

**TOWNSHIP OF UPPER  
2100 TUCKAHOE ROAD  
PETERSBURG, NJ 08270  
CAPE MAY COUNTY  
MINUTES FOR AUGUST 10, 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	Absent

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 27, 2009 Regular Meeting and Closed Session Minutes**

The Minutes were approved as written with motion by Jay Newman and second by Frank Conrad. During roll call vote all four Committee members present voted in the affirmative.

**REPORT OF GOVERNING BODY MEMBERS**

**Frank Conrad**, reported that the Annual Canoe Race event was successful. He commented that the Committee received a letter from our state legislators supporting our resolution 170-2009 that requests improvements at the intersection at Hope Corson and Stagecoach Roads. He is also hopeful the Route 50 and Hope Corson intersections can be improved soon as well.

Mr. Conrad commented on Mayor Palombo’s letter regarding the Soccer Association that was read into the record earlier this evening and has been included in these Minutes in its entirety on Page 2. The Committee is only interested in fairness to all and is not looking to take away the European trip. Joseph Fenton of Pacific Avenue was present in the audience and called out that there will be 80 soccer teams coming into the Township this weekend for the Endless Summer Soccer tournaments.

**Barbara Camp**, reported that the Township received \$183,355.34 from the Cape May County MUA in host benefits. She requested that a presentation and discussin with regards to the possible implementation of automation of trash collection be put on a future agenda.

**Curtis Corson, Deputy Mayor**, reported that on August 3<sup>rd</sup> the Township received from the State of New Jersey the first installment of the \$6.4 million energy receipt tax we receive for hosting the B. L. England generating plant. The first installment was in the amount of \$2.8 million.

Mr. Corson made a motion to hire four new lifeguards effective immediately to insure beach protection as present guards return to school; they are John O'Neil, Amy Townsend, Natalie Frietag, and Jason Mruz. Motion was seconded by Jay Newman with all four Committee members present voting in the affirmative.

## **OTHER REPORTS**

**Wanda Gaglione, Municipal Clerk**, has one Personnel matter for closed session. She informed the Committee that the email broadcast program implemented by Tax Collector Rhonda Sharpe has been favorably received by the public. Taxpayers can receive messages from the Tax Office via email such as gentle reminders of tax due dates or tax program information as it becomes available. Anyone wishing to be included in the email broadcast can call the Tax Office or stop in and add your email address to the list. Mrs. Gaglione also presented one of the newly preserved Minutes books restored through the state sponsored PARIS Grant program. The Minutes books represent a history of our town and the restoration on acid free paper and leather bound covers will insure that the original books are here for future generations.

**Daniel Young, Municipal Attorney**, has three items for closed session; one is Contract Negotiations for Animal Control services, the second is Litigation matter regarding Tax Lien Foreclosure Group 151, and the third is Contract Negotiations for Stockton Coastal Research.

Mr. Young read the attached letter sent in by Richard Palombo regarding Upper Township Soccer Association.

Re: Upper Township Soccer Association

“Dear Township Committee Members and Members of the Public:

I apologize for not being able to attend tonight's meeting. Unfortunately, an unavoidable conflict occurred in my schedule. However, given some of the recent comments and e-mails I have reviewed, I have asked that this letter be read at the Township Committee meeting.

I would like to dispel some of the misinformation out there regarding the issues surrounding the Upper Township Soccer Association By-Laws. As you know, the Township Committee has questioned the By-Law provision which only permits a European trip for the U14 Township traveling soccer teams. The Township received complaints regarding this process. Basically, parents in this Township program complained that they could not choose to undertake fundraising through the Upper Township Soccer Association or utilize the Upper Township Soccer Association for a trip other than to Europe. Since the Upper Township Soccer Association is partially supported with Township funds and administers the Upper Township Soccer Program, the Township Committee has been reviewing this issue.

To correct some of the inaccurate statements and allegations that have been made recently, please note the following:

1. The Township Committee has not, and in my view, will not cancel the Upper Township Soccer Program. The question before the Committee is whether or not the rules of the Upper Township Soccer Association are appropriate given the public nature of the Upper Township Soccer Program. Regardless of the ultimate resolution, the Upper Township Soccer Program, both the recreation program and the traveling program, will continue whether administered by the Upper Township Soccer Association or by the municipality.
2. Neither I nor the Township Committee have ever made a statement that they are against the European trip. To the contrary, we have recognized the benefits of the European trip. However, the question remains should members of the publicly supported 8th grade traveling team not be permitted to fundraise thru the Township

- recognized Association if they choose to take a trip to a destination other than Europe.
3. The statements repeatedly made indicating that the Township Committee is against the European trip are totally inaccurate. The real issue is whether or not parents are afforded a choice, and as the public body charged with administering this municipal sports program, the Township Committee, must address these questions when they are raised.
  4. The Township has always considered the welfare of our children as its first priority in our recreation programs. This is evidenced by the significant financial support the Township provides to all of the recreation programs. Suggestions that we would bar children from playing soccer are totally inaccurate.

It is indeed unfortunate that some individuals are so fervent about their opinions that they apparently cannot reasonably discuss this issue. Rather, attempts were made to distort the position of those who raise legitimate public policy questions.

It is my sincere hope that cooler heads will prevail and a compromise may be achieved where both the European soccer trip as an option is preserved and choices are afforded to Upper Township families participating in the municipal soccer program.

Sincerely,  
Richard Palombo  
Mayor, Upper Township”

**Paul Dietrich, Municipal Engineer**, reported that the beach replenishment project is near completion. There is grading that needs to be completed and Mr. Dietrich will meet with the NJDEP and the contractor to go over those issues later this week. The pipeline will remain in place while project work continues to Sea Isle City. It is hoped the pipeline will be removed from the beach before Labor Day. Mr. Dietrich will resume collecting beach measurements for the area of erosion on the western side of the Natural Area.

Dr. Stewart Farrell was present this evening and also reviewed the status of the beach fill project. He stated that monitoring work would be completed on Thursday. The beach fill project has expanded the natural area approximately 500 feet on the eastern side. The western end has experienced erosion, however it is expected that this area will naturally accrete sand now that the flood channel has been closed off. This will eventually wrap around and merge with the existing beach on the western part of Seacliff Avenue and the bridge area. He expects this area will form a pond as it fills in. The wind should create dunes which will provide further protection. Dr. Farrell stated that the Atlantic Basin does not show signs of a hurricane, which is quite unusual for this time of year, but it also means that there will probably be several Nor’Easters this winter so the protection is desirable. He ended his summary saying that though there have been a few “minor wrinkles” with the Beach Fill Project, that all in all, the outcome has been most favorable.

Curtis Corson, Deputy Mayor, stated that both he and Paul Dietrich have attended all the meetings for the beach fill project, held every week at the Strathmere Fire House. Mr. Corson stated that he has repeatedly asked the NJDEP if they could provide more fill in the eroded areas of the Northern end. The NJDEP responded that this was not within the permit application and could not be done at this time. The northern area was not eroded when the original permits were drafted and the State will not allow changes or addendums to the permit. The NJDEP has agreed to grade and slope the sand in that area.

Mr. Dietrich stated that dune fencing will be put in place on the Strathmere beach and that dune grass will be planted in the fall. The state will handle the Strathmere natural area, as stipulated in the contract. He also reported that he has been contacted by volunteers to assist with the installation of fencing and dune grass planting and will coordinate the work when appropriate.

Deputy Mayor Curtis Corson opened the discussion to the Public.

**Lyn Fayter, Strathmere**, asked if the State could put the reserve sand on the western side. Mr. Corson and Mr. Dietrich both responded that the question has been asked several times and each time the NJDEP has responded that they would not change the permit. Mrs. Fayter questioned whether properties on western side are at risk. Dr. Stewart Farrell responded that the risk would be from a western wind, and he also stated that this area is State property and the Township cannot put sand there without permission from the State, which the State will not give.

**Jean Riley, was present and spoke in proxy for Dr. Beal, Strathmere:** She asked is there a contingency plan in place for the natural area western section should it become compromised. Dr. Farrell responded that if water rises onto Township owned property we can respond but until then we cannot. Curtis Corson also pointed out that the bulkheads now in place will help protect the homes.

**Edward Murphy, Strathmere**, asked if the Township Committee told the NJDEP that residents on the western side are in danger of losing their homes, and added that he has documentation to present to the NJDEP supporting this fact. Paul Dietrich responded that the NJDEP has been copied on everything and notified of the erosion occurring on that side of the island. It was discussed again that the Township requested several times to have sand poured there and were denied. The area is state owned and that the Township has no authority over the state lands. Mr. Murphy questioned why the bulkheads and stone could be placed last winter. It was discussed that the steel bulkheads and stone revetment were placed after the State Natural land was lost and a state of emergency was declared. It was discussed that it is the private property owners' responsibility to maintain and protect their own property. Mr. Dietrich encouraged Mr. Murphy to have his engineer apply for a permit to build a bulkhead if Mr. Murphy feels it is an emergent situation. Dr. Farrell encouraged Mr. Murphy to speak with Ben Kaiser or William Dixon from the NJDEP. It was also stated that the Township did encourage residents back in March to apply for permits for their own bulkheads.

**Joseph Kelly, Strathmere**, asked Dr. Farrell if he believes the work done earlier this year accelerated the erosion on the western end. Dr. Farrell said no it did not and that the Northeast corner has increased by 150 feet of sand by accretion. Mr. Kelly questioned the effectiveness of the work and the effect on the channel. He also claimed the Township should have done more to protect peoples' homes. Mr. Young again stated that maintenance and protection of private property is the homeowners' responsibility – not the Township's. When Township property was in danger the Township acted to protect the public areas which in some cases had to include private areas to "anchor" what was built. Mr. Kelly asked about the Townships written emergency plan. Mr. Newman responded that Emergency Management Director, John Deuter, would declare an emergency and move forward from there accordingly.

**Ted Kingston, Strathmere**, asked why the NJDEP did not modify the permits for the Federal profile when they had the extra sand and would the Committee ask Ben Kaiser for one extra day of pumping to fill in the western area. Mr. Dietrich responded that there is a distinction between permits required for state project and permits for the federal project. Dr. Farrell also explained that the Federal and State projects also have different modification standards that can cause huge

delays. Ted asked if we can stockpile sand in the permitted area. Mr. Dietrich said there is approximately 200,000 cu. yards stockpiled at this time. Dr. Farrell also noted he used Coastal Center funds for aerial photographs and they will be forwarded to Township for use when available.

Curtis Corson closed this portion of meeting and resumed with Paul Dietrich's report.

In other matters Mr. Dietrich reported that the NJDOT is conducting a resurfacing project on Route 9 in Seaville going south into Dennis Township. The work will be done during the evenings for 5p.m. to 6p.m. after Labor Day. Mr. Dietrich has requested that the NJDOT notify the Township prior starting the work so that we can broadcast the information accordingly. Mr. Dietrich reported on the information on paper shredding options as requested at the last meeting and the most feasible option was to purchase a heavy duty paper shredder. Curtis Corson made motion to obtain quotes to purchase a commercial shredder, Barbara Camp seconded, with all four Committee members voting in the affirmative.

**Barbara Spiegel, Acting Finance Officer**, has one item for closed session regarding State Health Benefit Contract and retirees.

## **RESOLUTIONS**

### **1) Appointment of Justin Hope as a Part-time Seasonal Laborer to the Upper Township Recreation Department.**

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
R E S O L U T I O N  
RESOLUTION NO. 175-2009**

Re: Appointment Of Justin Hope as A Part Time Seasonal Laborer To The Upper  
Township Recreation Department

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**WHEREAS**, a need exists to appoint qualified personnel as seasonal employees to the Upper Township Recreation Department to insure optimal operation; and

**WHEREAS**, a recommendation has been made to the Township Committee and duly considered at the meeting of July 27, 2009; and

**WHEREAS**, this Resolution is intended to ratify the action heretofore taken; 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. Justin Hope is hereby appointed in seasonal position effective July 28, 2009 at a salary of \$10.50 per hour in accordance with the Salary Ordinance.

3. This Resolution ratifies, confirms and approves action taken by the Township Committee, by motion, at the meeting of July 27, 2009.

Resolution No. 175-2009  
Offered by: Newman  
Adopted: August 10, 2009

Seconded by: Conrad

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>          </u>	<u>          </u>	<u>          </u>	<u>X</u>

**2. Appointment of Nicholas Roash to the 2009 Season Beach Patrol Personnel.**

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION  
RESOLUTION NO. 176-2009**

**Re: Appointment of Nicholas Roash to the 2009 Season Beach Patrol Personnel**

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**WHEREAS**, the individuals hereinafter named have been determined to possess the requisite skills, training and are otherwise eligible for appointment to the position of lifeguard; 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 following individuals are appointed as lifeguards in the Township of Upper at a salary as stated below in accordance with the Salary Ordinance:

ROOKIE GUARD

Nicholas Roash            \$10.00

3. This Resolution shall be effective immediately and is further intended to ratify, confirm and approve any formal action taken by the Township Committee.

Resolution No. 176-2009

Offered by: Conrad

Seconded by: Camp

Adopted: August 10, 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>          </u>	<u>          </u>	<u>          </u>	<u>x</u>

- 3. Department Transfer 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.**

**TOWNSHIP OF UPPER  
 CAPE MAY COUNTY  
 R E S O L U T I O N  
 RESOLUTION NO. 177-2009  
 RE: DEPARTMENT TRANSFER 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**

**WHEREAS**, recommendations were made for employee transfers between the Upper Township Recreation Department and the Upper Township Public Works Department, and;

**WHEREAS**, the recommendations are as follows:

- a. Transfer of Brian Keenan from the Recreation Department to the Public Works Department, and;
- b. Transfer of Robert Young, Jr., from the Public Works Department to the Recreation Department;

**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. Brian Keenan is hereby transferred from the Recreation Department into the Public Works Department; and Robert Young, Jr. is hereby transferred from the Public Works Department to the Recreation Department.
3. The aforesaid transfers are effective July 31, 2009 with no change in either employee's current salaries in accordance with the Salary Ordinance.
4. Employees Brian Keenan and Robert Young, Jr. have both agreed to the terms of the transfer and have voluntarily accepted this transfer.
5. This Resolution ratifies, confirms and approves action taken by the Township Committee, by motion, at the meeting of July 27, 2009.

Resolution No. 177-2009

Offered by: Conrad                      Seconded by: Camp

Adopted: August 10, 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>      </u>	<u>      </u>	<u>      </u>	<u>  X  </u>

**4. Resolution To Support The Pine Barrens Byway Corridor Management Plan.**

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION  
RESOLUTION NO. 178-2009  
RE: RESOLUTION TO SUPPORT  
THE PINE BARRENS BYWAY CORRIDOR MANAGEMENT PLAN**

**WHEREAS**, the Southern Pineland Natural Heritage Trail Scenic Byway is a 130-mile driving route connecting natural, historic and recreational resources and Upper Township previously expressed its support for the concept of a Pinelands Scenic Byway, and its intention to participate in the development of state and national scenic byway nominations and a scenic byway corridor management plan; and

**WHEREAS**, the New Jersey Department of Transportation has approved the nomination of the Southern Pinelands Natural Heritage Trail as a New Jersey Scenic Byway; and

**WHEREAS**, during 2008-2009 the Southern Pinelands Natural Heritage Trail Committee, with the support of the Pinelands Commission and the assistance of a professional consulting team, has completed a Scenic Byway Corridor Management Plan; and

**WHEREAS**, the Heritage Trail Committee has approved changing the name of the route to the “Pine Barrens Byway”; and

**WHEREAS**, administration of the byway, further requires a continuing commitment on the part of all participants, involving the establishment of a permanent body to oversee its long-term operation and promotion;

**NOW, THEREFORE, BE IT RESOLVED**, that Upper Township supports the corridor management plan and intends to cooperate in on-going efforts to implement the recommendations of the corridor management plan and wishes to be involved in establishing and supporting a permanent body to oversee the byway’s long-term operation and promotion, provided that such support and involvement by Upper Township does not require Township funding, resources or obligations without the specific future authorization of the Township Committee of Upper Township.

Resolution No. 178-2009

Offered by: Camp

Seconded by: Conrad

Adopted: August 10, 2009

Roll Call Vote:

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

**5. Resolution in support of A-3443 which authorizes Set Asides or Fees In Lieu Thereof for Open Space and Recreation Purposes.**

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 179-2009

RE: RESOLUTION IN SUPPORT OF A-3443 WHICH AUTHORIZES SET ASIDES OR FEES IN LIEU THEREOF FOR OPEN SPACE AND RECREATION PURPOSES

WHEREAS, the New Jersey Supreme Court in June 2009 affirmed an Appellate Division decision which held that municipalities may only require on-site open space set asides from developers of Planned Unit Developments; and

WHEREAS, the Supreme Court in that decision found that municipal ordinances requiring such set asides for other types of development are not authorized by the New Jersey Municipal Land Use Law; and

WHEREAS, the Township of Upper has for a number of years funded its recreation facilities through such set asides for fees in lieu thereof and Upper Township ordinances to this effect were rendered unenforceable by the aforesaid New Jersey Supreme Court decision; and

WHEREAS, Assembly Bill A-3443 addresses this omission from the New Jersey Municipal Land Use Law and expressly authorizes municipalities to condition development approvals based upon a set aside for open space, recreational areas and facilities or payments in lieu; and

WHEREAS, Assembly Bill A-3443 assists local governments in open space preservation and sound planning; and

WHEREAS, the Township Committee of the Township of Upper hereby

wishes to express its strong support for Assembly Bill A-3443.

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 of the Township of Upper strongly supports

Assembly Bill A-3443 and urges enactment of this law immediately so as to rectify a

serious omission currently in the New Jersey Municipal Land Use Law.

3. A copy of this Resolution shall be forwarded to Governor Jon Corzine as

well as the Senate and Assembly representatives of the Township of Upper.

Resolution No. 179-2009

Offered by: Corson                      Seconded by: Newman

Adopted: August 10, 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>      </u>	<u>      </u>	<u>      </u>	<u>  x  </u>

**6. Authorizing a refund for NRDF COAH Fee for Block 348, Lot 94.18 to Matthew Unsworth, in the amount of \$1,396.25**

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION  
RESOLUTION NO. 180-2009**

**RE: AUTHORIZING A REFUND FOR NRDF COAH FEE FOR BLOCK 348,  
LOT 94.18 TO MATTHEW UNSWORTH, IN THE AMOUNT OF \$1,396.25**

**WHEREAS**, Matthew Unsworth has paid the sum of \$1, 396.25 for the payment of a Non- Residential Development COAH fee for Block 348, Lot 94.18; and

**WHEREAS**, a refund has been recommended by the Upper Township Tax Assessor in order to refund monies for said application; and

**WHEREAS**, the State has suspended the Non-Residential Development Fee as of July 27, 2009; and

**WHEREAS**, the fee would not be applicable to Upper Township Ordinance No. 013-2009 Re: Development Fees effective June 8, 2009, because owner had approval prior to the effective date of the Ordinance.

**NOW, THEREFORE BE IT RESOLVED**, by the Township Committee of the Township of Upper, Cape May County, that a refund is hereby authorized and the Chief Financial Officer is hereby directed to refund monies as indicated below:

<u>BLOCK/LOT</u>	<u>AMOUNT</u>	<u>NAME</u>
348/94.18	\$1,396.25	Matthew Unsworth 1217 So. Shore Rd., Suite 102 Ocean View, NJ 08230

Resolution No. 180-2009

Offered by: Camp

Seconded by: Conrad

Adopted: August 10, 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      x      \_\_\_\_\_    \_\_\_\_\_  
 Palombo    \_\_\_\_\_    \_\_\_\_\_    \_\_\_\_\_      x  

**7. Refund E.M.S. Ambulance Billing Overpayment To AETNA.**

**TOWNSHIP OF UPPER  
 CAPE MAY COUNTY  
 RESOLUTION  
 RESOLUTION NO. 181-2009  
 RE: REFUND EMS AMBULANCE BILLING OVERPAYMENT TO AETNA**

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**WHEREAS**, an overpayment has occurred in the account of Elizabeth Ker, an EMS ambulance billing patient, where the monies sent to the Township of Upper by Aetna were in excess as evidenced by the attached copy of a letter from Aetna attached hereto as Exhibit A.

**NOW, THEREFORE BE IT RESOLVED**, by the Township Committee of the Township of Upper, Cape May County, that a refund is hereby authorized and the Chief Financial Officer is hereby directed to refund monies as indicated below:

<u>AMOUNT</u>	<u>NAME</u>
\$70.00	Aetna P.O. Box 14079 Lexington, KY 40512-4079

Resolution No. 181-2009  
 Offered by: Newman  
 Adopted: August 10, 2009  
 Roll Call Vote:

Seconded by: Camp

<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	<u>  x  </u>	_____	_____	_____
Palombo	_____	_____	_____	_  x  _

**ORDINANCES**

**8. Introduction and First Reading of Ordinance 019-2009 RE: AN ORDINANCE AUTHORIZING SALE OF LANDS, TO WIT BLOCK 623, LOTS 21, 22, 23 and 24**  
 The ordinance was not introduced this evening. Jay Newman made a motion to table any action at this time as there are appraisal questions that the applicant wants to research prior to proceeding with the ordinance. Barbara Camp seconded the motion with all four Committee members voting in the affirmative.

**CORRESPONDENCE**

**9. Request for two (2) on-street Handicap Parking spaces along the Southwesterly side of Prescott Avenue at the frontage of Block 822, Lot 1, at Mildred’s Restaurant.**

Mr. Dietrich’s comments included that the restaurant is preparing a new site plan and they are required to provide two handicap parking spots and that this would satisfy the American with Disabilities Act. There was discussion that the parking spots should be provided on the restaurant property rather than on the street. Motion was made by Frank Conrad, second by Barbara Camp to include this location in an ordinance that will be presented at a future meeting. During roll call vote all four Committee members present voted in the affirmative.

**10. Request for a “No Parking” sign along the commercial section of Farm Road.**

Mr. Dietrich commented that the installation of “No Parking” signs on this section of Farm Road would prevent blocking the narrow roadway. Motion by Frank Conrad, second by Barbara Camp, to also include in the ordinance referenced above. During roll call vote all four Committee members voted in the affirmative.

**NEW BUSINESS**

**UNFINISHED BUSINESS:**

**DISCUSSION**

**11. Amendment to Township Development Fee Ordinance Chapter XX, Section 15.**

The amendment will be forwarded to the Planning Board for their review and approval, prior to further action by this Committee. It was also recommended to exclude ground mounted solar panel cells and wind turbines from development fees as they are exempt from property tax.

**PAYMENT OF BILLS:**

Motion made by Jay Newman, “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.” Second by Barbara Camp. During roll call vote all four Committee members voted in the affirmative.

Bills approved for payment:	\$1,408,997.83
Payroll:	\$ 190,115.49

**REPORT OF MUNICIPAL DEPARTMENTS:**

- 12. Construction Code**
- 13. Clerk’s Office**
- 14. Animal Control**
- 15. Tax Assessor**
- 16. Tax Office**
- 17. Municipal Court-Upper Township, and Corbin City**
- 18. Finance Office**
- 19. MUA Report**
- 20. EMS Report**

Reports are available from the Clerk’s Office.

**PUBLIC COMMENT**

**Anthony Adario**, Strathmere, asked about the opening of streets and roads by utility companies. Mr. Dietrich responded that the utility company must apply for a permit from the Township and that they also maintain performance bonds to ensure work will be completed. Mr. Adario replied that Sherman Road and Bayview Drive are in need of repairs from previous street openings. Mr. Dietrich will send a DPW employee to see if anything can be done to correct it. Mr. Adario also informed the Committee that he is not in favor of the handicap parking at Mildreds restaurant being located on a public road. Mr. Corson encouraged Mr. Adario to attend the meeting when the ordinance is presented for public comment.

**Joseph Fenton**, Pacific Ave., Marmora, discussed the Soccer matter and is concerned that the Committee received emails and information regarding an issue that the UTSA Board should be handling. He thinks this sets a precedent that all future disagreements will be made “public” and come before the Committee. Frank Conrad responded that the Township is copied on nearly all complaints and they cannot control that, and that anything coming into the Clerk’s Office becomes a public record and is copied for the Committee. Mr. Corson noted that public perception sees a lot of public dollars going into the soccer program and the Committee has an obligation to be involved when public money is involved. Frank Conrad responded that the Committee is elected to take care of issues that get to their desk. Mr. Fenton said the problem is that individuals are not going through the proper channels to get issues resolved.

**Timothy Murray**, Beesleys Point, asked what are the details of the tax money spent on the Soccer Association, how is it broken down, etc. Mr. Corson read a breakdown of Township money paid for the soccer program.

**Duane Terwilliger**, stated that that money has nothing to do with the European trip. The children raise their own money for the trip.

**Paul Edgell**, 17 Ortleib Lane, Seaville, stated that no one is forced to go on the trip and no one is obligated to fund raise. It is an extra-curricular activity. He asked why the Committee was “picking” on the Soccer Association. Mr. Corson started that Mr. Davis brought the Committee into it with his questions in his email message and noted that since public funds are involved, the issue is the lack of choice for the trip. Mr. Edgell replied it is clearly spelled out in the by-laws and accused the Committee of threatening to take the fields away. Frank Conrad replied that this was never discussed and that the Committee has no intention of doing that. The issue is that no fund raising can be done for other than the Europe trip because the Association will not allow them to use their 501C-3 Status to raise money. This puts a burden on families because of cost—they can not fundraise, or concerns of security with traveling outside the country. He recommended a change to the by-laws that will allow this.

**Jay Davis**, 2 McDaniels Ct., Seaville, was present with his supporters. He is upset that the newspaper article stated the “Committee came to the consensus that the Soccer Association should change its by-laws.” He stated that the Soccer Board did raise this issue and the proposed by-law changes were presented at a Soccer Association meeting at which time there was not enough support to change them. He asked why the Township Committee is trying to circumvent the authority of the Soccer Association. He stated that Mayor Palombo and Committeeman Frank Conrad should recuse themselves from all future meetings and discussions pertaining to this matter, to insure no bias in this matter. He said that the Soccer Association does not receive anything more than the other Township recreation groups do. Mr. Davis claims that Mayor Palombo threatened to take away the fields if the group did not change the by-laws. Mr. Davis does not believe the Soccer Association by-laws are different from any of the other recreation groups.

Mr. Conrad asked if all members registered in the Soccer Association were notified of this meeting. Mr. Davis said every member was invited to several other open meetings.

Mr. Conrad stated that this issue never got to the Recreation Committee because Mr. Davis asked the Township Committee to respond to questions, which they did. This issue needs to be answered by the Recreation Committee. At the last meeting there was a consensus that the Township Committee and Association would work together on by-law changes.

Mr. Newman said that at the last meeting there was a dialogue regarding cooperation between the Association and the Committee. Mr. Davis requested these questions be discussed at the meeting –the Committee did not request it. He feels this issue of the trip should be attempted to be resolved through the Recreation Committee and if it can't be resolved there, then bring it before the Township Committee.

**Mr. Young** stated that the only way the Township Committee can take a position or respond to questions is if it's part of an agenda and answered by quorum. The Township never said we are going to take away the soccer fields and the Mayor never answered for the Committee members.

**Barbara Camp** said the Association needs to call for a special meeting with the Recreation Committee, that this does not belong at the Township Committee level.

**Jen Bowersock**, wanted the Committee to know that all parents were invited to attend the meeting tonight and that the emailed message was not biased.

**Joanna Johns**, 406 Tuckahoe Road, referred to the news article and statement that the Township Committee can withhold funds for the activity.

**Fred Bornhardt**, 22 White Pine Lane, asked that if the Recreation Committee cannot resolve this issue then what would be the Committee's position? Mr. Corson and Mr. Newman both responded that they cannot answer a hypothetical question and that the worst case scenario is the current Association loses the funding and fields—and the children will continue to play under a new Township soccer program.

**Tim Murray**, stated that he understood the by-laws and signed on for the program anyway.

**Bill Horning**, 14 Ash Terrace; stated that the common themes presented are choice, change, fairness, and compromise and that all can be achieved and that by-laws are critical to the not-for-profit organization.

**Susie Bornhardt**, 22 White Pine Lane, is fearful that opinions are already set in place and if it comes back to the Township Committee the decisions are already made. Mr. Corson and Mr. Conrad both stated that if it does come back to the Committee they will make sure the kids have a soccer program; that the "Europe Only" trip is the issue. Mr. Newman stated that if it comes back to the Township Committee, the Municipal Attorney would review the issue as to legality and advise us accordingly.

**Linda Jackson**, Pine Lane, is also fearful of seeing the by-laws changed; and stated that "people who don't like the "Europe Only" rule should play on the recreation level not the traveling level".

**Joseph Fenton**, wants to know what would happen if the by-laws were changed. Mr. Corson and Mr. Conrad both stated families/kids should have a choice and majority rules. Mr. Conrad added that the Township Committee will do its best to support the Recreation Committee's decision. Mr. Fenton fears this issue will be presented again when someone once more disagrees with it. Mr. Young replied that this issue could be presented again as the current Committee's decisions cannot bind future Committees.

**Joanna John**, asked about another issue of cutting players from teams. Mr. Corson replied that this is not appropriate to this discussion.

## **CLOSED SESSION**

**21. Resolution to conduct a closed meeting pursuant to N.J.S.A. 10:4-12, from which the public shall be excluded. Moved by Jay Newman, second by Barbara Camp, all four committee members voted in affirmative.**

I hereby move that a resolution be incorporated into the minutes of this meeting authorizing the Township Committee to enter into an executive session for the following matters pursuant to the Open Public Meetings Act;

Matters pertaining to litigation regarding tax lien matter Group 151, matters to include contract negotiations for Animal Control Officer and Stockton Coastal Research, matter pertaining to a Personnel issue, matters pertaining to contract negotiations of State Health Benefit Program for Retirees.

I also include in my motion the estimated time and the circumstances under which the discussion conducted in closed session can be disclosed to the public as follows: it is anticipated that the matters discussed in closed session may be disclosed to the public upon the determination of the Township Committee that the public interest will no longer be service by such confidentiality.

## **RECONVENE PUBLIC PORTION OF MEETING**

## **ADJOURNMENT**

There was no further business for this evening and the meeting was adjourned at 11:05 P.M. Next meeting scheduled for August 24, 2009 at 7:30 P.M.

Minutes prepared by

Wanda Gaglione, RMC  
Municipal Clerk

### Bill List

49422	08/11/09	A0004	A+ COMMERCIAL OFFICE CLEANERS	250.00	2541
49423	08/11/09	A0006	ADVANCE TREADS INC	762.00	2541
49424	08/11/09	A0018	ACTION SUPPLY INC.	674.82	2541
49425	08/11/09	A0020	ACU-THERM SUPPLY CO.,INC.	219.51	2541
49426	08/11/09	A0025	ADVANTAGE RENTAL ACE HARDWARE	1,311.68	2541
49427	08/11/09	A0028	ADVANTAGE RENTAL CENTER INC.	164.87	2541
49428	08/11/09	A0041	ALL ACTION WATER SPORTS, INC.	53.99	2541
49429	08/11/09	A0086	AT&T MOBILITY	264.95	2541
49430	08/11/09	A0091	ATLANTIC CITY ELECTRIC	23,412.04	2541
49431	08/11/09	B0052	BENNETT BATTERIES,LLC.	59.90	2541
49432	08/11/09	B0165	BAUER MUNICIPAL SUPPLIES	316.00	2541
49433	08/11/09	B0171	BORNHARDT, FRED	210.00	2541

49434 08/11/09 C0005 CMC JR. FOOTBALL LEAGUE 3,500.00 2541  
49435 08/11/09 C0019 CITY OF OCEAN CITY 95,220.50 2541  
49436 08/11/09 C0030 CAMP, BARBARA 100.00 2541  
49437 08/11/09 C0052 CAPE MAY COUNTY TREASURER 1,201,038.72 2541  
49438 08/11/09 C0060 CAPRIONI'S PORTABLE TOILETS 1,737.00 2541  
49439 08/11/09 C0068 COMCAST 169.32 2541  
49440 08/11/09 C0071 CAPEHART & SCATCHARD, P.A. 3,745.00 2541  
49441 08/11/09 C0105 CHIAPPINI,VIRGINIA 60.85 2541  
49442 08/11/09 C0131 CINTAS FIRST AID & SAFETY 67.35 2541  
49443 08/11/09 C0143 CODY'S POWER EQUIPMENT 216.79 2541  
49444 08/11/09 C0146 COLLINS IRON WORKS, INC. 891.48 2541  
49445 08/11/09 C0156 COMPUTER HOUSE OF SOUTH JERSEY 7.99 2541  
49446 08/11/09 C0201 CRUZAN'S TRUCK SERVICE INC. 387.79 2541  
49447 08/11/09 C0223 CASA PAYROLL SERVICE 245.35 2541  
49448 08/11/09 D0077 DIETRICH,PAUL 16.25 2541  
49449 08/11/09 E0012 EHRlich PEST CONTROL INC 68.00 2541  
49450 08/11/09 E0048 EDGELL, ASHLEY 25.00 2541  
49451 08/11/09 F0050 FOREMOST PROMOTIONS 426.39 2541  
49452 08/11/09 F0058 FOREVERPURE WATER CONDITIONING 135.00 2541  
49453 08/11/09 F0059 FRANKEL, ELAINA 25.00 2541  
49454 08/11/09 G0008 GALLO GMC TRUCK SALES INC. 56.43 2541  
49455 08/11/09 G0014 GARDEN STATE HWY PRODUCTS INC. 116.00 2541  
49456 08/11/09 G0028 GENTILINI FORD 42.50 2541  
49457 08/11/09 H0018 HAROLD RUBIN/L & H SUPPLY 128.34 2541  
49458 08/11/09 H0131 HPI PROCESSES, INC 176.54 2541  
49459 08/11/09 J0002 J.P. COLLINS CO. 10.36 2541  
49460 08/11/09 J0005 JACKSON,THOMAS ENTERPRISES,INC 1,161.00 2541  
49461 08/11/09 K0005 KIEFER ADOLPH & ASSOCIATES 879.77 2541  
49463 08/11/09 L0031 LORCO PETROLEUM SERVICES 329.50 2541  
49464 08/11/09 L0080 LOWES, INC. 24.98 2541  
49465 08/11/09 M0019 MAXIMUM MARINE 22.50 2541  
49466 08/11/09 M0055 MAY, JUDITH 44.00 2541  
49467 08/11/09 M0070 MID ATLANTIC WASTE SYSTEMS 1,100.51 2541  
49468 08/11/09 M0084 MIKE'S SEAFOOD 225.00 2541  
49469 08/11/09 M0170 MURRAY, TIM 240.00 2541  
49470 08/11/09 M0188 MCCARTHY TIRE SERVICE OF PHILA 113.00 2541  
49471 08/11/09 N0004 NJ-AMERICAN WATER CO. 124.63 2541  
49472 08/11/09 N0043 NAPA AUTO PARTS OF S.JERSEY 144.26 2541  
49473 08/11/09 N0100 N.J. LEAGUE OF MUNICIPALITIES 96.00 2541  
49474 08/11/09 O0006 OCS PRINTING 85.00 2541  
49475 08/11/09 P0008 PALMER, NANCY 68.00 2541  
49476 08/11/09 P0031 PAONE, LOUIS 50.00 2541  
49477 08/11/09 P0032 PEDRONI FUEL CO. 2,661.39 2541  
49478 08/11/09 P0056 TURF EQUIPMENT AND SUPPLY CO 173.72 2541  
49479 08/11/09 P0064 PITNEY BOWES 36.54 2541  
49480 08/11/09 P0070 POMEROY, JENNER 37.50 2541  
49481 08/11/09 P0094 PUBLIC SAFETY CENTER,INC. 301.31 2541  
49482 08/11/09 P0117 PYROTECNICO 6,000.00 2541  
49483 08/11/09 Q0008 QUILL CORPORATION 910.61 2541  
49484 08/11/09 R0030 RIGGINS, INC. 3,143.59 2541  
49485 08/11/09 R0061 RUTGERS, THE STATE UNIVERSITY 3,114.00 2541  
49486 08/11/09 R0071 REMINGTON VERNICK & WALBERG 234.75 2541  
49487 08/11/09 S0001 SAM'S CLUB 404.61 2541  
49488 08/11/09 S0056 SEASHORE ASPHALT CORPORATION 201.02 2541  
49489 08/11/09 S0066 SEETON TURF WAREHOUSE LLC 127.90 2541  
49490 08/11/09 S0083 SHERWIN WILLIAMS, CO. 97.13 2541  
49491 08/11/09 S0113 SMITH,THOMAS G. 1,018.78 2541  
49492 08/11/09 S0138 SOUTH JERSEY SOCCER LEAGUE 1,220.00 2541  
49493 08/11/09 S0196 STEWART BUSINESS SYSTEMS LLC 110.50 2541  
49494 08/11/09 S0216 DEPT.31 OOOO261489 515.21 2541  
49495 08/11/09 T0018 TEKK COMM COMMUNICATIONS 673.98 2541  
49496 08/11/09 T0020 TERWILLIGER, DUANE E. 76.00 2541  
49497 08/11/09 T0022 TERMINIX 47.00 2541  
49498 08/11/09 T0032 THE PRESS & SUNDAY PRESS 56.00 2541  
49499 08/11/09 T0044 THOMSON, KERRY AGENCY 21,315.60 2541  
49500 08/11/09 T0048 TILL PAINT CO/D. FITZGERALD 758.03 2541  
49501 08/11/09 T0067 TOWNSHIP OF UPPER PETTY CASH 43.47 2541  
49502 08/11/09 T0074 TRANSAXLE LLC 419.70 2541  
49503 08/11/09 T0086 TREASURER, STATE OF NEW JERSEY 85.00 2541  
49504 08/11/09 T0097 TRICO EQUIPMENT INC. 880.01 2541  
49505 08/11/09 V0005 VAN EMBDEN, NATHAN, ATTORNEY 675.00 2541  
49506 08/11/09 V0013 VERIZON WIRELESS 421.11 2541  
49507 08/11/09 V0018 VILLAGE PHARMACY, INC. 232.00 2541  
49508 08/11/09 V0022 VERIZON 196.19 2541  
49509 08/11/09 V0024 VAL-U AUTO PARTS L.L.C. 789.75 2541  
49510 08/11/09 V0027 VANORDER, ROGER 96.49 2541  
49511 08/11/09 V0031 VANMETER, DONNIE 25.00 2541

49512 08/11/09 Y0008 YOUNG, DANIEL J. ESQUIRE PC 20,805.94 2541  
49513 08/11/09 Y0012 YOUNG, ROBERT 41.99 2541  
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Total Paid: \$1,408,997.83