

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR SEPTEMBER 14, 2009**

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

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Barbara Camp	Absent
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 Chief Finance Officer Barbara Spiegel.

APPROVAL OF MINUTES - **August 10, 2009 Regular Meeting.** The Minutes were approved as written with motion by Curtis Corson, and second by Frank Conrad. During roll call vote Richard Palombo abstained, the remaining three Committee members present voted in the affirmative.

**August 24, 2009 Regular Meeting and
Closed Session Minutes**

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

REPORT OF GOVERNING BODY MEMBERS

The Mayor discussed changing the order of the agenda to allow conflict attorney Norman Briggs to discuss an executive session item and present his agenda matters so that he could depart for another appointment.

Deputy Mayor Curtis Corson, made a motion to move into executive session to discuss a **Municipal Lien** issue involving a Township employee, in order to expedite the balance of the meeting. Frank Conrad seconded the motion with all four Committee members present voting in the affirmative. At that time Municipal Attorney Daniel Young stepped down. Norman Briggs, Special Legal Counsel for the Township, met with the Committee in executive session to discuss the **Municipal Lien** matter referenced above.

Frank Conrad reported that fall sports have started. Also, that the new scoreboard at Caldwell Park, donated by Coco Cola, was enjoyed by everyone at the football game. He also reported that Atlantic City Electric assisted with the poles and will provide help in installing the overhead lighting. He thanked both organizations for their support with our sports programs.

Mr. Conrad reported that the dog park is almost ready to open and plans are being made to hold a grand opening in the next few weeks. He reported that he spoke with Brenda Layton regarding the Recreation Committee and the recent Soccer Association meeting. The Minutes of that meeting will be ready in the next few days. Mayor Palombo asked if there has been any progress in the acquisition of the required financial reporting documents of the different sporting groups. Mr. Conrad responded that work is still in progress and paperwork is being put together and should be ready by the next scheduled Recreation meeting so that all sports associations will be in compliance with state regulations.

Mr. Conrad reported that today was the first day for the new Animal Control Officer. The contract is with Dr. Holland and Shore Veterinarian Animal Control and there are 3 people on staff with the ACO certification. The County Shelter and the State police are aware of the new ACO.

Curtis Corson, Deputy Mayor, congratulated Barbara Spiegel on her successful completion of the required courses and passing the final exam for the CMFO designation to be able to hold the title of Chief Financial Officer for the Township of Upper.

Jay Newman, asked for an update on the Hope Corson/Stagecoach Roads sign status. Mr. Dietrich reported that he spoke with County Engineer Dale Foster who is recommending blinking lights and larger "Stop" signs. He reported that the County Engineer was not agreeable to a 4-way stop, that Mr. Foster felt that a 2-way stop was more acceptable for that location. Mayor Palombo commented that he also spoke with Mr. Foster on the status of the Route 50/Hope Corson Road traffic signal light, and that a full traffic light is expected to be installed in the near future. Mr. Dietrich stated that storm water drainage is an issue at this location and has delayed the work.

Richard Palombo, Mayor, reported that he requested an extension for the Smart Growth Grant Application.

OTHER REPORTS

Daniel Young, Municipal Attorney, reported he has the following items for discussion in closed session: a Litigation matter---Ginn vs. Upper Township Zoning Board; a Contract Negotiation matter---Dennis Township Shared Services with our Municipal Courts; a Contract Negotiation matter---NIA group; a Contract Negotiation/Personnel matter---Employee State Health Benefits Plan; a Litigation matter---Beach Lot Condemnations; and another Litigation matter---Citizens for Strathmere and Whale Beach v. Upper Township.

Paul Dietrich, Township Engineer: reported the Township no longer has a use for a Gencon Printer and would like permission to sell it on Govdeals. Jay Newman made motion to draft a resolution to post items on Govdeals, Curtis Corson seconded, with all four Committee members present voting in the affirmative. The Clerk was directed to check with each department for any other surplus items that could be added to the list.

He reported that a news/video publications group contacted him for permission to feature the new vehicle wash station in a short internet video. This would provide the Township credit for the required NJ Stormwater educational component.

Mr. Dietrich reported that the installation of the dune fencing has been completed in Strathmere. The dredging contractor will install the fencing in the natural area, and the state will plant the dune grass when all work is completed.

RESOLUTIONS

1. Appointment of Norman W. Briggs to act as Special Legal Counsel.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 189-2009
RE: APPOINTMENT OF NORMAN W. BRIGGS
TO ACT AS SPECIAL LEGAL COUNSEL**

WHEREAS, the Township requires legal counsel to provide legal services in the event a conflict of interest arises in regard to the services provided by the regular Township Solicitor; 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 Norman W. Briggs, Esquire as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-2.05; and

WHEREAS, Norman W. Briggs, Esquire has completed and submitted a Business Entity Disclosure Certification which certifies that Norman W. Briggs, 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 Norman W. Briggs, Esquire 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. Norman W. Briggs, Esquire with offices at 15 North Shore Road, Marmora, New Jersey is hereby appointed Special Legal Counsel to handle matters in which the regular Township Solicitor has a conflict of interest as directed by the Township Committee.

3. This contract shall have a commencement date as of the date of full execution thereof 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 Norman W. Briggs, 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 Norman W. Briggs, 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 Norman W. Briggs, 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. 189-2009

Offered by: Newman

Seconded by: Conrad

Adopted: September 14, 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	<u>_x_</u>	_____	_____	_____
Palombo	<u>_x_</u>	_____	_____	_____

2. Authorizing the demolition of structure at 2236 Rt-50 in Tuckahoe as an emergent condition and collection of costs as a Municipal Lien on Block 306

Lot 27. Mr. Young stepped down as council for the Township due to conflict; that being that the matter involves a municipal employee. Conflict attorney Norman Briggs represented the Township in this matter.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO.190-2009

RE: AUTHORIZING THE DEMOLITION OF STRUCTURE AT 2236 RT-50 IN TUCKAHOE AS AN EMERGENT CONDITION AND COLLECTION OF COSTS AS A MUNICIPAL LIEN ON BLOCK 306 LOT 27

WHEREAS, the Township Construction Official has inspected the building located at 2236 Route 50, Tuckahoe, NJ, known as Block 306, Lot 27 (hereinafter “unsafe structure”) and declared it unfit for human habitation or occupancy or use; and

WHEREAS, the Township Committee of the Township of Upper has determined that the unsafe structure that presently exists affects the health, safety, and welfare of anyone in close proximity to said structure; and

WHEREAS, the Township Construction Official in accordance with N.J.A.C. 40:48-2.3 et. seq. has noticed the property owner and parties in interest to the property and held a hearing with the same; and

WHEREAS, the Township Construction Official in accordance with N.J.A.C. 40:48-2.3 et. seq. has prepared findings that the structure continues to be unfit for human habitation or occupancy or use; and

WHEREAS, attempts to compel the property owner to repair or demolish the structure have been unsuccessful and has forced the need for the Township of Upper to take action to resolve the matter; and

WHEREAS, the Township Committee previously adopted a resolution, No. 296-2008, to obtain quotes and necessary permits for the demolition of the unsafe structure; and

WHEREAS, the Municipal Engineer has solicited quotes for the removal of asbestos siding and demolition of the structure and submitted a recommendation to the Township Committee with respect to the award of said quotes; 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 purchase order for \$7,723.00 to EarthTech Contracting, Inc. and \$4,450 to Klemco, Inc., the line item appropriation to which the contract will be charged is Account Number 9-01-26-310-038-299; and

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

WHEREAS, the Township concurs with the recommendations of the Township Construction Official and the Township must take emergent actions to have the structure demolished to protect the health, safety and welfare of the public;

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 quote for \$7,723.00 to EarthTech Contracting, Inc. and \$4,450 to Klemco, Inc., for the removal of asbestos siding and demolition of the structure at 2236 Rt-50 in Tuckahoe, resulting in a cost to the Township of \$12,173, subject to the cost of the demolition shall be reimbursed from the property owner either through direct payment by the homeowner or the Township placing a Municipal Lien on said property being Block 306 Lot 27.
3. 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.
4. If necessary, appropriate measures can be taken to insure that the authorities will be unhampered in their efforts to meet any pressing need to protect the persons and property of the residents affected by this matter.
5. The unsafe structure is located in the Pinelands Village of Tuckahoe and a demolition permit has been approved and issued by the New Jersey Pinelands Commission.
6. This Resolution ratifies, confirms and approves action taken by the Township Committee, by motion, at the meeting of August 24, 2009.

Resolution No.190-2009

Offered by: Conrad Seconded by: Corson

Adopted: September 14, 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	<u>_x_</u>	_____	_____	_____
Palombo	<u>_x_</u>	_____	_____	_____

Conflict attorney Norman Briggs completed his matters before the Committee and left the meeting. Municipal Attorney Daniel Young returned to the table as council for the Township in the remaining matters.

3. To acknowledge National POW/MIA Recognition Day on September 19, 2009.

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO 191-2009

**RE: TO ACKNOWLEDGE NATIONAL POW/MIA RECOGNITION DAY ON
SEPTEMBER 19, 2009**

WHEREAS, throughout our Nation’s history, the men and women of America’s Armed Forces have preserved our freedom, protected our security, and upheld our democratic values; and

WHEREAS, in the two centuries since our Nation’s birth, more than a million men and women in uniform have paid the price of liberty with their lives; and

WHEREAS, joining the ranks of these heroes are the thousands who have been held as prisoners of war or whose fate has never been resolved; and

WHEREAS, Americans will never forget those who have borne the indignities and sufferings of captivity in service to our country, those missing in action, or those who died as prisoners of war, far from home and family;

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,

that we acknowledge National POW/MIA Recognition Day on September 19, 2009; and be it further

RESOLVED, that we honor former American prisoners of war and those whose fate is still undetermined; and be it further

RESOLVED, that we encourage the American people to remember with special sympathy and concern the courageous families who maintain their steadfast vigil and who persevere in the search for answers and the peace that comes only with certainty;

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 14th day of September, 2009.

Resolution No. 191-2009

Offered by: Corson

Seconded by: Newman

Adopted: September 14, 2009

Roll Call Vote:

NAME	YES	NO	ABSTAINED	ABSENT
Camp	_____	_____	_____	_____x_____
Conrad	_____x_____	_____	_____	_____
Corson	_____x_____	_____	_____	_____
Newman	_____x_____	_____	_____	_____
Palombo	_____x_____	_____	_____	_____

4. Appointing Barbara Spiegel as Chief Financial Officer of the Township of Upper and amending Resolution No. 117-2009.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 192-2009
APPOINTING BARBARA SPIEGEL
AS CHIEF FINANCIAL OFFICER OF THE TOWNSHIP OF UPPER
AND AMENDING RESOLUTION NO. 117-2009**

WHEREAS, Barbara Spiegel has successfully completed both the course and exam requirements pursuant to NJSA 40A:9-140, to attain the designation certification of Chief Municipal Financial Officer (CMFO); and

WHEREAS, from June 1, 2008 to the present she has been appointed to the title of Temporary Chief Financial Officer of the Township of Upper while working towards the CMFO designation; and

WHEREAS, also pursuant to NJSA 40A:140, the Township of Upper is required to appoint a Chief Financial Officer that possesses the CMFO designation; and

WHEREAS, the Township Committee has duly considered the matter and has determined that Barbara Spiegel possesses all of the requisite qualifications for appointment to the title of Chief Financial Officer of the Township of Upper as required by law; 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. Barbara Spiegel is hereby appointed as Chief Financial Officer of the Township of Upper at a salary of \$53,350 plus an additional \$1,000 for the successful completion of State certification, effective September 8, 2009.
3. Appointment is for a four (4) year term, effective January 1, 2009 and expiring December 31, 2012 pursuant to NJSA 40A:9-140.10 that directs the term of office commence as of January 1st of the year of appointment.
4. Resolution No. 117-2009 is hereby amended with Barbara Spiegel's appointment to Chief Financial Officer.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 14th day of September, 2009.

Resolution No. 192-2009

Offered by: Corson

Seconded by: Newman

Adopted: September 14, 2009

Roll Call Vote:

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

5. Resolution to authorize reimbursement of cost of medical and prescription benefits to Laurence Bond.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 193-2009
RE: RESOLUTION TO AUTHORIZE REIMBURSEMENT OF COST OF MEDICAL
AND PRESCRIPTION BENEFITS TO LAURENCE BOND**

WHEREAS, Laurence Bond began employment with the Township of Upper on May 8, 1984 and retired on June 1, 2009 with 25 continuous years of service to Upper Township;

WHEREAS, the Township provides medical coverage including coverage for dependents to employees with 25 continuous years of service;

WHEREAS, the Township began participation in the New Jersey State Health Benefits Program (SHBP) on September 1, 2009 for all retirees and active employees and therefore must abide by the SHBP regulations;

WHEREAS, one of the requirements of the SHBP is that retirees have 25 continuous years of service to the local government unit and also have 25 years of service in the New Jersey Public Retirement System or the Police and Fire Fighters Retirement System, as applicable;

WHEREAS, Laurence Bond has 24 years and four (4) months in the New Jersey Public Retirement System.

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, Cape May County that a monthly reimbursement be given to Laurence Bond for his cost of medical coverage.

Resolution No. 193-2009

Offered by: Corson

Seconded by: Newman

Adopted: September 14, 2009

Roll Call Vote:

NAME YES NO ABSTAINED ABSENT

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

6. Authorizing the purchase of the following item: Olympia High Volume Cross Cut Shredder at a cost of \$9,525.00 purchased under State Contract from Prosource Packaging, Inc., 14911 Stuebner Airline Suite A, Houston, TX 77069 .

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO.194-2009

RE: AUTHORIZING THE PURCHASE OF THE FOLLOWING ITEM;
OLYMPIA HIGH VOLUME CROSS CUT SHREDDER AT A COST OF
\$9,525.00 PURCHASED UNDER STATE CONTRACT FROM
PROSOURCE PACKAGING, INC.
14911 STUEBNER AIRLINE SUITE A
HOUSTON, TX 77069

WHEREAS, the Township of Upper avails itself of the right to purchase materials, supplies and equipment under contracts for each, entered into on behalf of the State of New Jersey by the Division of Purchase and Property in the Department of the Treasury pursuant to N.J.S.A. 40A:11-12 and; and

WHEREAS, the Township of Upper also avails itself of the right to purchase materials, supplies and equipment independent of any state contract to obtain the best value; and

WHEREAS, it is necessary to obtain certain materials, supplies and equipment specifically a high volume cross cut shredder, during the year 2009; 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 purchase said item; and

WHEREAS, the appropriation to which the purchase will be from the Recycling Trust Account; 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 of Upper hereby accepts the State Contract price from ProSource Packaging, Inc. for the delivery of a "Olympia 1440,4c High volume Cross Cut Shredder with Hopper-649504 and necessary supplies" at a cost of \$9,252.00.

3. The Vendors listed above shall provide all warranties and manuals applicable to said products and provide same at or before the time of delivery.

4. This Resolution ratifies and confirms the action

taken by the Township Committee at its regular meeting held on August 24, 2009.

Resolution No.194-2009

Offered by: Corson

Seconded by: Conrad

Adopted: September 14, 2009

Roll Call Vote:

NAME YES NO ABSTAINED ABSENT

Camp	_____	_____	_____	_____X_____
Conrad	_____X_____	_____	_____	_____
Corson	_____X_____	_____	_____	_____
Newman	_____X_____	_____	_____	_____
Palombo	_____X_____	_____	_____	_____

7. Authorizing Change Order #1 to the “Reconstruction Of Peach Orchard Road Municipal Aid Project-FY 2008 & 2009 Project” for the construction of signs in accordance with NJDOT Standards Resulting in an increase in the amount of \$41,515.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO.195-2009

RE: AUTHORIZING CHANGE ORDER #1 TO THE “RECONSTRUCTION OF PEACH ORCHARD ROAD MUNICIPAL AID PROJECT-FY 2008 & 2009” PROJECT FOR THE CONSTRUCTION OF SIGNS IN ACCORDANCE WITH NJDOT STANDARDS RESULTING IN AN INCREASE IN THE AMOUNT OF \$41,515.00

WHEREAS, the Township of Upper has previously awarded the 2009 Reconstruction of Peach Orchard Road bid to South State, Inc., P.O. Box 68, Trenton, NJ 08302, in the original Contract amount of \$236,264.25; and

WHEREAS, the Township wishes to approve a Change Order to the aforesaid Contract as hereinafter provided; and

WHEREAS, the Chief Financial Officer has issued a certification as to the availability of funds for this Change Order; and

WHEREAS, this Change Order, comprising both extra work, as well as cost increases, does not exceed twenty percent (20%) of the original Contract award; and

WHEREAS, this Change Order is in the best interests of the Township;

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. Change Order No. 1 to the 2009 Peach Orchard Road Project with South State, Inc. is hereby authorized as follows:

Increases.....	\$39,640.00
Decreases.....	\$0.00
Extra Work.....	\$1,875.00
TOTAL.....	\$41,515.00

3. A copy of the Change Order detailing the nature and the extent of the work to be done, together with a summary of the Change Order, and all other prior Change Orders, if any, are attached to this Resolution as Exhibit "A".

4. The Mayor and Chief Financial Officer are hereby authorized, directed and empowered to execute the Change Order on behalf of the Township of Upper.

5. The change order is subject to the approval of the State of New Jersey Department of Transportation.

6. All Township officials and officers are hereby authorized and directed to take all action necessary to carry out the intent and purpose of this Resolution.

Resolution No. 195-2009

Offered by: Corson

Seconded by: Newman

Adopted: September 14, 2009

Roll Call Vote:

NAME	YES	NO	ABSTAINED	ABSENT
Camp	_____	_____	_____	_____x_____
Conrad	_____	_____	_____x_____	_____
Corson	_____x_____	_____	_____	_____
Newman	_____x_____	_____	_____	_____
Palombo	_____x_____	_____	_____	_____

8. Authorizing the release of Maintenance Bond for Winchester Court Major Subdivision Owner and/or Developer: Cedar Villas, Inc. Block 453.10 Lots 337.01 and 14.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO.196-2009
RE: AUTHORIZING THE RELEASE OF
MAINTENANCE BOND FOR WINCHESTER COURT MAJOR SUBDIVISION
OWNER AND/OR DEVELOPER: CEDAR VILLAS, INC.
FOR THE SUBDIVISION KNOWN AS: "WINCHESTER COURT MAJOR
SUBDIVISION"
PROPERTY: ON BLOCK 453.10, LOTS 337.01 AND 14

WHEREAS, CEDAR VILLAS, INC. (hereinafter "Developer"), has completed the work on the project known as "Winchester Court Major Subdivision" in Block 453.10, Lots 337.01 and 14, and has requested final inspection of same by the Municipal Engineer for the Township of Upper; and

WHEREAS, the Municipal Engineer has determined that all improvements have been installed and have been in service in excess of two years and are in satisfactory working condition; and

WHEREAS, the Municipal Engineer, based on the field inspection of the work completed as indicated on Exhibit "A" attached hereto, has recommended a release of the Maintenance Bond (Surety) in the amount of \$29,166.75 and cash in the amount of \$3,240.75 plus interest, street light escrow and the remaining Inspection Fees in accordance with the municipal ordinances of the Township of Upper;

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 above are incorporated herein by this reference.

2. The original Maintenance Bond posted by the Developer shall be released.

3. 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.

Resolution No. 196-2009

Offered by: Conrad

Seconded by: Newman

Adopted: September 14, 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	<u> x </u>	_____	_____	_____
Palombo	<u> x </u>	_____	_____	_____

9. Authorizing the reduction of the Performance Bond of Osprey Point for Block 567 Lot 27 Owner and/or Developer: Block 567 Lot 27 Associates.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO.197-2009
RE: AUTHORIZING THE REDUCTION OF THE PERFORMANCE
BOND OF OSPREY POINT FOR
BLOCK 567, LOT 27
OWNER AND/OR DEVELOPER: BLOCK 567 LOT 27 ASSOCIATES

WHEREAS, Block 567 Lot 27 Associates, Owner and/or Developer of a major subdivision within the Township of Upper, described as follows: Osprey Point, A Condominium, An Age Restricted Development, Block 567, Lot 27; and

WHEREAS, pursuant to N.J.S. 40:55D-53, the Developer has furnished a Performance Guarantee in favor of the Township for improvements which the Upper Township Planning Board has deemed necessary or appropriate; and

WHEREAS, as further required by N.J.S. 40:55D-53, the Municipal Engineer has prepared a revised engineer review letter of the improvements covered by the Performance Guarantee posted by the Developer, and recommended reduction of same based upon work completed to-date, copy of which is annexed to this Resolution as Exhibit "A"; and

WHEREAS, the Performance Guarantee shall be reduced to reflect a Second Revised Performance Surety Bond Amount in the amount of Two Thousand Dollars (\$2,000.00) in cash as recommended in the revised itemized cost estimate attached hereto; and

WHEREAS, the Developer has presented to the Township

Cash Surety Rider, and copy of which is attached as Exhibit "B"; and

WHEREAS, the Municipal Attorney has reviewed the Performance Guarantee Reduction Surety Rider and has determined that the same complies with the New Jersey Statutes and Township Ordinances applicable thereto and has recommended acceptance of same by the Township Committee;

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 Municipal Engineer has prepared a letter detailing the cost, which is attached hereto as Exhibit "A", is hereby accepted and approved.

3. The Surety Bond Reduction Rider, described in this Resolution and attached as Exhibit "B" are hereby accepted and approved.

4. The reduction of the Cash Bond Amount described in this Resolution is hereby accepted and approved.

5. 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.

Resolution No.197-2009
Offered by: Conrad
Adopted: September 14, 2009

Seconded by:Newman

Roll Call Vote:

NAME YES NO ABSTAINED ABSENT

Camp	<u> </u>	<u> </u>	<u> </u>	<u> x </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> x </u>	<u> </u>

10. Authorizing a refund for a building permit to Paul Canton the amount of \$142.00.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 198-2009
RE: AUTHORIZING A REFUND FOR A BUILDING PERMIT
TO PAUL CANTON IN THE AMOUNT OF \$142.00**

WHEREAS, Paul Canton has paid the sum of \$142.00 for the payment of a building permit; and

WHEREAS, the application for the permit was then withdrawn by the applicant and building permit was never issued; and

WHEREAS, it has been recommended by the Upper Township Code Enforcement Officer that a refund in the amount of \$142.00 be given. Refund amount reflects the nonrefundable State fees and certain nonrefundable fees for plan reviews already performed;

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper in the County of Cape May, that the Municipal Clerk is hereby directed to take such corrective action as indicated below.

Resolution No. 198-2009

Offered by: Corson

Seconded by: Conrad

Adopted: September 14, 2009

Roll Call Vote:

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

Refund-Paul Canton-Permit #2007-0541

	Amount refunded
Technical fees of \$115.00 (minus 20% plan review fee which is non refundable)	\$92.00
State Fee Permit Surcharge of \$4.00, which is nonrefundable	-0-
Certificate of Occupancy fee returnable	<u>\$50.00</u>
Total amount to be refunded	\$142.00

11. Reaffirming the review and final approval of the application and purchase of the Development Easement on the Elizabeth A. Gutermuth and Marjorie B. Bixby Farm Block 415, Lot 1 and Block 416, Lot 1.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION

RESOLUTION NO. 199-2009

RE: REAFFIRMING THE REVIEW AND FINAL APPROVAL OF THE APPLICATION
AND PURCHASE OF THE DEVELOPMENT EASEMENT ON THE ELIZABETH A.
GUTERMUTH AND MARJORIE B. BIXBY FARM BLOCK 415, LOT 1 AND
BLOCK 416, LOT 1

WHEREAS, the Cape May County Agriculture Development Board has granted final approval for the purchase of a Development Easement on property owned by Elizabeth A. Gutermuth and Marjorie B. Bixby at a certified value of \$20,500.00 per acre, designated as 7.1 acres, Block 415, Lot 1, Block 416, Lot 1 also know as 1450 Route 50 Upper Township, Cape May County, New Jersey;

WHEREAS, The Board of Chosen Freeholders of the County of Cape May has entered into a contract to purchase said easement;

NOW THEREFORE BE IT RESOLVED, the Township Committee of the Township of Upper has reviewed the aforesaid application, pursuant to N.J.A.C. 2:76-6.10(a)4, and in the best interest of the Township approves the application and the purchase of the development easement of the property designated as Block 415, Lot 1 Block 416, Lot 1, 7.1 acres, Township of Upper, Cape May County, New Jersey.

Resolution No. 199-2009
 Offered by: Corson
 Adopted: September 14, 2009
 Roll Call Vote:

Seconded by: Conrad

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

12. Reaffirming the review and final approval of the application and purchase of the Development Easement on the Marjorie B. Bixby and Stoddard C. Bixby and Elizabeth A. Gutermuth Farm Block 348, Lots 88, 88.01 and 92.

**TOWNSHIP OF UPPER
 CAPE MAY COUNTY
 RESOLUTION**

RESOLUTION NO. 200-2009

RE: REAFFIRMING THE REVIEW AND FINAL APPROVAL OF THE APPLICATION AND PURCHASE OF THE DEVELOPMENT EASEMENT ON THE MARJORIE B. BIXBY AND STODDARD C. BIXBY AND ELIZABETH A. GUTERMUTH FARM BLOCK 348, LOTS 88, 88.01 AND 92

WHEREAS, the Cape May County Agriculture Development Board has granted final approval for the purchase of a Development Easement on property owned by Marjorie B. Bixby and Stoddard C. Bixby and Elizabeth A. Gutermuth, at a certified value of \$44,500.00 per acre, designated as 32.094 acres, Block 348, Lot 88, 88.01, 92, also know as 1441 Route 50 and 1479 Route 50, Upper Township, Cape May County, New Jersey;

WHEREAS, The Board of Chosen Freeholders of the County of Cape May has entered into a contract to purchase said easement;

NOW THEREFORE BE IT RESOLVED, the Township Committee of the Township of Upper has reviewed the aforesaid application, pursuant to N.J.A.C. 2:76-6.10(a)4, and in the best interest of the Township approves the application and the purchase

of the development easement of the property designated as Block 348, Lot 88, 88.01, 92, 32.094 acres, Township of Upper, Cape May County, New Jersey.

Resolution No. 200-2009

Offered by: Corson

Seconded by: Newman

Adopted: September 14, 2009

Roll Call Vote:

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

13. Tax Refund.

TOWNSHIP OF UPPER
 CAPE MAY COUNTY
 R E S O L U T I O N
 Resolution No. 201-2009
RE: TAX REFUND

WHEREAS, certain corrections have been recommended

by the Upper Township Tax Collector in order to refund monies,

NOW, THEREFORE BE IT RESOLVED, by the Township

Committee of the Township of Upper, Cape May County, that corrections to the

tax records are hereby authorized and the Tax Collector is hereby directed to correct said

records or take such action as indicated on the attached sheet.

Resolution No. 201-2009

Offered by: Conrad

Seconded by: Palombo

Adopted: September 14, 2009

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
CAMP	_____	_____	_____	__x__
CONRAD	__x__	_____	_____	_____
CORSON	__x__	_____	_____	_____
NEWMAN	__x__	_____	_____	_____
PALOMBO	__x__	_____	_____	_____

REFUND 2008

<u>BLOCK/LOT</u>	<u>AMOUNT</u>	<u>NAME</u>
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348/93	\$1,325.00	SEAN & ELIZABETH CONNELL 1441 RT 50 WOODBINE, NJ 08270 (3RD QTR PAID BY MTG CO. & HOMEOWNER)
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14. Authorizing the Township of Upper to pay costs and expenses associated with the contract between each of the Township's four Fire Districts, the Upper Township Rescue Squad, Inc. and Atlanticare Occupational Medicine to provide Occupational Medicine Services.

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 202-2009

RE: AUTHORIZING THE TOWNSHIP OF UPPER TO PAY COSTS AND EXPENSES ASSOCIATED WITH THE CONTRACT BETWEEN EACH OF THE TOWNSHIP'S FOUR FIRE DISTRICTS, THE UPPER TOWNSHIP RESCUE SQUAD, INC. AND ATLANTICARE OCCUPATIONAL MEDICINE TO PROVIDE OCCUPATIONAL MEDICINE SERVICES

WHEREAS, the Occupational Safety and Health Administration and occupational health guidelines require that each of the Township's fire districts and the Upper Township Rescue Squad, Inc. (Squad) establish a medical surveillance program; and

WHEREAS, AtlantiCare Occupational Medicine (ACOM) has offered to provide such occupational medical services as required in the Medical Surveillance Program; and

WHEREAS, the Township wishes to assist with the payment of costs in this budget year associated with each contract of the fire districts and the Squad with ACOM to

provide such services for and on behalf of the individual members of each of the Township's four fire districts and the Squad; and

WHEREAS, the Township has available funds up to the sum of \$40,000.00 to pay the costs of said contracts for this budget year and the availability of such funds has been certified as required by law; 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 of Upper hereby agrees to pay the costs associated with the occupational medical services under the contracts with ACOM and the four fire districts and the Squad; provided however the total costs and expenses to be paid by the Township under all said contracts shall not exceed the sum of \$40,000.00 in the current budget year. The obligation of the Township to pay such costs is further conditioned as follows:

A. The payment of costs and expenses shall be allocated among the four fire districts and the Squad on a pro rata basis in accordance with the

relative need for such services as determined by the Township of Upper
considering the size of the workforce for each entity.

B. The Township of Upper shall not reimburse any cost or expense
resulting from a missed appointment or “no show”.

C. Each fire district and Squad contract with ACOM must contain the
identical provisions as the current contract between ACOM and the
Township of Upper for the Township Division of EMS.

D. This agreement by the Township of Upper shall only obligate the
Township to pay such costs in the current budget year. Unless
authorized by a future resolution of the Township Committee, the
Township shall not pay any costs for the year 2010 or beyond.

3. Prior to authorizing the payment of any such sums required under the
aforesaid contracts, the Township shall have in its possession a fully executed copy of each
such contract with the fire district or the Squad and ACOM.

4. It is a specific condition of this authorization resolution that the Township
assume no responsibility or liability in any manner with respect to the implementation of the

RE: AUTHORIZING THE TOWNSHIP OF UPPER TO ENTER INTO A CONTRACT
WITH ATLANTICARE OCCUPATIONAL MEDICINE TO PROVIDE OCCUPATIONAL
MEDICINE SERVICES
TO MEMBERS OF UPPER TOWNSHIP DIVISION OF EMS

WHEREAS, it is required that the Township establish a medical surveillance program in accordance with federal regulations (OSHA) and occupational health guidelines (NIOSH, NFPA) for the Township Division of Emergency Medical Services; and

WHEREAS, AtlantiCare Occupational Medicine (ACOM) has offered to provide such occupational medical services as required in the Medical Surveillance Program; and

WHEREAS, the Township intends to enter into a contract with ACOM to provide such services for and on behalf of the members of the Upper Township Division of Emergency Medical Services; and

WHEREAS, the Township Solicitor has reviewed and approved a form of Contract between the Township of Upper and ACOM, a copy of which is of record in the office of the Township Clerk; and

WHEREAS, the Township has available funds to permit it to enter into this Contract and the availability of such funds has been certified as required by law; 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 is hereby authorized to enter into a Contract with ACOM for a term of two (2) years to provide occupational medicine services required by federal regulations and occupational health guidelines and the Mayor and Township

Clerk are hereby authorized, directed and empowered to execute such Contract on

behalf of the Township of Upper.

3. 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.

Resolution No. 203 -2009

Offered by: Conrad

Seconded by: Newman

Adopted: September 14, 2009

Roll Call Vote:

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

ORDINANCES

17. Introduction and First Reading of Ordinance No. 023-2009

RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XI AND CHAPTER XXIV OF THE CODE OF UPPER TOWNSHIP TO ESTABLISH STANDARDS TO PREVENT POLLUTION OF THE MUNICIPAL STORM SEWER SYSTEMS. Motion was made by Curtis Corson, second by Frank Conrad to introduce Ordinance No. 023-2009, with public hearing and final adoption set for October 13, 2009. During roll call vote all four Committee members present voted in the affirmative.

TOWNSHIP OF UPPER
CAPE MAY COUNTY

O R D I N A N C E
ORDINANCE NO. 023 -2009

RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XI AND
CHAPTER XXIV OF THE CODE OF UPPER TOWNSHIP TO ESTABLISH STANDARDS TO
PREVENT POLLUTION OF THE MUNICIPAL STORM SEWER SYSTEMS

WHEREAS, the State of New Jersey adopted amendments to N.J.A.C. 7:14A and modified the requirements under the Township's Tier A New Jersey Pollutant Discharge Elimination System (NJPDES) permit; and

WHEREAS, the new requirements require Tier A Municipalities to adopt ordinances that will prevent pollution of the municipal storm sewer systems to protect public health, safety and welfare; and

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Township Committee of the Township of Upper as follows:

SECTION 1. Chapter 11 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended and supplemented as hereinafter provided:

Section 11-2 entitled "Private Storm Drain Inlet Retrofitting" is hereby added as follows:

11-2 Private Storm Drain Inlet Retrofitting

11-2.1 Purpose.

The purpose of this Ordinance is to provide that properties be required retrofit existing storm drain inlets which are in direct contact with repaving, repairing, reconstruction, or resurfacing or alterations of facilities on private property, to prevent the discharge of solids and floatables (such as plastic bottles, cans, food wrappers and other litter) to the municipal separate storm sewer system(s) operated by the Township of Upper so as to protect public health, safety and welfare.

11-2.2 Definitions.

For the purpose of this ordinance, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this Chapter clearly demonstrates a different meaning. When not inconsistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The word "shall" is always mandatory and not merely directory.

- a. Municipal separate storm sewer system (MS4)– a conveyance or system of conveyances (including roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, manmade channels, or storm drains) that is owned or operated by Township of Upper or other public body, and is designed and used for collecting and conveying stormwater.

- b. Person – any individual, corporation, company, partnership, firm, association, or political subdivision of this State subject to municipal jurisdiction.

- c. Storm drain inlet- an opening in a storm drain used to collect stormwater runoff and includes, but is not limited to, a grate inlet, curb-opening inlet, slotted inlet, and combination inlet.

- d. Waters of the State – means the ocean and its estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial, within the boundaries of the State of New Jersey or subject to its jurisdiction.

11-2.3 Prohibited Conduct.

No person in control of private property (except a residential lot with one single family house) shall authorize the repaving, repairing (excluding the repair of individual potholes), resurfacing (including top coating or chip sealing with asphalt emulsion or a thin base of hot bitumen), reconstructing or altering any surface that is in direct contact with an existing storm drain inlet on that property unless the storm drain inlet either: (1) Already meets the design standard below to control passage of solid and floatable materials; or (2) Is retrofitted or replaced to meet the standard in Section 2.4 below prior to the completion of the project.

11-2.4 Design Standard.

Storm drain inlets identified in Section 11-2.3 above shall comply with the following standard to control passage of solid and floatable materials through storm drain inlets. For purposes of this paragraph, "solid and floatable materials" means sediment, debris, trash, and other floating, suspended, or settleable solids. For exemptions to this standard see Section 2.5 below.

a. Design engineers shall use either of the following grates whenever they use a grate in pavement or another ground surface to collect stormwater from that surface into a storm drain or surface water body under that grate:

(1) The New Jersey Department of Transportation (NJDOT) bicycle safe grate, which is described in Chapter 2.4 of the NJDOT Bicycle Compatible Roadways and Bikeways Planning and Design Guidelines (April 1996); or

(2) A different grate, if each individual clear space in that grate has an area of no more than seven (7.0) square inches, or is no greater than 0.5 inches across the smallest dimension.

Examples of grates subject to this standard include grates in grate inlets, the grate portion (non-curb-opening portion) of combination inlets, grates on storm sewer manholes, ditch grates, trench grates, and grates of spacer bars in slotted drains. Examples of ground surfaces include surfaces of roads

(including bridges), driveways, parking areas, bikeways, plazas, sidewalks, lawns, fields, open channels, and stormwater basin floors.

- b. Whenever design engineers use a curb-opening inlet, the clear space in that curb opening (or each individual clear space, if the curb opening has two or more clear spaces) shall have an area of no more than seven (7.0) square inches, or be no greater than two (2.0) inches across the smallest dimension.

11-2.5 Exemptions.

This standard does not apply:

- a. Where the municipal engineer agrees that this standard would cause inadequate hydraulic performance that could not practicably be overcome by using additional or larger storm drain inlets that meet these standards;
- b. Where flows are conveyed through any device (e.g., end of pipe netting facility, manufactured treatment device, or a catch basin hood) that is

designed, at a minimum, to prevent delivery of all solid and floatable materials that could not pass through one of the following:

(1) A rectangular space four and five-eighths inches long and one and one-half inches wide (this option does not apply for outfall netting facilities); or

(2) A bar screen having a bar spacing of 0.5 inches.

c. Where flows are conveyed through a trash rack that has parallel bars with one-inch (1") spacing between the bars; or

d. Where the New Jersey Department of Environmental Protection determines, pursuant to the New Jersey Register of Historic Places Rules at N.J.A.C. 7:4-7.2(c), that action to meet this standard is an undertaking that constitutes an encroachment or will damage or destroy the New Jersey Register listed historic property.

11-2.6 Penalty.

Any person(s) who is found to be in violation of the provisions of this

Ordinance shall be subject to a fine in the minimum amount of Five Hundred Dollars

(\$500.00) and not to exceed One Thousand Dollars (\$1,000.00) for each storm drain inlet that is not retrofitted to meet the design standard.

11-2.7 Enforcement.

This section shall be enforceable by any one (1) or more of the following:

- a. Superintendent of Public Works;
- b. Supervisor of Roads;
- c. Recycling Coordinator of the Township of Upper;
- d. Code Enforcement Official(s) of the Township of Upper;
- e. Any inspector or other designated agent of the Cape May County Department of Health;
- f. Any law enforcement officer of the State of New Jersey;
- g. Sanitation Inspector.

SECTION 2. Chapter 24 of the Revised General Ordinances of the Township of

Upper, also known as the Code of Upper Township, shall be amended and supplemented as hereinafter provided:

Section 24-4.1 entitled "Definitions" is amended to add the following and insert

in alphabetical order:

Refuse container shall mean any waste container that a person controls whether owned, leased, or operated, including dumpsters, trash cans, garbage pails, and plastic trash bags.

Waters of the State shall mean the ocean and the estuaries, all springs, streams and bodies of surface or ground water, whether natural or artificial within the boundaries of the State of New Jersey or subject to its jurisdiction.

Section 24-4.2 entitled "Prohibitions" is amended to add the following subsection f:

f. **Improper Spilling or Leaking from Dumpsters.** The purpose of this provision is to prevent the spilling, dumping, leaking, or otherwise discharge of liquids, semi-liquids or solids from refuse containers to the municipal separate storm sewer system(s) operated by the Township of Upper and/or the waters of the State so as to protect public health, safety and welfare.

1. Prohibited Conduct.

(a) Any person who controls, whether owned, leased, or operated, a refuse container or dumpster must ensure that such container or dumpster is covered at all times and shall prevent refuse from spilling out or overflowing.

(b) Any person who owns, leases or otherwise uses a refuse container or dumpster must ensure that such container or dumpster does not leak or otherwise discharge liquids, semi-liquids or solids to the municipal separate storm sewer system(s) operated by the Township of Upper.

2. Exceptions to Prohibition.

(a) Permitted temporary demolition containers.

(b) Litter receptacles (other than dumpsters or other bulk containers)

(c) Individual homeowner trash and recycling containers

- (d) Refuse containers at facilities authorized to discharge stormwater under a valid NJPDES permit
- (e) Large bulky items (e.g., furniture, bound carpet and padding, white goods placed curbside for pickup)

SECTION 3. REPEAL OF CONFLICTING ORDINANCES: Any ordinances of the Township of Upper that are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SECTION 4. SEVERABILITY: If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereof shall not affect the remaining parts of this Ordinance.

SECTION 5. EFFECTIVE DATE: This Ordinance shall take effect upon passage and publication as required by law.

SECTION 6. 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 14TH OF SEPTEMBER 2009 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP ON THE 13TH OF OCTOBER 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

16. Introduction and First Reading of Ordinance No. 024-2009

RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XX OF THE CODE OF UPPER TOWNSHIP TO AMEND SECTION 15 - DEVELOPMENT FEES TO FACILITATE AFFORDABLE HOUSING. Motion was made by Curtis Corson, second by Jay Newman to introduce Ordinance No. 024-2009, with public hearing and final adoption set for October 13, 2009. During roll call vote all four Committee members present voted in the affirmative.

**Please note, the number for this ordinance was incorrectly listed on the agenda. No. 024-2009 is the correct number.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E
ORDINANCE NO. 024 -2009**

RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XX OF THE CODE OF UPPER TOWNSHIP TO AMEND SECTION 15 - DEVELOPMENT FEES TO FACILITATE AFFORDABLE HOUSING

WHEREAS, the New Jersey Supreme Court and New Jersey Legislature have recognized and mandated in So. Burl. Co. NAACP v. Mount Laurel, 92 N.J. 158 (1983) (“Mount Laurel II”) and the Fair Housing Act, N.J.S.A. 52:27D-301, et seq. (“FHA”) that every municipality in New Jersey has an affirmative obligation to facilitate the provision of affordable housing; and

WHEREAS, the New Jersey Council on Affordable Housing (“COAH”) is the State administrative agency created pursuant to the FHA vested with primary jurisdiction for the administration of affordable housing obligations in accordance with sound regional planning considerations in New Jersey; and

WHEREAS, Pursuant to P.L.2008, c.46 section 8 (C. 52:27D-329.2) and the Statewide Non-Residential Development Fee Act (C. 40:55D-8.1 through 8.7), COAH is authorized to adopt and promulgate regulations necessary for the establishment, implementation, review, monitoring and enforcement of municipal affordable housing trust

funds and corresponding spending plans. Municipalities that are under the jurisdiction of the Council or court of competent jurisdiction and have a COAH-approved spending plan may retain fees collected from non-residential development; and;

WHEREAS, the Township of Upper intends to establish standards for the collection, maintenance, and expenditure of development fees pursuant to COAH’s regulations and in accordance P.L.2008, c.46, Sections 8 and 32-38. Fees collected pursuant to this ordinance shall be used for the sole purpose of providing low- and moderate-income housing. This ordinance shall be interpreted within the framework of COAH’s rules on development fees, codified at N.J.A.C. 5:97-8; and

WHEREAS, COAH approved the Township’s model development fee ordinance on March 17, 2009.

WHEREAS, the Tax Assessor and Construction Official presented information to Township Committee whereby projects that increased the footprint of the building were being assessed the Development Fee and similar projects that were adding new livable space or volume were not being assessed the Development Fee. Township Committee considered the situation and agreed that both types of development should be treated equally.

NOW, THEREFORE, BE IT ORDAINED AND ESTABLISHED by the Township Committee of the Township of Upper that Chapter XX of the Revised General Ordinance of the Township of Upper, also known as the Code of Upper Township be and is hereby amended as follows:

The following Section 20 -15 entitled “ Development Fees “ is hereby revised as follows:

§20- 15 Development Fees

- d. Residential Development fees
 - 1. Imposed fees

- i. Unchanged.
 - ii. Residential developers, except for the developers of the types of development specifically exempted below, shall also pay a fee equal to one and a half (1.5%) percent of the equalized value resulting from any new accessory structure or alteration, reconstruction, renovation, repair, and/or addition to an existing structure used for residential purposes that increases the building footprint or volume.
 - iii. Unchanged.
 - iv. Unchanged.
2. Eligible exactions, ineligible exactions and exemptions for residential development
- i. Unchanged.
 - ii. Unchanged.
 - iii. The fee shall not apply to an increase in equalized assessed value resulting from alterations, reconstruction, renovations or repairs that do not result in an increase in building footprint or volume.
 - iv. Any entity or organization specified in N.J.S.A. 40A:12-21 or structure that is exempt from the payment of ad valorem real estate taxes.

REPEAL OF CONFLICTING ORDINANCES

Any ordinances of the Township of Upper that are in conflict with this Ordinance are hereby repealed to the extent of such conflict.

SEVERABILITY

If any part of this Ordinance shall be deemed invalid, such parts shall be severed and the invalidity thereof shall not affect the remaining parts of this Ordinance.

EFFECTIVE DATE

This Ordinance shall take effect upon passage and publication as required by law.

CODIFICATION

This Ordinance shall be codified in Chapter 20 of the Upper Township Code.

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 14TH OF SEPTEMBER 2009 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP ON THE 13TH OF OCTOBER 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

NEW BUSINESS

18. Carl Bincarousky-request to purchase Township owned property Block 306, Lots 5 and 6.

19. Carl Bincarousky-request to vacate Valley Road.

Both items 18 and 19 were discussed together. It was discussed that the land sale should take place first and be completed prior to the street vacation. Owners of contiguous properties to Lots 5 and 6 would be permitted to bid on the property.

Motion was made by Curtis Corson, second by Frank Conrad to sell Block 306, Lots 5 and 6. During roll call vote all four Committee members present voted in the affirmative. Applicant will be contacted to submit escrow appraisal fee that sets the minimum bid. The street vacation shall be tabled until land sale is completed.

20. Upper Township Soccer Association, Inc.–request to hold a raffle at the Upper Township Community Center on January 8, 2010, RA-358.

Motion was made Jay Newman to approve the raffle, seconded by Frank Conrad with all four Committee members voting in the affirmative.

UNFINISHED BUSINESS:

DISCUSSION

21. Result of bids received for the 2009 Paving Project.

Motion was made by Curtis Corson, second by Jay Newman to award the 2009 Paving Program project to Arawak Paving. During roll call vote three Committee members voted in the affirmative, and Frank Conrad abstained from voting.

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.” Motion made by Jay Newman, second by Frank Conrad with all four Committee members present voting in the affirmative.

Payroll: \$191,448.69

Bills submitted for payment: \$255,804.40

REPORT OF MUNICIPAL DEPARTMENTS:

22. Construction Code

23. Clerk’s Office

- 24. Animal Control
- 25. Tax Assessor
- 26. Tax Collector
- 27. Municipal Court-Upper Township and Corbin City reports
- 28. Finance Office
- 29. MUA Report
- 30. Department of Public Works
- 31. Safety Committee Report-The report was discussed briefly.

Reports are available from the Clerk's Office.

PUBLIC COMMENT

Stephen Martinelli, Tuckahoe Road: Requested an update on the Strathmere lawsuit. Mr. Young responded that a complaint was filed by Citizens of Strathmere attempting to overturn the decision made by the Planning Board and the Township Committee. The Township did respond and is waiting for further information. Mr. Martinelli then voiced his objections to the Development Fee Ordinance. The Committee did respond that the money raised by this ordinance will be used or credited within the Township rather than sent to the state. It was also discussed that it is a state requirement to set aside funds to satisfy the COAH obligation and the funds will come from Development Fees rather than Township coffers. Mr. Martinelli strongly encouraged the Township to fight this requirement.

Michael Kane, Seashore Railroad Museum President: was present to confirm what requirements are necessary from the museum and to respond to a judgment won by a resident. Daniel Young responded that the items are outlined in the lease requirements and needed every year but that the Township would not respond to the judgment.

CLOSED SESSION

- 32. Resolution to conduct a closed meeting pursuant to N.J.S.A. 10:4-12, from which the public shall be excluded.

Resolution No. 204-2009

The following resolution was read into the record by Jay Newman:

Motion Going Into Closed Session-for September 14, 2009

I hereby move that a resolution be incorporated into the Minutes authorizing the Township Committee to enter into an executive session for the following matters pursuant to the Open Public Meetings Act:

Matters:

- 1. Possible Litigation – Ginn v. Upper Township
- 2. Contract Negotiation – Dennis Township Shared Services for Municipal Court Services
- 3. Contract Negotiation - NIA Group Associates, LLC
- 4. Contract Negotiation/Personnel - State Health Benefits Plan
- 5. Litigation – Beach Lot Condemnations
- 6. Litigation – Citizens for Strathmere and Whale Beach v. UT

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:

- a. 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 served by such confidentiality.
- b. With respect to employment and personnel matters such discussions will be made public if and when formal action is taken or when the individuals involved consent that it can be made public.
- c. With respect to contract negotiations such matters will be made public when negotiations have ceased and there is no longer a reason for confidentiality.
- d. With respect to litigation matters such discussions will be made public when litigation is complete and the applicable appeal period has expired.

Motion to adopt resolution was made by Jay Newman, second by Frank Conrad with all four Committee members voting in the affirmative.

RECONVENE PUBLIC PORTION OF MEETING

ADJOURNMENT

There was no further business for this evening and the meeting was adjourned at 9:50 P.M. Motion to adjourn the meeting made by Jay Newman, seconded by Curtis Corson, with all four Committee members voting in the affirmative. Next meeting scheduled for September 28, 2009 at 7:30 P.M.

Minutes prepared by

Wanda Gaglione, RMC
Municipal Clerk

Bill list

49604	09/14/09	A0004	A+ COMMERCIAL OFFICE CLEANERS	250.00	2546
49605	09/14/09	A0006	ADVANCE TREADS INC	1,373.00	2546
49606	09/14/09	A0017	A.C.M. JIF C/O T. FREEDMAN	79,713.00	2546
49607	09/14/09	A0018	ACTION SUPPLY INC.	236.75	2546
49608	09/14/09	A0025	ADVANTAGE RENTAL ACE HARDWARE	31.39	2546
49609	09/14/09	A0086	AT&T MOBILITY	274.59	2546
49610	09/14/09	A0091	ATLANTIC CITY ELECTRIC	21,427.78	2546
49611	09/14/09	A0117	AT&T	48.42	2546
49612	09/14/09	A0122	ANSELL,ZARO,GRIMM & AARON	105.00	2546
49613	09/14/09	B0018	BARR, CODY	85.00	2546
49614	09/14/09	B0035	BELMONT & CRYSTAL SPRINGS	396.83	2546
49615	09/14/09	B0050	BARR, KEVIN	520.00	2546
49616	09/14/09	B0070	HORIZON BLUE CROSS/BLUE SHIELD	2,490.98	2546
49617	09/14/09	B0076	BOND,LAURENCE E.	1,579.83	2546
49618	09/14/09	B0092	BROKER, EUGENE JR.	64.00	2546
49619	09/14/09	B0093	BARRY,CORRADO,GRASSI & GIBSON	297.50	2546
49620	09/14/09	B0142	BRINKERHOFF ENVIRONMENTAL	750.00	2546
49621	09/14/09	B0178	BUGANSKI,PETER R.	37.50	2546
49622	09/14/09	B0182	BRIGGS LAW OFFICE, P.C.	336.82	2546
49623	09/14/09	C0048	CAPE MAY COUNTY MUA	31,031.51	2546
49624	09/14/09	C0060	CAPRIONI'S PORTABLE TOILETS	1,737.00	2546
49625	09/14/09	C0068	COMCAST	169.32	2546
49626	09/14/09	C0071	CAPEHART & SCATCHARD, P.A.	11,150.50	2546

49627 09/14/09 C0091 CHISHOLM, JOHN R. 64.99 2546
49628 09/14/09 C0116 CINTAS CORPORATION #100 41.67 2546
49629 09/14/09 C0130 CHIEF SUPPLY CORP. 28.03 2546
49630 09/14/09 C0131 CINTAS FIRST AID & SAFETY 124.82 2546
49631 09/14/09 C0138 COASTAL PLUMBING & HEATING INC 125.50 2546
49632 09/14/09 C0143 CODY'S POWER EQUIPMENT 233.52 2546
49633 09/14/09 C0171 COLONIAL ELECTRIC SUPPLY CO. 103.86 2546
49634 09/14/09 C0194 CUMMINS POWER SYSTEMS,INC. 1,585.00 2546
49635 09/14/09 C0201 CRUZAN'S TRUCK SERVICE INC. 309.14 2546
49636 09/14/09 C0223 CASA PAYROLL SERVICE 512.15 2546
49637 09/14/09 D0015 DAN'S WELDING 160.00 2546
49638 09/14/09 D0016 DALEY,FREDERICK T/A DALEYS PIT 80.00 2546
49639 09/14/09 D0036 DODD, WARREN 180.00 2546
49640 09/14/09 D0040 DELTA DENTAL OF N.J. INC. 6,547.17 2546
49641 09/14/09 D0045 DEPTCOR 542.70 2546
49642 09/14/09 D0130 DuBELL LUMBER CO. 4,213.44 2546
49643 09/14/09 D0132 DITCH WITCH MID ATLANTIC 1,493.43 2546
49644 09/14/09 E0012 EHRlich PEST CONTROL INC 71.00 2546
49645 09/14/09 E0047 EFFINGER SPORTING GOODS CO 642.00 2546
49646 09/14/09 F0026 FUMO, ZACHARY 35.00 2546
49647 09/14/09 F0042 FLANAGANS SOUTH AUTO TIRE CENT 57.50 2546
49648 09/14/09 F0053 FORD, SCOTT & ASSOCIATES 2,185.00 2546
49649 09/14/09 F0054 FORT DEARBORN LIFE INSURANCE 509.73 2546
49650 09/14/09 G0002 GAGLIONE, WANDA 40.60 2546
49651 09/14/09 G0006 GARBUTT,PATRICIA A. 24.00 2546
49652 09/14/09 G0028 GENTILINI FORD 312.39 2546
49653 09/14/09 G0030 GENERAL SPRING SERVICE 45.00 2546
49654 09/14/09 G0036 GFOA OF N.J. CONFERENCE 138.00 2546
49655 09/14/09 G0096 GRUND, GEORGE 150.05 2546
49656 09/14/09 H0018 HAROLD RUBIN/L & H SUPPLY 80.61 2546
49657 09/14/09 I0017 IANNACE, KAYLA 50.00 2546
49658 09/14/09 J0002 J.P. COLLINS CO. 7.60 2546
49659 09/14/09 K0016 KEENE, DAVID 84.00 2546
49660 09/14/09 K0034 KOHLER, CLAUDE JR. 134.99 2546
49661 09/14/09 K0048 KLEPAC, THADDEUS 23.10 2546
49662 09/14/09 M0016 MCAFEE, MEGAN 24.50 2546
49663 09/14/09 M0017 MOORE MEDICAL CORP. 1,149.37 2546
49664 09/14/09 M0024 MAMA MIA'S RISTORANTE 117.00 2546
49665 09/14/09 M0046 MASON, DAVID 68.00 2546
49666 09/14/09 M0076 MGL PRINTING SOLUTIONS 57.00 2546
49667 09/14/09 M0093 MINMAR MARINE INC. 24.28 2546
49668 09/14/09 M0174 MCAFEE MEGAN 37.43 2546
49669 09/14/09 M0197 MEYERS, GEORGIE 25.00 2546
49670 09/14/09 M0199 MacFARLAND, BRENDAN 37.50 2546
49671 09/14/09 M0203 MASTER WIRE MFG INC 155.88 2546
49672 09/14/09 M0210 MILLAR, KYLE 50.00 2546
49673 09/14/09 N0004 NJ-AMERICAN WATER CO. 167.17 2546
49674 09/14/09 N0007 NATIONAL SEMINARS GROUP 537.00 2546
49675 09/14/09 N0043 NAPA AUTO PARTS OF S.JERSEY 456.68 2546
49676 09/14/09 N0052 NATL YOUTH SPORTS COACHED ASSN 100.00 2546
49677 09/14/09 N0100 N.J. LEAGUE OF MUNICIPALITIES 110.00 2546
49678 09/14/09 O0034 OSPREY POINT CONDO ASSOC. 8,528.76 2546
49679 09/14/09 O0038 OSBORN, JAMES 115.46 2546
49680 09/14/09 O0039 O'NEIL, SHANNON 65.00 2546
49681 09/14/09 P0007 PALOMBO,RICHARD A. 240.00 2546
49682 09/14/09 P0032 PEDRONI FUEL CO. 3,023.82 2546
49683 09/14/09 P0034 PEIFER, SUSAN R. 44.00 2546
49684 09/14/09 P0064 PITNEY BOWES 210.00 2546
49685 09/14/09 P0089 PREMIER SCHOOL AGENDAS,INC. 2,212.76 2546
49686 09/14/09 Q0008 QUILL CORPORATION 289.99 2546
49687 09/14/09 R0030 RIGGINS, INC. 7,773.81 2546
49688 09/14/09 R0062 RUTGERS, THE STATE UNIVERSITY 154.00 2546
49689 09/14/09 R0073 RICOH AMERICAS CORPORATION 512.10 2546
49690 09/14/09 R0076 REGISTRARS' ASSOCIATION N.J. 149.00 2546
49691 09/14/09 R0084 RENTERIA, NICOLE 25.00 2546
49692 09/14/09 S0056 SEASHORE ASPHALT CORPORATION 1,107.08 2546
49693 09/14/09 S0075 SHARP,RHONDA L. 12.00 2546
49694 09/14/09 S0109 SNAP-ON-INDUSTRIAL 78.75 2546
49695 09/14/09 S0130 SOUTH JERSEY CHIEFS ASSOC. 40.00 2546
49696 09/14/09 S0139 SO. JERSEY WATER COND. INC. 384.00 2546
49697 09/14/09 T0018 TEKK COMM COMMUNICATIONS 601.50 2546
49698 09/14/09 T0022 TERMINIX 47.00 2546
49699 09/14/09 T0032 THE PRESS & SUNDAY PRESS 360.83 2546

49700 09/14/09 T0044 THOMSON, KERRY AGENCY 1,162.45 2546
 49701 09/14/09 T0067 TOWNSHIP OF UPPER PETTY CASH 11.20 2546
 49702 09/14/09 T0080 TREASURER STATE OF N.J. 665.00 2546
 49703 09/14/09 T0095 TRI-COUNTY ANIMAL CONTROL 650.00 2546
 49704 09/14/09 T0103 TROPICANA CASINO & RESORT 281.76 2546
 49705 09/14/09 T0153 THE TREE SURGEON, LLC 450.00 2546
 49706 09/14/09 U0025 UNITED STATES POSTAL SERVICE 2,000.00 2546
 49707 09/14/09 U0029 UPPER TOWNSHIP BD.OF EDUCATION 2,340.40 2546
 49708 09/14/09 V0005 VAN EMBDEN, NATHAN, ATTORNEY 1,492.50 2546
 49709 09/14/09 V0013 VERIZON WIRELESS 480.80 2546
 49710 09/14/09 V0022 VERIZON 200.29 2546
 49711 09/14/09 V0024 VAL-U AUTO PARTS L.L.C. 513.49 2546
 49712 09/14/09 W0005 WALKER,PREVITI,HOLMES & ASSOC. 17,300.00 2546
 49713 09/14/09 W0030 WEST PUBLISHING CO. 454.75 2546
 49714 09/14/09 W0037 WALLACE REFRIGERATION 1,526.00 2546
 49715 09/14/09 W0085 WOODY, LESTER 84.48 2546
 49716 09/14/09 Y0008 YOUNG, DANIEL J. ESQUIRE PC 21,011.38 2546
 49717 09/14/09 Y0020 YOUNG, BARBARA L. 50.00 2546
 49718 09/14/09 Z0001 ZOLL MEDICAL CORPORATION 995.52 2546
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 Total: \$255,804.40