

February 12, 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 8th day of February 12, 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  
Gary Jeffas  
John Shinnick  
John Reilly

Absent: Michael Gonnelli

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."

The following ordinance was read for public hearing: No. 2008-1

**AN ORDINANCE AMENDING THE SALARY ORDINANCE OF  
THE TOWN OF SECAUCUS, NEW JERSEY**

BE IT ORDAINED, by the Mayor and Council of the Town of the Secaucus, County of Hudson, State of New Jersey, as follows:

**Section 1. POLICE DEPARTMENT**

A. The following full-time employees shall be compensated for their services with the following annual wages:

**Salary Guide PBA**

	2008	2009	2010	2011
<b>Patrolman</b>				
Date of Hire	36,000	37,368	38,788	40,223
2 <sup>nd</sup> Year	44,381	46,067	47,818	49,587
3 <sup>rd</sup> Year	52,550	54,547	56,619	58,714
4 <sup>th</sup> Year	60,720	63,027	65,422	67,843
5 <sup>th</sup> Year	68,891	71,509	74,226	76,973
6 <sup>th</sup> Year	77,061	79,989	86,029	86,101
7 <sup>th</sup> Year	85,363	88,607	91,974	95,377
8 <sup>th</sup> Year	93,404	96,954	100,638	104,362
for officers hired after 12/31/07				
2 <sup>nd</sup> Year	52,550	54,547	56,619	58,714
3 <sup>rd</sup> Year	60,720	63,027	65,422	67,843
4 <sup>th</sup> Year	68,891	71,509	74,226	76,973
5 <sup>th</sup> Year	77,061	79,989	83,029	86,101
6 <sup>th</sup> Year	85,363	88,607	91,974	95,377
7 <sup>th</sup> Year	93,404	96,954	100,638	104,362
for officers hired after 12/31/04				
2 <sup>nd</sup> Anniver.	68,891	71,509	74,226	76,973
3 <sup>rd</sup> Anniver.	77,061	79,989	91,974	95,377
4 <sup>th</sup> Anniver.	85,363	88,607	91,974	95,377
5 <sup>th</sup> Anniver.	93,404	96,954	100,638	104,362
for officers hired before 1/1/05				

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Sergeants	106,897	110,959	115,176	119,207
Lieutenants	117,484	121,948	126,582	131,013
Captains	128,080	132,947	137,999	142,829

B. An employment contract has been entered into between the Town of Secaucus and the Secaucus patrolman's Benevolent Association and Superior Officers Association Local No. 84 establishing salaries, certain working conditions, and other fringe benefits for Police Officers in the Secaucus Police Department. Said provisions, heretofore approved by the Governing Body, are incorporated herein as if the same were set forth in their entirety.

Section 2. All salaries, wages and other compensation as are in this ordinance shall be effective back to January 1, 2008 and January 1<sup>st</sup> of each of the following years.

Section 3. This ordinance shall take effect upon final adoption and publication thereof as required by law, provided, however that the provisions of this ordinance apply to managerial, executive, and confidential employees shall become effective twenty (20) days after publication hereof.

Section 4. All ordinances or parts of ordinances inconsistent with or in conflict with this ordinance are hereby repealed as to said inconsistencies and conflicts.

Mayor Elwell asked if anyone wished to be heard regarding the foregoing ordinance. There being no one requesting the floor, Councilman Shinnick 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.

Councilman Reilly 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.

The following ordinance was read for public hearing: No. 2008-2

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 127-58B - "DESIGNATION OF LOCATIONS AT OR NEAR PRIVATE RESIDENCES" shall be amended by adding the following location:

<u>NAME OF STREET</u>	<u>SIDE</u>	<u>LOCATION</u>
Seventh Street	East	On the east side of Seventh Street, beginning at a point 22 feet north of the northeast corner of Front Street and Seventh Street and continuing for a distance of 22 feet directly in front of 812 ½ Seventh Street.

That the parking space designated for 812 ½ Seventh Street adopted by Ordinance is to be personalized for wheelchair Symbol Placard No. P520838.

If the license plate for the person utilizing the parking space at the above listed address is changed, then the parking space designation 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 2

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 3

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 consistency.

SECTION 4

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 ordinance. There being no one requesting the floor, Councilman Shinnick 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.

Councilman Reilly 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.

The following ordinance was read for public hearing: No. 2008-3

ORDINANCE AMENDING CHAPTER 67 ANIMAL CONTROL AND PROTECTION

WHEREAS, the Mayor and Council acknowledge that expenditures for animal control and protection have far exceeded the revenue generated from both license fees and grants; and

WHEREAS, it is necessary to revise existing ordinances of the Town of Secaucus to be consistent with existing state statutes mandating a higher degree of animal control and protection, as already enacted by the Mayor and Council, and a concomitant increase in allowable fees, to be enacted hereby.

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

SECTION 1. Chapter 67 (A)(9) of the Code of the Town of Secaucus is hereby amended as follows:

67(A)(9) Dog and cat license - Fees

License for dogs and cats shall be renewed annually by the owner. All licenses nontransferable. License fees are as follows:

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- A. Neutered: \$12.00 per year, inclusive of State Fees
- B. Intact: \$15.00 per year, inclusive of State Fees.
- C. Replacement tags: \$5.00.

SECTION 2. If any section, paragraph, subsection, clause or provision of this Ordinance shall be declared invalid by a court of competent jurisdiction, that decision shall not effect the validity of this Ordinance as a whole or any part thereof.

SECTION 3. All ordinances or part of ordinances of the Town of Secaucus heretofore adopted that are inconsistent with any of the terms and provisions of this ordinance are hereby repealed to the extent of the inconsistency.

SECTION 4. This ordinance shall take effect upon passage and publication as required by law.

Mayor Elwell asked if anyone wished to be heard regarding the foregoing ordinance.

Mayor Elwell called on Carole Acropolis.

Mrs. Acropolis try to speak from the rear of the Chamber and asked if there will be an increase of costs.

Mayor Elwell gave the new costs.

There being no one else requesting the floor, Councilman Kane moved that the public hearing be closed, seconded by Councilman Bueckner.

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

Councilman Shinnick moved that the foregoing ordinance be finally adopted, seconded by Councilman Bueckner.

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

The following ordinance was read for public hearing: No. 2008-4

**AN ORDINANCE TO RECOGNIZE MUTUAL AID AGREEMENT FOR FIRE SERVICES IN  
THE COUNTIES OF HUDSON AND BERGEN AND TO EMPOWER THE FIRE  
CHIEF/INCIDENT  
COMMANDER TO MAKE EMERGENT DETERMINATIONS AS TO REQUESTING MUTUAL AID**

WHEREAS, N.J.S.A. 40A:14-156.1 provides that the governing body of two or more municipalities may by reciprocals ordinance enter into agreements with each other for mutual fire aid in case of emergency; and

WHEREAS, the participating Hudson County municipalities of Bayonne, East Newark, Guttenberg, Harrison, Hoboken, Jersey City, Kearny, North Bergen, Secaucus, Union City, Weehawken and West New York together and South Bergen Fire Chief's Association Mutual Aid participating municipalities of Carlstadt, East Rutherford, Elmwood Park, Garfield, Hasbrouck Heights, Little Ferry, Lodi, Lyndhurst, Maywood, Moonachie, North Arlington, Rochelle Park, Rutherford, Saddle Brook, Wallington and Wood Ridge (collectively, "Participating Municipalities") recognize the value of cooperative action during certain fire service emergencies, and the mutual benefit of pooling available municipal resources during certain fire service emergency incidents and, therefore, they desire to outline a mutual aid assistance program; and

WHEREAS, the Participating Municipalities recognize that prompt, efficient and orderly deployment of fire service emergency response personnel, equipment and apparatus across county and municipal boundaries may on occasion be mutually beneficial to control and contain fire service emergency incidents; and

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WHEREAS, the participating Municipalities recognize that mutual aid response to one community will likely reduce the number of fire service emergency personnel and units needed throughout the county and in each participating municipality and that long duration and large magnitude fires and other fire service emergency incidents may reduce the area's remaining fire protection to unacceptable levels; and

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Town of Secaucus as follows:

1. The Secaucus Fire Chief/ Incident Commander is hereby authorized to request mutual aids as such Chief/Commander determines necessary and appropriate from among the Participating Municipalities.
2. The Secaucus Fire Chief/Incident Commander is also hereby authorized to request any additional mutual aid from political subdivisions, agencies, authorities or entities other than Participating Municipalities as such Chief/Commander determines necessary and appropriated under emergent circumstances.
3. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.
4. If any section, paragraph, subdivision, clause or provisions of this ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision so adjudged, and the remained of this ordinance shall be deemed to be valid and effective.
5. This ordinance shall take effect upon final passage and publication pursuant to law.

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

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

Councilman Bueckner moved that the foregoing ordinance be finally adopted, seconded by Councilman Reilly.

AYES: Bueckner, Kane, Jeffas, Shinnick, Reilly, Elwell  
NAYS: None  
ABSTAIN: Gonnelli  
ABSENT: None Motion carried.

The following ordinance was read for public hearing: No. 2008-5

**TOWN OF SECAUCUS  
ORDINANCE TO AUTHORIZE COMPLIANCE WITH REQUIREMENTS OF THE HUDSON  
COUNTY OPEN SPACE, RECREATION, AND HISTORIC PRESERVATION TRUST FUND TO  
OBTAIN \$3,100,000.00 GRANT FOR ACQUISITION OF OAK LAND AND FARM ROAD,  
SECAUCUS WATERFRONT PROPERTIES**

WHEREAS, the Town of Secaucus is desirous of acquiring, preserving and maintaining open space within the Town of Secaucus and for increasing the availability of recreation resources through open space acquisition and conservation, and development of waterfront recreation resources; and

WHEREAS, the Town of Secaucus is presently engaged in negotiations to acquire parcels of open space within the Town of Secaucus, consisting of: (1) approximately 1.86 acres located at Oak Lane and identified as Block 194, and Lot(s) 14, 15, 15.01, 16, 16.01 17, 17.01, 18, 18.01 collectively known as Secaucus Waterfront Property Acquisition at Oak Lane and (2) approximately 1.1 acres located at Farm Road and identified as Block 203, Lots 41 and 42, collectively known as Secaucus Waterfront Property at Farm Road; and hereinafter both referred to as "Property" for the above purposes; and

WHEREAS, the County has established the Hudson County Open Space, Recreation, and Historic Preservation Trust Fund pursuant to Freeholder

Resolution No. 628-12-2003 that was adopted on December 23, 2003, to assist Municipalities and qualified charitable conservancies in acquiring, preserving and maintaining open space, recreation, farmland & historic

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preservation; and

WHEREAS, the County has agreed to grant the sum of \$3,100,000.00 to the Town of Secaucus to assist the Town of Secaucus with the open space preservation initiative, pursuant to Freeholder Resolution No. 326-8-2007 adopted on August 9, 2007; and

WHEREAS, the County and the Town of Secaucus desire that if acquired, the open space preservation property will be restricted in its use of Grant, Assignment and Deed of Conservation Easement Agreements.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Town of Secaucus as follows:

1. The Mayor and Town Clerk are authorized to execute the following agreement to comply with the requirements of the Hudson County Open Space and Historic Preservation Trust Fund:

A. Grant Agreement of the forms attached hereto to Exhibit "A";

B. Assignment Agreements of the forms attached here to Exhibit "B"; and

C. Deeds of Conservation Easement of the forms attached hereto as Exhibit "C".

2. The Mayor, Town Clerk, Town Administrator, Chief Financial Officer and Town Attorney are authorized to take such other actions as may be necessary and proper to obtain the \$3,100,000.00 grant for acquisition of the Oak Lane property known as Block 194, Lot(s) 14, 15, 15.01, 16, 16.01 17, 17.01, 18, 18.01 and the Farm Road property known as Block 203, Lots 41 and 42.

3. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

4. If any section, paragraph, subdivision, clause or provisions of this ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this ordinance shall be deemed to be valid and effective.

5. This ordinance shall take effect upon final passage and publication pursuant to law.

Mayor Elwell asked if anyone wished to be heard regarding the foregoing ordinance.

Mayor Elwell called on Frank Mac Cormack.

Mr. Mac Cormack asked if that is the "Pini" property?

Mayor Elwell explained that one parcel is the Pini property and the other parcel is the old Jersey Backing Plant which is now called Fashions by Estelle.

Mr. Mac Cormack asked if the Town needed this make the walkway complete?

Mayor Elwell said yes.

Mr. Mac Cormack asked where the \$3 million is going?

Mayor Elwell said that it is a grant for \$3 million based on the first appraisal that was received and there is second appraisal being done based on the requirements of Green Acres.

Mr. Mac Cormack said that it seems to be exceedingly high.

Town Attorney, Frank Leanza stated that these appraisals were done some time ago which was when the Town applied for the grant. He said that in the ensuing periods, there has been changes in the NJMC regulations. He

explained that the updated appraisal may be much less and that be the case, that is what the Town will pay for the property.

Mr. Mac Cormack asked if there is house on the Pini property?

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Mayor Elwell said that it does not include his home.

Mr. MacCormack said that he thinks it is too high and asked if the Town is borrowing the money?

Mayor Elwell explained that it is a grant from the Open Space Trust Fund.

Mayor Elwell called on Sam Maffei.

Mr. Maffei asked if the area is in a flood zone and questioned the Affordable Housing issue?

Mayor Elwell said that it appears that most of it is in a flood zone and the Town is dealing with that. He explained about the Town plan since 2000 for the Riverwalk.

Mr. Maffei said that any future building in a flood zone.

There being no one else requesting the floor, Councilman Gonnelli moved that the public hearing be closed, seconded by Councilman Bueckner.

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

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

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

The following ordinance was read for public hearing: No. 2008-6

**ORDINANCE AUTHORIZING PROVISION LEGAL COUNSEL AND INDEMNIFICATION FOR OFFICIALS, EMPLOYEES AND APPOINTEES IN CERTAIN ACTIONS BROUGHT AGAINST SAID OFFICIALS, EMPLOYEES AND APPOINTEES**

WHEREAS, it is in the interest of the Town of Secaucus to attract and retain the highest caliber of Officials, Employees and Appointees; and

WHEREAS, in today's litigious society serving as an Official, Employee or Appointee of a public body carries with such service the possibility of personal financial ruin; and

WHEREAS, the Suburban Essex Joint Insurance Fund and the Municipal Excess Liability Fund both strongly urge participating municipalities to adopt the Funds' Model Indemnification Ordinance to preclude additional and unintended expense to the Funds for indemnification of others than Officials, Employees or Appointees, such as a) any person who is not a natural person; b) any person while providing goods or services of any kind under any contract with the Town except an employee contract; c) any person while providing legal or engineering services for compensation unless said person is a full-time employee of the Town; and d) any person who as a condition of his or her appointment or contract is required to indemnify and defend the Town and/or secure insurance.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and Council of the Town of Secaucus, County of Hudson that the Model Indemnification Ordinance is hereby adopted as follows:

Section. 1, Except as hereinafter provided, the Town of Secaucus, hereinafter known as the "Town" shall, upon the request of any present or former official, employee or appointee of the Town provide for indemnification and legal defense of any civil action brought against said person or persons arising from an act or omission falling within the scope of their public duties.

Section 2. Pursuant to 59:10-4 the indemnification and defense provided for in this ordinance shall include exemplary or punitive damages resulting from the employee's civil violation of State or federal law if, in the opinion of the Mayor and Council the acts committed upon which the damages are based did not constitute actual fraud, actual malice, willful misconduct or an intentional wrong.



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Section 3. The terms of this ordinance and the definition of official, employee and appointee are to be construed liberally in order to effectuate the purpose of this ordinance except that these terms shall

not mean a) any person who is not a natural person; b) any person while providing goods or services of any kind under any contract with the Town except an employment contract c) any person while providing legal or engineering services for compensation unless said person is a full-time employee of the Town; and d) any person who as a condition of his or her appointment or contract is required to indemnify and defend the Town and/or secure insurance.

Section 4. The Town shall provide for defense of any indemnify any present or former official, employee or appointee of the Town who becomes a defendant in a civil action if the person or persons involved a) acted or failed to act in a matter in which the Town has or had an interest; b) acted or failed to act in the discharged of a duty imposed or authorized by law; and c) acted or failed to take action in good faith. For purposed of this ordinance. The duty and authority of the Town to defend and indemnify shall extend to a cross-claim or counterclaim against said person.

Section 5. In any other action or proceeding, including criminal proceedings, the Town may provide for the defense of a present or former official, employee or appointee, if the Town concludes that such representation is in the best interest of the Town and that the person to be defended acted or failed to act in accord with the standards set forth in this ordinance.

Section 6. Whenever the Town provides for the defense of any action set forth herein and as a condition of such defense, the Town may assume exclusive coverage over the representation of such persons defended and such person shall cooperate fully with the Town.

Section 7. The Town may provide for the defense pursuant to this ordinance by authorizing its attorney to act in behalf of the person being defended or by employing other counsel for this purpose or by asserting the right of the Town under any appropriate insurance policy that requires the insurer to provide defense.

Section 8. This ordinance shall take effect immediately upon passage and publication required by law.

Mayor Elwell asked if anyone wished to be heard regarding the foregoing ordinance.

Mayor Elwell called on Tom Troyer.

Mr. Troyer spoke about allegations of political terroristic threats at the Municipal Building. He said that he went to the Town Clerk's office asking for a resolution to authorize the Council to pay for litigation.

Mr. Leanza explained that this ordinance is adopted at the direction of the insurer. He said the purpose of this, is to define what the Town's insurer will provide representation to Town Employees and Officials in a civil suit.

Mr. Troyer said that when he asked for a copy of a resolution, there is not one?

Mr. Leanza explained that this was done by resolution at the suggestion of the Town insurer. He said this had nothing to do with the OPRA request made by Mr. Troyer which he said is being handled in due course at the Town Clerk's Office.

Mayor Elwell explained that since he began in 1992 the indemnification was done by resolution, but the recommendation of JIF to the Town to do it by ordinance.

Mr. Troyer clarified that any bill submitted prior to this for litigation, was up to the Council as to whether to pay it or not.

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There being no one else requesting the floor, Councilman Shinnick moved that the public hearing be closed, seconded by Councilman Bueckner.

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

Councilman Bueckner moved that the foregoing ordinance be finally adopted, seconded by Councilman Reilly.

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

The following ordinance was read for public hearing: No. 2008-7

ORDINANCE TO RELOCATE ACCESS EASEMENT TO SNIPES PARK

WHEREAS, the Town of Secaucus ("Town") and the New Jersey Meadowlands Commission ("NJMC") are the sole owner in fee simple of that certain real property located in the Town of Secaucus, County of Hudson, State of New Jersey, and identified on the Tax Map of the Town of Secaucus as Block 21, Lot 3.02 (Snipes Park); and

WHEREAS, Harmon Plaza is the owner of real property known as Block 21, Lot 1.01 in Secaucus, New Jersey; and

WHEREAS, New Boston is the owner of real property known as Block 21, Lot 2.032 in Secaucus, New Jersey; and

WHEREAS, as indicated on Filed Map entitled "Proposed Minor Subdivision of Lots 1.01 & 2.03 in Block 21" dated April 3, 2006 and bearing final revision date of May 31, 2006 and filed in Hudson County Registers Office on July 6, 2006 as Map 5001, there exists an access easement for Block 21, Lot 3.02 commonly known as Snipes Park, across certain property designated as Block 21, Lot 1.01 on the current Tax map of the Town of Secaucus, New Jersey; and

WHEREAS, Harmon Plaza now with the express consent of New Boston, Town of Secaucus and NJMC seeks to terminate the aforesaid public access easement and relocate same, as indicated and described on the attached Exhibit A, across certain property designated as Block 21, Lots 1.01 & 2.03 on the current Tax Map of the Town of Secaucus, New Jersey for the purpose of facilitating development of Block 21, Lot 1.01.

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

1. The Town concurs with the relocation of the access easement to Snipes Park.
2. The Mayor and Town Clerk are hereby authorized to execute the Termination and Relocation of Access Agreement of the form attached hereto as previously executed by the New Jersey Meadowlands Commission.
3. All ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.
4. If any section, paragraph, subdivision, clause or provisions of this ordinance shall be adjudged invalid, such adjudication shall apply only to that section, paragraph, subdivision, clause or provision so adjudged, and the remainder of this ordinance shall be deemed to be valid and effective.
5. This ordinance shall take effect upon final passage and publication pursuant to law.

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Mayor Elwell asked if anyone wished to be heard regarding the foregoing 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.

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

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

The following ordinance was read for introduction: No. 2008-8

**AN ORDINANCE AMENDING THE SALARY ORDINANCE  
OF THE TOWN OF SECAUCUS, NEW JERSEY**

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

AYES: Kane, Gonnelli, Jeffas, Shinnick, Reilly, Elwell  
NAYS: None  
ABSTAIN: Bueckner  
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. 2008-26

**RESOLUTION AUTHORIZING AMENDATORY CONTRACT AND CHANGE ORDER WITH TOMARO CONTRACTING CO., INC., REGARDING THE RECONSTRUCTION OF CASTLE ROAD**

WHEREAS, on March 6, 2003 the Town of Secaucus and Tomaro Contracting Co., Inc ("Tomaro") entered into a Contract for the Reconstruction of Castle Road pursuant to the January 21, 2003 low bid of Tomaro; and

WHEREAS, at the time of the execution of said contract it was believed that proposed road relocation provided the optimum design for both the traveling public as well as the various businesses located along Castle Road and that the reconstruction could be substantially completed with in 180 days as contemplated by the contract; and

WHEREAS, the road relocation created a safety hazard relative to a business which had historically, by unbeknownst to the Town or its engineer, had "dropped" its trailers onto what would now be the relocated Castle Road for loading and unloading; and

WHEREAS, the adjustment of the road relocation to accommodate the taxpayer's business resulted in the need to acquire additional rights of way and to reconcile various utility conflicts necessitating redesign and relocation by Public Service and other utilities; and

WHEREAS, through no fault of Tomaro, the 180 day completion time was delayed approximately 4 years so that the design, engineering and construction deficiencies that had been prevalent on Castle Roads since its construction could be permanently corrected and brought up to New Jersey road standards; and

WHEREAS, the changes in design, relocations and delay resulted in seven change orders for removal and/or replacement of buried utility lines and increased materials costs; and

WHEREAS, the 7<sup>th</sup> change order resulted in exceeding the 20% change order limitation; and

WHEREAS, the Town Engineer has prepared a certification dated January

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24, 2008 as required by N.J.A.C. 5:30-11.0 ( c)(2) approve change order in excess of 20%.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and Council of the Town of Secaucus hereby authorize that an amendatory contract be entered into with Tomaro covering the heretofore approved \$247,948.38 in change orders and allowing an additional \$55,873.52 change order; and

BE IT FURTHER RESOLVED, that change order #7 in the amount of \$55,873.52 be approved as follows:

Excavation/Removal/Disposal of not shown steel gas main	\$ 3,071.42
Additional paving of driveway entrances at 2007 prices	\$45,344.10
Additional cost for 2" top paving in 2007	\$ 7,458.00

Financial officers  
Certification attached.

The following resolution was read:

No. 2008-27

**RESOLUTION AUTHORIZING THE INITIATION OF THE COMPETITIVE CONTRACTING PROCESS TO SECURE SERVICES OF AND CONTRACT WITH CONCESSIONAIRE**

WHEREAS, the Town of Secaucus wishes to secure the services of a concessionaire to become the sole operator of the concession/refreshment stands at the Municipal Swimming Complex, at the ice skating rink at Buchmuller Park, Buchmuller Park Amphitheater and the exclusive provider of refreshments at the County Avenue Soccer Field and Mill Ridge Ball Fields; and

WHEREAS, the Town of Secaucus, with the advice of counsel, believes that it is desirable and its best interest to secure specialized goods and services described in P.L. 1999, c.440 (c.40A:11-4.1) including the services of the above described concessionaire utilizing the competitive contracting process; and

WHEREAS, pursuant to N.J.S.A. 40A:11-4.1(j), competitive contracting may be utilized by a local contracting unit to secure the services of a concessionaire so long as the \$17,500 bid threshold is exceeded; and

WHEREAS, over the course of the two (2) year contract term and based upon prior experience, the Town has concluded that the \$17,500.00 bid threshold will be exceeded based on concession sales and payments to the Town of the concessionaire over the course of two (2) year contract term; and

WHEREAS, the competitive contracting process will allow the Town to give due consideration to evaluation criteria other than contract price when considering which concessionaire is most qualified and the best candidate to be selected as concession operator; and

WHEREAS, the Town has concluded that considerations of the health of its citizens and competence of said concession operator are of equal or greater importance than revenues to be derived when undertaking the subject selection and evaluation process.

NOW, THEREFORE, BE IT RESOLVED, that a competitive evaluation committee of three (3) persons namely the Recreation Director, the Town Administrator and Town Purchasing Agent shall hereby be formed to evaluate all proposals hereinafter solicited and received pursuant to the competitive contracting provisions of the Local Public Contracts Law (N.J.S.A.40A:11-4.1 et seq.) and it is further

RESOLVED, that a Notice of a "Request for Proposals" for the selection of a concessionaire as described above be published in the Town's official newspaper at least twenty (20) days prior to the date established for the submission of proposals as provided by N.J.S.A.40A:11-4 5(A); and it is further

RESOLVED, that counsel for the Town immediately draft the "Request for Proposal" document package setting forth the scope of services for the subject contract, contract terms and conditions, proposal requirements, criteria for evaluation of proposals and proposal submission requirements; and it is further

RESOLVED, said package may be acquired by interested proposers during

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regular business hours (9:00 a.m. - 4:00 p.m.) at the Secaucus Municipal Complex, Paterson Plank Road, Secaucus, New Jersey at a cost of \$50.00 payable upon receipt of the document package.

The following resolution was read: No. 2008-28

**RESOLUTION AUTHORIZING ADVERTISEMENT FOR AND RECEIPT OF BIDS FOR SPORTS UNIFORMS AND TROPHIES**

WHEREAS, the Town of Secaucus has previously set aside funds for the purchase of sports uniforms and trophies; and

WHEREAS, the Recreation Department and Town Attorney have prepared specifications and contract documents for the purchase of sports uniforms and trophies.

NOW, THEREFORE, BE RESOLVED that the Town Clerk is hereby authorized to advertise and accept bids for the purchase of sports uniforms and trophies.

BE IT FURTHER RESOLVED, that bids for the purchase of sports uniforms and trophies shall be received on March 4, 2008 at 10:00 a.m.

The following resolution was read: No. 2008-29

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

WHEREAS, the Mayor and Council awarded a contract for the lease of Heavy Equipment to J. O'Donnell Contractors for a two year period beginning on April 11, 2007 and ending April 10, 2008;

WHEREAS, the fees were not be exceed \$50,000.00 for each year.

WHEREAS, additional funds were needed for the Secaucus Recreation Project for hauling of material in the amount of \$51,958.50.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and Town Council of the Town of Secaucus, County of Hudson approve the amendment to this contract in the amount of \$51,985.50 for the year 2007.

Financial Officers  
Certification attached.

The following resolution was read: No. 2008-30

**RESOLUTION AUTHORIZING ADVERTISEMENT FOR AND RECEIPT OR BIDS FOR LEASE, OPERATION AND MAINTENANCE OF PUBLIC TRANSIT SHELTER**

WHEREAS, the Town Attorney has prepared specifications and contract documents for lease, operation and maintenance of public transit shelters.

NOW, THEREFORE BE IT RESOLVED, that the Town Clerk is hereby authorized to advertise and accept bids for operation and maintenance of public transit shelter in the Town of Secaucus.

BE IT FURTHER RESOLVED, that bids for operation and maintenance of public transit shelter shall be received on March 12, 2008 at 2:00 p.m.

The following resolution was read: No. 2008-31

**RESOLUTION AUTHORIZING LINDA CARPENTER QUALIFIED PURCHASING AGENT AND INCREASING MAXIMUM BID THRESHOLD TO STATUTORY MAXIMUM AS SET FORTH PURSUANT TO N.J.S.A.40A:11-3 ( c) FROM TIME TO TIME**

WHEREAS, N.J.A.C.5: 34-5.2(a) provides that a contracting unit with a qualified purchasing agent desiring to take advantage of the supplemental authority of N.J.S.A 40A:11-3 and 40A:11-4.3 shall have its governing body pass a resolution authorizing the amount of a higher bid threshold for the contracting unit, the amount of which shall not exceed the statutory maximum bid threshold; and

WHEREAS, the Town has on its employ a Qualified Purchasing Agent; and

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WHEREAS, the Mayor and Council wish to avail the Town of the advantage of the supplemental authority offered by law.

NOW, THEREFORE BE IT RESOLVED, that Linda Carpenter shall be designated as the Town's Qualified Purchasing Agent; and

BE IT FURTHER RESOLVED, that the Town's bidding threshold shall be increased to the statutory maximum as allowed by N.J.S.A. 40A:11-3( c) from time to time; and

BE IT FURTHER RESOLVED, that the requirements of N.J.A.C. 5:34-5.2(b) be followed, to wit:

A certified Resolution increasing the bid threshold shall be filed with the Director of the Division of Local Contract Services and shall be accompanied by:

i. A certification the Administrator that the Purchasing Agent exercises the duties of a purchasing agent pursuant to N.J.S.A.40A:11-2(30), with specific relevance to the authority, responsibility and accountability of the purchasing activity of the contracting unit; and

ii. A copy of the qualified purchase agent certification.

The following resolution was read:

No. 2008-32

TOWN OF SECAUCUS, COUNTY OF HUDSON  
RESOLUTION

BE IT RESOLVED, by the Mayor and Council of the Town of Secaucus, County of Hudson, that all professional service contracts awarded in 2007 be carried over until such time as they are awarded in 2008.

Councilman Shinnick moved to approve the resolution on the Consent Agenda, seconded by Councilman Reilly.

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

PAYMENT OF CLAIMS

\*Includes all bills not paid on Claims Register from January 22, 2008

Total Amount Claims	Check No. 22487-22712	\$2,223,859.66
Recreation Acct.	Check No. 1879	\$ 72,134.40
Current Account	Check No. 1517-1539	\$374,471.38
Trust Account	Check No. 111-1114	\$29,110.75

Councilman Reilly moved to approve the foregoing Claims Register, as amended, seconded by Councilman Kane.

AYES: Bueckner, Kane, Gonnelli, Jeffas, Shinnick, Reilly, Elwell  
NAYS: Bueckner on Strategic Message Management and the Chasan Leyner & Lamparello, Gonnelli on Chasan Leyner & Lamparello and Strategic Message Management, Jeffas on Chasan Leyner & Lamparello and Strategic Message Management.  
ABSTAIN: Gonnelli on New Jersey Meadowlands Commission, The Secaucus Fire Department and Johnson & Johnson.  
ABSENT: None Motion carried

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BINGO/RAFFLE APPLICATIONS

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

R-1043 YCS Foundation, Inc. - Casino Night  
R-1044 YCS Foundation, Inc. - On Premise 50/50  
R-1045 PTSA Secaucus H.S. - Off Premise 50/50  
R-1046 Knights of Columbus - Off Premise 50/50

AYES: Bueckner, Kane, Gonnelli, Jeffas, Shinnick, Reilly, Elwell  
NAYS: None  
ABSTAIN: Jeffas on R-1046 only  
ABSENT: None Motion carried

COMMUNICATIONS REQUIRING ACTION BY MAYOR AND COUNCIL

The following request were made:

- 1) American Cancer Society to use Buchmuller Park on June 7 and 8<sup>th</sup>, 2008 for the Relay for Life.
- 2) Union City Alternative Education to use the Ice Rink on Wednesday, March 5, 2008 from 9:30-12:00 p.m.
- 3) Lyndhurst Department of Recreation to use the Swim Center for summer day camp(various dates).

Councilman Bueckner moved to approve the foregoing requests, seconded by Councilman Kane.

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

COMMITTEE REPORTS

Councilman Shinnick reported that there was a meeting with the Town Administrator to discuss televised Council Meetings. He said that they decided to look into other municipalities in the area who do televise and report back to the Mayor and Council.

Councilman Jeffas said that they would research how other Towns do it technology wise and how they are using it also as well as the cost.

Councilman Shinnick reported that he and Councilman Bueckner met with the Administrator regarding one way streets and also the GPS devices in the emergency services vehicle. He said that it was a productive meeting and committees have been meeting to discuss the subjects.

Councilman Bueckner explained that there is a need to meet with the Fire officials to get their input on the GPS Systems. He said there is some history on the one way street on investigations that were done previously. He said that they will meet again in the near future.

Councilman Gonnelli said that at the Shade Tree Committee, Paul Hugerich was chosen as Chairman and monthly meeting dates were set up.

Mayor Elwell said there is a chance that they will meet once a month. He explained about some problems on Castle Road with trees and Public Service is suggesting some trees to be planted under wires. He further explained some of the problems and alternatives.

Councilman Bueckner said the Finance Committee and the budget for this year. He said there have been requests to meet as a whole and discuss the budget in that way.

UNFINISHED BUSINESS

Councilman Reilly said that at the request of Councilman Gonnelli, the Police Chief was at the Caucus meeting speaking about speeding. He said

that the Chief provided an overview of what the policy is and the plan

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to control the problem as well as suggestions for improvement.

Mayor Elwell added that the radar detectors will be increased in activity and monitoring vehicles exceeding the speed limit over 11 mph of the speed limit and suggests that residents slow down.

Councilman Gonnelli stated that there are some problem areas that were brought up to the Chief and thanked him for his quick response on surveying of the areas. He mentioned Meadow Lane, Luhmann Terrace and Mill Ridge Road and thanked the Chief for his fast response on the issues.

Councilman Shinnick stated that he was not at the last Council meeting, and referenced funds for the Recreation Center. He said that he was not on the Council when the Rec Center was approved, but was at the meeting as a citizen and was in support of the Rec Center and is a strong supporter of the Recreation Center. He discussed the discussions that were heard at previous meetings. He spoke of the young people in the Town and the use of the Rec Center for the them to have a place to go. He continued to speak of the services offered by the Town and stated that they are very good and positive things for the Town.

Councilman Jeffas stated that he agreed with Councilman Shinnick comments about the Rec Center and stated that his concern was with the soft costs and operating costs and asked if the Town has heard from Mr. Constantino?

Mayor Elwell stated that Mr. Drumeler and Mr. Constantino as well as Mr. Voli have been working the report.

Mr. Drumeler stated that he does have some of the costs prepared and is working on getting a complete report in the near future.

Councilman Jeffas asked about the survey on the Internet and whether it would be sent out by any other source to get more feedback.

Mayor Elwell said he anticipated a resident mailing.

Councilman Jeffas said that the information will be needed soon as the Rec Center is due to open in April or May.

Mayor Elwell said that it is most likely on the way.

Councilman Jeffas spoke about a resolution to send a letter to the DCA and the Ethics Commission on behalf of Councilman Gonnelli and it did not happen, and the hearing is tomorrow. He asked for a motion that the Council agree to reimburse attorney fees for the appeal to Michael Gonnelli regarding the Fire Chief and Council person conflict.

Mayor Elwell stated that he did not think that anyone has acted on that yet.

Councilman Gonnelli said that he hired an attorney to represent him in Trenton the next day, and who has been representing him all along.

Mayor Elwell said that it was in the Town Attorney's opinion given in October of 2006 that Councilman Gonnelli could not hold two positions and Councilman Gonnelli continued to hold them. He questioned why the Town would have because he may actually be in violation of a State Law. He continued to discuss the issue.

Councilman Gonnelli and Mayor Elwell discussed the opinion given and its position in Trenton.

Councilman Jeffas asked that if it is deemed to be a position that is correct and the governing body agreed, that any charges would be reimbursed by the Town. He further explained and clarified, that if at anytime it is found that he is able to keep both positions, he wants to make a motion that any fees incurred would be reimbursed by the Town.

Mayor Elwell asked if this issue is before the Local Finance Board, why would there be legal fees?



Conversation continued between the Councilman Gonnelli and Mayor Elwell on the issue.

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Mayor Elwell stated that if he is proven innocent and can hold two positions, then at that time the Council can discuss legal fees.

Councilman Jeffas said that the motion will be made at that time.

Councilman Gonnelli agreed with Councilman Shinnick on his opinion of the Recreation Center and continued to state that he too is in favor of the Recreation Center. He said the point being made at the previous meeting was that the money being used from Fraternity Meadows to the impact, which was set aside for impact for the Rec Center and how was the Town going to pay for the impacts at Fraternity Meadows.

Mayor Elwell asked Councilman Gonnelli if he voted for the Fraternity Meadows project on the NJMC?

Councilman Gonnelli stated that he abstained on it as it grew.

Mayor Elwell said that he abstained on it after it grew on COAH.

Councilman Gonnelli said that he is wrong and said to go back and check the record.

Mayor Elwell said he will check the record and thought he was there when he voted yes.

At the same time Councilman Gonnelli said that he knows that the Mayor does check the record and said because he knows that is where half of his problems come from. He said to talk about that at another time. He explained that he did vote yes originally, when the Town sent the letter of endorsement, then as the project continued to grow, he did not vote for it.

Mayor Elwell said that it grew based on COAH requirements.

Councilman Gonnelli disagreed.

Conversation among the Mayor and Council continued as questions arose and discussion ensued regarding the Recreation Center, the impact fees and Fraternity Meadows.

Town Clerk, Michael Marra announced that the salary ordinance that introduced will have its public hearing on March 11, 2008.

#### NEW BUSINESS

Mayor Elwell spoke about a press release regarding an explosion in a Georgia sugar mill and the issue of the Damascus Bakery in Secaucus and the explosiveness of flour. He said that he mentions this, even though the issue is in court, because the Town is dealing with the NJMC and other state agencies and the Town's construction code official, through Town Attorney, Frank Leanza, asking how a state agency could approve silos with flour that can be explosive. He said that they would be located within 50 feet of a residential home and less than 500 feet of an elementary school. He explained the dangers and his concerns of the bakery's location. He felt that he needed to let the residents know that the Town is working on getting answers which have not been forthcoming.

Councilman Reilly mentioned a concern raised about the second ambulance and response time. He said that there was lengthy discussion on the issue. He said he spoke to the acting director of EMS for the JCMC and asked that a meeting be set up with him at a Caucus to address the Council to discuss a possible shared service. He noted that this is a problem in many communities.

Mayor Elwell said that there has been some discussion with North Bergen.

Councilman Reilly stated that the JCMC has spoken with North Bergen about the shared services and feels that it is an issue for the entire Council to discuss.

Councilman Jeffas stated that he received word that a Town bus was used to bring residents to a rally for Hilary Clinton. He asked if that was accurate.

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Mayor Elwell said that it was.

Councilman Jeffas how that happened?

Mayor Elwell said that it has happened many times.

Councilman Jeffas asked if that comes before the Council for approval?

Mayor Elwell said that he does not think that it ever has.

Councilman Jeffas asked if there is an insurance consideration?

Mayor Elwell said that the bus is back and there were not an accidents and said that the Town is insured.

Mr. Leanza said that it is insured.

Councilman Gonnelli asked if that is a proper thing to do that for a political function?

Councilman Jeffas said that in the future he would like to be informed as he received a call telling him that it happened and he did not have any clue about it.

Mayor Elwell agreed. He said that it used for other organizations.

Councilman Gonnelli said that it is used for the Democratic Organization.

Mayor Elwell cited the use for Kiwanis organization or other organization within Secaucus.

Councilman Gonnelli noted the difference between a civic and political organization.

Mayor Elwell noted the last picnic and the Dennis Elwell Civic organization gave out many scholarships, etc.

Councilman Gonnelli asked if there is a liability in using it for a political event?

Mayor Elwell explained about the route and the bus.

Councilman Bueckner asked Mr. Leanza if there is a conflict there?

Mr. Leanza stated that if the mayor made it available to everyone, especially senior citizens, he does not see a problem.

Councilman Bueckner asked even if it is political?

Mr. Leanza explained his opinion and noted the buses that take children to certain catholic School and how it does not establish that the has a certain religion or involved in political action. He said the Town is just transporting senior citizens for their ease and comfort and safety.

Mayor Elwell stated that there were seniors who requested to go to that rally, therefore the bus was provided.

Councilman Gonnelli stated that phone calls were made from the Municipal Government Center to senior to go there.

Mayor Elwell , as the Democratic Chairman, had at least 20 calls from residents, including seniors.

Councilman Gonnelli asked that if he had a brunch next year, he could ask for the bus?

Mayor Elwell said that he could ask for it.

Mayor Elwell said that he had a request and he has always complied with

those requests.

Councilman Gonnelli asked who did the Mayor ask? He asked if he asked the Council and stated that he did not think that he had to ask either.

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Mayor Elwell replied that he probably did not have to.

Councilman Gonnelli stated that it is off the board.

Councilman Bueckner asked Mr. Leanza for written opinion on the issue and setting parameters.

Mayor Elwell agreed.

REMARKS OF CITIZENS

Thomas Troyer  
Sam Maffei  
George Heflich  
Carole Acropolis  
Frank Mac Cormack  
Dawn Mc Adams  
Doug De Pice

Councilman Gonnelli moved to adjourn the meeting at 8:55 PM, seconded by Councilman Jeffas.

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

Motion carried

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Michael Marra, Town Clerk