

October 16, 2017

Minutes of the public meeting of the Mayor and Council of the Borough of Dunellen held on October 16, 2017.

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, Kevin Bachorik, Kenneth Bayer, Jason Cilento and Joseph Petracca

Absent: Jeremy Lowder

Note: Mr. Lowder arrived at 7:09 pm

On the motion of Mr. Bachorik and seconded by Mr. Cilento it was moved to accept the Minutes of October 2, 2017.

Yes: Bachorik, Bayer and Cilento

Abstain: Baudendistel and Petracca. Both had been absent at this meeting.

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

ORDINANCE 2017-11

The following Ordinance is being introduced for first reading on October 16, 2017. It will be 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 will be posted on the Municipal Bulletin Board, and are 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.

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:

10-16-2017: #1

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

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

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

10-16-2017: #2

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's license to:

Café Nune
14 South Washington Avenue
Dunellen, NJ 08812

Mr. Baudendistel noted that he had observed that their sign was not in accord with Sign Ordinance and he had referred the matter to Mr. Luthman.

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:

10-16-2017: #3

WHEREAS, the Governor's Council on Alcoholism and Drug Abuse established the Municipal Alliances for the Prevention of Alcoholism and Drug Abuse in 1989 to educate and engage residents, local government and law enforcement officials, schools, nonprofit organizations, the faith community, parents, youth and other allies in efforts to prevent alcoholism and drug abuse in communities throughout New Jersey.

WHEREAS, The Borough Council of the Borough of Dunellen, County of Middlesex, State of New Jersey recognizes that the abuse of alcohol and drugs is a serious problem in our society amongst persons of all ages; and therefore has an established Municipal Alliance Committee; and,

WHEREAS, the Borough Council further recognizes that it is incumbent upon not only public officials but upon the entire community to take action to prevent such abuses in our community; and,

WHEREAS, the Borough Council has applied for funding to the Governor's Council on Alcoholism and Drug Abuse through the County of Middlesex;

NOW, THEREFORE, BE IT RESOLVED by the Borough of Dunellen, County of Middlesex, State of New Jersey, hereby recognizes the following:

1. The Borough Council does hereby authorize submission of a strategic plan for the Dunellen Municipal Alliance grant for fiscal year 2018 in the amount of:
DEDR \$8275.00

Cash Match	\$2068.75
In-Kind	\$6206.25

- The Borough Council acknowledges the terms and conditions for administering the Municipal Alliance grant, including the administrative compliance and audit requirements.

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:

10-16-2017: #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 Windels Marx Lane & Mittendorf, LLP., from the Interim Cost Agreement Escrow Account for work done toward redevelopment:

<u>Windels Marx File Number</u>	<u>Bill Number</u>	<u>Amount</u>
0305764-0000001	56621	\$5,164.57
0305764-0000001	58588	\$2,174.13
0305764-0000001	60283	\$2,517.39
0305764-0000001	62574	\$4,099.17
0305764-0000001	65901	\$1,622.82
0305764-0000002	65902	\$1,128.00
	Total	<u>\$16,706.08</u>

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:

10-16-2017: #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 McManimon, Scotland & Baumann from the Interim Cost Agreement Escrow Account for work done toward redevelopment, subject to the refunding of the account:

<u>McManimon Scotland Baumann</u>	<u>Bill Number</u>	<u>Amount</u>
00019526-00004	149253	\$107.50
	Total	<u>\$107.50</u>

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

10-16-2017: #6

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

WHEREAS, NJSA 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any county or municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget, and

WHEREAS, said Director may also approve the insertion of an item of appropriation for an equal amount, and

NOW, THEREFORE, BE IT RESOLVED, that the Municipal Council of the Borough of Dunellen in the County of Middlesex, New Jersey, hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of Calendar Year 2017 in the sum of \$1,785.52, which is now available from the Division of Criminal Justice Body Armor Grant.

BE IT FURTHER RESOLVED, that the like sum of \$1,785.52 is hereby appropriated under the caption Division of Criminal Justice Body Armor Grant.

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:

10-16-2017: #7

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

A contract is awarded for electronic tax sales to ROK Industries, Inc., per the attached Agreement.

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:

10-16-2017: #8

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

Martha Egbert is hereby hired as a School Crossing Guard at an hourly salary of \$11.50, effective September 6, 2017. This is a position without benefits.

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:

10-16-2017: #9

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

Kathy Meyer is hereby hired as a School Crossing Guard at an hourly salary of \$11.50, effective September 6, 2017. This is a position without benefits.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

CONSENT AGENDA (a single motion and second for the following four resolutions)

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

10-16-2017: #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 FWDSL & Associates, LP
17 West Cliff Street
Somerville, NJ 08876

TSC	Block	Lot	Qual	Owner/Address	Principal	Interest	Premium	Total
16-41	77	12		Gonzalez, Leonel 189W. 4 th St.	838.21	34.55	900.00	1,772.76
16-26	60	16		Mantilla c/o Safeguard Properties 384 Prospect Ave.	838.21	34.55	1,000.00	1,772.76

Total: \$3,545.52

10-16-2017: #11

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
14-72	80	7	Morales, Bernardo & M 245 Penfield Place	1,728.61	190.21	1,400.00	3,318.82

TOTAL REFUNDED \$3,318.82

10-16-2017: #12

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 Trystone Capital Assets
P O Box 1030
Brick, NJ 08723

TSC	Block	Lot	Owner/Address	Principa1	Interest	Premium	Total
16-04	5	18	Hansen, Osceola & P. 116 Dunellen Ave	680.18	20.77	300.00	1,000.95
TOTAL REFUNDED							\$1,000.95

10-16-2017: #13

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 TFS Custodian for Ebury Fund 1 LP
PO Box 37695
Baltimore MD. 21297

TSC	Block	Lot	Owner/Address	Principal	Interest	Premium	Total
15-27	64	1.02	Barber, Andre & Frank 612 Walnut St.	1,180.81	97.17	1,200.00	2,477.98
TOTAL REFUNDED							\$2,477.98

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

Reports:

- Mr. Petracca: no report
- Mr. Baudendistel: reported that they were nearing the conclusion of the negotiations for the new PBA contract; and that the Shade Tree Commission will be planting 18 trees around town
- Mr. Bayer: no report
- Mr. Bachorik: no report
- Mr. Cilento: 1) the 69th Annual Halloween Parade will be this Sunday; 2) asked if the Boy Scouts might help install new cabinetry along the walls of the Senior Center. Mayor Seader thought it might be a good Eagle Scout project; 3) please submit any material for the next

Dunellen Report by December 15th; 3) Founder's Day is October 28th with a concert at the High school and the High School Madrigals will also sing
Mayor Seader: inquired the start time for the Halloween Parade

Council Discussion: Best Practices

Mr. Robins explained the purpose of the annual Best Practices Inventory and how it has changed this year. This year there were some new questions; in number the Survey totaled 25 questions, for which the municipality needed a score of 21 to receive full funding. Mr. Robins pointed out that a number of the questions dealt with personnel policy changes, which the Council had adopted by ordinance earlier in the year and that would ultimately be incorporated into a new Personnel Manual.

PUBLIC PORTION

Shalonda Tanner, 207 Lincoln Avenue: expressed concern to Municipal Clerk, Mayor and Council that some lawn signs put out by the Democratic Organization have been removed. These signs were near the Washington Memorial Park and near the Train Station. She is seeking information on who might have taken them. Mayor Seader noted that Republican Organization signs had also been removed and he wondered if those near the Bus Station might have been removed by NJ Transit. Ms. Tanner also reported that some of the signs were mangled and the legs broken. Mayor Seader replied that possibly it was students coming home from school. Mr. Bruder advised that a complaint be made to the Police Department.

Louis Hector, 415 North Washington Avenue: reported an incident with Mr. Robins wherein he tried to donate chairs to the Police Department but Mr. Robins was not timely in his response. Mr. Hector also reported that he thought a remark made by Mr. Robins was discourteous to the police. Mr. Robins replied that no discourtesy was intended. Mr. Robins had already reported the conversation he had with Mr. Hector to the Police Chief, the Mayor and the Municipal Attorney.

Mayor Seader called a ten minute recess so the redevelopers could set up for their presentation.

Presentation by Brudner Redevelopment Partners Urban Renewal, LLC.

Representatives from the redeveloper, including their engineers, traffic study experts, architects, and legal team, presented a Concept Plan with diagrams. They explained the parameters of the new complex: housing, retail component, traffic, finances, impact on school district, potential rejuvenation of our downtown business district, the timeline, and the effect on property taxes. They took questions from the audience.

Those interested in this Redevelopment Project can obtain more information by going to the Borough's web site:

http://www.dunellen-nj.gov/municipal_news/redevelopment/

Here you will find the Agreement with the redeveloper, financial agreements, the concept plan diagrams, and the traffic study in full.

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

10-16-2017: #14

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

The Dunellen Borough Council Meeting of October 16, 2017 is adjourned.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca
