



Town of Seabrook Planning Board Minutes

Tuesday, October 2, 2007

NOT OFFICIAL UNTIL APPROVED

Members Present: Sue Foote, Chair; Peter Evans, Vice Chair; Mike Lowry, Clerk; Aboul Khan; Robert Moore, Ex-Officio; Paul Himmer; Paul Garand, Code Enforcement Officer, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary;

Members Absent: Mark Preston;

Attending: Scott Dunn, Seabrook Town Manager;

Foote opened the meeting at 6:30PM and moved the minutes, correspondence, and security reductions to the end of the agenda.

Conversation with Bruce Mayberry, Planning Consultant, re Impact Fees

Mayberry said he had worked with approximately 32 communities on data analysis including proportionate assessment methods. The directional memo provided to the Board was prepared after a brief review of the Seabrook Master Plan and CIP, and the OEP presentation material was provided for the Board's information. Foote said the Board didn't have the time to implement an impact fee ordinance last fall, and wants to move forward. Mayberry said an ordinance and method of assessment are the two governing items. It is possible to move forward now with a local enabling impact fee ordinance which is general in nature. About 65 communities in the State have such ordinances. It is important to know a community's objectives and understand the nature of previous investments. For each objective, the relative benefits of an impact fee vs a system development fee should be analyzed. A key concern is the likelihood of fees being collected and not used, with a refund then required. Another element is the cost and funding of design and construction estimates, and whether all or part of an existing project might be recouped, for example, over twenty years.

Mayberry said the difficulty is when a community assumes grander ideas that the voters won't support. Impact fees shouldn't dictate investment; the specific needs analysis should be the basis for funding. Too often, the motivation is to get the money and then spend it. One consideration is whether there is excess capacity to service a population. If not, what are the major deficiencies and what is needed when. Foote noted objectives must be submitted in the CIP. Mayberry said a community could have a Facilities Plan in which it can differentiate differences between residential and commercial demand. It's best to describe the future needs in the Master Plan, and identify the focus to concentrate on.

Foote said schools are a big issue and the board has asked for a submission from the schools this year. Evans asked if Mayberry could recommend an assessment methodology. Mayberry said service needs like water and sewer can be measured. Centralized facilities like schools are more complicated to predict. Sometimes fees can be recovered based on regional impact. The square footage/student is one measure per school. Mayberry prefers basing needs on an actual student count. Evans said many capital needs happen when threshold level is reached; a "what-if" growth plan is needed. Mayberry said the existing investment per capital is one measure, but the future is hard to predict. For example, using a GIS analysis could establish an optimum level of fire protection, but in Seabrook response need during peak hours would need to be factored in.



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Foote asked if an impact fee could be assessed for a defined area. Mayberry said this is possible for a single utility project but, for example, police and fire substations depend on a central station; it is best to look town-wide and capture in-fill overall. However, exactions for water, sewer, roads, and drainage can be levied on a per development basis. This is better for road improvements and generally more appealing to developers. Dunn noted the schools submission does not ask for more classrooms. Foote said it was interesting that a community could recover for already created improvements like water and sewer. Mayberry asked if the Town has a system for recovering such improvements and said there can be more flexible authority under a water and sewer ordinance. An impact fee can tie the hands for utilities, especially for new development, because it is difficult to tie in new users. Evans said the town should concentrate on the four allowed exaction areas and identify excess capacity and life expectancy for growth.

Garand asked how long it would take to produce a town-wide study. Mayberry said it depends on how much information is available from the town and whether outside engineering is needed. One year is a good estimate. The cost could run from \$5000 to \$50,000 and suggested initially doing an overview, and then identifying the next step priority. He emphasized that if there is no plan to raise the monies there is no point in running up costs. Evans said the needs have to be harmonized with the town's desire to spend. Mayberry said the costs almost always need to be advanced up front. Garand asked about arsenic removal. Mayberry said this could be part of a rate increase, or as system-wide development charge which could be better than an impact fee. Such an expense should be looked at as a total community need. Exactions usually relate to specific projects. Morgan asked what the Planning Board recognizes a current needs. Moore said new wells. Schools stabilization would depend on new development over ten years. Dunn said the schools were asked for a 2008-2013 timeline. Evans said full service for the Town systems - water, fire, police, and sewer - would be the priorities.

Mayberry reiterated that if there is still capacity in already bonded improvements, recovery of monies could be addressed. Moore asked if upgrades such replacing 8" lines with 10" lines could qualify, and if impact fee monies could be used for studies. Mayberry said the line upgrades could qualify, but paying for studies is more complicated. It is better to define how much more in funding is needed. Moore asked if the monies would need to be refunded in six years if not used. Mayberry said some monies may be used, especially if not for a school or library. Foote asked if engineering designs costs could be recovered. Mayberry said they can if the project is already built. The difficulty is when the monies collected are used for planning purposes. If nothing happens, the community is at risk.

Dunn asked if impact fees could be used for increased municipal staffing or equipment needs caused by a new subdivision, Evans said new staff is not a capital expense. Capacity information is needed from department heads to quantify the future development level that tips the balance. Mayberry said impact fees work if there is a facilities plan so that new developments can replace monies already spent. Mayberry didn't think items like additional dump trucks or plows would qualify for impact fees because the statute says roads and right-of ways or facilities, but space for staff and



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equipment is recoverable. CIP costs are usually a small percentage of total community expenditures even though the up-front cost is large.

Khan asked if there would be time to develop an ordinance for next year's town meeting. Mayberry said an enabling ordinance could be done within that period. Garand noted the Planning Board was at that point a year ago and nothing happened. Mayberry said an enabling ordinance is the way to test whether the Town wants an impact fee structure in place at all. Once an ordinance is in place, the Board can adopt a fee schedule with a public hearing. Impact fees can be phased in by category over time, but without granting the authority, nothing can be done. Foote noted the Board could have moved forward last year. Mayberry suggested looking at the capital facilities and identifying which have excess capacity which is the basis for recovery, and which are ready for growth. Then decide on the amount of funds to be raised.

Morgan asked Mayberry what the cost for such an analysis would be. Mayberry said a fixed fee depends on the Town's priority designation, or his fee could be by the hour. The work should be driven by the community's desires. Foote said the first step is to request information and data from department heads first and narrow down the focus to a few core facilities. Mayberry said key elements are the current population and the rate of growth, and noted that Seabrook's service base is not typical given, for example, services in the Beach area. Foote noted that because of the high number of senior citizens, more emergency services are needed. Mayberry agreed that costs go up as the population ages. Other criteria to consider would be geography, differentiating the type of fire and police calls eg comparing residential and commercial rates. Assessed value and square footage are also defensible for impact fees - proportionality is the key. Evans said to concentrate where there is excess capacity. An (i) impact fee enabling Warrant Article, plus (ii) a Warrant article authorizing development of the associated methodology should (i) be drafted between now and mid-November. Garand suggested also drafting a utilities fee ordinance. Mayberry said often more can be gotten by negotiation than with impact fees.

Foote thanked Mayberry for meeting with the Board.

Information update re Routes 95/107 Bridge Proposal

Attending: Jim Grafmeyer, DDR; Robin Bousa, VHB; Richard Ucheda, ;
Grafmeyer said DDR about a year ago, DDR applied to the Planning Board to construct a 440,000 square foot retail shopping center in Seabrook. During the deliberations the Route 95/107 Bridge was a traffic problem, and it was acknowledged that this is not just one developer's problem. DDR believes those generating traffic off/on the bridge should pay the mitigation cost. DDR has submitted a letter proposing it be responsible for construction of the bridge improvements. DDR would fund the up-front costs, including soft costs, as well as the cost overruns. Grafmeyer said VHB's estimated cost of the bridge improvements is approximately \$4, 200,000, of which approximately \$1,700,000 is the amount of DDR's fair-share participation. It requests the balance of the cost be recouped in a fair-share manner, based on the proportional trip generation from future development. It requests that \$677,000 of the \$800,000 that the Kohl's project has offered to the Planning Board for additional road improvements be applied toward the recoupment. Grafmeyer said this had been discussed in a working meeting convened by the Town Planner, and



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also referenced a letter from Attorney Richard Ucheda summarizing that it is within the Planning Board's purview to implement such a proposal.

Grafmeyer said DDR's traffic mitigation plan is not yet complete as a right-of-way(s) from private sources is not yet in hand. The hope is that may be accomplished with the next 45 days. Foote said to use care in discussing the proposal as the public notice would be required for detailed discussion. Grafmeyer said DDR understands that once the overall plan is provided, the Planning Board would require notice to the public before resuming deliberations.

After distributing the VHB mitigation formula memorandum (VHB Memo), Bousa described the proposed mitigation plan which includes improvements west of Spur Road, and an additional lane across the Route 107/95 Bridge. The Bridge would be widened to four lanes, each twelve foot wide, with four-foot shoulders on each side meeting the COT standards for sidewalks and bikes. Foote recalled a recent report probably from the OEP indicating a stripe and wide pedestrian walkway is actually safer. Bousa will follow this lead. Bousa then detailed the formula basis and specific data presented in the VHB Memo highlighting the computations in each direction for available reserve capacity, the critical lane capacity, and the number of vehicles per hour. Moore asked about the calculations for the subsequent level of service for Route 1 and Route 107. Bousa said reserve capacity in 2017 is at B to C.

Morgan asked what would happen if the actual cost exceeded the estimated \$4,200,000. Grafmeyer said DDR would fund the overrun and hope to recoup it proportionately. Khan asked what level of participation would be needed for such recoupment. Evans said the equivalent of one more DDR-size project. Grafmeyer said this also depends on the location. Foote asked how to differentiate between destination and pass-by traffic. Bousa said industry standards would be used, and every user gets assessed in the same manner. Garand asked how a restaurant such as had been proposed near the Holiday Inn would be affected. Bousa said this would be based on whether additional capacity is being generated at the time of enacting, or if it is not yet approved. Garand asked about a store that is closed. Bousa said it depends on whether the capacity is used up, but if not generating traffic at the time of enactment, it would participate in payments. Morgan asked how a change of use would be assessed. Grafmeyer said if a traffic study showed few new trips weren't being generated, there would be little payment. Bousa noted location is a factor. For example, impact would only affect one traffic lane.

Khan asked if DDR would pay for independent analysis. Grafmeyer said it would pay for some things. Bousa said the allocation estimates of \$1,700,000 for DDR, and \$2,300,000 as recoupments, respectively, would be replaced by the actual figures although the percentages would remain the same. Using the same methodology, the Kohl's payment amount would be \$667,000 leaving a balance for recoupment of approximately \$1,700,000. Angeljean Chiramida of the Newburyport News, asked if there are legal barriers or if a zoning ordinance change is needed. Moore said Seabrook had already adopted the appropriate ordinance and no Town Meeting vote is required. Walker said the RPC is intrigued, but has no experience with such a proposal. However, it is an attractive proposition in the current environment for making improvements without cost to the Town. Walker did not see a downside. Foote asked if a private sector developer is able to partner with the DOT or



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the federal agency. Walker referenced Epping and said if a project is on the books, some costs could be shared. There's nothing in the near-term, although the DOT is proposing a toll increase. Evans said the downside is that prospective developers must consider their participation as

Foote said based on this discussion, Morgan should facilitate further conversation with Campea, Grafmeyer, Uchida, Bousa, and Attorney Walter Mitchell. Morgan said Mitchell's concerns should be addressed. Walker said the experience of Concord and Bedford would be helpful. Uchida said information would be shared with Mitchell, and the agreement will provide that the Town has no cost. The project may take more than one construction season; tenant occupancy will be phased in. Morgan asked if Uchida will be drafting the agreements. Uchida confirmed that he would. Chiramida asked about the process. Moore said there is no deadline; the attorneys will study the proposal. Foote said the bridge proposal detail and agreement(s) would be worked out, and the DDR site plan would be processed independently. However, they are co-dependent and would mesh at decision-time. Evans said the citizens know that the DDR project cannot go forward without the mitigation. The applicant is making the environment suitable. Walker said even if there is no DDR project, this system still works.

Mr Kelly asked if the Route 107 traffic figures would be realistic if the State doubles the tolls and drivers might want to bypass to Route 1. Walker said the State's experience with one-way tolls showed a ten percent bypass increase at first which then declined. The tolls are inadequate now; perhaps in the long-term, the Hampton tolls would be moved

Foote gave permission for Uchida to communicate with Planning Board Attorney Mitchell.

MINUTES OF SEPTEMBER 18, 2007

Morgan said noted the typo in the Kohl's decision should be corrected to \$800,000 from \$8,000,000. Attorney Mary Ganz introduced a number of language clarifications. Foote said such consideration would require another public notice. Ganz said these comments are just fleshing things out. Evans asked for the reference to the "DOT \$200,000" in the vote to be removed from (vii) as not having been specifically included in his motion, and indicated "at the Town's discretion" could be included; otherwise it looks good. Morgan said to have the attorney requesting the changes to send a formal letter to the Planning Board. Foote said the vote on accepting the minutes would be tabled until the October 16 Planning Board meeting. The Secretary was asked to view the video discussion on the vote in the interim. Ganz noted the 30 day appeal period.

SECURITY REDUCTIONS

Foote read a letter requesting the return of the security held for **Case # 2006-10/Advanced Auto Parts**. Kravitz noted executed security reduction checklists are also provided. Foote noted the \$25,000 escrow for the traffic light would remain. Foote noted the balance of the Kohl's additional road mitigation amount might be used to complete the traffic light.



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| Motion: | Evans | To return the balance of security for Case # 2006-10/Advanced Auto, and to close the case. |
| Second | Lowry | Approved: Unanimous |

Foote read a letter from the **Town Manager** requesting to extend the date for submission of the draft **2008-13 CIP** to **October 19**. By consensus, the Board agreed.

PUBLIC HEARINGS

POLICY AND PROCEDURES WORKSESSION

Town Planner's Draft Changes

Morgan's suggested ordinance changes were distributed. After a brief discussion about the proposed aquifer protection zone Garand asked for time to read and digest the proposed amendments. Morgan said the changes came from many sources. The Board should first decide if it wants an aquifer protection zoning overlay, and said ordinances should balance all interests. Garand asked about language for "change of use". Morgan likes the current language.

Procedures and Guidelines Manual

Kravitz said the Manual should go out with every application so the applicant and designees know what is expected. The purpose is to explain how the Planning Board functions and result in better case presentations. Morgan said an enabling ordinance should be in place for the Manual. This discussion is continued to the next agenda.

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| Motion: | Lowry | to adjourn the Planning Board October 2, 2007 meeting at 9:42PM. |
| Second: | Khan | Approved: Unanimous |

Respectfully submitted,
 Barbara Kravitz, Secretary
 Seabrook Planning Board