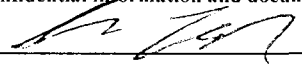


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By: 

Attorneys for Columbia County Agricultural, Horticultural, and Mechanical Association d/b/a Bloomsburg Fair Association

**COLUMBIA COUNTY AGRICULTURAL,
HORTICULTURAL, and MECHANICAL
ASSOCIATION d/b/a BLOOMSBURG
FAIR ASSOCIATION**

Plaintiff,

v.

TOWN OF BLOOMSBURG,

Defendant.

:
: **IN THE COURT OF COMMON**
: **PLEAS OF COLUMBIA**
: **COUNTY, 26th JUDICIAL DISTRICT**
:
:
: **CIVIL DIVISION**
:
: **ACTION FOR**
: **DECLARATORY JUDGMENT**
:
:
: **No. 2022-cv-1061**

NOTICE

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this Complaint and notice were served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE A LAWYER, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW. THIS OFFICE CAN PROVIDE YOU WITH INFORMATION ABOUT HIRING A LAWYER.

IF YOU CANNOT AFFORD TO HIRE A LAWYER, THIS OFFICE MAY BE ABLE TO PROVIDE YOU WITH INFORMATION ABOUT AGENCIES THAT MAY

OFFER LEGAL SERVICES TO ELIGIBLE PERSONS AT A REDUCED FEE OR NO FEE.

North Penn Legal Services
168 E. 5th Street
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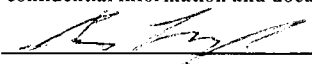
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SIXTH AMENDED COMPLAINT

AND NOW, comes the Plaintiff, the Columbia County Agricultural, Horticultural, and Mechanical Association d/b/a Bloomsburg Fair Association (hereinafter “Plaintiff” or “Bloomsburg Fair”), by and through its counsel, Donald G. Karpowich, Attorney at Law, P.C., Sean W. Logsdon, Esquire, and Trevor I. Poremba, Esquire, and avers the following in support of its Sixth Amended Complaint:

The Parties

1. Plaintiff, Bloomsburg Fair, is a business corporation with a principal office address of 620 W. 3rd Street, Bloomsburg, PA 17815.

2. Defendant, Town of Bloomsburg (hereinafter “Town” or “Bloomsburg”, is a Pennsylvania Municipal Corporation and Political Subdivision of the Commonwealth, which operates by and through its Town Council, with a mailing address of 301 E. Second Street, Bloomsburg, PA 17815.

Background

3. On January 24, 2005, the Town passed Ordinance 881, which sought to regulate excessive noise in the Town.

4. Ordinance 881 was codified in the Bloomsburg Code of Ordinances at Chapter 10, Health and Safety, Part 2, Excessive Noise, Section 10-201 et seq. A true and correct copy of Chapter 10, Part 2 is attached hereto as Exhibit A.

5. Section 10-205 (D)(3) of the ordinance specifically exempts activities at the Bloomsburg fairgrounds from the excessive noise ordinance.

6. The Bloomsburg fairgrounds has traditionally had a racetrack located on its property.

7. The racetrack and racing predate the Defendant's zoning ordinance and is a pre-existing legal nonconforming use.

8. In or around 2020, the Board of Directors of Plaintiff determined that upgrades to the racetrack would be beneficial for the economic enhancement of the fairgrounds.

9. Applications for permits are reviewed by the Town Council Community and Economic Development Committee.

10. On or around December 18, 2020, Plaintiff submitted a Floodplain Development Permit application to the Town. A true and correct copy of Application the accompanying Erosion and Sediment Control Plan, receipt, and Permit are attached hereto as Exhibit B.

11. The Floodplain Permit Application states on its first page that Zoning Hearing Board may be needed prior to the issuance of a Floodplain Development Permit.
12. No Zoning Hearing Board approval was required by the Town before issuing the Permit.
13. On or around July 8, 2021, Plaintiff submitted a Building Permit Application to the Town. A true and correct copy of Application the accompanying drawings are attached hereto as Exhibit C.
14. Defendant issued a Building Permit for the upgraded racetrack on July 8, 2021. A true and correct copy of Building Permit, required inspections list, and receipt, are attached hereto as Exhibit D.
15. On August 24, 2022, a Certificate of Occupancy was issued by the Town for the racetrack. A true and correct copy of the Certificate of Occupancy is attached hereto as Exhibit E.
16. In the course of obtaining the permits, the project was reviewed by the Town's zoning officer, Mr. Ken Roberts.
17. The Town's zoning ordinance contains a supplementary regulations section at Section 27-801.
18. Nonconforming structures and uses are addressed in Section 27-801(2).
19. Nonconforming structures and uses may be enlarged or extended when authorized as a special exception and subject to conditions and safeguards as may be imposed by the zoning hearing board. See Sec. 27-801(2)(C).
20. Special exception uses are governed by Section 27-602 of the zoning ordinance.

21. According to Section 27-602(C), Decisions for granting all special exception uses shall be guided by the following general standards:

- (1) The proposed use shall not jeopardize the objectives of the Comprehensive Plan.
- (2) Public services and facilities such as streets, sewers, water, police and fire protection shall be adequate for the proposed use.
- (3) Existing and future streets and access to the site shall be adequate for emergency services, for avoiding undue congestion and for providing for the safety and convenience of pedestrian and vehicular traffic.
- (4) The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the location and size of the site relative to the proposed operation and the nature and intensity of the operation involved.
- (5) The relationship of the proposed use to other activities existing or planned in the vicinity shall be harmonious in terms of the character and height of buildings, walls and fences so that property is not impaired.
- (6) The proposed use shall not be more objectionable in its operations in terms of noise, fumes, vibrations, smoke, fly ash or flashing lights than would be the operations of any permitted use in the district.
- (7) Any other reasonable conditions and safeguards, in addition to those expressed in this Chapter, may be imposed by the Board if the Board deems it necessary for implementing the purposes of the Pennsylvania Municipalities Planning Code (Act 247, as amended) and this Zoning Chapter.

(Emphasis added)

22. The Town zoning officer informed the Plaintiff that no zoning approval was necessary and the same is reflected on the permits issued by the Town.

23. It is clear that the preexisting nonconforming use of racing at the fairgrounds was being upgraded and racing was being expanded as the upgraded track was built to support professional level racing.

24. Plaintiff entered into contracts for services and deliverables to construct the 3/8th mile dirt oval track while utilizing components of the existing track's architecture and property.

25. The Fair expended approximately one point two million dollars (\$1,200,000.00) to properly upgrade the Racetrack which is now capable of supporting professional dirt track

racing as a result of Defendant's actions.

26. On or about August 11, 2021, the Town held a work shop to discuss its noise ordinance.

27. Some time in the summer or fall of 2021, the Town began deliberating amending its noise ordinance, and created a draft of an amendment to the ordinance, specifically in relation to noise coming from the fairgrounds and its racetrack.

28. On November 30, 2021, the Town Council Community and Economic Development Committee met to review a draft of what would become the adopted amendment to the noise ordinance. A true and correct copy of the committee meeting agenda and draft reviewed at that meeting attached hereto as Exhibit F.

29. Representatives of the Fair attended the November 30, 2021 meeting to discuss the proposed ordinance amendment, council concerns, and a proposed racing schedule.

30. The draft of the noise ordinance created specific definitions for the annual fair, added decibel level restrictions, and removed the Fair's exemptions, not only as a non-conforming use, but also as one of the listed Town, County and State events. See Exhibit F.

31. The ordinance was not advertised for passage after the November 30, 2021 meeting, and the Fair scheduled and conducted a full slate of racing on the upgraded track, as well as conducted the Bloomsburg Fair event itself, in 2022.

32. The Defendant, instead of working with the Fair to address any alleged noise concerns, or passing an amendment to the noise ordinance in late 2021 or early 2022, instead hired Ostergaard Acoustical Associates to conduct a sound study in the town, specifically targeting the race track.

33. Sound measurements were apparently taken in June of 2022, and in August 2022

by Ostergaard Acoustical Associates, specifically during racing events.

34. The data produced by the sound studies was solely related to the racing events, not as to any other sound created in the Town at any other time or location.

35. The sound study measured sound levels in certain areas of the town and at certain times during racing events.

36. On July 26, 2022, the Town Council Community and Economic Development Committee met to review a new draft of the ordinance amendment, which added a definition of approved sound meter, and added edits which would further prevent racing from occurring at the fairgrounds. A true and correct copy of the committee meeting minutes and draft ordinance reviewed at that meeting attached hereto as Exhibit G.

37. On August 30, 2022, the Town Council Community and Economic Development Committee met again and was told that Ostergaard Acoustical Associates would be at the September meeting to review their finding from the second race. A true and correct copy of the committee meeting minutes is attached hereto as Exhibit H.

38. While these meetings were being conducted and studies were being performed, no communication was made to the Fair nor were any meetings held with the Fair.

39. On October 24, 2022, Town Council voted to advertise the amended noise ordinance for passage. A true and correct copy of the agenda is attached hereto as Exhibit I.

40. Representatives of the Fair attended the October 24, 2022 meeting and urged Council not to advertise the ordinance.

41. The final version of the amendment to the ordinance once again was specifically aimed at noise coming from the fairgrounds and its racetrack and nowhere else in Town nor during any other events no matter who was holding said event.

42. On November 14, 2022, Bloomsburg Town Council adopted the amended noise ordinance (the “Ordinance”). A true and correct copy of the Ordinance is attached hereto, made a part hereof, and marked as Exhibit I.

43. The Ordinance prohibits sustained noises above 65 decibels between 7:00 a.m. and 10:00 p.m. and below 50 decibels from 10:00 p.m. until 7:00 a.m. Exhibit G, Section 2.

44. This decibel restriction eliminates racing events as all racing events would be above said decibel level.

45. The Ordinance created a definition for the fair event (and no definitions of any Town, County, or State events), and specifically removed the exemption from the noise ordinance that the fairgrounds had for almost 20 years.

46. The Town also amended and eliminated the exception the defendant has as a nonconforming use by also implementing the restrictive decibel levels for nonconforming uses.

47. The Town also amended the exception the defendant would have through obtaining approval or licensing from the Town by also including in the ordinance that approval or licensing would not apply to activities at the Bloomsburg fairgrounds.

48. The Town added the new decibel level restrictions to Section 10-204 (Prohibited Acts) subsections A and B, but notably did not apply the new decibel level restrictions to subsections C through H, which include places of public entertainment, noise from premises, parties and other social events. See Exhibits A and J.

49. Fines for violating the Ordinance range from \$1000.00 to \$2,000.00 and the possibility of jail time or injunctions for repeat offenses.

50. The Ordinance established an effective date immediately following its adoption.

51. Town council at a public meeting admitted that the amendments to the excessive

noise ordinance were specifically aimed at racing at the Bloomsburg fair grounds.

52. As a result of the passage of the Ordinance, the Racetrack cannot continue operations resulting in the Bloomsburg Fair suffering an undue hardship including loss of revenue and the loss of funds expended to construct the racetrack which was approved by Defendant.

COUNT I
DECLARATORY RELIEF
VIOLATION OF SUBSTANTIVE DUE PROCESS RIGHTS
Article I, Section 1 of the Pennsylvania Constitution

53. Paragraphs 1 through 52 are incorporated herein as if more fully set forth hereinafter.

54. The Ordinance at issue is penal in nature, and thus subject to strict strict construction by the Court.

55. Section 1202(5) of the Borough Code grants specific powers to the Borough to make regulations as may be necessary for the health, safety, morals, general welfare and cleanliness and beauty, convenience, comfort and safety of the borough (Town).

56. The ordinance at issue reaches beyond the power granted by section 1202(5) of the Borough Code.

57. The noise ordinance amendment which purports to have been enacted pursuant to an exercise of the Town's police power, is unreasonable, unduly oppressive and patently beyond the necessities of the case.

58. The 65-decibel limit as indicated in the ordinance is unreasonable, especially in relation to a use which has been present for 100 years at the fairgrounds, as normal conversation is measured at around 60 decibels and a common lawn mower is measured at around 90 decibels.

59. Only decibel levels that exceed 85 are considered to be damaging to hearing when exposed for extended periods of time, i.e., 8 hours.

60. The removal of the exemption from the noise ordinance for the Fairgrounds was and is arbitrary and bears no rational basis to the purported findings of the Town contained in the noise ordinance as listed in Section 10-201 as the arbitrary 65 decibel level cap does not apply to all the prohibited acts as listed in Section 10-201 as the Town and private individuals hold events, such as concerts, parties and social events, which clearly exceed the newly created decibel limit as, for example, concerts/live music can produce in excess of 120 decibels of sound.

61. The removal of the exemption from the noise ordinance for the Fairgrounds was and is arbitrary and bears no rational basis to the purported findings of the Town contained in the noise ordinance as listed in Section 10-201 as the arbitrary 65 decibel level cap was not added to most of the prohibited acts listed in Section 10-204, such as “noise from premises” or “parties and other social events”.

62. The Town also operates a municipal airport which houses at least one business that tests and repairs airplane engines, and said operations create sound which clearly exceed 65 decibels.

63. The means which this ordinance employs have no real and substantial relation to the objects sought to be attained.

64. Under the guise of protecting the public health and safety, the Town has arbitrarily interfered with the private business at the Bloomsburg Fairgrounds.

65. The Town has also imposed the above-mentioned unusual and unnecessary restrictions upon the lawful use of the racetrack at the fair.

66. The Ordinance here completely bans the activity of racing due to the 65-decibel level maximum that has been established.

67. The promotion of public safety could be achieved by reasonable decibel or time/place/manner regulations, not by the setting of a decibel limit which bans racing completely through a decibel restriction.

68. The arbitrary nature of this ordinance amendment can also be seen in the draft versions as considered by Town Council, as the version considered on November 30, 2021 contained a 70-decibel maximum. See Exhibit F.

69. The arbitrary nature of this ordinance amendment can also be seen in the draft version of the ordinance reviewed on July 26, 2022, which exempted motorized racing on Fridays and Saturdays from noon until 10pm, and also considered placing a maximum number of exempt days into the ordinance. See Exhibit G.

70. It is clear that the Town was at one point attempting to regulate what was perceived to be a nuisance issue but, in the end, chose to establish a decibel level that banned racing activities.

71. Defendant's noise ordinance amendment is unreasonable, unduly oppressive or patently beyond the necessities of the case, and the means which it employs have no real or substantial relation to the objects sought to be attained by the amendment when applied to the Plaintiff's racing activities at the fairgrounds.

72. Plaintiff has a property interest in the racing track which has operated on the fairgrounds for approximately 100 years.

73. Plaintiff is being deprived of its right to pursue the operation of the racetrack a free from unconstitutionally excessive noise limitation regulations.

74. Declaratory review is especially appropriate where, as here, denial of review would impose substantial hardships on the Plaintiff.

WHEREFORE, Plaintiff seeks a declaratory judgment:

- (a) Declaring that the November 14, 2022 ordinance amendment is an unconstitutional violation of Plaintiff's rights as the amendments are unreasonable, unduly oppressive and patently beyond the necessities of the case;
- (b) Declaring that the exemption for activities at the Fairgrounds, including racing and motorized vehicle exhibitions are still in effect;
- (c) Declaring and confirming that the ordinance amendment violates the substantive due process rights of the Plaintiff under Article 1, Section 1 of the Pennsylvania constitution, and the portions thereof which are offending are stricken;
- (d) Issuing an Order declaring the ordinance unconstitutional and enjoining enforcement of said ordinance.

COUNT II
DECLARATORY RELIEF
VIOLATION OF EQUAL PROTECTION
Article I, Section 26 of the Pennsylvania Constitution

75. Paragraphs 1 through 74 are incorporated herein as if more fully set forth hereinafter.

76. The Ordinance unconstitutionally distinguishes between events/activities at the Bloomsburg Fairgrounds, specifically, motorized racing and motorized vehicle exhibition activities at the Fairgrounds, and Town, County and State Events.

77. Plaintiff is similarly situated, and its events are similarly situated to events held by the Town, County or State.

78. Plaintiff is similarly situated to and its activities/events are similarly situated to Town, County, or State licensed festivals or activities.

79. Plaintiff is similarly situated to and its activities/events are similarly situated to school sponsored athletic or recreational events.

80. Plaintiff is similarly situated to and its activities are similarly situated to any other activity which is an official or approved or licensed festival or activity.

81. Exempting Town, County, State, and school sponsored events but not events at the Bloomsburg Fairgrounds, and specifically not events during the “Bloomsburg Fair Event” violates equal protection because it bears no real and substantial relationship to the protection of the public health, safety, or welfare, or to any other legitimate government interest.

82. Removing the long-standing exemption from the noise ordinance for events at the Fairgrounds but not for Town, County or State Events or school sponsored events, violates equal protection.

83. Requiring that the Plaintiff’s events comply with a decibel level which on its face cannot be complied with due to the nature of said events but not requiring the same compliance of the Town, State or County, schools or churches facially violates equal protection because it bears no rational relationship to any legitimate government interest.

84. The ordinance amendment fails on its face to satisfy any standard of constitutional review for equal protection, no matter how articulated.

85. The equal protection provisions of the Pennsylvania Constitution are analyzed by the Court under the same standards used by the United States Supreme Court when reviewing equal protection claims under the Fourteenth Amendment to the United States Constitution.

86. The classification of Town, County and State Events as exempt versus the now non-exempt “activities at the Bloomsburg Fairgrounds” during the annual fair event (and motorized racing and motorized vehicle exhibition activities at the Fairgrounds whether during the Fair event or not) is simply unreasonable and arbitrary as many Town, County and State events as well as the Fair Event (aka Bloomsburg Fair) create noise/sound which clearly exceeds the 65-decibel limit.

87. The Plaintiff is being treated differently than the Town, County and State.

88. The Plaintiff is receiving different treatment from that received by other places of public entertainment.

89. The Plaintiff is receiving different treatment from that received by Churches or official buildings.

90. The Plaintiff is receiving different treatment from that received by nonconforming uses not located in commercial or industrial zoning districts.

91. The Town’s attempt to continue its exemption under the noise ordinance for the “Fair Event” only to arbitrarily create a sound level maximum which would bar all racing (racing which has taken place for approximately 100 years on the Fairgrounds), is clearly an unreasonable and arbitrary exercise of the Town’s police powers.

92. Defendant passed this ordinance amendment with the knowledge that the racing that was taking place at the upgraded and permitted race track was emanating noise which would exceed the established sound levels.

93. Although the Plaintiff may not be a member of a protected class, Plaintiff advances its equal protection claim as a class of one.

94. As asserted above and herein, Plaintiff has been treated differently from other similarly situated such as the Town, County, State, School, Churches, and other non-industrial/commercial nonconforming uses.

95. Plaintiff has been treated differently as a full sound study was engaged by the Defendant specifically targeting the Plaintiff's racing activities and no other event or entity was subject to the detailed sound study.

96. Defendant could have applied the decibel level restrictions to the Town, County, State and School but did not, even though the same or similar events and sound levels are generated by all.

97. Defendant intentionally treated Plaintiff differently and the same was stated at a public meeting by Town Council.

98. There was no rational basis for this different treatment as Plaintiff has raced at the Fairgrounds for approximately 100 years and has operated with an exemption from the noise ordinance since the ordinance's inception.

99. Defendant spent a full year allowing racing to occur at the upgraded track with no concern for the alleged effects on health safety or welfare in the Town.

100. Plaintiff's use is a lawful nonconforming use and therefore establishes in the Plaintiff a vested property right in the context of the Town's Zoning Ordinance.

101. Plaintiff seeks a judicial order finding that the purported ordinance amendment is unconstitutional and a violation of Plaintiff's rights both on its face and as it applies to Plaintiff.

102. The Town should be precluded from enforcement of the amended ordinance as it relates to the elimination of Plaintiff's exemption and the establishment of the arbitrary 65 decibel level maximum.

103. A dispute has arisen between the parties as to the application of the Ordinance.

104. Plaintiff seeks a declaration under the Declaratory Judgment Act, 42 Pa. C.S. § 7533, requesting the Court to determine and make a declaration of rights, status, and other legal relations under the Ordinance at issue and to specifically find that the ordinance violates Plaintiff's Equal Protection rights.

WHEREFORE, Plaintiff seeks a declaratory judgment:

- (e) Declaring that the November 14, 2022 ordinance amendment is an unconstitutional violation of Plaintiff's rights to Equal Protection under the law;
- (f) Declaring that the exemption for activities at the Fairgrounds, including racing and motorized vehicle exhibitions are still in effect;
- (g) Declaring and confirming that the ordinance amendment violates the Equal Protection Clause, and the portions thereof which are offending are stricken;
- (h) Issuing an Order declaring the ordinance unconstitutional and enjoining enforcement of said ordinance.

COUNT III
PROMISSORY ESTOPPEL

105. Paragraphs 1 through 104 are incorporated herein as if more fully set forth hereinafter.

106. On or around December 18, 2020, Plaintiff submitted a Floodplain Development Permit application to the Town which consisted of clearing and grading of a new dirt racetrack with related site and stormwater improvements (Exhibit B).

107. The Floodplain Permit Application states on its first page that Zoning Hearing Board may be needed prior to the issuance of a Floodplain Development Permit.

108. The application was assigned to Ken Roberts, the Town's Certified Floodplain Manager.

109. The permit itself said the development type is "Alterations".

110. Roberts determined that no Zoning Hearing Board approval was required by the Town's Zoning Officer (also Ken Roberts) before issuing the Permit.

111. On or around July 8, 2021, Plaintiff submitted a Building Permit Application to the Town (Exhibit C).

112. Defendant issued a Building Permit for the upgraded racetrack on July 8, 2021. (Exhibit D).

113. The building permit was issued by Ken Roberts, who was also the Building Code Official for the Town of Bloomsburg, and the permit identified an "Accessory Structure".

114. The "Accessory Structure" was the racetrack which is an accessory structure to the Fairgrounds.

115. On August 24, 2022, a Certificate of Occupancy was issued by the Town for the racetrack (Exhibit E).

116. The final inspection occurred on August 23, 2022, which was after the November 30, 2021 and July 26, 2022, Town Council Community and Economic Development Committee meetings to review the new draft of the ordinance amendment.

117. The Community and Economic Development Committee's responsibilities include code enforcement and zoning, future zoning, housing, planning, etc.

118. Ken Roberts was at the November 30, 2021 meeting where the noise ordinance amendments were discussed (Exhibit F).

119. The Town's zoning ordinance contains a supplementary regulations section at

Section 27-801.

120. Nonconforming structures and uses are addressed in Section 27-801(2).

121. Nonconforming structures and uses may be enlarged or extended when authorized as a special exception and subject to conditions and safeguards as may be imposed by the zoning hearing board. See Sec. 27-801(2)(C).

122. The Town zoning officer, Mr. Roberts, informed the Plaintiff that no zoning approval was necessary and the same is reflected on the permits issued by the Town.

123. It is clear that the preexisting nonconforming use of racing at the fairgrounds was being upgraded and racing was being expanded as the upgraded track was built to support professional level racing.

124. Plaintiff entered into contracts for services and deliverables to construct the 3/8th mile dirt oval track while utilizing components of the existing track's architecture and property.

125. The Fair expended approximately one point two million dollars (\$1,200,000.00) to properly upgrade the Racetrack which is now capable of supporting professional dirt track racing as a result of Defendant's actions.

126. On October 27, 2020, Defendant, through its building code, floodplain manager and zoning officer, Ken Roberts, made a promise to Defendant regarding there being no hold up with the use of the racetrack.

127. Section 614 of the Pennsylvania Municipalities Planning Code (MPC), 53 P.S. § 10614, establishes the scope of authority of zoning officers as follows:

For the administration of a zoning ordinance, a zoning officer, who shall not hold any elective office in the municipality, shall be appointed. The zoning officer shall meet qualifications established by the municipality and shall be able to demonstrate to the

satisfaction of the municipality a working knowledge of municipal zoning. The zoning officer shall administer the zoning ordinance in accordance with its literal terms, and shall not have the power to permit any construction or any use or change of use which does not conform to the zoning ordinance. Zoning officers may be authorized to institute civil enforcement proceedings as a means of enforcement when acting within the scope of their employment.

128. When employed by Bloomsburg, Roberts received applications for zoning permits, and issued zoning permits in his sole discretion, as he was empowered to do through section 27-901 of the zoning ordinance.

129. Roberts had the authority to bind the Town with each zoning permit and each building permit that was issued.

130. The Town appointed Ken Roberts to serve as its official building inspector at a regular public meeting.

131. The duties of the building code official are defined in the Pennsylvania Construction Code Act (Construction Act).

132. Roberts was required to have certifications by the Department of Labor and Industry.

133. The Town identified Roberts as its building code official on its website.

134. Roberts had specialized and expert knowledge relied upon by the Town in both code and zoning matters.

135. Roberts received applications for building permits, issued building permits in his sole discretion, conducted inspections of work sites to enforce the UCC, and issued occupancy permits upon satisfactory completion of construction.

136. Roberts did all of this solely on behalf of the Town as its building code official.

137. The Town collected the permit fees and issued the building permits to the applicants.

138. The promises made by Mr. Roberts went beyond the above code official and/or zoning officer duties.

139. Racing at the Fairgrounds is a preexisting nonconforming legal use, and pursuant to the zoning ordinance, enlargements or extensions of nonconforming uses require special exception approval from the zoning.

140. Mr. Roberts acknowledged and confirmed on October 27, 2020 that there would not be any zoning hold up on the use of the racetrack.

141. This statement is a promise that the races would go into effect and that there would be “no hold up on the use”.

142. The code/zoning/floodplain manager had real and apparent authority to bind the Town as neither the Town Council or Mayor has jurisdiction over matters regarding the use of properties once the zoning ordinance is passed and the building code is adopted.

143. Noise is a factor in seeking special exception approval pursuant to the zoning ordinance.

144. Plaintiff had numerous communications with Mr. Roberts and Town officials while implementing the upgraded racetrack project.

145. Mr. Roberts knew when he issued the occupancy permit, that the Town was creating an amendment to the noise ordinance specifically targeting noise at the Fair.

146. On October 27, 2020, Mr. Roberts agreed with the fact that the positive impact the upgraded track would have for the community would outweigh the noise and that some pushback may come as it tends to with change.

147. Mr. Roberts stated on October 27, 2020 that “*we as the Town* see the positive in it”.

148. Mr. Roberts was present and participated in meetings of the Town Council, and the Town Council Community and Economic Development Committee.

149. Mr. Roberts was clearly speaking with the authority and on behalf of the Town when he made the statement on October 27, 2020.

150. Defendant, through its building code and zoning officer, Ken Roberts informed plaintiffs regarding the use of the track (and there being no hold up with the use) and did not suggest or require that special exception approval of the expanded nonconforming use be sought.

151. On October 27, 2020, Mr. Roberts confirmed with Ralph (believed to be a previous zoning officer) that there would be no zoning hold up with the use and did not suggest or require special exception approval by the zoning hearing Board.

152. Defendant affirmed these promises through their subsequent actions, such as through communications with the Fair as indicated above, issuing the building and occupancy permits, inspecting the construction site, and allowing the construction to continue.

153. Defendant affirmed these promises through the issuance of the Floodplain permit with no requirement for zoning hearing board approval for a special exception.

154. Defendant, over the span of 2 years, encouraged, fostered and supported Plaintiff's project.

155. The Fair's Board would reasonably be expected to hire a contractor (which it did), advertise the racing schedule (which it did), schedule and conduct races (which it did), and acquire race promoters to promote and schedule races (which it did), all in reliance on the conduct and promise of the zoning officer/code official.

156. This reliance on the part of the Fair Board was base upon the promises made by Mr. Roberts, who was the only Town official the Fair would have dealt with regarding the project as no approvals were required from Council or the Mayor.

157. The Fair expended approximately 1.2 million dollars in reliance on the promises and actions (or inactions) of the Town and its appointed officials.

158. The Town's extensive involvement in the Project, for such a long period of time, also permits an inference of reasonable reliance on the Town's representations.

159. Defendant affirmed these promises through not requiring any zoning permit or special exception in connection with the project.

160. Mr. Roberts did not even require the Fair to obtain a certificate of non-conforming use for the acknowledged non-conforming use that is the race track.

161. As stated above, Mr. Roberts acknowledged speaking to the public and some push back that may come as it tends with change, but stated *the Town* saw the positive in it, wishing the Plaintiff good luck.

162. Town Council and the Mayor have no authority over the permits issued by Mr. Roberts, nor does Town Council approve or deny the same.

163. Mr. Roberts issued these representations and promises on behalf of Defendant, it is not alleged that these were misrepresentations, as this was clearly the Town's position and/or

its economic development committee's position when the promises and representations were made.

164. Defendant's code/zoning officer made a contract-like promise to the Plaintiff in connection with the submission of the plans and applications for the racetrack and with the overall project.

165. Defendant's zoning officer's promises were unsupported by any consideration.

166. Defendants zoning officer should reasonably have expected that above promises and assertions would induce definite action on the Plaintiff's part, namely scheduling races, hiring promoters, and advertising the races.

167. These promises, in connection with the issuance of the permits, and no direction that a zoning permit for a nonconformity or special exception would need to be or should be obtained in connection with the expanded nonconforming use would reasonably be expected by Defendant to induce action on the part of the plaintiff.

168. The Defendant induced Plaintiff to act, and the Plaintiff took action in reliance on the promises in that Plaintiff spent large sums of money (approximately 1.2 million dollars), did not apply to the Town's zoning hearing board for a special exception as it was not directed or required to, entered into contacts with third parties, and constructed the upgraded racetrack.

169. Plaintiff also entered into contracts with racing promoters to promote and complete a full racing schedule in 2022 and 2023.

170. Injustice can only be avoided only by enforcing the promises conveyed by in that the Plaintiff has expended large sums of money on the upgraded racetrack that the town has prevented Plaintiff from operating by passing the amended noise ordinance, a claim for which is made.

171. The exponential loss incurred by the Fair in reliance on the promises set forth above, as well as the fact that racing cannot occur on the track with a maximum decibel level of 65, clearly suggest that injustice has occurred.

172. As a result of Defendants' actions as aforescribed, Plaintiff in reliance on the same has incurred losses and damages as described herein.

173. Plaintiff will be temporarily or permanently is unable to use the racetrack due to Defendant's enforcement of the Ordinance.

174. Defendant's actions in passing the ordinance have caused a diminution in value of property, namely the inability to use the racetrack.

175. Defendant's actions and the Plaintiff's need to bring suit to enforce its rights has caused the loss of sponsorship for the racetrack.

176. In addition, and in the alternative, equitable estoppel may arise from "an informal promise implied by one's words, deeds, or representations that induces reasonable reliance by another to his detriment. See *In re Jackson*, 280 A.3d 1074, 1083 (Pa. Cmwlth. 2022).

177. Thus, the two essential elements of equitable estoppel are inducement and justifiable reliance. *Belleville v. David Cutler Grp.*, 118 A.3d 1184, 1199 (Pa. Cmwlth. 2015).

178. Equitable estoppel may be asserted against the government. *Jackson*, 280 A.3d at 1083.

179. The inducement may be words or conduct and the acts that are induced may be by commission or forbearance provided that a change in condition results causing disadvantage to the one induced." *Jackson*, 280 A.3d at 1083.

180. The Fair relied to its detriment on Roberts' and the Towns's approval of the construction plan, failure to revoke the building permit, and failure to inform the Fair that additional zoning approval in the form of a special exception must be sought.

181. The Fair also relied on the Town's multiple inspections during the construction, and the issuance of the occupancy permit when construction was complete.

182. If the Town is allowed to enforce the amended noise ordinance against the Fair, the property either cannot be used, or extreme measures must be taken to convert the property.

183. Either will be a clear detriment to The Fair.

184. Defendant's actions have caused racing promoters to not schedule racing at the Fair's racetrack.

185. Defendant's conduct results in the racetrack being unavailable for use for a limited or permanent period of time, a claim for which is made.

WHEREFORE, Plaintiff should be put in the same position he would have been in if the Defendant's promise had been fulfilled or put in the same position it was in before the making of the promise. Therefore, Plaintiff demands judgment in its favor and against Defendant in an amount in excess of Fifty Thousand (\$50,000.00) Dollars, plus costs, interest, and attorney fees, if permitted by law.

Respectfully submitted,

Dated: 11/21/23

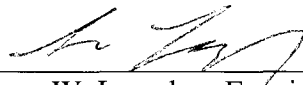
By: 
Sean W. Logsdon, Esquire
Attorney ID No. 93096
85 Drasher Road
Drums, PA 18222
(570) 788-6647

EXHIBIT A

Chapter 10. Health and Safety

PART 2. EXCESSIVE NOISE

§ 10-201. Findings.

[Ord. 881, 1/24/2005]

The Town Council of the Town of Bloomsburg makes the following findings:

- A. Excessive levels of sound are detrimental to the physical, mental and social wellbeing of the residents of the Town of Bloomsburg as well as to their comfort, living conditions, general welfare and safety.
- B. Excessive noise levels degrade the environment and detract from the quality of life within the Town of Bloomsburg.
- C. Excessive noise levels limit the quiet enjoyment of the properties of the residents of the Town of Bloomsburg.
- D. Excessive noise levels constitute a safety hazard in the form of distractions to the traveling public and to pedestrians.
- E. Excessive levels of noise degrade the environment and detract from the quality of life in the Town of Bloomsburg.
- F. The Police Department has received numerous complaints over the years from citizens concerning loud and disruptive activities during evening, night and early morning hours.

§ 10-202. Declaration.

[Ord. 881, 1/24/2005]

The Town Council of the Town of Bloomsburg hereby declares that excessive noise levels are a public health, safety and welfare hazard, and that regulation of excessive noise levels within the Town of Bloomsburg are in the public's interest.

§ 10-203. Definitions.

[Ord. 881, 1/24/2005]

NOISE

Any sound which annoys or disturbs humans or which causes or tends to cause an adverse psychological or physiological effect on humans.

NOISE DISTURBANCE

Any sounds which:

- A. Endangers or injures the safety or health of humans or animals

- B. Annoys or disturbs a reasonable person of normal sensitivities.
- C. Endangers or injures personal or real property.
- D. Exceeds the decibel levels as set forth in this Part.

PERSON

Any individual, corporation, partnership, firm or any legal successor, representative or agent of the foregoing.

REAL PROPERTY BOUNDARY

An imaginary line along the ground surface, and its vertical extension, which separates the real property owned by one person from that owned by another person.

RECEIVING LAND USE

Land that receives the noise.

SOUND

An oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound including duration, intensity and frequency.

§ 10-204. Prohibited Acts.

[Ord. 881, 1/24/2005]

The following acts and the causing thereof are declared to be noise disturbances and, therefore, in violation of this Part.

- A. Radios, Television Sets, Musical Instruments and Similar Devices. No person owning, leasing, occupying or having charge of any building or premises or any part thereof in the Town of Bloomsburg shall operate, play or permit the operation or playing of any radio, CD player, VCR, DVD, television, phonograph, highfidelity equipment or similar devices, drum, musical instrument or sound amplifier at any time in such a manner as to cause a noise disturbance across a real property boundary at any time during the day or night. A decibel reading of 70dBA or above measured by a noise meter beyond 30 feet from the property boundary shall be a violation of this Part.
- B. Automobile Radios, Automobile Stereos, Portable Radios and Stereos. No person shall play an automobile radio or automobile stereo which produces, reproduces or amplifies sound in such a manner as to create a noise disturbance, whether audible sound or vibration, across any real property boundary or 30 feet from such device, whichever is less, when the device is operated in or on a motor vehicle or carried on a public right-of-way or public space at any time during the day or night. A decibel reading of 70dBA or above measured by a noise meter beyond 30 feet from the property boundary shall be a violation of this Part.
- C. Motor Vehicles and Motorcycles.
 - (1) No person shall at any time operate a motor vehicle, motorcycle or piece of machinery or equipment so out of repair, so loaded, or in such a manner as to create loud and unnecessary grating, grinding or other noise disturbance. Every motor vehicle and motorcycle shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation and no muffler or exhaust system shall be equipped with a cutout, bypass or similar device so as to cause a noise disturbance.
 - (2) No person shall at any time sound the horn or other warning device of a vehicle so as to cause a noise disturbance as defined herein except when absolutely necessary as a warning while actually driving such vehicle.

- (3) No person shall at any time operate a motor vehicle by racing the motor or spinning the wheels so as to make or cause to be made any loud, boisterous or unseemly noise or disturbance, that creates a noise disturbance across a real property boundary or near any street, alley, park, public grounds or other public property in the Town of Bloomsburg, whereby the public peace is broken or the traveling public annoyed.
- (4) No person shall repair, rebuild or test any motor vehicle, motorcycle or motor boat in such a manner as to cause a noise disturbance across a residential real property boundary.
- D. Yelling and Shouting, Etc. No person shall create a noise disturbance by yelling, shouting, whistling, hooting or singing so as to annoy or disturb the quiet, comfort or repose of persons in any dwelling or residence, or of any persons in the vicinity, between the hours of 10:00 p.m. and 7:00 a.m.
- E. Places of Public Entertainment. No person shall operate, play or permit the operating or playing of any radio, television, phonograph, stereo, drum, musical instrument, sound amplifier or similar device which produces, reproduces or amplifies sound within any place of public entertainment or permit sounds from persons present at the place of public entertainment to create a noise disturbance across a real property boundary between the hours of 10:00 p.m. and 7:00 a.m.
- F. Noise from Premises. No person owning or in possession or control of any building or premises shall use the same, permit the use of the same, or rent the same to be used for any business or employment or residential use, or for any purpose of pleasure or recreation, if such use shall create a noise disturbance across a residential real property boundary.
- G. Parties and Other Social Events. No person in charge of a party or other social event and no person present at a party or other social event that occurs on any private or public property shall allow that party or event to produce excessive noise in a loud, annoying or offensive manner such that noise from the party creates a noise disturbance across a residential real property boundary.
- H. Explosives, Fireworks, Firearms and Similar Devices. No person shall use explosives, fireworks, firearms or similar devices which create impulsive sound as to cause a noise disturbance across a real property boundary or on a public right-of-way.

§ 10-205. Exceptions.

[Ord. 881, 1/24/2005]

This Part shall not apply to:

- A. Emergency Services/Municipal Services/Public Utilities.
 - (1) The emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work or service by a municipality or emergency service.
 - (2) Sounds generated from or incidental to emergency or nonemergency repairs to public utilities or any other emergency public works function by a municipality or public utility.
- B. Churches and Official Buildings. Music, bells, chimes or other sounds which are emanating from a church, or place of worship, or certain Town, County or State buildings, approved by Town Council.
- C. Nonconforming Uses. Sounds generated in commercial and industrial zoning districts or by recognized nonconforming uses which are necessary and incidental to the uses permitted.
- D. Town, County and State Events.
 - (1) Sound generated by activities which are an official or an approved part of any Town, County or State approved or licensed festival or activity, provided that such exemption shall terminate at 12:00 midnight.

- (2) Sound generated at any time from school-sponsored athletic or recreational events.
- (3) Activities at the Bloomsburg Fairgrounds.
- (4) Fireworks displays pursuant to a properly issued permit.

§ 10-206. Enforcement.

[Ord. 881, 1/24/2005]

1. **Violations.** Any person committing any of the acts prohibited above shall be in violation of this Part and be subject to the penalties set forth below.
2. **Penalties.** Any person violating this Part shall, upon conviction in a summary proceeding, be sentenced to pay a fine not to exceed \$600 to the use of the Town of Bloomsburg, along with costs of prosecution, or to be imprisoned for not more than 10 days or both.
3. **Prima Facie Violation.** The noise from any of the aforesaid prohibited acts that disturbs two or more residents, who are in general agreement as to the times and durations of the noise and who reside in separate residences (including apartments and condominiums) located across a real property boundary from the property on which the source of the noise is generated, shall be prima facie evidence of a noise disturbance across a real property boundary. Nothing herein is intended to preclude proof of a noise disturbance beyond a property line by less than two witnesses or by a noise meter as set forth herein.
4. **Noise Meters.** When a noise disturbance is proved through the use of a noise meter to determine the decibel level of the noise, evidence of the decibel level shall be admissible in any prosecution under this Part upon certification that the noise meter was self-tested on the day that it was used and upon certification that the noise meter was certified to be accurate within accepted standards by the manufacturer, within one year prior to its use.
5. **Legal Actions.** The Police Department of the Town of Bloomsburg may initiate and prosecute legal actions for violations of this Part without the need of a complaint or the testimony of complainants.

EXHIBIT B

Zoning Hearing Board may be needed prior to the issuance of a Floodplain Development Permit.



Floodplain Development Permit Application

Property Information:

Address/Location 620 W. 3rd Street
Owner Name Columbia County H&A Mech dba Bloomsburg Fair Association
Owner Address PO Box 479, Bloomsburg Fair Association
Owner Phone Number(s) 570-784-4949
Owner Email _____

Contractor Information:

Contractor Name The Armory Agency
Company Name The Armory Agency
Address 440 East Saint Elmo
Phone 949-400-6400 FAX _____
Email bj@thearmoryagency.com

Floodplain Map Information:

Panel # 42037C0330E Floodway? No Base Flood Elevation 480.00'
Market Value of existing _____ Cost of Improvements _____

Description of Development:

Clearing and grading of a new dirt racetrack with related site and stormwater
improvements.

Certification and Acknowledgement:

I certify that I am the owner or the authorized agent of the owner of the property upon which the work authorized by the permit sought will be performed. I further certify that the information given is true and correct to the best of my knowledge. All work will be performed in accordance with all applicable laws of the state of Pennsylvania and the Town of Bloomsburg.

Printed Name of Owner or Representative

_____ Date: _____

Signature of Owner or Owner Representative

Reviewed By: _____ Date: _____



Permit #: 2020248

Permit Date: 12/18/20

Barry Isett & Associates Permit #:

Permit Type: Floodplain Development

Use: Commercial

Type of Improvement: Alterations

Applicant Name: Drew Barton

Applicant Address: 620 W 3rd st

City, State, Zip: Bloomsburg, PA 17815

Phone Number: 570-560-2876

Project Description: Renovations to the race track

Project Cost: 0

Square Feet: 0

Zoning District: I-P Industrial Park

Flood Plain Y/N: Yes

Current Use: Commercial

Proposed Use: Commercial

Status: Issued

Assigned To: Ken Roberts

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
05W09 00500000		0340-0436	COLUMBIA COUNTY H & A MECH ASSOCIATION		

Fees

Fee	Description	Notes	Amount
Floodplain Review and Inspection	Enter number of hours		\$65.00
		Total	\$65.00

Uploaded Files

Date	File Name
12/18/2020	7869017-Floodplain-Dev-Permit-App-Long-form.pdf
12/18/2020	7869016-Site Plan.pdf



Town of Bloomsburg

FLOODPLAIN DEVELOPMENT PERMIT

Permit #: 2020248

DEVELOPMENT TYPE: Alterations

(IE: fill, residential, commercial building, storage, shed, drill, excavation, etc)

ISSUED TO: Drew Barton

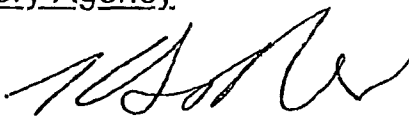
ADDRESS: 620 W 3rd st

PROPERTY ADDRESS: ,

(IF DIFFERENT FROM PERMITTEES ADDRESS)

CONTRACTOR: The Armory Agency

ISSUED BY: Ken Roberts



(CODE OFFICIAL)

DATE: 12/18/2020

Kenneth J Roberts, CFM
NO. Us-19-11177
Certified Floodplain Manager
(PERMIT EXPIRES 365 DAYS FROM THIS DATE)

COMMENTS:

***THIS PERMIT MUST BE POSTED ON THE PREMISES IN A CONSPICUOUS PLACE SO AS TO BE CLEARLY VISIBLE FROM THE STREET**

Town of Bloomsburg
Floodplain Development Permit Application - Long Form

Owner / Contractor

Owner Name: COLUMBIA COUNTY H & A
MECH ASSOCIATION
Address: P O BOX 479
City, State, Zip: BLOOMSBURG, PA 17815
Phone:
Email:

Contractor Name: The Armory Agency
Company Name:
Address:
City, State, Zip: ,
Phone:
Fax:
Email:

Floodplain Map Information

Panel #: 42037C0330E
Floodway?: no
Base Flood Elevation: 480.0
Market Value of existing:
Cost of Improvements: 0
Description of Development: Renovations to the race track

I certify that I am the owner or the authorized agent of the owner of the property upon which the work authorized by the permit sought will be performed. I further certify that the information given is true and correct to the best of my knowledge. All work will be performed in accordance with all applicable laws of the state of Pennsylvania and the Town of Bloomsburg.

Andrew Barton
Owner/Agent

12/18/2020
Date

EXHIBIT C

TOWN OF BLOOMSBURG
PERMIT PROCESS APPLICATION

Permit #: _____
Date: _____
Total Fee: _____

*If there exists tax, sewer, or recycling delinquencies, no permit will be issued under any ordinance of the Town of Bloomsburg requiring a permit.

1. PROPERTY INFORMATION: RESIDENTIAL: _____ COMMERCIAL: X

Site Address: 1120 W. 3rd Street Bloomsburg PA 17815

Zoning District: 1-P Flood Plain: ☒ Yes ☐ No

Current Certificate of Occupancy: ☒ Yes ☐ No

2. OWNER INFORMATION:

<u>Bloomsburg Fair Association</u>		<u>570-764-4949</u>	
First Name	Mi.	Last Name	Phone
<u>1120 W. 3rd Street</u>		<u>Bloomsburg</u>	<u>PA 17815</u>
Street Address		City	State Zip

3. APPLICANT/AGENT INFORMATION:

<u>Bloomsburg Fair Association</u>		<u>570-764-4949</u>	
First Name	Mi.	Last Name	Phone
<u>1120 W. 3rd St.</u>		<u>Bloomsburg</u>	<u>PA 17815</u>
Street Address		City	State Zip

E-Mail Address _____

4. CERTIFICATION:

I hereby certify that I am the owner of record of the named property, or that the proposed work is authorized by the owner of record and that I have been authorized by the owner to make this application as his authorized agent and I understand and assume responsibility for the establishment of official property lines for required setbacks prior to the start of construction, and agree to conform to all applicable law of this jurisdiction. I further certify that this information is true and correct to the best of my knowledge.

APPLICANT/AGENT SIGNATURE: [Signature]

DATE: 7/6/21

5. PROJECT DESCRIPTION: (additional plans may be attached)

constructing a track + fence.

ESTIMATED COST OF CONSTRUCTION/PROJECT: \$ 100,000

6. ZONING PERMIT INFORMATION:

☐ New Building ☐ Addition ☐ Signage ☐ Fence ☐ Deck ☐ Accessory Structure/Shed ☐ Use Change
☐ Other _____

Current Use: _____

Proposed Use: _____

Site Plan Submitted (Minimum of 3 Sets): ☐ Yes ☐ No

Zoning Permit Fee: _____

7. BUILDING PERMIT INFORMATION: TYPE OF IMPROVEMENT:

☒ New Construction ☐ Repairs/Renovations ☐ Alterations

Construction Plans Submitted (Minimum 3 Sets): ☐ Yes ☐ No

Building Permit Fee: _____

8. DEMOLITION PERMIT INFORMATION:

☐ Residential ☐ Commercial (DEP Notification - ☐ Yes ☐ No)

Total Square Footage of Structure (include on levels): _____

Method of Demolition: _____

Disposal of Debris (Location): _____

Utilities have been confirmed cleared (IE: Sewer, Gas, Electric, Water) _____

9. CONTRACTOR INFORMATION: (Please list additional contractor information on a separate sheet(s) if applicable)

Contractor or Firm: The Agency Phone: _____

Person in Charge of Work: _____ Phone: _____

Contractor/Firm Address: 101 W. Broadway Suite 300

City: San Diego State: CA Zip: 92101

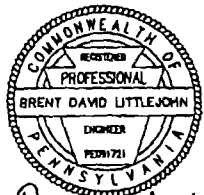
Workman's Compensation Insurance Carrier Name: _____

UNIFORM CONSTRUCTION CODE ALLOWS FIFTEEN DAYS FOR RESIDENTIAL REVIEW AND THIRTY DAYS FOR COMMERCIAL REVIEW.

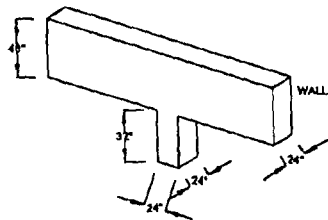
APPLICANT OR AUTHORIZED AGENT IS RESPONSIBLE FOR CONTACTING THE BUILDING INSPECTOR
A MINIMUM OF 48 HOURS IN ADVANCE FOR ALL REQUIRED INSPECTIONS

ALL APPROVED APPLICATIONS SHALL REQUIRE A FINAL INSPECTION
TO OBTAIN A CERTIFICATE OF OCCUPANCY

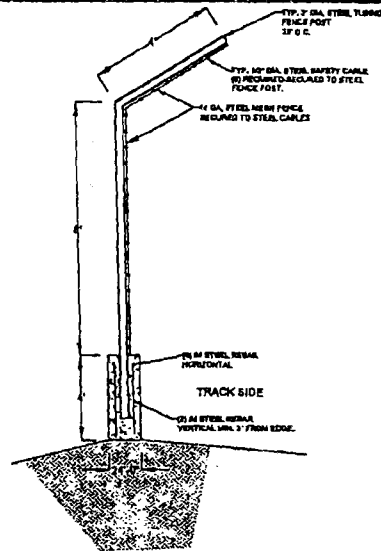
THE DETAILS PROVIDED ON THIS SHEET ARE APPROVED BY LIVIC CIVIL, LLC BASED UPON THE DIMENSIONS AND BAR SIZES PROVIDED. THE APPROVAL OF THE DETAILS IS FOR WIND LOADING ONLY APPLIED TO THE FENCE AND WALL. THE DETAILS WERE NOT ANALYZED FOR WIND LOAD APPLIED TO ANY SIGN STRUCTURES ATTACHED TO THE FENCE OR FOR ANY VEHICULAR IMPACT LOADING.



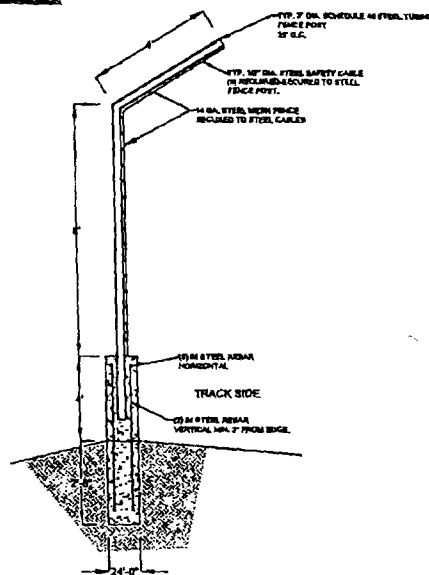
Brent Littlejohn



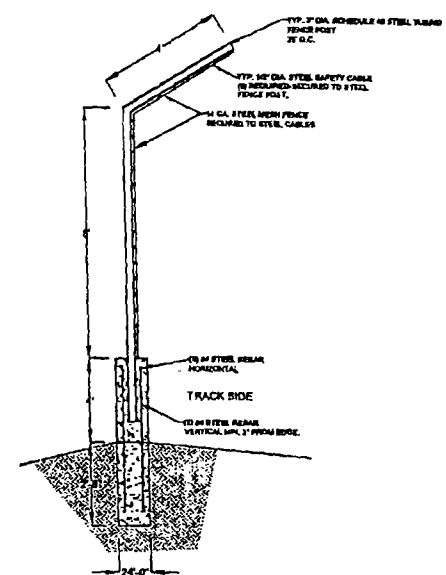
TYP. FOOTING EVERY 80'



SECTION "C-C"



SECTION "B-B"



SECTION "A-A"

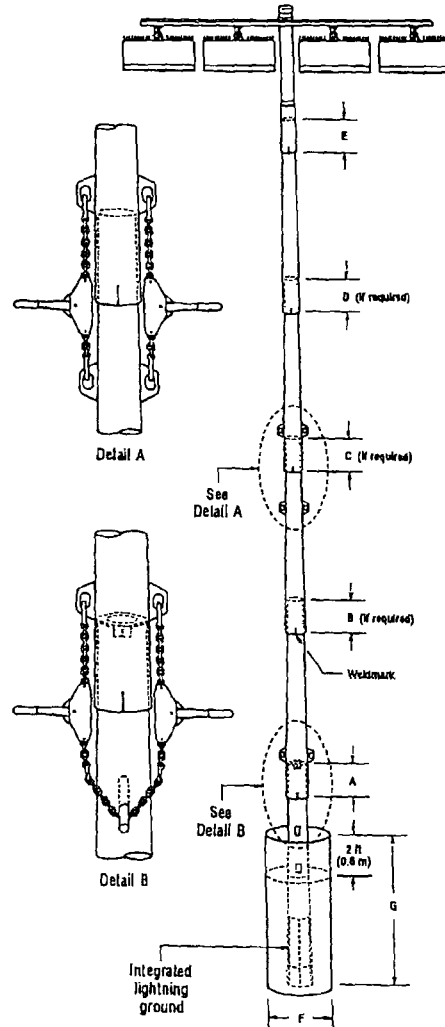
PROPOSED DIRT TRACK
BLOOMSBURG PA.

FENCE & WALL
SECTION

6-28-2021

SHEET 3 OF 3

FOUNDATION AND POLE ASSEMBLY DRAWING



POLE ID	POLE HEIGHT ft (m)	# OF LUMINAIRES	ASSEMBLED POLE WEIGHT lb (kg)	OVERLAP DIMENSIONS in (mm)				
				A	B	C	D	E
P1	80 (18.3)	4	1074 (487)	See Note 1	27 (686)	N/A	N/A	17 (427)
P2	80 (18.3)	4	1074 (487)	See Note 1	27 (686)	N/A	N/A	17 (427)
P3	80 (18.3)	3	865 (447)	See Note 1	27 (686)	N/A	N/A	17 (427)
P4	80 (18.3)	3	865 (447)	See Note 1	27 (686)	N/A	N/A	17 (427)
P5	80 (18.3)	3	865 (447)	See Note 1	27 (686)	N/A	N/A	17 (427)
P6	80 (18.3)	4	1074 (487)	See Note 1	27 (686)	N/A	N/A	17 (427)
P7	80 (18.3)	4	1074 (487)	See Note 1	27 (686)	N/A	N/A	17 (427)
P8	80 (24.4)	7	2282 (1040)	See Note 1	29 (729)	N/A	N/A	18 (456)
P9	80 (24.4)	7	2282 (1040)	See Note 1	29 (729)	N/A	N/A	18 (456)

Pole Assembly Notes:

1. Steel pole should overlap concrete base and be sealed tight with 1 1/2 in. core-along (contractor provided).
2. Align weldmarks on steel sections before assembling.
3. Assembled pole weight includes steel sections, crossarms, luminaires, and electrical components and enclosures.
4. Section overlap must be pulled together until tight. Overlap measurement should be +/- 6 in (150 mm).
5. This document is not intended for use as an assembly instruction. See Installation Instructions: Light-Structure System™ Lighting System for complete assembly procedure.

POLE ID	CONCRETE BASE WEIGHT lb (kg)	F in (mm)	SURVEY INFORMATION LA CONCRETE BACKFILL L ft (m)		CUT BASE	LIGHTNING GROUND SUPPLEMENTAL INSTRUCTION	
			D ft (m)	R ft (m)		TYPE	
P1	1870 (846)	30 (762)	10 (3.0)	1.2 (0.9)	NO	INTEGRATED*	N/A
P2	1870 (846)	30 (762)	10 (3.0)	1.2 (0.9)	NO	INTEGRATED*	N/A
P3	1870 (846)	30 (762)	10 (3.0)	1.2 (0.9)	NO	INTEGRATED*	N/A
P4	1870 (846)	30 (762)	10 (3.0)	1.2 (0.9)	NO	INTEGRATED*	N/A
P5	1870 (846)	30 (762)	10 (3.0)	1.2 (0.9)	NO	INTEGRATED*	N/A
P6	1870 (846)	30 (762)	10 (3.0)	1.2 (0.9)	NO	INTEGRATED*	N/A
P7	1870 (846)	30 (762)	10 (3.0)	1.2 (0.9)	NO	INTEGRATED*	N/A
P8	3810 (1728)	30 (762)	14 (4.3)	1.8 (1.2)	NO	INTEGRATED*	N/A
P9	3810 (1728)	30 (762)	14 (4.3)	1.8 (1.2)	NO	INTEGRATED*	N/A

Foundation Notes:

1. Concrete base is calculated to 2 ft (0.6m) below grade (no average included). Top 2 ft (0.6m) to be class 5 soil compacted to 95% density of surrounding undisturbed soil unless otherwise specified in stamped structural design.
2. Concrete backfill required 3000 lb/in² (20 MPa) minimum.
3. Foundation design per ACI, 116, exposure category C, variation STD (Risk Category II).
4. Assumes 80C class 5 soils.
5. Standard bases include integrated lightning protection. If bases are cut, supplemental lightning protection is required. Contact Mueser for materials and instruction.
6. Lightning protection is a manufacturer installed concrete encased electrode and connector. Ground connection is made when concrete base is installed and footing is poured. No additional steps required.

THE LIGHT POLE FOUNDATION DIMENSIONS PROVIDED ON THIS SHEET HAVE BEEN ANALYZED AND APPROVED FOR OVERTURNING BY LIVIC CIVIL, LLC. THIS APPROVAL IS FOR LATERAL WIND LOADING ONLY AND DOES NOT INCLUDE ANY ANALYSIS FOR VEHICULAR IMPACT LOADING. THE ANALYSIS IS FOR OVERTURNING ONLY AND ASSUMES MINIMUM REINFORCING STEEL PER ACI REQUIREMENTS.



Brent Littlejohn

A60-42-00_A

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Shenandoah Road Spoolway - Shenandoah, PA, USA

Date: 03/26/2021
 Rep: Virginia 3/26/21
 Project: 200004

Revised: N/A
 Page: 1 of 1
 Production

EXHIBIT D



Town of Bloomsburg

BUILDING PERMIT

Permit #: 2021112

DEVELOPMENT TYPE: Accessory Structure

(IE: fill, residential, commercial building, storage, shed, drill, excavation, etc)

ISSUED TO: COLUMBIA COUNTY H & A MECH ASSOCIATION

ADDRESS: P O BOX 479

PROPERTY ADDRESS: Bloomsburg Fair,

(IF DIFFERENT FROM PERMITTEES ADDRESS)

CONTRACTOR:

ISSUED BY: Ken Roberts



(CODE OFFICIAL)

DATE: 07/08/2021

Kenneth J. Roberts
Building Code Official

PA UCC # 006705
(PERMIT EXPIRES 365 DAYS FROM THIS DATE)

COMMENTS: Racetrack excluding electrical. Please do not hesitate to contact Mark Prout should you have any questions regarding this memo, or to schedule inspections please call Mark Prout at 570-317-6806.

*THIS PERMIT MUST BE POSTED ON THE PREMISES IN A CONSPICUOUS PLACE SO AS TO BE CLEARLY VISIBLE FROM THE STREET



REQUIRED INSPECTIONS

The following indicated ☒ inspections are required at 620 WEST 3RD STREET

for RACETRACK & FENCE

(2015 International Building Code) 2014 NEC, PA UCC

Requests for inspections should be made at least Twenty-Four (24) hours in advance. Construction work must be inspected on accordance with these instructions. Re-inspection fees will be charged for all failed observations. Approved plans shall be on site at the time of Inspections.

TO SCHEDULE INSPECTIONS, CONTACT MARK PROUT (570-317-6806)

- ☒ **FOOTERS:** ☒ **PIERS:**
Before placement of concrete. The bottom of footing trenches/piers shall be dry, clean, and solid. Rebar shall be installed if indicated on the approved plans. All forms shall be complete with gaps no greater than 3 inches. **FOR PRECAST FOUNDATIONS CALL FOR INSPECTION BEFORE THE STONE IS INSTALLED.**
- ☐ **PRE-FOUNDATION:**
Foundation forms set, steel reinforcement installed per the approved plans, and before concrete placement. For CMU, partially erect with steel reinforcement installed.
- ☒ **FOUNDATIONS:**
Foundation and all walls shall be complete up to grade level, prior to backfilling. Foundation waterproofing/damp proofing, materials, anchor bolts and sill plates installed, and exterior perimeter drains shall be complete.
- ☐ **SERVICE – SEWER:** ☐ **SERVICE – WATER:** ☐ **SERVICE – FIRE LINE:**
Plumbing services shall be complete. Underground copper supply lines shall not be covered by limestone screening. Sand or other suitable fill shall be utilized. *Note: Plumbing tests are required for all water supply lines and drainage lines.* Water supply line tests require working pressure of the system or an air test not less than 50 psi. Drainage line tests require 10-foot head of water test. Fire lines require 200 PSI hydro-test.
- ☐ **UNDERSLAB ROUGH ELECTRICAL:**
All conduits shall be installed below the bottom of the slab. All joints shall be sealed / glued.
- ☐ **UNDERSLAB ROUGH PLUMBING:**
Plumbing underslab shall be complete. Underground copper supply lines shall not be covered by limestone screening. Sand or other suitable fill shall be utilized. *Note: Plumbing tests are required for all water supply lines and drainage lines.* Water supply line tests require working pressure of the system or an air test not less than 50 psi. Drainage line tests require 10-foot head of water test. (One- and two-family dwellings only are permitted to be tested with 5 psi of air).
- ☐ **SLAB:**
All underground utilities shall be complete and inspected. Stone base, welded wire (if indicated), insulation board, and 6-mil polyethylene (if indicated) shall be complete. Finished floor elevation is required to be marked and/or indicated for the inspection. All rebar or wire mesh is required to be installed on chairs.
- ☐ **DECK BONDING (EQUIPOTENTIAL BONDING):**
Before covering. Bonding Ring is installed and connected to the pool at 4 equally spaced locations.
- ☒ **BONDING:**
Before back filling or covering any wire or connections. All potting compounds shall be installed.
- ☒ **ROUGH ELECTRICAL TRENCH:**
All trenches shall be inspected before back fill. Conduits shall be installed at the correct depth per the code. The conduits shall be supported continuously at the bottom of the trench.
- ☒ **ELECTRICAL SERVICE:**
Install meter base, panel/disconnect, service entrance conductors, and grounding electrode systems.
- ☒ **ROUGH ELECTRICAL:**
All splicing to be complete. All wiring and device boxes are installed, all penetrations are fire stopped, prior to concealment.
- ☐ **ROUGH MECHANICAL:**
Ductwork and/or concealed piping shall be complete. All penetrations fire stopped, prior to concealment.
- ☐ **GAS TEST:**
Pressure tests are required for gas lines. Test pressure shall be not less than 1-1/2 times the proposed maximum working pressure, but not less than 3 psig. *Note: Propane systems and piping are excluded as per Act 35.*
- ☐ **ROUGH PLUMBING:**
Plumbing underslab shall be complete. Underground copper supply lines shall not be covered by limestone screening. Sand or other suitable fill shall be utilized. *Note: Plumbing tests are required for all water supply lines and drainage lines.* Water supply line tests require working pressure of the system or an air test not less than 50 psi. Drainage line tests require 10-foot head of water test. (Air test on plastic is prohibited in Nonresidential (Commercial) Applications.) (One- and two-family dwellings only are permitted to be tested with 5 psi of air for plastic DWV.). The pressure test shall be witnessed by the Code Official.

- ☐ **ROUGH FIRE ALARM/SPRINKLER:**
The pressure tests shall be witnessed by the Code Official.
- ☐ **ROUGH BUILDING/FRAMING:**
All structural framing, sheathing, bracing, fire caulking, fire blocking, and draft stopping shall be complete. Mechanical, electrical, and plumbing systems shall be complete. Installation of insulation shall not be initiated.
- ☐ **WALL SHEATHING:**
Before building wrap.
- ☐ **SPRINKLER TEST:**
Piping shall be exposed. Tests shall be conducted as per NFPA requirements.
- ☐ **EXTERIOR LATH:**
(Stucco Mesh, Veneer Mesh, or any similar products): Before base coat.
- ☐ **INSULATION/ENERGY CONSERVATION:**
All insulation (to be concealed) shall be complete. *Note: Chosen energy path information (ComCheck, International Energy Code Prescriptive, ResCheck, PA Alternatives, International Residential Code Prescriptive) must be on site, including manufacturer's stickers on all glazing.*
- ☐ **AIR BARRIER/AIR LEAKAGE:**
Thermal envelope fully sealed and any required testing completed per IRC and IECC requirements.
- ☐ **DRYWALL:** After insulation is approved and wallboard has been fastened, prior to taping and spackling.
- ☐ **ABOVE CEILING-BUILDING**
- ☐ **ABOVE CEILING-ELECTRICAL**
- ☐ **ABOVE CEILING-MECHANICAL:**
Required duct insulation shall be installed.
- ☐ **ABOVE CEILING-PLUMBING:**
For all above ceiling inspections above: all penetrations shall be sealed. Fire-rated and smoke-rated wall shall be labeled. Ceiling grid shall be properly supported. Ceiling tile shall not be installed.
- ☐ **ALARM TEST:**
Alarm system complete and operational. Provide the capability to test all devices.
- ☐ **HOOD DUCT TEST:**
Light test for hood duct prior to the duct wrap.
- ☐ **HOOD DUCT WRAP:**
After wrap is installed and before concealing the wrap.
- ☐ **HOOD SUPPRESSION TEST:**
All tests, including balloon, fusible link and pull station, to be conducted as per NFPA requirements.
- ☐ **HOOD FINAL:**
When all the work is completed, and all cooking equipment is installed.
- ☒ **FINAL ELECTRICAL:**
All devices, fixtures, and equipment shall be installed and operational. Unused wire connections shall be capped.
- ☐ **FINAL MECHANICAL:**
All heating and air conditioning and other mechanical appliances shall be operational. *Note: Propane systems and piping are excluded as per Act 35.*
- ☐ **FINAL PLUMBING:**
All fixtures shall be installed. Hot water shall be operational. Drains for uninstalled fixtures shall be capped.
- ☐ **FINAL SPRINKLER:**
The entire system must be complete and operational.
- ☐ **ACCESSIBILITY:**
Accessibility compliance with the International Building Code and ICC/ANSI A117.1. Signage installed and handicap parking striped.
- ☒ **FINAL BUILDING:**
Any above inspections that apply shall be complete. Smoke detectors, handrails, guardrails, plus exterior landings, and steps shall be complete.
- ☐ **OTHER AS NOTED:**

PLEASE NOTE THAT ROUGH-IN, ABOVE-CEILING, AND FINAL INSPECTIONS FOR ALL DISCIPLINES WILL BE COMPLETED AT THE SAME TIME UNLESS ALTERNATE SCHEDULE HAS BEEN APPROVED BY THE CODE OFFICIAL.

IF APPLICABLE, WAREHOUSE RACKING SYSTEMS MUST BE INSTALLED PRIOR TO FINAL INSPECTION, OR HAVE LAYOUT DESIGN SUBMITTED AND APPROVED PRIOR TO FINAL INSPECTION.

NO BUILDING SHALL BE OCCUPIED OR USED PRIOR TO THE ISSUANCE OF THE CERTIFICATE OF OCCUPANCY.



Permit #: 2021112

Permit Date: 07/08/21

Permit Type:

Barry Isett & Associates Permit #: 348021.048

Permit Type: Building

Use: Commercial

Type of Improvement: Accessory Structure

Applicant Name: COLUMBIA COUNTY H & A MECH ASSOCIATION

Applicant Address: P O BOX 479

City, State, Zip: Bloomsburg, PA 17815

Phone Number: 570-560-2876

Project Description: Racetrack

Project Cost: 1400000

Square Feet: 0

Zoning District: I-P Industrial Park

Flood Plain Y/N: Yes

Current Use: Commercial

Proposed Use: Commercial

Status: Issued

Assigned To: Ken Roberts

Property

Parcel #	Address	Legal Description	Owner Name	Owner Phone	Zoning
05W09 00500000	Bloomsburg Fair	0340-0436	COLUMBIA COUNTY H & A MECH ASSOCIATION		

Fees

Fee	Description	Notes	Amount
Investigations, Inspections, & Other Services Requested by Municipality	Enter number of hours		\$28,000.00
PA UCC Fee			\$4.50
Building Code Official	Enter number of hours		\$1,680.00
Administrative Fee	20% to all building fees		\$5,936.00
		Total	\$35,620.50

Notes

Date	Note	Created By:
09/13/2021	To: Town of Bloomsburg From: Mark Prout, BCO RE: RACETRACK & FENCE 620 West 3rd Street, Bloomsburg Borough, Columbia County, Pennsylvania	Ken Roberts

The submitted application for the above referenced project was reviewed and approved. See

below comment. Workman's Compensation Insurance information or Exemption form, and Liability Insurance Certificate naming the Town of Bloomsburg as the certificate Holder required to be submitted prior to commencement of project. The permit is available for pick up at the Town of Bloomsburg Code Enforcement office during normal business hours. Please submit a check payable to Town of Bloomsburg to cover the permit and inspection fees in the amount of \$35,620.50 (thirty-five thousand six hundred twenty dollars and fifty cents) when picking up the permit. The following fees shall be assessed for the above referenced project:

Permit approval was granted based on the submitted civil drawings including light pole foundations. The electrical portion of the project has not been reviewed due to no design documents submitted but will be considered a deferred submittal at this point. The cost of the electrical portion of project has been included in these fees.

Plan Review \$ 1,680.00
Permit and Observations \$ 28,000.00
20% Municipal Admin Fee \$ 5,936.00
State \$ 4.50
Total Fee \$ 35,620.50

Please do not hesitate to contact Mark Prout should you have any questions regarding this memo, or to schedule inspections please call Mark Prout at 570-317-6806.

Uploaded Files

Date	File Name
07/08/2021	<u>9196638-Fairgrounds Racetrack - Calculation Manual.pdf</u>
07/08/2021	<u>9196640-permit application for fairgrounds.pdf</u>

EXHIBIT E

CERTIFICATE OF OCCUPANCY
Town of Bloomsburg

Permit No.: _____ Building: 2021112 Zoning District: I-P
Electrical: _____
Mechanical: _____
Plumbing: _____

Permit Holder: Bloomsburg Fair Association

Address: 620 West 3rd Street
Bloomsburg, PA 17815

Property Location: 620 West 3rd Street

Record Owner: Bloomsburg Fair Association

Address: 620 West 3rd Street
Bloomsburg, PA 17815

Description: Racetrack & Fence

Contingents: N/A

Applicable Construction Code: 2015 International Building Code/ PA UCC/ 2014 NEC

Type of Construction: Site work and electrical installation for lights

Use & Occupancy Classification: A-5 Final Inspection Date: 8/23/2022

Automatic Fire Suppression System Installed: ☐ Yes ☒ No

Stipulations/Conditions/Board of Appeals Rulings: N/A

Existing Use: Previous Track and Open Space

Proposed Use: Racetrack & Fencing

This is to certify that the building or structure has been inspected and found in compliance with the Pennsylvania Uniform Construction Code and Zoning Codes of Town of Bloomsburg, Columbia County, Pennsylvania, and the above stated occupancy and use thereof is hereby authorized.

**ANY CHANGES IN THE USE AND OCCUPANCY AS DESIGNATED ABOVE
WITHOUT APPROVAL OF THE ZONING ADMINISTRATOR AND BUILDING CODE
OFFICIAL, WILL AUTOMATICALLY RENDER THIS CERTIFICATE NULL AND VOID.**

Date: 8/24/2022

Signed By:



Building Code Official #006812

EXHIBIT F

COMMUNITY & ECONOMIC DEVELOPMENT COMMITTEE

Tuesday, November 30, 2021, 3:00 P.M.

COUNCIL CHAMBERS & ZOOM MEETING

DIAL: +1 646 558 8656 US & INCLUDE THE MEETING ID: 456-920-3798 & PRESS#.

JOIN ONLINE AT: <https://us02web.zoom.us/j/4569203798>.

Committee responsibilities - Code Enforcement and Zoning, Future Zoning, Housing, Planning, Preservation/HARB, Downtown, Comprehensive Plan and Strategic Plan.

Committee Members: Toni Bell (Chair), Justin Hummel, Jim Huber and Vince DeMelfi.

Citizens to be heard.

1. Public hearing.
 - Federal Fiscal Year 2021 annual action plan substantial amendment #1
 - Federal Fiscal Year 2020 Consolidated Annual Performance and Evaluation Report (CAPER).
2. Update on the Fair Housing recommendations- Aaron Crawford.
3. Review and approval of Section 3 Action Plan- SEDA-COG.
4. Review of the code enforcement active status report from 10/01/2019 to 11/24/2021.
5. Review of the code enforcement permit report from 11/01/2021- 11/24/2021.
6. Approval of the minutes from the 10/26/2021 meeting.
7. Review of amendments to the noise ordinance.
8. Review of the new dirt ordinance.
9. Review of the vacant and abandoned property ordinance.
10. Discussion regarding house inspection training- Ken Roberts.
11. Update on business-friendly approach- Ken Roberts.
12. Discussion of the 2022 meeting dates survey results.
13. Update regarding the comprehensive plan- Kyle Bauman.
- Old business.
14. Cannabis dispensary locations and legal sales.
15. Hallstone Economic, LLC recommendations.
16. Quality of life ordinance.

17. Sign ordinance workshop- on hold until December.
18. Acquisition/ demolition application for 102 Leonard Street.
 - June/ July 2022 grant award.
 - November 2022- contract engineering firm.
 - June 2023- bid contractor.
 - June 2023- Town will take ownership of the home.
 - November/ December of 2023- contractor would demolish the home.

Next Meeting: December 14, 2021.

**TOWN OF BLOOMSBURG
COLUMBIA COUNTY, PENNSYLVANIA**

ORDINANCE NO. ____

**AN ORDINANCE AMENDING CHAPTER 10, PART 2 OF THE CODE OF
ORDINANCES OF THE TOWN OF BLOOMSBURG RELATING TO THE
REGULATION OF EXCESSIVE NOISE**

WHEREAS, the Town of Bloomsburg ("Town") currently maintains a noise ordinance contained in Chapter 10, Part 2 of its Code of Ordinances ("Noise Ordinance") which aims to ensure that public health, safety and welfare will not be abridged by the making and creating of public nuisances from disturbing, excessive or offensive noises in the Town;

WHEREAS, The Town Council recognizes that uncontrolled noise represents a nuisance and a danger to the health and welfare of its residents and that each person in the community is entitled to live in an environment in which the level of noise is minimized for the community's common benefit.

WHEREAS, The Town Council now desires to amend the Noise Ordinance as set forth herein.

NOW THEREFORE BE IT ORDAINED AND ENACTED by the Council of the Town of Bloomsburg, Columbia County, Pennsylvania that Chapter 10, Part 2 of the Town's Code of Ordinances, is amended as follows:

SECTION 1.

Chapter 10, Part 2, Section 10-203 of the Code of Ordinances, is hereby modified by adding the following definition for "Annual Fair Event.":

ANNUAL FAIR EVENT

The event known as the "Bloomsburg Fair" that is held one-time annually by the Bloomsburg Fair Association, which occurs for a period of 7 to 10 consecutive days during the months of September and/or October.

SECTION 2.

Chapter 10, Part 2, Section 10-204 of the Code of Ordinances, is hereby modified by deleting the following stricken language and adding the following underscored language:

- A. Radios, Television Sets, Musical Instruments and Similar Devices. No person owning, leasing, occupying or having charge of any building or premises or any part thereof in the Town of Bloomsburg shall operate, play or permit the operation or playing of any radio, CD player, VCR, DVD, television, phonograph, highfidelity equipment or similar devices, drum, musical instrument or sound amplifier at any time in such a manner as to cause a noise disturbance across a real property boundary at any time during the day or night. A

~~decibel reading of 70dBA or above measured by a noise meter beyond 30 feet from the property boundary shall be a violation of this Part. exceeding 70 dBA between 7 a.m. and 10 p.m. or 60 dBA between 10 p.m. and 7 a.m at the real property boundary of any residentially zoned property shall be a violation of this Part.~~

- B. Automobile Radios, Automobile Stereos, Portable Radios and Stereos. No person shall play an automobile radio or automobile stereo which produces, reproduces or amplifies sound in such a manner as to create a noise disturbance, whether audible sound or vibration, across any real property boundary or 30 feet from such device, whichever is less, when the device is operated in or on a motor vehicle or carried on a public right-of-way or public space at any time during the day or night. ~~A decibel reading of 70dBA or above measured by a noise meter beyond 30 feet from the property boundary shall be a violation of this Part. exceeding 70 dBA between 7 a.m. and 10 p.m. or 60 dBA between 10 p.m. and 7 a.m at the real property boundary of any residentially zoned property shall be a violation of this Part.~~

SECTION 3.

Chapter 10, Part 2, Section 10-205 of the Code of Ordinances, is hereby modified by deleting the following stricken language and adding the following underscored language:

This Part shall not apply to:

- A. Emergency Services/Municipal Services/Public Utilities.
 - 1) The emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work or service by a municipality or emergency service.
 - 2) Sounds generated from or incidental to emergency or nonemergency repairs to public utilities or any other emergency public works function by a municipality or public utility.
- B. Churches and Official Buildings. Music, bells, chimes or other sounds which are emanating from a church, or place of worship, or certain Town, County or State buildings, approved by Town Council.
- C. Nonconforming Uses. Sounds generated in commercial and industrial zoning districts or by recognized nonconforming uses which are necessary and incidental to the uses permitted, provided such sounds do not exceed 70 dBA between 7 a.m. and 10 p.m. or 55 dBA between 10 p.m. and 7 a.m., for a continuous period of more than 10 minutes, at the real property boundary of any residentially zoned property.
- D. Town, County and State Events.

- 1) Sound generated by activities which are an official or an approved part of any Town, County or State approved or licensed festival or activity, provided that such exemption shall terminate at 12:00 midnight.
- 2) Sound generated at any time from school-sponsored athletic or recreational events.
- 3) Activities at the Bloomsburg Fairgrounds provided that, other than during the annual fair event, motorized racing and motorized vehicle exhibition activities at the Bloomsburg Fairgrounds shall only be exempt from the requirements of this Chapter on Fridays and Saturdays from noon until 10 p.m. and, other than during the annual fair event, may only be exempt for a maximum of 5 days during a calendar year.
- 4) Fireworks displays pursuant to a properly issued permit.

SECTION 4.

Chapter 10, Part 2, Section 10-206 of the Code of Ordinances, is hereby modified by deleting the following stricken language and adding the following underscored language:

1. Violations. Any person committing any of the acts prohibited above shall be in violation of this Part and be subject to the penalties set forth below.
2. Penalties. Any person violating this Part shall, upon conviction in a summary proceeding, be sentenced to pay a fine not to exceed \$600 \$1,000 for the first offense and \$2,000 for each subsequent offense, to the use of the Town of Bloomsburg, along with costs of prosecution, or to be imprisoned for not more than 10 days or both.
3. Prima Facie Violation. The noise from any of the aforesaid prohibited acts that disturbs two or more residents, who are in general agreement as to the times and durations of the noise and who reside in separate residences (including apartments and condominiums) located across a real property boundary from the property on which the source of the noise is generated, shall be prima facie evidence of a noise disturbance across a real property boundary. Nothing herein is intended to preclude proof of a noise disturbance beyond a property line by less than two witnesses or by a noise meter as set forth herein.
4. Noise Meters. When a noise disturbance is proved through the use of a noise meter to determine the decibel level of the noise, evidence of the decibel level shall be admissible in any prosecution under this Part upon certification that the noise meter was self-tested on the day that it was used and upon certification that the noise meter was certified to be accurate within accepted standards by the manufacturer, within one year prior to its use.
5. Legal Actions. The Police Department or the Code Enforcement Officer of the Town of Bloomsburg may initiate and prosecute legal actions for violations of this Part without the need of a complaint or the testimony of complainants. In addition, the Town may institute injunctive or any other appropriate action or proceeding at law or in equity

7-4

for the enforcement of this Part. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

SECTION 5.

If any section, subsection, sentence, clause or phrase or portion of this document is for any reason held invalid or unconstitutional by any court of competent jurisdiction such shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portion thereof.

SECTION 6.

This Ordinance shall be effective upon enactment.

ORDAINED AND ENACTED into law this ____ day of _____, 2021.

ATTEST:

TOWN OF BLOOMSBURG

LISA M. DOOLEY, SECRETARY

WILLIAM S. KREISHER, MAYOR

EXHIBIT G

Community & Economic Development Committee Meeting Minutes
Tuesday, July 26, 2022 10:00 a.m.
Town Hall or via Zoom

The meeting was called to order at 10:00 a.m., present were Council Members Toni Bell, Nick McGaw, and Jim Huber (via Zoom). Also present were Justin Hummel, James Garman, Vince DeMelfi, Town Manager/Secretary/Treasurer Lisa Dooley, Code Enforcement Officer Kyle Bauman, Director of Governmental Services Charles Fritz and Administrative Assistant Christine Meeker (Zoom). Also present were Carolyn Yagle, David Hill and MJ Mahon.

Carolyn Yagle from Environmental Planning & Design was present for the discussion on the zoning ordinance overhaul project. Ms. Yagle opened the discussion by asking for direction for the Commercial District/Main Street corridor. The Committee suggested that the Main Street corridor needs an entertainment layer plus an overnight housing component. Parking requirements could be tied in by supplemental regulations. The C-W district should be reframed to allow for smaller contractors and artisan businesses. The H-D district will need more input. J. Huber wants to look at "fluid zoning" that would have no specific regulations. The I-P district in the area of the fairgrounds is hampered due to flooding. Suggestions are to relax the zoning regulations. The next series will look at the 3-D modeling.

Charles Fritz updated the Committee on the recent CRS flood educational update. These brochures will be available on the town's website. The CRS brochure will be sent to approximately 565 properties and the additional brochure will be sent to all property owners behind the flood wall (approx. 100).

The Committee reviewed the code enforcement active status report thru 07/25/22 and the permit report from 10/1/2019 thru 07/25/2022. V. DeMelfi questioned whether a permit was given for the Bloomsburg Fair Grounds for a garage that was recently built. The Codes Department will look into this.

On a motion by N. McGaw, seconded by J. Huber, and voted on unanimously, the Committee approved the minutes from the 06/28/2022 meeting with no corrections or additions.

L. Dooley updated the Committee on the operations of the code office. M. Reffeor completed his BCO and Zoning officer certifications. Phillip Prout, Barry Isset will remain working with the code office through the end of the year. Greg Ash has been working out well and the intern Branden Long will be wrapping up in August.

K. Bauman gave an update on the sidewalk/tree issues in the 10th Street area. Inspections are being done.

The Committee reviewed the draft of the noise ordinance language. Department leaders have reviewed it and made suggestions and Ostergaard will be reviewing it as well. The data from the sound collection has been sent to Ostergaard for review and compilation. Another round of collections will take place in August.

L. Dooley reported that the professional sound engineers have notified her of a cost overrun on the project. More details will be submitted at the August Council meeting.

K. Bauman updated the Committee on the Planning Commission reviews and approvals.

On a motion by N. McGaw, seconded by J. Huber, and voted on unanimously, the Committee adjourned the meeting at 11:45 a.m.

Notes taken by Christine Meeker and reviewed by Lisa Dooley.

**TOWN OF BLOOMSBURG
COLUMBIA COUNTY, PENNSYLVANIA**

ORDINANCE NO. ____

**AN ORDINANCE AMENDING CHAPTER 10, PART 2 OF THE CODE OF
ORDINANCES OF THE TOWN OF BLOOMSBURG RELATING TO THE
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The event known as the "Bloomsburg Fair" that is held one-time annually by the Bloomsburg Fair Association, which occurs for a period of 7 to 10 consecutive days during the months of September and/or October.

APPROVED SOUND METER

A sound meter meeting the requirements of the American National Standards Institute (ANSI) S1.4 for a Type 1 or Type 2 sound meter device. Measurements shall be made using the A-weighted scale and slow response. The sound meter shall be self-tested on the day that it was used via a calibration process approved by the sound level meter manufacturer and shall be certified via the manufacturer or via an accredited third-party calibration facility to be accurate within accepted standards by the manufacturer within one year prior to its use.

Chapter 10, Part 2, Section 10-203 of the Code of Ordinances, is hereby further modified by deleting the following stricken language and adding the following language for the definition of "Noise Disturbance":

NOISE DISTURBANCE – Any ~~sounds~~ sound which:

- A. Endangers or injures the safety or health of humans or animals.
- B. Annoys or disturbs a reasonable person of normal sensitivities.
- C. Endangers or injures personal or real property.
- D. Exceeds the decibel sound pressure levels set forth in this Part.

SECTION 2.

Chapter 10, Part 2, Section 10-204 of the Code of Ordinances, is hereby modified by deleting the following stricken language and adding the following underscored language:

A. Radios, Television Sets, Musical Instruments and Similar Devices. No person owning, leasing, occupying or having charge of any building or premises or any part thereof in the Town of Bloomsburg shall operate, play or permit the operation or playing of any radio, CD player, VCR, DVD, television, phonograph, high fidelity equipment or similar devices, drum, musical instrument or sound amplifier at any time in such a manner as to cause a noise disturbance across a real property boundary ~~at any time during the day or night~~. A decibel reading of 70dBA or above measured by a noise meter beyond 30 feet from the property boundary shall be a violation of this Part. In addition to the foregoing described noise disturbances, ~~exceeding 65 dBA between 7 a.m. and 10 p.m. or 50 dBA between 10 p.m. and 7 a.m. at or within the real property boundary of any residentially zoned property receiving such sound, when evaluated using an approved sound meter, shall also be considered a noise disturbance and a violation of this Part.~~

B. Automobile Radios, Automobile Stereos, Portable Radios and Stereos. No person shall play an automobile radio or automobile stereo which produces, reproduces or amplifies sound in such a manner as to create a noise disturbance, whether audible sound or vibration, across any real property boundary ~~or 30 feet from such device, whichever is less, when the device is operated in or on a motor vehicle or carried on a public right-of-way or public space, at any time during the day or night~~. A decibel reading of 70dBA or above measured by a noise meter beyond 30 feet from the property boundary shall be a violation of this Part. In addition to the foregoing described noise disturbances, ~~Exceeding 65 dBA between 7 a.m. and 10 p.m. or 50 dBA between 10 p.m. and 7 a.m. at or within the real property boundary of any residentially zoned property receiving such sound, when evaluated using an approved sound meter, shall also be considered a noise disturbance and a violation of this Part.~~

SECTION 3.

Chapter 10, Part 2, Section 10-205 of the Code of Ordinances, is hereby modified by deleting the following stricken language and adding the following underscored language:

This Part shall not apply to:

A. Emergency Services/Municipal Services/Public Utilities.

- 1) The emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work or service by a municipality or emergency service.
- 2) Sounds generated from or incidental to emergency or nonemergency repairs to public utilities or any other emergency public works function by a municipality or public utility.

B. Churches and Official Buildings. Music, bells, chimes or other sounds which are emanating from a church, or place of worship, or certain Town, County or State buildings, approved by Town Council.

C. Nonconforming Uses. Sounds generated in commercial and industrial zoning districts or by recognized nonconforming uses which are necessary and incidental to the uses permitted, provided such sounds do not exceed 65 dBA between 7 a.m. and 10 p.m. or 50 dBA between 10 p.m. and 7 a.m., for a cumulative period of more than 10 minutes in any one hour, at or within the real property boundary of any residentially zoned property receiving such sound, when evaluated using an approved sound meter and or the enforcer after a compliant confirming the sound pressure. [A3]

D. Town, County and State Events.

- 1) Sound generated by activities which are an official or an approved part of any Town, County or State approved or licensed festival or activity, provided that such exemption shall terminate at 12:00 midnight. Notwithstanding the foregoing, this exemption shall not apply to activities occurring at the Bloomsburg Fairgrounds, which are addressed in Section 10-205.D(3).
- 2) Sound generated at any time from school-sponsored athletic or recreational events.
- 3) Activities at the Bloomsburg Fairgrounds provided that, other than during the annual fair event, motorized racing and motorized vehicle exhibition activities at the Bloomsburg Fairgrounds shall only be exempt from the requirements of this Chapter on Fridays and

Saturdays from noon until 10 p.m. and, other than during the annual fair event (A4), may only be exempt for a maximum of [] days during a calendar year.

- 4) Fireworks displays pursuant to a properly issued permit.

SECTION 4.

Chapter 10, Part 2, Section 10-206 of the Code of Ordinances, is hereby modified by deleting the following stricken language and adding the following underscored language:

1. Violations. Any person committing any of the acts prohibited above shall be in violation of this Part and be subject to the penalties set forth below.
2. Penalties. Any person violating this Part shall, upon conviction in a summary proceeding, be sentenced to pay a fine not to exceed \$600 \$1,000 for the first offense and \$2,000 for each subsequent offense, to the use of the Town of Bloomsburg, along with costs of prosecution, or to be imprisoned for not more than 10 days or both.
3. Prima Facie Violation. The noise from any of the aforesaid prohibited acts that disturbs two or more residents, who are in general agreement as to the times and durations of the noise and who reside in separate residences (including apartments and condominiums) located across a real property boundary from the property on which the source of the noise is generated, shall be prima facie evidence of a noise disturbance across a real property boundary. Nothing herein is intended to preclude proof of a noise disturbance beyond a property line by less than two witnesses or by a noise meter an approved sound meter as set forth herein.
4. ~~Noise~~ Approved Sound Meters. When a noise disturbance is proved through the use of an approved sound meter to determine the decibel level of the noise, evidence of the decibel level shall be admissible in any prosecution under this Part upon certification that the approved sound meter meets the requirements for such meters contained in Section 10-203. ~~meter was self tested on the day that it was used and upon certification that the noise meter was certified to be accurate within accepted standards by the manufacturer, within one year prior to its use.~~
5. Legal Actions. The Police Department or the Code Enforcement Officer of the Town of Bloomsburg may initiate and prosecute ~~illegal~~ actions for violations of this Part without the need of a complaint or the testimony of complainants. In addition, the Town may institute injunctive or any other appropriate action or proceeding at law or in equity for the enforcement of this Part. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

SECTION 5.

If any section, subsection, sentence, clause or phrase or portion of this document is for any reason held invalid or unconstitutional by any court of competent jurisdiction such shall be deemed

a separate distinct and independent provision and such holding shall not affect the validity of the remaining portion thereof.

SECTION 6.

This Ordinance shall be effective upon enactment.

ORDAINED AND ENACTED into law this _____ day of _____, 2022.

ATTEST:

TOWN OF BLOOMSBURG

| LISA M. DOOLEY, SECRETARY

JUSTIN C. HUMMEL, MAYOR

EXHIBIT H

Community & Economic Development Committee Meeting Minutes
Tuesday, August 30, 2022 10:00 a.m.
Town Hall or via Zoom

The meeting was called to order at 10:00 a.m., present was Council Member Nick McGaw. Also present were Justin Hummel, Manager/ Secretary/ Treasurer Lisa Dooley, Director of Code Enforcement Michael Reffeor and Code Enforcement Officer Kyle Bauman. Also present were Carolyn Yagle and MJ Mahon. Absent were Toni Bell and James Huber.

Carolyn Yagle from Environmental Planning & Design was present to update the Committee on the zoning rehaul. Ms. Yagle discussed the non-residential district and the drive to consolidate. The goal is to have a draft/ map concept available soon.

Council member McGaw reviewed the active status report through 08/29/2022. Also, the code enforcement August permit report was reviewed through 08/29/2022.

It was discussed that the minutes will hopefully be approved at the next meeting since there was no quorum at this meeting.

Council member McGaw reviewed the flood task force meeting minutes from the 8/10/2022 meeting.

M. Reffeor provided an update to the food truck ordinance that discussion was ongoing regarding event permits at the Public Safety Committee which ties into the permit that needs to go through Code Enforcement.

Council member McGaw reviewed Vincent Peter Fayock's resume and it was determined that the Codes Appeal Board should stay local at the Bloomsburg level and not a joint board at this time.

L. Dooley provided an update that the Town was not awarded the grant for the acquisition and demolition application for 102 Leonard Street.

M. Reffeor provided an update that Ostergaard Acoustical Associates was still reviewing the results from the second race and should be present at the September meeting to present the results.

Nick McGaw adjourned the meeting at 10:30 a.m. due to no further business to discuss.

Notes taken by Lisa Dooley.

EXHIBIT I

The Bloomsburg Town Council held a public meeting on Monday, October 24, 2022 beginning at 6:00 p.m. in Council Chambers, 2nd Floor, Town Hall and via teleconference. The public joined by dialing: +1 646 558 8656 U.S. and included the meeting ID: 456-920-3798 or online at: <https://us02web.zoom.us/j/4569203798>.

Mayor Hummel opened the floor for discussion on the proposed Bloomsburg River Trail that extends from the Covered Bridge on the Westend along Ft. McClure Boulevard and ending across from the Bloomsburg Airport on Ferry Road. The proposal would change the flow of traffic on Ft. McClure Boulevard to a one way in a westerly direction from the Bloomsburg School District entrance to the Rupert covered bridge, thus allowing for a walk/bike lane to be established in the area South of Ft. McClure Boulevard. Several citizens questioned the need to make Ft. McClure Boulevard a one way. Andrew Barton explained that due to the fact that areas along the Northern side of Ft. McClure Boulevard are owned by private entities and also flood plain regulations will not allow for any in-fill, the path needed to be placed on the southside of the roadway.

Mayor Justin Hummel called the regular Town Council meeting to order at 7:24 p.m., present were Council Members Toni Bell, James Garman, Vince DeMelfi, Bonnie Crawford, Nick McGaw and James Huber (6:39 via Zoom), Town Manager/ Secretary/ Treasurer Lisa Dooley, Town Solicitor Matt Turowski, Director of Finance Kim Pogash (Zoom), Director of Governmental Services/ Recycling Coordinator Charles Fritz, Director of Public Works John Fritz, Director of Code Enforcement Michael Reffeor and Airport Coordinator BJ Teichman (6:06 p.m.). Also present were Andrew Barton, Scott Seneca, Corey Kreischer, MJ Mahon, Dawn Moore, Barbara Coladonato, Daniel, Fred Gaffney, Jim Dutt, Ailey, Guy Mensch, Dennis, Michael Harding, Kim Kus, Sean Logsdon, Eve Ralston, Sylvia, Sarah B., Sneidman, Brendan Lucas, Cody Mead, Deb Decker, Amy T., Mike Bower, TJ Carney, Vikki, Jim Walsh, and Bob.

Council remarks.

Executive Sessions:

October 10, 2022 from 9:15 p.m.- 9:45 p.m. regarding a pool litigation matter.

October 18, 2022 from 9:00 a.m.- 10:02 a.m. regarding potential lawsuits.

Bloomsburg Trick or Treat Night will be held on Monday, October 31, 2022 from 6 p.m.- 9 p.m.

Michael Williams was present to voice his concerns regarding the proposed bike path and noise ordinance.

Fred Gaffney submitted a letter to Council in opposition of the proposed noise ordinance. Mr. Gaffney suggested the Town table the ordinance and work with the Fair Association and businesses to come up with a better solution.

APPROVAL TO ADVERTISE THE NOISE ORDINANCE.

On a motion by J. Huber, seconded by V. DeMelfi, and voted on 5 to 2 (Crawford and McGaw voting no), Council approved to advertise the proposed noise ordinance as shown in the agenda.

RESOLUTION 10.24.2022.01 MULTIMODAL TRANSPORTATION FUND (MTP)- MARKET STREET CONNECTIVITY PROJECT.

On a motion by N. McGaw, seconded by B. Crawford, and voted on unanimously, Council approved Resolution 10.24.2022.01 for the Multimodal Transportation Fund (MTP)-Market Street Connectivity.

APPROVAL OF THE COUNCIL MINUTES FROM THE 10/10/2022 MEETING.

On a motion by T. Bell, seconded by J. Garman, and voted on unanimously, Council approved the minutes from the October 10, 2022 meeting with no corrections or additions.

APPROVAL FOR THE 2023 FIREWORKS ON JULY 4TH, 2023 AND A RAIN DATE OF WEDNESDAY, JULY 5TH OR SATURDAY, JULY 8TH AT DUSK.

On a motion by T. Bell, seconded by N. McGaw, and voted on unanimously, Council approved the 2023 fireworks to be held on July 4th at dusk with a rain date of Wednesday, July 5th.

APPROVAL OF CHANGE ORDER 1 FOR THE BLOOMSBURG FIRE DEPARTMENT 2022 E-ONE TYPHOON PUMPER WITH FIRST CHOICE FIRE APPARATUS IN THE AMOUNT OF \$1,044.

On a motion by T. Bell, seconded by N. McGaw, and voted on unanimously, Council approved change order 1 for the Bloomsburg Fire Department 2022 E-One Typhoon Pumper with First Choice Fire Apparatus in the amount of \$1,044.

APPROVAL OF MILEAGE REIMBURSEMENT TO THE BLOOMSBURG FIRE DEPARTMENT FOR 183.9 MILES (IRS RATE OF 58.5 CENTS PER MILE) IN THE AMOUNT OF \$107.58.

On a motion by B. Crawford, seconded by N. McGaw, and voted on unanimously, Council approved mileage reimbursement to the Bloomsburg Fire Department for 183.9 miles (IRS rate of 58.5 cents per mile) in the amount of \$107.58.

APPROVAL OF CHANGE ORDER NUMBER FOUR IN THE AMOUNT OF \$55,156.55 TO DON E. BOWER, INC. REGARDING THE TOWN PARK RESTORATION PROJECT.

On a motion by T. Bell, seconded by B. Crawford, and voted on unanimously, Council approved change order number four in the amount of \$55,156.55 to Don E. Bower, Inc. regarding the Town Park Restoration Project.

APPROVAL TO HAVE THE BLOOMSBURG RIVER TRAIL CONTINUE TO BE ENGINEERED WITH USING FT. MCCLURE BLVD. EAST BOUND LANE AS A PEDESTRIAN/BIKE PATHWAY. THEREFORE, HAVING A ONE-WAY WEST BOUND TRAFFIC FLOW FROM THE BLOOMSBURG SCHOOL DISTRICT PARKING LOT TO THE STREATER FIELD PARKING LOT.

On a motion by N. McGaw, seconded by T. Bell, and voted on 6 to 1 (DeMelfi voting no), Council approved to have the Bloomsburg River Trail continue to be engineered with using Ft. McClure Blvd. East bound lane as a pedestrian/bike pathway. Therefore, having a one-way west bound traffic flow from the Bloomsburg School District parking lot to the Streater field parking lot.

APPROVAL TO WAIVE THE 2023 PAVILION FEE AND HAVE RESIDENTS UTILIZE THE ONLINE PLATFORM THROUGH ARCGIS.

On a motion by T. Bell, seconded by B. Crawford, and voted on unanimously, Council approved to waive the 2023 pavilion fee and to utilize the online platform through ARCGIS.

APPROVAL TO ACCEPT \$50 FOR THE DOG PARK FROM JOHN E. LONG- LONGS CARPET CARE.

On a motion by T. Bell, seconded by B. Crawford, and voted on unanimously, Council approved to accept a \$50 donation for the dog park from John E. Long – Long's Carpet Care.

APPROVAL OF A QUOTE FROM XW CONSTRUCTION LLC IN THE AMOUNT OF \$10,871.25 FOR ROOF REPAIR AT THE NORRIS E. ROCK MEMORIAL POOL.

On a motion by N. McGaw, seconded by B. Crawford, and voted on 6 to 1 (Huber voting no), Council approved a quote from XW Construction LLC in the amount of \$10,871.25 for the roof repair at the Norris E. Rock Memorial Pool.

APPROVAL OF A QUOTE FROM MARK CONNER ELECTRIC LLC IN THE AMOUNT OF \$1,450 FOR SUPPLYING AND INSTALLING TENNIS COURT TIMERS. ELECTRIC RATES ARE BELOW FOR THE TENNIS COURTS.

Dates		Amount
8/12/2022	9/13/2022	328.08
7/14/2022	8/12/2022	317.44
6/14/2022	7/14/2022	329.23

On a motion by B. Crawford, seconded by T. Bell, and voted on unanimously, Council tabled this item and sent it back to Committee for further discussion and information.

APPROVAL OF PAYMENT TO LIVIC CIVIL FOR PAVING IN THE AMOUNT OF \$1,178.75.

On a motion by T. Bell, seconded by B. Crawford, and voted on unanimously, Council approved payment to LIVIC Civil for paving in the amount of \$1,178.75.

APPROVAL OF PAYMENT TO DON E. BOWER INC. FOR THE TOWN PARK RESTORATION PROJECT IN THE AMOUNT OF \$394,295.57 PENDING REVIEW FROM THE ENGINEER.

On a motion by T. Bell, seconded by B. Crawford, and voted on unanimously, Council approved payment of Don E. Bower, Inc. for the Town Park Restoration project in the amount of \$394,295.57 pending review from the engineer.

APPROVAL OF PAYMENT TO DON E. BOWER INC. FOR THE TOWN PARK WALKING TRAIL IN THE AMOUNT OF \$30,675.74 PENDING REVIEW FROM THE ENGINEER.

On a motion by N. McGaw, seconded by T. Bell, and voted on unanimously, Council approved payment to Don E. Bower, Inc. to the Town Park Walking Trail in the amount of \$30,675.74 pending review from the engineer.

UPDATE FROM CHIEF PRICE: BLOOMSBURG UNIVERSITY STUDENT, ELIZABETH FANELLI WILL BE WORKING IN THE POLICE DEPARTMENT IN PARKING.

Chief Price updated Council on the intern from Bloomsburg University, Elizabeth Fanelli will be working in the police department in the parking office.

RECOMMENDATION TO APPROVE LISTING 17 NEW OC HOLDERS ON MUNICIBID.

On a motion by J. Garman, seconded by B. Crawford, and voted on unanimously, Council approved listing 17 new OC holders on Municibid.

RECOMMENDATION FROM THE PLANNING COMMISSION TO APPROVE THE LAND DEVELOPMENT PLAN FOR VEOLIA AS SUBMITTED. ALL COMMENTS HAVE BEEN PROPERLY MITIGATED.

On a motion by T. Bell, seconded by B. Crawford, and voted on unanimously, Council approved the land development plan for Veolia as submitted.

APPROVAL OF PAYMENT TO STEVE SHANNON FOR NEW TIRES ON A FIRE APPARATUS IN THE AMOUNT OF \$5,646.04.

On a motion by B. Crawford, seconded by T. Bell, and voted on unanimously, Council approved an invoice for new tires on a fire apparatus from Steve Shannon in the amount of \$5,646.04.

Town Council adjourned the meeting at 8:42 p.m. Council held an executive session from 8:43 p.m.- 9:10 p.m. regarding Town owned property.

Lisa Dooley
Town Manager/Secretary/Treasurer

EXHIBIT J

TOWN OF BLOOMSBURG
COLUMBIA COUNTY, PENNSYLVANIA

ORDINANCE NO. 1633

AN ORDINANCE AMENDING CHAPTER 10, PART 2 OF THE CODE OF
ORDINANCES OF THE TOWN OF BLOOMSBURG RELATING TO THE
REGULATION OF EXCESSIVE NOISE

WHEREAS, the Town of Bloomsburg ("Town") currently maintains a noise ordinance contained in Chapter 10, Part 2 of its Code of Ordinances ("Noise Ordinance") which aims to ensure that public health, safety and welfare will not be abridged by the making and creating of public nuisances from disturbing, excessive or offensive noises in the Town;

WHEREAS, The Town Council recognizes that uncontrolled noise represents a nuisance and a danger to the health and welfare of its residents and that each person in the community is entitled to live in an environment in which the level of noise is minimized for the community's common benefit.

WHEREAS, The Town Council now desires to amend the Noise Ordinance as set forth herein.

NOW THEREFORE BE IT ORDAINED AND ENACTED by the Council of the Town of Bloomsburg, Columbia County, Pennsylvania that Chapter 10, Part 2 of the Town's Code of Ordinances, is amended as follows:

SECTION 1.

Chapter 10, Part 2, Section 10-203 of the Code of Ordinances, is hereby modified by adding the following definition for "Annual Fair Event."

ANNUAL FAIR EVENT

The event known as the "Bloomsburg Fair" that is held one-time annually by the Bloomsburg Fair Association, which occurs for a period of 7 to 10 consecutive days during the months of September and/or October.

APPROVED SOUND METER

A sound meter meeting the requirements of the American National Standards Institute (ANSI) S1.4 for a Type 1 or Type 2 sound meter device. Measurements shall be made using the A-weighted scale and slow response. The sound meter shall be self-tested on the day that it was used via a calibration process approved by the sound level meter manufacturer and shall be certified via the manufacturer or via an accredited third-party calibration facility to be accurate within accepted standards by the manufacturer within one year prior to its use.

Chapter 10, Part 2, Section 10-203 of the Code of Ordinances, is hereby further modified by deleting the following stricken language and adding the following language for the definition of "Noise Disturbance";

NOISE DISTURBANCE – Any sounds sound which:

- A. Endangers or injures the safety or health of humans or animals.
- B. Annoys or disturbs a reasonable person of normal sensitivities.
- C. Endangers or injures personal or real property.
- D. Exceeds the decibel sound pressure levels set forth in this Part.

SECTION 2.

Chapter 10, Part 2, Section 10-204 of the Code of Ordinances, is hereby modified by deleting the following stricken language and adding the following underscored language:

- A. Radios, Television Sets, Musical Instruments and Similar Devices. No person owning, leasing, occupying or having charge of any building or premises or any part thereof in the Town of Bloomsburg shall operate, play or permit the operation or playing of any radio, CD player, VCR, DVD, television, phonograph, high fidelity equipment or similar devices, drum, musical instrument or sound amplifier at any time in such a manner as to cause a noise disturbance across a real property boundary at any time during the day or night. A decibel reading of 70 dBA or above measured by a noise meter beyond 30 feet from the property boundary shall be a violation of this Part. In addition to the foregoing described noise disturbances, exceeding 65 dBA between 7 a.m. and 10 p.m. or 50 dBA between 10 p.m. and 7 a.m. at or within the real property boundary of any residentially zoned property receiving such sound, when evaluated using an approved sound meter, shall also be considered a noise disturbance and a violation of this Part.
- B. Automobile Radios, Automobile Stereos, Portable Radios and Stereos. No person shall play an automobile radio or automobile stereo which produces, reproduces or amplifies sound in such a manner as to create a noise disturbance, whether audible sound or vibration, across any real property boundary or 30 feet from such device, whichever is less, when the device is operated in or on a motor vehicle or carried on a public right-of-way or public space at any time during the day or night. A decibel reading of 70 dBA or above measured by a noise meter beyond 30 feet from the property boundary shall be a violation of this Part. In addition to the foregoing described noise disturbances, exceeding 65 dBA between 7 a.m. and 10 p.m. or 50 dBA between 10 p.m. and 7 a.m. at or within the real property boundary of any residentially zoned property receiving such sound, when evaluated using an approved sound meter, shall also be considered a noise disturbance and a violation of this Part.

SECTION 3.

Chapter 10, Part 2, Section 10-205 of the Code of Ordinances, is hereby modified by deleting the following stricken language and adding the following underscored language:

This Part shall not apply to:

- A. Emergency Services/Municipal Services/Public Utilities.
 - 1) The emission of sound for the purpose of alerting persons to the existence of an emergency or to the emission of sound in the performance of emergency work or service by a municipality or emergency service.
 - 2) Sounds generated from or incidental to emergency or nonemergency repairs to public utilities or any other emergency public works function by a municipality or public utility.
- B. Churches and Official Buildings. Music, bells, chimes or other sounds which are emanating from a church, or place of worship, or certain Town, County or State buildings, approved by Town Council.
- C. Nonconforming Uses. Sounds generated in commercial and industrial zoning districts or by recognized nonconforming uses which are necessary and incidental to the uses permitted, provided such sounds do not exceed 65 dBA between 7 a.m. and 10 p.m. or 50 dBA between 10 p.m. and 7 a.m., for a cumulative period of more than 10 minutes in any one hour, at or within the real property boundary of any residentially zoned property receiving such sound, when evaluated using an approved sound meter.
- D. Town, County and State Events.
 - 1) Sound generated by activities which are an official or an approved part of any Town, County or State approved or licensed festival or activity, provided that such exemption shall terminate at 12:00 midnight. Notwithstanding the foregoing, this exemption shall not apply to activities occurring at the Bloomsburg Fairgrounds, which are addressed in Section 10-205.D(3).
 - 2) Sound generated at any time from school-sponsored athletic or recreational events.
 - 3) Activities at the Bloomsburg Fairgrounds during the annual fair event, except that motorized racing and motorized vehicle exhibition activities shall not be exempt under this Section.
 - 4) Fireworks displays pursuant to a properly issued permit.

SECTION 4.

Chapter 10, Part 2, Section 10-206 of the Code of Ordinances, is hereby modified by deleting the following stricken language and adding the following underscored language:

1. Violations. Any person committing any of the acts prohibited above shall be in violation of this Part and be subject to the penalties set forth below.
2. Penalties. Any person violating this Part shall, upon conviction in a summary proceeding, be sentenced to pay a fine not to exceed ~~\$600~~ \$1,000 for the first offense and \$2,000 for each subsequent offense, to the use of the Town of Bloomsburg, along with costs of prosecution, or to be imprisoned for not more than 10 days or both.
3. Prima Facie Violation. The noise from any of the aforesaid prohibited acts that disturbs two or more residents, who are in general agreement as to the times and durations of the noise and who reside in separate residences (including apartments and condominiums) located across a real property boundary from the property on which the source of the noise is generated, shall be prima facie evidence of a noise disturbance across a real property boundary. Nothing herein is intended to preclude proof of a noise disturbance beyond a property line by less than two witnesses or by ~~a noise meter~~ an approved sound meter as set forth herein.
4. ~~Noise~~ Approved Sound Meters. When a noise disturbance is proved through the use of an approved sound meter to determine the decibel level of the noise, evidence of the decibel level shall be admissible in any prosecution under this Part upon certification that the ~~noise approved sound meter meets the requirements for such meters contained in Section 10-203. meter was self-tested on the day that it was used and upon certification that the noise meter was certified to be accurate within accepted standards by the manufacturer, within one year prior to its use.~~ approved sound meter meets the requirements for such meters contained in Section 10-203.
5. Legal Actions. The Police Department ~~or the Code Enforcement Officer~~ of the Town of Bloomsburg may initiate and prosecute legal actions for violations of this Part without the need of a complaint or the testimony of complainants. In addition, the Town may institute injunctive or any other appropriate action or proceeding at law or in equity for the enforcement of this Part. Any court of competent jurisdiction shall have the right to issue restraining orders, temporary or permanent injunctions, mandamus, or other appropriate forms of remedy or relief.

SECTION 5.

If any section, subsection, sentence, clause or phrase or portion of this document is for any reason held invalid or unconstitutional by any court of competent jurisdiction such shall be deemed a separate distinct and independent provision and such holding shall not affect the validity of the remaining portion thereof.

SECTION 6.

This Ordinance shall be effective upon enactment.

ORDAINED AND ENACTED into law this 14th day of November, 2022.

ATTEST:

Lisa M. Dooley
LISA M. DOOLEY, SECRETARY

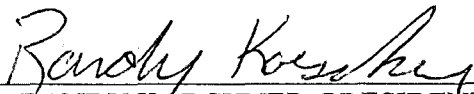
TOWN OF BLOOMSBURG

Justin C. Hummel
JUSTIN C. HUMMEL, MAYOR

VERIFICATION

I, Randy Karchner, am the President of the Bloomsburg Fair Association and am authorized to make this verification on behalf of the Association. I state that the facts in Plaintiff's Sixth Amended Complaint are true and correct to the best of my knowledge, information and belief. This Verification is made with knowledge of the penalties contained in 18 Pa. C.S.A. §4904, relating to unsworn verification to authorities.

Dated: 11-20-2023

By: 
RANDY KARCHNER, PRESIDENT

DONALD G. KARPOWICH, ATTORNEY-AT-LAW, P.C.

Donald G. Karpowich, Esquire

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Sean W. Logsdon, Esquire

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Nathan C. Favreau, Esquire

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Trevor I. Poremba, Esquire

I.D. No. 202293

trevor@karpowichlaw.com

Drums, PA 18222

(570) 788-6647

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

By: 

Attorneys for Columbia County Agricultural, Horticultural, and Mechanical Association d/b/a Bloomsburg Fair Association

**COLUMBIA COUNTY AGRICULTURAL,
HORTICULTURAL, and MECHANICAL
ASSOCIATION d/b/a BLOOMSBURG
FAIR ASSOCIATION**

Plaintiff,

v.

TOWN OF BLOOMSBURG,

Defendant.

:
: **IN THE COURT OF COMMON**
: **PLEAS OF COLUMBIA**
: **COUNTY, 26th JUDICIAL DISTRICT**
:
:
: **CIVIL DIVISION**
:
: **ACTION FOR**
: **DECLARATORY JUDGMENT**
:
:
: **No. 2022-cv-1061**

CERTIFICATE OF SERVICE

I, Sean W. Logsdon, Esquire, do hereby certify that I did cause to be served a true and correct copy of the foregoing Sixth Amended Complaint Email and First Class, U.S. Mail, postage prepaid, addressed as follows:

VIA EMAIL & US FIRST CLASS MAIL

Shawn N. Gallagher, Esquire

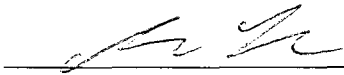
501 Grant Street, Suite 200

Pittsburgh, PA 15219-4413

shawn.gallagher@bipc.com

Attorney for Defendant

Date: 10/21/23


Sean W. Logsdon, Esquire
Attorney for Plaintiff