

Sandown Planning Board  
Minutes  
June 15, 2010

**Date:** June 15, 2010

**Place:** Sandown Town Hall

**Members Present:** Donna Green, Chairman, Mark Traeger, Vice Chairman, Marilyn Cormier, Ed Mencis, Steven Meisner, Nelson Rheaume, Ex-Officio and Alternates Fred Daley and Ernie Brown. Matt Russell arrived at 7:45 p.m.

**Also present:** Bette Patterson, Administrative Assistant

**Absent:** Town Engineer Steve Keach

**Opening:** Chairman Green opened the meeting at 7:13 p.m. Chairman Green announced that Alternate Fred Daley would be serving on the board until Mr. Russell arrives.

**Approval of Minutes:**

**June 1, 2010**

After review of the June 1<sup>st</sup> draft minutes, it was agreed that due to multiple changes, this set of minutes would be reviewed with changes at the July 20<sup>th</sup> meeting.

**Correspondence:**

- **Letter from Gail Cerva requesting to be appointed a member of the Capital Improvement Sub-Committee.**

MOTION: Ed Mencis made a motion to appoint Gail Cerva as a member of the Capital Improvement Sub-Committee. Marilyn Cormier seconded. Voted unanimously in the affirmative.

- **Invoice from Soule, Leslie, Kidder, Sayward & Loughman, P.L.L.C.** in the amount of \$646.00 for consultation with the Planning Board. Board Members agreed to authorize payment.

- **Memo from Town Engineer Steven Keach regarding Inspections for Montana Realty Trust:**

**Date:** June 15, 2010

**Re:** Riverbend Estates, Hillside Estates, Glastombury Drive & Tammy Lane Subdivisions  
New Hampshire

Sandown,

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*As you will recall, at the time of your Board's June 01, 2010, Mr. Robert Villella of Montana Realty Trust reported to your Board that he had scheduled a walk-through of streets within each*

43 *of the four subject subdivisions with Steven R. Chabot and myself of this office. Mr. Villella*  
44 *further reported to your Board that the intended purpose of each walk-through was for our office*  
45 *to prepare complete and current punch lists of all remaining work in anticipation of moving*  
46 *forward with finalization of the same in the coming weeks. Mr. Villella, Mr. Chabot and I met on*  
47 *the morning of June 3<sup>rd</sup> and completed a walk-through of all four subdivisions. As a result of*  
48 *our efforts, Mr. Chabot issued separate punch lists for each subdivision in the form of Inspection*  
49 *Reports, each dated June 04, 2010, copies of which were forwarded to your office earlier this*  
50 *month. As a review of these four punch lists will reveal, for the most part, the extent of work*  
51 *remaining to be completed at each project site consists of miscellaneous work required to*  
52 *correct or complete work undertaken previously, as well as installation of the wearing course of*  
53 *hot bituminous pavement on each street.*

54

55 *Since June 3<sup>rd</sup>, Mr. Villella has been in further contact with this office on several occasions. As*  
56 *of this date, we understand the miscellaneous work which needs to be completed prior to*  
57 *installation of the wearing course of pavement within each of the subject subdivisions is*  
58 *underway and Mr. Villella anticipates requesting that Mr. Chabot perform a detailed inspection*  
59 *of the same as early as the week of June 21st. Further, Mr. Villella has advised us that he*  
60 *recently accepted a proposal provided to him by Brox Industries to furnish and install the*  
61 *wearing course of pavement within each of the four subject subdivisions. We understand this*  
62 *paving work is tentatively scheduled to commence the week of July 5<sup>th</sup>, with Brox proceeding*  
63 *from one subdivision to the next until all streets have been paved. At this time, Mr. Villella*  
64 *reports that he anticipates completing all remaining work within Tammy Estates (aka Jeannette*  
65 *Humphrey Subdivision); Glastombury Drive; Riverbend Estates (Phases I, II & III, as well as*  
66 *Pheasant Run Drive Extension); and over the Sandown portion of Penacook Drive, Jana Circle*  
67 *and the completed portion of Meghan Drive within Hillside Estates by mid-July. At the time of*  
68 *each walk-through Mr. Chabot reiterated his expectations relative to inspection requirements*  
69 *with Mr. Villella, who agreed to comply with the same.*

70

71 *Obviously, given Mr. Villella's anticipated construction schedule, it would seem most if not all*  
72 *remaining work may be completed prior to your Board's scheduled meeting on July 20<sup>th</sup>. At that*  
73 *time I will provide the Board with a detailed status report of each project. In the interim, Mr.*  
74 *Chabot will continue to forward periodic Inspection Reports to Mrs. Patterson. In the event*  
75 *individual members of the Board have specific questions, please feel free to contact me directly*  
76 *at your earliest convenience.*

77

78 *Chairman Green reviewed the inspection reports for Riverbend Estates and Montana Realty*  
79 *Trust Phase IV. She stated that clarification is needed from Mr. Keach on some of the items in*  
80 *the inspection reports. Note: A copy of the reports is attached to this set of minutes.*

81

82

83 *Matt Russell stated that he is assuming that the board is extending Mr. Villella deadline to July*  
84 *20<sup>th</sup>, the next meeting of the planning board.*

85

86 Fred Daley stated that Mr. Vilella is complying with the motion that was made because he has  
87 provided a timeline for the work to be done. He added that a motion could be made to give a  
88 deadline of July 20<sup>th</sup>.

89  
90 Mark Traeger stated that no building permits will be issued until the work is complete. It is in  
91 the developer's best interest to complete the work according to his timeline.

92  
93 Matt Russell asked if the fact that Mr. Vilella is compliant, if that lifts the building permit  
94 embargo.

95  
96 Board members agreed that it would not lift the building permit embargo.

97  
98 Chairman Green read the motion that was made on June 1<sup>st</sup> as follows:

99  
100 *Mark Traeger made a motion to grant Montana Realty Trust thirty (30) days from this meeting*  
101 *date to start the paving on Riverbend. No building permits shall be issued until paving is*  
102 *completed. Phase IV cannot begin until bonding has been posted as per the original*  
103 *performance agreement. Ed Mencis seconded. DISCUSSION ON THE MOTION: Chairman*  
104 *Green asked that the motion include that no building permits would be issued for Phase IV. Mr.*  
105 *Keach stated that he cannot receive building permits for phase IV unless the bond is in place.*  
106 *Mr. Brown agreed stating that the bond requirement has it covered.*

107  
108 Matt Russell stated that Mr. Vilella agreed to complete the paving by our next meeting July 20<sup>th</sup>.

109  
110  
111 • **Irrevocable Standby Letter of Credit for Waterford Village from Enterprise Bank -**  
112 Administrative Assistant Patterson explained that this LOC was delivered to the planning  
113 office by Gary Barnes. This LOC from Enterprise Bank is intended to replace the  
114 original LOC from Sovereign Bank. Administrative Assistant Patterson forwarded the  
115 letter to Mr. Keach for review. The following memo from Mr. Keach was read into the  
116 record by Chairman Green:

117

118 **Date:** June 15, 2010

119 **Re:** Waterford Village Estates

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120 *I am in receipt of the copy of Irrevocable Standby Letter of Credit (LOC) No. 18923, issued on behalf of*  
121 *Ten Powder Realty, LLC (Gary Barnes) by Enterprise Bank on June 04, 2010 in the amount of \$186,752.30*  
122 *forwarded to me by your office earlier today. Based upon my review of the same, I offer the following:*

123

124

125 • *Based upon an earlier phone conversation with Ms. Marlene P. Hoyt, Senior Vice President for*  
126 *Construction Lending of Enterprise Bank, I understand that Mr. Barnes and Ten Powder Realty,*  
127 *LLC proposes to substitute a letter of credit issued by Enterprise Bank for Irrevocable Standby*

128 Letter of Credit No. 3753 previously issued by Sovereign Bank. Correspondingly, receipt of the  
 129 letter of credit you recently received may be properly viewed as a substitute surety for Sovereign  
 130 Bank LOC No. 3753.

131

- 132 • On November 14, 2006 the Sandown Planning Board most recently granted a series of partial  
 133 surety releases for various phases of the Waterford Village Estates subdivision (see Notices of  
 134 Decision dated November 20, 2006). As a result of that series of actions, the following surety  
 135 sums are required to be maintained by Ten Powder Realty, LLC:

136

137	Phase I	\$65,381.90
138	Phase II	\$63,763.20
139	Phase III	\$57,607.20
140	Total Surety Sum – All Phases:	\$186,752.30

141

142 Correspondingly, the total surety sum required by the Sandown Planning Board matches the  
 143 amount of the LOC No. 18923 issued by Enterprise Bank.

144

- 145 • Upon acceptance of this replacement surety, the Sandown Planning Board should forward  
 146 correspondence to Sovereign Bank advising them that their Irrevocable Standby Letter of Credit  
 147 No. 3753 may be released.

148

- 149 • However, prior to releasing LOC No. 3753 previously issued by Sovereign Bank, I recommend the  
 150 Planning Board request that Town Counsel review and comment upon the form of LOC No.  
 151 18923 issued by Enterprise Bank. It is this writer's opinion that the form of LOC No. 18923 is not  
 152 acceptable as presented in that it fails to include either an automatic call or an automatic term  
 153 extension provision typically recommended by Attorney Ratigan in the past. In short, prior to  
 154 accepting Enterprise Bank LOC No. 18923 in lieu of Sovereign Bank LOC No. 3753, I recommend  
 155 the Planning Board receive a favorable review of the form of surety from Town Counsel.

156

157 I trust the foregoing information addresses your recent inquiry. Please contact me directly if you should  
 158 have further questions regarding this matter.

159

160 Chairman Green noted that Mr. Keach recommended that Town Counsel review and comment  
 161 on the form of LOC issued by Enterprise Bank. The memo also states that in Mr. Keach's  
 162 opinion, the LOC is not acceptable as presented and should include other language.

163

164 Mr. Mencis stated that he agreed with the advice from Mr. Keach and recommended that the  
 165 board forward the LOC to Attorney Ratigan.

166

167 Mark Traeger asked if the board could use Attorney Diane Morrow.

168

169 Chairman Green polled the board as to what attorney to use for review of the LOC.

170

171 Those in favor of Attorney Morrow - Fred Daley, Nelson Rheume, Marilyn Cormier, Mark  
 172 Traeger, Matt Russell, Donna Green

173

174 Those in favor of Attorney Ratigan – Ed Mencis

175

176 Mr. Meisner stated he had no preference.

177

178 Mr. Daley asked if the recommendations from Mr. Keach could just be added to the Enterprise  
179 Bank LOC and given to counsel for review.

180

181 Mr. Meisner stated that the only suggestion he has is that the KNA memo be attached to the LOC  
182 for the review to whatever attorney this is sent to.

183

184 Mr. Daley asked if there was any outline from our attorney as to what should be in a bond  
185 agreement?

186

187 Administrative Assistant Patterson stated that the board has always used Attorney Ratigan for  
188 performance agreements and bonds. Attorney Ratigan has the information that we require for  
189 these documents and it is the reason Mr. Keach recommended that we have him review this.

190

191 After a brief discussion, it was agreed to send the recommended wording from Mr. Keach to  
192 Enterprise Bank and request that they include it in the LOC.

193

194 The board agreed that the subdivision regulations would be updated to include what is needed in  
195 the performance agreement and bonds so that the board does not get into the same situation in  
196 the future.

197

198 **Public Hearing – Amendment to the Subdivision Regulations** The purpose of this public hearing  
199 is to amend the Subdivision Regulations by adding the following: In accordance with state law any  
200 proposed subdivisions which are likely to have impacts beyond the boundaries of the town of  
201 Sandown shall be processed by the planning board according to the procedures established in RSA  
202 36:54-58, *Review of Developments of Regional Impact*. And to add the Projects of Regional Impact  
203 Checklist to Section 8-Procedure.

204

205 Chairman Green stated that Town Engineer Steve Keach has recommended that a paragraph be  
206 added to this section that if the board fail to discuss regional impact, then the project would not have  
207 regional impact.

208

209 Chairman Green asked for public input, there being none, Chairman Green called for discussion by  
210 the board.

211

212 Mr. Mencis recommended that regional impact also be included in the Site Plan and Excavation  
213 Regulations as well. The board agreed.

214

215 MOTION: Mark Traeger made a motion to add to the Subdivision Regulations the following: In  
216 accordance with state law any proposed subdivisions which are likely to have impacts beyond the  
217 boundaries of the town of Sandown shall be processed by the planning board according to the  
218 procedures established in RSA 36:54-58, *Review of Developments of Regional Impact*. And to add  
219 the Projects of Regional Impact Checklist to Section 8-Procedure and to add to this section that if the

220 board fails to discuss regional impact, then the project would not have regional impact. The posted  
221 criteria for regional impact shall be included in the Subdivision Regulations. Matt Russell  
222 seconded. Voted unanimously in the affirmative.

223

224 **Old Business:**

225

226 **Subdivision Regulations Sub-Committee** – Mark Traeger reported that he is still recruiting for  
227 volunteers. He will bring an example of the regulations to the next meeting.

228

229 **CIP Sub-Committee** – Matt Russell reported that they held their first meeting on June 14<sup>th</sup>. They  
230 have developed a meeting schedule for the first Monday of each month. Matt Russell is the  
231 Chairman, the Vice chairman is Mr. St. Pierre and Marilyn Cormier is the Secretary. There are  
232 currently four members, however, one more member is needed. They made slight changes to the  
233 spreadsheet and intend to reach out to department heads in the coming months. The next CIP  
234 meeting is scheduled for July 12<sup>th</sup>.

235

236

237 **Update on Surety Holdings – Avalon and MCC Northwoods:**

238

239 **Avalon** – Chairman Green contacted the bank and they will get back to her, however, they have not  
240 done so yet.

241

242 **MCC Northwoods** – The board previously authorized the Chairman to expend \$10.00 to research  
243 this corporation through Delaware. Chairman Green did not have to expend the money because she  
244 was able to contact the agent of the corporation. The agent left a voice mail saying that he would  
245 pass on the information to the corporation.

246

247 Marilyn Cormier stated that she went to the Avalon property and there are two lots currently for sale.  
248 Mrs. Green also noted that she went to this property independently of Mrs. Cormier. Mrs. Cormier  
249 stated she e-mailed the realty information to Chairman Green so that she could let the realtors know  
250 about the embargo on building permits. Chairman Green stated that she did not think that the board  
251 should interfere with a business as it is not the board's place to inform real estate agents of  
252 outstanding issues.

253

254

255 **Discussion of the cease and desist order on the Sarkozy property in Riverbend**

256

257 Nelson Rheume stated that when he saw the agenda he was surprised that this item was on it.  
258 This is a Board of Selectmen concern. Mr. Villella met with the Board of Selectmen last  
259 evening. The permit has been approved by the DES and everything is completed except for the  
260 bridge.

261

262 Matt Russell stated that he got a package from the Selectmen's office of all the documents. The  
263 reason he brought this subject up is because Mr. Villella was here at the last meeting and at that  
264 meeting Mr. Russell asked if it was possible to get an update on what was happening on Map 19  
265 Lot 70. At that time Mr. Villella stated he was in the process of completing the work. Mr.

266 Russell stated his concern was that the conservation Commission did not know anything about  
267 any advancement on the property, nor was it discussed at the planning board nor did Mr. Keach  
268 seem to know either. The last documentation from DES is dated October 2008. Mr. Sarkozy  
269 was granted an after the fact permit to put in a bridge that was supposed to be put in at the  
270 beginning of the project. There were a number of stipulations that were required back in 2008  
271 but the trail ends there. Mr. Russell stated that he did not believe we have seen any  
272 documentation that DES has seen or approved any restoration plan. The after the fact approval  
273 from DES states that it is contingent upon the restoration of 2,032 square feet of unauthorized  
274 impacts as a condition in the Restoration Plan Approval by DES dated July 14<sup>th</sup>. Mr. Russell  
275 stated that in all due respect to the Board of Selectmen, it's the planning board's responsibility to  
276 make sure the work is completed.

277

278 Nelson Rheaume explained that the requirements are DES requirements and everything is  
279 complete and approved by the DES.

280

281 Matt Russell stated that there was discussion at the selectmen's meeting that the bridge was  
282 going to be built. He stated there has been a plan and it has been approved but is the required  
283 work done?

284

285 Marilyn Cormier stated that it's in the best interest of the town to find out what work has been  
286 done.

287

288 Mark Traeger stated that he has spoken to DES and verbally they are done with it and are happy.  
289 Field inspectors have been out there. It is the job of DES to make sure their requirements are  
290 completed.

291

292 Marilyn Cormier suggested sending a wetland scientist out to the site if they start the bridge.

293

294 Fred Daley stated that there are two issues. One is regeneration of the physical environment and  
295 second the installation of the bridge. He stated that we need to validate that the restoration of the  
296 property is done before the bridge is started.

297

298 Chairman Green asked if the Conservation Commission could send the Town's wetland scientist  
299 out to the site.

300

301 Mark Traeger stated he would ask the Conservation Commission to do this.

302

303 Fred Daley stated that it would be in our best interest to find out what DES has done.

304

305 Ed Mencis stated that this is in the selectmen's domain and the board is trying to usurp their  
306 authority. The selectmen can request the conservation Commission to send out the wetland  
307 scientist.

308

309 Nelson Rheaume agreed and stated that he would asked the selectmen to do this at their meeting  
310 Monday night.

311  
312 Nelson Rheaume stated that when Mr. Vilella met with the selectmen he raised a complaint  
313 regarding Chairman Green contacting his bank for information and the selectmen do not want the  
314 town to be placed in jeopardy.

315  
316 Chairman Green stated that she followed up on all sureties. She stated she did not inquire as to  
317 Vilella's finances only on the status of the surety. She stated that she would expect that this  
318 board and the board of selectmen would support her efforts.

319  
320 **Other Business:**

321  
322 Chairman Green stated that there is a bank official that is willing to meet with the board to  
323 explain bonds, letters of credit and other forms of surety. The board agreed and Chairman  
324 Green stated that she would schedule this as soon as possible.

325  
326 **Budget Update:**

327  
328 Advertising 61% expended  
329 Consulting 68% expended  
330 Over all Expenditures as of June 1, 2010 – 43.1%

331  
332 **Consolidated spreadsheet showing PREA accounts and sureties**

333  
334 Administrative Assistant Patterson distributed two spreadsheets. One is a Master Projects List that  
335 includes recording dates, plan numbers and approval dates as well as columns for surety information  
336 and PREA information. The other spreadsheet is a more detailed one that will be used for each new  
337 project that comes before the board.

338  
339 After review, the board agreed to add a column for road bond information to the Master Projects List.

340  
341 **Discussion of raising Planning Board fees/Site Plan Review and Subdivision**

342  
343 Administrative Assistant Patterson was asked to include more towns in the comparison of fees to  
344 Sandown for the next meeting.

345  
346 **Discussion on school impact fees.**

347  
348 Ed Mencis stated that we may be on target with the impact fees we currently charge. He is  
349 continuing research and if the fees are raised it would only be a small amount.

350  
351 Chairman Green stated that the impact fees can only go to debt repayment in proportion to the  
352 number of Sandown pupils in school.

353  
354 Ed Mencis stated he had a problem with debt repayment because the town funds the budget and  
355 it should only be used for school improvements.

356



357 **Old Business:**

358

359 **CTAP Community Planning Roadmap** – This was revised and submitted to Theresa Walker of  
360 the Rockingham Planning Commission.

361

362 MOTION: Ed Mencis made a motion to adopt the revised CTAP Community Planning  
363 Roadmap as revised. Marilyn Cormier seconded. Voted unanimously in the affirmative.

364

365 **Agenda – July 20<sup>th</sup>**

366 Mark Traeger requested that Robert Pryne from Rockingham Planning Commission be placed  
367 first on the agenda. Mr. Pryne would like to discuss the build out plan for Sandown. The board  
368 agreed.

369

370 **Adjournment**

371 MOTION: Matt Russell made a motion to adjourn. Ed Mencis seconded. Voted unanimously  
372 in the affirmative. MEETING ADJOURNED AT 10:05 p.m.

373

374 Respectfully submitted,

375

376

377

378 Bette Patterson, Administrative Assistant

379