatives from the Tilton & Northfield Conservation Commissions regarding the possible reclassification of the Tilton/Northfield well head protection area. P. Harris noted he will be unable to attend.

**ADJOURNMENT:**

**MOTION:** On a motion by C. Patten, seconded by G. Flack, it was voted unanimously to adjourn at 8:44p.m. (7-0)

Respectfully submitted,

Candace L. Daigle  
Town Planner