

May 9, 2016

Minutes of the Special Council Meeting of the Mayor and Council of the Borough of Dunellen held on May 9, 2016.

Mayor Robert J. Seader called the meeting to order at 7:00 p.m. and he led the Pledge of Allegiance.

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

Present: Robert J. Seader, Kevin Bachorik, Kenneth Bayer, Jason Cilento, Jeremy Lowder and Joseph Petracca

Absent: Kenneth Baudendistel

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

**BOROUGH OF DUNELLEN**

**ORDINANCE 2016-09**

The following Ordinance Enacting the Borough's Third Round Housing Plan Element and Fair Share Plan is being Introduced for first reading on May 9, 2016, at 7:00 pm, in the Borough Council Chambers, 355 North Avenue, Dunellen. Subsequent to this Introduction, it will be forwarded by Resolution to the Dunellen Planning Board for review and response. It will be further presented for Public Hearing and Adoption on May 16, 2016 at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey. Copies of this ordinance will be posted on the Municipal Bulletin Board, and will be available at the Office of the Borough Clerk for any interested members of the public. The full text of this ordinance is available in the Office of the Dunellen Municipal Clerk and can be found online on the Borough's website: : [http://www.dunellen-nj.gov/affordable\\_housing/](http://www.dunellen-nj.gov/affordable_housing/)

Below is a Summary of the sections of this ordinance:

**AN ORDINANCE TO ENACT THE BOROUGH'S THIRD ROUND HOUSING PLAN ELEMENT AND FAIR SHARE PLAN CONSISTENT 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).**

**Section 1. Affordable Housing Obligation**

**Section 2. Definitions**

**Section 3. Affordable Housing Programs**

**Section 4. New Construction**

**Section 5. Affirmative Marketing Requirements**

**Section 6. Occupancy Standards**

**Section 7. Control Periods for Restricted Ownership Units and Enforcement Mechanisms**

**Section 8. Price Restrictions for Restricted Ownership Units, Homeowner Association Fees and Resale Prices**

**Section 9. Buyer Income Eligibility**

**Section 10. Limitations on indebtedness secured by ownership unit; subordination**

**Section 11. Control Periods for Restricted Rental Units**

**Section 12. Price Restrictions for Rental Units; Leases**

**Section 13. Tenant Income Eligibility**

**Section 14. Administration**

**Section 15. Enforcement of Affordable Housing Regulations**

**Section 16. Appeals**

**REPEALER**

**SEVERABILITY**

**EFFECTIVE DATE**

This ordinance shall take effect upon passage and publication as provided by law.

Yes: Bachorik, Bayer, Cilento, Lowder and Petracca

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

**BOROUGH OF DUNELLEN  
ORDINANCE 2016-10**

The following Ordinance Amending Ordinance 09-09, Dunellen's Development Fee Ordinance, is being Introduced for first reading on May 9, 2016, at 7:00 pm, in the Borough Council Chambers, 355 North Avenue, Dunellen. Subsequent to this Introduction, it will be forwarded by Resolution to the Dunellen Planning Board for review and response. It will be further presented for Public Hearing and Adoption on May 16, 2016 at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey. Copies of this ordinance will be posted on the Municipal Bulletin Board, and will be available at the Office of the Borough Clerk for any interested members of the public. The full text of this ordinance is available in the Office of the Dunellen Municipal Clerk and can be found online on the Borough's website: : [http://www.dunellen-nj.gov/affordable\\_housing/](http://www.dunellen-nj.gov/affordable_housing/)

Below is a Summary of the sections of this ordinance:

AN ORDINANCE AMENDING ORDINANCE NUMBER 09-09 (“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).

1. Purpose
2. Basic requirements
3. Definitions
4. Residential Development Fees
5. Non-residential Development Fees
6. Collection procedures
7. Affordable Housing trust fund
8. Use of funds
9. Monitoring
10. Ongoing collection of fees

Yes: Bachorik, Bayer, Cilento, Lowder and Petracca

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

**Resolution 05-09-2016: #1**

**BOROUGH COUNCIL OF THE BOROUGH OF DUNELLEN  
RESOLUTION REFERRING ORDINANCE 2016-09 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 2016-09 at a special meeting of the Borough Council on May 9, 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 2016-09 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: Bachorik, Bayer, Cilento, Lowder and Petracca

---

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

**Resolution 05-09-2016: #2**

**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 2016-10 at a special meeting of the Borough Council on May 9, 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 2016-10 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: Bachorik, Bayer, Cilento, Lowder and Petracca

---

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

**Resolution 05-09-2016: #3**

**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**

**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 on Attachment A in accordance with the Region 3 Affirmative Marketing Plan.

- iv. Quarterly informational circulars and applications 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.

Yes: Bachorik, Bayer, Cilento, Lowder and Petracca

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

**05-09-2016: #4**

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

The Borough of Dunellen is authorized to enter into an agreement with the Fair Share Housing Center regarding the provision of affordable housing **In the Matter of the Application of the Borough of Dunellen, County of Middlesex**, Docket No. MID-L-3947-15.

Yes: Bachorik, Bayer, Cilento, Lowder and Petracca

**PUBLIC PORTION**

No one from the public spoke.

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

**05-09-2016: #5**

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

The Special Meeting of the Dunellen Borough Council on May 9, 2016 is adjourned.

Yes: Bachorik, Bayer, Cilento, Lowder and Petracca