

April 15, 2019

Minutes of the public meeting of the Mayor and Council of the Borough of Dunellen held on April 15, 2019.

Mayor Robert J. Seader called the meeting to order at 7:00 p.m. and he led the Pledge of Allegiance.

Municipal Clerk William Robins read the Sunshine Statement and called the Roll.

Present: Robert Seader, Kenneth Bayer, April Burke, Jason Cilento, Jessica Dunne and Stacy Narvesen

Absent: Joseph Petracca

On the motion of Mr. Cilento and seconded by Mrs. Burke it was moved to accept the Minutes of April 1, 2019:

Yes: Bayer, Burke, Cilento, Dunne and Narvesen

On the motion of Mrs. Narvesen and seconded by Dr. Dunne it was moved to accept the following:

ORDINANCE 2019-05

AN ORDINANCE OF THE BOROUGH OF DUNELLEN PROHIBITING SMOKING IN BOROUGH PARKS, OPEN SPACES AND RECREATIONAL AREAS

The following ordinance is being Introduced for first reading on April 15, 2019, and a second reading and public hearing will be held at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey on the 6th day of May, 2019, and copies of this Ordinance shall be posted on the public bulletin board prior to the date for second reading and final passage and copies of this Ordinance shall be available at the Office of the Borough Clerk for any interested members of the public.

WHEREAS, pursuant to N.J.S.A. 40: 48-1 and N.J.S.A. 40:48-2, a governing body of a municipality may make, amend, repeal and enforce such other ordinances, regulations, rules and by-laws not contrary to the laws of this state or of the United States, as it may deem necessary and proper for the good of the government, order and protection of person and property, and for the preservation of the public health, safety and welfare of the municipality and its inhabitants, and as may be necessary to carry into effect the powers and duties conferred and imposed by these subtitles, or by any law; and

WHEREAS, N.J.S.A. 2C:33-13 of the New Jersey Code of Criminal Justice, entitled “Smoking in Public”, expressly authorizes a municipality to enact ordinances strictly regulating smoking in public places; and

WHEREAS, the governing body of the Borough of Dunellen recognizes the well-known health and safety risks posed by smoking as set forth by the State Legislature in N.J.S.A. 26:3D-56; and

WHEREAS, based on the foregoing, the governing body finds that it is within the public interest to prohibit smoking on certain public property, such as public parks, open spaces and recreational areas;

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

1. A new Chapter 240 of the Borough of Dunellen Municipal Code entitled “Smoking Prohibited in Certain Public Places” is hereby added to read as follows:

§ 240-1. Findings and Intent

The Borough Council finds that:

A. Numerous studies have found that tobacco smoke is a major contributor to outdoor pollution and breathing secondhand smoke is a cause of disease in healthy non-smokers.

B. Secondhand smoke is particularly hazardous to children, the elderly, individuals with cardiovascular disease and individuals with impaired respiratory function, including asthmatics and those with obstructed airway disease.

C. The smoking of tobacco products is also a form of air pollution, a danger to health and a material public nuisance.

D. Electronic smoking devices have not been approved as to safety and efficacy by the federal Food and Drug Administration, and their use may pose a health risk to persons exposed to their smoke or vapor because of a known irritant contained therein and other substances that may, upon evaluation by that agency, be identified as potentially toxic to those inhaling the smoke or vapor.

E. As a result, the governing body of the Borough of Dunellen hereby adopts the foregoing as justification for this Chapter with the purpose of protecting the public health and welfare by prohibiting smoking in certain smoke-free public places, which are more specifically defined below, to guarantee the right of non-smokers to breathe smoke-free air and to recognize the public’s need to breathe smoke-free air as a priority over an individual’s desire to smoke.

§ 240-2. Definitions

The following words and phrases, whenever used in this Chapter, shall be construed as defined in this Section:

A. “**PUBLIC PARK, OPEN SPACE AND RECREATIONAL AREA**” shall mean all public parks, playgrounds, ball fields, and open land which are open to the public, and which are publicly owned or leased by the Borough of Dunellen, and all property owned or leased by the Borough of Dunellen upon which the public is invited or upon which the public is permitted and where individuals gather for recreational activities, including all areas adjacent to such facilities, including, but not limited to, any parking area, driveway or drive aisle.

B. “**SMOKING**” shall mean inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other lighted tobacco product or any other lighted substance, or the inhaling, exhaling, burning or carrying of smoke or vapor from an electronic smoking device, whether otherwise legally possessed or consumed, in any manner or in any form.

§ 240-3. Smoking Prohibited

Smoking is hereby prohibited in all public parks, open spaces or recreational areas.

§ 240-4. Signage

A conspicuous sign clearly stating that smoking is prohibited shall be posted at each park, open space and recreational area. The international “No Smoking” symbol may also be used, consisting of a pictorial representation of a burning cigarette enclosed in a red circle with a red bar across it.

§ 240-5. Enforcement

This Chapter shall be enforced by the Dunellen Police Department, Code Enforcement Officer, and Public Health Officer.

§ 240-6. Violations and Penalties

Any person who violates any provision of this chapter shall be subject to a fine of not less than \$250 for the first offense, \$500 for the second offense and \$1,000 for each subsequent offense.

2. All ordinances or parts of ordinances inconsistent with or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

3. If any section, paragraph, subdivision, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, clause or provision so adjudged and the remainder of the Ordinance shall be deemed valid and effective.

4. This Ordinance shall take effect immediately upon (i) adoption, and (ii) publication in accordance with the laws of the State of New Jersey.

Mr. Cilento asked how the public would be informed of this new ordinance. Mr. Bruder pointed out that signage is included in § 240-4 and the new ordinance will be published in the newspaper.

Yes: Bayer, Burke, Cilento, Dunne and Narvesen

On the motion of Mr. Bayer and seconded by Mrs. Burke it was moved to accept the following:

ORDINANCE 2019-04

The following ordinance was Introduced for first reading on April 1, 2019. A second reading and public hearing is now being held at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey on the 15th day of April, 2019, and copies of this Ordinance have been posted on the public bulletin board prior to the date for second reading and final passage and copies of this Ordinance have been available at the Office of the Borough Clerk for any interested members of the public.

BOROUGH OF DUNELLEN
COUNTY OF MIDDLESEX, NEW JERSEY

CALENDAR YEAR 2019
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the two succeeding years; and,

WHEREAS, the Mayor and Borough Council of the Borough of Dunellen, in the County of Middlesex, New Jersey, finds it advisable and necessary to increase its CY 2019 budget by up to

3.5 % over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Mayor and Borough Council hereby determines that a 1.0 % increase in the budget for said year, amounting to \$55,019.77 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary.

WHEREAS, the Mayor and Borough Council hereby determines that any amount authorized herein above that is not appropriated as part of the final budget shall be retained as an exception to the final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Dunellen, in the County of Middlesex, New Jersey, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2019 budget year, the final appropriations of the Borough of Dunellen shall, in accordance with this ordinance and N.J.S.A. 40 A: 4-45.14, be increased by 3.5 %, amounting to \$192,569.20 and that the CY 2019 municipal budget for the Borough of Dunellen be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years: and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

Mr. Olsen informed the Council that this ordinance is a response to the limit the State imposes on Budget increases. This ordinance permits a municipality to exceed the increase by "banking" any excess, not in real dollars but in virtual dollars to be used if needed. This bank must be used within three years. It is only occasionally "tapped into."

At this point, Mayor Seader opened the meeting for public comment on the ordinance. No one from the public spoke. This portion was closed.

Yes: Bayer, Burke, Cilento, Dunne and Narvesen

At this point, the Mayor introduced a Presentation by the Bloustein School of Planning and Public Policy on Downtown Revitalization Strategies for Dunellen, NJ. The presentation was led by David Listokin, Ph.D., and members of his graduate class spoke.

The presentation was 55 minutes long with many questions from the Council and the audience. To do justice to the presentation, we have created a “Transit Hub and DID Information” page on the Dunellen web site:

http://www.dunellen-nj.gov/municipal_news/transit_hub_and_did_information.php

Here, you will find a link to a PowerPoint created by the Bloustein School and distributed at the Council Meeting, and a link to the complete audio presentation.

The Agenda for the presentation included:

1. An overview of Dunellen
2. Economic potential of Dunellen
3. Community Outreach
4. A review of the Downtown Transit Hub Study
5. A discussion of Downtown Improvement Districts (DID)
6. An introduction to the Main Street Program and how it might benefit Dunellen
7. Some thoughts on Arts and Culture in Dunellen
8. Creative Placemaking Solutions
9. And a summation of their findings

On the motion of Mr. Bayer and seconded by Dr. Dunne it was moved to accept the following:

04-15-2019: #1

BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF DUNELLEN, NEW JERSEY, THAT:

The bills, as per the attached list, are hereby authorized for payment.

Yes: Bayer, Burke, Cilento, Dunne and Narvesen

On the motion of Mr. Cilento and seconded by Mrs. Burke it was moved to accept the following:

04-15-2019: #2

BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF DUNELLEN, NJ, THAT:

WHEREAS, it has been determined by information obtained from the assessor’s office that the following sewer units are to be cancelled

NOW, THEREFORE: BE IT RESOLVED BY THE BOROUGH COUNCIL OF THE BOROUGH OF DUNELLEN;

That the proper borough officers be and they are hereby authorized and directed to cancel 2019 sewer units.

Block	Lot	Name	Amount
33	12	Parking Authority (2 Units) 345 Front St	\$700.00
32	10	Parking Authority (2 Units) 337 Front St	700.00
34	38.02	Chelsea Builders 109-111 Madison Ave (1 Unit)	350.00
49	40	Hallmar Trust 725-731 Bound Brook Rd (2 Units)	700.00
84	20	Duke Property LLC 139 So. Washington Ave (2 Units)	700.00
No Refund Required			

A discussion ensued, including a question as to why both properties owned by the Dunellen Parking Authority are being removed from the list? Mr. Olsen responded by noting the Tax Collector lists these properties as tax exempt. Mayor Seader noted that the Tax Assessor is considering putting them back on the rolls. Mr. Olsen noted that it is a Council decision whether to keep them or remove them. Mr. Bayer stated that the Parking Authority's office should be exempt, but not the rental properties. It was decided to Rescind this Resolution.

On the motion of Mr. Cilento and seconded by Mrs. Burke it was moved to accept the following:

04-15-2019: #2-1

BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF DUNELLEN, NEW JERSEY, THAT:

Resolution 04-15-2019: #2 is rescinded.

Yes: Bayer, Burke, Cilento, Dunne and Narvesen

On the motion of Mr. Bayer and seconded by Mrs. Burke it was moved to accept the following:

04-15-2019: #2-A

BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF DUNELLEN, NJ, THAT:

WHEREAS, it has been determined by information obtained from the assessor’s office that the following sewer units are to be cancelled

NOW, THEREFORE: BE IT RESOLVED BY THE BOROUGH COUNCIL OF THE BOROUGH OF DUNELLEN;

That the proper borough officers be and they are hereby authorized and directed to cancel 2019 sewer units.

Block	Lot	Name	Amount
34	38.02	Chelsea Builders 109-111 Madison Ave (1 Unit)	350.00
49	40	Hallmar Trust 725-731 Bound Brook Rd (2 Units)	700.00
84	20	Duke Property LLC 139 So. Washington Ave (2 Units)	700.00
No Refund Required			

Yes: Bayer, Burke, Cilento, Dunne and Narvesen

On the motion of Mr. Cilento and seconded by Mr. Bayer it was moved to accept the following:

04-15-2019: #3

BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF DUNELLEN, NEW JERSEY, THAT:

WHEREAS, Resolution 02-04-2019: #4 awarded Finne Building and Investment, Inc., of Watchung, NJ, a contract for the repair of a sewer break on Orange Street, in an amount not to exceed \$149,479.00; and

WHEREAS, the Borough engineers have determined that additional and unforeseen work is required in order to complete the project in a safe and efficient manner.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Dunellen, that the contract to Finne Building and Investment be amended to an amount not to exceed \$168,954.20.

Yes: Bayer, Burke, Cilento, Dunne and Narvesen

On the motion of Mrs. Burke and seconded by Mr. Bayer it was moved to accept the following:

04-15-2019: #4

BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF DUNELLEN, NEW JERSEY, THAT:

Whereas, application was made in accordance with the State Regulations for a license to be issued, and

Whereas, after proper investigation it was deemed that all requirements of the State Regulations have been met.

Now therefore be it resolved that the Governing Body authorize the issuance of a Bingo License to the Dunellen Defender Fire Company #1.

Further be it resolved that these licenses will be issued pending final approval by New Jersey State Legalized Games of Chance Commission.

Yes: Bayer, Burke, Cilento, Dunne and Narvesen

On the motion of Mrs. Burke and seconded by Mrs. Narvesen it was moved to accept the following:

04-15-2019: #5

BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF DUNELLEN, NEW JERSEY, THAT:

Boy Scout Troop 29 is approved to hold a town wide garage sale on June 8, 2019 (rain date June 15, 2019), from 8:00 am to 5 pm. All fees for this event are waived.

Yes: Bayer, Burke, Cilento, Dunne and Narvesen

On the motion of Mrs. Burke and seconded by Dr. Dunne it was moved to accept the following:

04-15-2019: #6

BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF DUNELLEN, NEW JERSEY, THAT:

Lucy Singura is hired as an Assistant in the Dunellen Tax Assessor Office, at a rate of \$25.00 per hour, not to exceed in total \$500.00. This award is to come out of Account # 9-01-20-150-000-133.

Yes: Bayer, Burke, Cilento, Dunne and Narvesen

On the motion of Mr. Cilento and seconded by Mrs. Burke it was moved to accept the following:

04-15-2019: #7

BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF DUNELLEN, NEW JERSEY, THAT:

WHEREAS, Jeffrey E. Nelson has honorably served the Borough of Dunellen and its people for over twenty-two years and as a law enforcement officer for over 26 years; and

WHEREAS, Jeffrey E. Nelson has by communication dated February 20, 2019, notified the Mayor and Council of his retirement as of May 1, 2019.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Borough of Dunellen thank Chief of Police Jeffrey E. Nelson for his service to the community and accept his notice of retirement, effective May 1, 2019.

Yes: Bayer, Burke, Cilento, Dunne and Narvesen

On the motion of Mr. Cilento and seconded by Mrs. Burke it was moved to accept the following:

04-15-2019: #8

BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF DUNELLEN, NEW JERSEY, THAT:

Katherine Howes is appointed Judge for the Municipal Court of the Borough of Dunellen. Her appointment is to fill the unexpired term of Judge Dennis Fackelman, said term ending on December 31, 2020. She is appointed at a yearly salary of \$27,220.00.

Mayor Seader noted that Judge Howes comes very highly recommended and she has worked at other municipal courts.

Yes: Bayer, Burke, Cilento, Dunne and Narvesen

On the motion of Mrs. Burke and seconded by Mr. Cilento it was moved to accept the following:

04-15-2019: #9

BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF DUNELLEN, NEW JERSEY, THAT:

The Borough of Dunellen is authorized to enter into an Agreement with NASPO ValuePoint, a cooperative purchasing agency, for the purpose of obtaining Verizon Wireless products for the Dunellen Police Department.

Yes: Bayer, Burke, Cilento, Dunne and Narvesen

Reports:

Mrs. Burke: 1) the Fire Department Memorial is the last Sunday this month at the First Presbyterian Church, 9:30 am.; 2) Fire Company has rescheduled their Bag Bingo to May 10th. Mr. Bayer: Recreation had to cancel the Baseball Opening Day Parade due to the weather and it is not being rescheduled; 2) Easter Egg Hunt was very successful.

Dr. Dunne: 1) She and Jason and Bill reviewed a draft of the redesigned web site and submitted comments back to REVIZE;

Mr. Cilento: 1) June 14th deadline for the July edition of *The Dunellen Report*; 2) Central Jersey Stream Team will have a cleanup on Saturday, May 4th meeting at the Fire House at 9:00 am. He thanked Jeremy Lowder and Janine McNair for their assistance with this; 3) the Dunellen Downtown Management Organization will be meeting on April 16th, 7:00 pm, at the Arts Annex. He will proposing that the DDMO take on an email blast of local news events; 5) he will be attending a Main Street program event in Montclair on April 23rd to learn more about it; 6) the Transit Hub presentation will be coming in the next few months; 7) he is applying for an AARP Community Challenge grant for the trail in Columbia Park: trees, shrubs, beautification around the existing bike path; 8) asked about the Strip Joint property. Mayor Seader stated that if development goes on as expected in that part of town, it might be a good property for a parking lot.

Mrs. Narvesen: 1) on Wednesday, April 3rd, she and Jessica attended the Green Brook Flood Control Commission meeting. There is a map on the Middlesex Borough web site. They hope to set up a date for the GBFCC to attend a Council Meeting; 2) attended a Recreation Commission meeting: 103 signed up for baseball and over 80 signed up for track; 3) she attended a Board of Education meeting on April 9th though nothing significant to report; 4) DDMO set out benches and she thanked the DPW for their assistance; 5) Playground Committee and Community Day on April 28th.

Mayor Seader: 1) very encouraged with the Grand Openings. We have had very good participation. Devine's will be having its own Grand Opening this Saturday at 12:00 pm; 2) hats off to the Police Department. The best way to curtail speeding is for motorists to see lights flashing around town. Police probably wrote 500 tickets last month which is about 200 more than any month last year. More Police activity in the summer sends a warning signal to burglars. Finally, he noted that the Court took in more than \$25,000 last month which amount has not been seen since 2011.

PUBLIC PORTION

Janine McNair, 219 Gertrude Terrace, was wondering with the Central Jersey Stream Clean if we could advertise that on the sign in Washington Park. Mayor: yes. Mr. Robins asked that it be sent to his email and he would pass it on to the DPW for posting.

Dennis O'Connor, 409 South Madison Avenue, asked about the South Madison Avenue Road Improvement grant. Mayor Seader responded that we have received almost \$600,000 to pave the street. He asked if there was a storm drain by his house? If not, when the job is being planned and done, we could run a pipe underground to a storm drain to help solve the icing problem that you have. It takes a long time to get NJ DOT permits so the job may not be done until 2020.

Ellen Kelly, 519 Lincoln Avenue, asked about the Parking Authority properties being on the tax rolls. Mayor Seader responded that the Tax Assessor has asked if legally they could be not on the tax rolls. She was not sure if legally they can own properties. Mr. Bruder responded that they can. She stated that when she was Treasurer of the Parking Authority she recommended that the PA not own properties, but she was outvoted. Mayor Seader noted that a study we did about 15 years ago recommended that the PA not hold such rental properties.

Mrs. O'Connor, 409 South Madison Avenue, asked the procedure for reporting run down/deplorable properties. Contact Borough Hall which will pass the information on to the Code Enforcer.

Tremayne Reid, 721 Walnut Street, asked about speed bumps on South Madison Avenue. He wanted to ask the South Madison Avenue residents in the audience if they were opposed to speed bumps on the repaved roads. Mrs. O'Connor was in favor of traffic calming procedures. Mr. Reid noted that there are speed bumps around Middlesex County school areas. He is recommending speed bumps be part of the repaving.

Rachel Appleton, Middlesex, noted that vehicles go very fast on Second Street.

Janine McNair asked if curbs and sidewalks would be added to South Madison Avenue? Mayor Seader responded that more than paving would require easements which would add greatly to the cost of the project and if included, such improvements it would add to our debt service.

On the motion of Mr. Bayer and seconded by Mrs. Burke it was moved to accept the following:

04-15-2019: #10

**BE IT RESOLVED BY THE GOVERNING BODY OF THE BOROUGH OF
DUNELLEN, NEW JERSEY, THAT:**

The Dunellen Borough Council Meeting of April 15, 2019 is adjourned.

Yes: Bayer, Burke, Cilento, Dunne and Narvesen
