

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR MARCH 8, 2010**

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

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Frank E. Conrad	Present
Curtis Corson	Present
Kristine Gabor	Present
John “Jay” Newman	Present
Richard Palombo	Present

Also present were Municipal Clerk Wanda Gaglione, Municipal Attorney Daniel Young, and Municipal Engineer Paul Dietrich.

APPROVAL OF MINUTES - February 23, 2010 Regular Meeting and Closed Session Minutes

Motion was made by Jay Newman, second by Frank Conrad to approve the Minutes of Feb. 23rd, with amendments. During roll call vote, all five committee members voted in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

Frank Conrad, Committeeman: reported that the newly organized Upper Township Business Association installed their new officers on March 4th. The group is dedicated to promote their commercial businesses and they are looking forward to working with the Township. He also reported on the informational meeting held at the Middle School also on March 4th. Engineer Paul Dietrich and the Maser Group held a community meeting to solicit public comment and ideas on future development plans for the Township with regards to designated “downtown areas” and traffic studies.

He reminded the public that the next Budget Workshop meeting is scheduled for March 22nd at 6:30 P.M. With regards to Township buildings he reported that the basement of the old Township Hall building in Tuckahoe experienced flooding due to recent inclement weather and that our insurance carrier “All Risk” handled the cleanup.

Kristine Gabor, Committeewoman: reported that the Dog Park Association has requested that improvements be made to the parking lot. It was discussed that perhaps placing stone on the parking area would alleviate the mud problem. She also reported that she has received requests from residents

for improvements to the basketball courts at Caldwell Park and stated that some improvements are already scheduled to be done.

She reported that that she met with Stephen Martinelli, the Skatepark Coordinator and Vice Chair of the Upper Township Recreation Dept., to discuss various ways to keep the Skatepark open. Mr. Martinelli read the following report into record: “Per our meeting with the residents and discussions with yourselves, the following items are being recommended for the skate/bike park;

- 1) Only Upper Township residents shall be allowed in the park; ie., tax paying residents and their families.
- 2) Users of the park must register with Township Hall and obtain a sticker, tag, or pass, and sign a waiver promising to wear mask and/or safety gear.
- 3) The skate/bike park will be open to skaters and bikers on alternate days, for example: Monday, Wednesday, and Friday for bikes; and Tuesday, Thursday, and Saturday for skaters.
- 4) Zero Tolerance will be followed and violators will be prosecuted. “

Mayor Palombo questioned how these rules would be enforced and Mr. Martinelli responded that the State Police, the Municipal Judge, and the Township would handle it. It was discussed that in order to satisfy JIF requirements the Township must enforce policies. It was suggested that the Recreation Committee meet with the State Police and the Municipal Prosecutor to formulate a plan how best to enforce the requirements and prosecute offenders. It was discussed that if this will include summer residents and renters it will require a change to the current ordinance.

J. Michael Jones, a resident of Tuckahoe, asked if the park has to accommodate bikes and skateboards or could it be just skateboards. He again discussed the use of a turnstile gate to keep bikes out. Ms. Gabor said the Township has not been able to keep the bikes and that the best solution is to allow both in. Mayor Palombo added that the park needs to be opened to both bikes and skateboards and that the residents need an alternative to traditional sports such as basketball and soccer. The matter will continue to be reported on as progress is made

Jay Newman, Committeeman: reported he has one item for closed session, a Contract Negotiation item with regards to a Shared Services agreement with Ocean City for dispatch services.

Richard Palombo, Mayor: Reported that the Township is again meeting with FEMA on Tuesday, March 9th regarding implementing a rating system for flood insurance program for Upper Township. He reported that in the near future the County will be doing intermediate improvements to Hope Corson Road to alleviate “ponding” of water and travelers may experience delays during the work.

OTHER REPORTS

Wanda Gaglione, Municipal Clerk: reported notice was recently received from the State of New Jersey that the PARIS grant program will not be offered this year. The program is funded by document recording fees collected by county clerks and is a key component of the New Jersey Public Records Preservation Program. The PARIS grant program administered by the County, greatly benefited all Cape May Municipalities and it is hoped that it will be re-implemented at a later time.

Daniel Young, Municipal Solicitor: reported that he has two items for closed session; one-a Contract issue with Ocean City Dispatch Shared Services Agreement; and the second is a Potential Litigation matter with regards to the Shore Line Railroad Historical Society Lease.

Paul Dietrich, Township Engineer: reported that the DPW is now picking up brush and debris as a result of the recent storms.

After the reports the Mayor stated that the order of the agenda would be changed this evening to hear item No. 11, (the Thomas Tower matter) first so as not to keep the conflict attorney at the meeting any longer than necessary. At this time Daniel Young stepped down from the dais as Municipal Solicitor, and Norman Briggs took his place at the dais as Special Legal Council for the Township to discuss item **No. 11 under Unfinished Business** entitled “**Consideration of prior approval of Block 549, Lot 110, Thomas Tower/Action Supply Inc.**”

This matter concerns the 2010 mining license approval of the Action Supply site and specifically addresses whether Lot 110 requires a CAFRA Jurisdictional Determination or not. A meeting was held on December 14, 2009 and the Township Committee approved the request to amend Action Supply’s 2009 mining license to include Lot 110 in the existing license. The 2010 mining license renewal for the entire tract of land (including Lot 110) was then approved by resolution at the January 25, 2010 regular meeting of the Committee. Mr. Briggs was present at the December meeting however did not attend the January meeting. At the January 25, 2010 meeting, after the renewals were granted and during the Public Comment section of the meeting a comment was made from the floor as to whether various conditions discussed at the December 2009 meeting were to be included within that renewal. It was discussed to bring this back before the Committee to decide whether items mentioned in December 2009 should have been placed as conditions upon the January 2010 renewal.

The condition in question was whether the applicant was required to get a Jurisdictional Determination---to determine whether CAFRA review was required by the NJDEP. It was discussed that the Committee’s motion and approval included the statement that “any and all other necessary government agencies’ requirements would be met” and it was questioned if that would include CAFRA review of the site if it were deemed necessary.

Mr. Briggs responded that the applicant is subject to all other government approvals, and it is the jurisdiction of the NJDEP (not the Township’s) to determine whether a CAFRA review/permit is required; that it is between the applicant and NJDEP.

It was questioned whether these requirements are the same for all mines and mining permits in New Jersey. Mr. Briggs answered in the affirmative.

Mr. Briggs explained that a 500-foot buffer zone is required when a CAFRA permit is necessary. When this matter went to litigation the 500-foot buffer zone was struck down. The Planning Board then went to a 200-foot buffer zone with enhancements. During the public hearing session of the Township Committee meeting of December 14, 2009, a member of the public stated that the Committee should require a Jurisdictional Determination from NJDEP, that CAFRA requires it. It is Mr. Brigg’s opinion that the requirement of Jurisdictional Determination is between the applicant and the NJDEP, and is not the Township’s jurisdiction to decide. The Committee’s resolution stated that “all other governmental regulations must be met by the applicant” and Mr. Briggs stated that in his opinion that no further action is required by the Township at this time.

A member of the public, Michele Previti, of 16 Canterbury Lane, wanted to clarify that the 500-foot buffer was never imposed by the Planning Board; that it was originally a 200-foot buffer zone with a raised berm, then through court litigation it was amended to a 200-foot vegetated buffer. She then asked the Committee to be mindful of the neighboring residents.

There was further discussion regarding the litigation and NJDEP regulations. It was determined that no specific condition was imposed at either meeting and the renewal of the license was granted. No further action was taken.

RESOLUTIONS

- 1. Congratulating Corville E. Griner on the occasion of his retirement after sixty (60) years of service to Tuckahoe Volunteer Fire Company District #2 and extending to him thanks and appreciation.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO.63-2010**

**RE: CONGRATULATING CORVILLE E. GRINER
ON THE OCCASION OF HIS RETIREMENT AFTER SIXTY (60) YEARS OF SERVICE TO
TUCKAHOE VOLUNTEER FIRE COMPANY DISTRICT #2
AND EXTENDING TO HIM THANKS AND APPRECIATION**

WHEREAS, Corville E. Griner has generously volunteered his personal time and service to Upper Township Fire District #2, Tuckahoe Volunteer Fire Company for over sixty (60) years; and

WHEREAS, during his years with the Fire Company he was first and foremost a fireman dedicated to the safety and well being of the citizens of our community while earning the respect and high regard of his fellow firemen for his valor, strength and compassion whenever called to duty; and

WHEREAS, he also served the Fire Company in many other capacities such as President, Secretary, Deputy Chief, and for over twenty-five (25) years he served as Fire Chief; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee on behalf of the citizens of the Township of Upper, do hereby congratulate Corville E. Griner on his retirement after 60 years of service to the Tuckahoe Fire Company and extend our heartfelt thanks and gratitude for the generous donation of his time and service to this community.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 8th day of March, 2010.

Resolution No. 63-2010

Offered by: Conrad

Adopted: March 8, 2010

Roll Call Vote:

Seconded by: Newman

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Conrad	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Corson	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Gabor	<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. Congratulating Robert Wriggins on the occasion of his retirement after forty-three (43) years of service to Tuckahoe Volunteer Fire Company District #2 and extending to him thanks and appreciation.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 64-2010

RE: CONGRATULATING ROBERT WRIGGINS
ON THE OCCASION OF HIS RETIREMENT AFTER FORTY-THREE (43) YEARS OF SERVICE
TO TUCKAHOE VOLUNTEER FIRE COMPANY DISTRICT #2 AND EXTENDING TO HIM
THANKS AND APPRECIATION

WHEREAS, Robert Wriggins has generously volunteered his personal time and service to Upper Township Fire District #2, Tuckahoe Volunteer Fire Company, for over forty-three (43) years; and

WHEREAS, during his years with the Fire Company he was first and foremost a fireman dedicated to the safety and well being of the citizens of our community while earning the respect and high regard of his fellow firemen for his valor, strength and compassion whenever called to duty; and

WHEREAS, he also served the Fire Company in many other capacities such as President, Captain, Trustee, Assistant Chief, Instructor, and Fire Commissioner; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee on behalf of the citizens of the Township of Upper do hereby congratulate Robert Wriggins on his retirement after 43 years of service to the Tuckahoe Fire Company and extend to him our heartfelt thanks and gratitude for the generous donation of his time and service to this community.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 8th day of March, 2010.

Resolution No.64-2010

Offered by: Conrad
Adopted: March 8, 2010
Roll Call Vote:

Seconded by: Gabor

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Conrad	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Coson	<u> x </u>	<u> </u>	<u> </u>	<u> </u>
Gabor	<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>

3. Refund EMS ambulance billing overpayment to Highmark Medicare Services, Inc.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 65-2010
RE: REFUND EMS AMBULANCE BILLING OVERPAYMENT
TO HIGHMARK MEDICARE SERVICES INC.**

WHEREAS, an overpayment has occurred in the account of Kieran V. Lynch, an EMS ambulance billing patient, where the monies sent to the Township of Upper by Highmark Medicare Services, Inc. were in excess as evidenced by the attached copy of a letter from Centers for Medicare & Medicaid Services attached hereto as Exhibit A.

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

<u>AMOUNT</u>	<u>NAME</u>
\$301.38	Highmark Medicare Services, Inc. Attn: Cashier P.O. Box 890034 Camp Hill, PA 17089-0034

Resolution No. 65-2010
Offered by: Conrad
Adopted: March 8, 2010
Roll Call Vote:

Seconded by: Newman

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

Gabor	<u> x </u>	_____	_____	_____
Newman	<u> x </u>	_____	_____	_____
Palombo	<u> x </u>	_____	_____	_____

4. Cancel Tax Sale Certificate.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
Resolution No. 66-2010
RE: CANCEL TAX SALE CERTIFICATE**

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

WHEREAS, Tax Sale Certificate #09-00003 was sold on Block 332 Lot 37 for \$64.22.

WHEREAS, The property sold on 12/29/09.

WHEREAS, The lienholder surrendered the unrecorded tax sale certificate #09-00003 authorized for cancellation.

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 CANCEL said Tax Sale Certificate #09-00003.

Resolution No. 66- 2010

Offered by: Gabor Seconded by: Conrad

Adopted March 8, 2010

Roll call vote:

<u>Name</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
CONRAD	<u> x </u>	_____	_____	_____
CORSON	<u> x </u>	_____	_____	_____
GABOR	<u> x </u>	_____	_____	_____
NEWMAN	<u> x </u>	_____	_____	_____
PALOMBO	<u> x </u>	_____	_____	_____

5. Authorizing the filing of a Recycling Tonnage Grant.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO.67-2010**

**RE: AUTHORIZING THE FILING OF A RECYCLING
TONNAGE GRANT APPLICATION**

WHEREAS, the Mandatory Source Separation and Recycling Act, P.L. 1987, c. 102., has established a recycling fund from which tonnage grants may be made to municipalities in order to encourage local source separation and recycling programs; and

WHEREAS, it is the intent and spirit of the Mandatory Source Separation and Recycling Act to use the tonnage grants to develop new municipal recycling programs and to continue and expand existing programs; and

WHEREAS, the New Jersey Department of Environmental Protection has promulgated recycling regulations to implement the mandatory Source Separation and Recycling Act; and

WHEREAS, the recycling regulations impose on municipalities certain requirements as a condition for applying for tonnage grants, including, but not limited to, making and keeping accurate verifiable records of materials collected and claimed by the municipality; and

WHEREAS, a Resolution authorizing this municipality to apply for such tonnage grants for calendar *year 2010* (based on 2009 recycling figures), and will memorialize the commitment of this municipality to recycling and indicate the assent of the Township of Upper to the efforts undertaken by the municipality and the requirements contained in the Recycling Act and recycling regulations; and

WHEREAS, such Resolution should designate the individual authorized to ensure that the application is property completed and timely filed.

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Upper that the Township of Upper hereby endorses the submission of a municipal Recycling Tonnage Grant Application to the New Jersey Department of Environmental Protection and designates Wanda Gaglione, the Township Clerk, P.O. Box 205, Tuckahoe, New Jersey, 08250, to ensure that said application is properly filed.

Resolution No. 67-2010

Offered by: Corson

Seconded by: Gabor

Adopted: March 8, 2010

Roll Call Vote:

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

- 6. Authorizing a second 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
RESOLUTION
RESOLUTION NO. 68-2010

RE: AUTHORIZING A SECOND 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 AFarrell@) entered into a contract on January 1, 2009 for monitoring the 2009 Beach Fill per Resolution No. 042-2009; and

WHEREAS, the Township of Upper and Farrell modified said contract pursuant to Resolution No. 210-2009 and Amendment to Contract in accordance with said Resolution; and

WHEREAS, the Township Committee has determined that there is a need to further amend said contract to delete Task 4 from said Amendment to Contract; and

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

WHEREAS, the Municipal Attorney has determined that the services provided pursuant to the Second 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 Chief Financial Officer has certified the availability of funds to permit the Township to enter into the Second Amendment to the Professional Services Contract as aforesaid; and

WHEREAS, the Township has decided to acquire the services of Farrell as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-2.05; 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 Professional Services Contract between the Township of Upper and Farrell and the Amendment to Contract is hereby amended to delete Task 4 as set forth in the Amendment to Contract authorized pursuant to Resolution No. 210-2009.

3. The Mayor and Township Clerk are hereby authorized, directed and empowered to enter into a Second Amendment to the Professional Services Contract with Farrell aforesaid for beach stabilization in the Strathmere section of Upper Township. The Second 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 Second Amendment to the contract with the seal of the Township of Upper.

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

6. This Second 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 the Farrell.

8. This Resolution shall take effect immediately and shall memorialize the decisions of the Township Committee at its meeting on March 8, 2010.

Resolution No. 68-2010

Offered by: Newman

Seconded by: Palombo

Adopted: March 8, 2010

Roll Call Vote:

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

7. Authorizing a third 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. 69-2010

RE: AUTHORIZING A THIRD 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 AFarrell@) entered into a contract on January 1, 2009 for monitoring the 2009 Beach Fill pursuant to Resolution No. 042-2009; and

WHEREAS, the Township of Upper and Farrell modified said contract pursuant to Resolution No. 210-2009 and Amendment to Contract in accordance with said Resolution; and

WHEREAS, the Township of Upper and Farrell further modified said contract pursuant to Resolution No. 068-2010 and Second Amendment to Contract in accordance with said Resolution; and

WHEREAS, the Township Committee has determined that there is a need to further amend said contract to include additional services required due to the FEMA Disaster Assistance Plan, DEM-1867-DR-NJ necessary due to the beach/dune loss from the November 11-15, 2009 northeast storm; and

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

WHEREAS, the Municipal Attorney has determined that the services provided pursuant to the Third 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 Chief Financial Officer has certified the availability of funds to permit the Township to enter into the Third Amendment to the Professional Services Contract as aforesaid; and

WHEREAS, the Township has decided to acquire the services of Farrell as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-2.05; 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 Professional Services Contract between the Township of Upper and Farrell, the Amendment to Contract and Second Amendment to Contract is hereby amended to include additional services required due to the FEMA Disaster Assistance Plan, DEM-1867-DR-NJ necessary due to the beach/dune loss from the November 11-15, 2009 northeast storm.

3. The Mayor and Township Clerk are hereby authorized, directed and empowered to enter into a Third Amendment to the Professional Services Contract with Farrell aforesaid for beach stabilization in the Strathmere section of Upper Township. The Third 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 Third Amendment to the contract with the seal of the Township of Upper.

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

6. This Third 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 the Farrell.

8. This Resolution shall take effect immediately and shall memorialize the decisions of the Township Committee at its meeting on March 8, 2010.

Resolution No. 69-2010

Offered by: Newman

Seconded by: Corson

Adopted: March 8, 2010

Roll Call Vote:

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

8. Authorizing the Mayor, Township Clerk, Chief Financial Officer and Assistant Finance Officer to execute a signature card and corporate resolution designating the authorized signers for the Municipal “Accumulated Sick Leave Account” at TD Bank.

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 70-2019

**RE: AUTHORIZING THE MAYOR, TOWNSHIP CLERK,
CHIEF FINANCIAL OFFICER AND ASSISTANT FINANCE OFFICER
TO EXECUTE A SIGNATURE CARD AND CORPORATE RESOLUTION DESIGNATING
THE AUTHORIZED SIGNERS FOR THE MUNICIPAL “ACCUMULATED SICK LEAVE
ACCOUNT” AT TD BANK**

WHEREAS, TD Bank is designated as a depository for funds of the Township of Upper specifically the Accumulated Sick Leave Account number 4248116695; and

WHEREAS, TD Bank has requested that the Township of Upper execute a Signature Card and Corporate Resolution designating account signers for Upper Township accounts at TD Bank; and

WHEREAS, the Township Committee of the Township of Upper deems it appropriate to designate signers for said accounts with TD Bank; 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 Mayor, Township Clerk, Chief Financial Officer, and Assistant Chief Financial Officer are hereby authorized, directed and empowered to execute the Signature Card, Corporate Authorization Resolution, and Account Maintenance Form with TD Bank to designate signers on accounts of Upper Township with TD Bank to indicate that the following **individuals are authorized** signers on said accounts: Richard Palombo, Wanda Gaglione, Barbara Spiegel, and Theresa Smuz.

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. 70-2010

Offered by: Conrad

Seconded by: Corson

Adopted: March 8, 2010

Roll Call Vote:

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

ORDINANCES

9. Public Hearing and Final Adoption of ORDINANCE NO. 001–2010, RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XXIV (RESIDENTIAL SOLID WASTE PROGRAM) OF THE CODE OF UPPER TOWNSHIP.

There were no speakers during the public comment section of the hearing. Motion was made by Curtis Corson, second by Jay Newman to adopt Ordinance No. 001-2010. 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. 001 – 2010

RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XXIV (RESIDENTIAL SOLID WASTE PROGRAM) OF THE CODE OF UPPER TOWNSHIP

WHEREAS, the Township has a special program to provide for the no-cost disposal of small quantities of certain residential solid waste generated within the Township; and

WHEREAS, the Township desires to modify the rules and regulations of the program to permit a variety of residentially registered vehicles to participate in the program; and

WHEREAS, upon the adoption of this ordinance the Township will adopt a resolution establishing updated rules and regulations for this program; and

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

SECTION 1. Chapter 24-3 “Residential Solid Waste Program“ 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 24-3.3 entitled “Rules and Regulations Covering Participation in the Program;

Limited to Township Residents “ is hereby replaced as follows:

24-3.3 Rules and Regulations Covering Participation in the Program; Limited to Township
Residents.

The program described in this section shall be limited to residential use by residents of the Township. The Township Committee by resolution shall adopt rules and regulations controlling participating in such program. Any amendment to the rules and regulations as well as any additional rules and regulations shall also be adopted by resolution of the Township Committee. A certified copy of any such resolution shall be filed with the CMCMUA.

SECTION 2. 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 3. 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 4. EFFECTIVE DATE: This Ordinance shall take effect upon passage and

publication as required by law.

SECTION 5. 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 8th of FEBRUARY 2010 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP ON THE 8th OF MARCH 2010 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

RESOLUTION

10. Establishing the Rules and Regulations for the Residential Solid Waste Program in accordance with Revised General Ordinance 24-3.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N**

RESOLUTION NO. 71 -2010

RE: ESTABLISHING THE RULES AND REGULATIONS FOR THE RESIDENTIAL SOLID WASTE PROGRAM IN ACCORDANCE WITH REVISED GENERAL ORDINANCE 24-3

WHEREAS, the Township has a special program to provide for the no-cost disposal of small quantities of certain residential solid waste generated within the Township; and

WHEREAS, the Township desires to modify the rules and regulations of the program to permit a variety of residentially registered vehicles to participate in the program; and

WHEREAS, the Township wishes to hereby establish updated rules and regulations for this program; 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 Residential Solid Waste Program also known as the MUA Convenience Account shall abide by the following rules and regulations:
 - a. The program is only available for residential use by Township Residents. Commercial vehicles and/or waste generated from a commercial source is not permitted under this program.
 - b. Individual loads of residential waste (Type 10), bulky waste (Type 13) and vegetative waste (Type 23) will be included in this program which will only be available at the CMCMUA's Sanitary Landfill.
 - c. A weight limit of one thousand (1,000) pounds of refuse per month is hereby established by the Township for each permit holder participating in the program. All vehicles with a gross vehicle weight of over eight thousand (8,000) pounds or all registered vehicles with a net weight of refuse greater than one thousand (1,000) pounds will continue to pay directly the appropriate CMCMUA user fee for solid waste disposal.
 - d. The Township will register all participating vehicles and issue a decal indicating the assigned account number that must be available to present to the weighmaster on each visit to the CMCMUA. Only vehicles which have been properly registered with the Township will be allowed to participate in this program. Further, the CMCMUA will not include a vehicle in the program if its decal number is found on a list of revoked permits as provided in writing by the Township on a monthly basis.
 - e. All vehicles included in this program will be weighted upon entrance and exit at the CMCMUA Sanitary Landfill
 - f. Users of this program must continue to comply with all other rules and procedures governing the public use of CMCMUA solid waste disposal facilities as set forth in the CMCMUA user fees, terms and conditions document as adopted annually by the Authority.

- g. Any participant in this program who violates these rules and regulations and requirements of Ordinance 24-3 shall have their permit revoked by Township Committee and shall be prohibited from further participation in the program. If Said permit has been revoked by Township Committee, an application for reinstatement may be considered by Township Committee and will require a \$100.00 non-refundable application fee.
- h. In addition to these rules and regulations, all participants in this program must comply with all requirements set forth in Chapter 24-3 of the Revised General Ordinances of the Township of Upper. In the event of any violation of these rules and regulations or the terms and provisions of said ordinance, the Township may take any corrective or remedial action permitted under either these rules and regulations or said ordinance.

Resolution No. 71-2010

Offered by: Corson

Seconded by: Gabor

Adopted: February 8, 2010

Roll Call Vote:

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

CORRESPONDENCE

NEW BUSINESS

UNFINISHED BUSINESS:

11. Consideration of prior approval of Block 549, Lot 110, Thomas Tower/Action Supply Inc.

Please see page 3 for this information.

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

Payroll: \$177,925.09

Bills submitted for payment: \$ 96,161.44

REPORT OF MUNICIPAL DEPARTMENTS:

12. Construction Code.

13. Clerk’s Office.

- 14. Animal Control-February 2010 Report.
- 15. Tax Assessor.
- 16. Tax Office.
- 17. Municipal Court Reports-Upper Township, Corbin City, Dennis Township.
- 18. Finance Office.
- 19. MUA Report.
- 20. Department of Public Works.
- 21. William Handley report for Great Egg Harbor National Scenic River Council.

PUBLIC COMMENT

Ted Kingston, Strathmere: Asked if the Township checks if county and Pinelands regulations are followed when a building permit is issued and if so why wouldn't this apply to a mining license as well. The Township does check if other regulations are followed as well as being inspected by the various agencies.

There was no further public comment and the meeting was closed.

CLOSED SESSION

Resolution to conduct a closed meeting pursuant to N.J.S.A. 10:4-12, from which the public shall be excluded. Jay Newman read the following motion and resolution into the record:

RESOLUTION NO. 072-2010
MOTION GOING INTO CLOSED SESSION
 March 8, 2010

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) Contract negotiation issue – Ocean City Dispatch Share Services Agreement.
- (2) Contract resolution and potential litigation – Shoreline Lease.

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 contract negotiation such matters will be made public when negotiations have ceased and there is no longer a reason for confidentiality.
- C. With respect to litigation matters such discussions will be made public when litigation is complete and the applicable appeal period has expired.

Frank Conrad seconded the motion; during roll call vote all five Committee members voted in the affirmative.

RECONVENE PUBLIC PORTION OF MEETING

ADJOURNMENT

There was no further business for this evening and the meeting was adjourned at 10:52 P.M. Motion to adjourn the meeting made by Jay Newman, seconded by Frank Conrad, with all five Committee members voting in the affirmative.

The next regular meeting is scheduled for Monday March 22nd, 2010 at 7:30 P.M. Next Budget Workshop scheduled for Monday, March 22, 2010 at 6:30 PM.

Minutes prepared by

**Wanda Gaglione, RMC
Municipal Clerk**

Bill List

50863	02/24/10	A0006	ADVANCE TREADS INC	1,056.40	2580
50864	02/24/10	A0023	ADAMS, JOHN	52.00	2580
50865	02/24/10	A0025	ADVANTAGE RENTAL ACE HARDWARE	4.36	2580
50866	02/24/10	A0035	AIRLINE HYDRAULIC CORP.	642.00	2580
50867	02/24/10	A0054	A.M./P.M. SERVICES	184.00	2580
50868	02/24/10	A0071	ANCHOR FIRE PROTECTION CO.	375.00	2580
50869	02/24/10	A0074	ATLANTIC CARE OCCU. MEDICINE	10,174.79	2580
50870	02/24/10	A0075	ADAMS, JOSHUA	24.00	2580
50871	02/24/10	A0081	ARMSTRONG, RALON I.	10.00	2580
50872	02/24/10	A0091	ATLANTIC CITY ELECTRIC	8,125.20	2580
50873	02/24/10	A0117	AT&T	121.40	2580
50874	02/24/10	A0122	ANSELL, ZARO, GRIMM & AARON	87.50	2580
50875	02/24/10	B0020	BLAKER, RAYMOND	128.00	2580
50876	02/24/10	B0034	BCI BURKE COMPAMY, INC.	291.60	2580
50877	02/24/10	B0035	BELMONT & CRYSTAL SPRINGS	188.13	2580
50878	02/24/10	B0052	BENNETT BATTERIES, LLC.	249.70	2580
50879	02/24/10	B0090	BROADLEY'S MDI.	785.64	2580
50880	02/24/10	B0110	BROSS, REBECCA	41.00	2580
50881	02/24/10	B0111	BROSS, GEORGE	50.00	2580
50882	02/24/10	B0148	BLUE FLAME/PARACO GAS	696.99	2580
50883	02/24/10	B0160	BONNER, ROSEMARY	23.72	2580
50884	02/24/10	B0178	BUGANSKI, PETER R.	52.00	2580
50885	02/24/10	B0182	BRIGGS LAW OFFICE, P.C.	3,512.86	2580
50886	02/24/10	B0184	BUSHONG, BRIAN	24.00	2580
50887	02/24/10	C0010	CMC MUNICIPAL JUDGES ASSOC	75.00	2580
50888	02/24/10	C0030	CAMP, BARBARA	67.91	2580
50889	02/24/10	C0031	CAPE ASSIST	375.00	2580
50890	02/24/10	C0060	CAPRIONI'S PORTABLE TOILETS	989.00	2580
50891	02/24/10	C0068	COMCAST	169.28	2580
50892	02/24/10	C0077	CHERRY VALLEY TRACTOR SALES	2,576.00	2580
50893	02/24/10	C0078	CARTER, EDWARD, SR.	34.00	2580
50894	02/24/10	C0091	CHISHOLM, JOHN R.	24.00	2580
50895	02/24/10	C0124	CMC MUNICIPAL CLERK'S ASSOC.	100.00	2580
50896	02/24/10	C0140	CODED SYSTEMS	680.00	2580
50897	02/24/10	C0143	CODY'S POWER EQUIPMENT	194.51	2580
50898	02/24/10	C0171	COLONIAL ELECTRIC SUPPLY CO.	34.00	2580
50899	02/24/10	C0201	CRUZAN'S TRUCK SERVICE INC.	332.09	2580
50900	02/24/10	C0223	CASA PAYROLL SERVICE	250.95	2580
50901	02/24/10	D0026	DEAUGUSTINE, JOE	10.00	2580
50902	02/24/10	D0077	DIETRICH, PAUL	8.99	2580
50903	02/24/10	E0047	EFFINGER SPORTING GOODS CO	1,600.00	2580
50904	02/24/10	F0048	FOGG, LESLIE INC.	354.16	2580
50905	02/24/10	G0002	GAGLIONE, WANDA	32.00	2580
50906	02/24/10	G0006	GARBUTT, PATRICIA A.	61.64	2580
50907	02/24/10	G0016	GARDNER HARDWARE INC.	43.86	2580
50908	02/24/10	G0030	GENERAL SPRING SERVICE	827.81	2580
50909	02/24/10	G0044	GILES & RANSOME, INC.	240.14	2580
50910	02/24/10	G0092	GRUND, BARBARA J.	351.34	2580
50911	02/24/10	G0096	GRUND, GEORGE	454.03	2580
50912	02/24/10	H0062	HOPE, JOHN J.	40.00	2580
50913	02/24/10	H0094	HOPE'S PLUMBING, LLC	190.00	2580
50914	02/24/10	H0131	HPI PROCESSES, INC	588.00	2580
50915	02/24/10	I0013	IMPACT TECHNOLOGY SOLUTION LLC	1,140.00	2580
50916	02/24/10	J0039	JOHNSON & TOWER INC.	113.36	2580
50917	02/24/10	J0041	JONES, JAMES M.	52.00	2580

50918 02/24/10 K0007 KACZMARSKI, RICHARD 124.97 2580
50919 02/24/10 K0014 KEENAN,BRIAN 24.00 2580
50920 02/24/10 K0037 KOHLER, JOHN F 10.00 2580
50921 02/24/10 K0047 KLINE, EDWARD T. 187.99 2580
50922 02/24/10 L0072 LLOYD, JOEL 218.25 2580
50923 02/24/10 L0075 LEXISNEXIS T/A MATTHEW BENDER 65.34 2580
50924 02/24/10 L0080 LOWES, INC. 230.62 2580
50925 02/24/10 M0012 McCAULEY, RICHARD 34.00 2580
50926 02/24/10 M0021 MASER CONSULTING, P.A. 6,020.00 2580
50927 02/24/10 M0032 MARINE RESCUE PRODUCTS, INC. 1,088.00 2580
50928 02/24/10 M0059 MCDANIELS, WILLIAM J. III 210.94 2580
50929 02/24/10 M0070 MID ATLANTIC WASTE SYSTEMS 1,543.58 2580
50930 02/24/10 M0103 MODERN GAS COMPANY, INC. 397.86 2580
50931 02/24/10 M0142 MASON, NICHOLAS 22.00 2580
50932 02/24/10 M0180 MED-TECH RESOURCE, INC. 416.16 2580
50933 02/24/10 M0188 MCCARTHY TIRE SERVICE OF PHILA 1,085.50 2580
50934 02/24/10 M0193 MAYNE, MICHAEL 10.00 2580
50935 02/24/10 M0206 McCARDELL, JOHN 10.00 2580
50936 02/24/10 M0209 MAYBERRY, JOHN D 146.92 2580
50937 02/24/10 N0004 NJ-AMERICAN WATER CO. 31.50 2580
50938 02/24/10 N0043 NAPA AUTO PARTS OF S.JERSEY 520.77 2580
50939 02/24/10 N0052 NATL YOUTH SPORTS COACHED ASSN 720.00 2580
50940 02/24/10 N0070 NIA GROUP ASSOCIATES, LLC 2,500.00 2580
50941 02/24/10 O0006 OCS PRINTING 903.00 2580
50942 02/24/10 O0034 OSPREY POINT CONDO ASSOC. 9,906.29 2580
50943 02/24/10 P0008 PALMER, NANCY 53.00 2580
50944 02/24/10 P0026 PAYNTER, JOSEPH 134.95 2580
50945 02/24/10 P0032 PEDRONI FUEL CO. 2,574.17 2580
50946 02/24/10 P0036 PENNELLO, DAVID 28.00 2580
50947 02/24/10 P0050 PARSIO, ANTHONY 24.00 2580
50948 02/24/10 P0064 PITNEY BOWES 237.96 2580
50949 02/24/10 P0073 POGUE INC. 75.00 2580
50950 02/24/10 P0096 PREVITI, MICHELE M. 359.78 2580
50951 02/24/10 R0030 RIGGINS, INC. 7,503.09 2580
50952 02/24/10 R0055 ROSIAK, CAROL 26.00 2580
50953 02/24/10 R0073 RICOH AMERICAS CORPORATION 337.74 2580
50954 02/24/10 S0034 SCHULER, DANIEL 167.96 2580
50955 02/24/10 S0072 SEGIN, STEWART S. 62.00 2580
50956 02/24/10 S0092 SHONE, LEROY 42.00 2580
50957 02/24/10 S0108 SOUTHERN NEW JERSEY NIGP 80.00 2580
50958 02/24/10 S0121 SMUZ, THERESE A 49.60 2580
50959 02/24/10 S0134 SO. JERSEY GAS COMPANY 2,490.05 2580
50960 02/24/10 S0138 SOUTH JERSEY SOCCER LEAGUE 600.00 2580
50961 02/24/10 S0139 SO. JERSEY WATER COND. INC. 465.95 2580
50962 02/24/10 S0153 STERICYCLE, INC. 445.02 2580
50963 02/24/10 S0196 STEWART BUSINESS SYSTEMS LLC 263.52 2580
50964 02/24/10 S0209 STAPLES ADVANTAGE 1,708.87 2580
50965 02/24/10 S0239 SHORE VET. ANIMAL CONTROL 2,200.00 2580
50966 02/24/10 T0020 TERWILLIGER, DUANE E. 52.00 2580
50967 02/24/10 T0022 TERMINIX 49.00 2580
50968 02/24/10 T0024 TAYLOR, MATTHEW 34.00 2580
50969 02/24/10 T0032 THE PRESS & SUNDAY PRESS 201.21 2580
50970 02/24/10 T0034 THE PAPER OF U.T./GAZETTE 1,836.00 2580
50971 02/24/10 T0038 THOMAS, CHRISTOPHER 62.00 2580
50972 02/24/10 T0044 THOMSON, KERRY AGENCY 1,790.00 2580
50973 02/24/10 T0067 TOWNSHIP OF UPPER PETTY CASH 16.50 2580
50974 02/24/10 T0074 TRANSAXLE LLC 737.82 2580
50975 02/24/10 U0002 U.T. BASKETBALL ASSOCIATION 26.25 2580
50976 02/24/10 U0047 U.S. MUNICIPAL SUPPLY, INC. 767.79 2580
50977 02/24/10 V0001 VCI EMERGENCY VEHICLE 23.55 2580
50978 02/24/10 V0022 VERIZON 2,100.57 2580
50979 02/24/10 V0024 VAL-U AUTO PARTS L.L.C. 525.86 2580
50980 02/24/10 V0026 VITAL COMPUTER RESOURCES, INC. 1,206.20 2580
50981 02/24/10 V0027 VANORDER, ROGER 30.00 2580
50982 02/24/10 W0001 WILFRED McDONALD INC. 213.00 2580
50983 02/24/10 W0030 WEST PUBLISHING CO. 472.00 2580
50984 02/24/10 W0038 WILLIAMS, JEREMIAH J. 341.98 2580
50985 02/24/10 W0060 WOOLLEY, THOMAS 46.00 2580
50986 02/24/10 X0002 XEROX CAPITAL SERVICES, LLC 72.00 2580
50987 02/24/10 Y0012 YOUNG, ROBERT 292.00 2580
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Total Paid: \$96,161.44