

July 6, 2015

Minutes of the public meeting of the Mayor and Council of the Borough of Dunellen held on July 6, 2015.

Mayor Seader called the meeting to order at 7:30 p.m. and he led the Pledge of Allegiance.

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

Present: Robert J. Seader, Kenneth Baudendistel, Kevin Bachorik, Jason Cilento

Absent: Kenneth Bayer and Joseph Petracca

On the motion of Mr. Bachorik and seconded by Mr. Cilento it was moved to accept the minutes of June 15, 2015.

Yes: Bachorik, Baudendistel, Cilento

At this point, there was a presentation by Rachel Baudendistel and other members of her Girl Scout Troop (Hannah, Jessie, Rachel, and Lexie) regarding the building and maintaining of bird houses in Columbia Park as part of a Girl Scout Silver Project. They plan about twenty houses and should be completed with the project in late September. The purpose of the project is to give the birds a better home and also to be an attraction to Dunellen's Senior Citizens. They will be placed in the playground, along the walking trail, and near the Senior Center. The houses will be high enough to be out of reach of potential vandals. They will be painted green and orange and red because they studied what colors birds like the best. A younger Girl Scout Troop was contacted and enlisted to maintain the houses into the future.

Council gave approval to the project.

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

**Dunellen Borough Ordinance  
2015-04**

**The following ordinance was Introduced for first reading, and a second reading and public hearing is being held at 7:30 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey on the 6th day of July, 2015. Copies of this Ordinance have been posted on the public bulletin board prior to the date for second reading and final passage and copies of this Ordinance have been available at the Office of the Borough Clerk for any interested members of the public.**

This Ordinance replaces Dunellen Code Chapter 163

FLEA MARKETS, GARAGE SALES AND YARD SALES

§ 163-1. Title.

This chapter shall be known and cited as "Flea Market, Garage Sale and Yard Sale Permit Ordinance."

§ 163-2. Purpose.

These rules and regulations are designed to control and restrict flea markets, garage sales and yard sales in order to protect the public health, safety and convenience and to restrict such sales to casual and/or occasional occurrences only, in keeping with the character of the neighborhood where this activity is carried on in compliance with Chapter 115, Zoning, of the Code of the Borough of Dunellen. The intent of this chapter is to eliminate perpetual, prolonged and extended flea markets, garage sales and yard sales in residential areas. Such sales, if continued indefinitely, tend to become retail businesses in residential areas and zones, create a nuisance and often violate the zoning regulations of the Borough of Dunellen. The provisions of this chapter arise from the need to limit, regulate, restrict and control flea markets, garage sales and yard sales. It is not the intent of this chapter to change or amend Chapter 115, Zoning, Chapter 211, Peddling and Soliciting, and/or any other ordinances of the Borough of Dunellen.

§ 163-3. Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

**FLEA MARKET** -- a market, often outdoors, consisting of a number of individual stalls selling old or used articles, curios and antiques, cut-rate merchandise, etc.

**GARAGE SALE** -- the sale or offering for sale of new, used or secondhand items of personal property at any one (1) residential premise at any one (1) time. This includes all sales in residential areas entitled "garage sale," "yard sale," "tag sale," "porch sale," "lawn sale," "attic sale," "basement sale," "rummage sale," "flea market sale" or any similar casual sale of tangible personal property.

**GOODS** -- any goods, warehouse merchandise or other personal property capable of being the object of a sale regulated hereunder.

**MUNICIPALITY** — all residential dwellings located within any type of zone, zoned area, zoning district, whether or not said areas or zones are residential, business, commercial or otherwise, within the geographic boundaries of the Borough of Dunellen.

**PERSONS** — individuals, partnerships, family groups, voluntary associations and corporations.

**YARD SALE** -- a sale of used household belongings, typically held outdoors at the home of the seller. A yard sale is synonymous with Garage Sale, though with the connotation of being held out-of-doors.

§ 163-4. Permit required; fee; conditions for sales.

It shall be unlawful for any person to conduct a flea market, garage sale and/or yard sale within the geographic boundaries of the Borough of Dunellen without first obtaining a flea market, garage sale or yard sale permit from the Municipal Clerk's Office after filing an application containing the information hereinafter specified.

§ 163-5. Frequency of sales; Number of permits issued to residences.

No more than three (3) flea market, garage sales and/or yard sales, in total, will be issued to a residence in one calendar year.

§ 163-6. Permit fee.

Each permit application shall be accompanied by a fee of \$5.00 and is good for one day only, or the listed “rain date.” Permits may be issued for two-day weekend periods for \$5.00 per day, or a total of \$10.00. During any borough authorized “town-wide” sale, vendors who participate under the auspices of the sponsoring agency will not be charged a fee.

§ 163-7. Application for permit.

Applications for permits for flea markets, garage sales and yard sales may be made at the Municipal Clerk’s Office and should be requested at least 48 hours prior to the sale. The application for a permit must include the name, address, telephone number, and e-mail address of the resident making the application. The flea market, garage sales and yard sales permit must be posted at a visible location to the traveling public for the duration of the sale.

§ 163-8. Signs.

There will be no more than five (5) signs advertising the flea market, garage sale or yard sale. Signs may be posted no more than three days prior to the sale and must be removed within twenty-four (24) hours of the conclusion of the sale. Failure to remove the signs within twenty-four (24) hours will subject the sale operator to a \$10.00 per day penalty. Signs may be attached to stakes or be in the form of lawn signs. They may not be placed on public property, telephone poles, or light poles.

§ 163-9. Exemptions.

This chapter shall not be applicable to:

- (a) Persons acting in accordance with their powers and duties as public officials.
- (b) Any sale conducted by any legitimate business or commercial or industrial establishment on property zoned under the zoning regulations of the Borough of Dunellen with or without the protection of the nonconforming use section of the zoning laws, or any sale conducted by any other vendor or dealer when the sale is conducted in a properly zoned area and not otherwise prohibited by laws of the State of New Jersey and ordinances of the Borough of Dunellen, including this chapter.
- (c) Sales by a bona fide charitable, eleemosynary, educational, cultural or governmental institution, civic group, service club, religious or fraternal society or other tax-exempt organization; provided, however, that the burden of proof to establish the exemption under this subsection shall be on the organization or institution claiming such exemption.

§ 163-10. Enforcement; complaints.

(a) This chapter shall be enforced by the Dunellen Police Department or Dunellen Code Enforcer, and it shall be their duty to investigate and prosecute any violation of this chapter.

(b) If, after an investigation, a violation is found to exist, the Dunellen Police Department or Dunellen Code Enforcer shall prosecute a complaint pursuant to the provisions of this chapter.

§ 163-11. Conduct.

(a) The person to whom the flea market, garage sale and/or yard sale permit was issued and the person conducting the sale and the owner, tenant or occupant of the premises where the sale or activity is conducted shall be jointly or severally responsible for the maintenance of good order and decorum on the premises during the hours of such sale or activity.

(b) No such person shall permit any loud or boisterous conduct on such premises or permit vehicles to impede the passage of the traffic on any roads or streets in the area of the premises where the sale is being conducted.

§ 163-12. Violations and penalties.

Any person, firm or corporation who or which shall violate any provision of this chapter shall, upon conviction thereof, be sentenced to pay a fine of not more than five hundred dollars (\$500.00), and, in default of payment thereof, to imprisonment for a term not to exceed thirty (30) days. Every day that a violation of this chapter continues shall constitute a separate offense.

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, and Cilento

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Due to the lack of a quorum for purposes of a Public Hearing and Adoption for a bond ordinance, both Ordinance 2015-05 and Ordinance 2015-06 were tabled and it was announced that the next meeting of the Borough Council for consideration of these two ordinances will be Monday, August 3, 2015, at 7:30 pm., in the Council Chambers.

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

**07-06-2015: #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, and Cilento

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

**07-06-2015: #2**

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

The Municipal Clerk is hereby authorized to issue food handler licenses to the following establishments:

Footprints Christian Preschool – 264 North Avenue  
Mi Rincon Latino -- 248 North Avenue

Yes: Baudendistel, Bachorik, and Cilento

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

**07-06-2015: #3**

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

Karen Miller is hereby hired as a School Crossing Guard, effective December 19, 2014, at an hourly salary of \$11.50. This is a position without benefits.

Yes: Baudendistel, Bachorik, and Cilento

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

**07-06-2015: #4**

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

Jane Iannelli is hereby hired as a School Crossing Guard, effective October 2, 2014, at an hourly salary of \$11.50. This is a position without benefits.

Yes: Baudendistel, Bachorik, and Cilento

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

**07-06-2015: #5**

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

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

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

Now therefore be it resolved that the Governing Body authorize the issuance of a Raffle License to the Dunellen-Green Brook Rotary Club.

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

Yes: Baudendistel and Bachorik

Abstain: Cilento

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

**07-06-2015: #6**

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

Jennifer Beahm of CME, Associates, is hired as an expert on behalf of the Borough of Dunellen for matters concerning the preparation and filing of a Declaratory Judgment relating to the New Jersey Supreme Court opinion of March 10, 2015 regarding municipalities' obligations under the Council on Affordable Housing rules and regulations, at a rate of \$139.00 per hour, in an amount not to exceed \$2,500.00.

Yes: Baudendistel, Bachorik, and Cilento

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

**07-06-2015: #7**

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

Robert Spengler is hereby appointed Public Defender, effective July 6, 2015.

Be it further resolved that health benefits are not provided as part of the position.

Mr. Robins noted that this resolution is an appointment resolution. He is referring the matter to the Finance Committee and to the liaison to the Municipal Court for discussion as to salary.

Yes: Baudendistel, Bachorik, and Cilento

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

**07-06-2015: #8**

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

Whereas, a request was made by Judi Schleppenbach to hold a block party on Saturday, August 15, 2015, (rain date, Sunday, August 16) on the 500 block of Mountainview Terrace, from 12:00 pm until 8:00 pm.

Now therefore be it resolved that permission is hereby granted to the above resident to hold his block party, and

Be it further resolved that by virtue of this resolution, the Police Department will be notified of the street closing and the Public Works Department will supply the necessary road barricades.

Judi Schleppenbach  
569 Mountainview Terrace

Yes: Baudendistel, Bachorik, and Cilento

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

**07-06-2015: #9**

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

Mayor Robert J. Seader is authorized to execute the Master Deed Revision document as to the remediation pursuant to the 500 Mountainview Terrace property.

Mr. Bruder reported that there are still significant issues remaining regarding the condition of the grass. The sellers still need to completely reseed the area and to test the topsoil to make sure it is environmentally compliant.

Yes: Baudendistel, Bachorik, and Cilento

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

**07-06-2015: #10**

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

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

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

Now therefore be it resolved that the Governing Body authorize the issuance of a Raffle License to St. Francis Episcopal Church.

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, and Cilento

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

**07-06-2015: #11**

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

NW Financial Group, LLC, Hoboken, NJ, is hired as financial experts regarding redevelopment for the Borough of Dunellen at the following rates:

Principal:	\$195.00 (hourly)
Managing Director:	\$185.00 (hourly)
Senior Vice President:	\$180.00 (hourly)
Vice President:	\$170.00 (hourly)
Associate:	\$150.00 (hourly)

Payment for these services will be from the Redevelopment Escrow Account established by the Redevelopers, Brudner Redevelopment Partners Urban Renewal, LLC.

The total amount of this certification of funds is not to exceed \$7,500.00.

Yes: Baudendistel, Bachorik, and Cilento

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

**07-06-2015: #12**

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

SCHEDULE OF SCHOOL LEVY PAYMENTS

WHEREAS, it has been agreed to turn over to the Board of Education its total monthly allotment as close to the beginning of the month as is reasonable,

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

That the Borough Treasurer be and he is hereby authorized and directed to draw checks and issue same to the Custodian of School Monies, in accordance with the following schedule:

Levy of \$5,321,817.00 from July 1, 2015 to December 31, 2015

<u>Date</u>	<u>Amount</u>
July 1, 2015	827,629.00
August 3, 2015	1,005,660.50
September 1, 2015	827,629.00
October 1, 2015	827,629.00
November 2, 2015	1,005,660.50
December 1, 2015	<u>827,629.00</u>
 Total	 <u>\$5,321,817.00</u>

Yes: Baudendistel, Bachorik, and Cilento

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

**07-06-2015: #13**

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

The following persons are hired for summer employment in the Recreation Department’s Good Times Summer Camp. Employment will be between June 22, 2015, and August 7, 2015. Please be advised that the following employees have been hired to work for the Borough of Dunellen. These wages will be taken from the Summer Camp Line 025-5040-508.

All wages are per hour, except where noted, and there are no benefits.

Kelly Seader	Site Director	\$12.50 per hour
Kim Cannizzaro	Counselor	\$9.50 per hour
Nicole Baudendistel	Counselor	\$8.50 per hour

Yes: Baudendistel, Bachorik, and Cilento

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

**07-06-2015: #14**

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

The Dunellen Rescue Squad is hereby granted permission to run a penny drive (canning) fund raiser on Saturday, July 11, Saturday, July 25, Saturday, August 15, and Saturday, August 29, 2015, on the corners of North Avenue and Washington Avenue and outside business establishments (with retailers' permission) in downtown Dunellen, for the purpose of raising funds for the organization's supported charities.

The Dunellen Rescue Squad has been notified that they must also apply to the New Jersey Department of Transportation for a permit to fund raise on state roads, and to the County of Middlesex for a permit to fund raise on county roads, and that this Dunellen Borough Council approval is granted subject to the final approval of the NJDOT and the Middlesex County Department of Transportation.

Yes: Baudendistel, Bachorik, and Cilento

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

**07-06-2015: #15**

**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 Ju Solo 401k Trust  
42 Huntington Road  
Basking Ridge NJ 07920

TSC	Block	Lot	Owner/Address	Principal	Interest	Premium	Total
14-47	62	18	Diaz, Marta 378 New Market Rd	1,185.70	33.36	1,300.00	2,519.06
<b>Total</b>							<b>2,519.06</b>

Yes: Baudendistel, Bachorik, and Cilento

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

**07-06-2015: #16**

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

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

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

Now therefore be it resolved that the Governing Body authorize the issuance of a Calendar Raffle License to St. John the Evangelist Church.

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, and Cilento

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**REPORTS:**

Mr. Baudendistel: 1) Reported that a resident of Lincoln Avenue, Mr. Rosenbaum, in May had a tree limb fall on his vehicle. He filled out a police report. He was told that the town would pay for it. Mr. Baudendistel did not think that it was an automatic payment in such circumstances and he noted that the tree was not on his list of trees needing attention. Mr. Bruder advised against setting a precedent either through declaring the borough's responsibility or acknowledging any kind of fault. Mr. Baudendistel will contact Mr. Rosenbaum and explain the procedure for notifying the borough; 2) the meeting with NJ Transit needs to be postponed until August; 3) the Dunellen Downtown Management Organization would like to hang flower baskets from the light poles; 4) Tom Tomarro will begin painting the Municipal Building in late July.

Mr. Bachorik: He met with Skylight Theatre about the wiring situation in Washington Park. He is gathering costs and will report.

Mr. Cilento: 1) Summer Camp has begun with about 20 campers; 2) the Football Field has been reseeded; 3) the Recreation Shed under the bleachers has been violated; 4) the 8 and under Travelling Baseball has 14 players; 5) the Recreation Commission asks if Council would consider the use of the Maurer House field for soccer. He understands from the prior discussion on the field that it needs remediation.

John Bruder: He updated the Council on the status of the COAH Declaratory Judgment action. He will file tomorrow morning. The action asks the Court to declare that the borough has immunity from Builder's Remedy lawsuits for a period of five months. The NJ Supreme Court ruled in March that because COAH is no longer effective, there will be assigned judges in each of the counties who will determine the affordable housing obligations for each municipality. The borough will need to submit a "Housing Element and Fair Share Plan" (the last one we submitted was in 2005). Quite a number of ancillary documents

need also to be submitted. He noted that Mr. Robins participated in this aspect of the preparation.

Mayor Seader: 1) asked about the meeting with CME. It is yet to be scheduled; 2) Asked about the Architectural Review Committee. Also, Mayor Seader noted the new Metro PC store and that he will inform Scott Luthman to tell all tenants and landlords not to paint the outside of their buildings so that they can be properly informed on how to paint under the ordinances; 3) Jefferson Avenue Bridge will be closed. Mr. Bruder has some concerns with the “Right of Entry” we have received; 4) expressed concerns about department operating expenses and all have to make sure the expenses are encumbered.

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**PUBLIC PORTION:**

Joe Casey, 148-150 Pulaski Street: asked about the Technical Review Committee (he cited 5-13). He is having some difficulties in his rebuilding project: purchasing the adjacent lots and CME has “sat on the application.” The delay is costly. Mr. Robins queried whether the Technical Review Committee applied to Mr. Casey’s fact situation. Mr. Bruder noted that the Council has no jurisdiction over the Planning Board, but they can be contacted and provided with information presented by Mr. Casey.

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

**07-06-2015: #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, and Cilento

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

**07-06-2015: #18**

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

Municipal Attorney John E. Bruder is appointed to represent George Deene, Dunellen Code Enforcer, and the Borough of Dunellen, in the action brought by Irene Spangler in Superior Court, Middlesex County.

Yes: Baudendistel, Bachorik and Cilento

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

**07-06-2015: #19**

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

The Dunellen Borough Council Meeting of July 6, 2015 is adjourned.

Yes: Baudendistel, Bachorik and Cilento