

October 14, 2008

MINUTES of a Regular meeting of the Mayor and Board of Council of the Town of Secaucus, County of Hudson, State of New Jersey held on the 14th day of October, 2008 at 7:00 P.M. in the Council Chamber of the Municipal Government Center, Secaucus, N.J.

Present: Mayor Dennis Elwell  
Councilmembers: John Bueckner  
Richard Kane  
Michael Gonnelli  
Gary Jeffas  
John Shinnick  
John Reilly

**Pledge of Allegiance**

The following statement was read by Town Clerk Michael Marra:

"Adequate notice for this meeting, as required by the Open Public Meetings Act, has been provided by the filing of the notice of Meetings with the Municipal Clerk, the posting of said notice on the official bulletin board in the Municipal Building, and the delivery of same to the Secaucus Home News on January 4, 2008."

This body wishes to advise you that in accordance with N.J.A.C. 5:23-11.1, et seq. of the Indoor Air Quality Standards and Procedures for Buildings Occupied by Public Employees, smoking anywhere in this public building is prohibited by law.

In the event of a fire or other emergency, please note that there are two exits in the rear of the Council Chamber which may be used."

Town Clerk, Michael Marra swore in the following firemen:

Gary Rabbitt  
Riccardo Pachon  
Greg Lentini, Jr.  
Robert Zemak, Jr.  
Steven Miranda  
Anthony Burgos

Mayor Elwell presented forty members of the Secaucus Marching Band with certificates in the recognition of their participation in the Fourth of July parade in Washington D.C. He explained his experience while participating along with the parade and how impressed he was with their performance. He also presented them with a check for \$500.00.

The following ordinance was read for public hearing: No. 2008-27

**AN ORDINANCE AMENDING SECTION 127-58B OF THE CODE OF THE TOWN OF SECAUCUS ENTITLED "DESIGNATION OF LOCATIONS AT OR NEAR PRIVATE RESIDENCES"**

**SECTION 1**

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Town of Secaucus that Section 127-57B - "Designation of Locations at or Near Private Residences" shall be amended by deleting the following location:

<u>NAME OF STREET</u>	<u>SIDE</u>	<u>LOCATION</u>
Koelle Boulevard	East	On the east of Koelle Boulevard beginning at a point 88 feet north of Huber and Koelle continuing for a distance of 22 feet directly in front of 1022 Koelle Boulevard.

BE IT FURTHER ORDAINED, by the Mayor and Council of the Town of Secaucus that Section 127-57B - "Designation of Locations at or Near Private Residences" shall be amended by adding the following locations:

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<u>NAME OF STREET</u>	<u>SIDE</u>	<u>LOCATION</u>
Centre Avenue	South	On the south side of Centre Avenue directly in front of 371 Centre Avenue for a distance of 22 feet.
Golden Avenue	North	From the southwest corner of Centre Avenue and Golden Avenue going south for 132 feet start, 154 feet to end of space.

SECTION 2

That the parking space designated for 371 Centre Avenue adopted by Ordinance is to be personalized for Placard No.P839022.

That the parking space designated for 735 Golden Avenue adopted by Ordinance is to be personalized for Placard No. P618016.

If the license plate (s) for the person (s) utilizing the parking space (s) at the above listed address (es) changes, then the parking space designation (s) shall be changed to the new plate with proof from the resident that it is for the same person that the person is still entitled to handicapped parking.

SECTION 3

SEVERABILITY

BE IT FURTHER ORDAINED, that the provisions of this ordinance are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of the regulation or their application to other persons or circumstances.

It is hereby declared to be the legislative intent that this ordinance would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included herein, and if such persons or circumstances, to which this ordinance or part thereof is held inapplicable, had been specifically exempted therefrom.

SECTION 4

REPEALER

BE IT FURTHER ORDAINED, that all other ordinances or parts of ordinances inconsistent with this ordinance are hereby repealed to the extent of such inconsistency.

SECTION 5

EFFECTIVE DATE

BE IT FURTHER ORDAINED, that this ordinance shall take effect upon passage and publication as provided by law.

Mayor Elwell asked if anyone wished to be heard regarding the foregoing proposed ordinance. There being no one requesting the floor, Councilman Bueckner moved that the public hearing be closed, seconded by Councilman Kane.

AYES: Bueckner, Kane, Gonnelli, Jeffas, Shinnick, Reilly, Elwell  
NAYS: None  
ABSENT: None

Motion carried.

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Councilman Gonnelli moved that the foregoing ordinance be finally adopted, seconded by Councilman Kane.

AYES: Bueckner, Kane, Gonnelli, Jeffas, Shinnick, Reilly, Elwell  
NAYS: None  
ABSENT: None

Motion carried.

CONSENT AGENDA-RESOLUTIONS

All matters listed under Consent Agenda are considered to be routine by the Mayor and Council and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and will be considered separately.

The following resolution was read: No. 2008-129

TOWN OF SECAUCUS, COUNTY OF HUDSON  
RESOLUTION

BE IT RESOLVED, by the Mayor and Council of the Town of Secaucus that the Town Clerk is hereby authorized to advertise for and receive bids for Seaview Drive Roadway Improvements.

The following resolution was read: No. 2008-130

RESOLUTION REQUESTING APPLICABILITY OF SUBTITLE 1, TITLE 39 OF THE  
REVISED STATUTES OF THE STATE OF NEW JERSEY TO CERTAIN PRIVATE ROADS  
OWNED BY HARTZ MOUNTAIN INDUSTRIES, INC.

WHEREAS, Hartz Mountain Industries, Inc. ("Hartz") owns certain private roads located within the Town of Secaucus known as Highway Commercial West and Harmon Meadow, more particularly set forth on Exhibit "A", Drawings C-1 through C-16, entitled Title 39, Secaucus, by MacDel Engineering, attached hereto and hereinafter designated as "Roads"; and

WHEREAS, pursuant to N.J.S.A. 39:5A-1, Hartz formally requested of the Town Clerk that the Records be made subject to the applicability of Title 39, Subtitle 1 of the Revised Statutes of New Jersey; and

WHEREAS, the Mayor and Council of the Town of Secaucus has determined that it would be in the best interest of both the residents of Secaucus and the users of the Roads that the Roads be subjected to the provisions of the state motor vehicle laws.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Town of Secaucus that:

1. The Town hereby expresses its desire that the Roads be subject to Title 39, Subtitle 1 of the Revised Statute of New Jersey;

2. A certified copy of this Resolution, including Exhibit "A" attached hereto be forwarded to the Commissioner of Transportation of the State of New Jersey care of:

Peter A. Riscica  
Supervising Highway Engineer  
Traffic Engineer & Investigations  
State of New Jersey  
Department of Transportation  
PO Box 600  
Trenton, NJ 08625-0600

3. The name and address of the owners of the Roads is:

Hartz Mountain Industries  
400 Plaza Drive  
PO Box 1515  
Secaucus, NJ 07094-1515

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The following resolution was read:

No. 2008-131

**RESOLUTION AUTHORIZING EXECUTION OF RIGHT OF WAY AGREEMENT BETWEEN THE TOWN OF SECAUCUS AND FIBER TECHNOLOGIES NETWORKS, LLC TO PERMIT THE INSTALLATION, USE AND MAINTENANCE OF TELECOMMUNICATIONS FACILITIES WITHIN PUBLIC RIGHTS-OF-WAY FOR PURPOSES OF PROVIDING TELECOMMUNICATIONS SERVICES**

WHEREAS, Fiber Technologies Networks, LLC ("Fibertech"), a New York limited liability company, with offices located at 300 Meridian Centre, Rochester, New York, is authorized to provide local exchange and interexchange telecommunications services throughout the State of New Jersey pursuant to an Order issued by the New Jersey Board of Public Utilities ("NJBP") in Docket No. TE050870683 dated September 14, 2005; and

WHEREAS, Fibertech has requested the consent of the Town of Secaucus permission of occupy public rights-of-way within the Town of Secaucus for the purpose of constructing, installing, operating, repairing, maintained and replacing a telecommunications system; and

WHEREAS, pursuant to N.J.S.A. 48:17-11, the installation of telecommunication equipment in the thoroughfares and public rights of way in the Town of Secaucus requires the authorization and approval of the governing body of the Town of Secaucus; and

WHEREAS, it is deemed to be in the best interest of the Town of Secaucus and it's citizenry, particularly including the commercial and industrial citizens, for the Town of Secaucus to grant municipal consent to Fibertech to occupy the public rights-of-way within the Town of Secaucus for this purpose; and

WHEREAS, pursuant to N.J.S.A. 48:17-11, the governing body of the municipality where such cables are to be installed may adopt such policies and other regulations and restrictions regarding the use of streets, roads or highways by the company causing such installation; and

WHEREAS, the granting of such consent is and shall be condition upon Fibertech's continued compliance with all existing and future ordinances of the Town of Secaucus and its entering into a written agreement with the Town of Secaucus, to inter alia, indemnify and hold the Town of Secaucus harmless as to all claims and liability resulting from any injury or damage which may arise from the construction, installation, operation, repair, maintenance, disconnect, replacement and removal of its telecommunications system within certain public rights-of-way and provide liability insurance coverage for personal injury and property damage.

WHEREAS, Fibertech has provided the documentation necessary for its request, including a \$2,000.00 fee, payable to the Town of Secaucus.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE TOWN OF SECAUCUS:

1. That non-exclusive consent is hereby granted to Fibertech to occupy the public right-of-way within the Town of Secaucus for the purpose of construction, installation, operation, repair, maintenance and replacement of a telecommunications system for a period of twenty (20) years.
2. The within granted permission is conditioned upon Fibertech entering into the attached Agreement with the Town of Secaucus and providing liability and property damage insurance coverage.
3. The within granted permission is subject to all rules, regulations, ordinances, permit requirement and restrictions.
4. The Mayor and Municipal Clerk are hereby authorized to execute the attached Agreement.
5. The copy of this Resolution and the executed Agreement shall be filed in the Office of the Municipal Clerk.

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The following resolution was read:

No. 2008-132

**TOWN OF SECAUCUS, COUNTY OF HUDSON  
RESOLUTION**

BE IT RESOLVED, by the Mayor and Council of the Town of Secaucus that Wayne Flaig is hereby appointed as a Mechanic for the Secaucus Department of Public Works, effective October 27, 2008 at an annual salary of \$50,000.00.

The following resolution was read:

No. 2008-133

**RESOLUTION AUTHORIZING THE SETTLEMENT OF THE TAX APPEAL REGARDING LOT  
14 IN BLOCK 19 AS SET FORTH ON THE OFFICIAL TAX MAPS OF THE TOWN OF  
SECAUCUS OWNED BY SAMSUNG AMERICA**

WHEREAS, Samsung America, the owner of the property located at 40 Seaview Drive, otherwise designed as Lot 14 in Block 19 on the official tax maps of the Town of Secaucus, has taken an appeal to the Tax Court of the State of New Jersey from the assessed value of said property for tax years 2007 and 2008; and

WHEREAS, the taxpayers has agreed to withdraw its appeal filed from the assessed value of said property for tax year 2007; and

WHEREAS, the parties have agreed to a reduction in the property's assessment from a total of \$8,059,800 to a total of \$6,987,600 for tax year 2008; and

WHEREAS, the property owner has further agreed to waive statutory pre-judgement interest on the tax refund; and

WHEREAS, the Tax Assessor has agreed to the reduction in value on the property for the 2008 tax year in accordance with the settlement; and

WHEREAS, the settlement results in an approximate aggregate total tax refund for tax year 2008 in the amount of \$32,176.72 (based on the 2007 tax rate); and

WHEREAS, the Town Council of the Town of Secaucus has determined that it is in the best interest of the Town to adjust the assessment on the aforesaid property for the tax year 2008 in accordance with the settlement.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Secaucus in the County of Hudson and State of New Jersey, as follows:

1. The tax assessment on the property located at 40 Seaview Drive and otherwise designated as Lot 14 in Block 19 on the official tax maps of the Town of Secaucus shall be reduced from a total of \$8,059,800 to a total of \$6,987,600 for tax year 2008.
2. The Town Tax Collector is hereby authorized to pay the tax refund attribute to the reduction in the assessment for the 2008 tax year upon receipt of the Tax Court Judgement.
3. This resolution shall take effect immediately or as otherwise provided by law.

The following resolution was read:

No. 2008-134

**RESOLUTION AUTHORIZING SERVICE AGREEMENT WITH AXA EQUITABLE LIFE  
INSURANCE COMPANY FOR NEW JERSEY DIVISION OF LOCAL GOVERNMENT SERVICES  
APPROVED DEFERRED COMPENSATION PLAN**

WHEREAS, in order to attract and retain qualified employees, there exists a need to adopt and implement a Deferred Compensation Plan for the employees of the Town of Secaucus, which will provide employees the opportunity to enhance their financial security at retirement through savings of compensation on a deferred basis as provided by Section 457 of the Internal Revenue Code of 1986, as amended ("Code"); and

WHEREAS, there is no direct financial cost to the Town of Secaucus to adopt and implement both a Deferred Compensation Plan and Service

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Agreement; and

WHEREAS, the Town of Secaucus issued a September 9, 2008 Request for Proposals, returnable on October 9, 2008 for the administration of the investment of funds under a Deferred Compensation Plan including providing Prototypical Plans and Service Agreement that meet the requirements of the Municipal, County and Authority Deferred Compensation Programs Rule N.J.A.C. 5:37; and

WHEREAS, AXA Equitable and Park Financial Group requested copies of the above referenced Request for Proposals; and

WHEREAS, AXA Equitable is the only qualified proposer with a Plan as approved by the New Jersey Division of Local Government Services; and

WHEREAS, the Town Administrator and Town Attorney reviewed the proposals and met with representatives of the responding contractor of deferred compensation services; and

WHEREAS, it was determined the AXA Equitable has the ability to: (1) maintain complete records of accounts; (2) manage accounts with absolute fidelity; (3) provide advice concerning various categories of investments; and (4) provide continuing consultation to participants.

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and Council of the Town of Secaucus that:

(a) effective as of the date of this resolution, the Deferred Compensation Plan provided by AXA Equitable and assigned the plan identifier: 66 PD Equitable 05317 by the New Jersey Division of Local Government Services, is hereby adopted and signed by the Town of Secaucus.

It is hereby acknowledged that the said Deferred Compensation Plan is substantially similar to the one on which a favorable Private Letter Ruling has been previously obtained from the federal Internal Revenue Service except for provisions added by reasons of the Small Business Job Protection Act of 1996 (United States Public Law No. 104-188) the Taxpayers Relief Act of 2001 (United States Public Law No. 105-34), and the Economic Growth and Tax Relief Reconciliation Act of 2001 (United States Public Law No. 107-16), and all such provisions are stated in the plan in terms substantially similar to the text of those provisions in the Code Section 457 including pertinent applicable Treasury Regulations. The use of the Ruling is for the guidance only and acknowledges that for Internal Revenue Services purposes, the Ruling of another employer is not to be considered precedent.

(b) The Mayor and Town Clerk are authorized to execute the Service Agreement (bearing the identified: 66-SA-Equitable-053107 assigned by the New Jersey Division of Local Government) with AXA Equitable for the provision of administrative and investment services. There has been no collusion, or evidence or appearance of collusion, between any local official and a representative of AXA Equitable in the selection of AXA Equitable as contractor for the administration of the Service Agreement pursuant to N.J.A.C. Section 5:37-5.7.

(c) The Town Administrator is hereby designated as Local Plan Administrator for the administration of the Deferred Compensation Plan.

A certified copy of this resolution and all necessary required documents shall be submitted to the Director of the Division of Local Government Services within the State Department of Community Affairs for approval.

Councilman Reilly moved to approve the resolutions on the Consent Agenda, seconded by Councilman Kane.

AYES: Bueckner, Kane, Gonnelli, Jeffas, Shinnick, Reilly, Elwell

NAYS: None

ABSENT: None

Motion carried.



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BINGO/RAFFLE APPLICATIONS

Councilman Bueckner moved that the following application for Raffle/Bingo License be approved, seconded by Councilman Jeffas.

R-1069 Secaucus Public Education Foundation Off Premise 50/50

AYES: Bueckner, Kane, Gonnelli, Jeffas, Shinnick, Reilly, Elwell

NAYS: None

ABSENT: None

Motion carried.

COMMUNICATIONS REQUIRING ACTION BY MAYOR AND COUNCIL

The following correspondence was received.

September 26, 2008

Honorable Mayor and Council Members,

Please be advised that at the August 7, 2008 meeting of Rescue1/Engine 2, Riccardo Pachon was formally accepted as a member of our company.

Additionally, Steve Miranda and Anthony Burgos were accepted as members at the September 4, 2008 meeting.

Sincerely

Captain Richard Johnson

Councilman Bueckner moved to approve new memberships of Riccardo Pachon, Steve Miranda and Anthony Burgous as members of Rescue No. 1, seconded by Councilman Reilly.

AYES: Bueckner, Kane, Jeffas, Shinnick, Reilly, Elwell

NAYS: None

ABSTAIN: Gonnelli

ABSENT: None

Motion carried.

COMMITTEE REPORTS

Councilman Gonnelli asked that the Flood Committee address Gillis Place, Garry Terrace and the Farm Road project.

Mayor Elwell said that they are waiting for the Superintendent of Streets to return from vacation.

UNFINISHED BUSINESS

Councilman Gonnelli spoke about the speed bump on the corner of Koelle Blvd. and Huber Street and that he has calls from residents on Gillis Place complaining that people are trying to avoid the speed bump and cutting onto Gillis Place. He asked that it be moved to Gillis Place from its current location.

Mayor Elwell stated that it was placed there upon the request of the residents in that neighborhood. He said that he would look into getting another speed bump place at Gillis Place. He explained about getting pricing for the asphalt.

Councilman Bueckner stated that he spoke with residents there and the problem with young people who are racing in the area. He stated the concern is for approximately 14 elementary school children in that area.

Councilman Gonnelli stated that the DPW did place "Slow Children" signs in the area as well as painted signs.

Mayor Elwell stated that he would ask the Police Chief to place patrol there to issue warnings.

Councilman Gonnelli thanked the Mayor for the work done on Franklin Street.

Mayor Elwell stated that there was some confusion with striping on Acorn Road.

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Councilman Gonnelli said they are requesting stripes. He also thanked Mr. Drumeler for the bus stop survey results.

Mayor Elwell stated that on Meadowlands Parkway, the bus stop company has been asked to create a double bus stop at the intersection of Route 3 near the hotel as well as on North End Drive and Paterson Plank Road. He said there will be the need for more in the future. He said that the developer is addressing the curb problem on Village Place and North End Drive.

Councilman Bueckner stated that the Town has received State funds to do road work, and asked if it would be done this fall.

Mayor Elwell stated that PMK Group is drawing up plans. He explained some of the problems with the weather, etc.

#### NEW BUSINESS

Councilman Reilly spoke about alternative energy process that is being used at the new Xchange Junction development. He asked that the Council look into an ordinance to be put in place if a developer came into Town and wanted to use Wind Energy so that the Town would have input into how is done.

Mayor Elwell explained that there is a committee with the NJMC looking into alternative power sources. He said that he does not think that anything will be approved in this area without enviromental questions and research.

Mayor Elwell stated the 500 feet of sidewalk has been completed on Meadowlands Parkway done in house. He noted that there is meeting scheduled with the NJMC regarding conditions that the Town of Secaucus has with the NJMC. He said that it is very positive. He said that the Town also received a Downtown Redevelopment Grant for \$25,000 toward the Secaucus Concert season. He said that he asked the Recreation Director to look into a Street Fair for next year.

#### REMARKS OF CITIZENS

Sam Maffei  
Arthur Young  
Thomas Troyer  
Barbara Napierski  
John Markovich  
Peter Weiner

Councilman Reilly moved to adjourn the meeting at 8:00 pm, seconded by Councilman Bueckner.

AYES: Bueckner, Kane, Gonnelli, Jeffas, Shinnick, Reilly, Elwell  
NAYS: None  
ABSENT: None

Motion carried.

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Michael Marra, Town Clerk

