

November 6, 2017

Minutes of the public meeting of the Mayor and Council of the Borough of Dunellen held on November 6, 2017.

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

Mayor asked for a moment of silence in memory of the victims of the church shooting in Sutherland, Texas.

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

Present: Robert Seader, Kenneth Baudendistel, Kevin Bachorik, Kenneth Bayer, Jason Cilento and Joseph Petracca

Absent: Jeremy Lowder

On the motion of Mr. Bachorik and seconded by Mr. Cilento it was moved to accept the Minutes of October 16, 2017.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-2017: #1

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

Matthew Rosofsky is hereby appointed as a probationary police officer in the Dunellen Police Department at an annual salary of \$41,966.00, effective starting date of 6 November 2017.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

At this point, Municipal Clerk William Robins administered the Oath of Allegiance to Mr. Rosofsky.

Mayor's Appointments to Commissions and Authorities

Mayor Seader appointed Trina Rios to the Dunellen Public Library Board of Trustees. Mr. Robins administered the Oath of Allegiance.

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

11-06-2017: #2

RESOLUTION OF THE BOROUGH OF DUNELLEN ACCEPTING THE REPORT AND RECOMMENDATION FROM THE PLANNING BOARD ON THE PROPOSED AMENDMENT TO THE AMENDED AND RESTATED DUNELLEN DOWNTOWN REDEVELOPMENT PLAN TO INCLUDE BLOCK 83 LOT 1

WHEREAS, pursuant to *N.J.S.A. 40A:12A-6*, the governing body of the Borough authorized the Planning Board to undertake an investigation to determine whether Block 83, Lot 1 in the Borough of Dunellen, more commonly known as 105 South Washington Avenue, should be designated as a non-condemnation area in need of redevelopment; and

WHEREAS, the Planning Board, after public hearing and consideration of information gathered and reported in the Preliminary Investigation report prepared by CME Associates, dated July 13, 2017, said hearing having occurred on September 25, 2017, has by letter to the Dunellen Borough Council on September 25, 2017, recommended that Block 83, Lot 1 in the Borough of Dunellen, more commonly known as 105 South Washington Avenue, be designated as a non-condemnation area in need of redevelopment; and

WHEREAS, by Resolution 10-02-2017: #1, dated October 2, 2017, the Council declared Block 83, Lot 1 to be a non-condemnation Area in Need of Redevelopment; and

WHEREAS, the Council determined that it was in the best interest of the Borough of Dunellen to amend the Amended and Restated Downtown Redevelopment Plan , Phase 1, which was adopted May 6, 2016 pursuant to Ordinance 2016-05 (the “Redevelopment Plan”) to include Block 83, Lot 1 and caused such an amendment (the “Amendment”) to be prepared; and

WHEREAS, by Resolution 10-02-2017: #3, dated October 2, 2017, the Council referred the proposed Amendment to the Planning Board pursuant to *N.J.S.A. 40A:12A-7(e)* for the purpose of reviewing the proposed Amendment with respect to its consistency with the Master Plan and to provide a report and recommendation thereon to the Council; and

WHEREAS, the Planning Board considered the proposed amendment at its public hearing on October 23, 2017 and has by letter dated October 31, 2017 to the Dunellen Borough Council provided its report and recommendation that the proposed Amendment is consistent with the goals of the Master Plan.

NOW, THEREFORE, BE IT RESOLVED, by the governing body of the Borough of Dunellen, County of Middlesex, State of New Jersey, as follows:

1. That the governing body does hereby accept the October 31, 2017 report and recommendation of the Planning Board that the proposed Amendment is consistent with the goals of the Master Plan.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

Ordinance 2017-12

NOTICE OF PENDING ORDINANCE AND SUMMARY

The ordinance, the summary terms of which are included herein, is being 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 6, 2017. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Dunellen Borough Council Chambers, in the Borough on November 20, 2017 at 7 o'clock p.m. During the week prior to and up to and including the date of such meeting, copies of the full 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 ordinance follows:

Title: ORDINANCE AUTHORIZING A SPECIAL EMERGENCY APPROPRIATION IN THE AMOUNT OF \$160,000 FOR THE PREPARATION AND EXECUTION OF A COMPLETE REVALUATION OF REAL PROPERTY AND ALL RELATED EXPENSES IN AND BY THE BOROUGH OF DUNELLEN, IN THE COUNTY OF MIDDLESEX, NEW JERSEY

Purpose: The preparation and execution of a complete program of revaluation of real property and all related expenses for the use of the local assessor

Appropriation: \$160,000

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

ORDINANCE 2017- 10

BOROUGH OF DUNELLEN

The following Amendment to Section 4.1 of Dunellen's Amended and Restated Dunellen Downtown Redevelopment Plan, Phase 1, was introduced for first reading on October 2, 2017. It is now being presented for Public Hearing and Adoption on November 6, 2017 at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey. Copies of this ordinance have been posted on the Municipal Bulletin Board, and have been available at the Office of the Borough Clerk for any interested members of the public.

This ordinance amends the Amended and Restated Dunellen Downtown Redevelopment Plan, Phase 1, which was adopted May 6, 2016 pursuant to Ordinance 2016-05 (the “Redevelopment Plan”).

WHEREAS, pursuant to *N.J.S.A.* 40A:12A-6, the governing body of the Borough authorized the Planning Board to undertake an investigation to determine whether Block 83, Lot 1 in the Borough of Dunellen, more commonly known as 105 South Washington Avenue, should be designated as a non-condemnation area in need of redevelopment; and

WHEREAS, the Planning Board, after public hearing and consideration of information gathered and reported in the Preliminary Investigation report prepared by CME Associates, dated July 13, 2017, said public hearing occurring on September 25, 2017, has by letter to the Dunellen Borough Council on September 25, 2017 recommended that Block 83, Lot 1 in the Borough of Dunellen, more commonly known as 105 South Washington Avenue, be designated as a non-condemnation area in need of redevelopment; and

WHEREAS, by Resolution dated October 2, 2017, the Council declared Block 83, Lot 1 to be a non-condemnation Area in Need of Redevelopment; and

WHEREAS, the Council believes it to be in the best interest of the Borough of Dunellen to amend the Redevelopment Plan to include Block 83 Lot 1; and

WHEREAS, following first reading, pursuant to *N.J.S.A.* 40A:12A-7(e), and by Resolution dated October 2, 2017, the Council directed the Planning Board to review the proposed amendment to the Redevelopment Plan, and to provide a report with regard to the amendment’s consistency with the Master Plan; and

WHEREAS, prior to the second reading, the Planning Board has reviewed the proposed amendment to the Redevelopment Plan and provided the Council with its report thereon; and

WHEREAS, Section 4.1 Description of the Redevelopment Area is to be amended to include Block 83, Lot 1 in the Borough of Dunellen, more commonly known as 105 South Washington Avenue, by the following additions (underlined text):

4.1 Description of the Redevelopment Area

As a result of the Planning Board reexamining the original redevelopment plan, it was decided that a phased timing approach would better suit the needs of the Borough by focusing first on redevelopment of the Dunellen Downtown Center. One or more subsequent phases 'may be considered' to address the remaining areas identified in the determination of need study. This Redevelopment Plan is applicable to the following properties located in the Borough of Dunellen, County of Middlesex, State of New Jersey, identified as the Dunellen Downtown Redevelopment Area, Phase I. consisting of Blocks and Lots as depicted on the Official Tax Map of the Borough of Dunellen, and as shown on the attached "Redevelopment Area Map" that has

been determined by the Dunellen Planning Board and the Dunellen Borough Council as an area in need of redevelopment:

Phase 1-Redevelopment Area-See Map #1

Area	Block Number	Lot Number
Site#1 South side of North Avenue between Prospect Avenue South Washington Avenue, and NJ Transit property	69	1, 1.01, 2, 2.01, and 3
Site#2 South Washington Avenue, New Market Road, Prospect Avenue, and NJ Transit property	70	13 and 13.01
Site #3 South Washington Avenue between NJ Transit property and Columbia Street I(Art Color Property)	85; 83	1 and 2; 1

This Redevelopment Plan also considers the following properties located in the Borough of Dunellen, County of Middlesex, State of New Jersey as future areas to be redeveloped consistent with the initial Dunellen Redevelopment Area.

Remainder Parcels - Redevelopment Area - See Map #2

Area	Block Number	Lot Number
North Avenue between Jackson Avenue and Jefferson Avenue	1	14, 15.01, 15.02, 16, 17, 18, 19, 20, 21, 22, 23
Between North Avenue and Front Street between North Washington Avenue and Jackson Avenue	2	10, 11.01, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20
Between North Avenue and Front Street between Lincoln Avenue North Washington Avenue	32	1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14.01, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 24.01, 25, 26, 27, 28
North Avenue between Madison Avenue and Lincoln Avenue	33	14, 14.01, 15, 16, 17, 18, 19, 20, 21, 22, 23
Bound Brook Road from Sanford Avenue to Madison Avenue	34	10.01, 22, 23, 24, 24.01, 25, 26, 27.01, 27.02, 28, 29,30, 31,32, 33, 34, 35,36, 37, 38, 38.01, 38.02
Bound Brook Road from Sanford Avenue to Middlesex border	48	16, 17,18,19, 20, 21, 22, 23, 24, 25, 26, 27,28

Bound Brook Road from Middlesex border to Pulaski Street	49	25, 26, 27.01, 28, 29, 30, 31, 32, 33, 34, 35, 37, 38, 39.01, 39.02, 40, 41, 43, 44
Bound Brook Road between Pulaski Street and Madison Avenue and bordered on NJ Transit	50	1,2,3, 4,5,6
Rail Right of Way	51	1,2 & 3 - NJ Transit property
Bordered by Bound Brook Road, Madison Avenue and North Avenue	65	1
North Avenue between Madison Avenue and Prospect Street	66	1, 2, 3, 4, 5, 6.01, 7, 8, 9,10.01, 10.02, 11, 12,13, 14,15.01, 15.02,16,17,17.01,18,19,20
South east corner of North Avenue and North Washington Avenue to NJ Transit property, and northeast to the Plainfield City border	86	1, 2, 3, 4, 4.02, 4.03, and 5

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

1. The foregoing recitals are incorporated herein by reference as if fully set forth at length; and
2. The Redevelopment Plan is hereby amended to include Block 83 Lot 1; and
3. This Ordinance shall take effect in accordance with applicable law following final adoption and publication thereof.

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, Bachorik, Bayer, Cilento and Petracca

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

ORDINANCE 2017-11

The following Ordinance was introduced for first reading on October 16, 2017. It is now being presented for Public Hearing and Adoption on November 6, 2017 at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey. Copies of this ordinance have been posted on the Municipal Bulletin Board, and have been available at the Office of the Borough Clerk for any interested members of the public.

ORDINANCE OF THE BOROUGH OF DUNELLEN AMENDING THE BOROUGH CODE TO INCLUDE A NEW CHAPTER 82 ENTITLED “CLOTHING BINS”

WHEREAS, the Borough Administrator has recommended the adoption of an Ordinance to regulate Clothing Bins in conformity with N.J.S.A. 40:48-2.60 et. seq.; and

WHEREAS, the Council desires to enact such Ordinance.

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 to include a new Chapter 218 entitled “Clothing Bins” which shall provide 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.

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;

3. The applicant shall pay to the Borough of Dunellen a 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.

At this point, Mayor Seader opened the meeting for public comment on the ordinance. A member of the audience (unknown) inquired what the ordinance was all about. Mr. Bruder responded that it is an ordinance intended to regulate the placement and labelling of clothing bins. This portion was closed.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-2017: #3

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, Bachorik, Bayer, Cilento and Petracca

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

11-06-2017: #4

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 Interim Cost Agreement Escrow Account for work done toward redevelopment:

<u>CME Associates</u>	<u>Invoice Date</u>	<u>Amount</u>
0212062	August 30, 2017	\$987.75

0212597

September 14, 2017

\$39.00

Total

\$1,026.75

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-2017: #5

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 Potter, Violet
 367 Dogwood Way
 Mountainside, NJ 07092

TSC	Block	Lot	Owner/Address	Principal	Interest	Premium	Total
15-08	21	12	Klezer, Marc & Tara 614 Lincoln Ave	15,316.58	4,259.56	33,500.00	53,076.14

TOTAL REFUNDED \$53,076.14

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-2017: #6

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 an Instant Raffle License to the American Legion Post 119 for calendar year 2017.

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

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-2017: #7

**RESOLUTION OF THE BOROUGH OF DUNELLEN
COUNTY OF MIDDLESEX, STATE OF NEW JERSEY
APPROVING CONCEPT PLAN**

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, the Borough Council adopted by ordinance on August 9, 2004, the Dunellen Downtown Redevelopment Plan, Phase One, and subsequently amended by ordinance on June 9, 2011, August 5, 2013, November 3, 2014, and February 22, 2016 (the “Redevelopment Plan”) for an area designated on the Borough’s tax map as Block 69, Lots 1, 1.01, 2, 2.01 and 3; Block 70, Lots 13 and 13.01; Block 83, Lot 1; and Block 85, Lots 1 and 2 (the “Redevelopment Plan Area”); and

WHEREAS, a portion of the Redevelopment Plan Area, Site #3, South Washington Avenue between the New Jersey Transit Property and Columbia Street, is commonly known as the “Art Color Property” and consists of Block 85, Lots 1 and 2 and Block 83, Lot 1; and

WHEREAS, the Borough entered into a Redevelopment Agreement dated July 13, 2017 with Brudner Redevelopment Partners Urban Renewal, LLC (the “Redeveloper”); and

WHEREAS, pursuant to the terms of the Redevelopment Agreement, Redeveloper presented a proposed concept plan to the Borough Council on October 16, 2017, which concept plan is attached hereto as Exhibit A; and

WHEREAS, the members of the Borough Council have considered the proposed concept plan, finding, subject to the below resolutions, that it conforms to the Redevelopment Agreement and furthers the public purposes that the Redevelopment Plan addresses.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Borough of Dunellen, County of Middlesex, State of New Jersey, as follows:

1. That, subject to the conditions set forth below, the proposed concept plan submitted by Redeveloper for the Project is approved.
2. That the approval granted hereunder is specifically conditioned on (a) Redeveloper redesigning certain aspects of the retail and clubhouse portion of the concept plan to reflect a railroad motif to the satisfaction of the Borough, prior to the submission by Redeveloper of an application for site plan approval; (b) Redeveloper providing the

Borough with additional details on project signage to the satisfaction of the Borough, prior to the submission by Redeveloper of an application for site plan approval; (c) prior to the commencement of demolition, Redeveloper providing the Borough with the opportunity to review and approve the demolition plan for the Art Color Property to assure that issues of interest to the Borough are satisfactorily addressed; and (d) Redeveloper agreeing to collaborate with representatives of the Borough in connection with identifying tenants for the retail space in the project.

3. That the Mayor and/or Borough Administrator are authorized to provide notice to Redeveloper when the above items are found to be satisfactory.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-17: # 8

**A RESOLUTION REQUESTING PERMISSION FOR THE DEDICATION
BY RIDER FOR DONATIONS – ACCEPTANCE OF BEQUESTS AND GIFTS
REQUIRED BY N.J.S.A. 40A:5-29**

WHEREAS, permission is required of the Director of the Division of Local Government Services for approval as a dedication by rider of revenues received by a municipality when the revenue is not subject to reasonably accurate estimates in advance, and

WHEREAS, N.J.S.A 40A:5-29 provides for receipt of Donations – Acceptance of Bequests and Gifts for Dunellen Arts & Cultural Council by the municipality to provide for the operating costs to administer this act, and

WHEREAS, N.J.S.A. 40A:4-39 provides the dedicated revenues anticipated from Donations – Acceptance of Bequests and Gifts for the Dunellen Arts & Cultural Commission are hereby anticipated as revenue and are hereby appropriated for the purpose to which said revenue is dedicated by statute or other legal requirement.

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Borough of Dunellen, County of Union, New Jersey, as follows:

1. The Governing Body does hereby request permission of the Director of the Division of Local Government Services to pay expenditures for Donations – Acceptance of Bequests and Gifts for the Dunellen Arts & Cultural Commission, as authorized under N.J.S.A. 40A:5-9.
2. The Borough Clerk of the Borough of Dunellen, County of Middlesex is hereby directed to forward two certified copies of this Resolution to the Director of the Division of Local Government Services.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-17: #9

**A RESOLUTION REQUESTING PERMISSION FOR THE DEDICATION
BY RIDER FOR DONATIONS – ACCEPTANCE OF BEQUESTS AND GIFTS
REQUIRED BY N.J.S.A. 40A:5-29**

WHEREAS, permission is required of the Director of the Division of Local Government Services for approval as a dedication by rider of revenues received by a municipality when the revenue is not subject to reasonably accurate estimates in advance, and

WHEREAS, N.J.S.A 40A:5-29 provides for receipt of Donations – Acceptance of Bequests and Gifts for Recreation Assistance by the municipality to provide for the operating costs to administer this act, and

WHEREAS, N.J.S.A. 40A:4-39 provides the dedicated revenues anticipated from Donations – Acceptance of Bequests and Gifts for Recreation Assistance are hereby anticipated as revenue and are hereby appropriated for the purpose to which said revenue is dedicated by statute or other legal requirement.

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Borough of Dunellen, County of Union, New Jersey, as follows:

1. The Governing Body does hereby request permission of the Director of the Division of Local Government Services to pay expenditures for Donations – Acceptance of Bequests and Gifts for Recreation Assistance, as authorized under N.J.S.A. 40A:5-9.
2. The Borough Clerk of the Borough of Dunellen, County of Middlesex is hereby directed to forward two certified copies of this Resolution to the Director of the Division of Local Government Services.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-2017: #10

**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 2017 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
20-100-004	Telephone		2,000.00
20-140-000	Information Technology		1,000.00
20-150-000	Assessment of Taxes	1,000.00	
20-165-000	Engineering Services		1,400.00
21-180-000	Planning Board		1,000.00
23-220-000	Group Insurance		22,000.00
26-290-001	Leaf Bag Expense		5,000.00
	Subtotal	1,000.00	32,400.00
	Total		<u>33,400.00</u>

Whereas, there appears to be insufficient funds in the following CY 2017 Operating Accounts over and above the demands to be necessary; viz, into:

To Account	Title	S&W	Other Expenses
20-100-000	Administration		500.00
23-210-000	Other Insurance		5,100.00
25-240-000	Police		7,000.00
25-240-001	Police – Overtime	20,000.00	
26-290-002	Tree Maintenance		200.00
42-305-002	Intergovt/Middlesex Health Svc.		600.00
	Subtotal	20,000.00	13,400.00
	Total		<u>33,400.00</u>

Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-2017: #11

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

WHEREAS, by Resolution 12-05-2011: #3, approval was granted by the Mayor and Dunellen Borough Council to implement a Flexible Benefits Plan; and

WHEREAS, by resolution 12-05-2011: #3, the Borough of Dunellen hereby recognized and authorized Flex Facts, LLC to provide a Section 125 Flexible Benefits Plan for its employees with employee voluntary contributory Flexible Spending Accounts with the following specifications:

- Medical Expense Reimbursement: \$2,500.00 Annual Maximum.
- Dependent Care Expense Reimbursement: \$5,000.00 Annual Maximum.

WHEREAS, it was further resolved that the Borough of Dunellen recognized and authorized payment of discounted administrative fees to Flex Facts, LLC as a Third Party Administrator in the following amounts: 1) Initial Account Setup Fee – Waived for 36 months, 2) Annual Renewal Fee – Waived for 36 months, and 3) \$4.00 per month per participant fee with a minimum total monthly fee of \$50.00; and

WHEREAS, it was further resolved that the Borough of Dunellen recognized and authorized Colonial Life representatives through their employee education, communication and affirmative enrollment process to enroll its employees in their pre-tax elections by means of Colonial's electronic enrollment systems with electronic signatures, the results of which will be provided back to the municipality for its records and payroll deduction implementation; and

WHEREAS, it was further resolved that the Borough of Dunellen recognized and authorized that these enrollment meetings be mandatory for Section 125 compliance purposes and consist of group and individual meetings for all benefit eligible employees and which are to be conducted at the worksite during normal working hours and further agrees to provide a complete "site" listing of all employment locations with the number of employees working at each to help determine enrollment schedule and that a roster of employees will be provided and checked against the attendees by an employer representative for all meetings; and

WHEREAS, it was further resolved that the Borough of Dunellen agreed to instruct its managers and supervisors to fully support such mandatory group and individual employee meetings for their subordinates and will wholeheartedly support and encourage employee attendance of said meetings; and

WHEREAS, it was further resolved that the Borough of Dunellen agreed to provide Colonial representatives with a complete employee census and employee premium contribution amounts for all benefit plans to be enrolled in a timely manner, which information will be loaded on Colonial's systems solely for employee enrollment purposes; and

WHEREAS, it was further resolved that the initial Section 125 Enrollment period will run concurrent with the Open Enrollment period for Colonial Supplemental Insurance which shall be in effect from December 1, 2011 until December 31, 2011 and have a plan effective date of January 1, 2012. Subsequent Section 125 Open Enrollment periods will start on the first day of November and conclude on the last day of December with a plan effective of the first day of the following year unless and until determined otherwise; and

WHEREAS, it was further resolved that such payroll deductions for participation in Section 125 pre-tax premiums and pre-tax contributions shall take effect with the first payroll after January 6, 2012; and

WHEREAS, the Borough of Dunellen wishes to and hereby does amend the Flexible Benefits Plan authorized in Resolution 12-05-2011: #3 to change the Medical Expense Reimbursement annual maximum to \$2,650; and

WHEREAS, the Borough of Dunellen as employer has the power to implement the plan.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Dunellen, that the form of Health Flexible Spending Account under the Cafeteria Plan Code Section 105 and Dependent Care under the Cafeteria Plan Code Section 129 of the Internal Revenue Code of 1986, presented to this meeting is hereby adopted and approved and that the proper Officers of the Employer are hereby authorized and directed to execute and deliver to the Plan Administrator one or more copies of the Plan.

AND BE IT FURTHER RESOLVED, that the proper Officers of the Employer shall act as soon as possible to notify employees of the Employer of the implementation of the Plan by delivering to each employee a copy of the summary plan description of the Plan in the form of the Summary Plan Description presented to this meeting, which form is hereby approved. The undersigned certifies that attached hereto as Exhibits A and B respectively are true copies of the Plan Document and Summary Plan Description for Borough of Dunellen Flexible Benefits Plan approved and adopted in the foregoing resolutions.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-2017: #12

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

WHEREAS, Sewer Utility fees for Block 34, Lot 27.02, and Block 34, Lot 27.01 are in arrears; and

WHEREAS, the Dunellen Borough Administrator and the present and prior Dunellen Tax Collectors have reviewed the New Jersey American Water meter billings, the number and location of the various meters, the water usage numbers as they appear in the annual Preliminary Registered compiled by VITAL Communications as a comprehensive listing of the Sewer Utility fees, the history of property owner payments to New Jersey American Water for water usage as reflected by the meters, and other documents attendant to water usage for these properties; and

WHEREAS, the Dunellen Borough Administrator and the present and prior Dunellen Tax Collectors have had numerous conversations with the property owner during this review process; and

WHEREAS, it is the conclusion of the Dunellen Borough Administrator and the Tax Collectors that New Jersey American Water has incorrectly assigned water meters in the subject properties,

have apparently used estimated readings that incorrectly reflect actual usage for different properties, have duplicated meter readings among the properties, among other inaccuracies; and

WHEREAS, it is the recommendation of the Dunellen Borough Administrator, endorsed by the present and prior Tax Collector, that the following compromise settlement be reached with the property owner:

Block 34, Lot 27.02 (626 Bound Brook Road)		
Sewer Utility fees for 2014 – 2016		\$2,607.53
Block 34, Lot 27.01 (634 Bound Brook Road)		
Sewer Utility fees for 2014 – 2016		\$2,461.76
	Total:	\$5,069.29

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Dunellen, that the settlement offer presented by the property owner be accepted.

BE IT FURTHER RESOLVED that there will be no interest charged for any past sewer utility fees under this settlement.

Mr. Robins noted that there were discrepancies in the New Jersey American Water billing statements and how the water meter usage was presented in the "Preliminary Register" that reflects the sewer utility fees. This settlement reconciles inconsistencies and has been mutually agreed to by all parties and endorsed by the Tax Collector and the Borough Administrator.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-2017: #14

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

WHEREAS, by Resolution 08-07-2017: #6, Joseph Keleman, an employee in the Dunellen Department of Public Works, was granted an unpaid Leave of Absence for personal illness, for three months, from August 15, 2017 until and including November 14, 2017; and

WHEREAS, during this three month period, the Borough of Dunellen paid the Health Benefits, medical and dental, for Joseph Keleman; and

WHEREAS, Joseph Keleman is still recovering from his grievous injuries sustained in a fire that demolished his home.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Borough of Dunellen, that Joseph Keleman be granted a further period of unpaid Leave of Absence, from November 15, 2017 to and including July 14, 2018; and

BE IT FURTHER RESOLVED, that per New Jersey State law, Joseph Keleman be responsible for paying the employee share of his medical and dental benefits from November 15, 2017 to and including July 14, 2018; and

BE IT FURTHER RESOLVED, that if Joseph Keleman does not make the statutory contribution to the borough for his medical and dental coverage, that he will be eligible and entitled to medical and dental coverage through the Consolidated Omnibus Budget Reconciliation Act (COBRA) program.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-2017: #15

A RESOLUTION OF THE BOROUGH OF DUNELLEN AMENDING THE CONTRACT WITH BLACK ROCK ENTERPRISES, LLC., FOR THE "PARKING AREA IMPROVEMENTS – LOTS 3, 4 AND 4.03, Block 86" CLOSEOUT CHANGE ORDER

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

WHEREAS, the Dunellen Parking Authority has entered into a Contract with Black Rock Enterprises, LLC., a Project entitled "Parking Area Improvements," in the amount of \$245,689.52; and,

WHEREAS, the project has been satisfactorily completed and due to increases and decreases in quantities within the project, there is a reduction in the contract amount by (\$41,712.69) under the Closeout Change Order, for a final contract amount of \$203,976.83; and

WHEREAS, CME Associates, Engineers for this project, has indicated that the Closeout Change Order reflects reductions and increases in certain as-built quantities incorporated into this project; and

WHEREAS, it is the desire of the Council of the Borough of Dunellen to amend the contract with Black Rock Enterprises, LLC. to reduce the contract amount by (\$41,712.69) (Closeout Change Order) for a revised contract of \$203,976.83; and,

NOW THEREFORE, BE IT RESOLVED, on this 6th of November, 2017, the Council of the Borough of Dunellen does hereby accept the work and approve the Closeout Change Order for a

final contract amount of \$203,976.83 reflecting a reduction in the contract amount by (\$41,712.69).

I hereby certify that the above Resolution was duly adopted by the Council of the Borough of Dunellen, County of Middlesex, at its meeting held on November 6, 2017.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-2017: #16

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 check to the Law Offices of John E. Bruder, from the Interim Cost Agreement Escrow Account for work done toward redevelopment, subject to the refunding of the account:

<u>John E. Bruder</u>	<u>Bill Number</u>	<u>Amount</u>
March 2016	RD-03-16	\$1,400.00
April 2016	RD-04-16	\$880.00
May 2016	RD-05-16	\$600.00
	Total	<u>\$2,880.00</u>

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

Reports:

Mr. Petracca: no report

Mr. Baudendistel: reported that Noreen from Roxy and Dukes asked if we could grant a variance for a sign. He will inform Noreen that the proper venue for this is the Planning Board.

Mr. Bayer: we have sufficient leaf bags

Mr. Bachorik: no report

Mr. Cilento: 1) provided Council with a list of park improvements; 2) Halloween Parade was rained out but the rescheduled one was a success with a Trunk 'n Treat. We are one of the few among the surrounding towns who continue to run a Halloween Parade; 3) Dr. Eck spoke at the

Senior Center on health care and there was a very good turn out; 4) School District buffed the floors of the Senior Center and a large TV was installed; 5) a replacement slide for the broken equipment in Columbia Park should arrive soon; 6) Annual Holiday Tree lighting ceremony will be held Sunday, December 3rd at 6:00 pm; 7) Annual Veteran's Day will be held on November 11th in Washington Park; 8) please submit any copy soon for the next *Dunellen Report*; 9) the Founder's Day Celebration went very well and our Italian guests were pleased with their reception; 10) there was a conversation on starting up a ROARS or ROARS-like organization to help fix up the parks.

Mayor Seader: 1) Praised Mr. Cilento on the fine job the Arts and Culture Commission did on Founder's Day. Mr. Cilento thanked the members of DACC; 2) encourages all residents to come out for Veteran's day to honor all the men and women who served our country and are real American heroes; 3) passed on information to Mr. Bruder regarding tattoo parlors in town.

PUBLIC PORTION

Shalonda Tanner, 207 Lincoln Avenue: 1) presented research to the Council regarding the number of potential school children who might live in our new redevelopment units. She also cited a report originating from the New Jersey Governor's Office on PILOT programs and the effect on school funding. The report notes that under PILOTS local school districts do not receive the same portion of the property taxes. She referenced numerous other NJ municipalities with PILOT programs. She was told to bring data to the meeting and that is what she is doing. Mr. Bruder asked her who instructed her to bring data. She responded that she was invited to do so at the last meeting and that she was instructed to do so by Dunellen 4-1-1; 2) she checked her mailbox today and found a piece of Republican Party literature in it. She stated that this was illegal under Federal law. She contacted the US Postal Service and lodged a complaint, as well as the local post master. She reported that the post master stated that last Thursday the Republican Committee had made an inquiry as to the cost of bulk mailing; 3) she asked if attendance was taken at the Council Meetings. Not of members of the audience. She noted that Jessica Dunne and Nathan Hewette-Guyton were unable to attend tonight's meeting, being out of town on business.

Councilman Petracca responded that he has been the Treasurer of the Republican Organization for twelve years and they have never in that time made a bulk mailing and that they have never put anything in any mailboxes.

An unknown member of the audience stated that he found literature in the railing, not the mailbox.

Rob Abrams, 801 Dunellen Avenue. Thanked the Council for its response to the parks and he understands the limited resources available. He has spoken with a number of the dads and he believes that there are people out there who would be willing to assist in building projects and as volunteers.

Jen Desmelyk, 341 Dunellen Avenue. Moms would also like to be included. Mr. Abrams said that it would be a community-wide effort.

Rebecca, 367 Dunellen Avenue. Took the photographs as part of the park survey. She also noted that the web site is not as user friendly as it could be. She has some ideas.

Mayor Seader: 1) noted that the Facebook Page of Jessica Dunne that the residents should come “armed” to tonight’s meeting. He understands what the phrase means but thinks this is a poor choice of words, given the recent shootings around the country; 2) he has been mayor over twenty years, and does not remember ever being called a liar before. The word used was “lies” regarding the debate issue, but the implication is that he was called a liar. He wished Ms. Dunne were here tonight so he could speak directly to her. He wears his colors on his sleeve in regard to how he feels about the people of Dunellen and all the good things that he and the Council have done for the town. We have spent millions of dollars fixing the parks, at no charge to the people of Dunellen. Twenty years ago, our parks were in poor condition and we have spent a great deal of time and money on fixing them up. So, he feels very insulted about what was said about him.

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

11-06-2017: #17

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

Whereas, the Open Public Meetings Act (NJSA 10:4-6) permits the closing of meetings to the public under certain circumstances; and

Whereas, there exists such a circumstance; and

Whereas, the Governing Body wishes to enter into Executive Session for the purpose of discussing matters concerning pending litigation or contract negotiation; and

Whereas, minutes of the Executive Session will be kept and will be released when the matters under discussion during the Executive Session are no longer confidential.

Therefore, be it resolved, that the Borough Council will enter in to Executive Session.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-2017: #18

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

The Dunellen Borough Council will conclude the Executive Session of November 6, 2017 and enter back into Regular Council Meeting.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-2017: #19

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

Ray Hayducka, South Brunswick Police Chief, is appointed Special Hearing Officer for a Dunellen Police Department pending disciplinary matter, at a rate of \$130.00 per hour, for an amount not to exceed \$4,000.00.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

11-06-2017: #20

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

The Dunellen Borough Council Meeting of November 6, 2017 is adjourned.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca