

March 20, 2012

The Regular Meeting of the Governing Body of the Borough of Bloomingdale was held on the above date in the Council Chambers of the Municipal Building, 101 Hamburg Turnpike. Mayor Dunleavy called the meeting to order at 6:30 p.m.

SALUTE TO THE AMERICAN FLAG

Mayor Dunleavy led the Salute to the Flag.

In Attendance: Mayor: Jonathan Dunleavy

Council Members: Mark Conklin*
John D’Amato
Jo-Ann Pituch
Glenn Schiffman
Linda Shortman
Ray Yazdi

Professionals Present: Municipal Clerk: Jane McCarthy, RMC
Borough Attorney: Fred Semrau, Esq.**
Borough Administrator: Ted Ehrenburg
Borough Auditor: Dieter Lerch

PUBLIC NOTICE STATEMENT

Mayor Dunleavy stated that adequate notice of this meeting was posted in the Bloomingdale Municipal Building and provided to The Suburban Trends; The North Jersey Herald & News; and all other local news media on December 13, 2011 *and amended March 16, 2012.*

MOTION FOR EARLY EXECUTIVE SESSION

Councilman Schiffman offered the following Resolution and moved for its adoption:

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

Authorizing the Convening of an Executive Session

WHEREAS, the Governing Body (“Governing Body”) of the Borough of Bloomingdale (“Borough”) finds and declares that Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the Governing Body is of the opinion that such circumstances presently exist;

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

1. The public shall be excluded from discussion of, and action upon, the hereinafter specified subject matter.
2. The general nature of the subject matter to be discussed is as follows:
3. The general nature of the subject matter to be discussed is as follows:
 - A. Negotiations – One Matter

4. Minutes will be taken.
5. It is anticipated at this time that minutes of the above-referenced subject matter will be made public when it is in order to do so.
6. This Resolution shall take effect immediately.

Councilman Yazdi seconded the motion and it carried on voice vote with all Council Members present voting YES. ABSENT: Councilman Conklin (Entered later)*

**Borough Attorney entered at this time 6:35 p.m.

(At this time, the Mayor and Council went into Executive Session)

RECONVENED

Mayor Dunleavy reconvened the meeting at 7:06 p.m. and noted that no action was taken during the Executive Session.

MOTION TO REMOVE MATTERS FROM AGENDA

Councilwoman Shortman moved to table Item #15K in regard to discussion of resident complaint at 250 Union Avenue until after late Executive Session and #15R is a duplication of an agenda item; seconded by Councilwoman Pituch and carried on voice vote.

Mayor Dunleavy noted that he would like to move #15C the consideration of a place-to-place Liquor License Transfer up on the agenda at this time as the applicant has his attorney present and he would like to make another commitment if possible.

At this time, Edward Martin, Esq. was in attendance on behalf of Cosme Ceron who would like to transfer his inactive liquor license to 125 Hamburg Turnpike (former pizza place). Noted that Mr. Ceron will be the sole proprietor and will be opening a Mexican Restaurant.

Borough Attorney stated that the application for transfer has been reviewed by all the necessary departments and there is no objection to the transfer.

In response to Councilman Schiffman, Mr. Martin stated that the property will be leased at 125 Hamburg Turnpike.

Councilman Schiffman opened the meeting to Public Comment on this liquor license transfer; seconded by Councilman Yazdi and carried on voice vote.

Since there was no one who wished to speak during Public comment, councilman Schiffman moved that it be closed; seconded by Councilman Yazdi and carried on voice vote.

Adoption of Resolution #2012-3.9: Authorization for place-to-place transfer Tres Sombreros

Councilman Schiffman offered the following Resolution and moved for its adoption:

**RESOLUTION #2012-3.9
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

Place to Place Transfer of Liquor License #1601-33-002-005

WHEREAS, an application has been filed for a place-to-place transfer for Plenary Retail Consumption License #16-3-33-002-005, heretofore issued to Cosme Ceron for premises located at 125 Hamburg Turnpike, Bloomingdale, NJ; and

WHEREAS, the submitted application form is complete in all respects, the transfer fees have been paid, and the license has been properly renewed for the current license term;

NOW, THEREFORE, BE IT RESOLVED that the Governing Body of the Borough of Bloomingdale does hereby approve, effective March 20, 2012, the place-to-place transfer of the aforesaid Plenary Retail Consumption License from its former location of 44 Hamburg Turnpike to 125 Hamburg Turnpike, Bloomingdale, NJ and does hereby direct the Municipal Clerk to endorse the license certificate to the new ownership as follows:

“This license, subject to all its terms and conditions, is hereby transferred to premises located at 125 Hamburg Turnpike, Bloomingdale, NJ, and effective March 20, 2012.

Councilman D’Amato seconded the motion and it carried as per the following roll call: Council members: Conklin; D’Amato; Pituch; Schiffman; Shortman and Yazdi all YES.

EARLY PUBLIC COMMENT

Councilman Schiffman moved that the meeting be opened to Early Public Comment; seconded by Councilman D’Amato and carried on voice vote.

Mayor Dunleavy noted there will be a chance for the public to speak in regard to the Budget shortfalls after the Borough Auditors presentation and asked that those comments be held until after his presentation.

Jack Miller, Reeve Avenue, noted he was pleased the Mayor and Council would be passing a resolution this evening in regard to the Charlottes burg Dam.

At this time, Mr. Miller reported on the Flood Mitigation committee meeting and updated the Mayor and Council as to various projects and time frames t he Borough Engineer is working on.

Discussion followed as to Poplar Street and whether that was part of the original bond; Borough Administrator will following up and noted we may have to amend the bond.

Sloan Park permits will be sent in April and hope to get them back in July.

Since there was no one else who wished to speak under Early Public Comment, Councilman Schiffman moved that it be closed; seconded by Councilwoman Pituch and carried on voice vote.

REPORTS FROM THE GOVERNING BODY

ROSE Fund

Councilwoman Shortman stated that she attended the ROSE Fund meeting and thanked the Committee for the job they are doing. The report as to their recommendations is on the agenda.

Planning Board

Councilwoman Shortman stated that the Planning Board hired a new Engineer, Paul Darmofalski, who is also the Borough Engineer.

In response to Councilwoman Shortman, Borough Attorney stated that it is not a conflict for him to do both.

League of Municipalities

Notice from League with Resolution for Restoration of Energy Taxes

Mayor stated that he is on the Tax Force with the League to get the word out on this resolution and asked that the Council support it.

Adoption of Resolution #2012-3.10: Restoration of Energy Taxes

Councilman Yazdi offered the following Resolution and moved for its adoption:

**RESOLUTION #2012-3.10
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

***RESOLUTION CALLING FOR THE RESTORATION OF ENERGY TAXES TO
MUNICIPALITIES***

WHEREAS, taxes on gas and electric utilities were originally collected by the host municipalities to be used for local purposes and to compensate the public for the use of their rights of way; and

WHEREAS, when the State made itself the collection agent for these taxes, it promised to dedicate the proceeds to municipal property tax relief; since, just as municipalities collect property taxes for the benefit of school districts, counties and other entities; the State is supposed to collect Energy Taxes for the benefit of municipal governments; and

WHEREAS, for years, though, State budget makers have diverted funding from Energy Taxes to fund State programs; and instead of being spent on local programs and services and used to offset property taxes, the money has been spent as successive Legislatures and Administrations have seen fit; and

WHEREAS, while the State may need to have the right to over-ride the statutory dedication of these revenues to local governments, in order to deal with emergencies and crises that may occur; current State policy makers should not exercise that right automatically; and

WHEREAS, while that right should be the exception, it has become the rule; and

WHEREAS, by using tactics such as reducing CMPTRA, which is also comprised of revenues that should be returned to municipalities, State Budget makers have been able to continue collecting Energy Taxes, while keeping additional revenue that should have been returned to provide property tax relief; and

WHEREAS, from \$72 million in State Fiscal Year 2005, to \$505 million in State Fiscal Year 2011, the State's diversion of Energy Taxes has continued to grow; and

WHEREAS, in 2008, 2009 and 2010 (SFY 2009, 2010 and 2011), funding for municipal revenue replacement was slashed by about \$26 million in 2008 and \$32 million in 2009, followed by losses of about \$271 million in 2010; and

WHEREAS, the cumulative impact of years of underfunding has left many municipalities with serious needs and burdensome property taxes; and

WHEREAS, local elected officials are in the best position to decide the best use for these resources, which were always intended to fund local programs and services;

NOW THEFORE BE IT RESOLVED, by the Mayor and Governing Body of the Borough of Bloomingdale, that we join with the League of Municipalities in calling for the immediate restoration of funding diverted from Energy Taxes intended for local use; and

BE IT FURTHER RESOLVED, that we, respectfully, call on State policy makers to end the diversion of our municipal resources to cover State spending and to provide us with this important tool to relieve the worst-in-the-nation property tax burden borne, for too long, by the people of New Jersey; and

BE IT FINALLY RESOLVED that copies of this Resolution are forwarded to the Governor of the State of New Jersey, our State Legislators and the League of Municipalities.

Councilwoman Shortman seconded the motion, and it carried as per the following roll call: Council members: D'Amato; Pituch; Schiffman; Shortman; Yazdi and Conklin all YES.

League Seminar on "Conflict Resolution during the Shared Service Process"

Mayor stated that he will be attending this and ask that someone join him.

PROFESSIONAL REPORTS

Borough Attorney

Borough Attorney reported on new legislation "Blue Acres" which provides and opportunity to put in your Open Space Trust Fund money for prevention of further flood problems; it does not require a referendum; he will review our referendum question and report back.

DEPARTMENT REPORTS

Property Maintenance report was copied to everyone.

PRESENTATIONS

At this time, the Borough Auditor was in attendance to discuss the budget.

Councilman Yazdi gave a PowerPoint presentation of the budget and how we arrived at where we are at this point.

Borough Auditor handed out a chart in regard to the budget and noted that the Borough of Bloomingdale has been structurally unbalanced for a number of years, spending more than it takes in and gave examples in 2008, 2009 and 2011 where there was a shortfall and it will be \$164,000.

Noted that we are \$86,000 less in court fines, there were more tax appeals and you will not have any surplus to use in the 2012 budget; 2010 was the only year the Borough was structurally balanced.

Borough Auditor discussed the 2% CAP and a statutory obligation to present the budget for the residents that will be within the 2% CAP laws. He stated that he is not aware of any budget being presented for this year and cannot tell you at this point if there is a gap.

Mayor Dunleavy stated that the town was presented with a budget two years ago with \$584,000 shortfall and noted that the Auditor is not willing to answer whether the town has serious problems.

Auditor spoke of a major development that is being undertaken and he can assure you that there will be a significant amount of fees generated.

Mayor and Borough Auditor did not agree with the shortfall number; Borough Auditor stated that the budget was not overexpended and the Mayor stated there is a \$77,000 that remains unexpended.

Mayor stated there is \$6,013.13 available in the budget with \$40,000 for legal and \$8,900 sick pay.

Borough Auditor stated that based on reports provided by the Chief Financial Officer, there is \$77,000 available. All obligations should be accrued and encumbered by December 31.

Borough Auditor stated that he only received the audit report two weeks ago and it is due by July 1.

Discussion followed and Mayor asked if the slide which shows the auditor signing off was his and he noted that his notes are not an official document; this was for a transfer.

In response to the Mayor as to a resume which was submitted for the Chief Financial Officer's position and whether the person was related to one of Mr. Lerch's employees, he noted that they do not give a recommendation just offer the job opportunity.

At this time, Mayor Dunleavy opened the meeting up to the public in regard to discussion on the budget presentation.

Dawn Hudson, 12 Walnut Street, asked about the budget cuts, i.e. social security, flooding, sick time and revaluation and it was noted that they were all authorized under state legislation. They were in accordance with state statute.

It was noted that the Chief Financial Officer on numerous occasions stated that we were going to be \$24,000 short.

Al Miller, 7 Mary Street, noted that we are starting the year \$635,000 in the hole, with this year's budget it he understands correctly.

John Darcey, 87 South Road, stated that the Police Chief had asked last year to hire a new officer since they were short and the traffic patrol had to be cut; tax appeals are a real number.

Mr. Darcey stated that at a prior meeting the Auditor said there would neither a shortfall nor any overexpenditures; the Chief Financial Officer had given all the warnings but was ignored.

Councilwoman Shortman stated that none of the solutions had costs to them.

Linda Huntley, 86 Van Dam Avenue, noted that the budget was developed by the Borough Administrator and Chief Financial Officer; initial budget was \$900,000 short; of course we were going to cut it.

There is a difference of being over CAP because of new requests in 2012 and we have a problem walking into 2012. Our entire surplus has been used.

Wendy Connolly, Lake Iosco, discussed the reduction in court fines and noted that each officer can bring in \$150,000. Mismanagement is the problem.

Carolyn Bross, 87 Wood Place, stated that what is really scary is "you people do not recognize it". Mr. Yazdi's presentation was not to put the blame on anyone; it is to show there is a problem and agree on solutions.

Jack Miller, Reeve Avenue, stated that you must leave your egos at the door and work together and he takes offense on the way you are speaking to the people.

Mayor stated we are on the bottom of the list because we are stagnant; shared services in his opinion are the only way to go.

Sheldon Bross, 87 Wood Place, noted that he previously came before the council complaining about the legal fees; we spent \$120,000 more than the prior year.

The Mayor had some ideas about shared services and an impound yard which were ignored; you should work with a committee and come back with ideas to the Governing Body.

Jen Alfield, 12 Cedar Street, thanked Councilmen Yazdi and the Mayor for taking the time to explain what is going on; stated that the budget was given to the Borough Administrator and Chief Financial Officer and they were told to have one done within 48 hours. We need shared services agreements and are the recipients of them.

Since there was no one else who wished to speak under Public Comment, councilwoman Pituch moved that it be closed; seconded by Councilman Schiffman and carried on voice vote.

Mayor Dunleavy thanked the Borough Auditor for attending the meeting at this time.

The Mayor and Council took a break at this time.

RECONVENED

Mayor Dunleavy reconvened the meeting at 9:13 p.m.

APPROVAL OF CONSENT AGENDA

Councilman Schiffman moved that the following Consent Agenda be approved:

- A. Approval of Minutes for: Reorganization Meeting January 3, 2012;
Regular Meeting January 24, 2012; Work Session February 7, 2012;
Regular Meeting February 21, 2012; Work Session March 6, 2012
- B. Informational Items List – February 2012
- C. Application for Membership in Bloomingdale Fire Department:
Jordan D. Naranjo; Hook & Ladder Company and Edward J. Outwater; Chemical Company

Councilman Yazdi seconded the motion, and it carried on voice vote with all Council Members voting YES and Councilwoman Shortman voting YES but abstaining from the February 7, 2012 minutes.

PENDING BUSINESS

Discussion in regard to bills for former Borough Attorney

Councilman Yazdi already presented the number of bills on his presentation; we received another billing for March 9 and March 12; total \$40,000 plus. He asked what the direction is going forward on paying them; we can either fund it entirely in the budget or reach out to see if we can pay it over time.

This should be discussed at the next regular meeting and defer until we see where the budget process is.

Borough Administrator will review the bills.

Discussion in regard to February meeting with Borough Auditor

Mayor Dunleavy asked the Borough Auditor about a meeting that was held in February which he was not aware of and asked who was in attendance.

Borough Auditor stated it is company policy not to disclose; no public meeting was held. I do not comment on them as it is not your business.

Mayor asked if it was a meeting of the Budget committee; and noted there was an invoice for \$1,896 for that meeting to which the Auditor stated that fee is waived as is these evenings; there was no quorum and stated he will not answer these questions.

Discussion in regard to Borough Auditor proposal

At this time discussion followed in regard to proposals received for Borough Auditor; in response to Mayor Dunleavy, Borough Auditor Dieter Lerch chose to stay.

Mayor noted that we have various proposals and Mr. Lerch's was \$33,000 and Samuel Klien was \$28,000; there was one other in the same amount.

Mayor Dunleavy stated he is support Samuel Klien; noted that he felt the Borough Auditor was part of last year's budget. Finance Department gave recommendations as to how to deal with the shortfalls and they were ignored.

Borough Auditor stated that he is not responsible for preparing the budget. Any comments he gave were based on the Finance Department; that person should be held responsible.

At this time, the Borough Attorney cautioned any discussion about a specific individual without given a RICE notice.

Borough Auditor stated that an Audit is required six months by the end of the year. Our firm will deliver it timely. Noted that he has copies of all the reports from the Finance Department.

Mayor asked the Borough Auditor if he made a statement to “put the unpaid bills in a drawer”; he stated that you cannot pay any bill without an appropriation.

The conversation we had was we did not overspend, we were over-committed and if we did not have the money, we will have to put them in the drawers until we solve the problem.

Mayor Dunleavy also noted that Councilman Schiffman had previously stated on the record that he would not support the Auditor if the numbers turned out that we had a shortfall.

Adoption of Resolution #2012-3.11: Authorization to Hire Borough Auditor

Councilwoman Pituch offered the following Resolution and moved for its adoption:

BOROUGH OF BLOOMINGDALE

Passaic County, New Jersey

RESOLUTION 2012-3.11

**A RESOLUTION OF THE BOROUGH OF BLOOMINGDALE,
COUNTY OF PASSAIC AND STATE OF NEW JERSEY,
AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICE
CONTRACT FOR THE POSITION OF BOROUGH AUDITOR
PURSUANT TO A FAIR AND OPEN PROCESS**

WHEREAS, the Borough of Bloomingdale has a need to appoint a Borough Auditor pursuant to a professional services contract, awarded through a “fair and open process” per the provisions of *N.J.S.A. 1944A-20.4 et seq.*; and

WHEREAS, the Local Public Contracts Law (N.J.S.A. 40A:11-1, et seq.) requires that the resolution authorizing the award of contracts for Professional Services pursuant to a “fair and open process,” and the contract itself, must be made available for public inspection; and

WHEREAS, the term of a contract for this service is one year from January 1, 2012 through December 31, 2012; and

WHEREAS, Dieter P. Lerch, CPA, RMA. will provide accounting services as sought by the Borough of Bloomingdale at the annual compensation not to exceed \$33,000.00; and

WHEREAS, Dieter P. Lerch, CPA, RMA. has completed and submitted a Business Entity Disclosure Certification which certifies that the firm has not made any reportable contributions to a political or candidate committee in the Borough of Bloomingdale with the

elected officials in the previous one year, and that the contract will prohibit the firm of Lerch, Vinci and Higgins from making any reportable contributions through the term of the contract.

WHEREAS, the Chief Financial Officer has certified as to the availability of funds pursuant to N.J.A.C 5:30-5.4.

NOW THEREFORE, BE IT RESOLVED that the Mayor and Borough Council of the Borough of Bloomingdale, County of Passaic, State of New Jersey authorizes the Mayor and the Municipal Clerk to enter into a contract with Dieter P. Lerch, CMA, RMA of Lerch, Vinci and Higgins, LLC as described herein to the satisfaction of the Mayor and Council; and

BE IT FURTHER RESOLVED that the contract, resolution and all other pertinent documents shall remain on file in the officer of the Municipal Clerk; and

BE IT FURTHER RESOLVED that a notice of this action shall be printed once in the Borough's legal newspaper.

Councilman Schiffman seconded the motion.

Councilwoman Shortman stated she support Mr. Lerch because she believes he is more qualified and she does have personal experience with the other Auditors t hat were here and felt that t he low bid doesn't always mean more qualified.

Councilman D'Amato asked if we ever had any discussions that the other Auditor did not do a good job; Councilwoman Shortman stated she is not comfortable with that person. He was the Auditor since 2000.

The motion carried as per the following roll call: Council Members: Schiffman, YES; Shortman, YES; Yazdi, NO; Conklin, YES; D'Amato, NO and Pituch, YES.

Discussion in regard to hiring Chief Financial Officer

Councilwoman Shortman stated that she gave the borough Administrator a resume for a Chief financial Officer from our Borough Auditor as I asked if he was aware of anyone who might be interested. The name is Leonard Nicollosi and he would do three days a week for \$25,000/year.

Discussion in regard to getting request for proposals.

Borough Administrator will run an ad in the League of Municipalities and put down parameters and have a date to submit to the Municipal Clerk and/or Administrator.

Councilwoman Shortman moved that the Borough Administrator be authorized to prepare an ad in the League of Municipalities magazine requesting resumes and proposals; seconded by Councilman Schiffman and carried as per the following roll call: Council members: Shortman; Yazdi; Conklin; D'Amato; Pituch and Schiffman all YES.

Hiring of Assistant in Finance Department

Mayor stated that he will table this until we get the Chief Financial Officer ad running; looking at someone with a bookkeeping background. This will be discussed administratively.

Update on archiving

This is a budgetary matter.

Goal Setting and Revenue Ideas for 2012

This will stay on the agenda.

Update on First Street and Azzolino

Borough Administrator will get information to the Borough Attorney to review.

Adoption of Resolution #2012-3.12: Charlottesburg Dam

Councilman Schiffman offered the following Resolution and moved for its adoption:

RESOLUTION #2012-3.12
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE

***A RESOLUTION OF THE BOROUGH OF BLOOMINGDALE URGING
THE NEW JERSEY DEPARTMENT OF ENVIRONMENTAL
PROTECTION TO PROVIDE CRITICAL FUNDING ON AN
EMERGENT BASIS FOR THE REPAIR OF THE BASCULE FLOOD
GATES AT THE CHARLOTTEBURG DAM TO PROTECT THE
RESIDENTS OF BLOOMINGDALE, BUTLER, RIVERDALE,
PEQUANNOCK AND POMPTON LAKES***

WHEREAS, the Borough of Bloomingdale and its surrounding areas experience significant flooding problems; and

WHEREAS, the Bloomingdale Flood Mitigation Committee has consulted with the Pequannock River Coalition to explore ways of reducing flooding in Northern Passaic County, including Bloomingdale; and

WHEREAS, the Charlottesburg Reservoir, which is owned by the City of Newark, contains Bascule flood gates which were originally intended to increase the storage capacity for the Charlottesburg Reservoir water supply; and

WHEREAS, the Borough has been advised that due to their non-functional status, and at the request of the New Jersey Department of Environmental Protection (the "NJDEP"), the said flood gates have not been operated for a period of nine (9) years; and

WHEREAS, studies have shown that if the said flood gates were operational they could retain up to one-half billion gallons of water during critical flood periods, thereby mitigating some of the flooding issues in Bloomingdale, Butler, Riverdale, Pequannock and Pompton Lakes as well as, to some extent, the Passaic River Basin; and

WHEREAS, the additional storage of 500 million gallons of water is equivalent to 77% of the daily flood stage flow in Bloomingdale or almost a 20% reduction in flood water over a four-day period; and

WHEREAS, in view of the inherent dangers, property damage, and destruction that has been caused by flooding in Bloomingdale and its surrounding areas over the past few years, it is critical that immediate action be taken by the NJDEP to answer repeated cries for assistance and mitigate the extensive flooding problems in Northern New Jersey, including Northern Passaic County where Bloomingdale is located; and

WHEREAS, although the cost to repair the said flood gates is estimated to range from \$500,000 to \$1,000,000, such efforts would help in the reduction of flooding that causes millions, and potentially billions, of dollars in property damage and destruction on a consistent basis, and would also help in ameliorating the emotional damages suffered by New Jersey residents and caused by flooding over the years; and

WHEREAS, although a more permanent solution by the Federal Government and the State of New Jersey to the recurring flooding in Bloomingdale and its surrounding areas is needed, the repair of the Charlottesville Dam is a first step that can provide immediate relief to many long-suffering residents.

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

1. That the Borough of Bloomingdale urges the New Jersey Department of Environmental Protection to evaluate and identify the Bascule Flood Gates at Charlottesville Dam as a critical point in area-wide flooding problems, and their repair as a first step in an emergent plan to provide assistance and relief to the residents of Bloomingdale from such recurring flooding issues;
2. That the Borough of Bloomingdale and the surrounding communities that have been devastated by area-wide flooding urge the New Jersey Department of Environmental Protection to provide sufficient funding for the taking of critical steps to protect the citizens of Northern Passaic County from further damage; and
3. That the Borough of Bloomingdale supports the taking of all necessary action to encourage the New Jersey Department of Environmental Protection to obtain

sufficient funding for the repair of the Charlottesville Dam and the non-operating Bascule Flood Gates.

BE IT FURTHER RESOLVED that a copy of this Resolution be provided to the Pequannock River Coalition, the municipalities of Butler, Riverdale, Pequannock and Pompton Lakes, our State Legislators and the Honorable Christopher Christie, Governor of the State of New Jersey.

Councilwoman Pituch seconded the motion, and it carried as per the following roll call: Council Members: Yazdi; Conklin; D'Amato; Pituch; Schiffman and Shortman all YES.

Status of FEMA money from Halloween storm

Mayor noted that we have just submitted the final paperwork for reimbursement; Borough Engineer and Mayor met with Kimberly Masi of FEMA and met the deadline for submittal. We do not know when we will receive reimbursement. Mayor feels we are still owed \$100,000.

Update on Passaic County Nutrition Lease

Borough Administrator spoke to woman in charge at the County who stated she did not think they would be inclined to an increase in payment.

Consensus is that it has been eight years and our bills have risen; we should negotiate some sort of increase.

Noted we do own the equipment now.

Update on foreclosure of municipal liens

Borough Attorney is working on this; he will update at the next meeting.

Update on drainage at Walter T. Bergen School

The bid opening will be in week or so; we will wait until the bids are received and then decide on the scope.

Update of Field Maintenance Equipment

Noted that DPW Superintendent had provided the costs for equipment; \$25,000 for equipment and a man to get it done, landscape trailer and mowers.

Pesticide Licenses

Noted that the test is in a week; this is just for spraying; they cannot go towards schools, etc. Councilwoman Pituch would like to see what courses they took.

NEW BUSINESS

Adoption of Resolution #2012-3.13: Payment of Bills

Councilmen Yazdi and D'Amato noted they will recuse themselves from voting on paying coaching salary for their sons.

Borough Administrator will get answers to a few questions on the bills list.

Councilman Yazdi offered the following Resolution and moved for its adoption:

**RESOLUTION - #2012 -3.
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

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;

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:

BILLS LIST		PREPAID LIST	
CURRENT	1,313,565.51	CURRENT	747,179.99
UTILITY	79,722.88	UTILITY	258,101.64
CAPITAL	40,126.09	UNEMPLOY	370.24
UTILITY CAPITAL	230.00	RECYCLING	1,199.27
TRUST	2,492.11	CAPITAL	000.00
DOG	4,021.12	TRUST	00,000.00
RECREATION	4,590.70	SPEC. ASSESS.	0,000.00
UNEMPLOYMENT	000.00	RECREATION	000.00
ROSE FUND	6,486.00	UTILITY CAP	000.00
RECYCLING	3,708.10	DOG	753.01
TOTAL	1,454,942.51	TOTAL	1,007,604.15

Councilman Schiffman seconded the motion and it carried as per the following roll call: Council Members: Conklin; D’Amato; Pituch; Schiffman; Shortman and Yazdi all YES with Councilmen Yazdi and D’Amato recused from voting on bills for their sons.

Reconsider appointment of Brown & Brown as Risk Manager

Mayor Dunleavy stated he would like to rescind the appointment of Brown & Brown as Risk Manager as their credibility is in question.

Borough Attorney stated that those who voted against the motion to appoint may bring forth a motion to rescind.

Councilman D’Amato moved to rescind the appointment of Brown & Brown as Risk Manager; seconded by Councilman Yazdi and it DID NOT CARRY as per the following roll call: Council Members: D’Amato, YES; Pituch, NO; Schiffman, NO; Shortman, NO; Yazdi, YES and Conklin, NO.

Since this is not longer a matter of confidentiality y per Borough Attorney but certain elements cannot be discussed, Mayor Dunleavy informed the public that there was an issue discussed in Executive Session that pertains to insurance certificates. He received a memo about the topic which was discussed in Executive Session. There is an apparent leak in Executive Session and that member went to the Insurance Carrier that resulted in the Mayor getting a directive and he felt they should be removed for doing so.

Councilwoman Shortman stated she resents the statement that it was a leak; there are circumstances in this matter t hat preclude that from becoming a fact.

Authorization to close Hamburg turnpike for Little League Parade

Councilman Yazdi moved that Hamburg Turnpike be closed as per recommendation of the Police Chief for the Little League parade; seconded by Councilman D’Amato and carried as per

the following roll call: council Members: Pituch; Schiffman; Shortman; Yazdi; Conklin and D'Amato all YES.

Adoption of Resolution #2012-3.14: Tax Title Lien Certificate #10-00016

Councilman Schiffman offered the following Resolution and moved for its adoption:

**RESOLUTION #2012 -3.14
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

Authorizing Redemption and Cancellation of Tax Title Lien Certificate #10-00016

WHEREAS, the Governing Body ("Governing Body") of the Borough of Bloomingdale ("Borough") finds and declares that, at the Borough Tax Sale held on February 3, 2011, a lien was sold on, 49 TREETOP COURT, BLOOMINGDALE, for delinquent year 2010 electric, and

WHEREAS, the Governing Body further finds and declares that the foregoing property is also known as Block 6, Lot 15, Qual C0049 owned by Rein & Karen Schaper; and

WHEREAS, the Governing Body further finds and declares that the foregoing lien is known as Tax Title Lien Certificate (TTL) # 10-00016, which was sold to US BANK CUST FOR PRO CAPITAL I, LLC at 7 percent; and

WHEREAS, the Governing Body further finds and declares that the owners Rein & Karen Schaper, have requested redemption of TTL # 10-00016, and

WHEREAS, the Governing Body further finds and declares that Rein & Karen Schaper, have paid all monies due on TTL #10-00016, including supporting affidavits from the lien holder and current taxes, to the Borough of Bloomingdale;

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Borough of Bloomingdale that the Borough Treasurer be and is hereby authorized to issue checks in the amount of \$ 1,724.63 for the lien redemption, payable to US BANK CUST FOR PRO CAPITAL I, LLC, 50 SOUTH 16TH STREET, SUITE 1950, PHILADELPHIA, PA 19102 for the redemption and cancellation of Tax Title Lien Certificate # 10-00016.

Councilman Dunleavy seconded the motion, and it carried as per the following roll call: council members: Schiffman; Shortman; Yazdi; Conklin; D'Amato and Pituch all YES.

Resignation with regret of Michael Naipawer as member of ROSW Fund

Councilman Yazdi moved to accept the resignation of Michael Naipawer as a member of the ROSE Fund with regret; seconded by Councilwoman Shortman and carried as per the following roll call: council members: Shortman; Yazdi; Conklin; D'Amato; Pituch and Schiffman all YES.

Discussion in regard to establishing Recycling Yard on First Street

Councilman Yazdi moved that the Borough Administrator is authorized to finalize the costs, etc. to establish a recycling yard on First Street; seconded by Councilwoman Shortman and carried as per the following roll call: council Members: Yazdi, Conklin; D'Amato; Pituch; Schiffman and Shortman all YES.

Adoption of Resolution #2012-3.15: Overpayments in Tax Office

Councilman Yazdi offered the following Resolution and moved for its adoption:

**RESOLUTION #2012-3.15
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

Authorizing Overpayments in Tax Office

WHEREAS, the Governing Body (“Governing Body”) of the Borough of Bloomingdale (“Borough”) finds and declares that Corelogic, homeowner’s mortgage company, paid the 1st quarter 2012 in full on Block 92, Lot 67, a duplicate payment was made by the homeowner’s Thomas & Marcella Fox. The homeowner has requested a refund of overpayment in the amount of \$2,257.73.

NOW, THEREFORE, BE IT RESOLVED, that the Treasurer be authorized to issue refund check to the following:

Thomas & Marcella Fox
Address: 5 Mathews Drive
Bloomingdale, NJ 07403

Refund Amount: \$2,257.73

Councilman Schiffman seconded the motion, and it carried as per the following roll call: council Members: Conklin; D’Amato; Pituch; Schiffman; Shortman and Yazdi all YES.

White Collar Contract Negotiations

Mayor and the Borough Administrator are the only ones who can negotiate; Borough Administrator will contact the Union to commence negotiations.

RICE Notices and Furloughs

Councilwoman Shortman stated that this item is just a discussion as to whether you want to notice the employees; the intent is not to do this but if it does come about, we want to get discussions started as to how to proceed.

Borough Attorney stated that any employee who may be affected by it would receive notice that you are going to have discussions about it. No action will be done this evening; they would need 48 hours notice and you will notify the Unions.

Discussion in regard to 250 Union Avenue Resident Complaint

This will be discussed in Executive Session.

Adoption of Resolution #2012-3.16: Award of contract for desilting and desnagging

Councilman Schiffman offered the following Resolution and moved for its adoption:

RESOLUTION #2012-3.16

**BOROUGH OF BLOOMINGDALE
COUNTY OF PASSAIC
STATE OF NEW JERSEY**

WHEREAS, the Borough of Bloomingdale has previously solicited bids for the “Equipment & Labor for Desnagging & Desilting Various Waterways” (“Project”) pursuant to and in conformance with the Local Public Contracts Law, N.J.S.A. 40A:11-1, et seq.; and

WHEREAS, on March 15, 2012, 7 bids were received for the Project; and

WHEREAS, the lowest responsible bidder is Kulpeksa Land Improvement Corporation, with a bid total of \$64,556.00 (“Bid”); and

WHEREAS, the Borough Engineer has recommended awarding the contract for the Project to Kulpeksa Land Improvement Corporation based on Kulpeksa's Bid and the documents submitted therewith; and

WHEREAS, the Borough Attorney has reviewed and approved the bid package submitted by Kulpeksa Land Improvement Corp. for compliance with the bid specifications and the Local Public Contracts Law *subject to the defects being outlined by the Borough Attorney in the specifications be cured*; and

WHEREAS, the Chief Financial Officer of the Borough has certified, or will certify, the availability of funds to meet the bid amount;

IT IS HEREBY RESOLVED that Kulpeksa Land Improvement Corporation is hereby awarded the contract for the Project at a bid amount of \$64,556.00 pursuant to the terms described in the solicitation for bids; and

IT IS FURTHER RESOLVED that the Borough Clerk will advertise public notice of this bid award in accordance with law and a copy of this resolution shall be kept on file with the Borough Clerk and available for inspection.

Councilman Yazdi seconded the motion.

Borough Attorney noted that the defects are curable and the award is subject to the defects being cured.

The motion carried as per the following roll call: council Members: D'Amato; Pituch; Schiffman; Shortman; Yazdi and Conklin all YES.

Authorization to hire new Police Officer

Councilman Yazdi moved that authorization be given to the Police Chief to hire a new officer by July 1; seconded by Councilman D'Amato

Discussion followed in regard to budget and it was noted that we would like the process to begin but no hiring until we see if we have the money.

Councilman Yazdi amended his motion to authorize the Police Chief to begin the process of creating a selection list for candidates to be reviewed; Councilman D'Amato amended his second.

It was noted that two policemen do not generate ¼ million dollars; in due time that officer is going to cost you more than the revenue brought in.

The motion carried on voice vote with all Council Members voting YES.

Discussion in regard to ROSE Fund Recommendations

Discussion in regard to the ROSE fund recommendations; councilwoman Shortman stated that she would like the split to remain 25 between all line items.

Councilwoman Shortman moved that the split for the ROSE fund be 25% in all categories; seconded by councilwoman Pituch and carried as per the following roll call: council Members: D'Amato, YES; Schiffman, YES; Shortman, YES; Yazdi, NO; Conklin, YES and D'Amato, YES.

Councilwoman Short man felt that some of the recreation costs should be shared with Butler and felt we have to revisit the rose fund tax in regard to the revaluation; Councilwoman Pituch agreed.

Borough Attorney noted he will review the Blue Acres law and report back

Authorization to approve recommendations of ROSE Fund

Councilman Yazdi moved to approved the recommendations in the ROSE Fund report dated March 19, 2012; seconded by Councilman D'Amato and it carried as per the following roll call: Council Members: Schiffman; Shortman; Yazdi; Conklin; D'Amato and Pituch all YES.

Authorization to limit approval on expenditures for ROSE fund

Councilwoman Shortman moved that no expenditures over \$1,250 out of the ROSE Fund be spent unless council approval first; seconded by councilwoman Pituch and carried as per the following roll call: council Members: Shortman; Yazdi; Conklin; D'Amato; Pituch and Schiffman all YES.

Authorization to bid filed maintenance

Councilman Schiffman moved that the borough Administrator prepare the bid and be authorized to go out for bid for field maintenance; seconded by councilman D'Amato and carried as per the following roll call: council members: Yazdi; Conklin; D'Amato; Pituch; Schiffman and Shortman all Yes.

Adoption of Resolution #2012-3.17: Banning cell phones on dais

Councilman Yazdi offered the following Resolution and moved for its adoption:

**RESOLUTION #2012-3.17
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

***A RESOLUTION OF THE BOROUGH OF BLOOMINGDALE
REGARDING THE USE OF CELL PHONES DURING BOROUGH
COUNCIL MEETINGS***

WHEREAS, the Borough of Bloomingdale seeks to conduct efficient and informative Council meetings on behalf of the residents of the municipality; and

WHEREAS, distractions and/or disruptions during meetings could result in delays and interfere with the right of members of the public or the governing body to speak; and

WHEREAS, the use of cell phones or other mobile devices for conversation, texting, emailing, Internet browsing, or other audible or non-audible purpose during such meetings by elected officials or Borough employees may cause such distractions or disruptions of Council meetings; and

WHEREAS, it is the intent of this governing body to preclude elected officials and Borough employees from engaging in any use of cell phones or other mobile devices during Council meetings that may interfere with the efficient and uninterrupted conduct of Borough business.

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

1. Council members shall refrain from using cell phones or other mobile devices during Council meetings in any manner that may cause a distraction or disruption of the said meeting and/or in regard to matters pertaining to the business of the Borough.
2. Borough employees shall refrain from using cell phones or other mobile devices during Council meetings in any manner that may cause a distraction or disruption of the said meeting and/or in regard to matters pertaining to the business of the Borough.

BE IT FURTHER RESOLVED that in the event that a member of the governing body engages in prohibited use of a cell phone or mobile device during a Council meeting while on the dais, such action may result in a censure of such member of the governing body.

Councilman D'Amato seconded the motion and it DID NOT CARRY as per the following roll call: council Members: Conklin, NO; D'Amato, YES; Pituch, NO; Schiffman, ABSTAIN; Shortman, NO and Yazdi, YES.

Request from Friends of Library to waive Garage Sale Fee

Councilman Schiffman moved that the garage sale fee for the "Friends of Library" fundraiser be waived; seconded by Councilman Yazdi and carried on voice vote with all council members voting Yes.

Introduction of Non-Agenda Items

Mayor noted that we will be voting on a resolution for opposing legislation in regard to proposed OPRA/OPMA laws and introduction of an amendment to the animal fee ordinance.

Councilman Schiffman moved to open the public comment on non- agenda items; seconded by Councilman Yazdi and carried on voice vote.

Since there was no one who wished to speak under Public comment for Non-Agenda items, Councilman Schiffman moved that it be closed; seconded by councilman Yazdi and carried on voice vote.

Adoption of Resolution #2012-3.18: Opposing Reforms to the Open Public Records Act

Councilman Schiffman offered the following Resolution and moved for its adoption:

**RESOLUTION #2012-3.18
OF THE GOVERNING BODY
OF THE BOROUGH OF BLOOMINGDALE**

OPPOSING S-1452 REFORMS TO THE OPEN PUBLIC RECORDS ACT

WHEREAS, the Senate State Government Committee has considered S-1452 that was introduced on February 6, 2012 by Senators Weinberg and Buono; and

WHEREAS, this legislation formally known as the “Martin O’Shea Open Public Records Act” seeks to amend the current OPRA law through broad brush changes; and

WHEREAS, these changes tilt the balance between the need for openness and transparency of government and citizens reasonable expectation of privacy; and

WHEREAS, without doubt provisions of S-1452 will be a cost driver for local and state government while at the same time adding additional burden to staff already downsized over recent years; and

WHEREAS, this legislation would mandate release of information that a citizen would have assumed and rightly so, as confidential; and

WHEREAS, there are 22 notable amendments which re-define terms, expands records release, and the definition of a “government record” while not considering the impact of these unfunded mandates.

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

1. The Mayor and Council oppose S-1452 and its companion legislation outlined in this resolution.
2. A copy of this resolution of opposition be sent to the Governor, members of the 39th Legislative District, the League of Municipalities, and our surrounding municipalities.

Councilman Yazdi seconded the motion and it carried as per the following roll call: council Members: D’Amato; Pituch; Schiffman; Shortman; Yazdi and Conklin all YES.

Introduction of Ordinance #3-2012: Animal Control

AN ORDINANCE OF THE BOROUGH OF BLOOMINGDALE, IN THE COUNTY OF PASSAIC AND STATE OF NEW JERSEY, AMENDING CHAPTER 5, ANIMAL CONTROL, SECTION 5-14, FEES, OF "THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF BLOOMINGDALE, 2000" was introduced by titled by councilman Schiffman who moved that second and final reading and Public Hearing be held on April 10, 2012 at 7:30 p.m.

Councilman Yazdi seconded the motion, and it carried as per the following roll call: council Members: Pituch; Schiffman; Shortman; Yazdi; Conklin and D’Amato all YES.

LATE PUBLIC COMMENT

Councilman Yazdi opened the meeting up to Late Public Comment; seconded by Councilman D’Amato and carried on voice vote.

Wendy Connolly, Lake Iosco, spoke in regard to revenues by Police Department in hiring another officer v not hiring.

John Darcey, 80 South Road, spoke in regard to the reappointment of the Borough Auditor and fact that this always becomes confrontational and spoke of behavior of members of the Governing Body; do what is right for the people.

He also disagreed with the ROSE Fund split and felt open space has doubled.

Meredith Mascitello, Bailey Avenue, suggested that possibly we could have a prayer before the meeting; possibly we could have a moment of silence which might help set the tone of the meeting.

Jack Miller, Reeve Avenue, thanked the governing Body for awarding the desnagging contract.

Since there was no one else who wished to speak during Late Public Comment, councilman Schiffman moved that it be closed; seconded by councilwoman Pituch and carried on voice vote.

Councilwoman Shortman appreciated Mrs. Mascitello's coming up here and noted that we will not always please everyone.

LATE EXECUTIVE SESSION

Councilman Schiffman offered the following Resolution and moved for its adoption:

RESOLUTION #2011- OF THE GOVERNING BODY OF THE BOROUGH OF BLOOMINGDALE

Authorizing the Convening of an Executive Session

WHEREAS, the Governing Body ("Governing Body") of the Borough of Bloomingdale ("Borough") finds and declares that Section 8 of the Open Public Meetings Act, Chapter 231, P.L. 1975, permits the exclusion of the public from a meeting in certain circumstances; and

WHEREAS, the Governing Body is of the opinion that such circumstances presently exist;

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

1. The public shall be excluded from discussion of, and action upon, the hereinafter specified subject matter.
2. The general nature of the subject matter to be discussed is as follows:
3. The general nature of the subject matter to be discussed is as follows:
 - A. Litigation
 1. Condition of Borough Property – 250 Union avenue
 - B. Potential Litigation
 1. Contract matter – Shared Services
 2. BASS
 - C. Attorney/Client - PLMUA
4. Minutes will be taken.
5. It is anticipated at this time that minutes of the above-referenced subject matter will be made public when it is in order to do so.
6. This Resolution shall take effect immediately.

(At this time, the Mayor and Council went into Executive Session)

RECONVENED

Mayor Dunleavy reconvened the meeting at 12:55 p.m.

ADJOURNMENT

Since there was no further business to be conducted, Councilman Schiffman moved to ADJOURN at 12:56 p.m.; seconded by Councilman Yazdi and carried on voice vote.

Jane McCarthy, RMC
Municipal Clerk