

Sutton Planning Board
January 24, 2011
Minutes

Approved _____

Present: T. Connors, S. Paul, R. Largess, D. Moroney, W. Whittier, J. Anderson
Staff: J. Hager, Planning Director

General Business:

Minutes

Motion: To approve the minutes of 1/10/10, W. Whittier
2nd: J. Anderson
Vote: 6-0-0

Form A Plans - No Form A Plans

Woodburyville Bond Release – J. Hager confirmed that John Magill has paid the bill for the final piece of bonded work, a catch basin and curb repair, and she confirmed with a member of the Condo Association that the work was completed to their satisfaction. There is now no reason to hold up final bond release.

Motion: To release the bond for Woodburyville Heights, R. Largess
2nd: W. Whittier
Vote: 6-0-0

Villas Bond – Planning Director J. Hager explained that the new owner is about to take title to the Villas project. In order for the bank, Middlesex Savings, to feel comfortable with this mortgage, they need to be assured that the Special Permit for the project is still valid and that the Board is supportive of extending the performance deadlines in the surety agreements to allow the new owner a reasonable amount of time to complete each of the remaining phases of the project. A letter was issued confirming that the Special Permit is in effect.

In discussion with Town Counsel, he noted as the Covenant for Phase III runs with the land and is not specific to ownership, the Board may extend the performance deadline in this agreement at any time if they feel it is appropriate. The Tri-Party agreement that the new owner has proposed to secure Phase II is specific to ownership and should be executed with the actual owner.

John Burns of Black Brook Realty, future owner of the project, was present to ask for a five year extension of the Covenant and a three year extension of the Phase II surety in whatever form it may take. He reviewed time frames and agreements with the Condominium Association which demonstrated why he is asking for five years and three years. He stated they anticipate closing on the property by Friday or Monday and will post whatever surety is necessary within 45 days. They would like to work on the units that have three shells up in the meantime.

J. Hager stated she felt it was possible to vote to support or actually allow an extension of the Phase II surety, it just needed to be done carefully to insure that Westchester, who has confirmed they will pay out \$199,000 on the Phase II insurance bond, is not relieved of their responsibility to issue this payment relative to the Board's uncompleted work claim. The Board has every intention of releasing Westchester from their bond and all responsibility for this project once the \$199,000 is paid out, the concern was simply ensuring that establishing surety with the new owner to cover the gap between the Graves estimate of \$324,000+ and the \$199,000 will not affect this pay out.

The Board and those present discussed methods of security and wording at length.

Motion: To extend the Covenant for completion of Phase III to 2/1/2016, R. Largess
2nd: S. Paul
Vote: 6-0-0

Motion: To extend the surety agreement (s) for Phase II to 2/1/2014 in a form approved by Town Counsel contingent on Black Brook taking title to the project and posting said surety agreement by 3/15/11, R. Largess

In response to questions from the Board about why tri-party agreements are now preferred to insurance bonds for surety, J. Hager explained that back in the 1990's when banking regulations were lax it was far easier to establish a bank without the proper backing and insurance, this resulted in many private banks going under and taking tri-party agreements with them, leaving many projects unsecured. It has never been easy to pull an insurance bond, and because of the amount of insured project in foreclosure lately these companies are inundated with financial claims and many are going into receivership. Therefore, with more stringent banking laws, and insurance bonding companies being stretched thin and not always as easy to deal with, it is now preferable to establish tri-party agreements with a local reputable bank.

Charlotte Newton of the Villas Condominium Association was present to express full support for Black Brook taking title to the project and for the Board assisting in getting new surety established so the project can proceed.

2nd: D. Moroney
Vote: 6-0-0

Correspondence/Other:

- Sutton Soccer Club Access – The Board reviewed a letter from the attorney for Sutton Soccer Club a.k.a. the Fuller Hamlets, regarding their location on Pleasant Valley Road. The question was whether the approved interchange project at Route 146 and Boston Road would affect the ability of the Board to grant access to Pleasant Valley Road for a new project should the Club decide to sell this property. J. Hager had consulted with Barry Lorion at MassDOT for their position on this question.

He stated that until the project received funding and becomes “active” the State has no objection to the Town granting access to its own roadways. He did note that any prospective owner should be made aware of the interchange project, and that because of the right of way location in this area, future projects may require an indirect access permit from the State. The Board directed the Planning Director to write a letter to Attorney Sullivan advising him of this information and that the Board would not block access to Pleasant Valley Road strictly because of the approved highway project.

- CMRPC Quarterly Meeting – Bob Largess stated he had attended the CMRPC Quarterly meeting where wind energy was discussed. He stated it was clear from various speakers on the panel that any future projects that expect to receive State funding or assistance need to be green. He reviewed some of the program particularly the thoughts of Mary Riordan, the head mistress at Holy Name, and the fact that she had been far ahead of the curve in Massachusetts when she pursued the wind turbine for her private school.
- Sutton School Project – Knick Nunnemacher from 24 Singletary Ave. asked to speak briefly to commend the Board for their review of the Sutton School Project in the same way other projects are reviewed. He stated the Board should go look at the school now, post snow removal operations, to observe some of the concerns he expressed in his comments during the Board’s public meeting on the project. He stated he feels proud that the Planning Board held the type of session they did, and stated this type of process results in a better project for everybody. J. Hager noted discussion that was initiated at the Board’s meeting resulted in an extensive meeting with site designers to address the concerns that were raised among others.

Motion: To Adjourn, D. Moroney
2nd: W. Whittier
Vote: 6-0-0

Adjourned 8:12 PM