

**MINUTES OF THE NOVEMBER 27, 2018 PLANNING BOARD MEETING  
BOROUGH HALL, BOROUGH OF HILLSDALE**

MEMBERS PRESENT: E. Lichtstein, E. Alter, Vice Chairwoman J. Miano, F. Franco  
Mayor J. Ruocco, M. Kates, S. Riordan, S. Raymond, D. Burleson  
Chairman M. Giancarlo

MEMBERS ABSENT: Councilman F. Pizzella

EMPLOYEES PRESENT: B. Chewcaskie, Esq., Acting Board Attorney  
C. Statile, P.E., Board Engineer  
C. Chadwick, Deputy Secretary

Chairman Giancarlo called the meeting to order with a reading of the Open Public Meetings Statement at approximately 7:30pm.

OPEN TO PUBLIC (for matters not on the Agenda):

As no one wished to speak, the meeting was closed to the public.

MINUTES:

The *November 20, 2018 Meeting Minutes* were approved by the Board.

INVOICES:

Invoices from *Gittleman, Muhlstock & Chewcaskie* were approved by the Board.

BOARD BUSINESS:

*Completeness Reviews*

The Board continued its discussion from November 20 regarding completeness reviews and their procedure. Board Engineer Statile stated that completeness reviews are required by the Municipal Land Use Law (MLUL) and under that law, 45 days are allowed for reviewing the application and determining if it is complete or incomplete. In his 35 years of serving the Board, Mr. Statile has never had any issues with completeness reviews. He further described the law as it is stated in the MLUL, explaining to the Board that the law defines completeness as being “not qualitative” meaning the reviewer of the application can only look at what the checklist requires and request only those documents from the applicant.

Mr. Statile then reviewed the Hillsdale ordinance and what it states about completeness reviews, explaining to the Board that it states the completeness administrator is the officer who deems an application complete or incomplete. Furthermore, the by-laws state that the Board Secretary, Meredith Kates, is responsible for writing meeting minutes, etc. but in reality the Board’s Deputy Secretary, Caitlin Chadwick, has been completing these tasks. Hence, the Board may want to revise its by-laws to reflect same. Other municipalities have their Board Deputy Secretary deem applications complete, based on whether or not the applicant has submitted everything listed on the checklist.

Chairman Giancarlo stated Board Attorney Nabbie feels that the Board is the only entity who has jurisdiction to deem an application complete or incomplete. Acting Board Attorney Chewcaskie stated both Mr. Statile and Ms. Nabbie are correct however he does not believe it is entirely necessary for the Board to vote on completeness reviews. Mr. Chewcaskie stated the Board can certainly have a third party do a completeness review, and if they want to streamline the process, Mr. Statile can certainly deem the application complete

but the Board may need to revise the ordinance to reflect same. However, if there are waivers from the checklist, that would require a vote from the Board.

Chairman Giancarlo stated he wants a process where the Board has the opportunity to ask the applicant for additional items such as referrals, revised plans, etc. Mr. Statile stated referrals are not part of the checklist for all applications, they are part of the submission process for major site plans, etc. Mr. Statile also suggested that when an application does require referrals, the applicant submit an affidavit which states the applicant made the referral submission 30 days prior to the public hearing. By law, the applicant is required to do this. Mr. Statile also reminded the Board that he always lists in his completeness review letters which items are deficient and references it by the section of the ordinance or land use law.

Ms. Kates asked if it is proper for one Board member to send an email to the Board Engineer asking a question about a pending application. Mr. Chewcaskie responded yes, it is, as long as the entire Board is not included in the email as it would then be considered a “meeting.” Mr. Statile stated he does try to contact the residents when items are missing, which gives them a chance to submit the missing items and be able to be deemed complete and scheduled for a public hearing. Mr. Chewcaskie spoke about situations where an applicant is deemed conditionally complete i.e. an applicant is deemed complete on the “condition” that they submit photographs ten days before the public hearing. Mr. Alter asked who checks to ensure that escrow, taxes, etc. have been paid by an applicant. Mr. Statile responded the Building Department does. Mr. Statile also stated he only requires two sets of all application documents for purposes of completeness review. Once reviewed and deemed complete, the applicant is requested to submit the twelve additional required copies. This helps mitigate the applicant paying for multiple copies of plans when the plan may be deficient by certain items.

Mr. Franco stated he would like to see all applicants submit photographs with their applications. Furthermore, he stated the escrow accounts often become deficient of necessary funds early on in the application process. Mr. Statile concurred with Mr. Franco stating this has been an issue for some time now and he has been requesting for ten years that the Borough increase the required escrow amounts. Mr. Statile also stated he could deem applications incomplete for being deficient in photographs, however he tries to have compassion for the residents as sometimes the architect is the one completing the application on behalf of the resident. Therefore, Mr. Statile stated he tries to not be too harsh on the residents and instead gives them an opportunity to submit the missing items before deeming something “incomplete.” However, there are certainly instances where an applicant and/or their professionals (architect, engineer) are unresponsive after several communication attempts are made, at which point those deficient applications are deemed incomplete. Mr. Burselson stated he believes if the Board were more involved in the completeness review process for applications, it may save time during their public hearings. Ms. Kates requested the Board see a blank application form. Deputy Secretary Chadwick will circulate a copy of same.

### ***2019 Meeting Schedule***

The Board reviewed the proposed meeting schedule for 2019 and saw no immediate issues with any of the meeting dates. However, they decided to wait until after the Mayor and Council meeting schedule has been finalized before approving the Planning Board meeting schedule. Same will be discussed and decided upon at December 13, 2018 meeting.

CONSISTENCY REVIEW

*Ordinance 18-21*

Acting Board Planner Leheny spoke to the review letter which was submitted from Phillips Preiss Grygiel and reviewed the ordinance for consistency with the Master Plan. Ms. Leheny stated Hillsdale is seeking to opt-out of the marijuana legislation, which is something New Jersey does permit for all municipalities. Ms. Leheny concluded the ordinance is not inconsistent with the Borough's Master Plan. It was confirmed that cannabis oils without hallucinogenic effects would be excluded from the ordinance. Mr. Chewcaskie stated this ordinance is not any different from other ordinances he has seen in other municipalities. Furthermore, this is an amendment from the zoning ordinance and does not prohibit a resident from smoking marijuana on their property, on the street, etc.

Ms. Kates stated she is concerned because the ordinance also specifically prohibits the use of medical marijuana which is not a commercial use, it is a medical use. Mr. Chewcaskie stated the sale of medical marijuana would be prohibited, however nothing in the ordinance would prevent a medical doctor from prescribing medical marijuana to a patient. A letter of support was also discussed. There are currently a limited number of licenses for medical marijuana however that number may increase. It was confirmed that marijuana farms are also being prohibited by this ordinance, and the right to farm act does not provide cover for farms in this instance. Mr. Burleson inquired about testing labs and same was discussed.

Mayor Ruocco stated many residents expressed concern to him over the state legislation for marijuana. For many municipalities, if they allow retail of marijuana, the bill also requires they provide a recreational lounge type area as well for customers to use the marijuana they purchased. Many residents do not want the marijuana lounge type areas and are concerned of the effects it would have on the Borough.

Dr. Lichtstein stated this is interesting due to the fact that marijuana is still considered a Class II Controlled Substance on the Federal Drug Schedule and is prohibited by Federal Law; how will these businesses operate. Mr. Chewcaskie concurred with Dr. Lichtstein stating many will be cash businesses due to the Federal Law. Mr. Chewcaskie also stated many attorneys who vote in favor of the legislation would have to worry about their licenses being revoked due to violation of the Federal Law.

Mr. Raymond made a motion to approve the ordinance for consistency with the Master Plan, seconded by Mr. Franco. The Board was polled and the motion passed. The Board authorized Mr. Chewcaskie to write a letter to the governing body stating the Board found the ordinance to not be inconsistent with the Borough's Master Plan.

The meeting was adjourned.

Respectfully submitted,

Caitlin Chadwick  
Deputy Secretary