

December 3, 2018

Minutes of the public meeting of the Mayor and Council of the Borough of Dunellen held on December 3, 2018.

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 Baudendistel, Kenneth Bayer, Jason Cilento, Jessica Dunne, Jeremy Lowder and Joseph Petracca

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On the motion of Mr. Cilento and seconded by Mr. Bayer it was moved to accept the Minutes of November 19, 2018:

Yes: Baudendistel, Bayer, Cilento and Petracca  
Abstain: Dunne and Lowder, due to their absences

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Mayor's Appointments to Commissions and Authorities

Mayor Seader appointed Janine MacNair to the Dunellen Public Library Board of Trustees.  
Mr. Robins administered the Oath of Office.

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On the motion of Mr. Petracca and seconded by Mr. Lowder, it was moved to accept the following:

**12-03-2018: #1**

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

Keith Irons is hereby appointed as a probationary police officer in the Dunellen Police Department at an annual salary of \$42,073.00, effective starting date of 3 December 2018.

Municipal Clerk William Robins administered the Oath of Office.

Yes: Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

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

**ORDINANCE 2018-15**

The following ordinance is being Introduced for first reading on December 3, 2018. It will be presented for Public Hearing and Adoption on December 17, 2018. Copies of this ordinance will be available to the public on the municipal bulletin board and from the Municipal Clerk's Office.

This ordinance amends Ordinance 2017-11, adopted on November 6, 2017.

**ORDINANCE OF THE BOROUGH OF DUNELLEN AMENDING THE BOROUGH CODE CHAPTER 82 ENTITLED “CLOTHING BINS”**

**WHEREAS**, the Borough Administrator has recommended an amendment to Dunellen Code Chapter 82; and

**WHEREAS**, the Council desires to enact such an amendment.

**NOW, THEREFORE, BE IT ORDAINED**, by the Council of the Borough of Dunellen, in the County of Middlesex and State of New Jersey as follows: The Dunellen Borough Code, is hereby amended as follows:

**Chapter 218, Clothing Bins**

**218-1 Permit Required**

In accordance with N.J.S.A. 40:48-2.61, notwithstanding any other provision of law to the contrary, no person or entity shall place, use, or employ a donation clothing bin, for solicitation purposes, within the Borough of Dunellen unless the person or entity shall obtain a permit, valid for a period of one year, issued by the Borough Clerk, upon approval of the Borough Council, in accordance with this Chapter 218. Such a permit will be valid for one year, beginning January 1<sup>st</sup> of any new year and ending on December 31<sup>st</sup> of that year.

**218-2 Issuance of Permit**

1. An application shall be filed with the Borough Clerk on forms designated by the Borough Clerk which shall include the following:

- (a) the location where the bin would be situated, as precisely as possible;
- (b) the manner in which the person anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent;
- (c) the name, and telephone number of the bona fide office required pursuant to subsection b. of this section, of any entity which may share or profit from any clothing or other donations collected via the bin; and
- (d) written consent from the property owner to place the bin on his property; and

2. The Borough Council shall not grant an application for a permit to place, use, or employ a donation clothing bin if it determines that the placement of the bin could constitute a safety hazard. Such hazards shall include, but not be limited to, the placement of a donation clothing bin within 100 yards of any place which stores large amounts of, or sells, fuel or other flammable liquids or gases. Furthermore, no clothing bin shall be placed within twenty (20) feet of a sidewalk or public right-of-way;

3. The applicant shall pay to the Borough of Dunellen an annual permit fee of \$25, to offset

the costs involved in enforcing this Chapter and N.J.S.A 40:48-2.60 et seq.

4. The person, and any other entity which may share or profit from any clothing or other donations collected via the bin, must maintain a bona fide office where a representative of the person or other entity, respectively, can be reached at a telephone information line during normal business hours for the purpose of offering information concerning the person or other entity. For the purposes of this subsection, an answering machine or service unrelated to the person does not constitute a bona fide office.

### **218-3 Renewal of Permit**

1. An expiring permit for a donation clothing bin may be renewed upon application for renewal and payment of a \$25.00 fee for such renewal, to offset the costs involved in enforcing Chapter and N.J.S.A 40:48-2.60 et seq. Such application shall include:

(a) the location where the bin is situated, as precisely as possible, and, if the person intends to move it, the new location where the bin would be situated after the renewal is granted and written consent from the property owner to place the bin on his property;

(b) the manner in which the person has used, sold, or dispersed any clothing or other donations collected via the bin, the method by which the proceeds of collected donations have been allocated or spent, and any changes the person anticipates it may make in these processes during the period covered by the renewal; and

(c) The name, and telephone number of the bona fide office required pursuant to subsection 4 of Section 218-2 of this Ordinance, of any entity which shared or profited from any clothing or other donations collected via the bin, and of any entities which may do so during the period covered by the renewal.

### **218-4 Display of Information on Bin**

1. All bins shall comply with the following display requirements:

(a) The permit number and its date of expiration shall be clearly and conspicuously displayed on the exterior of the donation clothing bin, in addition to the information required pursuant to subsection (1)(c) of Section 218-3 of this Ordinance;

(b) The person, and any other entity which may share or profit from any clothing or other donations collected via the bin, maintains a bona fide office where a representative of the person or other entity, respectively, can be reached at a telephone information line during normal business hours for the purpose of offering information concerning the person or other entity. For the purposes of this subsection, an answering machine or service unrelated to the person does not constitute a bona fide office; and

(c) The following information is clearly and conspicuously displayed on the exterior

of the donation clothing bin:

- (1) The name and address of the registered person that owns the bin, and of any other entity which may share or profit from any clothing or other donations collected via the bin;
- (2) The telephone number of the person's bona fide office and, if applicable, the telephone number of the bona fide office of any other entity which may share or profit from any clothing or other donations collected via the bin;
- (3) In cases when any entity other than the person who owns the bin may share or profit from any clothing or other donations collected via the bin, a notice, written in a clear and easily understandable manner, indicating that clothing or other donations collected via the bin, their proceeds, or both, may be shared, or given entirely to, an entity other than the person who owns the bin, and identifying all such entities which may share or profit from such donations; and
- (4) A statement, consistent with the information provided to the Borough of Dunellen in the most recent permit or renewal application pursuant to subparagraph (b) of paragraph (1) of subsection a. of this section and subparagraph (b) of paragraph (4) of subsection a. of this section, indicating the manner in which the person anticipates any clothing or other donations collected via the bin would be used, sold, or dispersed, and the method by which the proceeds of collected donations would be allocated or spent.

### **218-5 Complaints**

1. The Borough of Dunellen shall receive and investigate, within 30 days, any complaints from the public about the bin. Whenever it appears to the Borough of Dunellen that a person has engaged in, or is engaging in any act or practice in violation of N.J.S.A. 40:48-2.61 or any provisions of this Chapter, the person who placed the bin shall be issued a warning, stating that if the violation is not rectified or a hearing with the Borough Council is not requested within 45 days, the bin will be seized or removed at the expense of the person who placed the bin, and any clothing or other donations collected via the bin will be sold at public auction or otherwise disposed of. In addition to any other means used to notify the person who placed the bin, such warning shall be affixed to the exterior of the bin itself.
2. In the event that the person who placed the bin does not rectify the violation or request a hearing within 45 days of the posting of the warning, the Borough of Dunellen may seize the bin, remove it, or have it removed, at the expense of the person who placed the bin, and sell at public auction or otherwise dispose of any clothing or other donations collected via the bin. Any proceeds from the sale of the donations collected via the bin shall be paid to the Borough of Dunellen.

## **218-6 Penalties**

1. In addition to any other penalties or remedies authorized by the laws of this State, any person who violates any provision of N.J.S.A. 40:48-2.60 et seq. which results in seizure of the donation clothing bin shall be:

(a) Subject to a penalty of up to \$20,000 for each violation. The Borough of Dunellen may bring this action in the municipal court or Superior Court as a summary proceeding under the Penalty Enforcement Law of 1999, N.J.S.A. 2A:58-10 et seq, and any penalty monies collected shall be paid to the Borough of Dunellen; and

(b) Deemed ineligible to place, use, or employ a donation clothing bin for solicitation purposes pursuant to N.J.S.A. 40:48-2.61. A person disqualified from placing, using, or employing a donation clothing bin by violating the provisions of N.J.S.A. 40:48-2.60 et seq. may apply to the Borough Council to have that person's eligibility restored. The Borough Council may restore the eligibility of a person who:

- (1) Acts within the public interest; and
- (2) Demonstrates that he made a good faith effort to comply with the provisions of N.J.S.A. 40:48-2.60 et seq. and this Chapter and all other applicable laws and regulations, or had no fraudulent intentions.

## **218-7 Sections held invalid**

If any section or provision of this Ordinance shall be held invalid in any Court of competent jurisdiction, the same shall not affect the other sections or provisions of this Ordinance, except so far as the section or provision so declared invalid shall be inseparable from the remainder or any portion thereof.

## **218-8 Invalid sections**

All Ordinances or parts of Ordinances, which are inconsistent herewith are hereby repealed to the extent of such inconsistency.

## **218-9 Effective Date**

The Ordinance shall take effect immediately after final passage and publication in the manner provided by law.

Mr. Baudendistel and Mr. Robins informed the Council that there were only two changes: to set the bins at a 20-foot distance from the right-of-way and to make it clear that the permit was annual, in January. Council asked about the \$20,000 penalty. Mr. Bruder responded that it is in the original State statute.

Yes: Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

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On the motion of Mr. Petracca and seconded by Mr. Baudendistel, it was moved to accept the following:

**ORDINANCE 2018-16**

**NOTICE OF PENDING BOND ORDINANCE AND SUMMARY**

The bond ordinance, the summary terms of which are included herein, is being introduced and for first reading at a meeting of the governing body of the Borough of Dunellen, in the County of Middlesex, State of New Jersey, on December 3, 2018. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Borough Council Chambers, in the Borough on December 17, 2018 at 7:00 o'clock p.m. During the week prior to and up to and including the date of such meeting, copies of the full bond ordinance will be available at no cost and during regular business hours at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such bond ordinance follows:

Title: BOND ORDINANCE PROVIDING FOR IMPROVEMENTS TO COLUMBIA PARK IN AND BY THE BOROUGH OF DUNELLEN, IN THE COUNTY OF MIDDLESEX, NEW JERSEY, APPROPRIATING \$230,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$219,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

Purpose: Improvements to Columbia Park, including, but not limited to, the purchase and installation of artificial turf, track resurfacing, design and permits and further including all work, materials, related costs and expenditures necessary therefor and incidental thereto

Appropriation: \$230,000

Bonds/Notes Authorized: \$219,000

Grant Appropriated: Middlesex County Open Space Grant in an amount equal to \$1,400,000 (the "County Grant") (which County Grant shall also provide for the construction of a gazebo and construction of tennis courts, all located in Columbia Park as more fully set forth in Section 3(i) and (j) of bond ordinance #2018-06, finally adopted on June 18, 2018)

Section 20 Costs: \$230,000

Useful Life: 15 years

Yes: Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

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

**ORDINANCE 2018-13**

**BOROUGH OF DUNELLEN**

The following ordinance was introduced for first reading at a meeting of the Governing Body of the Borough of Dunellen, in the County of Middlesex, State of New Jersey, on November 19, 2018. It is now being further considered for final passage, after public hearing thereon, at a meeting of said governing body being held in the Municipal Building, 355 North Avenue, Dunellen, New Jersey, in said County, on December 3, 2018 at 7:00 p.m. During the week prior to and up to and including the date of such meeting copies of the full ordinance have been available at no cost and during regular business hours, at the Clerk's office for the members of the general public who shall request the same.

Section 269-13 (D), is created as follows:

**Section 269-13 (D). Parking Prohibitions.**

(1). Construction Office.

Spaces designated for use by those having business at the Dunellen Construction Office are limited to 2-hour parking during regular office hours as posted on the office entryway.

(2). Dunellen Public Library.

Spaces designated for use by Dunellen Public Library customers are limited to 2-hour parking during regular opening hours and announced after-hours programs as posted on the Library entryways.

(3). The Dunellen Parking Authority is designated the enforcement agency for Section 269-13 (D). Penalties for Section 269-13 (D) are as set forth in Dunellen Code Section 269-38.

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: Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

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

**ORDINANCE 2018-14**

**BOROUGH OF DUNELLEN**



B. Plumbing Subcode Fee shall be:

1. A minimum fee for the plumbing subcode shall be seventy-five (\$75.00) dollars.
2. The fee shall be in the amount of twenty five (\$25.00) dollars per fixture, piece of equipment or appliance connected to the plumbing system, and for each appliance connected to the gas or oil piping system.

For the purpose of computing this fee, fixtures shall include but not be limited to lavatories, kitchen sinks, slop sinks, urinals, water closets, bath tubs; shower stalls laundry tubs, floor drains, drinking fountains, dishwashers, garbage disposals, hot water heaters, or similar devices.

3. The fee shall be in the amount of Sixty Five (\$65.00) dollars per special devices.

For the purpose of computing this fee, special devices shall include but not be limited to steam boilers, furnaces, A/C units, grease trap, interceptor/separator, water connection, sewer connection, sewer ejector, sewer pumps, backflow preventer, and tank installation.

C. Electrical Subcode Fee shall be:

1. A minimum fee for the electrical subcode shall be seventy-five (\$75.00) dollars.
2. For the purpose of computing fees, outlets or fixtures shall include, but not be limited to, lighting fixtures, switches, smoke or heat detectors, convenience receptacles, burglar alarms, intercom panels, thermostats, and motors and devices of less than 1 h.p. or 1 k.w.

From 1 to 25 receptacles or fixtures	\$50.00
For each additional 25 receptacles or fixtures	\$50.00

3. For the purpose of computing these fees, the term service panel, sub-panel, feeder, switches, and switchboards:

Up to 100 amps	\$100.00
101 to 201 amps	\$175.00
Each additional 100 amps	\$50.00

4. For the purpose of computing these fees, all motors except those in plug-in appliances shall be counted, including control equipment, generators, transformers and all heating, cooking or other devices consuming or generating electrical current:

Motors and electrical devices over,	
1 h.p. up to 5 h.p.	\$50.00
6 h.p. up to 25 h.p.	\$75.00
26 h.p. up to 100 h.p.	\$100.00
For each increase of 50 h.p.	\$25.00
Transformers and generators over,	
1 kw up to 5 kw	\$50.00
6 kw up to 25kw	\$75.00

26 kw up to 100 kw	\$100.00
For each increase of 50 kw	\$25.00
5. The fees for pools, fountains and similar installations	
Above ground, includes bonding & motor	\$100.00
In-ground, includes bonding & motor	\$150.00
6. Light standards	\$100.00

D. Fire Subcode fee shall be:

1. Hard wire interconnected smoke detectors (R3 & R5)	\$25.00 per unit
2. For fire sprinkler system the fee shall be as follows:	
20 or fewer heads	\$100.00
21 to 100 heads	\$200.00
101 to 200 heads	\$350.00
201 to 400 heads	\$800.00
401 to 1000 heads	\$1,200.00
Over 1000 heads	\$1,500.00

In computing fees for heads and detectors, the number shall be counted separately and two fees, one for heads and one for detectors, shall be charged.

3. Fire standpipe system	\$267.00
4. Independent pre-engineer system	\$250.00
5. Gas or oil fired appliance	\$75.00
6. Kitchen exhaust system	\$100.00
7. Incinerator system	\$426.00
8. Crematorium system	\$426.00
9. Smoke control system	\$300.00

E. CCO Inspection Fees

The following will be a per unit fee:

- a. \$100.00 Initial Inspection
- b. \$80.00 Re-Inspection

c. \$125.00 Emergency Inspection (less than 72 hours notice)

F. Zoning Fees

- a. \$125.00 Residential
- b. \$200.00 Commercial
- c. \$1,000.00 (annually) Massage Parlor
- d. \$2,000.00 (annually) Tattoo parlor, Body Piercing Establishment (excluding ear piercing) (Proof of active current license)
- e. \$1,000.00 (annually) Microblading
- f. \$150.00 (annually) Tanning Salon

G. Sewer Connection Fee

\$1,800.00 per connection

H. Penalties

Any person or persons who violate any provision of this section is subject to penalties of not more than \$2,000.00.

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: Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

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

**12-03-2018: #2**

**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: Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

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

**12-03-2018: #3**

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

Whereas, there appears to be a surplus in the following CY 2018 Operating Accounts over and above the demands to be necessary, and

Whereas, N.J.S.A. 40A:4-58 provides for the transfer of unexpended balances in those appropriations having an excess over the amount required to those deemed to be insufficient.

Now, therefore be it resolved that the following "Transfer of Appropriations" be made:

From

Account	Title	S&W	Other Expenses
20-165-299	Engineering Services		\$5,300.00
	Total		<u>\$5,300.00</u>

Whereas, there appears to be insufficient funds in the following CY 2018 Operating Accounts over and above the demands to be necessary; viz:

To:

Account	Title	S&W	Other Expenses
20-130-299	Financial Administration		\$200.00
22-195-299	Construction Code Official		100.00
25-265-299	Fire Hydrant Service		200.00
25-275-111	Municipal Prosecutor	\$2,400.00	
26-310-111	Public Buildings and Grounds	500.00	
28-370-299	Recreation		1,600.00
31-445-299	Water		300.00
	Subtotal	\$2,900.00	\$2,400.00
	Total		<u>\$5,300.00</u>

Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

On the motion of Mr. Petracca and seconded by Mr. Lowder, it was moved to accept the following:

**12-03-2018: #4**

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

Mayor Robert J. Seader is authorized to sign the Employment Agreement between the Borough of Dunellen and Jeffrey E. Nelson, January 1, 2018 through December 31, 2019.

Yes: Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

On the motion of Mr. Baudendistel and seconded by Mr. Lowder, it was moved to accept the following:

**12-03-2018: #5**

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

Be it resolved by the governing body of the Borough of Dunellen, New Jersey, that:

The Treasurer is hereby authorized to issue the following checks to CME Associates from the “100 South Washington Avenue Escrow Account” for engineering work done for the Dunellen Planning Board toward redevelopment:

<u>CME Associates</u>	<u>Amount</u>
0232443	\$614.25
0233254	\$1,351.00
Total:	<u>\$1,965.25</u>

Yes: Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

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

**12-03-2018: #6**

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

The Municipal Clerk is hereby authorized to issue a food handler license to the following establishment:

Dunellen Nutrition Center – 200 Pulaski Street

Yes: Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

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

**12-03-2018: #7**

**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 Casino License and a cash Raffle License to St. John the Evangelist Church.

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

Yes: Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

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

**12-03-2018: #8**

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

Whereas, there exists a need to lease a photocopier machine for the Tax Collector's Office; and

Whereas, a quote has been received from:

Wells Fargo -- \$95.00 per month, for a 60 month lease term; and

Whereas Wells Fargo has a New Jersey Business Registration 42-1074725 for the leasing of photocopier machines; and

The funds for this contract have been certified by the Chief Financial Officer, and continuation of the contract is subject to the availability of funds in future fiscal years. The funds are certified from January 1, 2019 to December 31, 2019.

Now, therefore, be it resolved, by the Mayor and Council of the Borough of Dunellen, that a photocopier machine be leased from Wells Fargo, for an amount not to exceed \$95.00 for 60 months.

Funds for this certification are from Account #9-01-20-145-000-205.

Yes: Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

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

**12-03-2018: #9**

WHEREAS, the Tax Collector has received fourth quarter tax payments from lenders on installments prepaid, thereby causing an overpayment, and

WHEREAS, the Lenders have given permission to refund the monies.

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

That the proper municipal officers be and they are hereby authorized and directed to issue a check(s) as follows:

<b>Block</b>	<b>Lot</b>	<b>Name</b>	<b>Amount</b>
77	12	Bank of America NA 1898 W. 4 <sup>th</sup> St. Check payable and Mail to:  Lereta, LLC Attn: Central Refunds 1123 Park View Dr. Covina CA 91724	1,767.04
6 30 42	12 16 37 c0001	Shah, Niraj & Hitch, Denise      200 Dunellen Ave Tobengauz, Steven & Elena      348 Front St Lvovitch, Yan & Maevskaia, Olga 702 Second Ave	2,385.33 2,452.07 <u>138.68</u> 4,976.08
<b>Total to be refunded</b>			
Check payable and Mail to:  Corelogic Real Estate Tax Serv. Attn: Refund Department PO Box 961250 Fort Worth TX 76161-9887			

Yes: Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

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

**12-03-2018: #10**

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

The Treasurer is hereby authorized to issue the following proceeds for tax sale redemption(s):

Payable to MTAG as CST for Ebury Fund 1 NJ LLC  
PO Box 37695  
Baltimore, MD 21297-3695

TSC	Block	Lot	Owner/Address	Principal	Interest	Premium	Total
15-15	34	22	Hong, Joseph 656 Bound Brook Rd	41,285.31	13,947.23	2,400.00	57,632.54

**TOTAL REFUNDED \$57,632.54**

Yes: Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

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

**12-03-2018: #11**

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

WHEREAS, an emergency has arisen with respect to the need for sewer main repair on Gertrude Terrace and Grove Street; and

WHEREAS, this sewer repair, if left unattended, would have affected the public health, safety and welfare of the residents of Dunellen; and

WHEREAS, the nature of this emergency rendered it impossible to adhere to the normal requirements of the Local Public Contracts Law.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Dunellen, County of Middlesex, State of New Jersey, that in accordance with NJSA 40A:4-48, an Emergency Appropriation be made to Sewer Repair for repair of the broken sewer main on Gertrude Terrace and Grove Street; and

BE IT FURTHER RESOLVED, that P&A Construction, Inc., be awarded a contract to repair the broken sewer main, at a cost not to exceed \$40,223.67. Funds for this appropriation will come from Account #C-08-18-160-000-601.

Yes: Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

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Reports:

Mr. Petracca: looking to hire another police officer in January. Mayor Seader noted that in 2019 we will be having an officer, possibly Sgt. Chin, be a School Resource Officer, completely paid for by the School District. This should result in a savings to the borough, given Sgt. Chin's current salary.

Mr. Baudendistel: 1) house on Front Street was sold and inquired about a lien that the borough has on it; 2) the Dunellen Downtown Management Organization put up 14 trees on street corners; 3) asked Mr. Bruder about the Strip Joint property? Recommended it might be simply paved over or sold "as is." Mr. Bruder responded that he is in touch with an environmental attorney at Wilentz and that she had been speaking with Middlesex County officials regarding environmental requirements. Mr. Bruder recommends that we have an environmental counsel advise on whether we can be held liable under the Spill Compensation Act because there is a liability in the chain of title so even if we notify of a potential environmental hazard we may still be liable.

Mr. Bayer: 1) the potholes in the Recycling Yard are mostly filled in now; 2) DPW is picking up leaf bags around town.

Dr. Dunne: 1) she is setting up a meeting with the Greenbrook Flood Control Commission; 2) she has received complaints regarding the bi-weekly curbside recycling company and she has contacted the Freeholder in charge of that program. Mayor Seader noted that the new company must have been a low bidder and they are not as good as the prior vendor, Waste Management.

Mr. Cilento: 1) he also spoke to the recycling division at MCI and a possible solution is to bring in additional trucks; 2) Tree Lighting Ceremony was on December 2<sup>nd</sup> and approximately 175 people attended. The Recreation Commission wishes to express their gratitude to the Mayor and Council and to the Emergency Services who assisted, and to the Rotary Club for their hot chocolate, and Ken and Hanna Baudendistel for placing the luminaries; 3) Holiday Decoration Contest will be between 12/18 and 12/21; 4) Santa Around Town will be on 12/24 starting at 9:30 am; 5) Senior Holiday Party will be at St. John's on January 6<sup>th</sup>; 6) he is working with Middlesex County Department on Aging and the Disabled to present a program to the seniors on services available; 7) DACC is looking to set up a senior art program, probably run by Liz Lopez.

Mr. Lowder: 1) met with the Central Jersey Stream Team to set something up in the spring to go through all the brooks and clean out all the debris, garbage and branches. They are not yet able to tell us where dredging is permissible nor how to reconstruct the retaining walls. We need additional information on easements for access, though residents are usually receptive to permitting workers to go in their back yards; 2) the tree sale is going well.

Mayor Seader: 1) has a meeting tomorrow with CME Associates on the culvert projects: Pulaski Street and South Madison Avenue and the Railroad Culvert under the tracks. CME thinks that when the culverts are fixed and the water level lowered, they will certify this and send it to FEMA and request a redrawing of the flood maps; 2) had a good meeting with the Board of Education regarding the tennis courts and the football field (which for the field they will pay for half, other half from the County). The introduced bond ordinance will now allow the engineers to begin the planning stage; 3) he had P&A redo their poor job on the South Washington Avenue job that the County wanted us to repair. They did not add that cost into the Gertrude Terrace repair job; 4) the Water Treatment application for the Railroad Culvert project may be passed by

PARSA this Thursday; 5) we met with the revaluation company--Mayor and Bill and Rich Gianchiglia—and the letters are going out. People can have meetings with the revaluation company by calling the number on the assessment letter. Rich reported that the appraisal company gained access to 79.8 percent of the homes; 6) house next to Lincoln Middle School seems to have dumped furniture on the street; 7) bring nominations for Citizen of the Year/Lifetime Achievement to the next meeting.

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**COUNCIL DISCUSSION:** Amended Sign Ordinance

Please note: the following is not a verbatim transcription of a discussion that lasted nearly 90 minutes. It reflects key points of the examination of the draft ordinance and notes agreements or any consensus arrived at by Council.

Mr. Robins included in Council packets copies a proposed amended sign ordinance. Mr. Baudendistel led the discussion. He noted that we were considering amending it because there were some ambiguities in the current version that resulted in difficulties in enforcing it. The draft version now under consideration incorporates changes approved by the Sign Committee (himself, Mr. Bayer, and Mr. Robins) with certain sections highlighted. These sections are either in need of a policy decision by the Council, or a legal opinion by Mr. Bruder. He invited councilmembers to comment on any aspect of the draft.

He explained the current system of receiving a sign application and the review process.

Internally Illuminated Signs, box signs: permit or not permit? Or if there is a new business, to have the new owner install only external signs. He posed the issue: how do want our downtown to look? Mr. Cilento stated that he did not care so much about whether the sign was internally or externally illuminated but he did care that the sign looked nice. Another concern is if the ordinance is modified, does it restrict owners who had a certain style before the revised ordinance was adopted? Roger Dornbierer, Chairman of the Dunellen Planning Board, stated that he consulted PB attorney John Lore who said that it will all depend on the verbiage of the revised ordinance to determine when this is going to take effect, whether it was going to be prospective or retrospective, and if there is not a delineation, this means that if there is any sign, anywhere, the owner must replace the old sign according to the new revised sign ordinance, unless it is specifically noted that he need not in the ordinance. Mr. Lore also explained to Roger that if there is a lawsuit, the judges are looking to intent, so there should be an explanatory paragraph explaining why the borough is modifying the ordinance. Roger continued: in Site Plan approval resolutions, the developer must state that he will be in conformity with the sign ordinance. If the sign ordinance is prospective, then any developer must adhere to the sign ordinance as of the approval date; again, it is all a matter of inclusion and explanation in the revised ordinance.

Roger added that the ordinance is taken from the model ordinance of the Model Sign Council which has done studies on “street graphics” regarding recognition elements. He recommends that there be a committee to go through the existing ordinance and the model sign ordinance and construct an ordinance that would include explanations and intent. The Model Sign Council, on the issue of internally v. externally, are looking to aesthetics and property values as standards.

Construction Officer Scott Luthman asked how we would be addressing backlit letters? Mr. Baudendistel suggested we leave existing backlit letters as they are, but new developments/signs would have to follow the new ordinance (externally illuminated signs). Question: what about

stores such as QuickChek which have a certain style? Would they be compelled to have something different? Mr. Baudendistel responded that in many communities these chain stores comply with the local sign ordinance and adapt and match the environment they are in.

Mr. Baudendistel asked Mr. Bruder how this process will work. Mr. Bruder responded that presumably when we come out of tonight's discussion we will have a plan to introduce a modified sign ordinance and at the appropriate time the Council will vote on it. Tonight, we are eliciting concurrences on particular clauses, for direction purposes, keeping in mind that any councilperson is free to change his/her opinion at the time of further consideration and voting. Mr. Baudendistel proposed to the Council that new construction or facades have only externally illuminated signs, allowing existing signs that are internally illuminated to continue.

Mr. Petracca objected to the section that has any change of one sign mandating that all the signs be changed to conform with the current sign ordinance.

Back to Mr. Baudendistel's proposal, there was Council consensus that externally illuminated signs be applicable only to new construction. To this proposal, Mr. Petracca argued that we are limiting people's freedom of expression to one kind of sign. As long as the Council is fine with that, so be it.

Mr. Baudendistel next raised the issue of the kind of materials for signs: "All signs shall be constructed of permanent materials." There have been several instances where they have a canvas cover and put it over an existing sign structure. Is this something we want to allow? Council concurs to having this remain.

It was noted that there are certain inconsistencies between sections that Mr. Bruder has identified. These will have to be cleaned up or reconciled in the next draft. Mr. Baudendistel stated that though he did not write the original ordinance, he is the driver of some of these revisions. However, he is not an attorney and wishes assistance in putting together the new draft. Mr. Bruder indicated that he would be a part of this.

Page 10, Section 13, language. Mr. Bruder has researched the issue of English v. Non-English language signs. There have been federal decisions prohibiting what we have, though not in the district that covers New Jersey. Some New Jersey municipalities have had such provisions in the 1980s in Bergen County, and some of them no longer have this but it is unclear why they do not. It certainly can implicate free speech concerns. His disquiet is that if we are mandating that all signs English must be 50% larger than non-English language, we might run into free speech challenges. Mr. Baudendistel pointed out that an issue with non-English is safety, that people might not know what goods are stored in the store. Mr. Bruder responded that there is not a clear constitutional guideline on this language issue. You could probably justify an ordinance that has English in equal size, but maybe not 50% bigger. The consensus is to eliminate this section.

Page 14, Section 8: that signs on the side or rear shall be the same format as in the front.

Awnings: how do we illuminate awnings? We have both internally and externally illuminated awnings. Mr. Bruder suggested that we may need to define awning. Mr. Baudendistel said he is fine with both internally and externally illuminated awnings, if attractively presented. The consensus is to delete "D."

Page 18, Section 17 C and D. Nonconforming signs. If change of use occurs, then all signs must be brought into conformity with the current ordinance. Mr. Baudendistel noted that we had already decided that changes would apply only for new construction (C). For (D), if one sign is changed, then all signs must be changed. Mr. Petracca stated that he has a problem with this. For example, at the strip mall, if one business changes ownership, then all the other businesses in

the strip would have to come into compliance. This is egregious, to make a landlord be responsible for an entire upgrade of a building. In his opinion, you would be hindering a landlord's ability to rent property whereby you would be restricting people coming into Dunellen. And it is probably not legal as under the UCC if you met the Code at the time you would not have to change in these circumstances. Scott Luthman agreed that he cannot enforce this section. Consensus is to delete/strike D.

Mr. Luthman recommended that the section dealing with the size of the letters, or the area of the lettering, be clarified. A problem is calculating the size of the individual letters. Or sizing it from the beginning of the letters to the end of the letters, that being the area. And what is to be maximize size of the calculated area? 20%? Roger pointed out that how to measure a size is in the ordinance.

Political signs: Mr. Cilento received some complaints on the number of political signs in Washington Park. Mr. Bruder will research whether we can limit the number of signs per candidate.

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## **PUBLIC PORTION**

Janine McNair asked which pipe is the subject of the emergency award? It is the sanitary sewer pipe at the intersection of Gertrude Terrace and Grove Street where the barrel is.

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

**12-03-2018: #12**

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

The Dunellen Borough Council Meeting of December 3, 2018 is adjourned.

Yes: Baudendistel, Bayer, Cilento, Dunne, Lowder and Petracca

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