

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR JULY 27, 2009**

REGULAR MEETING OF THE TOWNSHIP COMMITTEE –7:30 P.M.

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Barbara Camp	Present
Frank E. Conrad	Present
Curtis Corson	Present
John “Jay” Newman	Present
Richard Palombo	Present

Also present were Municipal Clerk Wanda Gaglione, Municipal Attorney Daniel Young, Township Engineer Paul Dietrich, and Acting Finance Officer Barbara Spiegel.

APPROVAL OF MINUTES - July 13, 2009 Regular Meeting and Closed Session Minutes

The Minutes were approved as written with motion by Jay Newman and second by Curtis Corson. During roll call vote four voted in the affirmative and Barbara Camp abstained.

REPORT OF GOVERNING BODY MEMBERS

Frank Conrad, reported that the annual Tuckahoe Canoe Race is set for this Sunday, August 2nd at 8/2/09.

He made a motion to hire Justin Hope as a seasonal worker to the Recreation Department effective Tuesday, July 28th. Curtis Corson seconded the motion with all five Committee members voting in the affirmative.

He touched on the Soccer Association’s issue which will be discussed later in the meeting.

Mr. Conrad reported that he has one personnel issue for closed session.

Barbara Camp, addressed Township resident Edmund Bamford who was in the audience. She asked him if the County had been in touch with him regarding the cleaning of storm drains on Commonwealth Avenue in the Whale Beach section. Mr. Bamford responded that he did speak with Mr. Versaggi the County Roads Foreman, however at this point no work has been done as yet on the storm drains. Mrs. Camp stated that emails received from Mr. Versaggi indicated that the work would probably be done this upcoming week.

Curtis Corson, Deputy Mayor reported that he attended last week's weekly Strathmere beach replenishment meeting. The meetings are held every Tuesday morning at 10:30 AM at the Strathmere Fire House. He reported that in the last few weeks approximately 200,000 cubic yards of sand have been deposited onto the beach naturally. The State said they would pump the sand as long as it stays in the state template. Mr. Corson stated that Dr. Farrell's suggestion is to place this sand at the oceanfront. The dredging and beach project is going well and is expected to continue for approximately two more weeks. Paul Dietrich added that bulldozers will be used to spread the sand out where needed.

Jay Newman reported he has two employees requesting to attend an EMS Leadership Conference in Charleston, S.C. Mr. Newman made a motion that the Township pay for the conference fee costs and accommodations for Jay Potter and Melissa Shaffer. Motion was seconded by Curtis Corson, with all five Committee members voting in the affirmative.

Richard Palombo, Mayor, made a motion to hire Nicholas Roasch as lifeguard, effective immediately; motion was seconded by Jay Newman with all five Committee members voting in the affirmative during voice vote.

OTHER REPORTS

Wanda Gaglione, Municipal Clerk, has three Personnel items for discussion in closed session.

Daniel Young, Municipal Attorney, reported on the newly drafted bill regarding setting aside fees for open space and asked if the Committee wanted to support this legislation. Curtis Corson made a motion to draft a resolution in support of the bill, Jay Newman seconded the motion with all five Committee members voting in the affirmative. Mr. Young reported that he has two Litigation matters with regards to Condemnation issues for closed session.

Paul Dietrich, Municipal Engineer, reported that the paper shredding program is such a success that residents are bringing in more paper than the shredder can handle. Mr. Dietrich is requesting to purchase with Clean Communities grant funds, a shredder that can handle larger volumes. The cost would be approximately \$10,000. Mayor Palombo requested that Mr. Dietrich investigate various other options, including outside firms and report at a future meeting.

Barbara Spiegel, Acting Finance Officer, reported that the paperwork for the changeover to the State Health Benefit Plan has gone well and the majority of paperwork has been sent to the state. The change is scheduled to go into effect on September 1, 2009 and the employee insurance cards are expected to be received within the next 2 weeks. Ms. Spiegel also has one item under Contract regarding health benefits for closed session.

Mr. Young made the following comment with regards to closed session items requested for discussion: The Beach Condemnation matters will be made public when litigation is complete and the appeal period has expired. The Personnel matters will be made public if and when formal action is taken or when the individuals consent that it can be made public. Contract

negotiations will be made public when negotiations have ceased and there is no longer a reason for confidentiality.

RESOLUTIONS

- 1. Congratulating employee Janet McCrosson of the Upper Township Construction Office for her winning entry in the Upper Township Safety Award Program for the 3rd Quarter of 2009.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 166-2009
RE: CONGRATULATING EMPLOYEE JANET MCCROSSON
OF THE UPPER TOWNSHIP CONSTRUCTION OFFICE
FOR HER WINNING ENTRY IN
THE UPPER TOWNSHIP SAFETY AWARD PROGRAM
FOR THE 3RD QUARTER OF 2009**

WHEREAS, employee Janet McCrosson is recognized for her efforts to promote safety for her fellow employees and residents of the Township through her participation in the Upper Township Safety Award Program with a submission of a safety suggestion; and

WHEREAS, Janet's safety suggestion was chosen by the Upper Township Safety Committee from the entries submitted in the third quarter for the promotion of safety for employees and the community; and

WHEREAS, Janet should be publicly recognized for the recommendation she made to alert Municipal Hall employees to turn off the electronic coffee maker in kitchen at end of each day in order to prevent or lessen fire hazard in the building; and

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. That the Committee extends its appreciation and publicly recognizes Janet McCrosson on her commitment to safety by her identifying a potential hazard and presenting a solution through participation in the program.

2. The Committee also wishes to recognize and thank The following employees for their participation in this program;

Barbara L. Young

3. That the Committee, on behalf of our employees and the citizens of the Township of Upper extend to Janet McCrosson our congratulations and present her with the "Safety Day Award" of one day off with pay.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 27th day of July, 2009.

Resolution No. 166-2009
Offered by: Conrad
Adopted: July 27, 2009

Second by:Newman

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Camp	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Conrad	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Corson	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Newman	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Palombo	<u> x </u>	<u> </u>	<u> </u>	<u> </u>

**2. Department Transfer And Title Change Of Certain Employees:
Brian Keenan---Transfer from Recreation Department to Public Works
Department and Robert Young, Jr.---Transfer from Public Works to Department to
Recreation Department.**

Barbara Camp made a motion for the transfer this evening, second by Frank Conrad, with all five Committee members voting in the affirmative. A resolution memorializing the transfer will be placed on the next agenda and is subject to legal review.

3. Authorizing the execution of a subcontract with the County of Cape May for the 2010 Municipal Alliance Program.

**TOWNSHIP OF UPPER
COUNTY OF CAPE MAY
RESOLUTION
RESOLUTION NO. 167-2009
AUTHORIZING THE EXECUTION OF A SUBCONTRACT
WITH THE COUNTY OF CAPE MAY FOR THE
2010 MUNICIPAL ALLIANCE PROGRAM**

WHEREAS, pursuant to P. L. 1989, Ch. 51, the Municipal Alliance Program has been made available to each county in order to increase drug and alcohol prevention services; and

WHEREAS, the City of Ocean City and the Township of Upper have agreed to participate together in this effort and have designated Upper Township as the lead municipality; and

WHEREAS, the Township of Upper has agreed to organize and coordinate efforts involving schools, law enforcement, businesses, local organizations and the community to work toward the development and implementation of community based alcoholism and drug abuse education, awareness, and alternative and prevention programs for our school aged children; and

WHEREAS, the Cape May County Department of Human Services has informed the Township of Upper/City of Ocean City Municipal Alliance Committee of its eligibility to apply for Municipal Alliance funds in the amount of:

DEDR Funds.....	\$27,469.00
Amount of Local In-Kind Match.....	\$20,602.00
Amount of Local Cash Match.....	\$6,867.00
 TOTAL AMOUNT OF SUBCONTRACT.....	 \$54,938.00

WHEREAS, the Township of Upper wishes to apply for said funding; and

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Upper, County of Cape May, State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township as lead agency is hereby authorized to submit an application for Municipal Alliance funding for 2010 in the amount specified in this Resolution or for such other amounts as may become available, and the Mayor and Township Clerk are further authorized and directed to execute a Sub-Contract on behalf of the Township with the County of Cape May for the period of January 1, 2010 to December 31, 2010.
3. The Chief Financial Officer of the Township of Upper is hereby authorized and directed to execute the section of the subcontract entitled "Statement of Assurances".
4. A certified copy of this Resolution shall be submitted to the County of Cape May in the Department of Human Services, together with the completed application.
5. All Township officials and officers are hereby authorized and directed to take all action necessary in order to carry out the intent and purpose of this Resolution.

Resolution No. 167-2009

Offered by: Conrad

Seconded by: Newman

Adopted: July 27, 2009

Roll Call Vote:

NAME	YES	NO	ABSTAINED	ABSENT
Camp	<u> x </u>	_____	_____	_____
Conrad	<u> x </u>	_____	_____	_____
Corson	<u> x </u>	_____	_____	_____
Newman	<u> x </u>	_____	_____	_____
Palombo	<u> x </u>	_____	_____	_____

4. Resolution and certification with respect to the 2008 Annual Audit and in compliance with the Local Finance Board of the State of New Jersey.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 168-2009**

**Re: RESOLUTION AND CERTIFICATION WITH RESPECT TO THE 2008
ANNUAL AUDIT AND IN COMPLIANCE WITH THE LOCAL FINANCE BOARD
OF THE STATE OF NEW JERSEY**

WHEREAS, N.J.S.A. 40A:5-4 required the governing body of every local unit to have made an annual audit of its books, accounts and financial transaction, and

WHEREAS, The Annual Report of Audit for the year **2008** has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body, and

WHEREAS, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34, and

WHEREAS, the Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled:

GENERAL COMMENTS

AND

RECOMMENDATION

WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

GENERAL COMMENTS

RECOMMENDATIONS

as evidenced by the group affidavit form of the governing body, and

WHEREAS, such resolution of certification shall be adopted by the governing body no later than forty-five days after the receipt of the annual audit, as per the regulations of the Local Finance Board, and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board, and

WHEREAS, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 - to wit:

R.S.52:27BB-52 -"A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the Director of Local Government Services, under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office."

NOW, THEREFORE BE IT RESOLVED, that the governing body of the Township of Upper, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Resolution No. 168 -2009
Offered by: Corson
Adopted: July 27, 2009

Seconded by: Camp

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Camp	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Conrad	<u> x </u>	<u> </u>	<u> </u>	<u> </u>

Corson x _____ _____
Newman x _____ _____
Palombo x _____ _____

5. Authorizing the Township Engineer to advertise for bids for the Street Paving Project and Street Sweeper.

**TOWNSHIP OF UPPER
 CAPE MAY COUNTY
 RESOLUTION
 RESOLUTION NO.169-2009
 RE: AUTHORIZING THE
 TOWNSHIP ENGINEER TO ADVERTISE FOR BIDS FOR
 THE STREET PAVING PROJECT AND STREET SWEEPER**

WHEREAS, the Township of Upper participates in a yearly maintenance program to pave and sweep various streets throughout the municipality; and

WHEREAS, pursuant to the provisions of the Local Public Contracts Law, the Township of Upper intends to solicit bids as herein indicated;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Engineer is hereby authorized and directed to prepare specifications,

bid documents and solicit bids for the following:

Street Paving Project.

Street Sweeper.

3. Sealed bids shall be received by the Township of Upper in accordance with the directives contained in the Notice to Bidders.

Resolution No.169-2009

Offered by: Camp

Seconded by: Corson

Adopted: July 27, 2009

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Camp	<u> x </u>	_____	_____	_____
Conrad	_____	_____	<u> x </u>	_____
Corson	<u> x </u>	_____	_____	_____

Newman x _____
Palombo x _____

6. In support of the installation of traffic control devices (blinker lights and four-way stop signs) at the intersections of County Road 667 (Stagecoach Road) and County Road 671 (Hope Corson Road).

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO 170-2009

RE: IN SUPPORT OF THE INSTALLATION OF
TRAFFIC CONTROL DEVICES (BLINKER LIGHTS AND FOUR WAY STOP SIGNS) AT
THE INTERSECTION OF COUNTY ROAD 667 (STAGECOACH ROAD) AND
COUNTY ROAD 671 (HOPE CORSON ROAD)

WHEREAS, the Township Committee of the Township of Upper has recognized that traffic at the intersections of County Road 667 (Stagecoach Road) and County Road 671 (Hope Corson Road), has greatly increased causing dangerous conditions at this intersection; and

WHEREAS, the Upper Township Committee, highly recommends the installation of traffic control devices (BLINKER LIGHTS AND FOUR WAY STOP SIGNS) at the intersection of County Road 667 (Stagecoach Road) and County Road 671 (Hope Corson Road), due to these dangerous conditions; and

WHEREAS, in order to insure the safety of residents and the general public, the Township Committee of the Township of Upper strongly supports the installation of traffic control devices (BLINKER LIGHTS AND FOUR WAY STOP SIGNS) at the intersection of County Road 667 (Stagecoach Road) and County Road 671 (Hope Corson Road), and;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.

2. The Township Committee hereby strongly expresses its support for the installation of traffic control devices (BLINKER LIGHTS AND FOUR WAY STOP SIGNS) at the intersection of County Road 667 (Stagecoach Road) and County Road 671 (Hope Corson Road).

3. The Township Committee hereby requests all County and State officials to take the appropriate action forthwith in order to implement the installation of traffic control devices (lights and four way stop signs) at the intersection named above.

4. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

5. A copy of this Resolution shall be forwarded to the appropriate Cape May County and New Jersey state officials.

Resolution No. 170-2009
Offered by: Conrad
Adopted: July 27, 2009

Seconded by: Newman

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Camp	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Conrad	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Corson	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Newman	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Palombo	<u> x </u>	<u> </u>	<u> </u>	<u> </u>

7. Appointment of Maser Consulting P.A. to assist the Township of Upper in the preparation of a Master Plan Reexamination Report and Conservation Plan Element Update for Review and Adoption by the Upper Township Planning Board.

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N
RESOLUTION NO. 171-2009

RE: APPOINTMENT OF MASER CONSULTING P.A. TO ASSIST THE TOWNSHIP OF
UPPER IN THE PREPARATION OF A MASTER PLAN REEXAMINATION REPORT AND
CONSERVATION PLAN ELEMENT UPDATE FOR REVIEW AND ADOPTION BY THE
UPPER TOWNSHIP PLANNING BOARD

WHEREAS, the Township of Upper wishes to prepare a Master Plan Reexamination Report and Conservation Plan Element Update for the Township for review and adoption by the Upper Township Planning Board; and

WHEREAS, the Township requires a planner to assist in the preparation of said Report and Plan; and

WHEREAS, the Township has decided to acquire the services of the firm of Maser Consulting, P.A. as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-2.05; and

WHEREAS, a resolution is required authorizing the award of a contract for the aforesaid professional services and the Township Committee has determined that it is in the best interest of the Township to award such contract to Maser Consulting, P.A. as

set forth as Tasks 1, 4 and 6 in the proposal provided by Maser Consulting, P.A. dated July 1, 2009 and attached hereto as Exhibit A; and

WHEREAS, Maser Consulting P.A. has completed and submitted a Business Entity Disclosure Certification which certifies that Maser Consulting P.A. has not made any reportable contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit Maser Consulting P.A. from making any reportable contributions through the term of the contract; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. Maser Consulting P.A. with offices at Perryville III Corporate Park, 53 Frontage Road, Suite 120, Clinton, New Jersey is hereby appointed Professional Planner for the Township of Upper for the purposes specified in this Resolution and Tasks 1, 4 and 6 in the proposal provided by Maser Consulting, P.A. dated July 1, 2009 and attached hereto as Exhibit A.

3. The term of this contract is for a period not to exceed the length of time necessary for completion of the aforesaid project, unless sooner terminated by the Township of Upper, at the option of the Township of Upper.

4. This Contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Maser Consulting P.A. has professional knowledge as to municipal planning issues which knowledge is particularly valuable to the Township Committee and this service is acquired as a non-fair and open contract pursuant to N.J.S.A. 19:44A-2.05.

NOTICE OF CONTRACT AWARD

5. The Township Committee of the Township of Upper, State of New Jersey has awarded the contract without competitive bidding as a professional service pursuant to N.J.S.A. 40A:11-5(1)(a) to Maser Consulting P.A. for planning services. This contract and the resolution authorizing same shall be available for public inspection in the office of the municipal clerk of the Township of Upper, State of New Jersey.

6. A certificate from the Chief Financial Officer of Upper Township showing the availability of adequate funds for this contract and showing the line item appropriation of the official budget to which this contract will be properly charged must be provided to the governing body and shall be attached to this Resolution and kept in the files of the municipal clerk.

7. Maser Consulting P.A. has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.

8. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Maser Consulting P.A. in accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein. Upon execution of all parties thereto said contract shall become effective.

9. A copy of this Resolution shall be published in the official newspaper of the Township of Upper within ten (10) days from the date of adoption.

10. This Resolution shall be effective as of adoption.

Resolution No. 171 -2009

Offered by: Conrad

Seconded by: Camp

Adopted: July 27, 2009

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Camp	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Conrad	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Corson	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Newman	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Palombo	<u> x </u>	<u> </u>	<u> </u>	<u> </u>

8. Appointment of Frank L. Corrado, Esquire to act as Special Legal Counsel.

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 172-2009

RE: APPOINTMENT OF FRANK L. CORRADO, ESQUIRE TO ACT

AS SPECIAL LEGAL COUNSEL

WHEREAS, the Township Committee of Upper Township desires additional legal

counsel to provide support legal services in connection with the Strathmere and Whale Beach de-

annexation litigation; and

WHEREAS, a resolution is required authorizing the award of such contract for professional services; and

WHEREAS, the Township has decided to acquire the services of Frank L. Corrado, Esquire as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-2.05; and

WHEREAS, Frank L. Corrado, Esquire has completed and submitted a Business Entity Disclosure Certification which certifies that Frank L. Corrado, Esquire has not made any reportable contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit Frank L. Corrado from making any reportable contributions through the term of the contract; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. Frank L. Corrado, Esquire with offices at 2700 Pacific Avenue, Wildwood, New Jersey is hereby appointed Special Legal Counsel in connection with the Strathmere and Whale Beach de-annexation litigation in conjunction with and at the direction of the regular Township Solicitor and as directed by the Township Committee.

3. This contract shall have a commencement date of July 27, 2009 and shall continue for the length of time necessary for completion of the aforesaid legal services, unless sooner terminated by the Township of Upper, at the option of the Township of Upper.

4. This Contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Frank L. Corrado, Esquire has professional knowledge as to legal matters which knowledge is particularly valuable to the Township Committee.

NOTICE OF CONTRACT AWARD

The Township Committee of the Township of Upper, State of New Jersey has awarded the contract without competitive bidding as a professional service pursuant to N.J.S.A. 40A:11-5(1)(a) to Frank L. Corrado, Esquire for legal services. This contract and the resolution authorizing same shall be available for public inspection in the office of the municipal clerk of the Township of Upper, State of New Jersey.

5. A certificate from the Chief Financial Officer of Upper Township showing the availability of adequate funds for this contract and showing the line item appropriation of the official

budget to which this contract will be properly charged has been provided to the governing body and shall be attached to this Resolution and kept in the files of the municipal clerk.

6. The contractor has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.

7. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Frank L. Corrado, Esquire in accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein. Upon execution of all parties thereto said contract shall become effective.

8. A copy of this Resolution shall be published in the official newspaper of the Township of Upper within ten (10) days from the date of adoption.

9. This Resolution shall be effective as of adoption.

Resolution No. 172 -2009

Offered by: Corson

Seconded by: Conrad

Adopted: July 27, 2009

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Camp	<u> x </u>	<u> </u>	<u> </u>	<u> </u>

Conrad	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Corson	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Newman	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Palombo	<u> x </u>	<u> </u>	<u> </u>	<u> </u>

9. Accepting the bid of and authorizing the execution of a contract with South State Inc. of Bridgeton, New Jersey for the project known as the reconstruction of Peach Orchard Road from New Jersey State Highway Route 50 to West Laurel Ridge Road at a cost of \$236,264.25.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO.173-2009**

**RE: ACCEPTING THE BID OF AND AUTHORIZING THE
EXECUTION OF A CONTRACT WITH SOUTH STATE INC. OF BRIDGETON, NEW
JERSEY FOR THE PROJECT KNOWN AS THE RECONSTRUCTION OF
PEACH ORCHARD ROAD FROM NEW JERSEY STATE HIGHWAY
ROUTE 50 TO WEST LAUREL RIDGE ROAD
AT A COST OF \$236,264.25**

WHEREAS, the Township of Upper solicited bids for the furnishing of certain services, materials, labor or equipment, which bids were received on July 22, 2009; and

WHEREAS, the aforesaid bids were thereafter reviewed by the Township Engineer; and

WHEREAS, the Township Engineer has submitted a recommendation to the Township Committee with respect to the award of said bids; and

WHEREAS, the Chief Financial Officer of the Township of Upper has certified the availability of funds attached hereto as "Exhibit A" in a sufficient amount to award a contract for \$280,000.00, the line item appropriations to which the contract will be charged is NJDOT Grant-Peach Orchard Road Section 2 Account Number 9-01-41-725-553-299 and NJDOT Grant-Peach Orchard Road Section 3 Account Number 9-01-41-725-555-299; and

WHEREAS, the Township will reconstruct Peach Orchard Road, Section 3

which will include widening and resurfacing the existing substandard roadway, installing additional sidewalks to connect to existing sidewalks to provide continuous pedestrian safety along the roadway at a cost of \$236,264.25; and

WHEREAS, the Township intends to take formal action awarding the bid to the lowest responsible bidder as hereinafter provided;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township hereby accepts the bid submitted by South State Inc. of Bridgeton, New Jersey, for the project known as the Reconstruction of Peach Orchard Road in the Township of Upper, Cape May County, in the amount of \$236,264.25, subject to the following:

- (A) The approval of the State of New Jersey Department of Transportation.
- (B) The Bidder shall comply with all Bid Documents, including the Notice to Bidders, all of which are hereby incorporated herein by this reference.
- (C) The Contract to be entered into must comply in all respects with applicable federal, state and local laws and regulations.

3. The Mayor and Township Clerk are further authorized to execute a Contract with the successful bidder and/or the Chief Financial Officer is hereby authorized, directed and empowered to issue a Purchase Order to the successful bidder in the amount authorized in this Resolution.

Resolution No.173-2009

Offered by: Camp

Seconded by: Corson

Adopted: July 27, 2009

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Camp	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
Conrad	<u> </u>	<u> </u>	<u>x</u>	<u> </u>
Corson	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
Newman	<u>x</u>	<u> </u>	<u> </u>	<u> </u>
Palombo	<u>x</u>	<u> </u>	<u> </u>	<u> </u>

ORDINANCES

10. Public Hearing and Final Adoption of ORDINANCE NO. 018-2009 RE: AN ORDINANCE AMENDING AND SUPPLEMENTING THE FEES TO BE CHARGED FOR ELECTRONIC FILES. There were no speakers during the public comment section of the hearing. Motion was made by Jay Newman, second by Curtis Corson to adopt Ordinance No. 018-2009. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E
ORDINANCE NO. 018-2009
RE: AN ORDINANCE AMENDING AND SUPPLEMENTING THE FEES TO BE
CHARGED FOR ELECTRONIC FILES**

BE IT ORDAINED by the Township Committee, in the Township of Upper, County of Cape May and State of New Jersey, as follows:

1. **SECTION** : Chapter 2 of the Revised General Ordinances of the Township of Upper shall be amended and supplemented as hereinafter provided:

2-6.5 OTHER DOCUMENTS OR RECORDS.

The following fee shall be payable by the requestor to the Township of Upper for any other record or document not set forth specifically in this section:

- a. unchanged.
- b. unchanged.

c. unchanged.

d. A charge in the amount of Twenty Five Dollars (\$25.00) per request or an Eight Hundred Dollar (\$800.00) annual fee paid in advance shall be imposed for any electronic file requested. The Township Committee authorizes the appropriate municipal officer to collect such fee and deposit it in the Township treasury. This fee does not apply to mortgage companies and mortgage servicing companies in connection with the direct billing and payment of real estate taxes. It is hereby determined that the amount of such charge is equal to the approximate amount of the Township's administrative or other related costs.

e. unchanged.

1. **SECTION : REPEALER:** All Ordinances or parts of Ordinances which are in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency or conflict only.

2. **SECTION : SEVERABILITY:** If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

3. **SECTION : EFFECTIVE DATE:** This Ordinance shall take effect upon final adoption and publication as required by law.

4. **SECTION : CODIFICATION:** This Ordinance shall be codified in the Upper Township Code at the sections referred to above.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 22nd DAY OF JUNE, 2009 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 27th DAY OF JULY, 2009 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.
WANDA GAGLIONE, TOWNSHIP CLERK
TOWNSHIP OF UPPER

CORRESPONDENCE

11. Letters from Ed Kenney & Megan McAfee regarding Ordinance 13-2009.

Mr. Corson stated that he spoke with both Mrs. McAfee and Mr. Kenney and agrees with the inconsistency in that a change in the footprint of a development requires the fee; however there is no fee requirement on development such as a 2nd story addition. An amendment to the ordinance for volume of the structure rather than footprint would be fairer.

An ordinance amendment will be drafted and reviewed/approved by COAH prior to adoption by the Committee.

NEW BUSINESS

12. Amendment to employee Driver's License policy.

It was discussed that consideration of a new policy at this time may be premature until an analysis on the effect on our workforce has been presented. The item was tabled for discussion at another meeting.

13. Southern Pinelands Natural Heritage Trail Scenic Byway, Corridor Management Plan.

Curtis Corson made a motion for the Township Committee to draft a resolution for the next meeting in support of the plan but without obligating the Township to participate in any funding. Jay Newman seconded the motion with all five Committee members voting in the affirmative.

UNFINISHED BUSINESS:

DISCUSSION

14. Upper Township Soccer Association: discussion of Bylaws, and Rules and Regulations.

Frank Conrad reviewed the matter as follows: the Recreation Committee has not been able to come to a solution regarding the Soccer Association and their European Trip conflict. The Soccer Association fundraises to be able to take their team of 14-year olds on a 10-day soccer tournament. There is a dispute between members on whether there should be a choice of

destinations. Apparently some parents want to continue to go to Europe and some want to stay in United States. The European trip is part of the bylaws of the Soccer Association. There have been many emails sent to the Committee both for and against allowing a choice for the trip. It was discussed that the Township does provide financial support by means of providing the upkeep of and access to the playing fields. The Soccer Association is a private non-profit association which is funded by registration fees paid by the participants--which is the public aspect. The bylaws of this association require a European only trip. The bylaws and rules do lay out the procedure to present, vote on, and change destinations.

An email from the President of the Soccer Association, Jay Davis, dated July 20th, was read into the record. Mr. David questioned what the Township Committee's position is on for a change to the bylaws. Mr. Conrad said the bylaw procedure change and vote never came to fruition.

Curtis Corson questioned whether the kids have any say in the matter or is it parents only.

Mayor Palombo questioned the section of the bylaws that states it can "only" be a European trip; that "its all or nothing". He stated that since the Township is providing financial support, members should have options and a vote.

Joseph Fenton, of 102 Pacific Ave., Marmora, commented that if the team decides not to go to Europe they are not permitted to fund raise under the Upper Township Soccer Association. He stated that the European trip is not a vacation that Europe provides a cultural experience that cannot be obtained in the USA.

Frank Conrad, disagreed with the statement that the trip its not a vacation. He felt that it is.

Ann Terwilliger, of 550 Rt. 49, Woodbine; spoke in favor of the European trip.

Jay Newman, stated that he has been involved in recreational football leagues and has seen that choices do exist.

Joanne Gill, 3 Huntington Lane, Seaville; stated that times have changed, security is an issue, and the economy is struggling, circumstances have changed making a soccer trip to Europe not feasible for many families. This conflict is tearing these kids apart. Kids from other townships go in place of Upper Township kids when they don't have enough players to participate – this is after those kids who are not going to Europe have raised the money required.

Kelly Barlow, 200 Stagecoach Rd., Marmora; stated that the voters of the by-laws are the coaches. Her concern with changing the bylaws is that it should give the kids a choice and a majority rule. She was unclear as to what the Township's recommendation is. Mayor Palombo responded that his recommendation is that there be an opportunity for a choice to be made, and a majority rule.

Mark Gill, 3 Huntington Lane, Seaville, also stated that the children who fill out the roster coming from other townships benefit from money raised by the children who are not able to go to Europe. They also benefit indirectly from Township funds. They have not participated in the fund raising and their children who have worked for it have to watch someone else benefit from their hard work. It is not fair kids cannot opt out of the trip to Europe and go somewhere else.

Duane Terwilliger, stated that they do get children from out of the community to fill the roster, and that these kids do not take money from funds raised by others. They raise their own money.

Mayor Palombo stated that this defeats the efforts of the Township to give back to the kids in our community. The Committee is committed to giving our youth every opportunity for a great recreational program and allowing other kids to go in their place because choices are not permitted, is a disservice to the Township.

Paul Edgell, 17 Ortlieb Lane, Seaville, asked what travels do other teams participate in.

If the association refuses to change the bylaws – what will happen? Daniel Young responded that the Township has the authority to relinquish control of the Township Soccer Program from the Soccer Association and take back running the soccer program. Mr. Edgell also asked if the Committee would help write a bylaw amendment that would meet the Committee’s approval.

Daniel Young, restated the issues as follows: the lack of choice in destinations, and the inability to fund raise under the Soccer Association umbrella.

Richard Palombo asked that Mr. Young assist the Soccer Association in revising their by-laws and then closed the discussion.

PAYMENT OF BILLS:

“I hereby move that all claims submitted for payment at this meeting be approved and then incorporated in full in the minutes of this meeting.” Moved by Jay Newman, second by Frank Conrad with all five Committee members voting in the affirmative.

Bills submitted for payment: \$97,652.32

Payroll: \$191,841.64

REPORT OF MUNICIPAL DEPARTMENTS:

15. Tax Collector-

Certification of the Mailing of the 2009 Final/2010 Preliminary Tax Bills.

Motion by Curtis Corson second by Frank Conrad to accept the Certification of Mail from the Tax Collector. During roll call vote all five Committee members voted in the affirmative.

PUBLIC COMMENT

Curtis Corson, mentioned that the Gypsy Moth Survey is about to begin and requested that any residents whose property was affected by gypsy moths last year and would like to be a part of the survey to please contact the Clerks Department.

Lynn Fayter, Strathmere, discussed the catamaran abandoned on the beach at Putnam Road next to Mildred’s Restaurant. Mr. Dietrich said they have been unable to locate the owner however that once he’s located, the Zoning Officer will notify him to remove it or the vessel may be impounded.

Ms. Fayter offered to assist the Township in getting the address of the owner for the Committee. There was also a response to Ms. Fayter’s inquiry from the last meeting on the driver of the EMS vehicle on beach. The driver of the vehicle was counseled.

Theodore Kingston, Strathmere, also commented on vehicle traffic on the beach. The protocol for emergency vehicles will be reviewed. It was discussed that it is standard for all shore communities to have rescue vehicles on the beach in case of emergencies.

Edmund Bamford, Strathmere stated that he understood the Committee had granted permission for training on the Kubota by the Fire Company and that fire company members do

use the vehicle for practice. Mayor Palombo confirmed this and stated that the vehicle is there for emergencies.

Brenda Layton, asked if the Paving Program would include basketball courts; Mr. Dietrich stated that it would. She reported that she received a request from a resident for Pickle Ball Courts, a new sport. This would require additional lines being painted on top of the tennis courts. Curtis Corson made motion to authorize the Recreation Department to paint overlay lines on the tennis courts in Tuckahoe so that they could also be used for Pickle Ball, Frank Conrad seconded the motion with all five Committee members voting in the affirmative during voice vote.

CLOSED SESSION

16. Resolution to conduct a closed meeting pursuant to N.J.S.A. 10:4-12, from which the public shall be excluded. Moved by Richard Palombo, second by Curtis Corson with all five Committee members voting in the affirmative, to close the regular portion of the meeting and go into an executive session to discuss items previously identified as follows: Ms. Gaglione has three Personnel items for closed session. Mr. Young has two condemnation matters, Ms. Spiegel has one item regarding health benefits for closed session. Mr. Conrad has one personnel issue. As stated previously, the Beach Condemnation matters will be made public when litigation is complete and the appeal period has expired. The Personnel matters will be made public if and when formal action is taken or when the individuals consent that it can be made public. Contract negotiations will be made public when negotiations have ceased and there is no longer a reason for confidentiality.

RECONVENE PUBLIC PORTION OF MEETING

Curtis Corson made a motion second by Frank Conrad to grant the request of employee Brian Keenan to reinstate 1.5 days of his personal/sick time. During roll call vote all five Committee members voted in the affirmative.

ADJOURNMENT

There was no further business for this evening and the meeting was adjourned at 9:35 P.M. Motion by Richard Palombo, second by Curtis Corson, with all five Committee members voting in the affirmative.

Next meeting is scheduled for August 10, 2009 at 7:30 P.M.

Minutes prepared by

Wanda Gaglione, RMC
Municipal Clerk

Bill List

49347 07/28/09 A0032 AGWAY /T/A J & S HOME & GARDEN 252.00 2539
49348 07/28/09 A0043 ALERT-ALL CORPORATION 346.00 2539
49349 07/28/09 A0081 ARMSTRONG, RALON I. 150.97 2539
49350 07/28/09 A0091 ATLANTIC CITY ELECTRIC 10,258.93 2539
49351 07/28/09 A0117 AT&T 11.10 2539

49352 07/28/09 A0125 AVALON WEED & INSECT CONTROL 995.00 2539
49353 07/28/09 B0013 BRADCO SUPPLY CORP. 74.00 2539
49354 07/28/09 B0029 BRADCO SUPPLY CORP. 931.00 2539
49355 07/28/09 B0035 BELMONT & CRYSTAL SPRINGS 631.16 2539
49356 07/28/09 B0160 BONNER, ROSEMARY 19.18 2539
49357 07/28/09 C0046 CAPE MAY COUNTY CLERK 8.00 2539
49358 07/28/09 C0048 CAPE MAY COUNTY MUA 36,575.44 2539
49359 07/28/09 C0061 CAPRIONI SEWERAGE SERVICE 340.00 2539
49360 07/28/09 C0068 COMCAST 219.96 2539
49361 07/28/09 C0091 CHISHOLM, JOHN R. 36.00 2539
49362 07/28/09 C0116 CINTAS CORPORATION #100 41.67 2539
49363 07/28/09 C0171 COLONIAL ELECTRIC SUPPLY CO. 556.00 2539
49364 07/28/09 C0187 CROWTHER, BILL 1,060.00 2539
49365 07/28/09 C0223 CASA PAYROLL SERVICE 248.15 2539
49366 07/28/09 D0040 DELTA DENTAL OF N.J. INC. 6,436.17 2539
49367 07/28/09 D0077 DIETRICH,PAUL 524.00 2539
49368 07/28/09 D0133 DOLLARD-BAKER SEW AND VAC 43.00 2539
49369 07/28/09 E0047 EFFINGER SPORTING GOODS CO 2,274.00 2539
49370 07/28/09 F0054 FORT DEARBORN LIFE INSURANCE 559.08 2539
49371 07/28/09 G0002 GAGLIONE, WANDA 8.00 2539
49372 07/28/09 G0006 GARBUTT,PATRICIA A. 170.00 2539
49373 07/28/09 G0014 GARDEN STATE HWY PRODUCTS INC. 176.00 2539
49374 07/28/09 G0092 GRUND, BARBARA J. 235.46 2539
49375 07/28/09 G0096 GRUND, GEORGE 108.00 2539
49376 07/28/09 H0006 HABERMAN, WILLIAM 156.00 2539
49377 07/28/09 H0018 HAROLD RUBIN/L & H SUPPLY 139.20 2539
49378 07/28/09 H0089 HERTZ EQUIPMENT RENTAL CORP. 537.50 2539
49379 07/28/09 J0033 JANKOWSKI,MATTHEW 400.00 2539
49380 07/28/09 K0007 KACZMARSKI, RICHARD 84.62 2539
49381 07/28/09 L0034 LAYTON, BRENDA MRS. 168.00 2539
49382 07/28/09 L0093 LIPKE, NEAL 335.76 2539
49383 07/28/09 M0046 MASON, DAVID 48.00 2539
49384 07/28/09 M0059 MCDANIELS, WILLIAM J. III 286.00 2539
49385 07/28/09 M0174 MCAFEE MEGAN 16.61 2539
49386 07/28/09 O0038 OSBORN, JAMES 85.49 2539
49387 07/28/09 P0032 PEDRONI FUEL CO. 1,533.34 2539
49388 07/28/09 P0064 PITNEY BOWES 210.00 2539
49389 07/28/09 P0094 PUBLIC SAFETY CENTER,INC. 261.35 2539
49390 07/28/09 Q0003 QC LABORATORIES 696.20 2539
49391 07/28/09 Q0008 QUILL CORPORATION 347.36 2539
49392 07/28/09 R0030 RIGGINS, INC. 7,888.76 2539
49393 07/28/09 R0055 ROSIAK, CAROL 28.00 2539
49394 07/28/09 R0061 RUTGERS, THE STATE UNIVERSITY 750.00 2539
49395 07/28/09 R0073 RICOH AMERICAS CORPORATION 512.10 2539
49396 07/28/09 S0073 SENIOR TRAVEL SERVICE,INC. 3,595.00 2539
49397 07/28/09 S0075 SHARP,RHONDA L. 8.00 2539
49398 07/28/09 S0093 SHORE TRUE VALUE HARDWARE 3,672.00 2539
49399 07/28/09 S0121 SMUZ, THERESE A 27.83 2539
49400 07/28/09 S0124 SORENSON, LESLIE 144.00 2539
49401 07/28/09 S0134 SO. JERSEY GAS COMPANY 145.76 2539
49402 07/28/09 S0196 STEWART BUSINESS SYSTEMS LLC 1,049.00 2539
49403 07/28/09 T0022 TERMINIX 47.00 2539
49404 07/28/09 T0032 THE PRESS & SUNDAY PRESS 193.28 2539
49405 07/28/09 T0048 TILL PAINT CO/D. FITZGERALD 2,085.00 2539
49406 07/28/09 T0067 TOWNSHIP OF UPPER PETTY CASH 24.15 2539
49407 07/28/09 T0074 TRANSAXLE LLC 1,173.98 2539
49408 07/28/09 T0095 TRI-COUNTY ANIMAL CONTROL 1,500.00 2539
49409 07/28/09 U0025 UNITED STATES POSTAL SERVICE 3,000.00 2539
49410 07/28/09 U0040 U.T. MUNICIPAL ALLIANCE COM. 275.00 2539
49411 07/28/09 V0005 VAN EMBDEN, NATHAN, ATTORNEY 52.50 2539
49412 07/28/09 V0022 VERIZON 2,310.76 2539
49413 07/28/09 W0030 WEST PUBLISHING CO. 89.00 2539
49414 07/28/09 W0037 WALLACE REFRIGERATION 110.00 2539
49415 07/28/09 W0038 WILLIAMS, JEREMIAH J. 254.50 2539
49416 07/28/09 W0086 WYAND, GABBY 25.00 2539
49417 07/28/09 X0002 XEROX CAPITAL SERVICES,LLC 66.00 2539
49418 07/28/09 Y0012 YOUNG,ROBERT 32.00 2539

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Total Paid: \$97,652.32