

**REGULAR MEETING
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

March 16, 2021

The Regular Meeting of the Governing Body of the Borough of Bloomingdale was held via Zoom webinar platform on the above date. Council President, John D'Amato called the meeting to order at 7:00PM.

Council President led the **Salute to the Flag**.

Official Roll Call: (taken by the Borough Clerk)

In Attendance: Councilman John D'Amato
Councilman Richard Dellaripa
Councilman John Graziano
Councilwoman Dawn Hudson
Councilman Drew Juhlin
Councilman Ray Yazdi

Municipal Clerk, Breeanna Calabro
Business Administrator, Michael Sondermeyer
Borough Attorney, Fred Semrau

PUBLIC NOTICE STATEMENT

Councilman D'Amato stated: *In accordance with the Open Public Meetings Act and the Emergency Remote Meeting Protocol for Local Public Bodies, adequate and electronic notice of this remote meeting have been provided by sending notice to the Herald Newspaper and The Star Ledger, posting notice on the Borough website, posting notice on the outside front door & bulletin board of Borough Hall, 101 Hamburg Turnpike, Bloomingdale, NJ 07403, and sending notice to those individuals requesting same.*

Members of the public will be kept on mute during the meeting. While muted, participants will still be able to hear business being conducted. If you would like to speak during the designated public comment portion (& Ordinance Public Hearings if applicable), press 9 on your telephone or the "raise hand" icon on the Zoom app and wait to be recognized by the host, who will unmute you to speak. When you are done commenting, you will be muted again. There is a 5-minute limit on all public comments.

EARLY PUBLIC COMMENT:

Motion was made by HUDSON to open the meeting for public comment; seconded by DELLARIPA and carried on voice vote all voting AYE. Since there was no one who wished to speak, GRAZIANO made a motion to close public comment, second by YAZDI & carried on voice vote all members voting AYE, none were opposed.

REPORTS (PROFESSIONALS, DEPT HEADS, COMMITTEES, LIAISONS, MAYOR):

Councilman Graziano (EDC Liaison/Commissioner): *Provided an update on EDC restaurant punch-card initiative. 'Punches' are earned by dining at any participating restaurants in Bloomingdale. Once '10 punches' are received the participant is entered into a drawing to receive a gift card donated by local business owner.*

Councilman Juhlin (Recreation & Tri-Boro Little League Liaison):

Tri Boro little league will begin to assemble teams. Opening day is scheduled for April 17th, details to come. 2nd ROSE Fund meeting is 3/29 to prepare a report to submit to the Governing Body for the April 6th council meeting.

Councilwoman Hudson (Board of Health Liaison): *provided an update on vaccine eligibility. BOH will continue to meet quarterly*

Business Administrator, Michael Sondermeyer:

- *Budget Committee meeting 3/19*
- *Actively seeking Municipal Alliance Coordinator*
- *DPW – opening fields*

Borough Attorney, Fred Semrau: *attorney office is working with the Borough Tax Office to prepare a list of properties which have a municipal lien; the Borough can proceed with foreclosure process & work to get these properties back on the tax rolls to generate revenue*

Municipal Clerk, Breeanna Calabro: *Red Twig Trail Public Hearing minutes listed on the Consent agenda do not require council approval. Council may review but they will be pulled from the consent agenda*

Council President / Acting Mayor, John D’Amato:

- *Update on field discussion with local youth organizations in the regard to use of fields (scheduling/maintenance/opening & closing/tracking supplies)*
- *CARES funding to be disbursed (ARP) approximately \$700,000 more information to follow*
- *Covid-19 vaccine availability should increase – information will be shared with the public. The Borough is helping residents get appointments for vaccines – residents can call Borough Clerk*

CONSENT AGENDA

(Adoption of Resolutions No. 2021-3.7 – 2021-3.9)

Motion: Ray Yazdi

Second: Rich Dellaripa

Voice Vote: all in favor voting all (AYE); none were opposed

**RESOLUTION NO. 2021-3.7
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

*Accepting, Approving and/or Adopting the Consent Agenda of the
March 16, 2021 Regular Meeting*

WHEREAS, the Borough Council of the Borough of Bloomingdale has determined that to increase efficiency, the Consent Agenda shall be adopted with one resolution, and

NOW THEREFORE BE IT RESOLVED, that the following resolutions, placed on this agenda by consent, require no discussion and the same having been previously reviewed by each Governing Body member, be and are hereby adopted in their entirety by the Council of the Borough of Bloomingdale.

A. Approval of Minutes:

- Executive Session – March 2, 2021
- Regular Meeting – March 2, 2021
- ~~Red Twig Trail Public Hearing – March 4, 2021*~~

B. Approval of Bloomingdale Fire Member: Gavin T. Blane

C. Resolution No. 2021-3.8: TYCO Mutual Aid Agreement (Animal Control)

D. Resolution No. 2021-3.9: TVScreensads Contract (no cost)

**Red Twig Trail minutes provided to the council for review, not approval*

Consent Agenda Resolutions:

**RESOLUTION NO. 2021-3.8
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

RESOLUTION AUTHORIZING THE EXECUTION OF A MUTUAL AID AGREEMENT FOR ANIMAL CONTROL SERVICES WITH TYCO ANIMAL CONTROL

WHEREAS, there is a need for mutual aid assistance for Animal Control services in the case of disaster, fire, flooding, acts of terrorism or any other true emergency in the communities served by Tyco or Bloomingdale; and

WHEREAS, Tyco Animal Control has the ability to provide emergency shelter, equipment and personnel, if available, for animal control services; and

WHEREAS, the Borough of Bloomingdale Animal Control and Tyco Animal Control wish to enter into an mutual aid agreement setting forth the terms and conditions upon which said services will be provided by Tyco Animal Control; and

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the Borough of Bloomingdale, County of Passaic and State of New Jersey, as follows:

A Mutual Aid Agreement by and between the between the Borough of Bloomingdale and Tyco Animal Control for emergency animal control services is hereby approved and the Acting Mayor and Municipal Clerk are authorized to execute said Agreement which is on file in the Office of the Clerk for inspection by the public.

**RESOLUTION NO. 2021-3.9
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

**AUTHORIZING AGREEMENT WITH TVSCREENADS, LLC FOR TV
ADVERTISEMENT**

WHEREAS, TVScreenads, LLC creates a community network, using screens that are placed in ‘Host Locations’ throughout the community to reach the public with effective, digital signage content, providing a community event information vehicle as well as an advertising medium;

WHEREAS, TVScreenads, LLC creates network programming designed to engage viewers with content that includes color, motion, and sound;

WHEREAS, the Borough of Bloomingdale wishes to remain a Host Location;

WHEREAS, there is no cost for any equipment or installation to the Host Location;

NOW, THEREFORE BE IT RESOLVED, that the Governing Body of the Borough of Bloomingdale authorizes the Acting Mayor to sign the agreement, on file with the Municipal Clerk, with TVScreenads, LLC.

PENDING ITEMS

A. Second/Final Reading & Public Hearing:

Ordinance No. 5-2021: AH-1 AFFORDABLE HOUSING OVERLAY ZONE

The Municipal Clerk, Breeanna Calabro, read the Public Notice statement.

Councilwoman HUDSON moved that the Ordinance be read by title; seconded by YAZDI and carried on voice vote – all members present voting AYE

The Municipal Clerk read the following Ordinance by title:

**ORDINANCE NO. 5-2021
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

**AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, COUNTY OF PASSAIC AND
STATE OF NEW JERSEY AMENDING CHAPTER 92, SECTION 61.1 OF THE BOROUGH
CODE KNOWN AS THE "AH-1 AFFORDABLE HOUSING OVERLAY ZONE"**

WHEREAS, the Borough of Bloomingdale recognizes the importance of complying with its Affordable Housing obligation; and

WHEREAS, the Borough established Chapter 92, Section 61.1, known as the "AH-1 Affordable Housing Overlay Zone" in order to establish a realistic opportunity for the development of the site known as the "Meer Tract" which was the subject of a Superior Court Order in the matter of DR Horton Venture v. Borough of Bloomindale and Planning Board of the Borough of Bloomingdale, which pertains to the development of 360 units of which 72 of such units would be designated for affordable housing on approximately 33.81 acres of land; and

WHEREAS, the site has extensive development costs which the Borough has sought to provide an incentive to adjacent, adjoining or existing property owners of the affordable housing site in order to achieve a realistic development opportunity for inclusionary affordable housing in the Borough; and

WHEREAS, site preparation alone may not suffice to mitigate the cost of the development of affordable housing on the premises; and

WHEREAS, the Borough believes that in the event the land development cost were minimized by way of site preparation or alternatively even the donation of a portion of the land or a dramatic reduction in the land cost, it would provide a realistic opportunity for the development of the site.

NOW, THEREFORE, BE IT ORDAINED, by the Acting Mayor and Council of the Borough of Bloomingdale that the Borough Code is hereby amended, specifically Chapter 92, Section 61.1, which is known as the "AH-1 Affordable Housing Overlay Zone" as follows:

SECTION ONE. The Code of the Borough of Bloomingdale is hereby amended to establish the following Section:

Section 92-61.1.

A. Background: It is the purpose and intent of this section to provide for necessary Court ordered Affordable Housing by providing zoning incentives to establish a realistic opportunity to develop such housing.

B. Purpose of AH-1 Affordable Housing Overlay Zone. The AH-1 Affordable Housing Overlay Zone shall provide, after meeting the requirements of such Overlay Zone, for quarry and mining operations due to the presence of resources suitable for mining, but at the same time also recognizes the necessity for appropriate regulation of the excavation of these resources. Accordingly, the permitted uses for property located in the AH-1 Affordable Housing Overlay Zone shall be those set forth in §92-58 entitled M-1-Q Light Industrial and Quarry Zone, subject to the property owner first obtaining site plan approval to insure that such properties shall be operated in a manner that properly and adequately addresses issues of erosion, drainage, and possible dangers associated with steep mining faces, while facilitating the reclamation of the site for ultimate development in a manner consistent with the underlying zoning, upon completion of the quarrying and mining operations.

C. Requirements of AH-1 Affordable Housing Overlay Zone. The AH-1 Affordable Housing Overlay Zone provides for an incentive for the development of the property known as Block 5105 Lot 14.01 (formerly Block 105 Lot 14), commonly referred to as the "Meer Tract" as such incentives benefit the adjacent tract which is Block 5105 Lot 84 commonly referred to as the "Bloomingdale Quarry Tract". In January of 2018, the property known as Block 5105, Lot 14 was subdivided. Block 5105, Lot 14.01 on the Tax Map of the Borough of

Bloomingdale was established as an approximately 33.81 acres of land to be developed for affordable housing. The remaining land was established as Block 5105, Lot 14.02 as the remainder of the tract of land consisting of approximately 146.18 acres of land.

(i) Block 5105, Lot 14.01, commonly known as the “Meer Tract”, consists of approximately 35 acres of vacant land (and officially subdivided as 33.81 acres) which have been Court Ordered and approved for a multi-family inclusionary development containing 360 residential units. Accordingly, approximately 146 acres of land remains on the former portion of Meer Tract known as Block 5105, Lot 14.02. Due to the significant site development cost, and the inability to develop this site for the past ten years, this AH-1 Affordable Housing Overlay Zone provides for contiguous property owners, or the owners of the tract, to the 33.81 acres of inclusionary development to engage in the use of mining and quarrying, providing that, as a prerequisite, the use includes extensive site preparation of the 33.81 acres or a donation of land to the Borough or developer for the purpose of subsidizing the development costs in an expedited manner for the Affordable Housing development of the Meer Tract. Such site preparation, which is defined as extraction and grading, must be in accordance with a commitment to develop the Affordable Housing as to the Meer Tract and the corresponding site preparation must be completed in order to qualify for this AH-1 Affordable Housing Overlay Zone.

(ii) The aforesaid site preparation work shall be the equivalent to the extent of rock extraction and levelling that would have otherwise been required as part of the site preparation work contemplated by the preliminary and final site plan approval granted to D.R. Horton, Inc. – New Jersey and Bloomingdale Joint Venture by the Bloomingdale Planning Board pursuant to its Resolution #618 memorialized on June 19, 2008.

(iii) So long as the owner of the Bloomingdale Quarry Tract, provides site preparation to the approximately 33.81 acres of the Meer Tract property as set forth above, or donation of land as set forth in Section (1) above, to the satisfaction of the Borough Engineer and Borough Council, the remaining portion of this Zone as it pertains to Block 5105, Lot 14.02 shall qualify for this “AH-1 Affordable Housing Overlay Zone” and the zoning district and development standards, except as noted in this Section, §92-58 entitled M-1-Q, Light Industrial and Quarry Zone, shall apply.

D. The AH-1 Affordable Housing Overlay Zone is established as an overlay zone to the AH Affordable Housing Zone.

The AH-1 Affordable Housing Overlay Zone is shown on the Zoning Map which is Block 5105, Lot 14, now known as Block 5105, Lots 14.01 & 14.02. Any development standards not expressly provided in the AH-1 Overlay District shall be governed by the standards in the M-1-Q District. Where there is a conflict between the development standards provided for in the AH-1 Overlay District and the development standards provided for in the underlying zoning district, then the development standards of the AH-1 Affordable Housing Overlay Zone shall apply.

E. Standards Required to Qualify for AH-1 Affordable Housing Overlay Zone Development as it pertains to Block 5105, Lot 14.02.

When a land owner complies with the requirements of this AH-1 Affordable Housing Overlay Zone, the provisions of the M-1-Q, Light industrial and Quarry Zone, Borough Code §92-58 and the provisions contained therein shall apply to land located within this zone subject to the following restrictions or limitations

1. The existing quarry operations provides for shipping and transportation of materials and products to and from the quarry. Such existing hours of operation would remain the same and not eligible for extension until such time that a new access road onto Union Avenue from Wanaque is established whereby vehicles would utilize Union Ave for a short distance before intersecting with entrance ramps for interstate 287.

F. The existing quarry and material processing are buffered by quarry walls to the North, West and South, and to the East Route 287. The AH-1 Affordable Housing Overlay Zone requires that the primary material processing operation must be maintained on property

that is located in the M-1-Q zone and adjacent to the AH-1 Affordable Housing Overlay Zone in order to minimize disturbance and benefit from the present location of the process operations and the existing buffers of a quarry wall on Route 287. This overlay zone shall provide that the property owner may only conduct quarrying and mining operations. The ancillary and support functions shall not generate noise which would be perceptible outside of the quarry. In accordance with a phasing of the project that is marked on the map referenced as Exhibit B with Phase 1, Phase 2 and Phase 3. Quarrying and mining operations may not proceed to a succeeding phase until the quarrying and mining in the preceding phase has been completed. All quarrying and mining is subject to Federal and State laws and regulations, including but not limited to New Jersey Department of Environmental Protection's rules and regulations and notwithstanding anything else referenced in this Ordinance or the Borough's Code, all activity on the site in the AH-1 Affordable Housing Overlay Zone is subject to site plan approval from the Borough Planning Board. The principal structures utilized in the crushing and processing operations shall be located within the Bloomingdale Quarry Tract and may not be located on Block 5105, Lots 14.01 and 14.02.

G. With respect to access as to the AH-1 Affordable Housing Overlay Zone, specifically Block 5105, Lot 14.02, there shall be no access provided with respect to the AH-1 Affordable Housing Overlay Zone except from the adjoining quarrying operation and site. Any other access to the AH-1 Affordable Housing Overlay Zone will only be for the purposes of emergencies and permission by the Borough.

H. Additional Requirements and Regulations in the Event Block 5105, Lot 14.02 Qualifies for the AH-1 Affordable Housing Overlay Zone.

- (1) All quarrying operations shall be subject to the requirements of §92-25, as amended, with the exception that hours of operation shall be governed by the AH-1 Affordable Housing Overlay Zone restrictions only.
- (2) All quarrying operations shall be subject to the requirements of §32-2, as amended, with the exception that (i) hours of operation and (ii) backfill and quarrying operations shall be governed by the AH-1 Affordable Housing Overlay Zone restrictions only.
- (3) Where a proposed use abuts a residential zone boundary line, the set-back for quarrying activity shall be 300 feet which shall be a planted buffer with sufficient height to provide reasonable year-round screening, as approved by the Borough Planning Board.

I. Setbacks and Restrictions:

- (1) This AH-1 Affordable Housing Zone provides that where the boundaries of the properties adjoin or abut a residential zone, reasonable year-round screening, as approved by the Borough Planning Board, will be required where vegetative screening does not exist. An overall 300 foot undisturbed buffer and conservation easement shall be provided for additional screening from adjoining residential districts.
- (2) All quarrying operations must comply with all Federal, State and Local guidelines.
- (3) The access to the quarry operations Block 5105, Lot 14.02 shall be permitted from an adjoining property so long as the contiguous owner consents to such access and which is approved by the Planning Board in the form of a Site Plan Approval. There shall be no other ingress or egress access to the quarry operations except for emergency uses.
- (4) As long as the access to the site, Block 5105, Lot 14.02, is from Union Avenue, Wanaque, the hours of operation of this site shall be:
 - Shipping and transportation are permitted at all hours.
 - Ancillary and support functions, such as material movement within the site and maintenance activities, may operate at all hours.
 - Drilling is permitted between the hours of 7:00 a.m. and 5:00 p.m., not including Saturday, Sunday and legal holidays.
 - Blasting may operate between the hours of 8:00 a.m. and 5:00 p.m., not including Saturday, Sunday and legal holidays.

All operations activity must be in compliance with all noise regulation provisions of N.J.S.A. 13:1G-1 et seq. and N.J.A.C. 7:29-1 et seq.

- (5) An escrow of \$5,000 shall be established on an annual basis to provide for the Borough conducting appropriate and necessary inspections of the operation of the site to confirm compliance and areas of disturbance are in accordance with approvals.

SECTION 2. All ordinances of the Borough of Bloomingdale, which are inconsistent with the provisions of this Ordinance, are hereby repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid, such decision shall not affect the remaining portions of this Ordinance.

SECTION 4. This Ordinance shall take effect immediately upon final passage, approval, and publication as required by law.

Discussion:

Borough Attorney – Fred Semrau: *This ordinance was reviewed by the Planning Board who did make the following recommendations to the council: the use of one acreage measure for the size of Lot 14.01, the Meer Tract, rather than the multiple/approximate measures as introduced. The ordinance is revised for consistency, prior to adoption and will use 33.81 acres throughout the ordinance. Attorney reviewed each section.*

The change in this ordinance is in section C. (iii) which reads: “So long as the owner of the Bloomingdale Quarry Tract, provides site preparation to the approximately 33.81 acres of the Meer Tract property as set forth above, or donation of land as set forth in Section (1) above, to the satisfaction of the Borough Engineer. It is further modified prior to adoption to include “and Borough Council”. The purpose is to obtain the Borough’s affordable housing obligation. Borough attorney explained. Final ordinance will read as follows: “So long as the owner of the Bloomingdale Quarry Tract, provides site preparation to the approximately 33.81 acres of the Meer Tract property as set forth above, or donation of land as set forth in Section (1) above, to the satisfaction of the Borough Engineer and Borough Council, the remaining portion of this Zone as it pertains to Block 5105, Lot 14.02 shall qualify for this “AH-1 Affordable Housing Overlay Zone” and the zoning district and development standards, except as noted in this Section, §92-58 entitled M-1-Q, Light Industrial and Quarry Zone, shall apply.”

Motion to accept recommendations:

DELLARIPA made a motion to accept revising acreage to 33.81 throughout the ordinance and to include ‘and Borough Council in section C. (iii); motion second by YAZDI; motion carried on voice vote – all in favor voting AYE, none were opposed.

Public Hearing:

At this time HUDSON made a motion to open the Public Hearing for comment; seconded by YAZDI and carried on a voice vote all voting AYE.

Linda Huntley – 86 Van Dam Ave, Bloomingdale:

- *Commented Section C. (i) does not mention 72 low/moderate income units (Borough attorney added that is included in the Affordable Housing obligation (360 units) & is part of a court order)*
- *Inquired as to why Section D. states ‘M-1-Q District’ (Borough Attorney commented & provided explanation)*
- *Questioned the \$5,000 escrow listed in the ordinance (Borough Attorney explained an escrow account); suggests the council increase this*

Drew Juhlin, Councilman: *Asked for background on how often inspections are conducted, who conducts them, thoroughness – (D’Amato will get back to Juhlin with this information)*

Since there was no one else who wished to speak GRAZIANO made a motion to close the public hearing; motion was seconded by YAZDI and carried on voice vote all members voting AYE; none were opposed.

Adoption:

HUDSON made motion for adoption; the motion was seconded by DELLARIPA and carried per the following roll call vote: D'AMATO (YES), DELLARIPA (YES), GRAZIANO (YES), HUDSON (YES), JUHLIN (ABSTAIN), YAZDI (YES)

B. Second/Final Reading & Public Hearing:

Ordinance No. 7-2021: Ch. 15 (unsolicited written materials)

The Municipal Clerk, Breeanna Calabro, read the Public Notice statement.

Councilman YAZDI moved that the Ordinance be read by title; seconded by DELLARIPA and carried on voice vote – all members present voting AYE

The Municipal Clerk read the following Ordinance by title:

**ORDINANCE NO 7-2021
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY OF PASSAIC AND STATE OF NEW JERSEY, AMENDING CHAPTER 15 “PROPERTY MAINTENANCE” OF THE CODE OF THE BOROUGH OF BLOOMINGDALE TO ADD A NEW SECTION 15-18 ENTITLED “UNSOLICITED WRITTEN MATERIALS”

WHEREAS, the Borough Code currently sets forth certain requirements and standards related to property maintenance throughout the Borough; and

WHEREAS, Borough Administration has received numerous complaints related to unsolicited written materials received by residents and options for ceasing same; and

WHEREAS, the Borough Ordinance Review Committee has reviewed the Code and the complaints and recommended certain changes be made in order to address the complaints related to such materials;

WHEREAS, the Borough Council has reviewed and accepted the recommended changes as being in the best interest of the Borough.

NOW THEREFORE BE IT ORDAINED, by the Council of the Borough of Bloomingdale, in the County of Passaic, and State of New Jersey, as follows:

SECTION 1. Chapter 15 “Property Maintenance” shall be amended to add a new Section 15-18 entitled “Unsolicited Written Materials” to read as follows:

§15-8 Unsolicited Written Materials.

§15-18.1 Purpose and Intent.

The purpose and intent of this Section is to reduce visual blight, litter, and the migration to public streets or other public property of unsolicited written materials by establishing reasonable and predictable locations for the placement of such materials on the private property to which they are delivered. Placement of such materials in consistent, secure and predictable locations will reduce the visual impact of such materials, reduce the likelihood that such materials will be rendered unreadable or unusable, reduce the likelihood that such materials will become a nuisance, blight or liter on private property and public streets or other public

property, and increase the probability that the intended recipients will find and collect such materials.

§15-18.2 Definitions.

For the purpose of this Section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

- a. *Front Door.* The street-facing entrance(s) to a principal structure. In the event no door faces the street, then any other door of a principal structure nearest the street shall be considered a front door for purposes of this section.
- b. *Person.* An individual, partnership, corporation, limited liability company, association or other legal entity. Person includes the partners or members of a firm, a partnership or an association, and the officers of a corporation.
- c. *Porch.* An exterior appendage to a principal structure leading to a doorway.
- d. *Premises.* A lot, plot or parcel of land including any structures, driveways or other impervious surfaces thereon.
- e. *Principal Structure.* A structure of primary importance on the premises and that contains the primary use associated with the premises.
- f. *Unsolicited Written Materials.* Any written materials delivered to any premises without the express invitation or permission, in writing or otherwise, by the owner, occupant or lessee of such premises.

§15-18.3 Placement of Unsolicited Written Materials.

Unsolicited written materials delivered to premises shall be placed:

- a. On a porch, if one exists, nearest the front door; or
- b. So that such materials are securely attached to the front door; or
- c. Through a door slot on the front door of the principal structure, if one exists, as permitted by the United States Postal Service Domestic Mail Manual, Section 508 Recipient Services, Subsection 3.1.2; or
- d. Where permitted, in a distribution box located on or adjacent to the premises; or
- e. Personally with the owner, occupant and/or lessee of the premises.

§15-18.4 Right to Restrict.

Notwithstanding Subsection 15-18.3 above, an owner, lessee or occupant maintains the right to restrict entry to his or her premises.

§15-18.5 Rebuttable Presumption.

Unsolicited written materials placed at a premises create a rebuttable presumption that the materials were placed at the premises by the owner, agent, manager and/or authorized distributor of the business, product, good, service, message or idea which is being advertised, promoted, endorsed or conveyed in such materials.

§15-18.6 Exclusions.

The provisions of this Section do not apply to the United States Postal Service.

§15-18.7 Premises To Which Delivery is Prohibited

It shall be a violation of this Section when unsolicited print material is intentionally delivered to a private premises after the owner or tenant of said premises has

notified the publisher or the delivery person by certified mail, return receipt requested that delivery shall cease or be suspended for a stated period of time.

§15-18.8 Violations and Limitations.

- a. Any person who places or causes to be placed unsolicited written materials in areas on or adjacent to a premises other than as set forth in Subsection 15-18.3 of this Section shall be responsible for a violation of this Section, classified as a civil offense, and may be enforced by issuance of a summons by the Code Enforcement Official.
- b. A separate violation of this Section occurs each time that unsolicited written materials are placed on, at, or about a separate premises in violation of this Section.
- c. A person shall be liable for a violation of this Section via the person's officer, agent or employee if the person engaged the person's officer, agent or employee to place or to distribute the unsolicited written materials. That a person acted as an officer, agent or employee of another in distributing or placing unsolicited written materials in violation of this Section shall not negate the liability of the person acting as an officer, agent or employee for his or her violation of this Section.
- d. This Section shall not be deemed to have been violated solely based on unsolicited written materials that were placed on, at or about a premises in violation of this Section and that have remained on, at or about a premises in violation of this Section. Only the initial placement of the unsolicited written materials in violation of this Section shall constitute a violation of this Section.

§15-18.9 Penalty.

The penalty for each violation of this Section shall be a maximum of two hundred dollars (\$200.00) per violation.

All other portions of this Chapter remain unchanged.

SECTION 2. All ordinances or parts of ordinances of the Borough of Bloomingdale inconsistent herewith are repealed to the extent of such inconsistency.

SECTION 3. If any section, subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid by any court or competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance.

SECTION 4. This law shall take effect immediately upon final passage, approval and publication as required by law.

Public Hearing:

At this time DELLARIPA made a motion to open the Public Hearing for comment; seconded by GRAZIANO and carried on a voice vote all voting AYE. Since there was no one who wished to speak YAZDI made a motion to close the public hearing; motion was seconded by DELLARIPA and carried on voice vote all members voting AYE; none were opposed.

Adoption:

HUDSON made motion for adoption; the motion was seconded by YAZDI comments followed...

Council Discussion:

DAMATO asked for a motion prior to adoption, to remove 15-18.3 Item D: "Between the exterior front door, if one exists and is unlocked, and the interior front door; or" as in the introduced ordinance. (*Attorney permitted this motion to omit*)

The council opened the meeting back up to Public Hearing for resident comments; no comments were made.

YAZDI made motion for adoption (with Item D omitted); the motion was seconded by DELLARIPA and carried per the following roll call vote: DELLARIPA (YES), GRAZIANO (YES), HUDSON (YES), JUHLIN (YES), YAZDI (YES), D'AMATO (YES)

C. Second/Final Reading & Public Hearing:

Ordinance No. 8-2021: Capital Surplus (PD Body Camera)

The Municipal Clerk, Breeanna Calabro, read the Public Notice statement.

Councilman DELLARIPA moved that the Ordinance be read by title; seconded by YAZDI and carried on voice vote – all members present voting AYE

The Municipal Clerk read the following Ordinance by title:

**ORDINANCE NO 8-2021
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

ORDINANCE APPROPRIATING \$32,000.00 AVAILABLE FROM THE GENERAL CAPITAL SURPLUS FUND TO PROVIDE FOR THE PURCHASE OF BODY CAMERAS FOR THE POLICE DEPARTMENT DESCRIBED HEREIN IN AND BY THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY OF PASSAIC, STATE OF NEW JERSEY

WHEREAS, pursuant to State mandate, in the interest of public safety and the welfare of the Borough of Bloomingdale, its residents and the public in general, the Borough Council finds and determines that a need exists to purchase certain equipment for the Bloomingdale Police Department, specifically body cameras; and

WHEREAS, the Chief of the Bloomingdale Police Department has recommended that the equipment be purchased in order to ensure compliance with the State mandates relating to same; and

BE IT ORDAINED BY THE BOROUGH COUNCIL OF THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY OF PASSAIC, NEW JERSEY AS FOLLOWS:

Section 1. \$32,000.00 is available from the Capital Surplus Fund to provide for the following purposes:

<u>Description of Purpose</u>	<u>Amount</u>
Body Cameras for the Police Department	\$ 32,000.00
TOTAL:	\$ 32,000.00

Section 2. The Borough Council hereby authorizes the purchase of the body cameras for the Bloomingdale Police Department.

Section 3. In accordance with the Local Public Contracts Law, N.J.S.A. 40A:11-1 *et seq.*, the Borough shall purchase body cameras as set forth herein pursuant to competitive bidding, through valid and current State Contracts or through a Cooperative Pricing Council or National Cooperative of which the Borough is a member.

Section 4. The capital budget of the Borough of Bloomingdale is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith.

Section 5. This ordinance shall take effect in accordance with law.

Public Hearing:

At this time HUDSON made a motion to open the Public Hearing for comment; seconded by DELLARIPA and carried on a voice vote all voting AYE. Since there was no one who wished to speak YAZDI made a motion to close the public hearing; motion was seconded by DELLARIPA and carried on voice vote all members voting AYE; none were opposed.

Adoption:

HUDSON made motion for adoption; the motion was seconded by YAZDI and carried per the following roll call vote: GRAZIANO (YES), HUDSON (YES), JUHLIN (YES), YAZDI (YES), D’AMATO (YES), DELLARIPA (YES)

NEW BUSINESS:

A. (Adoption of Resolution No. 2021-3.10)

Motion: Rich Dellaripa

Second: Ray Yazdi

Roll Call: HUDSON (YES), JUHLIN (YES), YAZDI (YES), D’AMATO (YES), DELLARIPA (YES), GRAZIANO (YES)

**RESOLUTION NO. 2021-3.10
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

Authorizing Payment of Municipal Obligations

WHEREAS, the Governing Body (“Governing Body”) of the Borough of Bloomingdale (“Borough”) finds and declares that certain municipal obligations have come due and are now payable; and

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Bloomingdale does hereby authorize payment of said municipal obligations, in accordance with the recommendations of the Chief Financial Officer and the Borough Treasurer, from the following accounts and in the following amounts: **WHEREAS**, the Governing Body further finds and declares that said obligations have been itemized on the annexed schedules, which are hereby deemed part of this Resolution;

<u>BILLS LIST</u>		<u>PREPAID LIST</u>	
CURRENT	1,821,647.50	CURRENT	1,208,165.15
UTILITY	567,689.35	UTILITY	288,725.17
CAPITAL	181,834.50	OPEN SPACE	00.00
UTILITY CAPITAL	9,556.70	TRUST ACCOUNT	23,433.70
TRUST	4,439.47	RECYCLING	00.00
DOG	2,769.20	DOG TRUST	00.00
RECREATION	0.00	UNEMPLOYMENT	519.71 ROSE
FUND	7,204.00	CAPITAL	00.00
RECYCLING	00.00	WATER CAPITAL	00.00
UNEMPLOYMENT	0,000.00	RECREATION	00.00
AFFORDABLE HOUSING	208.20	CAPITAL ASSESSMENT	00.00
TOTAL	2,595,349.32	TOTAL	1,517,843.73

B. (Adoption of Resolution No. 2021-3.11)

Motion: Ray Yazdi

Second: Rich Dellaripa

Discussion: Half of cost will be shared with the Borough of Butler as indicated in the contract

Roll Call: JUHLIN (YES), YAZDI (YES), D’AMATO (YES), DELLARIPA (YES), GRAZIANO (YES), HUDSON (YES)

RESOLUTION NO. 2021-3.11

**OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

**RESOLUTION OF THE BOROUGH OF BLOOMINGDALE, COUNTY OF
PASSAIC AND STATE OF NEW JERSEY AUTHORIZING CHANGE ORDER #3
FOR THE CONTRACT FOR THE MAIN STREET BOOSTER STATION PROJECT
BETWEEN THE BOROUGH OF BLOOMINGDALE AND HUTTON
CONSTRUCTION LLC**

WHEREAS, the Borough of Bloomingdale and Hutton Construction LLC have entered into a contract in the amount of **\$319,069.00** for the Main Street Booster Station Project; and,

WHEREAS, the Borough of Bloomingdale and Hutton Construction LLC previously entered into a change orders #1 & #2 by way of Resolutions No. 2020-7.5 & No. 2020-7.6, respectively, for a total amount of \$35,834.46; and

WHEREAS, it has since been determined by the Engineer, William Ryden of Anderson & Denzler Associates, Inc., that additional changes to this contract are necessary to perform work as follows:

Non-Contract Work Items – Removal of Old Foundation Structures & Underground Piping

	Additional Cost
Change Order #3	\$6,944.81
Total Net Change Order:	\$ 6,944.81
	Percentage Increase: 2.2%

; and

WHEREAS, the original contract amount was \$319,069.00; the amended contract amount based upon Change Order #1, Change Order #2 and Change Order #3 is \$361,848.27 which is 13.4% increase from the original contract amount; and,

WHEREAS, in accordance with N.J.A.C. 5:30-11.3, the change orders have not caused the originally awarded contract price to be exceeded by more than 20 percent; and,

WHEREAS, the Engineer, William Ryden of Anderson & Denzler Associates, Inc., has reviewed the change order and recommended to the Governing Body that it modify its agreement with Hutton Construction LLC, subject to the certification of funds, as a result of the above-referenced changes of condition which have occurred on the project and as detailed in the Borough Engineer's email Memorandum, dated March 3, 2021; and,

WHEREAS, Borough Chief Financial Officer has certified the funds as evidenced in the annexed certification; and,

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Bloomingdale, in the County of Passaic and State of New Jersey, that Change Order #3 is hereby approved in the contract between the Borough of Bloomingdale and Hutton Construction LLC as follows:

Original Contract	\$319,069.00
Change Order #1 + #2	\$ <u>35,834.46</u>
Contract Amount with Prior Changes	\$354,903.46
Change Order #3	\$ 6,944.81
New Contract Total:	\$361,848.27

Increase 13.4%

This Resolution will take effect immediately upon approval and certification of funds.

C. (Adoption of Resolution No. 2021-3.12)

Motion: Ray Yazdi

Second: John Graziano

Roll Call: YAZDI (YES), D'AMATO (YES), DELLARIPA (YES), GRAZIANO (YES), HUDSON (YES), JUHLIN (YES)

**RESOLUTION NO. 2021-3.12
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE
RESOLUTION OF THE BOROUGH OF BLOOMINGDALE, COUNTY OF
PASSAIC AND STATE OF NEW JERSEY AUTHORIZING THE AWARD OF
A CONTRACT FOR THE HAMILTON STREET ROAD, WATER MAIN, AND
SANITARY SEWER IMPROVEMENTS TO REGAL UTILITY SERVICES,
INC.**

WHEREAS by authorization of the Acting Mayor and Borough Council, the Borough Engineer and Municipal Clerk received sealed competitive bids on March 11, 2021 for performance of the Hamilton Street Road, Water Main, And Sanitary Sewer Improvements; and

WHEREAS, nine (9) sealed bids were received, opened, and read on March 11, 2021, in accordance with the bid specifications:

1) Regal Utility Services, Inc.	\$835,986.77
2) Mike Fitzpatrick Contractor Inc.	\$854,611.00
3) Pacific Concrete Construction	\$971,435.79
4) Kulpeska Land Imprv Corp	\$985,095.00
5) Reggio Construction Inc.	\$1,055,200.68
6) Vollers	\$1,094,697.00
7) M.S.P. Construction Corp	\$1,144,348.00
8) Underground Utilities Corp	\$1,1169,502.00
9) The Shauger Group, Inc.	\$1,473,211.00

; and

WHEREAS, said bids have been duly reviewed and analyzed by the Borough Engineer and the Borough Attorney; and

WHEREAS, the Local Public Contracts Law requires that competitive bidding contracts be awarded to the lowest, responsible, responsive bidder; and

WHEREAS, the bid received from Regal Utility Services, Inc. in the total amount of \$835,986.77 has been found to be in proper form and in compliance with the provisions of N.J.S.A. §40A:11-23.5 and the specifications as written; and

WHEREAS, the Chief Financial Officer has certified that sufficient funds are available for this purchase.

NOW, THEREFORE, BE IT RESOLVED that the Borough Council of the Borough of Bloomingdale, in the County of Passaic, and State of New Jersey as follows:

1. The Borough Council hereby awards a contract to Regal Utility Services, Inc., 731 Warwick Turnpike, Hewitt, New Jersey 07421 for the Hamilton Street Road, Water Main, And Sanitary Sewer Improvements in accordance with the bid specifications in the total amount of \$835,986.77.

2. The Acting Mayor and Borough Clerk are hereby authorized and directed to execute a contract with Regal Utility Services, Inc. in accordance with its bid for the Hamilton Street Road, Water Main, And Sanitary Sewer Improvements.

3. The Borough's Chief Financial Officer has certified the availability of funds for this contract.

4. This resolution and contract shall be available for public inspection in the office of the Borough Clerk.

D. (Adoption of Resolution No. 2021-3.13)

Motion: Dawn Hudson

Second: Richard Dellaripa

Roll Call: D'AMATO (YES), DELLARIPA (YES), GRAZIANO (YES), HUDSON (YES), JUHLIN (YES), YAZDI (YES)

**RESOLUTION NO. 2021-3.13
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

Authorizing Award of Contract for Social Media Archiving Services to Archive Social

WHEREAS, the Borough of Bloomingdale has a need for social media archiving services due to the increased exposure of social media OPRA requests and the inability to comply; and

WHEREAS, the Borough Administrator and Public Outreach Committee has reviewed the submitted quote and recommended that said contract be awarded to ArchiveSocial; and

WHEREAS, the Governing Body wishes to award a contract to ArchiveSocial for a total cost of \$2,321.32 from March 22, 2021 through December 31, 2021 as per their proposal dated March 9, 2021; and

WHEREAS, the funds for the contract have been certified by the Chief Financial Officer as evidenced in the annexed Certification of funds; and

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Bloomingdale, in the County of Passaic and State of New Jersey that a contract with ArchiveSocial be awarded as follows:

1. The Borough of Bloomingdale authorizes the Council President and Clerk to execute a contract with ArchiveSocial, P.O. Box 3330, Durham, NC 27702 in an amount not exceed \$2,321.32 as per their proposal dated March 9, 2021; and
2. This contract is not to exceed \$2,321.32 without prior authorization from the Borough Council.
3. If applicable, the Political Contribution Disclosure Form, Business Entity Certification shall be placed on file in the office of the Municipal Clerk;
4. Notice of this action shall be published once in the Borough's official newspaper as required by law; and
5. A copy of this resolution shall be provided to ArchiveSocial for their information and guidance and be on file in the Borough Clerk's office, along with the contract, for public inspection.

BE IT FURTHER RESOLVED that this Resolution shall take effect immediately.

E. Introduction of Ordinance No. 9-2021: Designation of ‘Right-of-Way’ off the Intersection of Birch & Morse Lakes Road as “DUNLEAVY WAY”

Discussion:

This ROW is the entrance/access way to the Morse Lakes Clubhouse. This ordinance comes from a request of the Morse Lakes Property Owners Association in remember of late Mayor Jonathan Dunleavy.

A motion was made by YAZDI to introduce the Ordinance by title; second and final reading/ public hearing will be on April 6, 2021 at 7PM; the motion was seconded by DELLARIPA and carried on the following voice vote: all members voting AYE, in favor.

The Municipal Clerk read by Title:

AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY OF PASSAIC AND STATE OF NEW JERSEY, TO FORMALLY DESIGNATE A RIGHT-OF-WAY OFF OF THE INTERSECTION OF BIRCH AND MORSE LAKES ROAD AS “DUNLEAVY WAY”

F. Discussion: Cannabis Legislation

Governor Phil Murphy recently signed historic adult-use cannabis reform bills into law, legalizing and regulating cannabis use and possession in New Jersey. Bloomingdale needs to take a position by August 21, 2021.

Fred Semrau, Borough Attorney, summarized the following information from NJLM for the council to consider:

Opt-In or Opt-Out Timeline: Municipalities have 180 days (until August 21, 2021) to take action to either prohibit or limit the number of cannabis establishments, distributors, or delivery services; the location, manner, and times of operation, and establishing civil penalties for violation of ordinances. The Borough can also adopt a ‘hybrid’ plan

No Action Result: If municipalities do not take action within 180 days, any class of cannabis establishment or distributor will be permitted to operate in the municipality, and depending on the type of establishment, be considered a permitted use in certain zones.

5-Year Periods: Once a municipality permits cannabis establishment or distributor operations in their community that action remains valid for 5 years. After this 5-year period, a municipality has another 180-day window to prohibit or limit cannabis operations, but this action only applies prospectively. Those who initially opt-out can opt-in at any time.

Local Cannabis Tax: Municipalities can enact by ordinance a local cannabis tax that cannot exceed 2% for cannabis cultivator, manufacturer, and/or retailer; and 1% for wholesalers. The tax percentage is based on the receipts for each sale and is paid directly to the municipality in the manner prescribed by the municipality. Any delinquencies are treated the same as delinquent property taxes. The tax cannot apply to delivery services to consumers or transfers for the purpose of bulk transportation.

Delivery Rights: A municipality cannot prohibit the delivery of cannabis items and related supplies by a delivery service within their jurisdiction.

Civil Rights: When responding to a call related to underage consumption or possession of cannabis or alcohol can be guilty of a crime of official deprivation of civil rights if knowingly violating the provisions of the new law regarding interactions with underage persons.

The council began discussion including various points not limited to: the potential impact on Police Departments, cultivation, potential zoning restrictions, retail/business opportunity with limitations within the Borough, permissible delivery of cannabis, potential ability to handle similar to liquor licenses, seemly more comparable to the sale of tobacco, concerns with the impact on children, legal quantity permitted to possess, lack of highway frontage, how other neighboring towns are handling, convenience stores ability to sell or not, opt in or out, discussion of 'wait and see' approach, considering the residents opinion.

Borough Attorney recommended taking a stance prior to the deadline of the 180 days.

Council comments summarized:

Dawn Hudson – if there are no issues with the Police Department, supports distribution
Drew Juhlin – undecided

Ray Yazdi – opt out for now

John Graziano – supports retail growth opportunity

Rich Dellaripa– Hybrid with zoning restrictions or opt out for now

John D'Amato – no, for cultivation & medicinal; undecided for other

Michael Sondermeyer added 'Bloomingdale' votes to Public Question #1 on the General Election 2020 ballot – 66% were for the legalization of cannabis in NJ; 33% were against the legalization. It was noted it is undetermined the impact of voters, underage the age of 21 who had the ability to vote on the public question as well.

Council will continue discussion in April.

LATE PUBLIC COMMENT

HUDSON opened the meeting to late public comment; seconded by DELLARIPA and carried on voice vote, all in favor voting AYE:

Linda Huntley – 86 Van Dam Avenue, Bloomingdale

made the following inquiries:

- *Will 'Dunleavy Way' become a Borough Street regarding paving, maintenance etc. (as stated in the Ordinance, no)*
- *Suggests the council wait to take a stand on Cannabis legislation for Bloomindale*

Steve Pardalis – 2 High Street, Bloomingdale

(EDC member) made the following inquiries:

- *Regarding the legalization of Cannabis – expressed Bloomingdale council should take this opportunity to generate revenue by directly taxing this product; suggests 'wait & see' method is safe but could be a mistake*

Jennifer Ellis – 160 Pine Tree Road, Bloomingdale

(EDC member) made the following inquiries:

- *Spoke in support of potential business opportunity in Bloomingdale regarding Cannabis; waiting to take a stand could be a mistake. People are waiting to invest in new business ventures. Could be a great ratable*

Since there was no one else who wished to speak YAZDI moved that it be closed; second by DELLARIPA and carried on voice vote all members voting (AYE).

GOVERNING BODY SCHEDULE:

(Zoom Webinars until further notice)

A. Workshop Meeting – April 6, 2021 7PM

B. Regular Meeting – April 20, 2021 7PM

EXECUTIVE SESSION

Discussion: *No action will be taken after Executive Session*

Motion: Dawn Hudson
Second: Ray Yazdi
Voice Vote: all voted AYE, in favor; none were opposed

Entered Closed Session: 8:39PM

**RESOLUTION NO. 2021-3.14
OF THE GOVERNING BODY OF
THE BOROUGH OF BLOOMINGDALE**

MOTION FOR EXECUTIVE SESSION

BE IT RESOLVED by the Council of the Borough of Bloomingdale on the 16th day of March, 2021 that:

- ❖ Prior to the conclusion of this Workshop Meeting, the Governing Body shall meet in Executive Session, from which the public shall be excluded, to discuss matters as permitted pursuant to N.J.S.A. 10:4-12, sub-section (s):
 - () b. (1) Confidential or excluded matters, by express provision of Federal law or State statute or rule of court.
 - () b. (2) A matter in which the release of information would impair a right to receive funds from the Government of the United States.
 - () b. (3) Material the disclosure of which constitutes an unwarranted invasion of individual privacy.
 - () b. (4) A collective bargaining agreement including negotiations.
 - () b. (5) Purchase, lease or acquisition of real property, setting of banking rates or investment of public funds, where it could adversely affect the public interest if disclosed.
 - () b. (6) Tactics and techniques utilized in protecting the safety and property of the public, if disclosure could impair such protection. Investigation of violations of the law.
 - (X) b. (7) Pending or anticipated litigation or contract negotiations other than in subsection b. (4) herein or matters falling within the attorney-client privilege.
 - One matter – Contract Negotiations (Potential Developer)
 - One matter – Attorney/Client (Red Twig Trail Sidewalk Assesment)
 - () b. (8) Personnel matters.
 - () b. (9) Deliberations after a public hearing that may result in penalties.
- ❖ The time when the matter(s) discussed pursuant to Paragraph 1 hereof can be disclosed to the public is as soon as practicable after final resolution of the aforesaid matter(s).

Motion to resume in Open Session: Dawn Hudson
Second: Ray Yazdi
Voice Vote: all voted AYE, in favor; none were opposed
Resumed in Open Session: 9:41PMPM

ADJOURNMENT:

Since there was no further business to be conducted, DELLARIPA moved to adjourn at 9:41PM; seconded by YAZDI and carried on voice vote with all Council Members voting AYE.

Breeanna Calabro, RMC
Municipal Clerk