

June 15, 2015

Minutes of the public meeting of the Mayor and Council of the Borough of Dunellen held on June 15, 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, Kenneth Bayer, Jason Cilento and Joseph Petracca

[Note: Mr. Cilento arrived at 7:32 pm., after the Pledge, Sunshine, Roll Call, and Approval of June 1, 2015 Minutes.]

On the motion of Mr. Bachorik and seconded by Mr. Bayer it was moved to accept the minutes of June 1, 2015.

Yes: Bachorik, Bayer, Petracca
Abstain: Baudendistel

At this point, Mayor Seader appointed Kenneth Baudendistel and Kevin Bachorik to the Municipal Alliance Committee and acknowledged the resignation of Jeanne Fitzgerald from the Dunellen Library Board of Trustees, effective June 30, 2015.

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

**Dunellen Borough Ordinance
2015-04**

The following ordinance is being Introduced for first reading, and a second reading and public hearing will be 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, and copies of this Ordinance shall be posted on the public bulletin board prior to the date for second reading and final passage and copies of this Ordinance shall be 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.

Council inquired as to the penalty for not taking down the signs: after 24 hours, \$10 per day, regardless of the number of signs. The mayor noted that there might be some difficulty in enforcing the ordinance. Mr. Robins indicated that the Clerk's Office would have a process for recording on the permit how many sales they had per year, and will notify the Police with copies. Mr. Petracca was of the opinion that such a restriction is unfair to the residence, fearing selective enforcement and the possibility that their signs will result in fines if not taken down.

Yes: Baudendistel, Bachorik, Bayer, and Cilento

No: Petracca

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

ORDINANCE 2015-05

NOTICE OF PENDING BOND ORDINANCE AND SUMMARY

The bond ordinance, the summary terms of which are included herein, is being introduced for first reading at a meeting of the governing body of the Borough of Dunellen, in the County of Middlesex, State of New Jersey, on June 15, 2015. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Borough Council Chambers, in the Borough on July 6, 2015 at 7:30 o'clock p.m. During the week prior to and up to and including the date of such meeting, copies of the full bond ordinance will be available at no cost and during regular business hours at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such bond ordinance follows:

Title: BOND ORDINANCE PROVIDING FOR ROAD IMPROVEMENTS TO MADISON AVENUE IN AND BY THE BOROUGH OF DUNELLEN, IN THE COUNTY OF MIDDLESEX, NEW JERSEY, APPROPRIATING \$700,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$700,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

Purposes: Road improvements to Madison Avenue, including all work and materials necessary therefor and incidental thereto

Appropriation: \$700,000

Bonds/Notes Authorized: \$700,000

Grants Appropriated: Two grants expected to be received from the State of New Jersey Department of Transportation for a total of \$537,500

Section 20 Costs: \$105,000

Useful Life: 10 years

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

Ordinance 2015-06

NOTICE OF PENDING BOND ORDINANCE AND SUMMARY

The bond ordinance, the summary terms of which are included herein, is being introduced for first reading at a meeting of the governing body of the Borough of Dunellen, in the County of Middlesex, State of New Jersey, on June 15, 2015. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Borough Council Chambers, in the Borough on July 6, 2015 at 7:30 o'clock p.m. During the week prior to and up to and including the date of such meeting, copies of the full bond ordinance will be available at no cost and during regular business hours at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such bond ordinance follows:

Title: BOND ORDINANCE PROVIDING FOR STREETScape IMPROVEMENTS IN AND BY THE BOROUGH OF DUNELLEN, IN THE COUNTY OF MIDDLESEX, NEW JERSEY, APPROPRIATING \$900,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$900,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

Purposes: Streetscape improvements on Washington Avenue and North Avenue, including all work and materials necessary therefor and incidental thereto

Appropriation: \$900,000

Bonds/Notes Authorized: \$900,000

Grants Appropriated: A grant in the amount of \$300,000 expected to be received from the State of New Jersey Department of Transportation for Washington Avenue and a grant in the amount of \$400,000 expected to be received from the State of New Jersey Department of Transportation for North Avenue

Section 20 Costs: \$135,000

Useful Life: 10 years

Mr. Baudendistel noted that he had made an inquiry to CME regarding cost savings by combining the two streetscape projects. He wondered if that might have engendered some resentment. Mayor Seader indicated that CME rejected any implication that they were not working in the best interests of the borough, professionally. He also stated that CME would respond personally in a meeting to be set up.

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:

06-15-2015: #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, Bayer, Cilento and Petracca

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

06-15-2015: #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:

7 Days Food Store -- 392 North Avenue
Advance Auto Parts -- 216 North Avenue

Alex's Fruits and Produce International -- 330 North Avenue
American Legion Post #119 -- 137 New Market Road
Avellino's Italian Restaurant -- 625 Bound Brook Road
Bakery Delights -- 246 North Avenue
Brown's Stationery -- 111 North Washington Avenue
Chicken Holiday -- 390 North Avenue
China Garden -- 209 North Avenue
Clucky Chicken -- 197 North Avenue
Dairy Quick -- 615 Bound Brook Road
Deli Appetit -- 745 Bound Brook Road
Devine's Pharmacy -- 374 North Avenue
Dunellen Bagel -- 390 North Avenue
Dunellen Bakery -- 215 North Avenue
Dunellen BBQ -- 626 Bound Brook Road
Dunellen Board of Education -- High and Lehigh Streets
Dunellen Hotel -- 120 North Washington Avenue
Dunellen Liquors -- 195 North Avenue
Eight on the Break -- 340 North Avenue
Family Dollar Store -- 215 North Avenue
First Presbyterian Church -- 218 Dunellen Avenue
Fashion Star Beauty Supply -- 104 C North Avenue
Giulio's Pizza -- 201 North Avenue
Grab & Go Convenience Store -- 318 North Avenue
Harry's Deli -- 530 North Avenue
In and Out Convenience Store -- 187 North Avenue
Jim's Hot Dogs -- 335 Dunellen Avenue
Just Us Children Learning Center -- 419 North Avenue
Knights of Columbus -- 647 Grove Street
Kwick Mart -- 221 North Avenue
Lily Yip Table Tennis -- 370 North Avenue
Maggie Murray's -- 119 North Washington Avenue
Mike's Subs -- 14 South Washington Avenue
Mis Amigos Mexican Restaurant -- 373 North Avenue
N Avenue Liquors -- 252 North Avenue
Panda Restaurant -- 350 North Avenue
Planet Chicken -- 107 North Avenue
Precious Gifts Day Care Center -- 400 New Market Road
Precious Moments -- 358 North Avenue
Quick Check -- 426 North Avenue
Ray Pharmacy -- 2 South Washington Avenue
Rome Pizza -- 334 North Avenue
Roscoe's Wrap it Up -- 399 North Avenue
Roxy & Dukes -- 745 Bound Brook Road
St. John the Evangelist Church -- 317 North Washington Avenue
St. Lukes Evangelical Lutheran Church -- 264 New Market Road
Sun Power Gas -- 301 North Avenue

Texas Weiners -- 238 North Avenue
Tipico's Olga -- 106 North Avenue
Tropical Supermarket -- 446 North Avenue
Uncle Louie G's -- 500 North Avenue
Veterans of Foreign Wars -- 201 Prospect Avenue
Healthy Life -- 375 North Avenue
World Gym -- 100 South Washington Avenue
Zupko's Tavern -- 450 North Avenue

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

06-15-2015: #3

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. 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, Bayer, Cilento and Petracca

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

06-15-2015: #4

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

Whereas, the Mandatory Source Separation and Recycling Act, P.L. 1987, C.102, has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs, and

Whereas, it is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue to expand existing programs, and

Whereas, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the Mandatory Source Separation and Recycling Act, and

Whereas, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including but not limited to, making and keeping accurate, verifiable records of materials collected and claimed by the municipality, and

Whereas, a resolution authorizing this municipality to apply for the 2014 Recycling tonnage Grant will memorialize the commitment of this municipality to recycling and indicate the assent of the Borough of Dunellen to the efforts undertaken by the municipality and requirements contained in the Recycling Act and recycling regulations.

Whereas, such a resolution should designate the individual authorized to ensure the application is properly completed and timely filed.

Now therefore be it resolved by the Governing Body of the Borough of Dunellen that the Borough of Dunellen hereby endorses the submission of the recycling tonnage grant application to the New Jersey Department of Environmental Protection and designates Ron Safar to ensure that the application is properly filed; and

Be it further resolved, that the monies received from the recycling tonnage grant be deposited in a dedicated recycling trust fund to be used solely for the purposes of recycling.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

06-15-2015: #5

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

Approval is granted to the Dunellen Skylight Theatre Productions to produce the musical *Once Upon a Mattress* in Washington Memorial Park on August 7, 8, 9, 14, 15, 16. Permission is also granted that starting on July 18th a temporary stage can be erected off the gazebo, notice signs be placed in the park, a temporary storage unit be placed in the park, a handicap accessible port-a-john be placed in the park, as well as two bleachers for audience seating.

Yes: Baudendistel, Bachorik, Bayer and Petracca
Abstain: Cilento

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

06-15-2015: #6

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

Approval is granted to the Dunellen Skylight Theatre Productions to produce a fundraiser titled *Be Our Guest – an Around the World Revue* in Washington Memorial Park on July 19, 2015, at 2:00 pm.

Yes: Baudendistel, Bachorik, Bayer and Petracca
Abstain: Cilento

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

06-15-2015: #7

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

An Outdoor Dining license is approved for:

Roscoe's Wrap it Up
399 North Avenue

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

06-15-2015: #8

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

WHEREAS, the State of New Jersey has not adopted its budget, and

WHEREAS, the Borough of Dunellen cannot send out its 2015 tax bills until the State of New Jersey certifies State Aid and, therefore, a tax rate cannot yet be certified for 2015, and

WHEREAS, the Borough of Dunellen has determined that there will be insufficient cash flow to support operations in the Borough of Dunellen in the later part of July 2015 unless third quarter revenues are received on time, and

WHEREAS, without a 2015 Certified Tax Rate, the Borough of Dunellen will be unable to issue 2015 tax bills on a timely basis, and

WHEREAS, the Chief Financial Officer has reviewed and computed an estimated tax levy in accordance with N.J.S.A. 54:4-66.2 and N.J.S.A. 54:4-66.3.

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

1. That the Tax Collector is authorized to issue estimated tax bills for the Third Quarter of 2015.
2. That the entire estimated tax levy, including Municipal, Library, School, County, and County Open Space, for 2015 is hereby set at \$17,575,536.00.
3. That in accordance with the law, the third installment of 2015 taxes shall not be subject to interest until the later of August 10, 2015, or the twenty-fifth calendar day after the date the estimated bills were mailed. The estimated tax bills shall contain a notice specifying the date on which interest may begin to accrue.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

06-15-2015: #9

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 2015 in the sum of \$1,355.46 which is now available from the Municipal Alcohol and Rehabilitation Program in the amount of \$1,355.46.

BE IT FURTHER RESOLVED, that the like sum of \$1,355.46 is hereby appropriated under the caption Municipal Alcohol and Rehabilitation Program.

BE IT FURTHER RESOLVED that the above is the result of funds from the Municipal Alcohol and Rehabilitation Program in the amount of \$1,355.46.

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:

06-15-2015: #10

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 2015 in the sum of \$4,550.00 which is now available from the New Jersey Department of Law and Public Safety, Pedestrian Safety Grant in the amount of \$4,550.00.

BE IT FURTHER RESOLVED, that the like sum of \$4,550.00 is hereby appropriated under the caption New Jersey Department of Law and Public Safety, Pedestrian Safety Grant.

BE IT FURTHER RESOLVED that the above is the result of funds from the New Jersey Department of Law and Public Safety, Pedestrian Safety Grant in the amount of \$4,550.00.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

06-15-2015: #11

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

Whereas, in accordance with provisions of NJSA 40A:11 any expenditure of public funds in excess of \$17,500 requires the advertisement for proposals for delivery of said services or goods, and

Whereas, a need has been determined for improvements to Dunellen Avenue, Phase II; and

Whereas, the following bids were solicited and opened on Friday, May 22, 2015:

Black Rock Enterprises, LLC. 1316 Englishtown Road, Old Bridge, NJ	\$432,236.15
Topline Construction Corp. 30 South Doughty Avenue, Somerville, NJ 08876	\$433,824.09
Fisher Contracting, Inc. 10 Short Hills Lane, Scotch Plains, NJ 07076	\$455,692.73
Lucas Construction Group, Inc. 173 Amboy Road, Morganville, NJ 07752	\$498,832.95

Whereas, it is the recommendation of the Borough Engineer that the bid of Black Rock Enterprises, LLC, be accepted and a contract be awarded, and

Whereas, funds for said have been certified as available from the Chief Financial Officer. This award is subject to New Jersey Department of Transportation approval.

Now therefore be it resolved that the Mayor and Municipal Clerk are hereby authorized to execute the necessary agreement with Black Rock Enterprises, LLC, for improvements to Dunellen Avenue Phase II at a cost not to exceed \$432,236.15.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

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

06-15-2015: #12

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

The law firm of John E. Bruder is appointed Special Counsel on behalf of the Borough of Dunellen for matters concerning the preparation and filing of a Declaratory Judgment relating 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 \$160.00 per hour, in an amount not to exceed \$5,000.00.

Mr. Bruder explained to the Council how the NJ Supreme Court in a recent decision issued an order that all NJ municipalities needed to file a Declaratory Judgment in Superior Court regarding its affordable housing obligation in order to protect its interests against Builder's Remedies. The filing must be made by July 8th. He advised that it is imperative that the borough file in a timely fashion. By filing, we will have a five-month grace period during which the court will determine what our obligations are. In March, when the NJ Supreme Court

issued its ruling, the NJ Builder's Association issued a letter citing a report by a housing expert named Kinsey that significantly overstates the obligations of most municipalities. In opposition, the League of Municipalities issued its own report, citing another expert, Dr. Burchell, with much lower numbers. The Burchell resolution will come up later in the Agenda. Mr. Bruder noted that he has rarely requested of Council separate billing, but this project will entail some "heavy lifting" and very concentrated work.

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:

06-15-2015: #13

CERTIFYING PROPERTY CLEAN-UP COSTS

WHEREAS, on April 8, 2014, a Notice of Complaint was sent to the Margaret Groves, 226 Whittier Avenue, Dunellen, NJ, Block 63 Lot 7, said notification being returned undeliverable, which Notice required demolition of the structure for public safety within 45 days of receipt, and;

WHEREAS, also on April 8, 2014, Pro Capital Fund LLC, Voorhees, NJ, was sent the Notice of Complaint, and;

WHEREAS, during on May 7, 2014, May 8, 2014, June 17, 2014, July 21, 2014, August 15, 2014, September 16, 2014, October 21, 2014, and April 13, 2015, the Department of Public Works conducted clean up and security activities utilizing municipal equipment, with borough employee time totaling 29 and one-half hours, with an expense totaling \$1,131.20; and

WHEREAS, on November 3, 2014, Joseph Fisher IFA conducted an appraisal of the property at a cost of \$500.00; and

WHEREAS, on May 19, 2015, the Department of Public Works purchased wood, screws and hinges in order to secure entry-ways to the structure at a cost of \$118.25; and

WHEREAS, on June 1 and 2, 2015, Kelly Construction of Green Brook, NJ, demolished the structure at a cost of \$12,000.00.

NOW, THEREFORE BE IT RESOLVED that the Mayor and Council of the Borough of Dunellen do hereby certify the total project cost of \$13,749.45 as attached hereto, and further directs the Tax Collector to place a lien in said amount that shall become part of the taxes next to be assessed and levied on such lands, that being the August 1, 2015, bearing the same rate of interest as taxes. Said removal and lien is per Article VI of Municipal Ordinance 2013-03.

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:

06-15-2015: #14

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
14-17	32	8	RLS Homes LLC 329 Front St	13,821.59	964.96	30,000.00	44,786.55
14-39	48	27	Fountain, Wm & Maria 725 Front St	14,174.77	868.61	26,000.00	41,043.38
Total							85,829.93

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

REPORTS:

Mr. Petracca: 1) has a lead to do a shared services agreement with Bound Brook.

Mr. Baudendistel: 1) asked for an update on Dispatch. Mr. Bruder responded that he is working on an agreement that he has received a draft of from Somerset County Counsel. He also noted that the Agreement they are working with is a model that County has used successfully with all its municipalities and they may not be willing to adapt it to particular departments such as Fire; 2) asked about redevelopment and Mr. Robins responded that they are still working on the financials. He also re-iterated his recommendation for a weekly meeting on redevelopment.

Mr. Bayer: Ron Safar updated the Council on the condition of the football field and recommended that its use be restricted and no entry signs be posted.

Mr. Bachorik: met with Gail Woerner about the electrical work in Washington Park.

Mr. Cilento: no report

Mayor Seader: 1) Graduation this Friday and the park is ready and the roads shut down with barricades; 2) reported that kids are throwing debris into the brook near the Fire House. The DPW is cleaning that out. Mr. Baudendistel will relay this to the Police Chief; 3) Asked if there is still a DARE program in town? Members thought so, focusing on the elementary school; 4) noted that the municipal portion of Municipal Court fines is down, relatively speaking.

PRESENTATION ON STORMWATER by Municipal Clerk William Robins

Stormwater Regulations
Presentation to the Dunellen Borough Council
June 15, 2015

Stormwater regulations and ordinances adopted by the Dunellen Borough Council can be found on the Dunellen Web Site: <http://www.dunellenborough.net/stormwater.html>

They include the following items, with links to the full documents:

Stormwater Regulations, Ordinances, and Documents

Dunellen Borough Ordinances:

Stormwater Regulations--Waste Disposal, Illicit Connections, and Wildlife Feeding, Ordinance [2005-15](#)

Stormwater Management, Ordinance [2006-10](#)

Refuse and Roll-off Containers, Ordinance [2007-03](#)

Dumpsters, Ordinance [2010-06](#)

Private Storm Drain Inlet Retrofitting, Ordinance [2010-07](#)

Flood Damage Prevention, Ordinance [2010-08](#)

Documents:

What is [Groundwater?](#)

Improving Water Quality and the Quality of [Life](#)

What is Nonpoint Source [Pollution?](#)

What's a [Watershed?](#)

Mosquito [Precautions](#)

For additional educational material on stormwater related matters, go to www.cleanwaternj.org

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

06-15-2015: #15

AUTHORIZING THE PURCHASE OF THE DR. ROBERT BURCHELL REPORT TO FURTHER LITIGATION ACTIVITIES INVOLVING COUNCIL ON AFFORDABLE HOUSING LITIGATIONS IN AN AMOUNT NOT TO EXCEED \$2,500.00

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

WHEREAS, the Borough of Dunellen is desirous of purchasing a report to rebut the finds of the Bernard/Kinsey reports that have been submitted by the Fair Share Housing Center and the New Jersey Builders Association, and

WHEREAS, Municipal Counsel John E. Bruder recommends the purchase of this report and advised it to be an important element of the Borough's declaratory judgment action.

WHEREAS, Mr. Bruder and Borough Planner Jennifer Beahm advise that the report will assist the Borough Planner in establishing an acceptable alternative methodology to the Bernard/Kinsey reports and will allow the Borough Planner to take a more local information approach to modify the number of COAH units that would be allowable.

NOW THEREFORE BE IT RESOLVED, by the Borough Council of the Borough of Dunellen, that an amount not to exceed \$2,500 has been authorized to purchase the Dr. Burchell report.

John Bruder stated that one of the attorneys in the NJ Supreme Court case, Jeffrey Surenian, is seeking to pool some municipalities to hire an expert, Dr. Burchell, so we would have Dr. Burchell as an expert witness on the municipalities' behalf. Dr. Burchell is a former COAH expert and has recently been cleared to write expert reports on behalf of municipalities. If we do not now join in the pool, we will be unable to retain him later on. His numbers of the affordable housing obligations is considerably lower than the Kinsey numbers. Jennifer Beahm, our planner, also recommends retaining Dr. Burchell. Mr. Bayer asked if this fee might be paid by the Redeveloper? Mr. Bruder responded that he would consult with our redevelopment attorney, Mr. Liebling.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca

PUBLIC PORTION:

No one from the public spoke.

Scott Olsen reported that last week we held a bid for the sale of Bond Anticipation Notes for \$625,400.00 and received a number of responses, the lowest from Wells Fargo and PNC, both for 0.92%, and they had to “flip a coin” and Wells Fargo won.

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

06-15-2015: #16

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

The Dunellen Borough Council Meeting of June 15, 2015 is adjourned.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Petracca