

March 29, 2011

A Special 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 7:00 p.m.

**SALUTE TO THE AMERICAN FLAG**

Mayor Dunleavy led the Salute to the Flag.

**ROLL CALL**

<i>In Attendance:</i>	Mayor:	Jon Dunleavy
	Council President:	Linda Huntley
	Council Members:	Bernie Vroom Jo-Ann Pituch Glenn Schiffman Linda Shortman Mark Conklin
<i>Professionals Present:</i>	Municipal Clerk:	Jane McCarthy
	Borough Administrator:	Ted Ehrenburg
	Borough Attorney:	Mark Semeraro

**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 March 24, 2011.

**EARLY PUBLIC COMMENT**

Councilman Vroom moved to open the meeting for Early Public Comment on agenda items; seconded by Councilman Schiffman and carried on voice vote with all Council Members voting YES.

Thomas Tintle, 87 Van Dam Avenue, spoke in regard to the eight contracts which are scheduled to be discussed on the agenda this evening. Mr. Tintle spoke in regard to the contract with the Chief Financial Officer and fact that there was discussion over a year ago about sharing services with the Chief Financial Officer with Pompton Lakes for \$18,000 for two hours/week. Mr.

Tintle asked why we have a full time CFO at \$108,000 when we were negotiating to provide the same service part time for Pompton Lakes at \$18,000 but the contract never happened.

In response to Mr. Tintle, the Borough Administrator stated that the shared service with Pompton Lakes never came to fruition; the article which ran stating we entered into a contract was premature and never happened. Pompton Lakes was just looking to have someone use their license until the Tax Collector was certified. This is an unfair comparison.

Discussion followed. Mr. Tintle stated that if the article was wrong; there should have been a retraction.

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

**Adoption of Resolution #2011-3.32: Authorization to change Health Insurance Carriers, if in order to do so**

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

**RESOLUTION #2011-3.32  
OF THE BOROUGH COUNCIL  
OF THE BOROUGH OF BLOOMINGDALE**

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**WHEREAS**, the Borough of Bloomingdale finds itself in difficult financial times; and

**WHEREAS**, the Borough of Bloomingdale is constantly looking for a means by which to save expenses and operate more efficiently; and

**WHEREAS**, it has come to the Administration's attention that there may be more cost efficient means by which to secure the same health insurance coverage to its employees; and

**WHEREAS**, the Administration is interested in receiving of quotes from various insurance companies, agencies and brokers to determine whether or not it is able to provide the identical health insurance coverage to its employees at a cheaper price; and

**WHEREAS**, insurance is exempt from the public bidding provisions of the Local Public

Contract Law as set forth in N.J.S.A. 40A:11-5(1)(M).

**BE IT HEREBY RESOLVED**, that the Administration is hereby authorized to seek quotes from various health insurance carriers, agencies and brokers for providing the exact same insurance coverage that the various employees of the Borough of Bloomingdale are presently receiving; and

**BE IT FURTHER RESOLVED**, that the Borough is authorized to request and receive quotes for the aforementioned health insurance coverage including, but not limited to, dental and vision benefits as well.

Discussion followed as to the fact that if we were going to change insurance carriers, we need to give 60 days' notice which would be May 1, 2011.

Councilman Schiffman seconded the motion and it carried as per the following roll call:  
Council members: Conklin; Huntley; Pituch; Schiffman; Shortman and Vroom all YES.

**Adoption of Resolution #2011-3.33: Approval of Agreement with Lovenberg Company for Porta Johns**

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

**RESOLUTION #2011-3.33  
OF THE GOVERNING BODY  
OF THE BOROUGH OF BLOOMINGDALE**

***AUTHORIZING THE ADMINISTRATION OF THE BOROUGH  
COUNCIL OF THE BOROUGH OF BLOOMINGDALE, COUNTY OF  
PASSAIC, STATE OF NEW JERSEY TO OBTAIN PORTAGE AT THE  
WALTER T. BERGEN AND MARTHA B. DAY RECREATION FIELDS***

**WHEREAS**, the administration of the Borough Bloomingdale has determined that is in the best interest of public health and safety to obtain portage on a bathroom facilities to be placed

at the recreation fields, commonly known as Walter T. Bergen and Martha B. Day; and

**WHEREAS**, Lovenberg Company, has agreed to provide said supplies for both fields at the cost not to exceed \$1,500 from the ROSE Fund a quote solicited by the Administration ; and

**WHEREAS**, the quote is for an amount lower than the bid threshold designated by N.J.S.A. 40A:11-3; and

**WHEREAS**, even with the awarding of this contract, the amount of money paid to Lovenberg Company year to date is less than the bid threshold set forth in N.J.S.A. 40A:11-3; and

**WHEREAS**, the Borough is desirous of obtaining said services.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOROUGH COUNCIL OF THE BOROUGH OF BLOOMINGDALE, AS FOLLOWS:**

The administration is authorized to make payment to Lovenberg Company in the amount not to exceed \$1,500 from the dedicated Rose Fund.

Councilwoman Huntley seconded the motion.

Discussion followed in regard to having resolutions prepared prior to the meeting and Councilman Schiffman stated that it should state not to exceed \$1,500.

Councilwoman Shortman felt these types of resolutions should be brought up sooner before and discussed. Mayor Dunleavy noted that if the ROSE Fund had met and presented their recommendations to us and we voted on them, this would not have come up at this time.

The motion carried as per the following roll call: Huntley; Pituch; Schiffman; Shortman; Vroom and Conklin all YES.

**Adoption of Resolution #2011-3.34: Approval of making keys and purchase of grass seed and organic fertilizer from Braen Supply**

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

**RESOLUTION #2011-3.34  
OF THE GOVERNING BODY  
OF THE BOROUGH OF BLOOMINGDALE**

**WHEREAS**, the Administration of the Borough of Bloomingdale has decided that it is in the best interest of the health, safety, and welfare of the Borough of Bloomingdale; and

**WHEREAS**, they have further concluded that it is in the best economic interest of the Borough of Bloomingdale to properly maintain its ball fields by purchasing grass seed and organic fertilizer and having duplicate keys made to be used on its various recreation fields; and

**WHEREAS**, the Borough Administrator has received quotes for the same all of which fall below the bid threshold set forth in N.J.S.A. 40A:11:3; and

**WHEREAS**, Braen Supply company submitted the lower quote in the amount of not to exceed \$500; and

**WHEREAS**, even with the awarding of the contracts authorized herein, said suppliers do not reach the bid threshold requiring public bidding; and

**BE IT HEREBY RESOLVED**, that the Borough of Bloomingdale make payment to Braen Supply Company in the amount not to exceed \$500 out of the designated ROSE Fund.

Councilman Schiffman seconded the motion and it carried as per the following roll call:  
Council Members: Pituch; Schiffman; Shortman; Vroom; Conklin and Huntley all YES.

**Discussion with Non-Contractual Employees in regard to contracts**

At this time, Mayor Dunleavy noted that the non-contractual employees were given a RICE notice in regard to the four-day work week and their contracts and they all have opted to have it discussed in open session.

**(Municipal Clerk stepped off the dais at this time)**

The following non-contractual employees were in attendance:

Borough Administrator Ted Ehrenburg  
Municipal Clerk Jane McCarthy  
Chief Financial Officer Donna Mollineaux  
Treasurer Sherry Gallagher  
DPW Superintendent Albert Gallagher  
Water/Sewer Superintendent Rocco DiGregorio  
Animal Control Investigator Lisa Perry  
Building Inspector Dan Hagberg

Mayor Dunleavy stated that he does not know what this is about and asked Councilwoman Huntley to explain. She noted that she asked the Borough Attorney to look over the contracts as to the legality of them.

Mayor Dunleavy stated he did not remember us voting on having the Borough Attorney review this and Councilwoman Huntley stated that we did at a meeting. In response to Mayor Dunleavy as to whether there was a cost to do this, Borough Attorney stated that there is no cost it is included in his pricing as well as his attendance at this Special Meeting.

At this time, the Borough Attorney cited case law whereby it is his determination that the contracts are viral and unenforceable. Councilwoman Huntley stated that we want to look at going back to the five day work week and to see if the contracts were enforceable; noted that these employees never had contracts before and felt that the residents want the five-day work week back. The Borough Attorney stated that his instruction was to review the contract for the five-day work week.

Borough Attorney stated then that the catalyst was restoring a five-day work week in the Borough; he noted that the collective bargaining units did not carry an obligation for a four day week but some of these contracts did; therefore, determine they are unenforceable.

Mayor Dunleavy stated that these contracts have not changed the financial impact to the borough; they just quantified the terms of what the employees already had and asked why we are spending money for this review. The items in the contract are already part of the personnel

manual; no cost to the Borough; problem you are having is the time-frame of the contract.

Discussion followed in regard to the pros and cons of a five-day work week vs. four-day work week.

Councilwoman Huntley stated that employees are working weekly but their vacation is in days.

Councilman Vroom stated that he initially wasn't sure about the four day work week but after speaking with residents and observing, he is in favor of it.

Councilwoman Shortman stated that residents complained about not being able to access the offices on Fridays, to which Borough Administrator offered to cover the office on Fridays; Councilwoman Huntley stated that isn't what they want; they want full coverage.

Borough Administrator stated no one has spoken to any of the Department Heads in regard to this and how it is working; it is very effective and it is a service to the residents for the extended hours.

At this time, those employees who were RICE Noticed noted that they would like to discuss this in Open Session and collectively.

Borough Attorney stated he reviewed the contract and did research and determined that they are ultra virus contracts which are outside the scope of the Borough to enter into due to the term that was attached to each of the contracts. Some of them superseded state statutes as far as terms and quoted case law DePalo v. Passaic County Board of Chosen Freeholders.

Councilwoman Huntley felt that since the Borough was encumbered with six year contracts as an issue and fact that there were never contracts before for these employees, they were only put into place to put the borough in a bad position. In response to Mayor Dunleavy, Councilwoman Huntley stated that if they were initially for three years, it might have made a difference and also stated that there is language in them where you cannot fire them if they do something wrong.

At this time, the Borough Administrator read into the record some facts leading up to the decision to go to four days and noted that these employees gave back to the Borough; he also volunteered to work Fridays and let the other employees keep their four days and Councilwoman Huntley said no.

Discussion followed and Mayor stated that there are three choices, employees can get back to the Governing Body as to this discussion, and they can be re-rice'd for further discussion or seek legal representation.

Borough Attorney stated that the Governing Body can negotiate for a five-day work week under, proceed under the guidance that the contracts are unenforceable or see judicial intervention.

In response to question posed by Construction Official Dan Hagberg, stated that if the hours were changed, is the contract then legal and it was noted that the length of the contract is the issue. Councilwoman Huntley stated there should never been any contracts.

Mayor Dunleavy spoke of the morale issue that will now be if these contracts are voided. It was also discussed that there was a parachute clause in Mr. Ehrenburg's contract to which he stated that we were not here to discuss his contract, to which Councilwoman Huntley stated the RICE Notice stated contracts.

(Municipal Clerk stepped back on the dais at this time)

### **LATE PUBLIC COMMENT**

Councilman Vroom moved that the meeting be open to Late Public Comment; seconded by Councilwoman Huntley and carried on voice vote.

Jennifer Altfield, 17 Cedar Street, noted that the employees gave back to the Borough's last year in order to help the Borough and keep their jobs. She noted the only reason the building is open is for the Library and the kids; she noted how beneficial it is for working people to be able to come after work to the Borough to get things done. Mrs. Altfield noted that Councilwoman Huntley initially voted for this and she stated that she is able to change her mind. Mrs. Altfield stated that she does not see anyone up here trying to get businesses for the borough.

Frank O'Reilly, 21 Pearl Street, stated that he does not believe the majority favor the five day work week. Those in favor are those that are retired; proposed that a survey be done on the website asking the residents how they feel. Mayor felt this is a good idea and could be discussed under New Business.

Dean Specchio, 15 Jeffrey drive, asked the Borough Attorney what this will cost if the employees do not agree and he noted his fee is \$150/hr. Noted it could go on the ballot. This

was not a positive thing to do to these employees and not good for their morale and a direct attack. Noted he would like a set price of what it will cost the taxpayers to defend this if it went to court.

Councilwoman Pituch stated she objects to doing a survey on the website but it could go on the ballot; Councilman Schiffman agreed about the website and the honesty of those voting.

John D'Amato, 35 Bailey Avenue, noted that when he was Fire Chief, it was very helpful to be able to come to the building after work to get done what he had to as Fire Chief. He stated that we were told that the Borough Attorney was doing this pro bono and now we are finding out it will cost us.

In response, the Borough Attorneys stated that he did not get the contracts until after he started; there was work done prior.

Ron Caputo, 42 Bogue Drive, discussed fact that a three day weekend is nice and note when he was working and a holiday fell on a Friday, they did not get paid for it and asked what happens when a holiday falls on a Friday; Borough Administrator stated that the employees use it as a floating holiday; we do not close four days in a row.'

Mike Fitzpatrick, 125 Reeve Avenue, asked if we have budgeted money for lawsuits; Councilwoman Huntley said there is no way to determine that, we could go before a Judge for a declaratory opinion. Mr. Fitzpatrick asked if those employees would be dismissed; is there a contingency plan should something arise. The Borough attorney cautioned the Mayor and Council in their response.

Lori Weinbrock, 45 Highland Road, noted that she does not see where we are saving money with the four day work week and noted that there have been emergencies when she could not reach the Administrator, to which the Borough Administrator noted Mrs. Weinbrock could have reached him anytime as he gave her his personal cell phone.

Dawn Hudson, 12 Walnut Street, noted that she was the person who asked initially if the Attorney was doing this pro bono and was told Mr. Semeraro was reviewing them; Councilwoman Huntley stated she did not say Mr. Semeraro but an attorney was looking at it pro bono. Ms. Hudson said you said it was the Attorney you were looking to hire and asked who it was to which Councilwoman Huntley stated it was another Attorney and that Mr. Semeraro. Mrs. Hudson asked how much this has cost us; Mr. Semeraro noted he does not have a running

tally. Discussion followed.

Mayor Dunleavy noted that the employees work one extra hour under the four day work week at no cost; morale will be affected.

Lois Bobrowski, 39 Highland Road, asked if we can get rid of these contracts. Mayor Dunleavy noted that this is the opinion of one attorney; the prior Attorney noted that they were legal.

Tia Brady, 124 Clark Street, stated that this will hurt morale and asked for the motive of this decision; Councilwoman Huntley felt we did not give reasons and is willing to go before a judge. In response to assisting the public, we will be open one night a week and felt a previous majority entered into contracts which are unenforceable.

Greg Tuck, 268 Macopin Road, spoke in regard to fact that he recently had an opportunity to work with the Police and they are top class and noted that he personally likes the longer hours. He is not in favor of a system gathering data on the website but in favor of some sort of system in place to gather imperial data outside of politics.

Leonard Dale, Reeve Avenue, asked what the current hours the Administrator works and it was noted he works Monday through Thursday from 8 a.m. to 6 p.m. with an hour for lunch.

Mr. Dale noted that he offered to help the DPW with the sidewalks on Hamburg Turnpike by the Park and the DPW Superintendent stated the Mayor and Council would have to approve and there could be an insurance issue.

Steve Pellegrino, 16 Orchard Street, stated that changing the length of the contracts looks like it is being used for a loophole to break them. Why don't we fix them to be within the law if that is the case and shorten the length.

Mr. Pellegrino spoke in regard to measure that was done back when they were considering the four day work week in the Library, i.e. thermostats, etc. Noted he would like to see more time spent on the Police Department.

Leslie Monsees, 53 Rafkind Road, noted that she is not in favor of the four day work week and felt she is not able to access the departments on Friday if she needs assistance. Noted she is confused with the legality of the contracts.

Mayor Dunleavy stated that this is in the hands of the Council; you will need to re-rice the employees if you are making any changes; there is no financial issue in these contracts; this is all identified in the personnel handbook.

Rich Dellaripa asked for clarification of at-will employees and if there was a severability clause and noted that there was not.

Ray Yazdi, 36 Bailey Avenue, asked the Council what their Grand Plan was; when is the budget going to be introduced and where are they with recommendation with shared service with Kinnelon, etc.

Carla DeWitt, Kampfe Lake, noted that the Council is doing what our Governor is doing; noted we hired an attorney to protect us and put us on the right path; noted putting it on the ballot is a good idea.

Also Mayor stated the suggestion of going with the Reverse 911 will be on the April 12 agenda.

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

### **ADJOURNMENT**

Since there was no further business to be conducted under this special call, Councilwoman Huntley moved that it be closed at 9:50 p.m.; seconded by Councilman Vroom and carried on voice vote.

Jane McCarthy, RMC  
Municipal Clerk