

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR SEPTEMBER 28, 2009**

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

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

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

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

APPROVAL OF MINUTES - September 14, 2009 Regular Meeting Minutes, And Closed Session Minutes (2)

Motion was made by Curtis Corson, second by Frank Conrad to approve the Minutes as written. During roll call vote four Committee members voted in the affirmative and Barbara Camp abstained from voting.

Mayor Palombo made an announcement that the special Zoning Board meeting scheduled for tonight is being held at the Middle School due to a scheduling conflict.

REPORT OF GOVERNING BODY MEMBERS

Barbara Camp, commended the Public Works Department on the cleanup of streets from general fall yard work and recent storms.

Frank Conrad, reported that the Dog Park is almost ready to be opened. Applications and tags are available from the Clerk’s Office. An October 17th Grand Opening is planned. He reported briefly on the Recreation Committee Minutes and that a special meeting to approve the minutes is scheduled for the third week in October. He commented that the recent Football Pig Roast fundraiser was well attended.

Curtis Corson, Deputy Mayor, commended employee Barbara Spiegel, of the Finance office for successful completion of the Chief Financial Officer exam. He also directed her to

schedule Classes for the Purchasing Agent Certification. He commented on a letter received from a resident whose property was damaged when a tree located on Township land fell into their yard. As the matter could be potential litigation further discussion would be moved into closed session. Mr. Corson also discussed a letter from the CMC Health Department with regards to septic problems at La Fontana Restaurant located at 9 Whitaker Avenue in Strathmere. Mr. Young excused himself from discussion of the matter to avoid any conflict. Mayor Palombo commented that the CMC Health Dept. Director, Kevin Thomas is taking the appropriate steps to correct the problem.

Jay Newman, discussed his concerns with regards to the Shared Services agreement for Municipal Court services between Upper Township and Dennis Township. Mr. Young reported that there are outstanding issues that deal with internal administration. He asked the Committee to move forward with a decision to authorize the Mayor to sign the Agreement contingent upon review and approval of the Municipal Court Liaison office and the Civil Service Commission. It was discussed that the resolution and agreement presented this evening include all the requested recommendations.

He requested that item 10, the AtlantiCare contract be tabled for further amendments. Mr. Newman reported that October 7th is Fire Prevention Day. The event will be held at the Marmora Fire House and begin at 6PM. He discussed the permit to close that portion of Tuckahoe Road during the event. The County and State of NJ have been notified. Motion was made by Frank Conrad, second by Curtis Corson that the Township is authorized to respond appropriately to allow the event to continue and any authority the Township requires will be provided. During roll call vote all five Committee members voted in the affirmative.

Richard Palombo, Mayor, reported on the H1N1 virus in New Jersey and reminded everyone to get their flu shot. Attempts are being made to get a free flu shot program location in Upper Township and if not this year hopefully it will be in place for next year. He commented on a letter received regarding an insurance issue. Mr. Young suggested the letter be referred to Brenda Layton and Kerry Thomson for their input.

OTHER REPORTS

Barbara Young, Deputy Municipal Clerk, clarified a request made by the Municipal Clerk that all court fees be waived for dog license summons that were issued during the recent Dog Survey. The request is for all those that obtained their dog license prior to their court date. Motion to approve the request by Frank Conrad, second by Jay Newman. During roll call vote all five Committee members voted in the affirmative. It was discussed that approximately 1400 dog licenses have been issued this year.

Daniel Young, Municipal Attorney, reported that he has 2 groups of tax liens, group 150 and 151 have gone to judgment and he will meet with the Tax Collector Rhonda Sharp to schedule the other outstanding Tax lien foreclosures for completion. He has two Litigation items for discussion in closed session; they are the Ginn vs. Township of Upper matter, and the Whale Beach matter.

Paul Dietrich, Municipal Engineer, reported that the work on the Peach Orchard Road project is progressing satisfactorily.

He also reported that Community Service work details would be working in Strathmere next week doing maintenance of snow fence and a beach/bay cleanup.

Mr. Dietrich requested authorization from the Committee to purchase space on a community calendar that the Gazette of Upper Township is preparing for publication. He plans to place information about recycling and general trash pickup in the calendar. Motion was made by Jay Newman, second by Barbara Camp to grant the request. During roll call vote all five Committee members voted in the affirmative.

PROCLAMATIONS

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
PROCLAMATION
PROCLAIMING NOVEMBER 1st, 2009
“CHANGE YOUR CLOCK,
CHANGE YOUR BATTERY DAY”
IN UPPER TOWNSHIP**

WHEREAS, smoke alarms are present in 96% of American homes, of which 20% do not work because of dead or missing batteries preventing the United States from achieving the full potential of fire safety from smoke alarms; and

WHEREAS, smoke alarms are still missing in 4% of U.S. homes and this group accounts for 39% of reported fires and nearly half of all the reported home fire deaths; and

WHEREAS, smoke alarm maintenance is a simple, effective way to reduce home fire deaths, and

WHEREAS, the National Fire Safety Standards recommend a minimum of one smoke alarm on each level of a home, one inside each bedroom, and one outside each sleeping area; and

WHEREAS, “Change Your Clock, Change Your Battery”, is a national home fire safety program which urges Americans to change smoke alarm batteries when changing their clocks back to standard time each fall; and

WHEREAS the Township Committee of the Township of Upper is dedicated to the safety of life and property from the devastating effects of fire and are joined by our volunteer fire departments, businesses, schools, service clubs, churches, and all of our citizens in their fire safety efforts.

NOW, THEREFORE I, RICHARD PALOMBO MAYOR of the Township of Upper, do hereby proclaim Sunday, November 1, 2009 as “Change Your Clock, Change Your Battery” Day in Upper Township;

I FURTHER call upon all citizens of the Township of Upper to participate in “Change Your Clock, Change Your Battery Day” the entire month of November to ensure the safety of your loved ones from house fires.

RICHARD PALOMBO, Mayor

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
PROCLAMATION
PROCLAIMING OCTOBER 4TH THROUGH OCTOBER 10TH 2009
“FIRE PREVENTION WEEK”
IN UPPER TOWNSHIP**

WHEREAS, smoke alarms are present in 96% of American homes, of which 20% do not work because of dead or missing batteries preventing the United States from achieving the full potential of fire safety from smoke alarms; and

WHEREAS, smoke alarms are still missing in 4% of U.S. homes and this group accounts for 39% of reported fires and nearly half of all the reported home fire deaths; and

WHEREAS, smoke alarm maintenance is a simple, effective way to reduce home fire deaths, and

WHEREAS, the National Fire Safety Standards recommend a minimum of one smoke alarm on each level of a home, one inside each bedroom, and one outside each sleeping area; and

WHEREAS, “Fire Prevention Week” is a national home fire safety program which urges Americans to change smoke alarm batteries each fall; and

WHEREAS the Township Committee of the Township of Upper is dedicated to the safety of life and property from the devastating effects of fire and are joined by our volunteer fire departments, businesses, schools, service clubs, churches, and all of our citizens in their fire safety efforts.

NOW, THEREFORE I, RICHARD PALOMBO MAYOR of the Township of Upper, do hereby proclaim Sunday, October 4, 2009 through October 10, 2009 as “Fire Prevention Week” in Upper Township;

I FURTHER call upon all citizens of the Township of Upper to participate in “Fire Prevention Week” the entire month of October to ensure the safety of your loved ones from house fires.

RICHARD PALOMBO, Mayor

RESOLUTIONS

- 1. A Resolution congratulating Upper Township’s 11U All Star Baseball Team on their winning season and becoming the Southern New Jersey Cal Ripken State Champions.**

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 205-2009
RE: A RESOLUTION CONGRATULATING
THE UPPER TOWNSHIP 11U ALL STAR BASEBALL TEAM
ON THEIR WINNING SEASON AND BECOMING
THE SOUTHERN NEW JERSEY CAL RIPKEN STATE CHAMPIONS

WHEREAS, the Upper Township 11U All Star Baseball Team has had an outstanding baseball season, winning the District 8 Championship Title for the third consecutive year; and

WHEREAS, the Upper Township 11U Baseball Team also went on to win the 2009 Southern New Jersey Cal Ripken State Championship held in Mount Holly New Jersey; and

WHEREAS, it is appropriate that on behalf of the citizens of Upper Township we recognize and congratulate the player as follows:

Zach Altieri	Sean Dougherty
Josh Arnold	Aaron King
Nick Artymowicz	Connor Laverty
Russell Lindsay	Jake Lynch
Tommy Matera	Sean Mooney
Evan Nathan	Collin Noble
Ryan Saul	

WHEREAS, we also extend this recognition and thanks to the people that have generously given their personal time and service to coach this team.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee, on behalf of the citizens of the Township of Upper, to extend to the Upper Township 11U All Star Baseball Team congratulations on becoming the 2009 Southern New Jersey Cal Ripken State Champions, and to each coach heartfelt thanks and gratitude for the generous donation of their time and service to the young people of this community.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 28th day of September, 2009.

Resolution No. 205-2009
Offered by: Corson
Adopted: September 28, 2009

Seconded by: Newman

Roll Call Vote:

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

2. Rejecting all bids received for the 2009 Paving Program and authorizing the Township to re-advertise for bids.

Mr. Young explained that the bid prices for the road paving portion of the project exceeded the budgeted amount. Mr. Dietrich recommended that the contract be awarded based on the bid unit prices. Mr. Dietrich further explained that the paving of Allendale Road would be removed from the project. Mr. Young recommended the matter be tabled to the next meeting at which time the Committee consider the matter based on the funds available. Motion by Frank Conrad, second by Barbara Camp to table this item to October 13, 2009 meeting.

3. Declaring certain Township property and equipment as surplus and authorizing its disposal by sale on an online auction website.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO.206-2009
RE: DECLARING CERTAIN TOWNSHIP PROPERTY
AND EQUIPMENT AS SURPLUS AND
AUTHORIZING ITS DISPOSAL
BY SALE ON AN ONLINE AUCTION WEBSITE**

WHEREAS, N.J.S.A. 40A:11-36 authorizes a municipality to sell or dispose of certain personal property or equipment which is not needed for public use; and

WHEREAS, the Township of Upper has determined that the items listed on the attached sheet as Exhibit “A” are not needed for any public purpose and intends to sell those items on an online auction site; and

WHEREAS, the Director of the Division of Local Government Services, a Division of the Department of Community Affairs of the State of New Jersey permits the sale of surplus property no longer needed for public use through the use of online auction services, pursuant to the Local Unit Electronic Technology Pilot Program and Study Act,

P.L. 2001, c.30, and has granted approval to Upper Township, copy of approval is attached as Exhibit "B"; 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 property and equipment aforementioned on Exhibit "A" are hereby determined to be useless for any public purpose and are determined to be surplus property and will forthwith be advertised for public sale pursuant to the provision of Revised Statutes 40SA:11-36; and
3. The said materials will be sold at a public sale to the highest bidder through a contracted government on-line auction service, that being GovDeals, Inc., Internet web address at www.govdeals.com.
4. The required notice publication will include the following information:
 - a. The dates and times that the auction will take place.
 - b. No minimum bid requirement for an item unless otherwise stated.
 - c. The Township of Upper reserves the right to reject any and all bids.

Resolution No. 206-2009

Offered by: Conrad

Seconded by: Camp

Adopted: September 28, 2008

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>	_____	_____	_____

Exhibit "A"

1.	Genicom Printer Model #4410XT Serial #9302-6-89732	Min. Bid \$250.00
1.	1993 Chevrolet PKUP VIN #1GCCS 14ZIP 01771 72	\$175.00
1.	Electro-Mech Football Scoreboard (minus advertising panel) Model #MM-338	\$100.00
1	HP PSC1315 All-in-One Printer	\$5.00
1.	HP DeskJet 722C Model #C5871A	\$20.00
1.	XEROX Work Centre Pro 575 Product #XTC6	\$20.00
1.	HP OfficeJet Fax/Copier Model #C2890A	\$20.00

5. Cancel Taxes on Township Acquired Property.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
Resolution No.207-2009
Cancel Taxes on Township Acquired Property**

WHEREAS, certain corrections have been recommended by the
Upper Township Tax Collector in order to correct tax records,

WHEREAS, the Township took possession of certain Portions of
land throughout the Township by gift, condemnation, tax lien foreclosure or otherwise.

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.207-2009

Offered by: Conrad Seconded by: Camp

Adopted: September 28, 2009

Roll Call Vote:

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

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

<u>Block</u>	<u>Lot/Qual.</u>	<u>Current year taxes</u>
759	1.01	.76
759	1.02	.76
759	4	1.19
759	5	1.19
765	1	.29
765	9	1.19
765	12	1.19
769	8	1.19
770	13	.60
777	5	1.19
777	6	1.19
777	7	1.19
784	6	1.19
785	1	6.82
792	1	11.91
793	3	11.91
	TOTAL	43.76

DECLARATION OF TAKING-ORDINANCE NO. 015-2008

6. Cancel Municipal Tax Liens on Township Acquired Property.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
Resolution No. 208-2009
Cancel Municipal Tax Liens on Township Acquired Property**

WHEREAS, certain corrections have been recommended by the Upper Township Tax Collector in order to correct tax records,

WHEREAS, the Township took possession of certain portions of land throughout the Township by way of gift, condemnation, tax lien foreclosure or otherwise,

WHEREAS, certain portions of such land had municipal tax liens,

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.208-2009

Offered by: Camp Seconded by: Newman

Adopted: September 28, 2009

Roll Call Vote:

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

CANCEL MUNICIPAL TAX LIENS

<u>BLOCK</u>	<u>LOT</u>	<u>TSC#</u>	<u>AMOUNT</u>
800	5.02	94207	192.14
809	10	94209	591.59
769	5	002082	105.68
759	2	94193	270.25
760	6	94194	200.82
760	9	94195	326.54
764	4.02	94197	326.54
770	11	94198	326.54
770	12	94199	242.75
777	9	94200	2,010.16
784	7	94201	497.91
784	9.02	94202	1,108.30
792	3	94205	<u>634.43</u>
TOTAL			6,833.65

**DECLARATION OF TAKING ORDINANCE NO. 014-2008 & 015-2008
BLOCK 769 LOT 5 DEEDED TO THE TOWNSHIP 12/21/08**

7. Authorizing the execution of a Shared Services Agreement with the Township of Dennis to provide Municipal Court Services.

See Jay Newman's comments for further information.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 209 -2009**

RE: AUTHORIZING THE EXECUTION OF A SHARED SERVICES AGREEMENT WITH THE TOWNSHIP OF DENNIS TO PROVIDE MUNICIPAL COURT SERVICES

WHEREAS, the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et. seq., (“Act”) provides that any local governmental unit may enter into a contract with any other local governmental unit to provide or receive any service that each local unit is empowered to provide or receive within its own jurisdiction; and

WHEREAS, Dennis Township has indicated a willingness to enter into a Shared Services Agreement with the Township of Upper to permit the Township to provide all the usual and ordinary services of a Municipal Court for Dennis Township; and

WHEREAS, Dennis Township and Upper Township have agreed to enter into a Shared Services Agreement for a term of five years, commencing on October 1, 2009 and continuing through September 30, 2014; and

WHEREAS, the Township of Upper has deemed it would be in the best interest of the residents of the Township to enter into a Shared Services Agreement with the Township of Dennis for the sharing of Municipal Court operations with the Dennis Township Municipal Court.

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

1. **SHARED SERVICES AGREEMENT.** Pursuant to the provisions of the Uniform Shared Services and Consolidation Act, N.J.S.A. 40A:65-1 et. seq., the Township of Upper is hereby authorized and empowered to enter into a Shared Services Agreement with Dennis Township pertaining to Upper Township providing Municipal Court Services to Dennis Township.

2. **SERVICES TO BE PROVIDED BY CONTRACT.** The Shared Services Agreement authorized in paragraph 1 shall cover those services which are enumerated in said Agreement, a copy of which is attached hereto as Exhibit A.

3. **ASSIGNMENT JUDGE APPROVAL.** The authority to enter into this Shared Services Agreement is subject to the approval of the Assignment Judge.

4. **AUTHORIZATION OF MUNICIPAL OFFICIALS.** The appropriate Township officers and officials are hereby authorized to take any action necessary or advisable to carry out the intent and purpose of this Resolution. Specifically, the Mayor and Township Clerk are hereby authorized and directed to execute such Shared Services Agreement on behalf of the Township of Upper pursuant to the authority conferred by this Resolution. The Township Clerk is further authorized and directed to seal said Agreement with the seal of the Township of Upper. Additionally, the Mayor is authorized to negotiate modifications in the language of the Agreement prior to his final execution of same so long as said modifications are consistent with the intent and purpose of the authority granted by this Resolution.

5. **COMPLIANCE WITH STATUTORY REQUIREMENTS.** The Shared Services Agreement between the Township of Upper and the Township of Dennis shall meet and satisfy the requirements of N.J.S.A. 40A:65-7, as may be amended and supplemented.

6. **CONTRACT TERM.** This Resolution authorizes a Shared Services Agreement for a duration of five (5) years from October 1, 2009.

7. **SEVERABILITY.** If any action, subsection, paragraph, sentence or other part of this Resolution is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Resolution, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Resolution directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Resolution shall remain in full force and effect.

8. **REPEALER.** All Resolutions or parts of Resolutions inconsistent herewith are hereby repealed to the extent of such inconsistency only.

9. **EFFECTIVE DATE.** This Resolution shall take effect immediately upon final adoption and publication in the manner provided by law.

Resolution No. 209-2009
Offered by: Newman
Adopted: September 28, 2009

Seconded by: Camp

Roll Call Vote:

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

8. Authorizing the amendment of a professional services contract with Dr. Stewart C. Farrell/Coastal Research Center of the Richard Stockton College of New Jersey with respect to a proposal for beach stabilization for the Strathmere section of Upper Township.

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 210-2009

RE: AUTHORIZING THE AMENDMENT OF A PROFESSIONAL SERVICES CONTRACT WITH DR. STEWART C. FARRELL/COASTAL RESEARCH CENTER OF THE RICHARD STOCKTON COLLEGE OF NEW JERSEY WITH RESPECT TO A PROPOSAL FOR BEACH STABILIZATION FOR THE STRATHMERE SECTION OF UPPER TOWNSHIP

WHEREAS, the Township of Upper and the Richard Stockton College of New Jersey Coastal Research Center/Stewart C. Farrell, Ph.D (hereinafter "Farrell") entered into a contract on January 1, 2009 for monitoring the 2009 Beach Fill per Resolution #042-2009; and

WHEREAS, the Township Committee has determined that there is a need for additional services from Farrell and Farrell has provided a proposal to perform such additional services for Beach Stabilization in the Strathmere section of Upper Township; and

WHEREAS, the Township Committee has determined that it is in the best interest of the Township to authorize an amendment to the existing professional services contract with Farrell as hereinafter provided; and

WHEREAS, the Township Solicitor has determined that the services provided pursuant to the amendment to the existing contract with Farrell are professional services and that the award of the amended contract may be made without competitive bid; and

WHEREAS, the Treasurer has certified the availability of funds to permit the Township to enter in to the Amendment to the Professional Services Contract as aforesaid; 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 proposal of Farrell to amend the existing contract with the Township which is attached hereto as "Exhibit A" is hereby accepted, subject to the provisions of this Resolution.
3. The Mayor and the Township Clerk are hereby authorized, directed and empowered to enter into an amendment to the professional services contract with Farrell aforesaid for Beach Stabilization in the Strathmere section of Upper Township. An Amendment to the Contract shall be prepared or approved by the municipal attorney for the Township of Upper.

4. The Township Clerk is further authorized, directed and empowered to seal said Amendment to the Contract with the seal of the Township of Upper.

5. The Township Clerk shall cause a Notice of Award of this Amendment to the Contract to be published in the official newspaper of the Township as required by N.J.S.A. 40A:11-5.

6. This Amendment to the Contract is for a Professional Services Contract and has been awarded without competitive bidding.

7. A certified copy of this Resolution shall be provided to Farrell.

8. This Resolution shall take affect immediately and shall memorialize the decisions of the Township Committee at its meeting on September 28, 2009.

Resolution No. 210 -2009

Offered by: Camp Seconded by: Newman

Adopted: September 28, 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 Purchase Of The Following Item: 100 Hd Rotary Phase Converter Cedarberry #8100-005 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. 211-2009

RE: AUTHORIZING THE PURCHASE OF THE FOLLOWING ITEM:

100 HD ROTARY PHASE CONVERTER CEDARBERRY #8100-005

PURCHASED UNDER STATE CONTRACT FROM

PROSOURCE PACKAGING, INC.

14911 STUEBNER AIRLINE SUITE A

HOUSTON, TX 77069

WHEREAS, the Township Committee of the Township of Upper has determined that it is appropriate to purchase a high volume paper shredder and previously authorized the Chief Financial Officer to withdraw funds in the amount of \$9,525.00 from the account entitled Recycling Trust Account under Resolution 194-2009; and

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 100 HD rotary phase converter for use with the high volume paper 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 is the Recycling Trust Account.

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 100 HD Rotary Phase Converter Cedarberry #8100-005 at a cost of \$1,680.00.

3. The Vendor listed above shall provide all warranties and manuals applicable

to said products and provide same at or before the time of delivery.

4. All Township officials and officers are hereby authorized and empowered to

take all action deemed necessary or advisable to carry into effect the intent and purpose of this

Resolution.

Resolution No. 211-2009

Offered by: Camp

Seconded by: Newman

Adopted: September 28, 2009

Roll Call Vote:

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

10. Authorizing the Township of Upper to enter into a contract with Atlanticare Occupational Medicine to provide Occupational Medicine Services to members of Upper Township Departments of Public Works and Recreation.

This item was tabled to later meeting date.

ORDINANCES

11. Public Hearing and Final Adoption of Ordinance No. 020-2009, RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER VII OF THE CODE OF UPPER TOWNSHIP. Due to a typographical error in the Ordinance the Public Hearing was not held this evening. The error was on page 1 under Section 1 in the section marked *Schedule 1 – No Parking*. **The correction is to read “Farm Road--Both sides of Farm Road a distance of two hundred Seventy-Five (275’) feet from the curb line of State Highway Rt-50.”** Motion was made by Curtis Corson, second by Barbara Camp to re-advertise the Public Hearing for the October 26, 2009 meeting at 7:30 PM.

During roll call vote all five Committee members voted in the affirmative.

12. **Public Hearing and Final Adoption of Ordinance No. 021-2009, RE: AN ORDINANCE REVISING JOB CLASSIFICATIONS AND TITLES AND AMENDING CHAPTER V, ENTITLED “PERSONNEL”, OF THE CODE OF UPPER TOWNSHIP AND AMENDING ORDINANCE 017-2008 KNOWN AS THE SALARY ORDINANCE FOR THE CALENDAR YEAR 2009.** There were no speakers during the public comment section of the hearing. Motion was made by Barbara Camp, second by Frank Conrad to adopt Ordinance No. 021-2009. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E
ORDINANCE NO. 021-2009
RE: AN ORDINANCE REVISING JOB CLASSIFICATIONS
AND TITLES AND AMENDING CHAPTER V, ENTITLED
“PERSONNEL”, OF THE CODE OF UPPER TOWNSHIP
AND
AMENDING ORDINANCE 017-2008 KNOWN AS THE SALARY ORDINANCE
FOR THE CALENDAR YEAR 2009**

WHEREAS, it has been determined to be necessary to amend certain job classifications or job titles to conform to job descriptions promulgated by the New Jersey Department of Personnel;

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

SECTION 1: Chapter V, entitled “Personnel”, of the Code of Upper Township, Section 5-6.2, is hereby amended and supplemented as hereinafter provided:

Add The Following Title:

Carpenter’s Helper

SECTION 2: Ordinance No. 017-2008, known as the Salary Ordinance for the calendar year of 2009, Section 2 SALARIES, paragraph E. PUBLIC WORKS/RECREATION is hereby amended and supplemented as hereinafter provided:

Add the Following Title and Salary Ranges:

<u>Title</u>	<u>Minimum</u>	<u>Maximum-2009</u>
Carpenter's Helper	\$12,500.00	\$46,339.00

SECTION 3: REPEALER: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION 4: SEVERABILITY: This Ordinance shall be subject to the severability provisions set forth in Section 5-15 of Chapter V of the Code of Upper Township.

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

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 24TH OF AUGUST, 2009 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 28TH OF SEPTEMBER, 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

13. Introduction and First Reading of Ordinance No. 25-2009, RE: AN ORDINANCE AMENDING ORDINANCE NO. 017-2008, KNOWN AS THE SALARY ORDINANCE FOR THE CALENDAR YEAR 2009.

Motion was made by Curtis Corson, second by Barbara Camp introduce Ordinance 025-2009 with Public Hearing and Final Adoption set for 10/26/2009. During roll call vote all five Committee members voted in the affirmative.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E
ORDINANCE NO. 25-2009
AN ORDINANCE AMENDING ORDINANCE NO. 017-2008, KNOWN AS THE
SALARY ORDINANCE FOR THE CALENDAR YEAR 2009

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

SECTION 1: Ordinance No. 017-2008, known as the Salary Ordinance of 2009 is hereby amended with respect to those municipal court positions set forth below as follows:

<u>Position</u>	<u>Minimum</u>	<u>Maximum-2009</u>
Municipal Judge	\$15,000.00	\$44,500.00
Municipal Prosecutor (P/T)	No Min.	\$42,500.00
Baliff (P/T)	No Min.	\$200 per session
Municipal Public Defender (P/T)	No Min.	\$19,100.00

SECTION 2: SEVERABILITY: If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance, but shall be confined in its effects to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

SECTION 3: REPEALER: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION 4: EFFECTIVE DATE: This Ordinance shall take effect immediately upon final adoption and publication as required by law.

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 28th DAY OF SEPTEMBER, 2009 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 26th DAY OF OCTOBER, 2009 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

WANDA GAGLIONE, TOWNSHIP CLERK
TOWNSHIP OF UPPER

CORRESPONDENCE

14. New Jersey Department of Agriculture Re: Gypsy Moth Survey. Mr. Corson reported that the NJ Dept. of Agriculture's recommendation is that Upper Township not participate in the gypsy moth spray program this year. The recommendation was made because the recent surveys for gypsy moth egg mass counts were found at minimal levels. Due to the problem the gypsy moths have been in the past the Committee recommended that funds be allocated for the program.

NEW BUSINESS

15. Results of Bid Opening held September 23, 2009 for the 2009 Vacuum Road Sweeper. Committeeman Frank Conrad stepped down from the dais and did not participate in this discussion to avoid any conflict. Engineer Paul Dietrich stated that he is still reviewing the bids and is not ready to make any recommendations. It was discussed that the Committee has 60 days in which to award a bid. This matter will be moved to a future agenda.

UNFINISHED BUSINESS:

DISCUSSION

PAYMENT OF BILLS:

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

Bills submitted for payment: \$ 75,925.80
Payroll: \$ 154,533.49

REPORT OF MUNICIPAL DEPARTMENTS:

- 16. EMS Rescue Squad-August Report**
- 17. Animal Control**

Reports are available from the Clerk's Office.

PUBLIC COMMENT

Ted Kingston of Strathmere briefly commented on the LaFontana restaurant and the Board of Health Issues.

Lynn Fayter of Strathmere commented on Internet access and the availability on the mainland. She also discussed issues pertaining to flooding in Strathmere. Mr. Dietrich reported he has been in contact with the Bureau of Coastal Engineering regarding the potential concerns.

CLOSED SESSION

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

MOTION GOING INTO CLOSED SESSION

Jay Newman read the following motion into the record:

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. Litigation - Citizens for Strathmere and Whale Beach v. UT
2. Litigation - Ginn v. UT
3. Potential Litigation – Essex Avenue.

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 litigation matters such discussions will be made public when litigation is complete and the applicable appeal period has expired.

Motion seconded by Barbara Camp.

During roll call vote all five Committee members voted in the affirmative.

RECONVENE PUBLIC PORTION OF MEETING

ADJOURNMENT

****Please note—the order of the agenda may be changed at the discretion of the Township Committee.**

There was no further business for this evening and the meeting was adjourned at 9:20 P.M. Next meeting is scheduled for TUESDAY, October 13, 2009 at 7:30 P.M.

Minutes prepared by

Barbara L. Young, RMC
Deputy Municipal Clerk

49721 09/28/09 A0006 ADVANCE TREADS INC 494.00 2548
49722 09/28/09 A0020 ACU-THERM SUPPLY CO.,INC. 41.00 2548
49723 09/28/09 A0025 ADVANTAGE RENTAL ACE HARDWARE 165.98 2548
49724 09/28/09 A0082 ARMSTRONG, JOSHUA 29.98 2548
49725 09/28/09 A0090 ATLANTIC-CAPE COLLEGE 81.00 2548
49726 09/28/09 A0091 ATLANTIC CITY ELECTRIC 11,901.92 2548
49727 09/28/09 B0035 BELMONT & CRYSTAL SPRINGS 29.07 2548
49728 09/28/09 B0076 BOND,LAURENCE E. 1,555.83 2548
49729 09/28/09 B0160 BONNER, ROSEMARY 45.10 2548
49730 09/28/09 B0191 BUGNI, BROOKE 125.00 2548
49731 09/28/09 C0003 CCC HEAVY DUTY TRUCK PARTS CO. 795.00 2548
49732 09/28/09 C0042 CAMPBELL FREIGHTLINER, LLC 2,215.93 2548
49733 09/28/09 C0046 CAPE MAY COUNTY CLERK 8.00 2548
49734 09/28/09 C0061 CAPRIONI SEWERAGE SERVICE 320.00 2548
49735 09/28/09 C0068 COMCAST 219.96 2548
49736 09/28/09 C0071 CAPEHART & SCATCHARD, P.A. 1,920.30 2548
49737 09/28/09 C0116 CINTAS CORPORATION #100 132.09 2548
49738 09/28/09 C0130 CHIEF SUPPLY CORP. 933.62 2548
49739 09/28/09 C0143 CODY'S POWER EQUIPMENT 31.85 2548
49740 09/28/09 C0171 COLONIAL ELECTRIC SUPPLY CO. 567.80 2548
49741 09/28/09 C0187 CROWTHER, BILL 720.00 2548
49742 09/28/09 C0201 CRUZAN'S TRUCK SERVICE INC. 1,233.30 2548
49743 09/28/09 C0223 CASA PAYROLL SERVICE 221.25 2548
49744 09/28/09 C0225 CORINO, DOREEN ESQUIRE 2,000.00 2548
49745 09/28/09 D0040 DELTA DENTAL OF N.J. INC. 6,547.12 2548
49746 09/28/09 E0034 ESRI, INC. 1,600.00 2548
49747 09/28/09 F0009 FAIR-PLAY SCOREBOARDS 199.26 2548
49748 09/28/09 F0053 FORD, SCOTT & ASSOCIATES 3,400.00 2548
49749 09/28/09 F0078 1st Run Computer Services, Inc 259.75 2548
49836 09/28/09 F0158 FITZGERALD, JANET C.P.A. 2,000.00 2548
49837 09/28/09 G0014 GARDEN STATE HWY PRODUCTS INC. 1,417.60 2548
49838 09/28/09 G0016 GARDNER HARDWARE INC. 181.86 2548
49839 09/28/09 G0028 GENTILINI FORD 294.59 2548
49840 09/28/09 G0040 GIBSON ASSOCIATES,P.A. 1,658.75 2548
49841 09/28/09 G0115 GREGER, RICH 160.00 2548
49842 09/28/09 H0012 HALL,ARTHUR 270.11 2548
49843 09/28/09 H0131 HPI PROCESSES, INC 567.93 2548
49844 09/28/09 J0016 JERSEY SHORE PARTNERSHIP, INC 100.00 2548
49845 09/28/09 J0033 JANKOWSKI,MATTHEW 400.00 2548
49846 09/28/09 J0039 JOHNSON & TOWER INC. 550.08 2548
49847 09/28/09 K0034 KOHLER, CLAUDE JR. 54.00 2548
49848 09/28/09 K0067 KAY, JOANNE ESQUIRE 2,600.00 2548
49849 09/28/09 L0072 LLOYD, JOEL 204.00 2548
49850 09/28/09 L0080 LOWES, INC. 456.80 2548
49851 09/28/09 L0093 LIPKE, NEAL 307.20 2548
49852 09/28/09 M0121 McCROSSON, JANET 105.60 2548
49853 09/28/09 M0188 MCCARTHY TIRE SERVICE OF PHILA 177.70 2548
49854 09/28/09 M0193 MAYNE, MICHAEL 245.78 2548
49855 09/28/09 M0211 MacFARLANE, LAREN 37.50 2548
49856 09/28/09 M0213 MATSMATSMATS.COM 625.94 258
49857 09/28/09 N0004 NJ-AMERICAN WATER CO. 48.98 2548
49858 09/28/09 N0052 NATL YOUTH SPORTS COACHED ASSN 200.00 2548
49859 09/28/09 N0100 N.J. LEAGUE OF MUNICIPALITIES 945.00 2548
49860 09/28/09 O0025 OLD DOMINION BRUSH 620.00 2548
49861 09/28/09 P0008 PALMER, NANCY 114.75 2548
49862 09/28/09 P0032 PEDRONI FUEL CO. 2,227.64 2548
49863 09/28/09 P0036 PENNELLO,DAVID 2.00 2548
49864 09/28/09 P0050 PARSIO, ANTHONY 53.68 2548
49865 09/28/09 P0064 PITNEY BOWES 420.00 2548
49866 09/28/09 P0084 PROGRESSIVE BUSINESS PUBLICATI 299.00 2548
49867 09/28/09 Q0008 QUILL CORPORATION 929.80 2548
49868 09/28/09 R0029 RIDDELL/ALL AMERICAN 432.66 2548
49869 09/28/09 R0030 RIGGINS, INC. 4,042.86 2548
49870 09/28/09 R0073 RICOH AMERICAS CORPORATION 788.10 2548
49871 09/28/09 S0056 SEASHORE ASPHALT CORPORATION 72.22 2548
49872 09/28/09 S0121 SMUZ, THERESE A 103.90 2548
49873 09/28/09 S0126 SPIEGEL, BARBARA 50.00 2548
49874 09/28/09 S0134 SO. JERSEY GAS COMPANY 121.50 2548
49875 09/28/09 S0139 SO. JERSEY WATER COND. INC. 1,103.41 2548
49876 09/28/09 S0196 STEWART BUSINESS SYSTEMS LLC 110.50 2548
49877 09/28/09 S0216 DEPT.31 OOOO261489 496.93 2548
49878 09/28/09 SUPERIOR SUPERIOR COURT OF NEW JERSEY 210.00 09/29/09 VOID 2548
49879 09/28/09 T0020 TERWILLIGER, DUANE E. 40.00 2548

49880 09/28/09 T0022 TERMINIX 47.00 2548
49881 09/28/09 T0032 THE PRESS & SUNDAY PRESS 326.61 2548
49882 09/28/09 T0067 TOWNSHIP OF UPPER PETTY CASH 1.44 2548
49883 09/28/09 T0097 TRICO EQUIPMENT INC. 1,055.46 2548
49884 09/28/09 U0010 UPPER TOWNSHIP CHEERLEADING 2,076.29 2548
49885 09/28/09 U0011 UPPER TOWNSHIP BASEBALL 3,853.17 2548
49886 09/28/09 U0032 UPPER TOWNSHIP FOOTBALL ASSOC. 26.25 2548
49887 09/28/09 V0001 VCI EMERGENCY VEHICLE 643.64 2548
49888 09/28/09 V0005 VAN EMBDEN, NATHAN, ATTORNEY 405.00 2548
49889 09/28/09 V0022 VERIZON 2,421.85 2548
49890 09/28/09 V0024 VAL-U AUTO PARTS L.L.C. 162.73 2548
49891 09/28/09 V0025 V.E. RALPH & SON, INC. 464.77 2548
49892 09/28/09 Y0012 YOUNG, ROBERT 390.28 2548
49893 09/28/09 Y0020 YOUNG, BARBARA L. 32.83 2548
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Total Paid \$75,925.80