

June 6, 2016

[Note: the tape recorder malfunctioned and this is a transcript from Clerk's notes]

Minutes of the public meeting of the Mayor and Council of the Borough of Dunellen held on June 6, 2016.

Mayor Robert J. Seader called the meeting to order at 7:30 p.m., after a meeting of the Dunellen Planning Board, and he led the Pledge of Allegiance.

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

Present: Robert Seader, Kenneth Baudendistel, Kenneth Bayer, Jason Cilento, Jeremy Lowder and Joseph Petracca

Absent: Kenneth Bachorik

---

On the motion of Mr. Baudendistel and seconded by Mr. Cilento it was moved to accept the Minutes of May 16, 2016:

Yes: Baudendistel, Cilento and Petracca

Abstain: Bayer and Lowder. Both noted that he had been absent from that Council Meeting.

---

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

**BOROUGH OF DUNELLEN  
ORDINANCE 2016-13**

The following Ordinance to Amend Ordinances 09-09 and 2016-10, Development Fee Ordinance, is being Introduced for first reading on June 6, 2016, and by Resolution is being forwarded to the Dunellen Planning Board for review and response at a meeting to be held on June 20, 2016, at 7:00 pm. It will be presented for Public Hearing and Adoption on June 20, 2016 at 7:30 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey. Copies of this ordinance will be posted on the Municipal Bulletin Board, and will be available at the Office of the Borough Clerk for any interested members of the public, as well as being uploaded to the Borough's Web site: [http://www.dunellen-nj.gov/affordable\\_housing/](http://www.dunellen-nj.gov/affordable_housing/)

**AN ORDINANCE AMENDING ORDINANCE NUMBER 09-09 and ORDINANCE 2016-10 ("DEVELOPMENT FEE ORDINANCE") TO ENSURE CONSISTENCY WITH THE TERMS OF A SETTLEMENT AGREEMENT REACHED BETWEEN THE BOROUGH OF DUNELLEN AND THE FAIR SHARE HOUSING CENTER REGARDING COMPLIANCE WITH THE BOROUGH'S THIRD ROUND AFFORDABLE HOUSING OBLIGATIONS IN ACCORDANCE WITH IN RE: N.J.A.C. 5:96 AND 5:97, 221 N.J. 1, 30 (2015).**

BE IT ORDAINED by the Mayor and Council of the Borough of Dunellen, in the County of Middlesex and the State of New Jersey, as follows:

1. Purpose

a) In *Holmdel Builder's Association v. Holmdel Township*, 121 N.J. 550 (1990), the New Jersey Supreme Court determined that mandatory development fees are authorized by the Fair Housing Act of 1985 (the Act), N.J.S.A. 52:27d-301 et seq., and the State Constitution, subject to the Council on Affordable Housing's (COAH's) adoption of rules.

b) Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development.

c) This ordinance establishes standards for the collection, maintenance, and expenditure of development fees pursuant to COAH's regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH's rules on development fees, codified at N.J.A.C. 5:93-8.

2. Basic requirements

a) This ordinance shall not be effective until approved by COAH and/or a court of competent jurisdiction pursuant to N.J.A.C. 5:91-15.

b) The Borough of Dunellen shall not spend development fees until COAH and/or a court of competent jurisdiction has approved a plan for spending such fees in conformance with N.J.A.C. 5:93-8.9.

3. Definitions

a) The following terms, as used in this ordinance, shall have the following meanings:

i. "Affordable housing development" means a development included in the Housing Element and Fair Share Plan, and includes, but is not limited to, an inclusionary development, a municipal construction project or a 100 percent affordable development.

ii. "COAH" or the "Council" means the New Jersey Council on Affordable Housing established under the Act which has primary jurisdiction for the administration of housing obligations in accordance with sound regional planning consideration in the State.

iii. "Development fee" means money paid by a developer for the improvement of property as permitted in N.J.A.C. 5:93-8.

iv. "Developer" means the legal or beneficial owner or owners of a lot or of any land proposed to be included in a proposed development, including the holder of an option or contract to purchase, or other person having an enforceable proprietary interest in such land.

v. "Equalized assessed value" means the assessed value of a property divided by the current average ratio of assessed to true value for the municipality in which the property is situated, as determined in accordance with sections 1, 5, and 6 of P.L.1973, c.123 (C.54:1-35a through C.54:1-35c).

vi. "Green building strategies" means those strategies that minimize the impact of development on the environment, and enhance the health, safety and well-being of residents by producing durable, low- maintenance, resource-efficient housing while making optimum use of existing infrastructure and community services.

#### 4. Residential Development Fees

##### a) Imposed fees

i. Within the RA district, RB district, and the area governed by the Dunellen Downtown Redevelopment Plan, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and a half percent of the equalized assessed value for residential development provided no increased density is permitted and that the proposed density complies with applicable standards of the Dunellen land use ordinances.

ii. When an increase in residential density pursuant to N.J.S.A. 40:55D-70d(5) (known as a "d" variance) has been permitted, developers may be required to pay a development fee of six percent of the equalized assessed value for each additional unit in excess of applicable ordinance standards that may be realized. However, if the zoning on a site has changed during the two-year period immediately preceding the filing of such a variance application, the base density for the purposes of calculating the bonus development fee shall be the highest density permitted by right during the two-year period preceding the filing of the variance application.

Example: If an approval allows four units to be constructed on a site that was zoned for two units, the fees could equal one and a half percent of the equalized assessed value on the first two units; and the specified higher percentage up to six percent of the equalized assessed value for the two additional units, provided zoning on the site has not changed during the two-year period preceding the filing of such a variance application.

##### b) Eligible exactions, ineligible exactions and exemptions for residential development

i. Affordable housing developments and developments where the developer has made a payment in lieu of on-site construction of affordable units shall be exempt from development fees.

ii. Any development within an Area in Need of Redevelopment or Rehabilitation, where a redevelopment agreement that includes specific requirements related to the provision of affordable housing has been executed by the Borough and the designated redeveloper, shall be exempt from development fees.

iii. Developments that have received preliminary or final site plan approval prior to the adoption of a municipal development fee ordinance shall be exempt from development fees, unless the developer seeks a substantial change in the approval. Where a site plan approval does not apply, a zoning and/or building permit shall be synonymous with preliminary or final site plan approval for this purpose. The fee percentage shall be vested on the date that the building permit is issued.

iv. Development fees shall be imposed and collected when an existing structure undergoes a change to a more intense use, is demolished and replaced, or is expanded, if the expansion is not otherwise exempt from the development fee requirement. The development fee shall be calculated on the increase in the equalized assessed value of the improved structure.

v. Developers of one and two family homes shall be exempt from paying a development fee under the following circumstances: Residential structures demolished and replaced as a result of a natural disaster, including fire, Green buildings, and property converted from commercial to residential use, creating additional housing.

## 5. Non-residential Development Fees

### a) Imposed fees

i. Within all zoning districts, non-residential developers, except for developers of the types of development specifically exempted, shall pay a fee equal to two and one-half (2.5) percent of the equalized assessed value of the land and improvements, for all new non-residential construction on an unimproved lot or lots.

ii. Non-residential developers, except for developers of the types of development specifically exempted, shall also pay a fee equal to two and one-half (2.5) percent of the increase in equalized assessed value resulting from any additions to existing structures to be used for non-residential purposes.

iii. Development fees shall be imposed and collected when an existing structure is demolished and replaced. The development fee of two and a half percent (2.5%) shall be calculated on the difference between the equalized assessed value of the pre-existing land and improvement and the equalized assessed value of the newly improved structure, i.e. land and improvement, at the time final certificate of occupancy is issued. If the calculation required under this section results in a negative number, the non-residential development fee shall be zero.

### b) Eligible exactions, ineligible exactions and exemptions for non-residential development

i. The non-residential portion of a mixed-use inclusionary or market rate development shall be subject to the two and a half (2.5) percent development fee, unless otherwise exempted below.

ii. The 2.5 percent fee shall not apply to an increase in equalized assessed value resulting from alterations, change in use within existing footprint, reconstruction, renovations and repairs.

iii. Non-residential developments shall be exempt from the payment of non-residential development fees in accordance with the exemptions required pursuant to P.L.2008, c.46, as specified in the Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" Form. Any exemption claimed by a developer shall be substantiated by that developer.

iv. A developer of a non-residential development exempted from the non-residential development fee pursuant to P.L.2008, c.46 shall be subject to it at such time the basis for the exemption no longer applies, and shall make the payment of the non-residential development fee, in that event, within three years after that event or after the issuance of the final certificate of occupancy of the non-residential development, whichever is later.

v. If a property which was exempted from the collection of a non-residential development fee thereafter ceases to be exempt from property taxation, the owner of the property shall remit the fees required pursuant to this section within 45 days of the termination of the property tax exemption. Unpaid non-residential development fees under these circumstances may be enforceable by the Borough of Dunellen as a lien against the real property of the owner.

## 6. Collection procedures

a) Upon the granting of a preliminary, final or other applicable approval, for a development, the applicable approving authority shall direct its staff to notify the construction official responsible for the issuance of a building permit.

b) For non-residential developments only, the developer shall also be provided with a copy of Form N-RDF "State of New Jersey Non-Residential Development Certification/Exemption" to be completed as per the instructions provided. The Developer of a non-residential development shall complete Form N-RDF as per the instructions provided. The construction official shall verify the information submitted by the non-residential developer as per the instructions provided in the Form N-RDF. The Tax Assessor shall verify exemptions and prepare estimated and final assessments as per the instructions provided in Form N-RDF.

c) The construction official responsible for the issuance of a building permit shall notify the local tax assessor of the issuance of the first building permit for a development which is subject to a development fee.

d) Within 90 days of receipt of that notice, the municipal tax assessor, based on the plans filed, shall provide an estimate of the equalized assessed value of the development.

e) The construction official responsible for the issuance of a final certificate of occupancy notifies the local assessor of any and all requests for the scheduling of a final inspection on property which is subject to a development fee.

f) Within 10 business days of a request for the scheduling of a final inspection, the municipal assessor shall confirm or modify the previously estimated equalized assessed value of the improvements of the development; calculate the development fee; and thereafter notify the developer of the amount of the fee.

g) Should the Borough of Dunellen fail to determine or notify the developer of the amount of the development fee within 10 business days of the request for final inspection, the developer may estimate the amount due and pay that estimated amount consistent with the dispute process set forth in subsection b. of section 37 of P.L.2008, c.46 (C.40:55D-8.6).

h) Fifty percent of the development fee shall be collected at the time of issuance of the building permit. The remaining portion shall be collected at the issuance of the certificate of occupancy. The developer shall be responsible for paying the difference between the fee calculated at building permit and that determined at issuance of certificate of occupancy.

i) Appeal of development fees

1) A developer may challenge residential development fees imposed by filing a challenge with the County Board of Taxation. Pending a review and determination by the Board, collected fees shall be placed in an interest bearing escrow account by The Borough of Dunellen. Appeals from a determination of the Board may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

2) A developer may challenge non-residential development fees imposed by filing a challenge with the Director of the Division of Taxation. Pending a review and determination by the Director, which shall be made within 45 days of receipt of the challenge, collected fees shall be placed in an interest bearing escrow account by The Borough of Dunellen or by the State, as the case may be. Appeals from a determination of the Director may be made to the tax court in accordance with the provisions of the State Tax Uniform Procedure Law, R.S.54:48-1 et seq., within 90 days after the date of such determination. Interest earned on amounts escrowed shall be credited to the prevailing party.

7. Affordable Housing trust fund

a) There is hereby created a separate, interest-bearing housing trust fund to be maintained by the Municipal Clerk/Municipal Housing Liaison for the purpose of depositing development fees collected from residential and non-residential developers and proceeds from the sale of units with extinguished controls.

b) The following additional funds shall be deposited in the Affordable Housing Trust Fund and shall at all times be identifiable by source and amount:

1. payments in lieu of on-site construction of affordable units;
2. developer contributed funds to make ten percent (10%) of the adaptable entrances in a townhouse or other multistory attached development handicapped accessible;
3. rental income from municipally operated units;
4. repayments from affordable housing program loans;
5. recapture funds;
6. proceeds from the sale of affordable units; and
7. any other funds collected in connection with the Borough of Dunellen's affordable housing program.

c) Within seven days from the opening of the trust fund account, The Borough of Dunellen shall provide COAH with written authorization, in the form of a three-party escrow agreement between the municipality, the bank, and COAH to permit COAH to direct the disbursement of the funds as provided for in N.J.A.C. 5:93-8.16.

d) All interest accrued in the housing trust fund shall only be used on eligible affordable housing activities approved by COAH or a court of competent jurisdiction.

#### 8. Use of funds

a) The expenditure of all funds shall conform to a spending plan approved by COAH or a court of competent jurisdiction. Funds deposited in the housing trust fund may be used for any activity approved by COAH or the court to address the Borough of Dunellen's fair share obligation and may be set up as a grant or revolving loan program. Such activities include, but are not limited to: preservation or purchase of housing for the purpose of maintaining or implementing affordability controls, rehabilitation, new construction of affordable housing units and related costs, accessory apartment, market to affordable, or regional housing partnership programs, conversion of existing non-residential buildings to create new affordable units, green building strategies designed to be cost saving and in accordance with accepted national or state standards, purchase of land for affordable housing, improvement of land to be used for affordable housing, extensions or improvements of roads and infrastructure to affordable housing sites, financial assistance designed to increase affordability, administration necessary for implementation of the Housing Element and Fair Share Plan, or any other activity as permitted pursuant to N.J.A.C. 5:93-8.6 and specified in the approved spending plan.

b) Funds shall not be expended to reimburse the Borough of Dunellen for past housing activities.

c) At least 30 percent of all development fees collected and interest earned shall be used to provide affordability assistance to low- and moderate-income households in affordable units included in the municipal Fair Share Plan. One-third of the affordability assistance portion of development fees collected shall be used to provide affordability assistance to those households earning 30 percent or less of median income by region.

- i. Affordability assistance programs may include down payment assistance, security deposit assistance, low interest loans, rental assistance, assistance with homeowners association or condominium fees and special assessments, and assistance with emergency repairs.
  - ii. Affordability assistance to households earning 30 percent or less of median income may include buying down the cost of low or moderate income units in the municipal Fair Share Plan to make them affordable to households earning 30 percent or less of median income.
  - iii. Payments in lieu of constructing affordable units on site and funds from the sale of units with extinguished controls shall be exempt from the affordability assistance requirement.
- d) The Borough of Dunellen may contract with a private or public entity to administer any part of its Housing Element and Fair Share Plan, including the requirement for affordability assistance, in accordance with N.J.A.C. 5:93-8.16.
  - e) No more than 20 percent of all revenues collected from development fees, may be expended on administration, including, but not limited to, salaries and benefits for municipal employees or consultant fees necessary to develop or implement a new construction program, a Housing Element and Fair Share Plan, and/or an affirmative marketing program. In the case of a rehabilitation program, no more than 20 percent of the revenues collected from development fees shall be expended for such administrative expenses. Administrative funds may be used for income qualification of households, monitoring the turnover of sale and rental units, and compliance with monitoring requirements. Legal or other fees related to litigation opposing affordable housing sites or objecting to the Council's regulations and/or action are not eligible uses of the affordable housing trust fund.

## 9. Monitoring

- a) The Borough of Dunellen shall complete and return to COAH, or a court of competent jurisdiction as required, all monitoring forms included in monitoring requirements related to the collection of development fees from residential and non-residential developers, payments in lieu of constructing affordable units on site, funds from the sale of units with extinguished controls, barrier free escrow funds, rental income, repayments from affordable housing program loans, and any other funds collected in connection with Dunellen's housing program, as well as to the expenditure of revenues and implementation of the plan certified by COAH or a court of competent jurisdiction. All monitoring reports shall be completed on forms designed by COAH or a court of competent jurisdiction.

## 10. Ongoing collection of fees

- a) The ability for the Borough of Dunellen to impose, collect and expend development fees shall expire with its substantive certification unless the Borough of Dunellen has filed an adopted Housing Element and Fair Share Plan with COAH or a court of competent jurisdiction, has petitioned for substantive certification, and has received COAH's or the court's approval of its development fee ordinance. If the Borough of Dunellen fails to renew its ability to impose and collect development fees prior to the expiration of substantive certification, it may be subject to forfeiture of any or all funds remaining within its municipal trust fund. Any funds so forfeited

shall be deposited into the "New Jersey Affordable Housing Trust Fund" established pursuant to section 20 of P.L.1985, c.222 (C.52:27D-320). The Borough of Dunellen shall not impose a residential development fee on a development that receives preliminary or final site plan approval after the expiration of its substantive certification or judgment of compliance, nor shall the Borough of Dunellen retroactively impose a development fee on such a development. The Borough of Dunellen shall not expend development fees after the expiration of its substantive certification or judgment of compliance.

Yes: Baudendistel, Bayer, Cilento, Lowder and Petracca

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

### **ORDINANCE 2016-08**

#### **BOROUGH OF DUNELLEN**

**The following ORDINANCE was Introduced for first reading on May 16, 2016. It is now being presented for Public Hearing and Adoption on June 6, 2016, at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey. Copies of this ordinance have been posted on the Municipal Bulletin Board, and have been available at the Office of the Borough Clerk for any interested members of the public.**

**BE IT ORDAINED** by the Borough Council of the Borough of Dunellen, County of Middlesex, State of New Jersey, that Chapter 103 of the Revised General Code of the Borough of Dunellen, Animals, be amended as follows:

#### **Chapter 103-47. Chickens.**

##### **(A) Definitions.**

1. Chicken -- a domesticated fowl of the subspecies *Gallus gallus domesticus*.
2. Mature Chicken -- a chicken which has attained sexual maturity or an age of at least 3 months.
3. Coop – an enclosure, cage or pen, usually with bars or wire, in which chickens are confined.
4. Run – an enclosed area in which chickens are allowed to walk or run about.
5. Roosts – a perch upon which chickens rest at night.
6. Droppings – the excrement of chickens.
7. Predator – an animal that poses a threat to chickens such as hawks, foxes, coyotes, rodents, etc.

**(B) Purpose.**

1. No person shall raise, keep or harbor any live chickens without first obtaining a permit for that purpose from the Municipal Clerk's Office, which will issue a permit only after a site inspection by the Municipal Clerk or the Borough Code Enforcer.
2. The provisions of this ordinance shall not be deemed to authorize the keeping of live chickens or their by-products for sale or preparation of sale. Furthermore, it shall be unlawful to engage in chicken breeding or fertilizer production for commercial purposes.
3. The provisions of this ordinance are intended to regulate the keeping of live chickens only. The keeping of any other types of poultry, including roosters, is strictly forbidden within the borough.

**(C) Permits.**

1. Application for raising and keeping live chickens will be made through the Municipal Clerk's Office. Only one permit will be issued for any separate residence. There will be no fee for the permit.
2. Permits are issued annually and expire at the end of each calendar year. New permits may be applied for at any time during the year. Permit renewals may be made after December 1<sup>st</sup> for the following calendar year.
3. The Borough will not approve for issuance a permit, and may revoke existing permits, for the keeping of live chickens in any place that shall be deemed a nuisance to disturb persons of reasonable sensitivity residing in the vicinity of the place where such live chickens are to be kept.

**(D) Regulations.**

1. All mature chickens shall be confined to fully enclosed coops and runs located outside of and completely apart from any building used wholly or in part for dwelling purposes. Under no circumstances will live chickens be permitted to be kept at food or eating establishments.
2. No live chicken shall be permitted to fly or run at large. Such action is deemed to be a nuisance and dangerous to the public health and safety.
3. Each animal subject to this ordinance shall be free from sickness or disease. If upon investigation by the County Health Department there exists reasonable cause to question the health of any animal, the Borough shall have the authority to require, after notice to the owner, an examination by a doctor of veterinary medicine. This examination shall be at the expense of the owner.
4. There will be a maximum of eight (8) mature chickens for each permit issued.

**(E) Maintenance.**

1. The coop shall not exceed 100 square feet.
2. Any run associated with the coop shall be included within the 100 square foot limitation.
3. Where practicable, chicken coops and runs shall be located in the rear yard of the property; in no circumstances shall said coops and runs be permitted in the front yard of any property. Moreover, the entirety of any chicken coop and run shall be placed closer to the dwelling on the lot in question than to the dwelling(s) on any adjoining lot(s).
4. No chicken coop and run shall be erected, used or located closer than five (5) feet to any property line.
5. The coop shall be dry and well ventilated, with windows so placed, if possible, as to admit sunlight.
6. The coop shall have a floor impervious to moisture and be waterproof.
7. The coop shall be whitewashed or painted therein.
8. The coop, including perches and nests, shall be cleaned regularly for the health and safety of the chickens and as a precaution against offensive odors.
9. Drinking fountains in the area where the coop is located shall be cleaned and supplied at all times with clean water.
10. The yard in the area where the coop is located shall be clean and free from odors.
11. The coop and run shall be constructed of such materials as to prevent predators (ex., coyotes, fox, bear, raccoons, etc.) and/or rodents from entering therein.
12. Chicken manure must be bagged and disposed of with household garbage or composted on site. All stored manure must be completely contained in a waterproof container. Any compost using chicken manure is required to be produced in an enclosed backyard composter.

**(F) Severability Clause.**

If any provision of this ordinance is prohibited by law or judged by a court to be unlawful, void or unenforceable, that provision shall be severed from this ordinance and rendered ineffective without modifying the remaining provisions, and shall not affect any other circumstances of or the validity or enforcement of this ordinance.

**(G) Enforcement.**

The provisions of this article shall be enforced by the Police Department, Code Enforcement Official, Construction Officer, or Health Officer of the Borough of Dunellen.

**(H) Violations and penalties.**

Any person(s) who is found in violation of the provisions of this article shall be subject to a fine not to exceed \$500.00.

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, Bayer, Cilento, Lowder and Petracca



1) The acquisition of turnout gear, including all related costs and expenditures incidental thereto.	\$9,200	\$8,740	5 years
2) Repairs to furnaces, including all work and materials necessary therefor and incidental thereto.	\$9,200	\$8,740	15 years
<b>c) <u>Information Technology</u></b> Server upgrades and peripherals, including all work and materials necessary therefor and incidental thereto and further including all related costs and expenditures incidental thereto.	<u>\$9,200</u>	<u>\$8,740</u>	5 years
<b>Total:</b>	<b><u>\$118,250</u></b>	<b><u>\$112,340</u></b>	

Appropriation: \$118,250  
 Bonds/Notes Authorized: \$112,340  
 Grant Appropriated: N/A  
 Section 20 Costs: \$15,441  
 Useful Life: 8.77 years

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, Bayer, Cilento, Lowder and Petracca

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

**Ordinance 2016-12**

**NOTICE OF PENDING BOND ORDINANCE AND SUMMARY**

The bond ordinance, the summary terms of which are included herein, was 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 May 16, 2016. It is now being presented

for further consideration for final passage, after public hearing thereon, at a meeting of the governing body being held at the Dunellen Borough Council Chambers, in the Borough on June 6, 2016 at 7:00 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 have been available at no cost and during regular business hours at the Clerk's office for the members of the general public who have requested the same. The summary of the terms of such bond ordinance follows:

Title: BOND ORDINANCE PROVIDING FOR PARKING LOT IMPROVEMENTS IN AND BY THE BOROUGH OF DUNELLEN, IN THE COUNTY OF MIDDLESEX, NEW JERSEY, APPROPRIATING \$415,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$395,238 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

Purpose: To provide a loan to the Parking Authority of the Borough of Dunellen to provide for various parking improvements to the existing surface parking lot located on Block 86, Lots 3, 4 and 4.03 on the Tax Maps of the Borough, located southeast of the corner of North Avenue and South Washington Avenue, including all work and materials necessary therefor and incidental thereto

Appropriation: \$415,000  
Bonds/Notes Authorized: \$395,238  
Grant Appropriated: N/A  
Section 20 Costs: \$55,000  
Useful Life: 10 years

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, Bayer, Cilento, Lowder and Petracca

---

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

**05-16-2016: #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, Bayer, Cilento, Lowder and Petracca

---

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



Yes: Baudendistel, Bayer, Cilento, Lowder and Petracca

---

Resolution 06-06-2016: #3 was REMOVED

---

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

**06-06-2016: #4**

**RESOLUTION OF THE MAYOR AND COUNCIL OF THE BOROUGH OF  
DUNELLEN, COUNTY OF MIDDLESEX, STATE OF NEW JERSEY  
ADOPTING AN AFFIRMATIVE MARKETING PLAN FOR THE BOROUGH OF  
DUNELLEN**

**This resolution amends Resolution 05-09-2016: #3.**

**WHEREAS**, in accordance with the regulations of COAH pursuant to N.J.A.C. 5:93-1, et seq., the New Jersey Uniform Housing Affordability Controls pursuant to N.J.A.C. 5:80-26., et seq., and the terms of a settlement agreement between the Borough and the Fair Share Housing Center in the Matter of the Application of the Borough of Dunellen, County of Middlesex, Docket No. MID-L-3947-15 regarding In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1, 30 (2015) (“Mount Laurel IV”), the Borough of Dunellen is required to adopt by resolution an Affirmative Marketing Plan to ensure that all affordable housing units created, including those created by the rehabilitation of rental housing units within the Borough of Dunellen, are affirmatively marketed to low and moderate income households, particularly those living and/or working within Housing Region 3, which encompasses the Borough of Dunellen

**NOW, THEREFORE, BE IT RESOLVED**, that the Mayor and Council of the Borough of Dunellen, County of Middlesex, State of New Jersey, do hereby adopt the following Affirmative Marketing Plan:

**Affirmative Marketing Plan**

- A. All affordable housing units in the Borough of Dunellen shall be marketed in accordance with the provisions herein unless otherwise provided in COAH’s Rules at N.J.A.C. 5:93-1, et seq.
- B. The Borough of Dunellen has a Third Round obligation. This Affirmative Marketing Plan shall apply to all developments that contain or will contain low and moderate income units, including those that are part of the Borough’s current Housing Element and Fair Share Plan and those that may be constructed in future developments not contemplated in the Borough’s Housing Element and Fair Share Plan. This Affirmative Marketing Plan

shall also apply to any rehabilitated rental units that are vacated and re-rented during the applicable period of controls for rehabilitated rental units.

- C. The Affirmative Marketing Plan shall be implemented by the Administrative Agent under contract to the Borough of Dunellen. All of the costs of advertising and affirmatively marketing affordable housing units shall be borne by the developer/seller/owner of the affordable unit(s).
- D. In implementing the Affirmative Marketing Plan, the Administrative Agent, acting on behalf of the Borough of Dunellen, shall undertake all of the following strategies:
  - 1. Publication of one advertisement in a newspaper of general circulation within the housing region.
  - 2. Broadcast of one advertisement by a radio or television station broadcasting throughout the housing region.
  - 3. At least one additional regional marketing strategy using one of the other sources listed below.
- E. The Affirmative Marketing Plan is a regional marketing strategy designed to attract buyers and/or renters of all majority and minority groups, regardless of race, creed, color, national origin, ancestry, marital or familial status, gender, affectional or sexual orientation, disability, age or number of children to housing units which are being marketed by a developer or sponsor of affordable housing. The Affirmative Marketing Plan is also intended to target those potentially eligible persons who are least likely to apply for affordable units in that region. It is a continuing program that directs all marketing activities toward the COAH Housing Region in which the Borough is located and covers the entire period of deed restriction for each restricted housing unit. The Borough of Dunellen is located in COAH Housing Region 3, comprised of Hunterdon, Somerset, and Middlesex Counties.
- F. The Affirmative Marketing Plan is a continuing program intended to be followed throughout the entire period of restrictions and shall meet the following requirements:
  - 1. All newspaper articles, announcements and requests for application for low and moderate income units shall appear in the Courier News and Home-News Tribune.
  - 2. The primary marketing shall take the form of at least one press release and a paid display advertisement in the above newspapers once a week for four consecutive weeks. Additional advertising and publicity shall be on an “as needed” basis. The developer/owner shall disseminate all public service announcements and pay for

display advertisements. The developer/owner shall provide proof of publication to the Borough's Administrative Agent. All press releases and advertisements shall be approved in advance by the Borough's Administrative Agent.

3. The advertisement shall include a description of the:
  - i. Location of the units;
  - ii. Direction of the units;
  - iii. Range of prices for the units;
  - iv. Size, as measured in bedrooms, of units;
  - v. Maximum income permitted to qualify for the units;
  - vi. Location of applications;
  - vii. Business hours when interested households may obtain an application; and
  - viii. Application fees.
4. Newspaper articles, announcements and information on where to request applications for low and moderate income housing shall appear at least once a week for four consecutive weeks in at least three locally oriented weekly newspapers within the region, one of which shall be circulated primarily in Middlesex County and the other two of which shall be circulated primarily outside of Middlesex County but within the housing region.
5. Four or more of the following regional cable television stations or regional radio stations shall be used during the first month of advertising. The developer must provide satisfactory proof of public dissemination:
  - i. 2 WCBS-TV (CBS Broadcasting, Inc.)
  - ii. 4 WNBC (NBC Telemundo License Co., General Electric)
  - iii. 5 WNYW (Fox Television Stations, Inc., News Corp.)
  - iv. 7 WABC-TV (American Broadcasting Companies, Inc., Walt Disney)
  - v. 9 WWOR-TV (Fox Television Stations, Inc., News Corp.)
  - vi. 10 WCAU (NBC Telemundo License Co., General Electric)

- vii. 11 WPIX (WPIX, Inc., Tribune)
  - viii. 13 WNET (Educational Broadcasting Corporation)
  - ix. 58 WNJB (New Jersey Public Broadcasting Authority)
6. Applications, brochure(s), sign(s), and/or poster(s) used as part of the affirmative marketing program shall be available/posted in the following locations:
- i. Dunellen Borough Municipal Building
  - ii. Dunellen Borough Public Library
  - iii. Dunellen Borough Website
  - iv. Developer's Sales/Rental Office
  - v. Middlesex County Administration Building
  - vi. Middlesex County Library (and branches)

Applications shall be mailed by the Administrative Agent to the prospective applications upon request. Also, applications shall be made available at the developer's sales/rental office and shall be mailed to prospective applicants upon request.

7. The administrative Agent shall develop, maintain and update a list of community contact person(s) and/or organization(s) in Middlesex, Somerset, and Hunterdon Counties that will aid in the affirmative marketing program with particular emphasis on contacts that will reach out to groups that are least likely to apply for housing within the region, including major regional employers.

- i. Quarterly informational flyers and applications shall be sent to each of the following agencies for publication in their journals and for circulation among their members:

Middlesex County Board of Realtors

Somerset County Board of Realtors

Hunterdon County Board of Realtors

- ii. Quarterly informational circulars and applications shall be sent to the administrators of each of the following agencies in the counties of Middlesex, Somerset, and Hunterdon:

Welfare or Social Service Board

Rental Assistance Office (local office of DCA)

Office on Aging

Housing Authority

Community Action Agencies

Community Development Departments

- iii. Quarterly informational circulars and applications shall be sent to the chief personnel administrators of all the major employers within the region as listed in Attachment A in accordance with the Region 3 Affirmative Marketing Plan.

- iv. Quarterly informational circulars, applications, and copies of press releases and advertisements of the availability of low and moderate income housing shall be sent to the following additional community and regional organizations:

Fair Share Housing Center

The New Brunswick, Plainfield Area, Perth Amboy, and Metuchen/Edison branches of the NAACP

The Latino Action Network

- 8. A random selection method to select occupants of low and moderate income housing will be used by the Administrative Agent in conformance with N.J.A.C. 5:80-26.16(1). The Affirmative Marketing Plan shall provide a regional preference for all households that live and/or work COAH Housing Region 3 comprised of Middlesex, Somerset, and Hunterdon Counties.
- 9. The Administrative Agent shall administer the Affirmative Marketing Plan. The Administrative Agent has the responsibility to income qualify low and moderate income households; to place income eligible households in low and moderate income units upon initial occupancy; to provide for the initial occupancy of low and moderate income units with income qualified households; to continue to

qualify households for re-occupancy of units as they become vacant during the period of affordability controls; to assist with outreach to low and moderate income households; and to enforce the terms of the deed restriction and mortgage loan as per N.J.A.C. 5:80-26.1, et seq.

10. The Administrative Agent shall provide or direct qualified low and moderate income applicants to counseling services on subjects such as budgeting, credit issues, mortgage qualifications, rental lease requirements and landlord/tenant law and shall develop, maintain and update a list of entities and lenders willing and able to perform such services.
11. All developers/owners of low and moderate income housing units shall be required to undertake and pay the costs of the marketing of the affordable units in their respective developments, subject to the direction and supervision of the Administrative Agent.
12. The implementation of the Affirmative Marketing Plan for a development that includes affordable housing shall commence at least 120 days before the issuance of either a temporary or permanent certificate of occupancy. The implementation of the Affirmative Marketing Plan shall continue until all low income housing units are initially occupied and for as long as affordable units exist that remain deed restricted and for which the occupancy or re-occupancy of units continues to be necessary.
13. The Administrative Agent shall provide the Affordable Housing Liaison with the information required to comply with monitoring and reporting requirements pursuant to N.J.A.C.5:80-26-1, et seq. and the Order granting Dunellen a Final Judgment of Compliance and Repose entered by the Hon. Douglas K. Wolfson, JSC.

Yes: Baudendistel, Bayer, Cilento, Lowder and Petracca

---

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

**06-06-2016: #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 an Instant Raffle License to the Knights of Columbus, #2544 John Barry Council.

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

Yes: Baudendistel, Bayer, Cilento, Lowder and Petracca

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

**06-06-2016: #6**

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

RESOLUTION OF THE BOROUGH OF DUNELLEN OF THE COUNTY OF MIDDLESEX, STATE OF NEW JERSEY, AUTHORIZING EXECUTION OF A CONTRACT WITH CME ASSOCIATES FOR THE PREPARATION OF A REVISED TAX MAP FOR THE BOROUGH OF DUNELLEN

WHEREAS, the Mayor and Council of the Borough of Dunellen has determined there exists a need for the preparation of a revised Tax Map for the Borough; and

WHEREAS, such services can only be provided by a recognized firm specializing therein; and

WHEREAS, the preparation of a Tax Map involves the performance of professional services within the meaning of the Local Public Contracts Law (N.J.S.A. 40A:11-1 et seq.); and

WHEREAS, the Local Public Contracts Law requires the resolution authorizing the award of contracts for “extraordinary, unspecifiable services” without competitive bids and the contract itself must be available for public inspection; and

WHEREAS, funds to cover the cost of said Tax Map are available by virtue of an Appropriation financed through Bond Ordinance 2016-06.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and Council of the Borough of Dunellen as follows:

1. CME Associates is hereby retained to provide the specialized services necessary in connection with the preparation of a revised Tax Map for the Borough of Dunellen in accordance with the contract submitted, and approved by the Mayor and Council; and

2. This contract is awarded without competitive bidding pursuant to N.J.S.A. 40A:11-1 et seq., because the services are specialized, technical and qualitative in nature, and that they require the exercise of expertise and training not generally available and that such services can only be performed by persons familiar with the field of tax map preparation; and
3. The Mayor and Municipal Clerk are hereby authorized and directed to execute said contract with CME Associates; and
4. The cost of the contract is not to exceed \$82,710.00.
5. A copy of this resolution as well as the contract be placed on file in the office of the Clerk of the Borough of Dunellen and that a notice of the awarding of said contract be published in an official newspaper of the borough within 10 days.

Yes: Baudendistel, Bayer, Cilento, Lowder and Petracca

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

**06-06-2016: #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, Bayer, Cilento, Lowder and Petracca

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

**06-06-2016: #8**

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

WHEREAS, the Performance Guarantee provided to the Borough of Dunellen by Joseph Casey, for site improvements to Block 52, Lot 1, is hereby reduced by \$9,054.32, with \$12,473.80 retained as a cash guarantee until such time that the remaining improvements at the site have been completed, subject to the approval of the borough attorney.

Yes: Baudendistel, Bayer, Cilento, Lowder and Petracca

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

**06-06-2016: #9**

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

The Mayor and Borough Council of the Borough of Dunellen hereby appoint Luke Tunison as a Junior Firefighter in the Dunellen Fire Department, effective 6 June 2016.

Yes: Baudendistel, Bayer, Cilento and Petracca

Abstain: Lowder, stating he is a member of the Dunellen Fire Department

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

**06-06-2016: #10**

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

Be it resolved by the governing body of the Borough of Dunellen, New Jersey, that:

The Treasurer is hereby authorized to issue the following checks to Windels Marx Lane & Mittendorf, LLP., from the Interim Cost Agreement Escrow Account for work done toward redevelopment:

<u>Windels Marx File Number</u>	<u>Bill Number</u>	<u>Amount</u>
0305764-0000001	22711	\$2,497.00
0305764-0000001	26653	17,399.75
	Total	<u>\$19,896.75</u>

Yes: Baudendistel, Bayer, Cilento, Lowder and Petracca

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

**06-06-2016: #11**

**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 \$5,483,287.00 from July 1, 2016 to December 31, 2016

<u>Date</u>	<u>Amount</u>
July 5, 2016	\$854,110.00
August 1, 2016	\$1,033,424.00
September 6, 2016	\$854,110.00
October 4, 2016	\$854,110.00
November 7, 2016	\$1,033,423.00
December 5, 2016	\$854,110.00
<b>Total:</b>	<b>\$5,483,287.00</b>

Yes: Baudendistel, Bayer, Cilento, Lowder and Petracca

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

**Resolution 06-06-2016: #12**

**BOROUGH COUNCIL OF THE BOROUGH OF DUNELLEN  
RESOLUTION REFERRING ORDINANCE 2016-10 TO THE BOROUGH OF  
DUNELLEN PLANNING BOARD PURSUANT TO N.J.S.A. 40:55D-26(a)**

**WHEREAS**, the Borough Council of the Borough of Dunellen, Middlesex County, State of New Jersey, introduced Ordinance 2016-13 at a meeting of the Borough Council on June 6, 2016; and

**WHEREAS**, the aforementioned ordinance has been prepared in order to effectuate the Borough's Housing Plan Element and Fair Share Plan, dated February 1, 2016 and as amended May 6, 2016; and

**WHEREAS**, Municipal Land Use Law (N.J.S.A. 40:55D-26(a)) requires the Planning Board to review any newly proposed, revised, or amended development regulation for consistency with the Borough Master Plan and to issue and transmit a report to the Borough Council regarding same within 35 days of referral;

**NOW THEREFORE BE IT RESOLVED** that the Borough Council of the Borough of Dunellen, Middlesex County, State of New Jersey, hereby refers to the Planning Board Ordinance 2016-13 for review and consistency with the Borough Master Plan; and

**BE IT FURTHER RESOLVED** that the Borough Planning Board shall conduct and complete its review of the aforementioned ordinance within 35 days and shall provide its findings to the Borough Council as required by N.J.S.A. 40:55D-26(a).

Yes: Baudendistel, Bayer, Cilento, Lowder and Petracca

---

**Resolution 06-06-2016: #13 was REMOVED**

---

**REPORTS:**

Mr. Petracca: Asked Mr. Bruder about the Culvert Project. Mr. Bruder responded that the property owner had some environmental concerns and wanted the borough to take some measures. They might be amenable to giving the borough the easement before all environmental concerns have been satisfied.

Mr. Baudendistel: 1) inquired after the status of the Strip Joint. Mr. Robins will contact CME the next day for an update; 2) still is seeking a report on the three downtown fire-damaged properties from Construction Office. Mr. Luthman had reported that the properties were not public hazards so that they needed to be taken down. It is now an insurance issue.

Mr. Bayer: There are part-time and full-time DPW positions to fill. An ad went out for the F/T position and resumes are being accepted.

Mr. Cilento: reported on Recreation Department teams and events. The question of the Rugby team came up and it was decided that no one should play on the football field until the seeding has taken and the field is ready.

Mr. Lowder: no report.

Mayor Seader: the Fire Department took possession of the new fire truck.

---

**PUBLIC PORTION**

No one from the public spoke.

---

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

**06-06-2016: #14**

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

The Dunellen Borough Council Meeting of June 6, 2016 is adjourned.

Yes: Baudendistel, Bayer, Cilento, Lowder and Petracca