

**TOWNSHIP OF UPPER  
2100 TUCKAHOE ROAD  
PETERSBURG, NJ 08270  
CAPE MAY COUNTY  
MINUTES FOR AUGUST 9, 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	Absent
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 - July 26, 2010 Regular Meeting and Closed Session Minutes**

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

**REPORT OF GOVERNING BODY MEMBERS**

**Frank Conrad:** reported that Cape May County will hold their Ninth annual Patriot Day September 11<sup>th</sup> at 1:00 pm at the County Administration Building. He also reported that Governor Christie will be visiting Cape May County on August 23<sup>rd</sup> and that more information on that will be forthcoming.

**Kristine Gabor:** reported on a recent Recreation Committee meeting where they discussed facilities maintenance and various new projects and funding that may be available for those projects. She also reviewed with the Recreation Committee some ideas for procedural changes to their committee and possible changes to the Recreation by-laws. Ms. Gabor would like to meet with Township Attorney Dan Young and the Township’s Risk Management Consultant to review the Township’s obligation and liability concerning the Recreation Committee with respect to complaints and issues. She would also like to look into new procedures for the use of Township facilities such as charging a facility use fee for any for-profit organization with the fee designated to recreation maintenance. Ms. Gabor thanked the volunteer coaches, parents, and players of Upper Township Football Association for painting the concession stand at Caldwell

Park. The Football Association will hold their first home game September 11<sup>th</sup> at which time they will honor Military and Law enforcement.

**Curtis Corson:** reported that the Road Department has been working on various roads and drainage problems throughout the Township and all appear to be working well.

**Richard Palombo:** recognized Barbara Spiegel for the successful completion of the educational course entitled Principals in Public Purchasing; he also acknowledged the Road Department for a job well done on the maintenance of various roads in the Township. He made a motion to approve the annual Clean Ocean Action beach clean-up event of the Strathmere Beaches on Saturday, October 23, 2010; seconded by Curtis Corson. During Roll call vote, all four Committee members present voted in the affirmative.

### **OTHER REPORTS**

**Daniel Young, Municipal Attorney:** reported that he had a personnel matter for closed session.

**Paul Dietrich, Municipal Engineer:** requested a \$1,000 stipend for William McDaniels on achieving the State Certification as Recycling Coordinator. Motion by Curtis Corson, seconded by Frank Conrad to authorize the stipend for William McDaniels as Recycling Coordinator. During roll call vote all four Committee members present voted in the affirmative.

### **RESOLUTIONS**

#### **1. Honoring Shawn Montgomery Bryan on attaining the designation of "Eagle Scout".**

TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
R E S O L U T I O N  
RESOLUTION NO. 173-2010  
RE: HONORING SHAWN MONTGOMERY BRYAN ON ATTAINING THE  
DESIGNATION OF "EAGLE SCOUT"

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**WHEREAS,** Shawn Montgomery Bryan, has recently achieved the designation of Eagle Scout in the Boy Scouts of America; and

**WHEREAS,** the Township of Upper wishes to acknowledge this outstanding accomplishment; 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:

**RESOLVED THAT** the Township Committee extends its sincere congratulations to Shawn on the occasion of his receiving the

designation of Eagle Scout and commends him for this outstanding accomplishment and the completion of his Eagle Scout project consisting of the designing and building of two large permanently-mounted maps of the Tuckahoe Wildlife Management Area with public informational brochures placed at each entrance of the refuge, as well as the placement of directional signage throughout the park; and

**FURTHER RESOLVED** that the Township Committee extends its congratulations and best wishes to Shawn's parents, family and friends on this happy occasion; and it is

**FURTHER RESOLVED** that the Township Committee also extends its congratulations and appreciation to the Scout Masters and others who give so freely and generously of their time for the benefit of our youth.

**GIVEN UNDER OUR HANDS** and the seal of the Township of Upper this 9th day of August, 2010.

Resolution No. 174-2010  
 Offered by: Conrad  
 Adopted: August 9, 2010  
 Roll Call Vote:

Second by: Gabor

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

**2. Congratulating employee Richard Kaczmariski of the Upper Township Recreation Department for his winning entry in the Upper Township Safety Award Program for the 3rd quarter of 2010.**

TOWNSHIP OF UPPER  
 CAPE MAY COUNTY  
 R E S O L U T I O N  
 RESOLUTION NO 174-2010  
 RE: CONGRATULATING EMPLOYEE RICHARD KACZMARSKI  
 OF THE UPPER TOWNSHIP RECREATION DEPARTMENT

**FOR HIS WINNING ENTRY IN  
THE UPPER TOWNSHIP SAFETY AWARD PROGRAM  
FOR THE 3rd QUARTER OF 2010**

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**WHEREAS**, employee Richard Kaczmariski is recognized for his efforts to promote safety for his fellow employees and residents of the Township through his participation in the Upper Township Safety Award Program with a submission of a safety suggestion; and

**WHEREAS**, Richard's safety suggestion was chosen by the Upper Township Safety Committee from the eight (8) entries submitted in the third quarter for the promotion of safety for employees and the community; and

**WHEREAS**, Richard should be publicly recognized for reporting that there was a broken rusted metal post at the playground at 2<sup>nd</sup> Avenue in Beesley's Point, which has been removed; 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. That the Committee extends its appreciation and publicly recognizes Richard Kaczmariski on his commitment to safety by his identifying a potential hazard and presenting a solution through participation in the program.
2. That the Committee, on behalf of our employees and the citizens of the Township of Upper extend to Richard Kaczmariski our congratulations and present him with the "Safety Day Award" of one day off with pay.

**GIVEN UNDER OUR HANDS** and the seal of the Township of Upper  
this 9th day of August, 2010.

Resolution No. 174-2010  
Offered by: Gabor  
Adopted: August 9, 2010

Second by: Conrad

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>	_____	_____	_____

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

TOWNSHIP OF UPPER  
 CAPE MAY COUNTY  
 R E S O L U T I O N  
 RESOLUTION NO. 175-2010  
 RE: APPOINTMENT OF NORMAN W. BRIGGS  
 TO ACT AS SPECIAL LEGAL COUNSEL

WHEREAS, the Township requires legal counsel to provide legal services in the event a conflict of interest arises in regard to the services provided by the regular Township Solicitor; and

WHEREAS, a resolution is required authorizing the award of such contract for professional services; and

WHEREAS, the Township has decided to acquire the services of Norman W. Briggs, Esquire as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-2.05; and

WHEREAS, Norman W. Briggs, Esquire has completed and submitted a Business Entity Disclosure Certification which certifies that Norman W. Briggs, Esquire has not made any

reportable contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit Norman W. Briggs, Esquire from making any reportable contributions through the term of the contract; and

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

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

2. Norman W. Briggs, Esquire with offices at 15 North Shore Road, Marmora, New Jersey is hereby appointed Special Legal Counsel to handle matters in which the regular Township Solicitor has a conflict of interest as directed by the Township Committee.

3. This contract shall have a commencement date as of the date of full execution thereof and shall continue for the length of time necessary for completion of the aforesaid legal services, unless sooner terminated by the Township of Upper, at the option of the Township of Upper.

4. This Contract is awarded without competitive bidding as a professional service in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Norman W. Briggs, Esquire has professional knowledge as to legal matters which knowledge is particularly valuable to the Township Committee.

## NOTICE OF CONTRACT AWARD

The Township Committee of the Township of Upper, State of New Jersey has awarded the contract without competitive bidding as a professional service pursuant to N.J.S.A. 40A:11-5(1)(a) to Norman W. Briggs, Esquire for legal services. This contract and the resolution authorizing same shall be available for public inspection in the office of the municipal clerk of the Township of Upper, State of New Jersey.

5. A certificate from the Chief Financial Officer of Upper Township showing the availability of adequate funds for this contract and showing the line item appropriation of the official budget to which this contract will be properly charged has been provided to the governing body and shall be attached to this Resolution and kept in the files of the municipal clerk.

6. The contractor has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.

7. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Norman W. Briggs, Esquire in accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein. Upon execution of all parties thereto said contract shall become effective.

8. A copy of this Resolution shall be published in the official newspaper of the

Township of Upper within ten (10) days from the date of adoption.

9. This Resolution shall be effective as of adoption.

Resolution No. 175 -2010

Offered by: Conrad

Seconded by: Corson

Adopted: August 9, 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>    </u>	<u>    </u>	<u>    </u>	<u>  X  </u>
Palombo	<u>  X  </u>	<u>    </u>	<u>    </u>	<u>    </u>

**4. Authorizing the extension of a Shared Services agreement with the municipalities of Avalon, Sea Isle City and Dennis Township for Mass Care Shelter Facilities for an additional term of one (1) year commencing September 1, 2010 to August 31, 2011.**

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION  
RESOLUTION NO. 176-2010  
RE: AUTHORIZING THE EXTENSION OF A SHARED SERVICES  
AGREEMENT WITH THE MUNICIPALITIES OF AVALON, SEA ISLE CITY  
AND DENNIS TOWNSHIP FOR MASS CARE SHELTER FACILITIES  
FOR AN ADDITIONAL TERM OF ONE (1) YEAR COMMENCING  
SEPTEMBER 1, 2010 TO AUGUST 31, 2011**

**WHEREAS**, pursuant to Ordinance No. 8-1992 the Township of Upper was authorized to enter into a Shared Services Agreement with the municipalities of Avalon, Sea Isle City and Dennis Township for a mass care shelter facility; and



**WHEREAS**, the parties desire to extend the term of such Agreement for an additional term of one (1) year; and

**WHEREAS**, the matter has been duly considered by the Township Committee, which has concluded that such extension is in the public interest and will promote the public health, safety and welfare.

**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 Shared Services Agreement, dated August 28, 1992, entered into by the municipalities of Avalon, Sea Isle City, Dennis Township and Upper Township for a mass care shelter facility is hereby extended for an additional term of one (1) year, commencing **September 1, 2010** through and inclusive of **August 31, 2011**, upon the same terms and conditions, except that it shall now be referred to as the Shared Services Agreement.
3. Paragraph 6 of the Agreement of August 28, 1992 is hereby deemed amended so that the Contract term will expire on **August 31, 2011**.
4. This Resolution extending the term of the aforesaid Contract is conditioned upon similar action being taken by the Governing Bodies of the Borough of Avalon, the City of Sea Isle City and the Township of Dennis.
5. All officers and officials of the Township of Upper are authorized, directed and empowered to take such action as may reasonably be required or necessary to carry out the intent and purpose of this Resolution.
6. A certified copy of this Resolution shall be sent to each of the municipalities who are parties to such Shared Services Agreement.

Resolution No. 176-2010

Offered by: Corson

Seconded by: Palombo

Adopted: August 9, 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>          </u>	<u>          </u>	<u>          </u>	<u>          X  </u>
Palombo	<u>  X  </u>	<u>          </u>	<u>          </u>	<u>          </u>

5. **Authorizing a USA Triathlon Association Sanctioned International Distance Race to be held in Beesley’s Point, New Jersey on Sunday August 15, 2010.** The Committee discussed the traffic control plan to be used on Harbor Road with Race Director and an officer of CityTri, Alejandra Reagan. It was reported that a complaint was received from a resident on Harbor Road that someone from the organization closed the road last year. The Committee reiterated that at least one lane on Harbor Road must remain clear at all times. Ms. Reagan assured the Committee that the participant list would not go over 300, that Harbor Road would be open to traffic at all times, and that she would have traffic control people stationed along the road to insure it stays open.

**TOWNSHIP OF UPPER  
 CAPE MAY COUNTY  
 R E S O L U T I O N  
 RESOLUTION NO. 177-2010  
 RE: AUTHORIZING A USA TRIATHLON ASSOCIATION SANCTIONED  
 INTERNATIONAL DISTANCE RACE TO BE HELD IN BEESLEY’S POINT,  
 NEW JERSEY ON SUNDAY AUGUST 15, 2010**

**WHEREAS,** George L. Reagan, Alejandra Reagan and George A. Reagan, individually and trading as CityTri Sports, LLC, of 322 2<sup>nd</sup> Street, #3, Brooklyn, NY 11238, have submitted a proposal to the Upper Township Committee requesting authority to hold an international distance race in Beesley’s Point, New Jersey on August 15, 2010 which will consist of a run course, swim course, and a bike course, with activities commencing at 7:30 a.m., as more particularly specified in their proposal, a copy of which is attached hereto as Exhibit “A”;

**WHEREAS,** the run segments will travel NJSH Route 9 and the bike segment will utilize Township, County and State roads in Upper Township as described on maps attached hereto as Exhibit “B”; and

**WHEREAS,** the proposed event is sanctioned and insured by the USA Triathlon Association copy of insurance certificate attached as Exhibit “C”; and

**WHEREAS**, a transition area is proposed at Beesley's Point Beach and Harbor Road to operate as the site of Registration, Start and Finish of the race; and

**WHEREAS**, a vehicle management plan has been prepared with parking at Tuckahoe Inn, Beesley's Point Sea Doo, BL England property, and various neighborhoods, plan, maps and letters of permission from businesses are attached hereto as Exhibit "D"; and

**WHEREAS**, the event organizers have represented that approvals have been obtained from the New Jersey State Police, and any all other governmental agencies or entities having any jurisdiction or interest in the race or race course; and

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

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

2. The Township Committee does hereby grant approval, to the extent that it has jurisdiction to do so, to George L. Reagan, Alejandra Reagan and George A. Reagan, individually and trading as CityTri Sports, LLC for the race event to be held on August 15, 2010 as specified in this Resolution and in the accompanying Exhibits subject to and conditioned upon the following:

(A) The event described in this Resolution is carried out by George L. Reagan, Alejandra Reagan and George A. Reagan, individually and trading as CityTri Sports, LLC. These sponsors have no connection, direct or indirect, with the Township of Upper or any of its officials or employees. These sponsors shall not, in any way, directly or indirectly,

represent that the race is, in any way, associated with or affiliated with the Township of Upper and shall make clear that the event is carried out with all appropriate governmental and other approvals. Although the Township of Upper has given permission, subject to the terms of this Resolution, to these event sponsors to conduct the proposed race, it must be made clear that the event is not and shall not be considered a Township of Upper sponsored or sanctioned event.

(B) George L. Reagan, Alejandra Reagan and George A. Reagan, individually and trading as CityTri Sports, LLC, has provided general comprehensive liability insurance in form and substance satisfactory to the Township of Upper's Risk Management Consultant. A Certificate of Insurance has been provided to the Township Clerk, which the Risk Management Consultant of the Township of Upper has approved Certificate of Insurance. Said Certificate of Insurance names the Township of Upper, its officials, officers and employees, as an additional insured.

(C) George L. Reagan, Alejandra Reagan and George A. Reagan, individually and trading as CityTri Sports, LLC, the event sponsors, have obtained written approval from and comply with all conditions imposed by the following entities:

(i) the Risk Management Consultant of the Township of Upper.

- (ii) the New Jersey State Police.
- (iii) the Upper Township Rescue Squad.
- (iv) Cape May County Board of Chosen Freeholders.

The event sponsors have provided written authorization from the above entities, including any conditions required of said entities, to the Township Clerk.

(D) George L. Reagan, Alejandra Reagan and George A. Reagan, individually and trading as CityTri Sports, LLC has provided an Indemnification and Hold Harmless Agreement in favor of the Township of Upper, its officials, officers and employees in the form attached hereto as Exhibit "E".

(E) George L. Reagan, Alejandra Reagan and George A. Reagan, individually and trading as CityTri Sports, LLC, the event sponsors, shall provide at least four (4) fully certified lifeguard personnel for the event. Copies of lifeguard certifications must be submitted to the Clerk's Office no later than one week prior to the event. No "On Duty" Township lifeguards are to be used during this event, and no Township equipment shall be used during this event. Any off duty lifeguards utilized shall be the employees of the event sponsors only and not of the Township.

(F) The event is expressly limited to 300 participants only. Setup the night before the event shall not take place until after 6:30

P.M. so as not to interfere with the regular hours of operation of the Boat Ramp.

(G) The approval granted herein is subject to all conditions and stipulations as may be recommended or imposed by the Township's Risk Management Consultant or Insurance Representatives. The Township may revoke this approval if the Event Sponsors fail to comply with any said condition or recommendation or any other condition of this Resolution.

(H) George L. Reagan, Alejandra Reagan and George A. Reagan, individually and trading as City Tri Sports, LLC have executed and provided to the Township of Upper an approved Use of Facilities Agreement.

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. 177 -2010

Offered by: Palombo

Seconded by: Conrad

Adopted: August 9, 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>      </u>	<u>      </u>	<u>      </u>	<u>  X  </u>
Palombo	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>

**6. Accepting the bid of and authorizing the execution of a contract with Arawak Paving Company, Inc. of Hammonton, NJ for the Resurfacing of Killdeer Hill Road project, at a cost of \$49,800.**

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION  
RESOLUTION NO. 178-2010**

**RE: ACCEPTING THE BID OF AND AUTHORIZING THE  
EXECUTION OF A CONTRACT WITH ARAWAK PAVING COMPANY, INC.  
OF HAMMONTON, NEW JERSEY  
FOR THE 2010 RESURFACING OF KILLDEER HILL ROAD,  
AT A COST OF \$49,800.00**

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**WHEREAS**, the Township of Upper has solicited bids for the 2010 resurfacing of Killdeer Hill Road, Petersburg, which bids were received on July 20, 2010; and

**WHEREAS**, the two (2) lowest bidders Arawak Paving Company, Inc., and South State, Inc. submitted bids for identical amounts of \$49,800.

**WHEREAS**, Township Engineer, Paul Dietrich reported said results at the regular meeting of the Township Committee held on July 26, 2010, and further reported that in his professional opinion both Arawak Paving, Inc., and South State, Inc. are equally responsible bidders; and

**WHEREAS**, at the meeting of July 26, 2010, the Township Committee made a motion to authorize a coin toss to determine the successful bidder which coin toss was held by the Township Engineer at 9:00 AM on August 5, 2010 at the Upper Township Municipal Building; and

**WHEREAS**, those present at the toss were James Pontari representing Arawak Paving; and Timothy Larson representing South State and representatives from Upper Township present were the Engineer, Paul Dietrich, the Township Clerk, Wanda Gaglione and the Chief Financial Officer, Barbara Spiegel and the Deputy Clerk Barbara Young (to record the Minutes of the event); and

**WHEREAS**, the winner of the coin toss was Arawak Paving Company, Inc., of 7503 Weymouth Road, Hammonton, NJ 08037; and

**WHEREAS**, the Chief Financial Officer of the Township of Upper has certified the availability of funds attached hereto as “Exhibit B” in a sufficient amount to award a contract for \$49,800, the line item appropriations to which the contract will be charged is Account Number 0-01-44-900-646-611; and

**WHEREAS**, the Township intends to take formal action awarding the bid to Arawak Paving Company, Inc.;

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

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

2. The Township Committee hereby accepts the bid submitted by Arawak Paving Company, Inc. of 7503 Weymouth Road, Hammonton, New Jersey 08037, for the 2010 Resurfacing of Killdeer Hill Road, in the amount of \$49,800, subject to the following:

- (A) The Bidder shall comply with all Bid Documents, including the Notice to Bidders, all of which are hereby incorporated herein by this reference.
- (B) The Contract to be entered into must comply in all respects with applicable federal, state and local laws and regulations.
- (C) The Bidder has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.

3. The Mayor and Township Clerk are further authorized to execute a Contract with the successful bidder and/or the Chief Financial Officer is hereby authorized, directed and



empowered to issue a Purchase Order to the successful bidder in the amount authorized in this Resolution.

Resolution No. 178-2010

Offered by: Corson

Seconded by: Gabor

Adopted: August 9, 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>	_____	_____	_____

- 7. Supporting an amendment to the provisions of the N.J.S.A. 18A:38-8.1 to allow a sending district representative to vote on internal matters of structure and procedure at a receiving district's Board of Education.**

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 179-2010

RE: RESOLUTION SUPPORTING AN AMENDMENT TO THE PROVISIONS OF  
N.J.S.A. 18A:38-8.1 TO ALLOW A SENDING DISTRICT REPRESENTATIVE TO VOTE  
ON INTERNAL MATTERS OF STRUCTURE AND PROCEDURE AT A RECEIVING  
DISTRICT'S BOARD OF EDUCATION

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WHEREAS, the Upper Township Board of Education (the "UTBE") is party to a "send/receive" relationship with the Ocean City Board of Education (the "OCBE") pursuant to the provisions of N.J.S.A. 18A:38-8.1 et seq.; and

WHEREAS, by virtue of the provisions of N.J.S.A. 18A:38-8.1 the UTBE is represented by three (3) voting members on the OCBE; and

WHEREAS, past practice has allowed the UTBE representatives to the OCBE to vote on matters coming before the board pursuant to the provisions of N.J.S.A. 18A:38-8.1 as well as internal matters of structure and procedure affecting the OCBE including but not limited to the election of the OCBE President and Vice-President; and

WHEREAS, this practice was consistent with well established case law from the office of Administrative Law and the Commissioner of Education: and

WHEREAS, the OCBE Solicitor has provided a written opinion to the members of the OCBE that a recent court decision Evans v. Atlantic City Board of Education, 404 N.J. Super, 87 (App. Div. 2009) altered the established administrative case law and deprived UTBE's voting representatives the opportunity to vote on internal matters of structure and procedure at the OCBE; 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. Hereby calls upon the New Jersey Legislature to overturn the Appellate Divisions decision in Evans v. Atlantic City Board of Education, 404 N.J. Super, 87 (App. Div. 2009) and to restore, consistent with past administrative decision, the right of sending- district representatives to vote on internal matters of structure and procedure at a receiving-district's board of education, including but not limited to the election of the receiving-district's board president and vice president.

2. The Township Committee hereby expresses its full support of Upper Township Board of Education's request that the First District Legislative Representatives of the New Jersey State Legislature introduce legislation to overturn Evans and restore a sending district's right to vote on internal matters of structure and procedure at a receiving district's board of education, including but not limited to the election of the receiving-district's board president and vice president.

3. A copy of this Resolution shall be forwarded to Governor Christopher

Christie, Senator Jeff Van Drew, Assemblyman Nelson Albano, Assemblyman Matthew

Milam, the New Jersey School Board Association, and the Upper Township Board of

Education.

Resolution No. 179-2010

Offered by: Conrad

Seconded by: Palombo

Adopted: August 9, 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>          </u>	<u>          </u>	<u>          </u>	<u>      X      </u>
Palombo	<u>  X  </u>	<u>          </u>	<u>          </u>	<u>          </u>

**ORDINANCES**

**CORRESPONDENCE**

**NEW BUSINESS**

- 8. **Clean Ocean Action 25<sup>th</sup> Annual Fall Beach Sweep in Strathmere on Saturday October 23, 2010 – 9:00 am to 12:30 pm.** Motion to grant the request by Richard Palombo, second by Curtis Corson. During roll call vote four Committee members present voted in the affirmative.
- 9. **Frank H. Stewart Trust-Grant opportunity-Purchase of Strathmere property.** Motion by Richard Palombo, second by Curtis Corson to authorize Paul Dietrich to prepare a list of properties that may be eligible for the Frank H. Stewart Trust-Grant opportunity. During roll call vote all four Committee members present voted in the affirmative.
- 10. **R. Bonner—request for payment plan for taxes and lien charges for Block 306, Lot 27.** Township Attorney, Daniel Young did not participate in this matter to avoid any conflict. Conflict attorney Norman Briggs is handling this matter and although not present this evening he has asked that the Committee refer their recommendations to him. The Committee discussed allowing Ms. Bonner to devise a payment plan that would meet the five-year criteria for total payment of taxes and lien charges plus interest for Block 306, Lot 27. The Committee directed that Ms. Bonner contact conflict attorney Norman Briggs to have a draft agreement and resolution prepared for review and approval at a future meeting.

Mayor Palombo directed the Clerk to place the matter on a future agenda as unfinished business.

**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 Frank Conrad, second by Richard Palombo. During roll call vote the four Committee members present voted in the affirmative.

Bills submitted for payment: \$173,014.26  
Payroll: \$206,086.16

**REPORT OF MUNICIPAL DEPARTMENTS:**

- 11. Construction Code**
- 12. Clerk’s Office**
- 13. Tax Assessor**
- 14. Finance Office**
- 15. MUA Report**
- 16. Tax Office**

Reports are available from the Clerk’s Office.

**PUBLIC COMMENT**

**Russell Morano of 5 Red Oak Drive Seaville** was concerned about the Upper Township School Board Budget. He discussed a meeting previously scheduled by the School Board to hire an additional School Principal. Mayor Palombo commented that the Township can only make recommendations and offer assistance to the School Board however the Township Committee has no jurisdiction over the School Board’s budget.

**Ted Kingston of 5 East Willard Avenue, Strathmere** asked the Committee if they would consider making a public statement on the School Budget. The response was that as a formal body the Committee has no legal authority over the School Board.

**CLOSED SESSION**

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

**RESOLUTION NO. 180-2010  
MOTION GOING INTO CLOSED SESSION  
August 9, 2010 MEETING**

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:**

Personnel matters

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.

Moved by: Kristine Gabor

Motion seconded: Curtis Corson

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

**Personnel matter**

**RECONVENE PUBLIC PORTION OF MEETING**

**ADJOURNMENT**

There being no further business this evening the meeting was adjourned at 9:35 P.M. Next meeting scheduled for August 23, 2010 at 7:30 P.M.

Minutes prepared by

Wanda Gaglione, RMC  
Municipal Clerk

**Bill List**

51915 08/09/10 A0002 A.E.STONE,INC. 370.14 2614  
51916 08/09/10 A0004 A+ COMMERCIAL OFFICE CLEANERS 250.00 2614  
51917 08/09/10 A0006 ADVANCE TREADS INC 599.00 2614  
51918 08/09/10 A0020 ACU-THERM SUPPLY CO.,INC. 377.38 2614  
51919 08/09/10 A0025 ADVANTAGE RENTAL ACE HARDWARE 784.52 2614  
51920 08/09/10 A0042 ALL AMERICAN SPORTS CORP. 2,670.96 2614  
51921 08/09/10 A0070 ALBERTSONS/ACME 81.64 2614  
51922 08/09/10 A0081 ARMSTRONG, RALON I. 117.94 2614  
51923 08/09/10 A0086 AT&T MOBILITY 264.29 2614  
51924 08/09/10 A0091 ATLANTIC CITY ELECTRIC 13,512.94 2614  
51925 08/09/10 A0114 A.E. STONE INC. 735.72 2614  
51926 08/09/10 A0117 AT&T 34.25 2614  
51927 08/09/10 A0163 ABSECON ELECTRIC MOTOR WORKS 2,596.00 2614  
51928 08/09/10 A0165 ALBERTSONS ACME 73.56 2614  
51929 08/09/10 B0035 BELMONT & CRYSTAL SPRINGS 50.79 2614

51930 08/09/10 B0091 BIRCHMEIER, JAMES 24.00 2614  
 51931 08/09/10 B0093 BARRY,CORRADO,GRASSI & GIBSON 6,436.06 2614  
 51932 08/09/10 B0191 BUGNI, BROOKE 55.00 2614  
 51933 08/09/10 C0005 CMC JR. FOOTBALL LEAGUE 3,500.00 2614  
 51934 08/09/10 C0011 CAPE OFFICE MACHINES & SERVICE 95.00 2614  
 51935 08/09/10 C0019 CITY OF OCEAN CITY 49,514.75 2614  
 51936 08/09/10 C0030 CAMP, BARBARA 83.77 2614  
 51937 08/09/10 C0046 CAPE MAY COUNTY CLERK 4,303.71 2614  
 51938 08/09/10 C0060 CAPRIONI'S PORTABLE TOILETS 1,551.00 2614  
 51939 08/09/10 C0068 COMCAST 389.36 2614  
 51940 08/09/10 C0071 CAPEHART & SCATCHARD, P.A. 16,815.61 2614  
 51941 08/09/10 C0105 CHIAPPINI,VIRGINIA 105.57 2614  
 51942 08/09/10 C0143 CODY'S POWER EQUIPMENT 29.95 2614  
 51943 08/09/10 C0201 CRUZAN'S TRUCK SERVICE INC. 895.75 2614  
 51944 08/09/10 C0223 CASA PAYROLL SERVICE 272.85 2614  
 51945 08/09/10 C0231 CARRACIOLO, DAVE 40.00 2614  
 51946 08/09/10 C0232 COSSABOONE, CHARLES 135.00 2614  
 51947 08/09/10 D0080 DOWNAM, HARRY J. JR. 141.95 2614  
 51948 08/09/10 E0012 EHRlich PEST CONTROL INC 71.00 2614  
 51949 08/09/10 E0047 EFINGER SPORTING GOODS CO 1,106.63 2614  
 51950 08/09/10 F0048 FOGG, LESLIE INC. 285.49 2614  
 51951 08/09/10 F0050 FOREMOST PROMOTIONS 202.04 2614  
 51952 08/09/10 F0054 FORT DEARBORN LIFE INSURANCE 539.33 2614  
 51953 08/09/10 G0006 GARBUTT,PATRICIA A. 115.94 2614  
 51954 08/09/10 G0009 GAPVAX, INC. 319.71 2614  
 51955 08/09/10 G0028 GENTILINI FORD 542.79 2614  
 51956 08/09/10 G0094 GRUBB, JON 99.00 2614  
 51957 08/09/10 H0073 HOME DEPOT CRC/GEFCF 545.60 2614  
 51958 08/09/10 H0135 HANSON AGGREGATES 3,087.07 2614  
 51959 08/09/10 J0068 JOE'S BUTCHER SHOP 466.20 2614  
 51960 08/09/10 L0034 LAYTON, BRENDA MRS. 495.00 2614  
 51961 08/09/10 L0080 LOWES, INC. 1,265.63 2614  
 51962 08/09/10 M0013 M.A. GRAPHICS 993.25 2614  
 51963 08/09/10 M0017 MOORE MEDICAL CORP. 56.12 2614  
 51964 08/09/10 M0032 MARINE RESCUE PRODUCTS,INC. 135.00 2614  
 51965 08/09/10 M0046 MASON, DAVID 140.37 2614  
 51966 08/09/10 M0084 MIKE'S SEAFOOD 350.00 2614  
 51967 08/09/10 M0103 MODERN GAS COMPANY, INC. 629.33 2614  
 51968 08/09/10 M0121 McCROSSON, JANET 34.75 2614  
 51969 08/09/10 M0166 MOTOROLA 105.60 2614  
 51970 08/09/10 M0174 MCAFEE MEGAN 48.07 2614  
 51971 08/09/10 M0188 MCCARTHY TIRE SERVICE OF PHILA 341.19 2614  
 51972 08/09/10 M0217 MUNICIPAL EMERGENCY SERVICES 2,149.00 2614  
 51973 08/09/10 N0004 NJ-AMERICAN WATER CO. 173.70 2614  
 51974 08/09/10 N0043 NAPA AUTO PARTS OF S.JERSEY 111.14 2614  
 51975 08/09/10 O0025 OLD DOMINION BRUSH 440.00 2614  
 51976 08/09/10 P0008 PALMER, NANCY 171.00 2614  
 51977 08/09/10 P0032 PEDRONI FUEL CO. 2,792.83 2614  
 51978 08/09/10 P0050 PARSIO, ANTHONY 112.98 2614  
 51979 08/09/10 P0064 PITNEY BOWES 210.00 2614  
 51980 08/09/10 P0073 POGUE INC. 118.00 2614  
 51981 08/09/10 P0075 POSITIVE PROMOTIONS INC 241.05 2614  
 51982 08/09/10 P0123 POLE TAVERN EQUIP SALES CORP 317.25 2614  
 51983 08/09/10 Q0003 QC LABORATORIES 696.20 2614  
 51984 08/09/10 R0030 RIGGINS, INC. 8,777.48 2614  
 51985 08/09/10 R0096 RYAN, KATHY 50.00 2614  
 51986 08/09/10 S0001 SAM'S CLUB 401.41 2614  
 51987 08/09/10 S0016 SAMPSON, MICHELLE 24.00 2614  
 51988 08/09/10 S0020 AM SAN 556.20 2614  
 51989 08/09/10 S0056 SEASHORE ASPHALT CORPORATION 1,962.24 2614  
 51990 08/09/10 S0073 SENIOR TRAVEL SERVICE,INC. 995.00 2614  
 51991 08/09/10 S0109 SNAP-ON-INDUSTRIAL 705.83 2614  
 51992 08/09/10 S0126 SPIEGEL, BARBARA 155.00 2614  
 51993 08/09/10 S0193 STRYKER CORPORATION 896.07 2614  
 51994 08/09/10 S0196 STEWART BUSINESS SYSTEMS LLC 160.50 2614  
 51995 08/09/10 S0239 SHORE VET. ANIMAL CONTROL 2,100.00 2614  
 51996 08/09/10 T0022 TERMINIX 98.00 2614  
 51997 08/09/10 T0032 THE PRESS & SUNDAY PRESS 445.17 2614  
 51998 08/09/10 T0034 THE PAPER OF U.T./GAZETTE 688.00 2614  
 51999 08/09/10 T0044 THOMSON, KERRY AGENCY 968.75 2614  
 52000 08/09/10 T0067 TOWNSHIP OF UPPER PETTY CASH 46.14 2614  
 52001 08/09/10 T0129 TRUGREEN CHEMLAWN 3,640.00 2614  
 52002 08/09/10 U0024 UNIVERSAL COMPUTING SERV. INC. 679.40 2614

52003 08/09/10 U0048 U 1/2 2, INC 1,503.80 2614  
52004 08/09/10 V0001 VCI EMERGENCY VEHICLE 440.00 2614  
52005 08/09/10 V0013 VERIZON WIRELESS 302.93 2614  
52006 08/09/10 V0022 VERIZON 2,364.40 2614  
52007 08/09/10 V0024 VAL-U AUTO PARTS L.L.C. 553.08 2614  
52008 08/09/10 W0050 WIRELESS ELECTRONICS, INC. 57.00 2614  
52009 08/09/10 X0002 XEROX CAPITAL SERVICES,LLC 72.00 2614  
52010 08/09/10 Y0008 YOUNG, DANIEL J. ESQUIRE PC 15,270.14 2614  
52011 08/09/10 Y0020 YOUNG, BARBARA L. 36.00 2614  
52012 08/09/10 Y0023 YOUNG, DANIEL J. ATTORNEY 2,625.00 2614  
52013 08/09/10 Z0010 ZELINSKI, ALLISON 24.00 2614

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Total paid \$173,014.26