

April 3, 2017

Minutes of the public meeting of the Mayor and Council of the Borough of Dunellen held on April 3, 2017.

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

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

Present: Robert Seader, Kenneth Baudendistel, Kevin Bachorik, Kenneth Bayer, Jason Cilento and Jeremy Lowder (who arrived at 7:13 pm; he was not present to vote on some of the Agenda items)

Absent: Joseph Petracca

On the motion of Mr. Bachorik and seconded by Mr. Cilento it was moved to accept the Minutes of March 20, 2017:

Yes: Baudendistel, Bachorik, Bayer and Cilento

At this point, two Proclamations were read:

Proclamation

Supporting the 2017 *U-Drive. U-Text. U-Pay.* Distracted Driving Crackdown April 1 - 21, 2017

Whereas, distracted driving is a serious, life-threatening practice that is preventable; and

Whereas, distracted driving can result in injuries and deaths to all road users (motorists, pedestrians and bicyclists); and

Whereas, distracted driving occurs when drivers divert their attention away from the task of driving to focus on another activity instead; and

Whereas, in 2014 alone distracted driving-related crashes resulted in 3,179 deaths and 431,000 injuries on our nation's roads; and

Whereas, in New Jersey distracted driving was listed as a contributing circumstance in more than 800,000 crashes between 2010-2014; and

Whereas, the State of New Jersey will participate in the nationwide *Distracted Driving 2017 Crackdown* from April 1 - 21, 2017 to raise awareness and decrease driver distraction through a combination of enforcement and education; and

Whereas, the national slogan for the campaign is *UDrive. UText. UPay*; and

Whereas, a reduction in distracted driving in New Jersey will save lives on our roadways.

Therefore, be it resolved that the Governing Body of the Borough of Dunellen, County of Middlesex, State of New Jersey, declares its support for **the *Distracted Driving 2017 Crackdown*** both locally and nationally from April 1 - 21, 2017 and pledges to increase awareness of the dangers of distracted driving.

PROCLAMATION

WHEREAS, Sexual Assault Awareness Month and the observance of “Denim Day” are intended to draw attention to the fact that sexual violence is widespread and has public health implications for every community member of Middlesex County, including lifelong mental health impact; and

WHEREAS, sexual assault, sexual abuse, and sexual harassment impact our community as seen by statistics indicating 1 in 4 girls and 1 in 6 boys are sexually assaulted before age 18 with many more experiencing other types of sexual violence in their adult life; and

WHEREAS, prevention is possible so we must work together to educate our community about what can be done to stop sexual violence while supporting survivors; and

WHEREAS, staff and volunteers of anti-violence and prevention programs in Middlesex County including the Middlesex County Center for Empowerment and Sexual Violence Prevention Coalition encourage every person to speak out when witnessing acts of violence, however small, and to challenge the social norms that continue to perpetuate a culture of violence; and

WHEREAS, the New Jersey Sex Crimes Officers Association and the Middlesex County Sex Crimes Liaison Officers in connection with the Middlesex County Prosecutor’s Office are dedicated to ensuring the effective investigation and prosecution of sex crimes in our community through interagency collaboration and training; and

WHEREAS, with leadership, dedication, and encouragement, there is compelling evidence that we can be successful in reducing sexual violence in Middlesex County through prevention education focused on increasing gender equity and bystander intervention, increased awareness, and holding perpetrators who commit acts of violence responsible for their actions;

and

WHEREAS, throughout the month of April 2017, Middlesex County strongly supports the efforts of national, state, and local partners, and of every citizen to actively engage in public and private efforts, including conversations about what sexual violence is; how to prevent it; how to help survivors connect with services; and how every segment of our society can work together to better address sexual violence

NOW, THEREFORE BE IT PROCLAIMED that I, Robert J. Seader, Mayor of the Borough of Dunellen, along with our Governing Body, do hereby proclaim April 2017 as **SEXUAL ASSAULT AWARENESS MONTH** and that we join anti-sexual violence advocates and support service programs in the belief that all community members must be part of the solution to end sexual violence and encourage the observation of Denim Day on Wednesday, April 26, 2017.

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

ORDINANCE 2017-04

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 April 3, 2017. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Council Chambers, in the Borough on April 17, 2017 at 7 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 A SUPPLEMENTAL APPROPRIATION OF \$2,200,000 FOR THE CONSTRUCTION OF A PARALLEL AUXILIARY CULVERT UNDER THE CONRAIL RAILROAD IN AND BY THE BOROUGH OF DUNELLEN, IN THE COUNTY OF MIDDLESEX, NEW JERSEY, AND AUTHORIZING THE ISSUANCE OF \$2,200,000 BONDS OR NOTES OF THE BOROUGH TO FINANCE PART OF THE COST THEREOF

Purpose: The construction of a parallel auxiliary culvert under the Conrail Railroad, as described in Bond Ordinance #06-12, finally adopted July 5, 2006, including all work and materials necessary therefor and incidental thereto

Appropriation: \$2,200,000
Bonds/Notes Authorized: \$2,200,000
Grant Appropriated: N/A
Section 20 Costs: \$500,000
Useful Life: 40 years

Mayor Seader informed the Council that a meeting was held the prior week: himself, Mr. Robins, Mr. Hodulik, Auditor, Mr. Baudendistel, Mr. Bayer, Mr. Ploskonka and Mr. McClelland from CME, Scott Olsen and Matt Jessup, our bond counsel. Bid returns on this project ranged between 2.6 M and 5.5 M; consequently, an additional bond ordinance is needed, above the 1.2 M already funded. CME will try to obtain the funding through the NJ Infrastructure Trust Fund, which has a lower rate. This project will have a direct impact on the proposed revision to our flood maps. After this project this completed, CME will provide the appropriate data to FEMA for a new map. Though there is no guarantee that FEMA will listen to the science, the new culvert should drop the water by 1 - 2 feet and thus alleviate flooding.

Yes: Baudendistel, Bachorik, Bayer and Cilento

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

ORDINANCE 2017-01

The following ordinance was Introduced for first reading on March 20, 2017, and a second reading and public hearing is now being held at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey on the 3rd day of April, 2017, and copies of this Ordinance have been posted on the public bulletin board prior to the date for second reading and final passage and copies of this Ordinance have been available at the Office of the Borough Clerk for any interested members of the public.

BOROUGH OF DUNELLEN
COUNTY OF MIDDLESEX, NEW JERSEY

CALENDAR YEAR 2017

**ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)**

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 0.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the two succeeding years; and,

WHEREAS, the Mayor and Borough Council of the Borough of Dunellen, in the County of Middlesex, New Jersey, finds it advisable and necessary to increase its CY 2017 budget by up to

3.5 % over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Mayor and Borough Council hereby determines that a 3.0 % increase in the budget for said year, amounting to \$159,684.45 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary.

WHEREAS, the Mayor and Borough Council hereby determines that any amount authorized herein above that is not appropriated as part of the final budget shall be retained as an exception to the final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Mayor and Borough Council of the Borough of Dunellen, in the County of Middlesex, New Jersey, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2017 budget year, the final appropriations of the Borough of Dunellen shall, in accordance with this ordinance and N.J.S.A. 40 A: 4-45.14, be increased by 3.5 %, amounting to \$186,298.53 and that the CY 2017 municipal budget for the Borough of Dunellen be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years: and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

At this point, Mayor Seader opened the meeting for public comment on the ordinance. No one from the public spoke. This portion was closed.

Yes: Baudendistel, Bachorik, Bayer and Cilento

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

ORDINANCE 2017-02

BOROUGH OF DUNELLEN

The following ordinance was Introduced for first reading on March 20, 2017, and a second reading and public hearing is being held at 7:00 p.m. in the Dunellen Borough Municipal Building, 355 North Avenue, Dunellen, New Jersey on the 3rd day of April, 2017, and copies of this Ordinance have been posted on the public bulletin board prior to the date for

second reading and final passage and copies of this Ordinance have been available at the Office of the Borough Clerk for any interested members of the public.

AN ORDINANCE AMENDING AND RESTATING CHAPTER 96, ARTICLE 4, SECTION 95 TITLED “UNDERAGE POSSESSION OR CONSUMPTION OF ALCOHOL ON PRIVATE PROPERTY” OF THE REVISED GENERAL ORDINANCES OF THE BOROUGH OF DUNELLEN PROHIBITING THE POSSESSION OR CONSUMPTION OF ALCOHOL BY THOSE UNDER THE LEGAL AGE

WHEREAS, pursuant to the General Powers conferred upon a Municipality by virtue of state statute, N.J.S.A. 40:48-1.2 et seq., the governing body of the Borough of Dunellen previously enacted Chapter 96, Article IV, Section 25 entitled Underage Possession or consumption of Alcohol on Private Property; and

WHEREAS, the Legislature of the State of New Jersey may elect to not only create, but also from time to time modify the state statutory scheme as it deems fit, and consistent therewith the State Legislature did make certain modifications to N.J.S.A. 40:48-1.2 et seq., which modifications may have an impact on the particular provisions of the corresponding Borough Ordinance 96.25; and

WHEREAS, the Borough Council of the Borough of Dunellen deems it necessary to modify its ordinance to remain consistent with the requirements of N.J.S.A. 40:48-1.2 et seq.; and

WHEREAS, the Borough Council finds that the proposed changes are appropriate to advance the health, safety and welfare of the Borough’s residents and others, and are otherwise necessary to remain consistent with the corresponding state legislation found at N.J.S.A. 40:48-1.2 et seq.

NOW, THEREFORE, BE IT ORDAINED by the Mayor and Council of the Borough of Dunellen, in the County of Middlesex and State of New Jersey, that it hereby amends Chapter 96, Article IV, Section 25 and restates it in its entirety as follows:

Section 96-25 (A). Definitions. The following definitions shall apply:

Guardian means a person who has qualified as a guardian of the underaged person pursuant to testamentary or court appointment.

Relative means an underaged person’s grandparent, aunt or uncle, sibling or any other person related by blood by affinity.

Section 96-25 (B). Prohibition.

It is hereby unlawful for any person under the legal age to, without legal authority, knowingly possess or knowingly consume an alcoholic beverage on private property within the Borough.

Section 96-25 (C). Violations and Penalties.

1. Any person found in violation of this ordinance shall be punished by a fine of \$250. for a first offense and \$350. for any subsequent offense.
2. The court may, in addition to the fine authorized for this offense, suspend or postpone for six months the driving privilege of anyone found in violation of this ordinance. Upon the conviction of any person and the suspension or postponement of that person's driver's license, the court shall forward a report to the N.J. Motor Vehicle Commission stating the first and last day of the suspension or postponement period imposed by the court pursuant to this section.

If a person at the time of the imposition of a sentence is less than 17 years of age, the period of license postponement, including a suspension or postponement of the privilege of operating a motorized bicycle, shall commence on the day the sentence is imposed and shall run for a period of six months after the person reaches the age of 17 years.

If a person at the time of the imposition of a sentence has a valid driver's license issued by this State, the court shall immediately collect the license and forward it to the division along with the report. If for any reason the license cannot be collected, the court shall include in the report the complete name, address, date of birth, eye color, and sex of the person, as well as the first and last date of the license suspension period imposed by the court.

The court shall inform the person orally and in writing that if the person is convicted of operating a motor vehicle during the period of license suspension or postponement, the person shall be subject to the penalties set forth in N.J.S.A. 39:3-40. A person shall be required to acknowledge receipt of the written notice in writing. Failure to receive a written notice or failure to acknowledge in writing the receipt of a written notice shall not be a defense to a subsequent charge of a violation of N.J.S.A./ 39:3-40.

If the person convicted under such an ordinance is not a New Jersey resident, the court shall suspend or postpone, as appropriate, the non-resident driving privilege of the person based on the age of the person and submit to the division the required report. The court shall not collect the license of a non-resident convicted under this section. Upon receipt of a report by the court, the division shall notify the appropriate officials in the licensing jurisdiction of the suspension or postponement.

Section 96-25 (D). Immunity from Prosecution; certain circumstances.

- a. An underage person and one or two other persons shall be immune from prosecution under this ordinance if: (1) one of the underage persons called 9-1-1 and reported that another underage person was in need of medical assistance due to alcohol consumption; (2) the underage person who called 9-1-1 and, if applicable, one or two other persons acting in concert with the underage person who called 9-1-1 provided each of their names to the 9-1-1 operator; (3) the underage person was the first person to make the 9-1-1 report; and (4) the underage person and, if applicable, one or two other persons acting in concert with the underage person who made the 9-1-1 call remained on the scene with the person under the legal age in need of medical

assistance until assistance arrived and cooperated with medical assistance and law enforcement personnel on the scene.

- b. The underage person who received medical assistance as provided in subsection a. of this section also shall be immune from prosecution under this ordinance.

Section 96-25 (E). Exceptions.

1. This section shall not prohibit an underage person from consuming or possessing an alcoholic beverage in connection with a religious observance, ceremony, or rite or consuming or possessing an alcoholic beverage in the presence of and with the permission of a parent, guardian or relative who has attained the legal age to purchase and consume alcoholic beverages.

2. This section shall not prohibit the possession of alcoholic beverages by any person under the legal age while such person is lawfully engaged in the performance of employment by a person who is licensed under Title 33 of the New Jersey Revised Statutes, or while actively engaged in the preparation of food while enrolled in a culinary arts or hotel management program at a county vocational school or post-secondary educational institution; however this section shall not be construed to preclude the imposition of a penalty under this section, N.J.S.A. 33:1-81, or under any other section of existing ordinance or law against a person who is convicted of unlawful alcoholic beverage activity on or at premises licensed for the sale of alcoholic beverages.

At this point, Mayor Seader opened the meeting for public comment on the ordinance. Diana Starace (Co-Chair of the Dunellen Municipal Alliance) thanked the Council for adopting this ordinance and informed the Council that the Alliance would have a public meeting where they will introduce the ordinance to the public. This portion was then closed.

Yes: Baudendistel, Bachorik, Bayer and Cilento

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

04-03-2017: #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 and Cilento

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

04-03-2017: #2

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

The following FAX Machines and Printer are to be leased through Wells Fargo for a combined price of \$144.00 per month:

Clerk's Office, Account # 7-01-20-120-000-205 (\$37.33 per month) (FAX Machine)
Police Department, Account #7-01-25-240-000-205 (\$69.33 per month) (Printer)
Construction Office, Account #7-01-22-195-000-205 (\$37.34 per month) (FAX Machine)

With a total amount of \$1,728.00 per year.

The initial contract is for the period May 1, 2015 through December 31, 2015.

The term of this resolution is for the period April 1, 2017 through March 31, 2018.

A continuation of the contract is subject to the availability of funds in future calendar years.

Yes: Baudendistel, Bachorik, Bayer and Cilento

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

04-03-2017: #3

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

Boy Scout Troop 29 is approved to hold a town wide garage sale on June 3, 2017 (rain date June 10, 2017), from 8:00 am to 3 pm. All fees for this event are waived.

Yes: Baudendistel, Bachorik, Bayer and Cilento

Reports:

Mr. Baudendistel: 1) reviewed the documents Mr. Robins had provided regarding the Off-Duty ordinance, and he met with the Chief and Lieutenant. He presented recommended changes regarding escrow requirements and accounts payable time-lines. Mr. Bruder noted that he is researching the legal impact of the Department of Community affairs advisement as set forth in a Local Finance Notice that deals, in part, with escrow requirements; 2) new police cars are in and getting their lights; 3) the PBA contract is still being worked on.

Mr. Bayer: 1) DPW is working on the parks, getting ready for baseball.

Mr. Bachorik: no report

Mr. Cilento: 1) Recreation Department—This Saturday, April 7th, is Opening Day for baseball. This will be Clem Santy's last one; 2) this year we have 136 kids enrolled baseball, t-ball to

Little League (up from 101 from last year); 3) two up from last year in Track in Field. Total number of kids in Spring Sports is 214; Easter Egg Hunt is Sunday, April 9th

Mr. Lowder: no report

Mayor Seader: 1) asked Mr. Bayer about the acoustic tiles for the Senior Center. Mr. Bayer is working with a contractor; 2) reported on the two so far meetings with potential Revaluation Companies. They are all telling us that the flood maps are relevant; 3) Clem Santy had a 90th Birthday Party. It was well attended and St. John's was a very good location.

PUBLIC PORTION

No one from the public spoke.

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

04-03-2017: #4

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

The Dunellen Borough Council Meeting of April 3, 2017 is adjourned.

Yes: Baudendistel, Bachorik, Bayer, Cilento and Lowder
