

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR JULY 12, 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, Finance Officer Barbara Spiegel, Municipal Attorney Daniel Young and Municipal Engineer Paul Dietrich.

APPROVAL OF MINUTES - **June 28, 2010 Regular Meeting and Closed Session Minutes**

Motion was made by Jay Newman, seconded by Curtis Corson to approve the Regular Meeting and Closed Session Minutes as submitted. During roll call vote, all five Committee members voted in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

Kristine Gabor: made a motion, seconded by Frank Conrad to appoint Lauren Harris as the representative of the Cheerleading Association to the Recreation Committee, and an alternate will be named. A resolution will be placed on the next agenda and will be effective today. During roll call vote, all five Committee members voted in the affirmative.

Curtis Corson: discussed a letter that was received pertaining to the possible placement of a solar farm in the Township. The Committee commented that the issue is a Planning Board matter.

Mr. Corson reported that he met with Committeewoman Gabor to discuss several cost saving efforts that involve cutting management positions and the possible merger of the Recreation and Public Work Departments. Motion was made by Curtis Corson, second by Kristine Gabor to direct Township Attorney Daniel Young to draft the appropriate ordinance and resolutions to implement the merger. During roll call vote, all five Committee members voted in the affirmative.

Jay Newman: reported that the 4th of July fireworks display held at Amanda’s Field was a great success. Mayor Palombo thanked Upper Township Fire and Rescue personnel for a job well

done during the event. Mr. Newman also reported that the New Jersey Forest Fire Service has issued a campfire ban. He further reported that AtlantiCare public safety officials are promoting a new program. The "Check Water First" program urges that when a child is missing to check all sources of water first. He requested that the program be promoted via the website, through UTTV, and as a possible insert in the tax bills. He also discussed an issue with vehicles parking along Harbor Road in the "No Parking Zones" and their potential to hinder access of emergency vehicles to that area. Township Committee directed Mr. Dietrich to review the Ordinance and check the signage in that area.

OTHER REPORTS

Daniel Young, Municipal Attorney: as requested at the last meeting Mr. Young reported on the current laws with regard to Noise Ordinances. The State Law Noise Control Act is based on decibel readings and covers commercial activity. The law allows municipalities to adopt their own noise ordinance as long as it is stricter than the state law. The NJDEP regulates state law and provides funding to counties for enforcement. Mr. Young reported that there was an appellate division case. (Clarksburg Inn) that held. Municipal noise ordinances do not have to be decibel based. The Court upheld an ordinance with a reasonableness standard. The municipal ordinance upheld prohibited loud and unreasonable noise. The court also went on to say that you could have an anti-noise ordinance that prohibits unreasonable or unnecessary noise depending upon the circumstances. In addition, the Noise Control Act has a provision where noise ordinances are reviewed and approved by the NJDEP although the NJDEP has advised it will not review or approve a non-decibel ordinance. The DEP is set up with sound engineers that determine if a town's decibel based ordinance is consistent and stricter than State Law. Mr. Young further reported that according to the Principal Engineer at the Office of Local Environmental Management, the NJDEP would not nor do they require a review of a reasonableness type ordinance under State law. The State Police would enforce the ordinance and they would issue a citation if the noise was unreasonable. The matter would then be heard in municipal court. The Committee directed Mr. Young to prepare a draft ordinance for discussion at a future meeting.

Mr. Young also discussed the Open Public Records Act (OPRA) fee schedule that was adopted by the Legislature at the end of last month and is expected to be signed by Governor Christie. A prior court decision held that you can no longer charge the maximum in the statute per page for record requests. You can only charge the actual cost of the copy. In the new law, the calculation of the actual cost of a copy works out to be five cents (5¢) per page for letter size and seven cents (7¢) per page for legal size. He further reported that he had several items for closed session as follows: two Personnel matters; Litigation-Citizens for Strathmere and Whale Beach vs. Upper Township; and Conflict Attorney, Norman Briggs, Esq. will have one Litigation matter Upper Township vs. Paynter.

Paul Dietrich, Township Engineer: discussed the placement of signs in the crosswalks on twelve streets in Strathmere. Motion by Richard Palombo, second by Curtis Corson to place signs in the crosswalks on Commonwealth Avenue, conditional upon the County's approval. During roll call vote, four Committee members voted in the affirmative, Frank Conrad abstained.

The Mayor recognized that conflict attorney Norman Briggs had arrived and directed that rather than asking the public to leave the meeting room the Committee would move to the conference room for discussion of a closed session matter.

The following resolution was read into the record by Jay Newman and the regular portion of the meeting was closed at 7:37 P.M. All five members of the Township Committee, conflict

attorney Norman Briggs, Municipal Clerk Wanda Gaglione and Municipal Engineer Paul Dietrich left the courtroom to meet in the conference room for this closed session matter.

CLOSED SESSION

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

RESOLUTION NO. 154A-2010
MOTION GOING INTO CLOSED SESSION
July 12, 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. Litigation-Upper Township vs. Paynter

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.

Moved by: Jay Newman

Motion seconded by: Curtis Corson

All five Committee members voted in the affirmative to adopt resolution.

RECONVENE PUBLIC PORTION OF MEETING

At 7:45 P.M. the Committee returned to the meeting room and conflict attorney Norman Briggs left the building Motion was made by Richard Palombo, seconded by Frank Conrad to direct conflict attorney Norman Briggs to file the necessary court papers pertaining to the Paynter matter before the July 15, 2010 deadline. During roll call vote all five Committee members voted in the affirmative. Mr. Young returned to the table.

RESOLUTIONS

1. **Appointment of Joseph Healy to the Upper Township Zoning Board of Adjustment.**

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

RESOLUTION NO. 155-2010

**RE: APPOINTMENT OF JOSEPH HEALY
TO THE UPPER TOWNSHIP ZONING BOARD OF ADJUSTMENT**

WHEREAS, N.J.S.A. 40:55D-69 provides that members of the Zoning Board of Adjustment shall be appointed by the Governing Body of the municipality; and

WHEREAS, it is necessary to make certain appointments to the Zoning Board of Adjustment of the Township of Upper, as hereinafter provided; 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 that Joseph Healy is hereby appointed to the Upper Township Zoning Board of Adjustment to fill the unexpired two (2) year term of Kenneth Yakopcic as Alternate #2, which term shall expire on 12/31/2010.

This Resolution ratifies, confirms and approves action taken by the Township Committee, by motion, at the meeting of June 28, 2010.

Resolution No. 155-2010

Offered by: Conrad

Seconded by: Newman

Adopted: July 12, 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>

2. Appointment of Sean Lonesky and Richard Minarik as part-time seasonal employees to the Upper Township Recreation Department.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 156-2010
RE: APPOINTMENT OF SEAN LONESKY AND RICHARD MINARIK
AS PART-TIME SEASONAL EMPLOYEES
TO THE UPPER TOWNSHIP RECREATION DEPARTMENT**

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

WHEREAS, a recommendation has been made to the Township Committee and duly considered at the meeting of June 28, 2010; and

WHEREAS, this Resolution is intended to ratify the action heretofore taken; and

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

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

2. Sean Lonesky and Richard Minarik are hereby appointed in part-time seasonal positions effective immediately at a salary of \$10.50 per hour in accordance with the Salary Ordinance.

3. This Resolution ratifies, confirms and approves action taken by the Township Committee, by motion, at the meeting of June 28, 2010.

Resolution No.156-2010

Offered by: Gabor

Seconded by: Conrad

Adopted: July 12, 2010

Roll Call Vote:

NAME	YES	NO	ABSTAINED	ABSENT
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. Authorizing the execution of a Subcontract with the County of Cape May for the 2011 Municipal Alliance Program.

TOWNSHIP OF UPPER
COUNTY OF CAPE MAY
R E S O L U T I O N
RESOLUTION NO. 157-2010
AUTHORIZING THE EXECUTION OF A SUBCONTRACT
WITH THE COUNTY OF CAPE MAY FOR THE
2011 MUNICIPAL ALLIANCE PROGRAM

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

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

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

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

DEDR Funds.....\$27,469.00

Amount of Local In-Kind Match.....\$20,602.00

Amount of Local Cash Match.....\$6,867.00

TOTAL AMOUNT OF SUBCONTRACT.....\$54,938.00

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

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township as lead agency is hereby authorized to submit an application for Municipal Alliance funding for 2011 in the amount specified in this Resolution or for such other amounts as may become available, and the Mayor and Township Clerk are further authorized and directed to execute a Sub-Contract on behalf of the Township with the County of Cape May for the period of January 1, 2011 to December 31, 2011.
3. The Chief Financial Officer of the Township of Upper is hereby authorized and directed to execute the section of the subcontract entitled “Statement of Assurances”.

4. A certified copy of this Resolution shall be submitted to the County of Cape May in the Department of Human Services, together with the completed application.

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

Resolution No. 157-2010

Offered by: Corson

Seconded by: Conrad

Adopted: July 12, 2010

Roll Call Vote:

NAME	YES	NO	ABSTAINED	ABSENT
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>

3. Tax Refund Resolution.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
Resolution No. 158-2010
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.158-2010

Offered by: Conrad

Seconded by: Gabor

Adopted: July 12, 2010

Roll Call Vote:

NAME	YES	NO	ABSTAINED	ABSENT
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 x _____ _____ _____
PALOMBO x _____ _____ _____

REFUND 2010

<u>BLOCK/LOT</u>	<u>AMOUNT</u>	<u>NAME</u>
599/37	\$739.26	MARMORA STORAGE, LLC 3003 ENGLISH CREEK AVE ST D13A EGG HARBOR TWP, NJ 08234

(REFUND FOR 2009 TAXES DUE TO A SUCCESSFUL STATE TAX COURT APPEAL)

5. Strongly urging the New Jersey Department of Transportation to commence with the planned replacement of the Route 50 Bridge over the Tuckahoe River between Tuckahoe in the Township of Upper, County of Cape May, and Corbin City in the County of Atlantic.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 159-2010**

RE: STRONGLY URGING THE NEW JERSEY DEPARTMENT OF TRANSPORTATION TO COMMENCE WITH THE PLANNED REPLACEMENT OF THE ROUTE 50 BRIDGE OVER THE TUCKAHOE RIVER BETWEEN TUCKAHOE IN THE TOWNSHIP OF UPPER, COUNTY OF CAPE MAY AND CORBIN CITY IN THE COUNTY OF ATLANTIC

WHEREAS, The New Jersey Department of Transportation (NJDOT) is scheduled to undertake a bridge replacement project on Route 50 over the Tuckahoe River that spans between Tuckahoe in Cape May County and Corbin City in Atlantic County; and

WHEREAS, the project includes the construction of a new bridge with a fixed span across the Tuckahoe River connecting Tuckahoe and Corbin City and the construction of a temporary bridge to be utilized pending the completion of the replacement of the permanent span; and

WHEREAS, the Tuckahoe River Bridge is located on Route 50 which is a major connecting route for direct access to the Southern Jersey shore communities and experiences very heavy traffic during the summer season; and

WHEREAS, the Bridge is also part of the designated evacuation route from the Southern Jersey shore communities; and

WHEREAS, the Township Committee hereby wishes to express its extreme concern with the present condition of the Bridge in light of the recent necessary emergency repairs to the Bridge such that the Township Committee is firmly convinced that the construction of a new bridge over the Tuckahoe River is urgently needed in order 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. In order to insure the safety of all who travel over the span, the Township Committee strongly urges the NJDOT to immediately commence the Route 50 Bridge Replacement Project and to cause same to be completed with all due speed.
3. A certified copy of this Resolution shall be provided to New Jersey Governor Christopher Christie, the New Jersey Department of Transportation, Senator Jeff Van Drew and Assemblymen Nelson Albano and Matthew Milam, the Cape May County Board of Chosen Freeholders, the Atlantic County Board of Chosen Freeholders, offices of the Cape May and Atlantic County Engineers, and the City of Corbin City.

Resolution No.159-2010

Offered by: Conrad

Seconded by:Gabor

Adopted: July 12, 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>

6. A Resolution strongly urging that the State of New Jersey, Department of Environmental Protection takes immediate steps to remediate the Environmental Contamination in Block 549, Lot 164, at 4 McDonald Drive, Seaville, in the Township of Upper, County of Cape May.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 160-2010
RE: A RESOLUTION STRONGLY URGING THAT
THE STATE OF NEW JERSEY
DEPARTMENT OF ENVIRONMENTAL PROTECTION
TAKE IMMEDIATE STEPS TO REMEDIATE
THE ENVIRONMENTAL CONTAMINATION
IN BLOCK 549, LOT 164, AT 4 MCDONALD DRIVE, SEAVILLE,
IN THE TOWNSHIP OF UPPER,
COUNTY OF CAPE MAY**

WHEREAS, for more than four (4) years the New Jersey Department of Environmental Protection (NJDEP) has been aware of the contaminated water well at 4 McDonald Drive, in Block 549, Lot 164 in the Township of Upper; and

WHEREAS, the NJDEP has determined that the well at 4 McDonald Drive is contaminated with levels of a gasoline derivative, Methyl t-butyl ether (MTBE), well above the state drinking water standards and placed the property in the Spill Compensation Fund Program; and

WHEREAS, the NJDEP has tried to remediate the problem with a Point-of-Entry Treatment (POET) water filtration system at the site and even with the POET system the water is unpalatable and unusable for personal use as well as regular household use forcing much hardship on the residents; and

WHEREAS, in light of the extensive contamination to this property's water supply and the potential widespread risk to the heavily populated surrounding neighborhoods, the Township of Upper believes it is vitally important for the NJDEP Contaminated Spill Fund Program to look for an immediate long-term solution to provide uncontaminated drinking water to the citizens of these neighborhoods and that solution is to provide funding to the Township of Upper to extend water lines another 3500 feet along Stagecoach Road between Evergreen Drive and McDonald Drive.

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 strongly urges that the NJDEP resolve this contamination matter by providing funding from the Contaminated Spill Fund Program to extend the present water lines to reach McDonald Drive.
5. A certified copy of this Resolution shall be forwarded to the Governor of the State of New Jersey, the New Jersey Department of Environmental Protection, Senator Jeffrey Van Drew, Assemblymen Nelson Albano and Matthew W. Milam, the Cape May County Board of Chosen Freeholders, the Cape May County Health Department, and all affected property owners.

Resolution No. 160-2010
 Offered by: Corson
 Adopted: July 12, 2010

Seconded by: Conrad

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>

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

**TOWNSHIP OF UPPER
 CAPE MAY COUNTY
 R E S O L U T I O N
 RESOLUTION NO. 161-2010
 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.161-2010

Offered by: Conrad

Seconded by:Corson

Adopted: July 12, 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>

Exhibit "A"

1.	1989 Ford F250 PKUP Vin# 1FTHF 26H7K NA074 94	Min. Bid \$250.00
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Exhibit "B"



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS

September 7, 2007

JON S. CORZINE
GOVERNOR

CHARLES A. RICHMAN
ACTING COMMISSIONER

Barbara Spiegel, Deputy Municipal Clerk
Township of Upper
P.O. Box 205
Tuckahoe, New Jersey 08250

Dear Ms. Spiegel:

Thank you for your interest in participating in the E-Procurement Pilot Program. The Division has reviewed your application dated August 10, 2007, which sets forth the preliminary plan for the online sale by the Township of Upper of municipal surplus property no longer needed for public use.

It is the Division's understanding that the Township intends to utilize the services of GovDeals, Inc. to conduct the auction. Further, it is our understanding that GovDeals will be paid by the Township a percentage of the sales of the auction for the use of its services.

The application has been approved. Enclosed is a copy of the Township's resolution approving the online sale of the surplus property. As with a traditional auction, the Township must do a newspaper advertisement for the online sale. Please provide the Division with a copy of the newspaper advertisement.

Finally, please be advised that, if the total amount from the sale of surplus property for the year that is due to GovDeals will exceed 15% of the Township's bid threshold, the Township will be required to obtain a Business Registration Certificate (BRC) from GovDeals. It is our understanding that GovDeals has previously acquired a BRC certificate.

The Division appreciates your efforts and cooperation in this program and wishes you well in the endeavor. If you have any questions, please contact Daniel Kaminski at 609-292-9757 or by e-mail at dkaminski@dca.state.nj.us.

Sincerely,

Susan Jacobucci, Director
Division of Local Government Services

SJ:djk
enc.



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8. Resolution and Certification with respect to the 2009 Annual Audit and in compliance with the Local Finance Board of the State of New Jersey.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 162-2010**

**Re: RESOLUTION AND CERTIFICATION WITH RESPECT TO THE 2009
ANNUAL AUDIT AND IN COMPLIANCE WITH THE LOCAL FINANCE BOARD
OF THE STATE OF NEW JERSEY**

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

WHEREAS, the Annual Report of Audit for the year **2009** has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and

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

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

GENERAL COMMENTS

AND

RECOMMENDATION

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

GENERAL COMMENTS

RECOMMENDATIONS

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

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

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

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

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

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

Resolution No. 162-2010

Offered by: Conrad

Seconded by: Palombo

Adopted: July 12, 2010

Roll Call Vote:

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

9. Authorizing the Mayor to submit and sign Municipal Aid Grant application for fiscal year 2011.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO.163-2010
RE: AUTHORIZING THE MAYOR TO SUBMIT AND SIGN
MUNICIPAL AID GRANT APPLICATION FOR FISCAL YEAR 2011

WHEREAS, the Township of Upper wishes to take advantage of Municipal Aide Grants that will be available for Fiscal year 2011; and

WHEREAS, the Township Committee fully supports and

endorses the actions of the Township Engineer in his filing of the grant applications for the following grant program:

FY 2011 Municipal Aid for Roadway Reconstruction. This program provides grants to municipalities for roadway improvements. The project will involve the reconstruction of Ocean Avenue from Stagecoach Road to Seasounds Avenue in Palermo Section of Township of Upper, which will include widening and resurfacing the existing substandard roadway.

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, Engineer and Clerk of the Township of Upper is hereby authorized, directed and empowered to submit an electronic grant application identified as MA-2011-Upper Township-00009 to the New Jersey Department of Transportation on behalf of the Township of Upper.
3. All Township officials, officers and employees are empowered to take such action as may be necessary or advisable in order to carry out the intent and purpose of this Resolution.
4. That the Mayor and clerk are hereby authorized to sign the grant agreement on behalf of the Township of Upper and that their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.
5. A certified copy of this Resolution shall be provided to the Township Engineer for insertion into each Municipal Aide Grant Application for Fiscal year 2011.

Resolution No.163-2010

Offered by: Corson

Seconded by: Newman

Adopted: July 12, 2010

Roll Call Vote:

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

ORDINANCES

CORRESPONDENCE

NEW BUSINESS

10. Medical Billing Contract.

Three quotes were requested, only 2 were submitted with Cape Professional Billing being the lowest quote at 5.7%. Motion by Jay Newman, second by Curtis Corson to authorize a Contract with Cape Professional Billing. During roll call vote all five Committee members voted in the affirmative.

11. David Pennello--request to purchase Township owned property Block 17, Lots 15, 16 and 17. The Committee discussed that the individual requesting the purchase is a Township employee. Due to that fact, conflict attorney Norman Briggs is appointed to handle the matter. Motion by Curtis Corson, second by Richard Palombo to grant the request to purchase Block 17, Lots 15, 16 and 17. During roll call vote all five Committee members voted in the affirmative.

12. Superintendent of Public Works report on conversion to Automated Trash and Recycling Collection. Mr. Dietrich presented a powerpoint program to the Township Committee. He explained some of the advantages as follows: fewer employees needed, fewer injuries because no more lifting resulting in fewer Worker’s Comp claims, lower labor costs. The cost to pick up trash last year was \$700,000. It was discussed that because of the initial purchase of equipment, higher costs for the first few years would be shown, however savings would be evident after that time. Bonding the project was discussed. Mr. Privatizing was briefly discussed as an undesirable option due to no control over future costs. Disadvantages discussed were higher maintenance costs per truck, fewer trucks would present a problem if a vehicle were taken out of service for repairs, cost of trashcans for each household. The cost per trashcan is \$56 and the Township would initially purchase three cans per household--one for trash, one for paper, and one for cans and bottles. The Committee recommended that the Township Auditor review the projected costs and savings of the program. The Township Clerk was directed to place the matter on the next agenda as unfinished business for further discussion.

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.” Motion was made by Jay Newman, second by Frank Conrad. During roll call vote all five Committee members voted in the affirmative.

Bills submitted for payment: \$88,258.43
Payroll: \$204,009.65

REPORT OF MUNICIPAL DEPARTMENTS:

- 13. Construction Code**
- 14. Clerk's Office**
- 15. Tax Assessor**
- 16. MUA Report**
- 17. Tax Collector**
- 18. Animal Control**

Reports are available from the Clerk's Office.

PUBLIC COMMENT

Stewart Segin, of 212 New Jersey Avenue Tuckahoe, expressed concerns with an automated trash removal system as to holiday pickup and training.

CLOSED SESSION

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

**RESOLUTION 164-2010
MOTION GOING INTO CLOSED SESSION
July 12, 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:

- (2) Personnel matters
- (3) Litigation – Citizens for Strathmere and Whale Beach in Upper Township

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

Motion seconded: Frank Conrad

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

PERSONNEL HEARING

RECONVENE PUBLIC PORTION OF MEETING

ADJOURNMENT

There being no further business this evening the meeting was adjourned at 9:50 P.M. Next meeting scheduled for July 26, 2010 at 7:30 P.M.

Minutes prepared by

Wanda Gaglione, RMC
Municipal Clerk

BILL LIST

51734 07/12/10 A0006 ADVANCE TREADS INC 1,495.70 2608
51735 07/12/10 A0018 ACTION SUPPLY INC. 483.08 2608
51736 07/12/10 A0025 ADVANTAGE RENTAL ACE HARDWARE 958.75 2608
51737 07/12/10 A0035 AIRLINE HYDRAULIC CORP. 425.00 2608
51738 07/12/10 A0070 ALBERTSONS/ACME 59.52 2608
51739 07/12/10 A0074 ATLANTIC CARE OCCU. MEDICINE 173.00 2608
51740 07/12/10 A0086 AT&T MOBILITY 267.27 2608
51741 07/12/10 A0091 ATLANTIC CITY ELECTRIC 12,946.60 2608
51742 07/12/10 B0035 BELMONT & CRYSTAL SPRINGS 37.19 2608
51743 07/12/10 B0052 BENNETT BATTERIES,LLC. 401.60 2608
51744 07/12/10 B0091 BIRCHMEIER, JAMES 76.00 2608
51745 07/12/10 B0092 BROKER, EUGENE JR. 122.00 2608
51746 07/12/10 B0093 BARRY,CORRADO,GRASSI & GIBSON 9,074.66 2608
51747 07/12/10 B0160 BONNER, ROSEMARY 150.00 2608
51748 07/12/10 C0011 CAPE OFFICE MACHINES & SERVICE 95.00 2608
51749 07/12/10 C0021 CIVIL SOLUTION A DIVISION 3,000.00 2608
51750 07/12/10 C0068 COMCAST 169.40 2608
51751 07/12/10 C0078 CARTER, EDWARD, SR. 150.00 2608
51752 07/12/10 C0091 CHISHOLM, JOHN R. 144.99 2608
51753 07/12/10 C0131 CINTAS FIRST AID & SAFETY 40.42 2608
51754 07/12/10 C0201 CRUZAN'S TRUCK SERVICE INC. 87.13 2608
51755 07/12/10 C0223 CASA PAYROLL SERVICE 284.85 2608
51756 07/12/10 C0228 COLBERT, ANNA 24.00 2608
51757 07/12/10 C0229 COLBERT, MATTHEW 24.00 2608
51758 07/12/10 C0230 CATAMARAN MEDIA COMPANY 52.00 2608
51759 07/12/10 D0035 DEVINE, FIONA 60.00 2608
51760 07/12/10 D0080 DOWNAM, HARRY J. JR. 195.07 2608
51761 07/12/10 D0134 DUBBS, FREDERIC 24.00 2608
51762 07/12/10 E0012 EHRlich PEST CONTROL INC 71.00 2608
51763 07/12/10 G0002 GAGLIONE, WANDA 65.00 2608
51764 07/12/10 G0006 GARBUTT,PATRICIA A. 57.00 2608
51765 07/12/10 G0014 GARDEN STATE HWY PRODUCTS INC. 1,264.70 2608
51766 07/12/10 G0016 GARDNER HARDWARE INC. 325.97 2608
51767 07/12/10 G0028 GENTILINI FORD 49.97 2608
51768 07/12/10 G0134 GIARDINA, JOSEPH 26.25 2608
51769 07/12/10 H0002 H.A. DEHART & SON CORP. 629.79 2608
51770 07/12/10 H0012 HALL,ARTHUR 16.00 2608
51771 07/12/10 H0018 HAROLD RUBIN/L & H SUPPLY 370.47 2608
51772 07/12/10 K0005 KIEFER ADOLPH & ASSOCIATES 770.24 2608
51773 07/12/10 K0034 KOHLER, CLAUDE JR. 28.00 2608
51774 07/12/10 K0047 KLINE, EDWARD T. 107.97 2608
51775 07/12/10 L0031 LORCO PETROLEUM SERVICES 180.00 2608
51776 07/12/10 L0080 LOWES, INC. 295.83 2608
51777 07/12/10 M0188 MCCARTHY TIRE SERVICE OF PHILA 680.67 2608
51778 07/12/10 M0193 MAYNE, MICHAEL 160.98 2608
51779 07/12/10 M0210 MILLAR, KYLE 12.00 2608
51780 07/12/10 M0216 MID ATLANTIC SALT 6,138.34 2608
51781 07/12/10 M0217 MUNICIPAL EMERGENCY SERVICES 188.00 2608
51782 07/12/10 N0004 NJ-AMERICAN WATER CO. 179.47 2608
51783 07/12/10 N0043 NAPA AUTO PARTS OF S.JERSEY 35.63 2608
51784 07/12/10 N0052 NATL YOUTH SPORTS COACHED ASSN 560.00 2608
51785 07/12/10 P0032 PEDRONI FUEL CO. 685.99 2608
51786 07/12/10 P0034 PEIFER, SUSAN R. 157.12 2608
51787 07/12/10 P0036 PENNELLO,DAVID 38.99 2608
51788 07/12/10 P0056 TURF EQUIPMENT AND SUPPLY CO 686.71 2608
51789 07/12/10 P0063 PAONE, LOU 91.50 2608
51790 07/12/10 P0078 PRO VIDEO ENGINEERING 4,675.50 2608
51791 07/12/10 P0084 PROGRESSIVE BUSINESS PUBLICATI 195.50 2608
51792 07/12/10 R0030 RIGGINS, INC. 2,603.83 2608
51793 07/12/10 S0020 AM SAN 577.72 2608
51794 07/12/10 S0038 SCHWAAB, INC. 27.49 2608
51795 07/12/10 S0056 SEASHORE ASPHALT CORPORATION 406.60 2608
51796 07/12/10 S0072 SEGIN, STEWART S. 196.00 2608
51797 07/12/10 S0165 S.E.T. COMMUNICATIONS INC 259.25 2608
51798 07/12/10 S0209 STAPLES ADVANTAGE 286.92 2608
51799 07/12/10 S0239 SHORE VET. ANIMAL CONTROL 2,100.00 2608
51800 07/12/10 T0024 TAYLOR, MATTHEW 602.50 2608
51801 07/12/10 T0032 THE PRESS & SUNDAY PRESS 53.58 2608
51802 07/12/10 T0034 THE PAPER OF U.T./GAZETTE 52.00 2608

51803 07/12/10 T0038 THOMAS, CHRISTOPHER 98.00 2608
51804 07/12/10 T0067 TOWNSHIP OF UPPER PETTY CASH 54.60 2608
51805 07/12/10 T0074 TRANSAXLE LLC 1,382.38 2608
51806 07/12/10 T0097 TRICO EQUIPMENT INC. 9.74 2608
51807 07/12/10 T0131 TROUT, ROSEMARY 22.00 2608
51808 07/12/10 U0011 UPPER TOWNSHIP BASEBALL 131.25 2608
51809 07/12/10 U0012 U.T. SOCCER ASSOCIATION 78.75 2608
51810 07/12/10 U0032 UPPER TOWNSHIP FOOTBALL ASSOC. 2,990.00 2608
51811 07/12/10 U0034 UPPER TWP.GIRLS SOFTBALL ASSOC 78.75 2608
51812 07/12/10 U0038 UPPER TOWNSHIP RESCUE SQUAD 310.00 2608
51813 07/12/10 V0001 VCI EMERGENCY VEHICLE 5,875.48 2608
51814 07/12/10 V0013 VERIZON WIRELESS 290.24 2608
51815 07/12/10 V0020 VINELAND AUTO ELECTRIC INC. 192.00 2608
51816 07/12/10 V0022 VERIZON 341.20 2608
51817 07/12/10 V0024 VAL-U AUTO PARTS L.L.C. 182.52 2608
51818 07/12/10 W0030 WEST PUBLISHING CO. 339.94 2608
51819 07/12/10 W0037 WALLACE REFRIGERATION 95.00 2608
51820 07/12/10 W0050 WIRELESS ELECTRONICS, INC. 57.00 2608
51821 07/12/10 Y0008 YOUNG, DANIEL J. ESQUIRE PC 16,146.87 2608
51822 07/12/10 Y0012 YOUNG,ROBERT 26.00 2608
51823 07/12/10 Y0023 YOUNG, DANIEL J. ATTORNEY 2,625.00 2608

Total Paid \$88,258.43