

## **BOROUGH OF OGDENSBURG LAND USE BOARD MINUTES**

**MEETING DATE:**           **October 27, 2015**

**CALL TO ORDER:**           The meeting of the Ogdensburg Land Use Board was called to order at 7:04 PM.

### **PLEDGE OF ALLEGIANCE**

### **STATEMENT OF COMPLIANCE:**

The notice requirement of P.L. 1975, Chapter 231, Sections 4 and 13 have been satisfied with a schedule of all meetings together with the time, location and agenda of same being sent to the NEW JERSEY HERALD and the NEW JERSEY SUNDAY HERALD and posted on the bulletin board at the Borough Hall on January 20, 2014.

- 1..    **ROLL-CALL:**           **Present:** Armstrong, Andrews, Fitzgibbons, Honig, Horuzy, Kibildis, McGuire, Nasisi\*, Rizzo, Telischak  
**Absent:** Ciasullo and Fierro  
**Professionals Present:** Gene Buczynski, Roger Thomas, Esq.  
\*Mr. Nasisi arrived at 7:05 P.M.

### 2.    **APPRECIATION**

Ms. Dolan wasn't feeling well tonight so our presentation will be held at another time.

### 3.    **CHAIRMAN'S AGENDA**

#### a. Appointment of Planner

Chairman Armstrong stated that the Planner, Dave Maski, is no longer at Van Cleef Engineering. Engineer Buczynski confirmed that Mr. Maski has left the firm to be the Director of Planning for Hillsborough. Mr. Buczynski stated that he has a Planner's license and can assist on the applications received. Also, Jim Kyle is available to do any detailed planning such as any ordinances, Master Plan updates and Reexamination Reports.

A motion to appoint Gene Buczynski as the Professional Planner was made by Patrick Fitzgibbons, second by John Kibildis with Armstrong, McGuire, Honig, Telischak, Andrews, Rizzo, Nasisi and Horuzy also in favor.

### 4.    **APPROVAL OF MINUTES:**

A motion to approve the minutes of the June 23, 2015 meeting was made by Patrick Fitzgibbons, second by John Kibildis with Armstrong and Andrews also in favor and McGuire, Honig, Telischak, Rizzo, Nasisi and Horuzy abstaining.

## MEETING MINUTES

October 27, 2015

Page 2.

### 5. ZONING VIOLATIONS

Chairman Armstrong stated that many citizens are complaining about the amount of cars at the Delta gas station, presently there are forty seven (47). Dave Geene has seven (7) and 517 Transmission has six (6). The ordinance was written in 1991 and states in Section 600.B.3.: "No junked motor vehicles or part thereof shall be permitted on the premises of any service station. Moreover, no more than six (6) motor vehicles (other than permitted rental vehicles, if applicable) may be located upon any gas station premises outside of a closed or roofed building for a period of time not to exceed seven (7) days, and providing that the owners of said vehicles are awaiting their repair. Discussion continued regarding all the stations located in town. Mr. Kervatt, in his capacity of Fire Marshall, said that he has not been able to perform an annual fire inspection at the Auto Body shop because it is always closed.

Kevin Kervatt, Zoning Officer, stated that Phyllis had given him the complaint a month ago but he mistakenly thought this was under a Police ordinance and not a Zoning ordinance and turned it over to the Police Dept. I didn't hear back from them but Phyllis said that they went there to see if the vehicles were registered and insured. The Zoning Officer will contact the business owner(s) to address the issues.

Chairman Armstrong remarked that the Delta station is in violation of a number of ordinances: one is the number of cars, running four (4) businesses at one location and the signage is out of sync with a 3 x 4 foot Marlboro sign under the gas price sign. Chairman Armstrong stated that sign pollution can ruin a town and makes the town look cheap.

Mr. Kervatt will send a registered letter to the auto repair shop owner to request compliance to the ordinance within thirty (30) days and work with the owner to comply within a reasonable time frame. Mr. Kervatt will also visit the gas station to determine the scope of activity there. Chairman Armstrong remarked that gas stations aren't permitted in the Borough but are a Conditional Use. The Secretary informed the Board that the gas station owner came into the office last year requesting approval for a convenience store but the real estate taxes were unpaid by the owner of the property. Councilman McGuire stated that the taxes were paid at the tax sale last year.

Chairman Armstrong questioned the status of the guiderail business and recalls approving a site plan years ago. The company was planning to erect a building on the property. Concerns were brought up regarding the outside storage and the junk trucks. At least eight (8) trucks parked on the property and one parked in back of Anthony Nasisi's house with a flat tire. Mr. Kervatt informed the Board that he had spoken to the Tax Assessor regarding this business to determine what the company is paying taxes on. Chairman Armstrong suggested that the Zoning Officer visit the site with regard to the storage and vehicles. Engineer Buczynski will email the documents from his file.

## MEETING MINUTES

October 27, 2015

Page 3.

### 6. COAH

Chairman Armstrong stated that Mr. Buczynski forwarded a report to all of the Board Members from a Consulting Group. Councilman McGuire interjected that this has been discussed at two Council meetings and the Borough will not do anything. The Borough will stay exactly as it is and there are no issues.

Attorney Thomas was asked to bring the Board up to date regarding affordable housing in the State of New Jersey. The Supreme Court has made a decision some time ago that COAH advocated its responsibility. Ultimately, in March, rendered an order in enforcement of builders' rights saying they have to do something. So they took away COAH's responsibility to administer affordable housing in the State of New Jersey. COAH is the Council on Affordable Housing established back in 1985 as the Fair Housing Act in response to the Mount Laurel issue which was based upon a 1974 case and a series of subsequent cases involving litigation regarding a builder's remedy. Builder's remedies are cases whereby a developer comes in and says you don't satisfy a responsibility for low and moderate income housing. We want to build affordable housing in here and the Judge will allow them to put it there. COAH administered that for thirty (30) years and then they stopped.

There are now fifteen (15) Judges around the State who are administering the Affordable Housing Act and there are around 250 towns, maybe 300, have filed at the direction of the Supreme Court, what are described as declaratory judgment actions. They have filed with individual Judges in certain vicinages and the Judge for the Borough is located in Morristown. Most towns have sought a period of immunity from the builder's remedy lawsuits. Some of the Judges have indicated that the towns have only five (5) months of immunity. The deadline for filing a declaratory judgment was July 8<sup>th</sup>. The Fair Share Housing Center in Camden has really been the impetus for all of this. The Center has developed a plan with the builders.

There are two (2) plans out there proposing that in the next ten (10) years 200,000 to 220,000 affordable units are to be built in New Jersey. The League of Municipalities and towns object to that because if those numbers go into play, then there are years 20,000 building permits would need to be issued. There are years over the last ten (10) whereby there hasn't been 20,000 building permits issued in the entire state. A consortium of 230 towns have decided to hire an individual who was a consultant for COAH. His name is Robert W. Burchell and he was preparing a response report which was to be available in September. Unfortunately, in August, Professor Burchell had a stroke and it was obvious that he could not continue with the report. Therefore, the ECounsel Group was hired to utilize the information the Professor acquired to produce a report.

**MEETING MINUTES**

**October 27, 2015**

**Page 4.**

Councilman McGuire spoke about this in two or three meetings during the last six months. Being the fact that we never filed for Round 2 of COAH, any vulnerability doesn't change. Nothing has changed in the last five (5) years or so in the Borough. The Council made the decision not to do anything. The original reports were completely biased towards low income. The number of units they want us to build is insane according to that report. The report wanted Ogdensburg to build thirty (30) affordable units. Nobody wants to build here because there are no sewers, limited septic, and no room to build.

**7. BILLS/VOUCHERS**

A decision was made by the Board Members not to pay dues to the New Jersey Planning Officials for 2016 and save the \$325.00.

Dated 6/30/15 from Dolan & Dolan, Esqs. re: Ogdensburg Donuts	\$139.60
Dated 6/30/15 from Dolan & Dolan, Esqs. re: Cellco Partnership	\$ 94.97
Dated 10/7/15 from Van Cleef Engineering re: Ogdensburg Donuts	\$482.00

A motion to approve the bills and vouchers was made by Patrick Fitzgibbons, second by John Kibildis with Armstrong, also in favor.

**8. OPEN AND CLOSE TO THE PUBLIC**

There being no members from the public, the meeting was closed to the public.

**9. BOARD COMMENTS**

Councilman McGuire stated that the CFO said that one of the questions for Best Practices for funding asks if all Board Members have completed their Financial Disclosures. This must be completed every year and there is a fine if not done.

Mr. Kibildis remarked that the Dunkin' Donuts' sign is okay and he cannot believe the money being put into that establishment and personally sees it as an asset. It should be opening soon.

There was a discussion regarding the hours of operation for the gas station. There should be a resolution or a municipal ordinance.

**10. ADJOURNMENT**

Meeting adjourned at 8:11 P.M.

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Blanche Stuckey

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Date of Approval

Land Use Board Secretary