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September 12, 2011

Diane F. Hardy, Town Planner
Town of Newmarket
186 Main Street
Newmarket, NH 03857

Dear Diane:

This letter transmits an initial review of the Town's impact fee system and ordinance as the first phase in considering an update of Newmarket's impact fee schedules. All impact fee systems require adjustments over time to assure that the fee amounts are proportionate and representative of the costs reasonably attributable to the demands that new development places on relevant facilities. Decisions about whether to retain, rescind or amend the impact fees are a matter of public policy for the Planning Board to consider. This review offers suggestions that center on improving the relationship between how fees are calculated and the actual investments being made in capital facilities.

School Fee. Substantial improvements are being planned that will expand as well as update and improve the quality of the schools. To date, school impact fees have been spent only on planning and design studies. To retain the fee system, substantial improvements must follow such studies. The school fee can be updated to reflect the forthcoming improvements and change in capacity proposed to school facilities at all grade levels. My impression is that these improvements have an improved chance of moving forward in the near future because of the comprehensive planning and design process now underway, and due to the necessity of correcting some substandard conditions relative to fire safety. Should substantial improvements not be approved for either an elementary or junior/senior high school project in the next few years, it may be necessary to consider refunding some school impact fees.

Recreation Fee. The Town has implemented many qualitative improvements and has broadened its recreation facility inventory and recreation land holdings since 2000. The amount of recreation impact fees applied to these projects has been quite small in relation to the total recreation facility investment made since 2000. The current fee basis relies on facility standards that do not capture the full range of recreation improvements being made by the Town. If the Town continues the recreation impact fee, it should be restructured to reflect a standard based on a reasonable *dollar amount* of capital investment rather than a specific *number of facilities* (the current system). The investments could be defined by those which contribute to implementation of the 2005 Recreation Master Plan.

Water and Sewer Fees. While impact fees for these utilities have been used for eligible improvements that enhance system capacity, the projects funded by impact fees are different from those that comprised the basis of the fee calculations. When collected under an impact fee ordinance, utility assessments become part of the land use permitting process under the statutory limitations of RSA 674:21, V. The utility fees can be restructured as system development charges (SDCs) that operate under utility regulations. Such a change would enable better flexibility in the use of funds for the utility systems. It

would also be an opportunity to create a documented fee basis that would replace and expand on the current "permit fees" now collected for each utility.

Impact Fee Ordinance. A number of housekeeping measures are listed in Appendix 2 that might simplify the current ordinance, while updating it with respect to statutory changes to RSA 674:21, V which became effective in 2004. Perhaps the more important statutory change affecting ordinance implementation is the amendment of RSA 674:39 in 2004. That statute now incorporates specific limitations on the vesting period applicable to impact fees on development within previously approved plats. This is of particular interest in Newmarket, where the early years of the fee system (appropriately) involved many impact fee waivers due to the vested status of plats at the time the original fees were adopted. There may be instances where construction on lots within some older approved plats that is now subject to impact fee assessment.

I would be pleased to discuss the initial review and recommendations with you prior to proceeding with any changes to the basis of assessment or fee schedules.

Sincerely yours,

A handwritten signature in cursive script, appearing to read "Bruce C. Mayberry".

Bruce C. Mayberry, Manager
BCM Planning, LLC

NEWMARKET IMPACT FEE UPDATE – 2011

Part 1: Review of Existing Fee System

1. Objectives of Review

The Town of Newmarket retained BCM Planning, LLC to review its impact fee system and history relative to the original basis of assessment completed in October 2000 that defined a basis for assessment and the recommended impact fee schedules in use since 2001.¹ This review is intended to help the Town evaluate whether the impact fee system is achieving its original objectives, whether the use of funds has been consistent with the methods by which the fee amounts were originally determined, and whether the current system should be continued, modified or rescinded. The primary focus of the evaluation has been to compare the original assumptions of the fee system to the actual uses of impact fee revenue in Newmarket.

2. General Principles and Statutory Limitations

In New Hampshire, impact fee assessments must represent a charge that reflects an objectively defined, proportionate share of capital improvements reasonably related to the demand on a particular capital facility or system by new development. The primary function of an impact fee is to raise revenue dedicated to a specific category of capital improvement. That assessment must be related to a standard of demand applied equally to all types of new development. The basis for impact fees must be reviewed and updated periodically to assure that the fees remain proportionate in their allocation, and that the related capital improvements are actually being provided.

Typical basis of Computation:

- Standards stated to measure demand on facility
- Fee is proportionate to average demand of new development
- Cost is expressed per unit of capacity demand
- Existing deficiencies funded with other revenues

In 2004, statutory provisions governing impact fees were amended. NH RSA 674:21, V clarified the timing of assessment vs. collection of fees, and the difference between general impact fees and exactions for off site improvements. NH RSA 674:39 was amended to limit the period during which development in previously approved plats or site plans is exempt from newly adopted impact fees.

General statutory limitations of impact fee assessment:

- Fee category must be specifically authorized by statute
- Assessed only to new development
- Pays for capital facilities only

¹ The original basis of assessment was prepared by Bruce C. Mayberry, now operating as BCM Planning, LLC.

- Proportionate to demand on capital facility
- Of reasonable benefit to development
- Recoupment of past investment allowed
- Recreation fees may not be assessed for "public open space"
- Time limit on appropriation for capital project (6 years)
- The ordinance cannot compel the impact fee to be paid at the building permit stage; collection takes place at the C.O. stage

New Hampshire RSA 674:21, V also states that "...upgrades, the need for which is not created by new development, shall not be paid for with impact fees." It is normal for long term capital projects to include both upgrades (elements that enhance the quality of the facility) as well as investments that enlarge or extend the capacity or service population benefiting from the improvement. Clearly, basic maintenance of existing facilities would not constitute a sufficient basis for impact fee assessment. However, there may be instances where money is spent on substantial improvements that are of proportional benefit to both existing and new development. BCM Planning believes that substantial capital improvements, including upgrades, may be assessed to new development where the objective is to meet long term needs (necessitated in part by new development and a future service base).

The 2004 amendments to RSA 674:21 V provided additional clarification of the difference between impact fees generally, and the nature of exactions for off site improvements, summarized below. While an impact fee is assessed for certain central facilities based on a standardized schedule, exactions are calculated case by case for particular water, sewer, road and drainage upgrades necessitated by a particular development in its immediate vicinity.

Exactions for Off-Site Improvements

- Limited to water, sewer, drainage, highway only
- Can include "upgrades"
- Specific benefit to particular development
- Case by case review
- Enabled under subdivision regulations
- Does not require impact fee ordinance

Impact Fee Assessments

- Assessed to all new development
- Improvements of general benefit to new development
- Enabled by ordinance
- Pre-determined in an impact fee schedule
- Generally not negotiable though waivers may apply

Both exactions and impact fees, however, remain subject to a maximum 6-year period after which the fees (and necessary non-impact fee funds) must be appropriated for related improvements.

3. Newmarket Impact Fee Revenue and Fee Waivers

From the inception of the impact fee system through the end of FY09-10, impact fee revenue plus accrued interest totaled over \$536,000. New construction that occurred during the same period could have generated about \$1,850,000 in fee revenue (plus interest) were it not for the large number of waivers. These waivers were necessary in the early years of the program. At the time the fee system was adopted, there were hundreds of lots in previously approved plats in Newmarket that were considered vested from imposition of any impact fee assessment on construction within the approved plats.

Table 1: Newmarket Impact Fees Through FY 2009-10

Facility Category	Original Fee Basis & Purpose	Fee Potential Through FY 2009-2010	Fees Waived *	Fees Collected	Interest Earned
Schools	Provide adequate permanent facility space for anticipated public enrollment. Expansion anticipated at Elementary School and Jr/Sr High School	\$1,082,990	\$800,152	\$282,838	\$37,199
Recreation	Expand active recreation acreage and number of facilities	\$151,075	\$105,643	\$45,432	\$5,207
Wastewater	Recoup investment in treatment plant and planned capacity upgrade, pumping stations, interceptors and force mains (attributed to 2020 needs)	\$382,394	\$289,359	\$93,035	\$9,980
Water	Recoup portion of investment in water treatment plant	\$231,610	\$173,611	\$57,999	\$4,292
Total		\$1,848,068	\$1,368,765	\$479,303	\$56,676
Average Annual - 10 Years		\$184,807	\$136,877	\$47,930	\$5,668

** Most waivers issued 2000/01 to 2002/03 fiscal years for development on previously approved plats*

As shown in Table 2, however, the need for impact fee waivers has essentially run its course; most of the impact fee waivers occurred in the initial years of the program.

Table 2: Impact Fee Waivers Issued

Fiscal Year	Schools	Recreation	Wastewater	Water	Total
2000/2001	\$47,852	\$3,864	\$0	\$0	\$51,716
2001/2002	\$725,866	\$100,675	\$288,133	\$172,874	\$1,287,548
2002/2003	\$13,672	\$552	\$1,226	\$737	\$16,187
2003/2004	\$6,836	\$552	\$0	\$0	\$7,388
2004/2005	\$0	\$0	\$0	\$0	\$0
2005/2006	\$0	\$0	\$0	\$0	\$0
2006/2007	\$0	\$0	\$0	\$0	\$0
2007/2008	\$0	\$0	\$0	\$0	\$0
2008/2009	\$5,926	\$0	\$0	\$0	\$5,926
2009/2010	\$8,889	\$1,059	\$905	\$1,088	\$11,941
2010/2011	\$2,963	\$353	\$0	\$0	\$3,316
Total for Period	\$812,004	\$107,055	\$290,264	\$174,699	\$1,384,022

There are two important issues pertinent to the waivers in Newmarket. First, the need for full waivers solely due to grandfathering (construction within plats approved prior to adoption of the fee schedule) should no longer be necessary. Under the amendments to RSA 674:39 (2004) the following should now apply:

- Fees originally assessed (amount determined) at subdivision or site plan stage if development subject to planning board action
- Those fee amounts remain applicable to development within the plat or site plan for a period of 4 years from the date of approval
- After four years elapse, new construction within the approved plat or site plan is subject to the fee in force at the time of a building permit application

Since the fee system was adopted in 2001, any construction within plats approved prior to the fee schedule adoption date should all be subject to the fees currently in effect.

Second, the fee waivers for water and sewer may not have been necessary, because:

- In the Newmarket ordinance, the definition of "new development" with respect to water and sewer utility connections was defined as *"...a new or modified service connection to the public water system or the public wastewater disposal system of the town of Newmarket that would result in a net increase in demand on the capacity of these facilities."*
- For the purpose of water and sewer impact fees, this was specifically intended to allow the assessment to be triggered by a utility connection rather than by a building permit or subdivision approval.
- The waivers, if based on the status of "grandfathered" plats, may not have been necessary because the utility connections were not related to land use permits or related approvals.

Whether waivers were necessary in these instances remains a gray area because the entire impact fee ordinance comprises a form of land use regulation.

If the Town converts the utility-related fees to a system development charge (described later in this report), the fees would no longer be a function of the land use permitting process, and any connection or enlarged service would trigger the payment of an SDC regardless of the land use regulatory process.

5. Basis for Current Impact Fee Assessments (2000 Study)

The impact fee schedules computed in 2000 were based on the following assumptions:

Public Schools:

Add permanent classrooms and capacity to provide adequate space within elementary and high school facilities, OR recoup investment in existing, excess capacity available to absorb enrollment generated by new development.

Recreation:

Expand number of facilities to meet numerical standards per capita. Match impact fee income @ about 2:1 with other funds to rectify existing base year deficiencies in facility inventory.

Wastewater Treatment Facilities:

Recoup investment in remaining capacity of treatment plant, major interceptors, two pumping stations, and force mains serving growth areas. Included anticipated share of capacity-related improvements to the WWTF, major interceptors and pumping stations (assuming 2020 design capacity)

Water Treatment and Distribution Facilities:

Recoup investment in remaining water production capacity of Water Treatment Plant based on design capacity of system.

The next section reviews the actual uses of impact fees in Newmarket relative to their intended purpose and general impact fee principles.

6. Use of Impact Fee Funds in Newmarket

Since the inception of the impact fee system, about \$317,848 in impact fee funds have been appropriated to support the capital needs of relevant facility categories. As noted previously, the total amount of impact fee collections was initially limited due to waivers for development within previously approved plats.

The release of impact fees to particular capital improvements has been well documented in the form of Council resolutions that describe the specific use of the funds, and in some cases the other funds used for the particular improvement (see Table 3.)

Table 3: Application of Impact Fees in Newmarket

Facility	Council Resolution	Impact Fees Released	Other Funds Applied Per Resolution	Purpose
Schools	2007-35	\$159,420	School District	Evaluation of facility needs - planning & design for new schools current and future needs
Recreation	2003-32	\$3,500	\$26,500	Recreation Master Plan (completed 2005) - from capital reserve account and impact fees
	2008-01	\$798	\$798	Leo Landroche field retrofit dugouts - balance from NYAA
	2008/09-24	\$3,312	\$20,419	Prepare designs, cost estimates for bid documents for Leo Landroche B - field improvements. (Ironwood Design group; \$19,308 base contract + \$4,423.13 paid for approved additional services).
	2009-38	\$4,303	\$9,500	For poles, nets, and pads at Landroche field (prevent balls leaving property & protect players). Balance from NYAA
	Total	\$11,913	\$57,216	
Wastewater	2007-32	\$90,152	\$322,654	2007 sewer improvements p/o Main St. Reconstruction Phase II. Included main upsizing, improvements, engineering & design
Water	2007-32	\$56,363	\$1,073,770	2007 water improvements p/o Main St. Reconstruction Phase II. Included main upsizing, improvements, engineering & design
Total	Total Impact Fees Applied Portion to Physical Improvements Improvements as Percent	\$317,848 \$151,616 48%		

Impact fee income as well as the record of waivers issued has been carefully recorded by the Town by specific property identifiers. Should refunds become necessary, the Town would have the detail it needs to issue refunds of fees collected plus accrued interest.

The expenditure totals shown in Table 3 do not represent the entirety of capital expenditures for the related facility categories. As intended, the impact fees are being matched with other public or private funds for selected projects or improvements.

School impact fees have been used entirely for planning and design studies that focus on new or expanded schools. The studies have incorporated a detailed review of the long term capacity needs of the system. No physical improvements have yet been funded by the impact fees. Engineering, design and architectural costs indeed comprise part of the total development cost of school facilities. The use of funds for school design is consistent with the purpose of the impact fee, provided that major improvements are implemented as a result. The school impact fee is sustainable only if physical improvements that enhance school capacity are completed.

Recreation fees have been applied sparingly even though many recreation improvements have been completed over the past 10 years. Total recreation fees appropriated thus far to capital projects comprises only about 1% of Newmarket's capital expenditure on recreation capital improvements over that period. The largest single use of recreation impact fees was to fund a portion of the Recreation Master Plan. The Plan included some specific design elements for recreation improvements that were subsequently funded by the Town.

There is a mismatch between the recreation fee basis (driven by a set of numerical standards for number of facilities needed per thousand persons) and the investments recommended by the 2005 Recreation Master Plan (which did not employ facility ratios). While the Recreation Master Plan lists major improvements of existing facilities and the construction of additional facilities, it does not distinguish between existing and anticipated needs as a function of the number of persons or households in Newmarket. While it represents a 10-year "investment plan" for meeting the needs identified in the planning process, it references no particular horizon population associated with those needs.

Water and sewer system impact fees were applied toward projects that increased the capacity of mains in the Downtown area, but these portions of the two systems were not part of the original cost basis of the fees. The original intent of the fee basis was to recoup the cost of excess treatment plant capacities and to assess for a portion of wastewater treatment plant capacity expansion.

Summary Observations:

- The collection and use of impact fees is being carefully tracked and well documented by the Town.
- The improvements funded by impact fees to date comprise eligible uses of funds, but the improvements funded with the fees are not always directed toward the system components that were used to determine the original fee schedule.
- The use of impact fees for planning and design of facilities is consistent with the purpose of the fee system, provided that specific improvements of benefit to new development will follow as a result.
- There is a need to update the basis of the school impact fees so that the costs and planned capacities reflect the long term facility plan forthcoming from the School District. The fee can be sustained if the improvements are implemented and provide long term benefits to existing and new development.
- The recreation impact fee basis needs to be changed so that its standards are based on long-term investments per housing unit or per capita, rather than a series of fixed-numerical facility standards. Otherwise, the basis for the fees will remain out of synch with the full range of improvements being implemented.
- The water and sewer impact fees were based principally on recoupment of excess existing treatment capacity. Funds derived from recoupment for certain facility investments were applied to other system components, which is allowable provided that adequate capacity remains available to serve new development.

However, a more consistent and flexible system should be created by moving to a system development charge model operated under water and sewer ordinances or regulations.

More specific comparison of the original basis for the fee schedule related recommendations are discussed for individual facility categories in the next sections.

7. Review of School Impact Fee

The floor area of Newmarket schools remains the same today as in the base year of the fee assessment (2000). Since 2000, no change in the actual capacity of the schools has occurred, although more specific plans have been developed for construction and improvement of facilities. The most recent capacity-related improvements were in 1998 (addition of Kindergarten) and 1997 upgrades to Junior/Senior High School. At the time of the original impact fee study, a possible addition was anticipated to the Junior/Senior High School that would have increased its floor area and capacity. However, this improvement failed to materialize.

The capacity of existing facilities (under the spatial standards used in 2000) was about 1,300 (assuming ½ day sessions of Kindergarten). However, that capacity was defined using floor area ratios per pupil that may not be considered adequate for today's educational programs.

Table 4: Enrollment and 2000 Capacity Estimate

School Facility	2000	2010	Est. Capacity (2000 Study)
Elementary School-Main Building	508	442	540
Kindergarten (with half day sessions)	97	70	120
Junior/Senior H. S.	565	491	642
Total	1,170	1,003	1,302

While Newmarket's total population and households increased from 2000 to 2010, there was a decline in the school age population and resident public school enrollment. Enrollment tends to fluctuate significantly in communities with high proportions of renter households (who move more frequently) and average enrollment per occupied housing unit has declined with the aging of the population. In Newmarket, 47% of households were renters as of the 2010 Census.

Table 5a: Demographic Changes 1990-2010

Newmarket Population, Housing, and School Age Population			
Demographic Factor	1990	2000	2010
Population	7,157	8,027	8,936
Group Quarters	0	34	4
In Households	7,157	7,993	8,932
Average Household Size	2.47	2.37	2.32
Households	2,898	3,379	3,857
Homeowners	1,493	1,779	2,100
Renters	1,405	1,600	1,757
Percent of Households Homeowners	51.5%	52.6%	52.6%
Percent of Households Renters	48.5%	47.4%	47.4%
Total Housing Units	3,285	3,457	4,139
Vacant - For Seasonal Use	8	20	28
Other Vacant	379	58	254
% Seasonal Use	0.2%	0.6%	0.7%
Vacancy Rate Yr-Rd Units	11.6%	1.7%	6.2%
Population Age < 5	639	499	583
<i>Per Household</i>	0.22	0.15	0.15
Population age 5-17 (School Age Total)	1,037	1,278	1,175
<i>Per Household</i>	0.36	0.38	0.30
Resident Public School Enrollment	Fall 1990	Fall 2000	Fall 2010
Actual Resident Enrollment K-12 *	846	1,156	1,003
<i>Per Household</i>	0.292	0.342	0.260

* There was no public Kindergarten in Newmarket in 1990

Table 5b: Net Demographic Change 2000-2010

Demographic Factor	Change 2000 to 2010	
	Number	Percent
Population	909	11.3%
Population Under Age 5	84	16.8%
Population Age 5-17 (School Age)	-103	-8.1%
Resident Public School Enrollment	-153	-13.2%
Housing Units	682	19.7%
Households	478	14.1%
Owner Occupied Units	321	18.0%
Renter Occupied Units	157	9.8%

The focus on school facility investment needs in 2011 is driven both by the need to address safety and quality problems in existing facilities, and to satisfy long term enrollment needs. New projections of enrollment prepared for the District suggest modest growth in enrollment over the 2010 to 2020 period (see Table 6).

**Table 6:
Resident School Enrollment 2010 and 2020 Projections**

Grade Level:	K-5	6-8	9-12	K-12
2010 Actual	512	211	280	1,003
2020 Projections				
5-Yr Progression	583	252	324	1,159
3-Yr Progression	596	263	342	1,201
1-Yr Progression	664	306	402	1,372
<i>Source: October 2010, Newmarket School District Enrollment Projections, by NH School Administrators Association</i>				

The alternative projections are based on a "cohort survival" model that uses grade progression ratios computed from past years to predict enrollment. In general, a 5-year progression model is considered more stable than projections based on shorter term trends of 3-years or only one year.

The Newmarket School District is actively preparing a detailed capacity master plan for all grade levels that is intended to satisfy capacity needs for many years to come. The goal of the Facilities Committee is to produce a plan for all facilities in November 2011. Significant progress has been made, supported in part by impact fees, in developing detailed and specific plans that address current and future needs of the school system. A renovated and expanded elementary school has been designed, and design is underway for a new grade 6-12 facility.

A proposed elementary school expansion option would result in a net capacity for up to 725 pre-school to fifth grade students, well in excess of current enrollment. The plan would expand the existing facility and eliminate portable classrooms. The size of the building would increase from just over 61,090 square feet to over 96,865 square feet, a substantial expansion of the permanent floor area of the school. It would also increase the average floor area per pupil to more modern standards, averaging about 134 square feet per pupil capacity versus the present facility's limited space estimated at only 91 square feet per pupil capacity in the 2000 fee study.

Planning for a new Junior/Senior HS is being driven significantly by the need to meet fire and life safety standards to improve the quality of school facilities, while also providing capacity sufficient to meet long term enrollment needs. A design plan for a new Junior/Senior High School has not yet been completed.

Impact fees based on recoupment of the value of available capacity may be used to pay for outstanding debt service on existing facilities. Based on the original impact fee study, debt service on the construction or improvement of the existing schools would have been fully amortized in 2006 and 2007. In the absence of new construction or improvement projects, there is no object, other than planning and design studies, for the application of impact fee funds. While it is possible to allocate impact fees toward A & E costs, or to land acquisition and site improvements, school capacity must be created in order to support continuity of school impact fee assessments.

School Fee Recommendation:

Once the long term school facility plan is completed, the capital costs and capacity estimates can be updated to reflect the components of the school facility master plan. Continuity of the impact fee system would be contingent on the construction of new and renovated schools. In our opinion, the school impact fees cannot be used indefinitely to fund needs analysis or architectural and engineering studies; the actual improvements must be funded so that tangible capital facility benefits are derived for new development.

Any update of the school impact fee must also consider the changes in the enrollment ratios that have occurred since the original fee study, and those which may occur in the future as the population ages. To arrive at a proportionate impact fee assessment, a revised impact fee system will need to adjust enrollment ratios accordingly so that the basis of assessment reflects anticipated long-term demands per unit on school space.

8. Review of Recreation Impact Fee

The recreation impact fee (2000) was based on the average value of selected recreation capital facilities and the number of facilities required per 1000 persons based on an assigned standard. The intent of the fee was to pay for a proportionate share of the total increase in the number of facilities needed between the base year (2000) and a projection year (2015).

Table 7 below shows that the application of the 2000 impact fee facility standards to the 2010 population of Newmarket would continue to register deficiencies in a number of facilities.

Table 7: Application of 2000 Recreation Facility Standards

<i>Recreation Facility Need Based on 2000 Impact Fee Standard</i>			
Recreation Facility	2010 Need Per Standard*	Existing Inventory 2011	Existing (Deficiency) or Surplus
Diamond Fields (Baseball & Softball)	7.0	5.0	(2.0)
Rectangular Fields (Soccer/Football)	2.4	4.0	1.6
Basketball Outdoor	1.8	2.0	0.2
Playgrounds	4.5	3.0	(1.5)
Tennis Courts	3.2	0.0	(3.2)
Gyms (Indoor courts)	1.8	1.0	(0.8)
Swim Area/Pool	0.8	0.0	(0.8)

* 2010 Newmarket population was 8,936

In 2005, a Recreation Master Plan was completed which identified a series of long term facility improvements. Table 8 compares the 2005 Recreation Master Plan inventory of facilities to long term goals and needs identified in the planning process. While the plan defines certain recreation "needs" it does not place these needs within the context of community size based on population or households served.

Table 8: Major Facilities in Recreation Plan

<i>Recreation Master Plan Indicated Facility Needs</i>			
Recreation Facility	Master Plan Inventory 2005	Additional Facilities Needed	Total Inventory Goal in Master Plan
Diamond Fields	5	4	9
Rectangular Fields	4	4	8
Basketball Outdoor	2	1	3
Playgrounds	3	4	7
Tennis	0	n.a.	n.a.
Gyms (Indoor courts)	2	1	3
Swim Area/Pool	0	1	1

These facilities represent only a portion of the recreation improvements proposed by the 2005 Recreation Master Plan. Only some of the proposed improvements in the Plan include cost estimates, and those cost estimates do not include acquisition of an estimated 20 acres of land needed to support a new field complex. Using either the standards-driven approach or the Master Plan needs estimates, expansion of a number of major recreation facilities is called for. A current inventory of recreation facilities is shown on the next page (Table 9).

The original fee basis noted that, under the selected standards, there were substantial deficiencies in the number of facilities in Newmarket, indicating that about \$750,000 in Town funds (not from impact fees) was needed to expand facilities to meet base year needs. Given that investment, an additional \$423,000 was projected as the amount needed to accommodate additional residential development from 2000 to 2015. The total cost of selected recreation improvements (net of anticipated grants and donations) for the period 2000-2015 was about \$1.17 million, or an average total investment from Town funds of about \$78,000 per year in facility expansion.

Recreation facility improvements funded since the inception of the impact fee program (Recreation Department estimates) indicate at least \$1.06 million in Town capital expenditures or an average of over \$100,000 per year in municipal capital investment in recreation improvements. (See Table 10.)

While that investment vastly improved the quality and utility of recreation facilities, and has expanded the land area held for recreation uses, the actual number of facilities has only been modestly increased. A comparison of the original inventory in 2000 and the current inventory (2011) indicates, there has been a net increase of one rectangular field (soccer) and one playground. The improvements made, such as field lighting, have greatly contributed to the quality and utility of the principal recreation sites in Newmarket. In addition, facilities not considered in the 2000 fee basis have also been added and improved.

Table 9: Recreation Facility Inventory

NEWMARKET RECREATION FACILITIES INVENTORY 2011																			
LOCATION AND TYPE		FACILITIES AND IMPROVEMENTS																	
NAME OF AREA OR FACILITY	Useable Acreage	Primary Recreation Use/Other Uses on Site	Indoor Recreation Centers	Gymnasium	Basketball Courts (Outdoor)	Basketball Courts (Indoor)	Tennis Courts	Baseball Fields	Softball Fields	Batting Cage	Soccer Fields	Volleyball Court	Skateboard Park	Swimming Area (Beach)	Swimming Pool	Playgrounds	Picnic Areas	Picnic Tables *	Boat Launch
RECREATION FACILITIES AND SITES																			
Community Center	1.00	Rec/Social Center (1)	1		1							1	1					2	
Sunrise Sunset 55+ Center	0.97	Senior Center	1													1			
Beaulieu Field	2.00	Sports					1			1								2	
Beanie Howcroft Field	4.00	Field Sports (2)					1	1	1	1	3					1		6	
Leo Landroche Memorial Field **	11.00	Field Sports (3)				1	1	1	1	1	1				1				
Newmarket Elementary	0.00	(4)				1													
Newmarket Jr/Sr HS	0.00	(4)		1		1													
Land-Follet's Brook	19.40	Acquired for open space/recreation use (5)																	
Total Inventory	38.37		2	1	1	2	0	3	2	2	4	1	1	0	0	3	0	10	0
PASSIVE PUBLIC PARKS WITH FACILITIES																			
Piscassic St. Park (Sliding Rock)	2.50	Boat Launch																4	1
Riverbend Park	5.85	Walkways/picnic															1	4	1
Waterfront Park (Schanda)	0.35	Walkways/picnic																	
Total Parks with Improvements	8.70																		
TOTAL PARKS AND RECREATION	47.07		2	1	1	2	0	3	2	2	4	1	1	0	0	3	1	18	2

(1) Owned by Housing Authority
 (2) 2 soccer fields are short youth fields overlaid between baseball fields.
 (3) 1 full size soccer field, overlays baseball diamond
 (4) The gyms also provide indoor basketball courts
 (5) Acreage shown is limited to parcels acquired 2004-2005 for open space/recreation per Newmarket Open Space Conservation Plan inventory
 (*) Additional picnic areas are found in passive public parks
 (**) Two fields at Leo Landroche site equipped with lights

**Table 10:
NEWMARKET RECREATION FACILITY IMPROVEMENTS SINCE 2000**

Year	Recreation Site or Facility	Total Cost	Town Funds	Grants or Donations	Source of Grants or Donations	Improvements
2004	Leo Landroche New Playground	\$80,000	\$80,000	\$0		Large capacity playground equipment installed
2004	Skateboard Park	\$40,000	\$0	\$40,000	\$25,000 from Newmarket Housing Authority; balance from donations	Newmarket Housing Authority paid for paving; Town paid for ramps
2004	Beaulieu Field Irrigation & Improvements	\$72,000	\$32,000	\$40,000	Newmarket Youth Athletic Association	Irrigation, field upgrade, playground equipment
2004-05	Follett's Brook Land Acquisition	\$97,000	\$97,000	\$0	Cost shown is net of sale proceeds for portion of property.	Parcels acquired from Leary, Rousseau, Szacik for open space/recreation use
2005	Leo Landroche Dugouts (2)	\$22,000	\$22,000	\$0		Constructed new dugouts
2009	Leo Landroche Lighting (2 Fields)	\$300,000	\$300,000	\$0		New field lighting (2 fields) extends playing time, usage capacity, flexibility of scheduling
2009-2010	Sunrise Senior Center	\$100,000	\$60,000	\$40,000	Newmarket Housing Authority	Convert old ambulance garage to senior center
2010	Leo Landroche Field Improvements	\$500,000	\$440,000	\$0		Fields irrigated, rebuilt, expanded, fenced; new batting cage
2011	Sand Volleyball Court Reconstruction	\$1,200	\$0	\$1,200		Rebuild to full size court
2011	Ampitheater/Stage at Leo Landroche	\$14,000	\$6,000	\$8,000	Total cost does not include donated labor. Timberland Co. donated materials plus labor.	Stage and seating
2011	Dugouts at Landroche Softball Field	\$22,000	\$22,000	\$0		Constructed new dugouts
Total for Selected Recreation Facility Improvements		\$1,248,200	\$1,059,000	\$129,200		

Improvements listed above exclude the boat ramp at Siding Rock (Piscassic St Park) and the Downtown Waterfront Park and boat ramp, both funded from the PWD budget
Source: The above figures were compiled based on interviews with Jim Hilton, Recreation Director. Figures represent estimates, not audited amounts.

At the time the Recreation Master Plan was being developed, the acquisition of several parcels at Follett's Brook (over 19 acres) was under consideration as a location that could accommodate a major new recreation site (identified as "Leary Field" below). At the present time, it appears that a different site may be needed to accommodate the improvements originally anticipated for that location.

The Recreation Master Plan 2005 included cost estimates for its two principal facility development sites:

Leary Field Improvements:	\$ 1,002,856 to \$ 1,142,781
<u>Second Athletic Field Complex:</u>	<u>\$ 1,818,720 to \$ 1,929,660</u>
Total for Above Improvements	\$ 2,821,576 to \$ 3,072,441 excluding land

In addition to Leary Field, a second athletic complex was outlined that would require an additional 20 acres of supporting land. No particular site was identified at the time for that complex, and land acquisition costs were not included in the cost estimate.

Other Improvements recommended in Plan (no costs computed):

- Riverside Beach
- Ice Skating Area
- Riverwalk & Boat Landing
- Dog Park & Trails
- Neighborhood Parks (on existing Town land)
- New Gym at Community Center

Recreation Fee Recommendation:

The basis for recreation impact fees needs to be reconciled with the actual types of recreation improvements that are being funded by the Town. There have been very significant improvements and some expansion of the total facility inventory since 2000, and many have expanded the usable capacity of facilities (such as field lighting). But most of the improvements are not captured within the current basis for recreation impact fees.

An "investment approach" to recreation fees may be more consistent with the Recreation Master Plan and the types of improvements being funded. The current approach uses facility standards that reflect the number of facilities, but not their quality or utility. The current approach would continue to show significant "deficiencies" in the facilities even if the Town has no intent to pursue them. An alternative system could be based on the Town's past track record of facility investment, and reasonable projections of future investment based on some of the Recreation Master Plan components.

In an investment approach, the "standard" could be based on a specified level of capital investment in recreation facilities assigned to a horizon year population. The investment over a given period would then be apportioned between existing and new development by allocating costs between existing vs. future population or households. The objective of the fee could be tied to the cost to implement the principal elements of the Recreation Master Plan. However,

the fee basis would remain valid only if regular progress were made in implementing the Master Plan.

9. Water System Impact Fees

In the original basis of assessment, only the value of the water treatment plant and its capacity was used as the cost basis for the impact fee.

At the time, the treatment plant was considered as an available backup resource for potential water production, but was not in active use. Additional water sources (wells) and storage were under consideration, but specific costs for improvements that would serve new development were not sufficiently developed to support a fee basis.

Debt service on the water treatment plant debt service should now be fully amortized (last year of original debt service schedule was through 2009). The treatment plant is no longer viewed as a viable part of the water supply system.

Impact fees collected to date have been spent on downtown improvements for water main replacement and upsizing. While that use of funds is consistent with general principles of impact fees, the original intent of the fee was to fund central plant capacity that serves all users. In addition, other funds are currently collected in "water permit fees" that may overlap with that purpose.

At the time of the original study, a water permit fee of \$1,000 per domestic dwelling unit and \$400 per inch (size of service line) was collected. This permit fee is then allocated to capital reserve account for water line replacement. Current permit guidelines indicate that a similar fee exists today, though the basis for the amount of the charge is unknown.

Demand projections (AECOM, 2010)² project average daily demand at 0.484 MGD (2010) to 0.550 MGD in 2020. Maximum daily water demand was estimated at 0.770 MGD (2010) and projected to reach 0.875 MGD in 2020.

Recommended capital projects for a 10-year CIP investment period represent a cost of \$6.84 million including:

Development of McIntosh Well	\$ 3.00 MM
New Water Storage Tank and Main	\$ 2.24 MM
Pump Station Upgrades	\$ 0.20 MM
<u>New Well Development</u>	<u>\$ 1.40 MM</u>
Total Projects	\$ 6.84 MM

Water System Fee Recommendation:

A water system capital fee should be restructured as a system development charge enabled under a water system ordinance or regulation, and not under the impact fee ordinance authorized by RSA 674:21, V. Similar but more flexible capital assessments could be added to the existing "permit fee" or hookup charge under a local ordinance or regulations adopted

² Town of Newmarket, NH Water System Update and Capital Improvement Plan, AECOM, October 27, 2010

under the authority of RSA 38:28 (the same authority under which water rates may be established).

The system development charge would be triggered by a new service connection or an increase in the connection serving the property, and not by the land use permitting process.

Such a fee would be based on a system of documented capital values, and would replace and expand on the current "permit fee" being assessed to new connections. This would serve to both validate the basis for the system development charge, as well as expand the fee to include the total investment in the central facilities of the water system. (See more on SDCs in Appendix 1 of this report.)

10. Wastewater Treatment Facilities Impact Fee

The original basis of assessment for the wastewater system included the combined recovery of existing capital value of the *core facilities* of the system, plus upgrades of core facilities projected to meet 2020 needs:

- Existing wastewater treatment plant
- Bay Road and Creighton Street pumping stations
- Force mains serving basins 4 and 5 of the system (primary areas for new development).
- Planned upgrade to the WWTP, including an expansion of capacity
- Capacity upgrade to the Creighton Street pumping station

While the capacity upgrade to the Creighton Street station cited in the 2000 study was completed, the capacity of the WWTF has not yet been increased (remains at 0.85 MGD). At the time of the original study, improvements and upgrades were planned that would result in capacity of 1.265 GPD to meet year 2020 design assumptions.

The use of impact fees thus far has been limited to sewer main replacement as part of a downtown improvement project. While such improvements have capacity-related benefit, the object of the expenditure differs from the original basis of the calculations that reflect central core facilities of the system.

At the time of the original fee study, the Town was charging \$1,000 per dwelling unit for residential uses and \$1,000 per connection as "permit fees" for non-residential uses. Permit fees had been used since the 1970s to fund replacements and upgrades of sewer lines and capital equipment of the system. These permit fees continue to be assessed, but the basis for the dollar amount is unknown.

Estimated current flow to the WWTF (2010) averages 0.58 MGD. The most recent study by Underwood Engineers ³, design year flow for 2030 is now estimated at 0.905 MGD with ultimate potential saturation at about 1.44 MGD. An earlier report (October 15, 2010)⁴ projected a 2030 design year flow of 1.28 MGD and saturation at 1.87 MGD. The projections

³ *Twenty Year Sewer Buildout Study, Final Draft Report, Underwood Engineers, February 15, 2011*

⁴ *201 Facilities Plan Update, Executive Summary and Sections 7, 8 and 9, Underwood Engineers, October 15, 2010.*

are updated periodically to assure that the eventual upgrade is not more than necessary to meet a 20-year projected need.

The most recent estimates of total investment required to increase WWTF capacity and upgrade the overall facilities is about \$18 million, far greater than the costs anticipated for the upgrade at the time of the 2000 study. Part of the future investment needed in the system is related to anticipated growth in demand, but also related to improvements necessary to meet discharge standards.

Wastewater System Fee Recommendation:

A wastewater system capital fee should be restructured as a system development charge enabled under a sewer ordinance or pertinent local regulations, rather than under the impact fee ordinance authorized by RSA 674:21, V.

Similar but more flexible capital assessments can be constructed to replace and augment the existing "permit fee" or hookup charge within the authority of RSA 149-I: 8 to create an appropriate assessment for the availability of wastewater facility capacity.

Because of the very high cost of wastewater facilities, the Town may need to consider whether the full calculated fee should be implemented. A very high system development charge could discourage new users to tie into the system, which could frustrate long range land use plans that envision higher density uses served by sewer. This in turn could limit the number of users available to pay for the fixed costs involved in the significant cost of a WWTF upgrade.

For both water and sewer utilities, the goals of an impact fee assessment can be better realized by using system development charges (SDCs). The advantages of this approach include:

- Cost basis can center solely on recovery of existing system equity
- The SDC can include allowances for anticipated capital costs
- The 6-year holding period limitation of impact fees is not applicable
- Funds can flow directly to pay for the general capital needs of the system
- Documented SDCs allow the Town to have a system that can be updated based on a specific methodology rather than use the current "permit fee" amount that is not based on a capacity formula

Appendix 1:

Discussion of System Development Charge Alternative To Existing Utility Impact Fee Approach

A. Impact Fees vs. System Development Charge Model

As the Town considers options for assessments to new connections to water or sewer systems, it is recommended that such charges be created under the authority of local ordinances governing the funding of capital and operating costs for water or sewer utilities. The pre-existing legislative authority in New Hampshire (RSA 149-I) for wastewater and stormwater systems, and RSA 38:27 for water systems enable more flexible options for the assignment of capital costs for public utilities systems.⁵

The other option is to use the authority of RSA 674:21, V to create an impact fee schedule under that legislative authority. The impact fee option is probably less desirable because of the statutory limitations on assessments for “upgrades” and the requirement to fund related projects within six years of collection of the fee. While an impact fee might be computed in the same way a “system development charge (SDC)” or utility “investment fee” is developed it is preferable to refer to these charges as SDCs. Avoiding the term “impact fee” in relation to the utility capital charges will help avoid confusion as to the legislative authority governing assessment and collection.

B. System Development Charge Options

A wide range of approaches are used in the U. S. to compute appropriate utility capital charges to new connections. The most common approaches tend to distinguish between recovering investments in *existing system equity* (a buy-in or recoupment fee) versus amounts associated with the cost of all or a portion of *future improvement* and capacity expansion costs. In some models, distinctions are made between central system improvements (that cannot be directly attributed to a specific increase capacity or growth) and those that are linked to a particular increase in capacity or growth assumption.

In virtually any model, judgments will still need to be made by the Town or its consulting engineers regarding the system design and construction costs that are appropriately assigned as improvements to the system and capacity expansion, versus expenditures that are primarily for maintenance and replacement of system components.

Costs that are normally paid by developers for extension of service lines within a development, or to service a particular property are generally excluded from the cost basis unless the Town is constructing the facilities in advance (or to encourage development in certain locations) with the intent of recovering those costs as new connections are made.

While the engineering and design of facilities providing new or expanded capacity will involve consideration of peak as well as average flow and loading to the system, the allocation of costs will generally be proportionately defined by consumption standards based on average daily

⁵ 2005 Municipal Law Lecture Series, Lecture 1, Section XVI, in Off-Site Exactions and Impact Fees: Balancing Municipal Interest and Private Property Rights, by Gary H. Bernier, Esq. and Stephen C. Buckley, Esq. for the New Hampshire Local Government Center.

usage expressed as gallons per day (GPD) demand on the system. The cost per GPD is sometimes expressed in relation to average usage by a single family residence, with other uses assigned as ERUs ("equivalent residential units"). The cost per ERU may then be proportionately assigned relative to the demands of other users based on relative GPD demand factors typical of other forms of residential construction and non-residential uses.

Some SDC approaches are limited to buy-in or recoupment fees based on the value of existing completed facilities only. Others reflect estimated marginal cost estimates for growth-related costs only. Some charges represent combination models that assign to the user a portion of the investment in older central facilities plus a charge for anticipated growth-related and/or system-wide improvements.

In some cases, improvement costs are allocated (based on the nature of the improvement made) between those which are attributable to general system wide upgrades and improvements, and those which are particularly associated with specific service areas. The overall cost per unit of development may vary by location, or a single charge may be assessed.

Capital values are sometimes based on full replacement cost (new) or at replacement costs less accumulated depreciation. In the system equity approach, total outstanding debt service is deducted from the assigned replacement cost of the facilities so that the SDC represents charge based on net equity in the system. In such a model, the fee can be updated annually and is never more than the net equity value per GPD or demand unit based on existing investment in the system.

In a simple recoupment SDC, continuity of such fees is not contingent on the completion of additional future improvements, as long as the facility investment to date offers excess capacity available to the user. As successive improvements are actually completed, their value is added to the computation basis, which increases the SDC charge.

C. Land Use Policy Issues

The reasonableness of the amount of any SDC should be considered in a long-term planning context, and with reference to land use goals for areas anticipated as future service areas for public water and sewer. If the cost of a new hookup is perceived as unreasonable relative to the benefits of tying into public water and sewer to achieve a certain density, it may create an incentive for development leapfrog outside the utility service areas. This can lead to inefficient use of land, as well as a failure to attract a sufficient number of users to pay for required system development costs. High cost components such as treatment plant expansion or upgrades involve fixed costs that are more easily amortized when there are more users tied into the water and sewer systems. Some consideration should be given to a growth management process, utility extension policy, or regulatory measures that will encourage infill at urban densities within the planned utility service areas.

Appendix 2:

Review of Newmarket Impact Fee Ordinance (Municipal Code Section 6)

Below is a brief review of the content of the Newmarket Impact Fee Ordinance which took effect February 7, 2001. This review centers primarily on housekeeping measures relative to changes in RSA 674:21, V governing impact fees that occurred in 2004, and on observations that may enhance the operation of the impact fee system.

Subsection 6.11.1 – Authority and Applicability

Paragraph 3: This section ties the impact fee calculations into the specific methodology prepared in 2000 by title and date. There is a blank space for the date of adoption of that methodology by the Planning Board which was never filled in. While other sections of the ordinance permit the amendment of the methodology, the second sentence of this paragraph seems entirely unnecessary. A full ordinance amendment would be required in order to replace this particular report as the Town's basis for impact fee assessment. The Planning Board is already empowered to adopt related methodologies, which would be subject to a public hearing. Nearly all impact fee ordinances in New Hampshire contain general authority to adopt relevant studies, without referencing a specific report within the language of the ordinance.

Subsection 6.11.2 Findings

Paragraph 5: Suggest removal of the phrase "growth related" and replacement of the phrase "resulting from the" with "attributable to" [new development].

Paragraphs 6, 7, 8: Suggest that these findings be removed. It is not necessary to "build a case" for the use of impact fees based on fiscal distress. It is sufficient that the fees represent a proportionate assessment for the capital costs attributable to new development. Paragraph 8 contains a finding that the "...excessive expenditure of public funds" may occur in the absence of impact fees. This language comprises one of the criteria for determining premature and scattered development in the subdivision approval process. The paragraph could be interpreted to suggest that if impact fees are implemented, the issue of "excessive expenditure of public funds" is inapplicable when considering the approval of new subdivisions or site plans. Removal of the paragraph would eliminate any confusion over that issue. In addition, the retention of the capacity to deny development that is found to be premature and scattered is addressed specifically in Subsection 6.11.13.

Subsection 6.11.3 Definitions

Paragraph 1: Fee payer. Consider substituting "assessed property" vs. "fee payer" in the definition and in the ordinance text. The "fee payer" can be anyone. Impact fees are assessed to specific properties, not to individuals. Revising the phrasing can help clarify this relationship in the assessment process, and in any refund process that may become necessary.

Paragraph 3. New Development, Number 5: This reference to service connections to the water or sewer system could be deleted if the Town converts to a system development charge approach for the two utilities.

Subsection 6.11.5 Assessment of Impact Fee

Paragraph 1: As a technical note, based on 2004 amendments to RSA 674:21, V, for new subdivisions and site plans, the assessment of the fee (determination of fee amount to be assessed) occurs at the subdivision or site plan approval stage in cases where planning board action is required to approve the development. In other cases, the assessment takes place at the building permit stage, but collection cannot be compelled until the point where a certificate of occupancy is issued. (Addressed in 6.11.7 Payment of Impact Fee).

If the Town converts its utility fees to system development charges, the language relating to "...permits for new or modified service connections....that would increase the demand on the capacity of those systems,..." could be deleted.

Subsection 6.11.7 Payment of Impact Fee

Paragraph 2: This language was based on the original wording of NH RSA 674:21, V at the time the ordinance was adopted. That language has since been removed from the statute, and it is no longer possible to compel payment of the impact fee at the building permit stage. In the course of housekeeping changes to the ordinance, this paragraph could be removed.

Subsection 6.11.10 Use of Funds

Paragraph 2 requires that annual updates of the CIP contain a procedure for assigning impact fee funds to specific capital facility improvement projects. Is it present practice to address these specific expenditures in the CIP? This is not mandated by RSA 674:21, V, and the specific allocation of impact fees is being documented in Council resolutions. The paragraph is probably not necessary unless the Town wants to retain as an accountability measure.

Subsection 6.11.11 Refund of Fees Paid

Paragraph 2 imposes an affirmative duty on the Town Council to identify owners of record who are due a refund of impact fees paid on behalf of their property. School impact fees to date have not funded any physical improvements to school facilities. Funds have been used to pay for part of the overall school facility improvement process in the form of design specifications and architectural analysis, which may lead to those improvements. However, if the physical improvements do not materialize as a result, refunds may need to be considered.