

December 5, 2016

Minutes of the public meeting of the Mayor and Council of the Borough of Dunellen held on December 5, 2016.

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

On the motion of Mr. Bachorik and seconded by Mr. Cilento it was moved to accept the Minutes of November 21, 2016:

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

Mayor Seader reported that he had received a letter of resignation from John Triolo from the Dunellen Library Board of Trustees.

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

**ORDINANCE 2016-17**

**BOROUGH OF DUNELLEN**

The following ordinance is being Introduced for first reading on December 5, 2016. It will be presented for Public Hearing and Adoption on December 19, 2016. Copies of this ordinance will be available to the public on the municipal bulletin board and from the Municipal Clerk's Office.

Ordinance 2010-15, adopted on November 1, 2010, amended Chapter 150, Sections 150-3 and 150-4, Building Code and Subcode fees. It is now being presented for further amendment.

**BE IT ORDAINED** by the Borough Council of the Borough of Dunellen, County of Middlesex, State of New Jersey, that Chapter 150 is amended in part in regard to Section 150-3 and 150-4, Building Code and Subcode Fees as follows:

Section 150-3: **Construction Permit Fees.** The fee for a construction permit shall be the sum of the subcode fees listed in (1) through (6) hereof and shall be paid before the permit is issued.

A. Building Subcode fee shall be:

1. A minimum fee for the building subcode shall be seventy-five (\$75.00) dollars.

2. For new construction volume (cubic feet) multiplied by 0.050.
3. For renovations, alterations and repair thirty five (\$35.00) dollars per one thousand dollars of estimated cost of work.
4. For combinations of renovations and additions, the sum of the fees computed separately as renovations and additions.

5. Flat Fees

a. Roof (R3 & R5)	\$75.00
b. Siding (R3 & R5)	\$75.00
c. Fence	\$75.00
d. Tank Removal	\$65.00
e. Shed (Less than 300 square feet)	\$75.00
f. Fireplace	\$75.00
g. Pools Above ground	\$75.00
In-ground	\$120.00
h. Signs	\$5.00 per square feet
i. Demolition One car garage	\$70.00
Two car garage	\$100.00
One family dwelling	\$500.00
Two family dwelling	\$500.00
Multi-family dwelling	\$1,000.00
Commercial Building	\$1,000.00
j. Tents	\$92.00
k. Monitoring Wells	\$60.00 per well

6. Certificate of Occupancy

a. Residential (R3 & R5)	\$65.00
b. All other Uses	\$120.00

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	\$75.00
101 to 201 amps	\$100.00
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. \$75.00 Residential
- b. \$125.00 Commercial

G. Penalties

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

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:

**ORDINANCE 2016-18  
BOROUGH OF DUNELLEN**

The following ordinance is being Introduced for first reading on December 5, 2016. A second reading and public hearing will be held at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey on the 19th day of December, 2016. Copies of this Ordinance will be posted on the public bulletin board prior to the date for second reading and final passage and copies of this Ordinance will be available at the Office of the Borough Clerk for any interested members of the public.

**ORDINANCE PROVIDING FOR THE REGISTRATION FOR THE SALE OF  
PREVIOUSLY OWNED JEWELRY, PRECIOUS METALS AND OTHER  
SECONDHAND GOODS**

**WHEREAS**, the Borough of Dunellen has been requested to join with other municipalities in Middlesex County and elsewhere in New Jersey in protecting people from theft of precious items; and

**WHEREAS**, the Borough Council of the Borough of Dunellen has considered this matter and agrees it is in the best interests of the citizens of Dunellen and of New Jersey.

**NOW THEREFORE BE IT ORDAINED** by the Mayor and Council of the Borough of Dunellen, in the County of Middlesex and State of New Jersey, that it hereby adopts the following ordinance creating Chapter 227, Second Hand Stores, of the Borough Code.

**§ 1 Purpose and Intent**

The purpose and intent of this chapter is to assist law enforcement officials and victims of crime in recovering stolen precious metals, materials, gems, gemstones and other secondhand goods by requiring minimum identification, reporting, maintenance and distribution criteria for licensed dealers in these goods.

No person shall use, exercise, or carry on the business, trade, or occupation of the buying, selling, or pawning of jewelry (excluding costume jewelry), scrap gold, old gold, silver, palladium, platinum, or any other precious metals, firearms or other valuable articles which are hereinafter referred to as “secondhand goods” as that term is defined herein, or being a secondhand dealer within the Borough of Dunellen without complying with the requirements of this chapter in the exact manner described herein.

**§ 2 Definitions**

“ACCEPTABLE IDENTIFICATION” means a current valid New Jersey Driver’s License or Identification Card, a current valid photo driver’s license issued by another US state, a valid United States Passport, or other verifiable US Government issued photo identification.

“DEALER” means any person, partnership, limited liability company, corporation, or other entity who, either wholly or in part, engages in or operates any of the following trades or businesses: the buying for purposes of resale of precious metals, jewelry, or other secondhand goods as defined herein; pawnbrokers as defined herein; itinerant businesses as defined herein. For the purposes of this ordinance, transient buyers, as defined herein, are subject to the same licensing and reporting requirements as any other dealers.

“ITINERANT BUSINESS” means a dealer who conducts business intermittently within the municipality or at varying locations.

“MUNICIPAL CLERK” means the statutory officer whose duties are defined in N.J.S.A. 40A:9-133 and shall refer to the duly appointed clerk of the Borough of Dunellen, or his deputy clerk.

“PAWNBROKER” means any person, partnership, association or corporation: lending money on deposit or pledge of personal property, other than choses in action, securities, or printed evidences of indebtedness; purchasing personal property on condition of selling it back at a stipulated price; or doing business as furniture storage warehousemen and lending money on goods, wares or merchandise pledged or deposited as collateral security.

“PRECIOUS METALS” means gold, silver, platinum, palladium, and their alloys as defined in N.J.S.A. 51:5-1 et seq., N.J.S.A. 51:6-1 et seq., and/or N.J.S.A. 51:6A-1 et seq., gems, gemstones, coins and all forms of jewelry herein contained.

“PUBLIC” means individuals and retail sellers, not to include wholesale transactions or transactions between other merchants.

“REPORTABLE TRANSACTION” means every transaction conducted between a dealer and a member of the public in which precious metals, jewelry, or any other secondhand goods as defined herein are purchased, pawned or exchanged.

“SECONDHAND GOODS” means any article previously sold, acquired, exchanged, conveyed, traded or otherwise formally owned, including but not limited to goods such as antiques, gold, silver, platinum, or other precious metals, jewelry, coins, gemstones, gift cards, cell phones, word processors, GPS devices, computers, computer hardware and software, television sets, firearms, cameras and camera equipment, video equipment, and other valuable articles. For the purposes of this ordinance, secondhand goods shall not include goods transacted in the following manner: i) judicial sales or sales by executors or administrators; ii) occasional or auction sales of household goods sold from private homes; iii) auctions of real estate; iv) the occasional sale, purchase, or exchange of coins or stamps by a person at his permanent residence who is engaged in the hobby of collecting coins or stamps and who does not solicit the sale, purchase, or exchange of such coins or stamps to or from the general public by billboard, sign, handbill, newspaper, magazine, radio, television, or other form of printed or electronic advertising.

“SELLER” means a member of the public who sells or pawns used goods such as precious metal, jewelry, or other secondhand goods to a dealer.

“TRANSIENT BUYER” means a dealer, as defined herein, who has not been in a registered retail business continuously for at least six (6) months at any address in the municipality where the Dealer is required to register or who intends to close out or discontinue all retail business within six (6) months.

### **§ 3 License Requirement for dealers**

No person, partnership, limited liability company, corporation, or other entity shall engage in the business of buying, selling, or pawning of precious metals or other secondhand goods, as defined above, within the jurisdiction of the municipality, without having first obtained a license therefore from the Municipal Clerk, which license shall bear a number issued by the Municipal Clerk. The application for a license to the Municipal Clerk shall set forth the name, date of birth, and address of the dealer, whether or not he or she is a citizen of the United States, and whether or not he or she has ever been convicted of any crime(s) or disorderly persons offense(s), and the date(s) thereof. Advertising in any print or electronic media or by sign that any of those articles or secondhand goods referred to in § 2 above are being bought in any location within the municipality shall constitute engaging in business as a dealer of secondhand goods for purposes of this chapter. No person, partnership, limited liability company, corporation or other entity shall place or cause to be placed any advertisement for purchase of such articles or goods without stating in the advertising the license number issued to a person or entity by the municipality. In any print advertisement, the license number shall appear in type no smaller than eight point in the lower-right-hand corner of the advertisement. In any advertisement in electronic media, the license number shall be visually or audibly stated. Failure to state or indicate the license number shall be a violation of this chapter and shall be subject to the penalties established in § 9.

### **§ 4 Application process for dealers; approval or denial**

- A) Upon receipt of an application completed pursuant to this chapter, the Municipal Clerk shall refer such application to the Chief of Police, who shall make an investigation of the prospective licensee, pursuant to this chapter for the purpose of determining the suitability of the applicant for licensing. The investigation shall include, but shall not be limited to the following:
  - 1) The experience of the applicant in the business of purchase and sale of those articles or goods referred to in § 2 above, although nothing in this section shall be construed to warrant denial of a license solely on the basis of lack of experience;

- 2) The reputation of the applicant for fair dealing in the community, which shall be made among credible sources, which sources shall be disclosed to the applicant in the event of a denial of any license;
  - 3) Any criminal record of the applicant including any past convictions for any crime(s), disorderly persons offense(s), or municipal ordinance violation(s) within this or any other jurisdiction. The Chief of Police may, as part of the application process, require a fingerprint criminal background check, which may require an additional fee from the applicant.
  - 4) The type of operation contemplated to be conducted by the applicant, particularly whether the business is to be operated from a fixed location, whether it is to be conducted from a location primarily devoted to the purchase and sale of precious metal or other secondhand goods, and other factors bearing on whether the licensed business will be of a fixed and permanent nature. This section shall not be construed to require denial of any license solely on the grounds that the business is not from a fixed location or that the applicant is a transient buyer or itinerant business, however applicants who fall under the category of a transient buyer or itinerant business must state with specificity on the license application the business address where transaction records required by § 6(D) of this chapter will be stored as well as the location where purchased goods will be retained during the mandatory inspection period required under § 6(A).
- B) The Chief of Police shall complete any investigation pursuant to this chapter within thirty (30) days of the submission of the application to the Municipal Clerk, fully completed by the applicant. If a criminal record check has been requested within the thirty-day period and has not been received by the Chief of Police within that period, the Chief of Police may, if all other factors are satisfactory, recommend a conditional issuance of the license subject to the finding regarding criminal record.
- C) The Chief of Police shall, upon completion of the investigation, recommend “grant” or “denial” of the license to the Municipal Clerk, who shall grant or deny the license. Any recommendation of the Chief of Police shall be in writing and, in the case of a recommendation of denial, shall state fully and specifically the reasons for said recommendation. If the Municipal Clerk accepts the recommendation of the Chief of Police to deny any license, the applicant shall be notified in writing within ten (10) days of such denial and the Clerk shall forward to the applicant a statement of the reason or reasons for such denial.
- D) Grounds for recommending denial of license may include reliable information indicating that the applicant has in the past engaged in fraudulent or deceptive business practices in a business identical to or similar to a dealer in secondhand goods. A license may be denied if the investigation reveals a conviction of the



applicant or any of its principal officers or employees of any crime(s), disorderly persons offense(s) in which deceit or misrepresentation is an element; or any conviction of any crime(s), disorderly persons offense involving theft or the receiving of stolen goods, regardless of whether the applicant was a principal, accessory before the fact, after the fact, or a co-conspirator; or any prior municipal ordinance violation(s) by the applicant or any of its principal officers or employees in this or any other jurisdiction. A license may be denied if the applicant fails to demonstrate an ability to satisfactorily comply with the electronic reporting requirements specified in § 5, the retention and inspection requirements of § 6, or any other portion of this chapter. Upon receipt of the recommendation of the Chief of Police, the Municipal Clerk shall issue or deny the license accordingly, contingent upon the receipt of a bond as required by § 8 of this chapter.

- E) Whenever any application for a permit is denied, the applicant shall be entitled to a hearing before a three-person panel appointed by the Chief of Police, at which time the applicant shall be permitted to introduce such evidence as may be deemed relevant to such denial. Any applicant exercising the right to appeal must file a written notice of appeal within ten (10) days of receiving written notice of denial of a license to act as a dealer of secondhand goods.
- F) No license shall be assignable by the dealer.

## **§ 5 Identification of seller; recordkeeping requirements for dealers**

For every reportable transaction between a dealer and the public, the dealer shall be required to do as follows:

- A) Require of each person selling or pawning precious metals or other secondhand goods acceptable identification as defined above in §2
- B) Require each seller to execute a “Declaration of Ownership,” which shall contain the following certification: *“My signature confirms that I am the sole legal owner of and am legally authorized to sell the goods being sold. By signing below I certify that I did not obtain and do not possess the identified goods through unlawful means. I am the full age of eighteen years and the identification presented is valid and correct.”*
- C) Record and issue to each person selling or pawning such goods on a sequentially numbered receipt:
  - 1. the name, address, and telephone number of the purchaser, including the clerk or employee of the licensee making the purchase;
  - 2. the name, address, date of birth, and telephone number of the seller or sellers;

3. a photographed recording, made at the time of the transaction, of the seller in a format acceptable to the Chief of Police, along with a physical description of the seller, including height and weight (approximate), hair color, eye color, facial hair, if any, etc.;
  4. a photographed recording of the seller's presented acceptable identification, as set forth in § 2, in a format acceptable by the Chief of Police;
  5. a photographed recording of all items sold in a format acceptable by the Chief of Police. When photographing, all items must be positioned in a manner that makes them readily and easily identifiable.
  6. the receipt number;
  7. a detailed, legible description of the item(s) and the manufacturer and model of the item(s) if known; in the case of jewelry, the descriptions must include style, length, color, design, and stones, if any; any identifying marks, including numbers, dates, sizes, shapes, initials, names, monograms, social security numbers, or any owner applied markings engraved thereon, serial numbers, series numbers, or any other information, which sets apart the particular object from others of like kind;
  8. the price paid for the purchase or pawn of the item(s);
  9. if precious metals, the net weight in terms of pounds Troy, pennyweight (Troy) or kilograms/grams; fineness in terms of karats for gold, and sterling or coin for silver, in accordance with N.J.S.A. 51:5-1, N.J.S.A. 51:6-1 et seq.;
  10. the time and date of the transaction.
- D) The information outlined in subsection (C) above, must additionally be electronically documented through the use of an electronic database system authorized by the Chief of Police. Installation and training in this software will be made mandatory as of the effective date of this chapter and licensing will be conditional upon compliance with proper use of the system as described herein. These records shall be subject to the inspection of any authorized police officer or any sworn law enforcement officer acting in the performance of their duty as set forth in subsection (F) below. Through the use of applicably required computer equipment, and using the electronic format approved by the Chief of Police, every dealer shall enter all reportable transactions into the electronic database by the end of the close of business on the same date as the purchase or receipt of property for pawn or consignment. The information entered must contain all pertinent information outlined in subsection (C) above.
- E) In the event of a database failure, or dealer's computer equipment malfunction, all transaction information is required to be submitted on paper forms approved by the Chief of Police within twenty-four (24) hours from the date of purchase. In the event that paper forms are used, the dealer is responsible to enter all transaction information set forth in subsection (C) above into the database as soon as possible upon the dealer's equipment being repaired or replaced, or the database coming back into service. Failure by the dealer to properly maintain computer equipment

in a reasonable fashion, or failure by the dealer to replace faulty computer equipment, may result in the dealer being cited for a violation of this chapter and subsequently being subject to the penalties for doing so including revocation of the dealer's license as described in § 6.

- F) It shall be the requisite duty of every dealer, and of every person in the dealer's employ, to admit to the premises during business hours any member of the police department to examine any database, book, ledger, or any other record on the premises relating to the reportable transactions of precious metals or other secondhand goods, as well as the articles purchased or received and, where necessary, relinquish custody of those articles as provided in § 6. Itinerant businesses and transient buyers will be responsible for notifying the Chief of Police of the address where these records and articles will be stored.

## **§6 Retention; revocation; other restrictions**

- A) All secondhand goods purchased, received for pawn, or received for consignment as described above, as well as all transaction data, are to be made available for inspection by the Chief of Police or designee thereof at the designated business address for a period of at least fourteen (14) calendar days from the date the transaction information is actually reported to the Chief of Police in the approved manner described above in § 5 except for precious metals and jewelry, which must be maintained for at least ten (10) business days or for the statutory period provided in N.J.S.A. 2C:21-36(d). All precious metal or other secondhand goods subject to inspection must remain in the same condition as when purchased or received for pawn and shall not be sold, disposed of, changed, modified, or melted by the dealer until the retention period has expired. Itinerant businesses and transient buyers will be responsible for notifying the Chief of Police of the location where the purchased item(s) are being held.
- B) Upon probable cause that goods held by a dealer are stolen, and providing that the seller signed the mandatory statement required by § 5(B) upon the sale of those goods, a law enforcement officer with jurisdiction should charge the seller with theft by deception under N.J.S.A. 2C:20-4 on behalf of the dealer, who shall be considered the "victim" of the offense for the purposes of N.J.S.A. 2C:43-3. The officer shall seize the goods, provide the dealer with a receipt, and issue a criminal complaint against the seller for theft by deception and any other criminal charges for which the officer has probable cause that the seller has committed. If convicted of theft by deception and if so found by an order of a court of valid jurisdiction, the seller will be responsible for providing restitution to the dealer under N.J.S.A. 2C:44-2 for the amount paid by the dealer to the seller for the stolen goods.
- C) In addition to all other reporting requirements, every dealer shall maintain for at least five years, a written record of all purchases of precious metals and other secondhand goods in the form prescribed in § 5(C).

- D) No dealer shall purchase any item covered by this chapter from any person under the age of 18 or in the absence of providing prior notification of such purchase to the Chief of Police or business designee identifying the individual from whom such purchase is to be made and the item to be purchased.
- E) Suspension. The Chief of Police or a designee thereof is hereby empowered to temporarily suspend for cause any dealer's license and rights to operate there under. This penalty shall be in addition to any fines and penalties the dealer may incur pursuant to § 8 of this chapter.
- i. Grounds for suspension. The following shall constitute grounds for suspension: violation of any provisions of this chapter, including failure to comply with any training or fees associated with the electronic database software system in use by the municipality; violation of any other statute, regulation, or local ordinance; or any other illegal, improper, or fraudulent activity.
  - ii. Procedure for suspension. Upon determination that appropriate grounds exist and that a suspension is warranted, the Chief of Police or a designee thereof shall issue a written notice of suspension of license to the offending dealer and to the Municipal Clerk, which shall set forth the grounds for the suspension and notify the dealer of his or her right to appeal pursuant to subsection (H). A temporary suspension shall issue immediately, pending the outcome of any appeal taken. Suspended dealers must immediately cease engaging in the business of purchasing for resale, receiving for pawn, and/or selling of precious metals and/or other secondhand goods in the municipality until reinstatement.
  - iii. Reinstatement. Suspended dealers may be reinstated only when the grounds leading to the suspension have, in the determination of the Chief of Police or the Chief's designee, been cured, corrected, or appropriately rectified; or if reinstatement is deemed appropriate by the three-person panel appointed by the Chief of Police, upon the timely filing of an appeal as provided in subsection (H).
- F) Revocation. A license issued under this chapter may be revoked by the Municipal Clerk upon written recommendation from the Chief of Police or the Chief's designee that the dealer is no longer qualified, capable or competent to comply with the requirements of this chapter. This penalty shall be in addition to any fines and penalties the dealer may incur under § 8.
- i. Grounds for revocation. The following shall constitute grounds for revocation: a third violation under this chapter; a second violation under this chapter less than one year after an earlier violation under this chapter; conviction for a criminal offense

within this or any jurisdiction; multiple violations of any other regulations or local ordinances within this or any jurisdiction; or failure of the dealer or pawnbroker to file an annual renewal application and pay the annual renewal fee as set forth herein.

- ii. Procedure for revocation. Upon a determination that appropriate grounds exist and that a revocation is warranted, the Chief of Police or the Chief's designee shall so report to the Municipal Clerk in writing. A temporary suspension will immediately and automatically issue, if one is not already in effect, pending the outcome of the charge. A three-person panel, appointed by the Chief of Police, shall review the stated grounds for revocation and the panel shall issue an appropriate disposition of either suspension, revocation, or reinstatement. If the panel determines that revocation is the appropriate disposition, it shall set forth the grounds for the same in writing in the form of a notice of revocation, which shall be provided to the dealer. The notice shall advise the dealer of the right to appeal. If the panel determines that suspension is the appropriate disposition, it shall provide the dealer with a notice of suspension that shall advise the dealer of the right to appeal. Following revocation, the dealer must relinquish his or her license and must immediately and indefinitely cease operating as a dealer of precious metals or other secondhand goods within the municipality. A license will automatically be revoked effective February 1<sup>st</sup> of any calendar year if the dealer or pawnbroker has not filed the requisite renewal application and paid the annual renewal fee by January 31<sup>st</sup> of that year, as set forth in § 7 herein.

- G) Appeal. Any applicant wishing to appeal an issuance of a suspension or revocation shall be entitled to a hearing before a three-person panel, appointed by the Chief of Police, at which time the applicant shall be permitted to introduce such evidence as may be deemed relevant to such suspension or revocation. Any applicant exercising the right to appeal must file a written notice of appeal within ten (10) days of receiving written notice of revocation or suspension of license.
- H) A dealer shall have the right to change the location of the licensed business within the municipality, provided that he or she notifies the Municipal Clerk, in writing, of the street address of said new location.

## **§ 7 Fees; period of license validity**

A nonrefundable fee for initial application and license for a pawnbroker or a dealer in precious metals or other secondhand goods, as covered under this chapter, is \$300. The annual renewal fee for a license is \$300. These fees are separate from and in addition to any fees the dealer must pay in relation to the mandatory electronic database system designated by the Chief of Police, as

provided by § 5(D) of this chapter. Payments are to be made in the manner directed by the Municipal Clerk. A license is valid for a one-year period from the date of its issuance. In the event that the pawnbroker or dealer in precious metals or other secondhand goods fails to file a renewal application and pay the renewal fee by January 31st of each year, said license shall automatically be revoked.

## **§ 8 Violations and penalties**

Violation of any provision of this chapter by any dealer shall, upon conviction thereof, be punished by a fine not in excess of the limitations of N.J.S.A. 40:49-5 or by a term of imprisonment or a period of community service not exceeding ninety (90) days in addition to a suspension or revocation of operating license as provided in § 6(F) and § 6(G) above. Each and every violation shall be considered a separate violation. Each violation shall result in an additional suspension period. Any person who is found guilty of violating the provisions of this chapter within one year of the date of a previous violation and who was fined for the previous violation may be sentenced by the court to an additional fine as a repeat offender and, in addition, may be subject to revocation proceedings as provided in § 6(F) and § 6(G) above. The additional fine imposed as a repeat offender shall not be less than the minimum or exceed the maximum fine provided herein, and same shall be calculated separately from the fine imposed for the violation of this chapter.

## **§ 9 Time limit for conformance; repealer; severability**

- A) Any person, partnership, limited liability company, corporation, or other entity engaging in the business of a pawnbroker, or a dealer in precious metals or other secondhand goods shall conform to the provisions of this chapter within ninety (90) days following the effective date of this chapter.
- B) All ordinances or parts of ordinances inconsistent herewith are hereby repealed.
- C) Nothing contained in this chapter is intended to replace any pre-existing statutory requirements governing pawnbrokers, as in N.J.S.A. 45:22-1 et seq., the sale of precious metals as in N.J.S.A. 51:6A-1 et seq., the sale of secondhand jewelry as in N.J.S.A. 2C:21-36 et seq., or any other statutory provision regarding any subject matter discussed herein.
- D) If any section, subsection, sentence, clause, phrase, or portion of this chapter is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

## **§ 10 Purchases from Minors.**

No dealer within the Borough of Dunellen shall purchase any precious metals or secondhand goods from any person under the age of eighteen (18) years.

Mr. Bruder reported that the electronic registry build into the ordinance will greatly aide our Police Department to track items and share information with other agencies. There is an annual registration for the businesses.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

**ORDINANCE 2016-19**

**BOROUGH OF DUNELLEN**

The following ordinance is being Introduced for first reading on December 5, 2016. A second reading and public hearing will be held at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey on the 19th day of December, 2016. Copies of this Ordinance will be posted on the public bulletin board prior to the date for second reading and final passage and copies of this Ordinance will be available at the Office of the Borough Clerk for any interested members of the public.

Dunellen Municipal Code, Chapter 230-2, User Classes is amended to read as follows:

Chapter 230-2. User classes.

User classes shall be as follows:

- A. Tax exempt: includes institutions which pay no ad valorem taxes or receive substantial credits in paying such taxes, except publicly owned facilities performing local government functions which discharge solely domestic wastes.
- B. Industrial and commercial: includes all non-residential users, multi-family residences with five or more units served by a single connection, and mixed residential/commercial properties that are served by a single connection.
- C. Residential—single-family: includes all single family dwellings.
- D. Residential—multi-family: includes all dwellings with two, three or four residential units tied into a single house connection.

AND

Dunellen Municipal Code, Chapter 233-37, Sewer Rates is amended to read as follows:

Section 233-37. Sewer rates.

The sanitary sewer rates shall be as follows:

- A. Owners of single family residential properties connected to the Borough sanitary sewer system shall pay a flat annual rate in the amount of \$350.00 to be paid in equal installments semi-annually to the Dunellen Borough Sanitary Sewer Utility on the first day of April and September, following each period for which sewer service has been provided.
- B. Owners of multi-family residential properties (properties with two, three or four residential units) connected to the Borough sanitary sewer system shall pay a flat annual rate for each residential unit in the amount of \$210.00 to be paid in equal installments semi-annually to the Dunellen Borough Sanitary Sewer Utility on the first day of April and September, following each period for which sewer service has been provided.
- C. Owners of non-residential properties, including residential properties with five or more units and mixed residential/commercial properties connected to the Borough sanitary sewer system, shall pay for sewer service based upon the amount of water supplied to the property as determined by meter readings of the first and fourth quarter of the previous year, using these quarters as the basis for calculating the non-residential properties' current year annual sewer charge, payable semi-annually. Where water usage cannot be determined by meter reading, the Sewer Utility fee shall be based on the property's estimated water usage, which estimate shall be calculated using best engineering practices for the property in question. The sewer rate for non-residential properties shall be \$4.25 per 1,000 gallons of water used at the property, whether determined by meter or estimate. Sewer user fees are to be paid to the Dunellen Borough Sanitary Sewer Utility on the first day of April and September, following each period for which sewer service has been provided.
- D. There shall be an annual sewer Administrative/Facility charge for all non-residential improved properties, residential properties with five or more units, and mixed residential/commercial properties, of \$100.00 per unit in addition to the above rates described in Subsection C above. This charge is payable semi-annually in the amount of \$50.00 and is to be paid in concert with the sewer service charges.
- E. Any single family residential property that qualifies for the senior citizen tax deduction shall also be afforded a discount of \$100.00 from the residential property fee set forth in Subsection A above.
- F. The foregoing rates and charges have been calculated in accordance with Chapter 230-7 and shall be subject to annual revision based upon the Borough and its Sewer Utility's financial obligation to PARSA and/or MCUA. In addition, separate fees or charges may be imposed by the Borough's Sewer Utility upon specific users or one or more categories of users to defray fines, penalties or other extraordinary charges that may be imposed by PARSA and/or MCUA. Payment of such separate fees or charges shall in accordance with the requirements set forth in Chapter 233-36. The Borough Sewer Utility may also in its sole discretion and upon application of a user demonstrating special circumstances adjust a user's sewer use charges.



Paraphrasing Mr. Olsen, he arrived at the new rates by determining anticipated expenditures in 2017 and working backwards to determine how much the sewer fees needed to be to arrive at the expenditure amount. We are also budgeting for capital improvements. There is \$20,000 in the Capital Improvement fund that will allow for down payments. There is enough to do \$1.8 million in projects. There is also a capital allay amount of \$45,000. This money is being generated by the sewer fees, not from general funds in the municipal budget.

Mr. Robins noted that the due date for the first payment has been changed from March 1<sup>st</sup> to April 1<sup>st</sup> to provide more time for the utilities and software company to generate the requisite data and reports to send out the billing statements.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

**12-05-2016: #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

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

**12-05-2016: #2**

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

The Mayor Municipal Clerk are authorized to sign the Loan Agreement between the Borough of Dunellen and the Dunellen Parking Authority regarding parking improvements for Block 86, Lots 3, 4 and 4.03 on the Tax Maps of the Borough.

On the motion of Mr. Baudendistel and seconded by Mr. Petracca it was moved to TABLE resolution 12-05-2016: #2.

Mr. Olsen explained that the borough financed the project with bonds which the Parking Authority is paying back. The Parking Authority did all the work on hiring the engineers and finding a contractor. The job is now completed. The Parking Authority is

interested in possibly repaying the amount quicker. Council discussion revealed that the agreement does not spell out a loan repayment schedule. Upon advice of Counsel the Borough Council decided that the loan agreement needed to be revised. Accelerated payments are fine, but there should be a stated minimum with some kind of invoice generation from the borough to the Parking Authority.

**12-05-2016: #2A**

Resolution 12-05-2016: #2 is TABLED.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

**12-05-2016: #3**

**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 2016 in the sum of \$4,125.00, which is now available from the Division of Law and Public Safety under the caption Click It or Ticket Grant.

BE IT FURTHER RESOLVED, that the like sum of \$4,125.00 is hereby appropriated under the caption Click It or Ticket.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

**12-05-2016: #4**

**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 2016 in the amount of \$5,000.00 and \$4,975.00, which total \$9,975.00 and are now available from two grants from the Division of Law and Public Safety under the caption Drive Sober Get Pulled Over Grant.

BE IT FURTHER RESOLVED, that the like sum of \$9,975.00 is hereby appropriated under the caption Drive Sober Get Pulled Over.

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:

**12-05-2016: #5**

**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 2016 in the total amount of \$9,025.00 comprised of three separate awards of \$1,800.00, \$4,550.00 and \$2,675.00, which are now available from the Division of Law and Public Safety under the caption Pedestrian Safety Grant.

BE IT FURTHER RESOLVED, that the like sum of \$9,025.00 is hereby appropriated under the caption Pedestrian Safety Grants.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

**12-05-2016: #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 the year CY 2016 in the sum of \$36,518.00 which is now available from the Middlesex County Division of Housing, Community Development & Social Services under the caption Middlesex County CDBG grant.

BE IT FURTHER RESOLVED, that the like sum of \$36,518.00 is hereby appropriated under the caption Middlesex County CDBG grant.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

**12-05-2016: #7**

**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 2016 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
1012	Telephone		3,000.00
	Information Technology		5,000.00
1016	Collection of Taxes	4,000.00	
1017	Legal Services		2,000.00
	Tax Map Preparation		1,000.00
1023	Planning Board		1,000.00
1110	Police		3,350.00
1111	Police – Overtime	5,000.00	
1112	School Crossing Guards	1,000.00	
1210	Road Repairs		1,000.00
1020	Public Buildings and Grounds		1,000.00
1510	Recreation Commission		5,000.00
1312	Garbage & Trash		1,000.00
1850	Municipal Court		5,000.00
	Subtotal	10,000.00	28,350.00
	Total		<u>38,350.00</u>

Whereas, there appears to be insufficient funds in the following CY 2016 Operating Accounts over and above the demands to be necessary; viz:

To:

Account	Title	S&W	Other Expenses
1010	Administration	1,000.00	
1011	Legal Advertising		600.00
1018	Borough Clerk	500.00	
1014	Financial Administration	800.00	
1015	Assessment of Taxes	3,600.00	
1610	Construction Code Official	300.00	
1110	Police	10,000.00	
1210	Road Repairs	7,000.00	
1212	Tree Maintenance		1,050.00
1029	Water		1,500.00
2316	Intergovernment/Recycling		12,000.00
	Subtotal	23,200.00	15,150.00
	Total		<u>38,350.00</u>

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

**12-05-2016: #8**

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

Authorization is given to the Dunellen Police Department to order two police vehicles on lease, funds to be taken from the 2017 Budget.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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**REPORTS:**

Mr. Petracca: no report.

Mr. Baudendistel: 1) raised the issue of new police cars that Council concurred with the need and this was represented by resolution #8, above; 2) Welcome to Dunellen signs: 8 signs, 11 requests. Mr. Baudendistel will speak to the applicants; 3) the Dunellen Downtown Management Organization placed 13 trees on street corners and decorated them in a holiday fashion.

Mr. Bayer: no report.

Mr. Bachorik: no report.

Mr. Cilento: no report

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**COUNCIL DISCUSSION**

Discussion on Citizen of the Year. Council selected John Triolo as the Citizen. Suggestions for Lifetime Award to be forwarded.

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**PUBLIC PORTION**

Mustapha Khan, 303 Prospect Avenue, asked about street repair. Mayor Seader responded that funding from the NJ Department of Transportation Trust Fund has been irregular and inadequate. Madison Avenue will be paved this summer. Monies that we do receive does not go as far because of the higher cost attendant with prevailing wage. The engineers have looked at all our streets. Simple mill and paving would cost a few million dollars. Milling and paving is not a complete job—water can pool; no curbing. Also, handicap ramps are needed on all projects, which is very costly. Middlesex County no longer helps us.

Tom Davis raised the issue of the acoustics in the Senior Center. Mayor Seader noted that CDBG funds are not available as they were used to buy a new senior bus. Funds are not available in CY 2016, but will be put into the temporary 2017 Budget. Mr. Davis reported on different kinds of tiles that could be used.

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

**12-05-2016: #9**

**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

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

**12-05-2016: #10**

Council resolves to go back into regular session.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

**12-05-2016: #11**

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

The Dunellen Borough Council Meeting of December 5, 2016 is adjourned.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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