

Sandown Planning Board  
Minutes  
July 20, 2010

**Date:** July 20, 2010

**Place:** Sandown Town Hall

**Members Present:** Donna Green, Chairman, Mark Traeger, Vice Chairman, Matt Russell, Steven Meisner, Nelson Rheaume, Ex-Officio and Alternates Fred Daley and Ernie Brown. Ed Mencis arrived at 7:20 p.m.

**Also present:** Bette Patterson, Administrative Assistant Town Engineer Steve Keach

**Absent:** Marilyn Cormier

**Opening:** Chairman Green opened the meeting at 7:05 p.m. Chairman Green announced that Alternate Fred Daley would be serving on the board until Mr. Mencis arrives and that Alternate Ernie Brown would be serving in Mrs. Cormier's absence.

**Approval of Minutes:**

**June 15, 2010**

MOTION: Mark Traeger made a motion to approve the minutes of June 15<sup>th</sup>, 2010 as amended. Matt Russell seconded. Mark Traeger and Matt Russell voted in favor of the motion. Donna Green, Fred Daley, Ernie Brown and Steve Meisner voted against the motion. MOTION FAILED.

The June 15<sup>th</sup> minutes will be revised and placed on the next agenda for approval.

**June 1, 2010**

MOTION: Matt Russell made a motion to postpone approval of the June 1, 2010 minutes until they have been revised. Ed Mencis seconded. Voted unanimously in the affirmative.

**Correspondence:**

- **Town and City Magazine** – Available for Planning Board Members
- **Law Lecture Series** – Chairman Green stated that there is a section in this lecture series that is titled "What to Do When They Stop Building". This contains pertinent information on sureties. Administrative Assistant Patterson will make copies of this section for distribution to the board.
- **Invoice from Keach-Nordstrom Associates - \$2,136.00** - This invoice is for Professional services performed May 4, 2010 through June 1, 2010 for Sandown Performance Guarantee status check. Ed Mencis stated that Mr. Keach did an outstanding job and it's worth the money to have had this work done. Mr. Keach stated that he billed approximately one third of the actual time he spent on this project. He stated that while he does a lot for the Town of Sandown pro bono, he felt he had to bill for his time. Mark Traeger stated he did not have a problem with the bill, however, he did not know it was coming. Matt Russell asked if this invoice could be paid out of the PREA accounts. Mr. Keach agreed that the Town could do that and broke the invoice down into percentages.

49 **MOTION:** Matt Russell made a motion to pay the KNA Invoice #200472 out of the individual  
50 developer's PREA accounts. The percentage breakdown to be determined by Town Engineer  
51 Steven Keach. If any of the listed projects are defunct, and no PREA account exists, the invoice  
52 shall be paid out of the Planning Board budget. Ed Mencis seconded. VOTE ON THE  
53 MOTION: Ernie Brown voted against the motion. Donna Green, Mark Traeger, Steven Meisner,  
54 Nelson Rheaume, Edward Mencis and Matt Russell voted in favor of the motion. MOTION  
55 PASSED.

56  
57

58 **Robert Pruyne from Rockingham Planning Commission -** Review of Build-out plan for the Town of  
59 Sandown. Mr. Pruyne presented the following for the board to review:

60

- 61 • Map 1 – Base Map
- 62 • Map 2- Current Conditions
- 63 • Map 3 – Zoning 2003
- 64 • Map 4 – Constraints
- 65 • Map 6 – New Units at Buildout Total of 1,823 new units at buildout

66

67 Mr. Pruyne stated he would like to complete this project around September or October. He explained the  
68 various maps to the board using the available keys. He also discussed pro-active zoning, conservation  
69 areas and densities.

70

71 *Please note: A copy of the maps are available for public inspection during regular planning board*  
72 *hours.*

73

74 **Update on inspection reports/road completion of Tammy Lane, Glastombury Drive (Montana**  
75 **portion only), Riverbend Estates/Montana Drive and Hillside Estates – Stephen Keach, Town**  
76 **Engineer**

77

78 Mr. Keach stated that on July 14<sup>th</sup> KNA Engineer Steve Chabot, DPW Director Artie Genualdo and  
79 property owner Robert Vilella walked through Tammy Estates, Glastombury Drive, Riverbend Estates  
80 and Hillside Estates. There was an open discussion of KNA expectations and confirmation of what was  
81 going to be done by Mr. Vilella.

82

83 Mr. Keach reviewed the inspection reports as follows:

84

- 85 • Tammy Lane (Jeannette Humphrey Subdivision-original name) Montana Realty Trust – This is a  
86 final inspection/bond reduction. All improvements have been satisfactorily completed. Mr.  
87 Chabot prepared a final bond release worksheet, recommendation letter and final sign off letter  
88 for the project.
- 89 • Riverbend Estates Montana Realty Trust - Site Visit/Punch List - The following items were  
90 identified and are to be completed or corrected:
  - 91 ○ Install crushed gravel shoulders and painted STOP bars on all roads as discussed.
  - 92 ○ Water was observed ponding on the finish pavement on the left side of Montana Drive at  
93 the intersection of Riverbend Drive. Mr. Vilella will contact Brox to discuss correcting  
94 this problem.
  - 95 ○ Clean 2 catch basins on Riverbend Drive
  - 96 ○ Install loam seed and Jute mat beyond rip rap swale on Montana Drive (across from  
97 Mallard Lane)

- 98                   ○ Mow vegetation and remove trees around guardrail in cul de sac of Montana Drive  
 99                   ○ Cut and remove pavement extending beyond binder pavement between #18 and #32  
 100                  Mallard Lane  
 101                  ○ Remove vegetation from inlets and outlets to drainage on Mallard Lane  
 102                  ○ Stabilize swale and remove silt from outlet headwall to under drain for 14-19-75  
 103                  ○ Find DI-4, clean catch basin, raise frame and grate to finish grade  
 104                  ○ Relocate STOP sign as discussed.
- 105       • Glastombury Drive Montana Realty Trust – Site Inspection/Bond Reduction The majority of  
 106       work was done on this site. Mr. Chabot prepared bond reduction #2 based on this site visit. The  
 107       deceleration land on Route 121A at the intersection of Glastombury Drive has not been  
 108       constructed. Mr. Villella was informed that the deceleration lane must be completed prior to a  
 109       final sign off and final bond release for the project.

110  
 111  
 112 **Montana Realty Trust Request for Bond Release for Tammy Lane, Glastombury Drive and**  
 113 **Riverbend Estates**

- 114
- 115       • **Glastombury Subdivision-Glastombury Drive** – The board reviewed a bond release  
 116       recommendation from Keach-Nordstrom Associates, Inc. Steven Chabot, Senior Project  
 117       Engineer, prepared this recommendation after a site inspection on July 14, 2010 and this  
 118       recommendation is based on work completed at the time of this visit. The recommended bond  
 119       release #2 in the amount of \$197,459.21, leaving a balance of \$7,567.99 to complete the  
 120       remaining improvements (deceleration lane at Route 121A). Mr. Keach explained to the board  
 121       that Mr. Villella is prepared to give the Planning Board a check in the amount of \$7,500.00, the  
 122       balance of which to be delivered to the planning board office first thing in the morning.
  - 123
  - 124
  - 125       • **Tammy Lane** - The board reviewed a bond release recommendation from Keach-Nordstrom  
 126       Associates, Inc. Steven Chabot, Senior Project Engineer, prepared this recommendation after a  
 127       site inspection on July 14, 2010 at which time it was confirmed that all roadway improvements  
 128       had been completed in accordance with plans approved by the Sandown Planning board. A copy  
 129       of the monument certification prepared by James M. Lavelle Associates, LLC, dated December  
 130       13, 2004 was also presented to the board. Town Engineer Steven Keach recommended that the  
 131       Board of Selectmen proceed to formally accept Tammy Lane as a Class V public way in  
 132       accordance with the provisions of RSA 674:40-a.

133  
 134 ***Tammy Lane***

135 MOTION: Ed Mencis made a motion to release the surety held for Tammy Lane ( Tax Map 3,  
 136 Lots 8-1, 8-2, 8-3, 8-4, 8-5, 8-6 and 8-7), in the amount of \$34,693.92 leaving a balance of \$0.00.  
 137 Mark Traeger seconded. DISCUSSION ON THE MOTION: Chairman Green stated that she has  
 138 been researching sureties and it is common practice to keep a percentage of a surety for a specific  
 139 period of time to ensure that the work has been correctly done. She urged the board to retain 10%  
 140 of all sureties. Chairman Green stated she contacted Bernie Waugh, who wrote the book on this  
 141 and where he lives they require holding 10% for one year. The Town of Brentwood keeps 10%  
 142 of the surety for two years. Steven Keach stated that a number of towns do this and it is a good  
 143 practice. He stated that this is one of the items that he recommended be changed in the  
 144 subdivision regulations, however, these applications are vested from any change made to the  
 145 regulations. The board cannot require holding 10% of the surety. VOTE ON THE MOTION:  
 146 Donna Green voted against the motion. Ed Mencis, Nelson Rheaume, Steven Meisner, Matt

147 Russell, Ernie Brown and Mark Traeger voted in favor of the motion. MOTION PASSED.

148

149 MOTION: Ed Mencis made a motion to recommend to the Board of Selectmen that they proceed  
150 to formally accept Tammy Lane as a Class V public way in accordance with the provisions of  
151 RSA 674:40-a. Steven Meisner seconded. Voted unanimously in the affirmative.

152

153 ***Glastombury Drive***

154 MOTION: Ed Mencis made a motion to release the surety held for Glastombury  
155 Subdivision/Glastombury Drive (Map 10, Lot 24-1) in the amount of \$205,027.20, leaving a  
156 balance of \$0.00, The Sandown Planning Board hereby accepts a cash deposit (in the form of a  
157 check) for the Glastombury PREA account in the amount of \$7,500.00 (presented to the board by  
158 Robert Villella). A cash deposit (in the form of a check) in the amount of \$67.99 shall be  
159 delivered to the Planning Board office on July 21<sup>st</sup>. The total amount of the PREA is \$7,567.99  
160 and shall be held as surety to complete the remaining improvements (deceleration lane at Route  
161 121A). Ernie Brown seconded. Voted unanimously in the affirmative. MOTION PASSED.

162

163 *Please note: Nelson Rheume left the meeting at 9:12 p.m. The Planning Board took a five*  
164 *minute break returning to session at 9:20 p.m.*

165

- 166 • **Riverbend Estates** - There are ten items remaining on the punch list as a result of the inspection  
167 report dated 07/14/10.

168

169 Ed Mencis stated that half the punch list is now completed and the board should release the surety  
170 since the multitude of the work is done.

171

172 Ernie Brown agreed with Mr. Mencis and stated that Mr. Villella has been straight forward and done  
173 what he says he would do. He stated that 99% of the punch list is complete.

174

175 Town engineer Steven Keach stated that the Board of Selectmen released the \$100,000.00 recreation  
176 surety to Montana Realty Trust. Mr. Keach suggested that until the board receives a satisfactory  
177 letter from the public works director and engineer Steve Chabot, that the board recommend lifting the  
178 building permit embargo on 12 of those building permits.

179

180 MOTION: Matt Russell made a motion to draft a letter to the Board of Selectmen concerning  
181 Riverbend Estates requesting lifting the building permit embargo as soon as all items shown on the  
182 punch list are completed, inspected and verified by the Public works Director and Engineer Steve  
183 Chabot. The letter is to be signed by the Planning Board Chairman and sent to the Selectmen. Ed  
184 Mencis seconded. Voted unanimously in the affirmative. MOTION PASSED.

185

186 **Follow-up on receipt of “as built” plan for Hillside Estates Map 17, Lots 3-22, 3-23 and 3-24**

187

188 Mr. Villella provided the board with an “as built” plan for Hillside Estates.

189

190 MOTION: Fred Daley made a motion that the Hillside Estates Mylar be recorded as soon as possible. Ed  
191 Mencis seconded. Voted unanimously in the affirmative. MOTION PASSED.

192

193 **Continued discussion re: Sarkozy property in Riverbend Estates ( Map 14, Lot 19-70)**  
194 **remediation and discussion of Conditional Use Permit.**

195

196 Mr. Vilella stated that installing the bridge did not require a CUP. He stated he had to go to the  
197 Conservation Commission because Mr. Miller picked up on some violations. Mr. Vilella stated he did  
198 not apply for a CUP because he did not have to.

199  
200 Matt Russell stated that Mr. Vilella is correct in that if the bridge was put up and there was no  
201 disturbance in the wetlands, a CUP would not be required. Mr. Russell stated that Mr. Vilella did not put  
202 up the bridge and did disturb wetlands and is required to get a CUP.

203  
204 Mr. Vilella responded that they have done everything the State required. He added that he would contact  
205 his engineer, Kevin Hatch and inquire about the need for a CUP.

206  
207 Steven Keach stated he has gone through this file and there is no CUP required for the bridge in the  
208 original application. The question is if a CUP should be obtained to protect the wetland. The board  
209 needs to decide because the CUP is a local action only. This has nothing to do with the wetland bureau.  
210 Mr. Keach stated that Mr. Vilella is under order from DES to do the restoration.

211  
212 Mr. Vilella stated this has been on the Planning Board agenda a couple of times. The Board of  
213 Selectmen have made it clear what is to be done on this site and Mr. Vilella stated he intends to complete  
214 the work as ordered. The restoration is done.

215  
216 Steven Keach stated that the cease and desist was issued by the Board of Selectmen. He recommended  
217 that the Planning Board review the language in the cease and desist and see if a CUP is one of the  
218 requirements.

219  
220 MOTION: Matt Russell made a motion to write a letter to the Board of Selectmen reminding them a  
221 CUP is required and that the cease and desist should not be released until a CUP is obtained.  
222 *No second on the motion.*

223  
224 Steven Keach stated that under RSA 676:17, the Planning Board cannot modify the cease and desist  
225 order.

226  
227 Ernie Brown stated that to get a CUP, the applicant has to describe what work will be done. Mr. Brown  
228 asked how Mr. Vilella can describe what he will do when he has already done the work?

229  
230 Steven Keach stated it would have to be an after the fact permit, however, if a CUP is not in the cease and  
231 desist order, the planning board cannot change the ground rules.

232  
233 Board members discussed writing a letter to the Selectmen reminding them that a CUP is required. It was  
234 agreed that the Chairman should check the cease and desist order first to see if it is one of the  
235 requirements.

236  
237 MOTION: Ed Mencis made a motion to write the appropriate letter to the board of Selectmen regarding  
238 the CUP requirement after the Chairman reviews the Cease and Desist order. Mark Traeger seconded.  
239 Donna Green abstained. Edward Mencis, Steven Meisner, Matt Russell, Ernie Brown and Fred Daley  
240 voted in favor of the motion. MOTION PASSED.

241  
242 **Proposed joint meeting with Board of Selectmen**

243  
244 Chairman Green explained that she would like to set up a joint meeting with the Selectmen to review the

245 following items:

246

247 1. Chain of response for enforcement of violations. Mr. Keach stated that enforcement of violations  
248 are the responsibility of the Code Enforcement Officer because he issues the building permits.

249

250 2. Road acceptance standards and policy

251

252 3. MCC Northwoods – Surety problem

253

254 4. Management of Sureties

255

256 MOTION: Mark Traeger made a motion to endorse a joint meeting with the Board of Selectmen to  
257 discuss the items presented by the Chairman.

258 *No second on the motion.*

259

260 Ed Mencis suggested forwarding these items to the Selectmen through our liaison, Nelson Rheaume.

261

262 Steven Keach recommended that the Planning Board request the Selectmen to contact counsel regarding  
263 MCC Northwoods. Road acceptance is done in accordance with RSA 674:40a. Prior to recommending  
264 that a road be accepted, the planning board requires a satisfactory letter from the public works director  
265 and Keach-Nordstrom.

266

267 The board agreed to work on the items with the Selectmen without holding a joint meeting.

268

269 **Review of Revised Letter of Credit provisions from Enterprise Bank for Waterford Estates.**

270

271 **Irrevocable Standby Letter of Credit for Waterford Village from Enterprise Bank** - This LOC from  
272 Enterprise Bank is intended to replace the original LOC from Sovereign Bank. Enterprise Bank has now  
273 included the recommended wording from Mr. Keach.

274

275 MOTION: Matt Russell made a motion to accept the Irrevocable Standby Letter of Credit #18923 from  
276 Enterprise Bank for Ten Powder Realty, LLC (Gary Barnes) (Tax Map 19, Lots 24, 24-2, & 40). The  
277 Enterprise Bank Irrevocable Standby Letter of Credit #18923 shall replace the Sovereign Bank  
278 Irrevocable Standby Letter of Credit #3753 including subsequent amendments. Ed Mencis seconded.  
279 Voted unanimously in the affirmative. MOTION PASSED.

280

281 **Avalon Estates Irrevocable Letter of Credit (#1232) from the Bank of New England in the amount**  
282 **of \$36,724.75-** The board reviewed the LOC from the Bank of New England regarding Avalon Estates.

283

284 MOTION: Matt Russell made a motion to duplicate the wording in this LOC for future sureties. Ed  
285 Mencis seconded. Voted unanimously in the affirmative. MOTION PASSED.

286

287 MOTION: Donna Green made a motion to recommend that the building permit embargo for Avalon  
288 Estates – 10-14-7, 10-14-8, 10-14-10 issued by the Board of Selectmen on May 24<sup>th</sup>, 2010 be lifted. Matt  
289 Russell seconded. Voted unanimously in the affirmative. MOTION PASSED.

290

291

292

293

294 **Other Business:**

295

296 Due to the lateness of the hour, the board agreed to meet on August 3<sup>rd</sup>, 2010.

297

298 **Adjournment**

299 MOTION: Matt Russell made a motion to adjourn. Ed Mencis seconded. Voted unanimously in the  
300 affirmative. MEETING ADJOURNED AT 10:35 p.m.

301

302 Respectfully submitted,

303

304

305

306 Bette Patterson, Administrative Assistant

307