

**Town of Landaff  
Planning Board Meeting Minutes  
November 10, 2014**

**Present:** Patrick Webb, Chairman, Brenda Dodge, Nancy Cooper- alternate, Harry McGovern and Heather Westover, Secretary.

**Absent:** Shirley Peterson- alternate, Valerie Kimber Roy (Ex Officio), and Deb Erb.

**Call to Order / Roll Call:** Planning Board Chairman Pat Webb called the November 10, 2014 meeting of the Planning Board to order at 7:05pm. Attendance is as stated above.

**PUBLIC SESSION:**

Chairman Webb appointed Nancy Cooper (alternate) as a full member for this evenings meeting for voting purposes.

The October 13, 2014 minutes were approved as noted; a motion was made by Brenda Dodge and 2<sup>nd</sup> by Nancy Cooper. Passed 3 to 0.

Chairman Webb shared an e-mail that was sent to Wendell and Greg Jesseman concerning Map 2, lot 38, to outline the subdivision requirements as stated by law. This email was not an official Planning Board action, but just notes taken from our understanding of the laws surrounding a subdivision request, which going forward, would help the Jessemans' make an informed decision.

Planning Board Chairman Webb mentioned a meeting hosted by the North Country council on Wed 11/19/14 at the Rocks Estate in Bethlehem regarding the proposed North Country Master Plan, if any members are interesting in attending.

Chairman Webb also mentioned the Planning/Zoning budget for 2015. The Board has questions surrounding the map fees amount listed in the Town Report, therefore Webb will follow up with the Selectmen's Assistant for clarification and actions required.

To note, Chairman Webb and Harry McGovern will be up for re-election in 2015.

Chairman Webb also shared with the group information from the NHMA regarding capital improvement plans. The notes are added here for reference.

## **The Best Planning Tool You Aren't Using: Capital Improvement Plans**

*New Hampshire Town and City, September/October 2014*  
By C. Christine Fillmore

Although it is a tool many larger communities have been using for years, a capital improvements program (CIP) can be useful and valuable for even very small communities. Essentially, it is a prioritized list of anticipated large expenses. The threshold of what a "large expense" is and the details of what is needed may vary from municipality to municipality, but the process, the governing law and its usefulness are the same across the state.

## **Why do we need a capital improvements program?**

CIPs are not required by law, but there are a host of reasons a municipality should prepare one and keep it up to date. Here are a few:

A plan helps anticipate needs rather than just reacting to unanticipated problems (thus preventing surprises among government officials and the voting public).

Planning ahead allows time to get the necessary resources in place bit by bit rather than all at once, avoiding spikes in the tax rate.

This advance planning leaves time to identify alternate sources of funding (grants, etc.).

A good CIP can help identify the most economical means of financing a project.

The plan informs and prepares decision makers so that everyone is familiar with it.

A plan prepared cooperatively among officials and employees increases the “buy-in” among them so that they are willing to help the voters understand why items in the plan are important.

“Shovel-ready” or prepared plans can help a community be ready to participate in federal or state grant programs when they arise.

Good plans help promote economic development if they create needed infrastructure.

Regular attention to capital assets increases the likelihood of proper maintenance to extend the life of existing assets.

A CIP is a legal prerequisite for some other land use tools.

## **Where does the CIP fit into local government?**

A CIP is a planning tool. Under the law, “[t]he sole purpose and effect of the capital improvements program shall be to aid the mayor or selectmen and the budget committee in their consideration of the annual budget.” RSA 674:5. The final CIP must be submitted to the governing body and the budget committee “for consideration as part of the annual budget.” RSA 674:8. The projects identified in the CIP are not mandatory; the CIP is simply a set of recommendations and an outline for achieving them. However, the list of reasons above shows that a CIP goes a long way toward helping that budget meet the real needs of the community at a time, in a way, and for a price that makes sense.

It is also important to note that a CIP has no effect on applications before the planning board or zoning board of adjustment other than as a guide for off-site exactions, and to the extent it is used to guide the development of growth management ordinances or impact fee ordinances. *Zukis v. Fitzwilliam*, 135 N.H. 384 (1992).

The overall purpose is to help communities make good planning choices for the future based on goals and resources. In doing so, the CIP integrates many other facets of local government. The CIP is tied to the goals of the master plan. It puts the operating budget and the capital budget in perspective. A good CIP is based on the existing fixed asset inventory and presents a replacement and renewal schedule that makes sense. It also requires cooperation among department heads, the governing body, town/city manager, and planning officials. A capital improvements program acts as a bridge between the planning process and the budget process. With all of the information gathered during the CIP process, municipal officials can help voters make informed decisions about appropriations and policies.

It is also important to note that, without a CIP in place, a municipality is not permitted to enact a growth management ordinance under RSA 674:22, I. This makes sense because a

growth management ordinance is only valid to the extent it accurately balances the municipality's need for restrictions on growth and a projection of what is deemed to be "normal growth." *Rancourt v. Barnstead*, 129 N.H. 45 (1986). In other words, how can a town know what a growth management ordinance needs to accomplish if it hasn't considered what reasonable projected growth is and what infrastructure is required to support it? The CIP also provides information about the municipality's need for additional services to accommodate growth and a reasonable timetable for developing those services.

The other major ordinance that may be adopted only after a CIP is adopted is an impact fee ordinance under RSA 674:21, V. Impact fees may be assessed for a lot of things, including and limited to water treatment and distribution facilities; wastewater treatment and disposal facilities; sanitary sewers; storm water, drainage and flood control facilities; municipal road systems and rights-of-way; municipal office facilities; the municipality's proportional share of capital facilities of a cooperative or regional school district of which the municipality is a member; public safety facilities; solid waste collection, transfer, recycling, processing and disposal facilities; public library facilities; and public recreational facilities. A town may still levy exactions for off-site improvements under RSA 674:21, V(j) without an impact fee ordinance, but they are limited to the cost of improvements located outside the subject property and include only any necessary highway, drainage, and sewer and water upgrades pertinent to that development.

Although school districts are, for the most part, separate political entities which adopt their own budgets, a town or city CIP can also look at school-related projects. This information is useful in a variety of ways. It provides perspective on the overall financing burden of capital improvements that taxpayers will be bearing because, of course, the same taxpayers are paying both municipal and school taxes. It may make sense to stagger some school and municipal projects to avoid spikes in the tax rate. It may also make sense to time certain school and municipal projects in a certain order to create efficiency. For example, if a town needs to repair a road and the school district needs to rebuild a school, add sewer connections and change the location of its curb cuts on the same road, it may make sense for the road improvement to wait until the school project is completed. In addition, school capital projects are part of the underlying rationale for both growth management and impact fee ordinances.

### **Where do we begin?**

Before a capital improvements program can be prepared, (a) the municipality must have established a planning board under RSA 673:1, and (b) the planning board must have created and adopted a master plan under RSA 674:1. When considering how this fits with a CIP, it is helpful to remember that a master plan is intended to delineate the best and most appropriate future development of the area to guide the planning board in its work, so the community can achieve smart growth, sound planning, and wise resource protection. RSA 674:2, I. After those two prerequisites are met, the legislative body (town meeting, town council or city council/aldermen) may authorize the creation, adoption and amendment of a capital improvements program. RSA 674:5. In a town meeting town, this is done by approval of an article on the warrant.

Municipalities may authorize either the planning board or a special CIP committee to work on the CIP. If the warrant article is silent on this issue, it is assumed that the planning board will do it. Alternatively, the article may provide for a CIP committee appointed by the governing body (selectmen, town/city council). The committee must include at least one member of the planning board and may (but isn't required to) include other members of the planning board and other local officials. It is important to note that the planning board cannot grant itself the authority to prepare a CIP; the authorization must come from the legislative body.

Once authority has been given to prepare a CIP, the planning board or committee – and any subcommittees – must realize that they are “public bodies” subject to all of the requirements of RSA Chapter 91-A, New Hampshire’s Right to Know law. This means that all meetings require at least 24 hours’ notice posted in at least two public places, the public must be permitted to attend the meetings, and minutes must be kept of all meetings. RSA 91-A:2. In addition, virtually all documents given to or created by the planning board or committee in the process of preparing the CIP will be “governmental records” which must be disclosed to the public upon reasonable request. RSA 91-A:4.

### **What is a “capital improvement”?**

In the most general sense, a capital improvement is something that has a **high cost** and a **useful life of several years**, in contrast with regular operations and maintenance, which generally have a lower cost and occur on a more frequent basis. Typically, capital improvements will include infrastructure projects, land acquisition, buildings, or engineering studies for any of those projects, and may include vehicles or highway maintenance equipment in some municipalities. One useful starting point is the list of improvements for which impact fees may be assessed; the list in RSA 674:21, V is a good place to look for ideas.

Each community must define for itself what qualifies as “high cost” and a “useful life of several years.” The specific definition in each community will be slightly different based on the population, capital needs, and available budget. There is no single “right” way to define this. Smaller towns may have a different definition than larger towns or cities. For example, the City of Franklin sets its capital improvement threshold at \$25,000 with a useful life of seven or more years. Expenditures that do not meet both the cost and useful life threshold are not included in the capital improvements plan; instead, they are included as a part of the city’s operating budget. In a smaller community like Plymouth, (population 6,500), the threshold is \$10,000 with a useful life of five years. An even smaller community may define it as any project having a useful life of at least 3 years and requiring a gross expenditure of more than \$5,000.

An expenditure that seems very large to one community and that occurs only rarely (and thus should be part of a capital improvements program) may be considered part of the ordinary operating budget in a much larger community. If a city has a large fleet of vehicles and expects to replace three or four of them every year, vehicle replacement may simply be a line in the operating budget. For a small town, however, the replacement of a vehicle may occur only once every few years, and the expenditure may be significant. This is something that may belong in a capital improvements program so it can be planned and saved for appropriately.

### **What goes into a capital improvements program?**

According to RSA 674:5 and :6, there are required elements and optional elements.

A CIP “shall” do the following:

Address capital improvement projects over a period of at least six years. It can be a longer period, of course, and 6-10 years is typical in many municipalities.

Classify projects according to the urgency and need for implementation.

Include a timetable for implementation of projects.

Take into account public facility needs that are indicated by the development shown in the master plan or which are permitted under the municipality’s zoning ordinances and regulations.

A CIP “may” include the following:

The estimated cost of each project.

The probable operation and maintenance costs.

The probable revenues (if any) from each project.

Suggested funding sources.

Some larger communities prefer to have the CIP concentrate solely on what is needed and when, and to have the budget committee, administrator/manager, and governing body concentrate on the cost and funding mechanisms. Again, there is no single “right” answer here. Each community needs to do what is right for them.

### **How does the process work?**

First of all, it is critical to recognize that the planning board or CIP committee does not operate in a vacuum. The law grants quite a bit of authority to the planning board or CIP committee. It is true that under RSA 674:6, the CIP is based on information submitted by the departments and agencies of the municipality. All town or city departments, agencies, officials, and any affected school board, are required to provide to the planning board or CIP committee, upon its request, a statement of all capital projects proposed to be undertaken during the CIP period. RSA 674:7, II.

However, although the law gives the planning board or CIP committee authority to gather information, this authority means little if the planning board or CIP committee does not act in a way that fosters cooperation and coordination with everyone else in municipal government. To be effective, the process should involve the governing body and the chief administrative officer (town/city manager). The process is actually somewhat similar to the way an official budget committee prepares a budget: information is gathered from all corners of municipal government and put together in a proposal for the town or city to consider. And just as with budgeting, the development of a CIP works well only when all of the parties cooperate with one another. The planning board may have the responsibility to prepare the plan, but it cannot do so without the assistance of almost every other municipal official. “Who is in charge” is not the most important issue here.

### **Organization**

The first issue is organization. The planning board or committee should have an initial meeting to consult with the town administrator, town or city manager, the governing body and the budget committee to discuss the process and the timetable. RSA 674:7. The goal here is to have fewer surprises and more cooperation among all officials and employees. Working together, this group should establish a timeline for preparation of the CIP. The timeline should be two things: reasonable and well-publicized. It is important for the planning board or committee to recognize that the officials and employees from whom they are trying to get information each have a lot of other things on their plate. The further in advance they know the information is needed, the easier it should be for them to prepare the information in a timely way.

The other general preparation task is to establish policies. This should be done as part of the initial meeting(s) suggested above, and should address:

A definition of what a “capital improvement” is for your community (threshold expense and useful life)

How will items be prioritized?

Points of contact – how will the planning board or committee communicate with other officials and employees about this project?

What general categories of information will be requested from the town administrator or manager, city manager, department heads, and governing body? Is there any specific format to be followed or any particular information that will be requested? The board or committee should be able to communicate what it is they are looking for.

### **Timelines**

After the initial meetings, the planning board or committee should establish a timeline for its activities based on the feedback from the initial meetings.

This internal timeline should include:

A period to assess the current fiscal and capital asset situation and to review the master plan. If there are many departments or too much information, the planning board or committee might consider creating subcommittees to each review a certain portion of the information (perhaps a specific department) and report back to the larger group.

A discussion period during which the planning board or committee can discuss issues with the town/city manager or administrator, ask and answer questions and gather additional information.

A plan for exactly who will draft the CIP and when.

A timetable for drafting, revision and adoption of the CIP.

### **Assessing the Current Situation**

It is difficult to plan where you are going if you don't know where you are. Thus, the planning board or committee should look at three important areas relating to the current situation. The first is a capital asset inventory. It may already exist in larger communities, but smaller towns may need to put one together for the first time. The list should include everything the municipality has that falls within the established threshold of what is a "capital asset." (One place you might consider checking is the list of insured properties and equipment.) Once a list is established, it is important to note the deficits. Department heads are particularly helpful in pointing out the "holes" in the existing inventory.

The second issue is a fiscal analysis. The planning board or committee should obtain or create a comprehensive list of all of the trust funds, capital reserve funds, special revenue funds, and other funds (and the balances in each fund). Other important information includes the most recent tax rate, fixed costs going forward (such as bond payments or other debt service), and the past, present and future expected revenues, expenditures and debt (i.e., what can the municipality afford?)

The third area of importance is the current status of previously approved projects. What are the cost estimates and funding sources for projects which are currently underway and when are they expected to be completed? What impact do those projects have on the fiscal analysis and asset inventory once they are finished?

### **Reviewing the Master Plan**

A review of the recommendations of the master plan in relation to the capital improvements program being considered is a required step in the preparation of a CIP. RSA 674:7. This review may reveal indicators of long-term capital needs to improve existing services to accommodate reasonable growth. Local zoning ordinances and land use regulations should also be reviewed as part of this step to see how proposed capital projects may fit.

## **Evaluating Project Requests**

Under RSA 674:7, the planning board or committee is required to confer with the governing body, the chief fiscal officer or budget committee, the school board, and other municipal officials and agencies. These officials are required to provide a statement of all capital projects they propose during the term of the CIP. Information provided should, ideally, include justifications, estimates of project costs, estimates of future operation and maintenance costs for each project, the relationship of this project to other (existing and proposed) projects, implementation schedules and the degree of urgency for each one. It is also important to obtain information regarding the replacement, repair or renovation of existing capital assets. The planning board or committee should also consider the estimated tax impact of proposed projects. How well will the total annualized tax impacts of capital spending fit within the municipality's overall fiscal goals and the urgency of the needs?

As information is gathered, the planning board or committee should review it and respond to the official, board or employee who provided it as appropriate with recommendations, questions or comments. RSA 674:7. While some municipalities prefer to have the town administrator or manager help with the financial and tax impact end of things, in others the planning board or committee handles all of it. If the administrator or manager is part of the committee, this can all be made much more seamless. In any case, the planning board or committee should engage in a thorough discussion with all of the officials and employees it needs to in order for the CIP to address the municipality's needs.

## **Funding**

The most straightforward way to pay for municipal projects is through a one-year appropriation, but that is certainly not the only way. Regular appropriations into capital reserve funds targeted for specific projects are, essentially, savings accounts for future projects. They prevent spikes and dips in the property tax rate and can be much easier for taxpayers to handle than a sudden, very large expense in one year. Municipalities may also borrow to pay for capital projects, either by borrowing directly from a bank or, more commonly, by issuing bonds. Borrowing spreads the expense out after the project rather than before. Another funding source is impact fees. They may be assessed and collected from those receiving approval from the planning board for development projects and used to fund capital projects, although they must be refunded if they are not spent or encumbered for the purpose for which they were collected within six years after collection. RSA 674:21, V. This means that they should be targeted toward projects that are projected to occur within that timeframe.

It is often possible for a municipality to pay for much of a project with grant money from the state or federal government, and occasionally from private sources. Most grants require some matching portion of the funds to be provided by the municipality, but they can still significantly reduce the tax impact. Taxes may also be targeted toward capital improvements through a tax increment financing district under RSA 162-K.

Most importantly, all of these methods may be used in combination with one another. A mix of funding sources is often the best way to move projects forward without undue pressure on taxpayers.

## **Drafting, Revision and Adoption of the CIP**

There is no statutory procedure for the planning board or committee to follow to adopt the final product. The New Hampshire Office of Energy and Planning (OEP) recommends using the same process that a planning board would use to adopt a master plan under RSA 675:6. Under that procedure, the board/committee holds at least one public hearing with ten days' posted and published public notice (exclusive of posting and hearing days). If substantive

changes are made after the first hearing, a second hearing may be held with the same notice. In any case, the planning board or committee should take a formal vote at a public meeting to adopt the final version. A copy should be sent to NH OEP for filing. RSA 675:9.

The planning board or committee must present the CIP to the mayor or selectmen and the budget committee, if one exists, for consideration as part of the annual budget. RSA 674:8. Although only the plan for the current year must be presented each year, it does not make sense to present proposals in a vacuum. Providing the entire CIP will allow those preparing the budget to put the recommendations in context and make them more useful.

### **Next Steps: Begin Again!**

To be effective, a CIP cannot simply be prepared, put on the shelf and forgotten. It must be an ongoing project. The best CIPs are reviewed and amended on a regular basis (every 1-3 years) and kept up to date. Priorities, needs and opportunities will change over time, and the CIP needs to change as well. The original authority by the legislative body is sufficient for the planning board or committee to continue work past the first year, although additional appropriations may be required in subsequent years to fund the review and amendment process. Each time the CIP is amended, it should be filed with NH OEP and shared once again with the mayor or selectmen and budget committee.

A great CIP is worth the time and effort that go into it. It is a versatile planning tool that can help municipalities make better choices and plan for future needs in a way the community can afford.

*C. Christine Fillmore is a municipal attorney and former Staff Attorney with the New Hampshire Municipal Association*

([www.nhmunicipal.org](http://www.nhmunicipal.org))

Next planning board meeting is scheduled for Monday, December 8, 2014 at 7:00pm.

There being no further comments by either board members and no guests from the public were in attendance therefore, a motion was made by Brenda Dodge 2<sup>nd</sup> by Harry McGovern adjourn the meeting at 7:31pm. All were in favor. The Motion Passed 4 to 0.

Respectfully submitted,  
Heather Westover  
Planning Board Secretary

**PENDING APPROVAL BY THE PLANNING BOARD ON 12/8/14.**