

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR JUNE 27, 2011**

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 | Absent |
| John “Jay” Newman | Present |
| Richard Palombo | Present |

Also present were Municipal Clerk Wanda Gaglione, Finance Officer Barbara Spiegel, and Municipal Attorney Daniel Young.

**APPROVAL OF MINUTES - June 13, 2011 Regular Meeting and
Closed Session Minutes**

Motion was made by Jay Newman, second by Frank Conrad to approve the Minutes as written. During roll call vote all four Committee members present voted in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

Frank Conrad, reported that he attended the Board of Education meeting and discussed the various maintenance projects that the Township will undertake for the schools. He discussed entering into a Shared Services agreement for those projects. He also discussed the success of the Upper Township Lacrosse program.

Curtis Corson, Deputy Mayor, also discussed the work being done at the schools. He reported that he received an email from Ocean City High School Football requesting the use of Amanda’s Field for practices. Mr. Corson approved the request, pending the receipt of a completed Facility Use application and insurance certificate.

Jay Newman, discussed the upcoming 4th of July festivities at Amanda’s field and the Township’s traffic safety plan that will be utilized for the event which includes parking in designated areas only. It was noted that the recently installed fencing will protect the irrigation system. He also reported that Fire and EMS personnel will direct traffic.

Richard Palombo, Mayor, recognized employee Patricia Smyth, on her successful completion of Principals of Tax Collection III. He also reported that the newly hired lifeguards have successfully completed their training. He thanked the Jennifer Ward Program for their generous

donation of an AED (Automated External Defibrillator) that will be placed at the lifeguard Station in Strathmere. Mayor Palombo requested a change in meeting dates due to a scheduling conflict. Motion by Richard Palombo, second by Curtis Corson to move the August 8, 2011 meeting to Tuesday August 9, 2011. During roll call vote all four Committee members present voted in the affirmative.

OTHER REPORTS

Wanda Gaglione, reminded everyone of the Upper Township Blood Drive on Tuesday at the Community Center from 1:00 to 7:00 p.m. She also reminded everyone of the 4th of July festivities starting with the Independence Day Parade in Strathmere at 10:30 a.m.; that Lance Corporal Andrew Loesch, who just returned home from Afghanistan, will be riding in the parade with the Committee. The festivities will wrap up with fireworks at Amanda's Field at dusk. She also reported that Committeewoman Gabor would be selling refreshments during the 4th of July fireworks event to benefit the Andrew's Friends Foundation, the organization that donated a major portion of the refurbishment funds for our Andrew's World at Fort Nuwi. The Andrew's World organization was founded by Mimi and Scott Avelino to honor the memory of their son by donating money to build playgrounds. The Fort Nuwi site was rededicated on Saturday, May 28 after being closed for renovation for several months. Motion by Curtis Corson, second by Jay Newman to donate the funds raised on the 4th of July at Amanda's Field Concession stand to Andrews Friends Fund. During roll call vote all four Committee members present voted in the affirmative.

Daniel Young, Municipal Attorney, discussed the Zoning Board's annual report, and possible ordinance amendments regarding alternate energy resources and hotel motel standards that with regards to transient lodging. Mr. Young reported he had two litigation items for closed session as follows: Grubb v. Upper Township and Citizens for Strathmere and Whale Beach v. Upper Township and a Contract Negotiation matter for office cleaning.

Barbara Spiegel, CFO requested from the Township Committee to be able to offer the "One Day Off With Pay" raffle to Upper Township employees that participate in the Upper Township Blood drive on Tuesday June 28th. Motion was made by Frank Conrad, second by Jay Newman with four Committee members present voting in the affirmative to authorize the contest for a day off with pay. During roll call vote all four Committee members voted in the affirmative.

PRESENTATION

1. **Honoring David Dwyer on attaining the designation of Eagle Scout.** The Committee congratulated Mr. Dwyer and presented him with a copy of the resolution listed below.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 132-2011
RE: HONORING DAVID E. DWYER ON ATTAINING THE
DESIGNATION OF "EAGLE SCOUT"

WHEREAS, David E. Dwyer, of Seaville Troop 79, 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 David 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 completing a memorial path starting near the back of the Seaville United Methodist Church, crossing a stream, continuing through the woods and extending to the lake. Landscape ties were installed to mark the trail and an old bridge was disassembled and a longer, wider bridge was installed over the stream. All low muddy areas were covered with wood walkways and posts were installed to identify the vegetation and trees. Ground around the area was given a cleanup and all wood material and brush that lay on the ground as well as the brush that was cleared was made into wood chips and used on the trail as ground cover. The Church provided names of deceased members on engraved placards that were installed on posts along the trail; and

FURTHER RESOLVED that the Township Committee extends its congratulations and best wishes to David'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 13th day of June, 2011.

RESOLUTIONS

- 2. Congratulating the Upper Township Orange Crushers on a successful 2011 season and winning the championship in the Cape May County Little League Minor Division.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY**

RESOLUTION
RESOLUTION NO. 148-2011
RE: A RESOLUTION CONGRATULATING
THE UPPER TOWNSHIP ORANGE CRUSHERS
ON A SUCCESSFUL 2011 SEASON AND FOR WINNING THE CHAMPIONSHIP IN THE
CAPE MAY COUNTY LITTLE LEAGUE MINOR DIVISION

WHEREAS, the Upper Township Orange Crushers ended their 2011 season winning the championship by posting a 12-1 record in the Cape May County Little League Minor Division; and

WHEREAS, their successful season was concluded by an incredible 19-16 win in the championship game against another accomplished team, the Upper Township Red Devils; and

WHEREAS, the two talented teams played an astonishing game that resulted in many lead changes, extra-innings, and determined tenacity and fine sportsmanship demonstrated by all players, and was a game that will not easily be forgotten; and

WHEREAS, it is appropriate that on behalf of the citizens of Upper Township we congratulate the Upper Township Orange Crushers team and players listed as follows:

Breanna Adamson
Lauren Angelastro
Kate Barbuto
Laura Burrows

Kyra French
Abby Hackett
Brooke Handley
Catherine Faust

Lauren Schmidt
Haleigh Flukey
Carlee Rumaker
Amber Rumaker

WHEREAS, we also extend this recognition and thanks to the people that have generously given their personal time and service to coach this team, they being Head Coach Bill Faust, and Assistant Coaches Bill Handley, Bill Flukey and Kim Flukey;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee on behalf of the citizens of the Township of Upper, to extend to the Upper Township Orange Crushers our congratulations on their successful season, and to each coach heartfelt thanks and gratitude for the generous donation of their time and service to the young people of this community.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 27th day of June, 2011.

3. Appointment of Matthew Weister as a part-time seasonal employee to the Upper Township Public Works Department.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 149-2011
RE: APPOINTMENT OF MATTHEW WEISTER
AS A PART-TIME SEASONAL EMPLOYEE
TO THE UPPER TOWNSHIP PUBLIC WORKS DEPARTMENT

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

WHEREAS, a recommendation has been made to the Township Committee and duly considered at the meeting of June 13, 2011; 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. Matthew Weister is hereby appointed as a part-time seasonal employee effective pending pre-employment testing 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 13, 2011.

Resolution No. 149-2011

Offered by: Corson

Seconded by: Newman

Adopted: June 27, 2011

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> </u> | <u> </u> | <u> </u> | <u>X</u> |
| Newman | <u>X</u> | <u> </u> | <u> </u> | <u> </u> |
| Palombo | <u>X</u> | <u> </u> | <u> </u> | <u> </u> |

4. Re-appointment of Megan A. McAfee as Tax Assessor, with tenure, for the Township of Upper commencing July 1, 2011.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 150-2011**

RE: RE-APPOINTMENT OF MEGAN A. McAFEE AS TAX ASSESSOR, WITH TENURE, FOR THE TOWNSHIP OF UPPER COMMENCING JULY 1, 2011.

WHEREAS, N.J.S.A. 40A:9-148 establishes the term of the Tax Assessor as four (4) years from the first day of July and further provides that the Tax Assessor hold a tax assessor certificate; and

WHEREAS, Megan A. McAfee was appointed to serve as Tax Assessor for the Township of Upper commencing July 1, 2007 for a four-year term in accordance with the terms of N.J.S.A 40A:9-148 et seq.; and

WHEREAS, the Township Committee has duly considered the matter and has determined that Megan A. McAfee, C.T.A., the current Tax Assessor, possesses all of the requisite qualifications for re-appointment to said position as required by law; and

WHEREAS, Megan A. McAfee, C.T.A., shall be re-appointed to a second four (4) year term effective July 1, 2011, thereby establishing tenure with the Township of Upper.

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

1. The statements of the preamble above are incorporated herein by this reference.
2. Megan A. McAfee, C.T.A., is hereby re-appointed Tax Assessor for the Township of Upper, thereby establishing tenure, effective July 1, 2011.
3. A certified copy of this Resolution sealed with the seal of the Township of Upper shall be conclusive evidence of the re-appointment of Tax Assessor for the term prescribed by law.

Resolution No. 150-20111

Offered by: Conrad Seconded by: Newman

Adopted: June 27, 2011

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> </u> | <u> </u> | <u> </u> | <u>X</u> |
| Newman | <u>X</u> | <u> </u> | <u> </u> | <u> </u> |
| Palombo | <u>X</u> | <u> </u> | <u> </u> | <u> </u> |

5. Appointment of Louis A. Bonato as an appraiser for the Township of Upper.

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 151-2011

RE: APPOINTMENT OF LOUIS A. BONATO AS AN APPRAISER

FOR THE TOWNSHIP OF UPPER

WHEREAS, the Township periodically requires an appraiser to provide services to obtain the fair market value of lots owned by the Township with respect to the anticipated sale of said lots; and

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

WHEREAS, Louis A. Bonato has completed and submitted a Business Entity Disclosure Certification which certifies that Louis A. Bonato 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 Louis A. Bonato from making any reportable contributions through the term of the contract; and

WHEREAS, the Township has decided to acquire the services of Louis A. Bonato 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. Louis A. Bonato with offices at 22 Mockingbird Lane, Petersburg, New Jersey is hereby appointed appraiser for the Township of Upper for the appraisal of lots in connection with the Township's anticipated sale to land owners.
3. The term of this contract is for the period not to exceed the length of time necessary for completion of the aforesaid 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 Louis A. Bonato has professional knowledge as to appraisal issues which knowledge is particularly valuable to the Township Committee and this service is acquired as a non-fair and open contract pursuant to N.J.S.A. 19:44A-2.05.

NOTICE OF CONTRACT AWARD

5. 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 Louis A. Bonato for appraisal 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.

6. 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.

7. 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.

8. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Louis A. Bonato 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.

9. 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.

10. This Resolution shall be effective as of adoption.

Resolution No. 151 -2011

Offered by: Conrad

Seconded by: Newman

Adopted: June 27, 2011

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> </u> | <u> </u> | <u> </u> | <u>X</u> |
| Newman | <u>X</u> | <u> </u> | <u> </u> | <u> </u> |
| Palombo | <u>X</u> | <u> </u> | <u> </u> | <u> </u> |

6. Authorizing the execution of a Subcontract with the County of Cape May for the 2012 Municipal Alliance Program.

TOWNSHIP OF UPPER
COUNTY OF CAPE MAY
RESOLUTION
RESOLUTION NO. 152 -2011
AUTHORIZING THE EXECUTION OF A SUBCONTRACT
WITH THE COUNTY OF CAPE MAY FOR THE
2012 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 2012 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, 2012 to December 31, 2012.
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. 152-2011

Offered by: Newman

Seconded by: Conrad

Adopted: June 27, 2011

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> </u> | <u> </u> | <u> </u> | <u> X </u> |
| Newman | <u> X </u> | <u> </u> | <u> </u> | <u> </u> |
| Palombo | <u> X </u> | <u> </u> | <u> </u> | <u> </u> |

7. Resolution authorizing a Shared Services Agreement with the Cape May County Municipal Utilities Authority for Solid Waste Disposal and Recycling Services.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 153-2011
RE: Resolution Authorizing A Shared Services Agreement
With The Cape May County Municipal Utilities Authority
For Solid Waste Disposal and Recycling Services**

WHEREAS, the Cape May County Municipal Utilities Authority ("CMCMUA"/"Authority") owns and operates a solid waste system ("System") which presently serves the entire County of Cape May in the State of New Jersey, for the disposal, transfer, and recycling of solid waste; and

WHEREAS, the System includes the CMCMUA Secure Sanitary Landfill which is located on the Upper Township/Borough of Woodbine border, County of Cape May, and the Solid Waste Transfer Station located in the Township of Middle, County of Cape May, as well as several recycling operations and programs; and

WHEREAS, the Township of Upper has utilized and desires to continue to utilize the services of the CMCMUA's Solid Waste System; and

WHEREAS, there presently exists a contract between the Township of Upper and the Cape May County Municipal Utilities Authority ("CMCMUA") for the use of the CMCMUA's solid waste disposal, transfer and recycling facilities which will expire on December 31, 2011 entitled "JOINT INTER-GOVERNMENTAL AGREEMENT FOR SOLID WASTE DISPOSAL" (hereinafter the "Existing Agreement"); and

WHEREAS, there also presently exists, as an integral component of the Existing Agreement, a supplemental contract between the Township of Upper and the CMCMUA entitled Joint Inter-Governmental Agreement on Source Separation and Recycling (the "2005 Joint Recycling Agreement") which expires on December 31, 2011; and

WHEREAS, the Township of Upper and the CMCMUA desire to enter into a new Shared Services Agreement for Solid Waste Disposal, which shall also include the provisions of a new Shared Services Agreement for Source Separation and Recycling as a supplement to said Agreement, and to fix the expiration date of said Agreements to occur on December 31, 2018 in order to enable long term planning for the proper disposal and recycling of the Township of Upper's solid waste; and

WHEREAS, renewal of the basic provisions and responsibilities of the parties, as set forth in the Existing Agreement for solid waste disposal with the municipalities within Cape May County, will enable the CMCMUA to stabilize and guarantee a maximum solid waste disposal fee for each of the next seven (7) years; and

WHEREAS, the basic provisions of the proposed Shared Services Agreement for Source Separation and Recycling will enable the CMCMUA to continue to more efficiently provide recycling services, most of which are without cost or financial risk, to the municipalities within Cape May County; and

WHEREAS, the CMCMUA has offered to extend the term of the above noted contracts with the Township of Upper in order to more efficiently provide and continue to offer municipalities within Cape May County the use of the CMCMUA's Sanitary Landfill, Transfer Station and recycling facilities and services for an extended period through December 31, 2018; and

WHEREAS, the CMCMUA has submitted the same proposed form of Agreement to all Cape May County Municipalities which will provide for both solid waste disposal and certain recycling services through December 31, 2018; and

WHEREAS, N.J.S.A. 40A:65-1 et seq. authorizes a municipality to enter into a contract with any other local unit for the sharing of governmental services.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Township of Upper, County of Cape May, and State of New Jersey, that the Township of Upper shall enter into a contract with the CMCMUA entitled "Shared Services Agreement for Solid Waste Disposal", effective January 1, 2012, in the form to be maintained on file in the office of the Municipal Clerk, and that the Mayor is hereby authorized and directed to execute said Agreement and the accompanying Shared Services Agreement for Source Separation and Recycling.

Resolution No. 153-2011

Offered by: Conrad

Seconded by: Newman

Adopted: June 27, 2011

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> </u> | <u> </u> | <u> </u> | <u>X</u> |
| Newman | <u>X</u> | <u> </u> | <u> </u> | <u> </u> |
| Palombo | <u>X</u> | <u> </u> | <u> </u> | <u> </u> |

8. Requesting the installation of guardrails in the area of MP 4.53 Northbound of New Jersey State Highway Route 50.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 154-2011
RE: REQUESTING THE INSTALLATION OF
GUARDRAILS IN THE AREA OF MP 4.53 NORTHBOUND
OF NEW JERSEY STATE HIGHWAY ROUTE 50

WHEREAS, the Township Committee of the Township of Upper has recognized potentially hazardous conditions in the area of MP 4.53 Northbound of New Jersey State Highway Route 50; and

WHEREAS, in order to insure the safety of residents and the general public the Township Committee of the Township of Upper strongly recommends and is requesting the installation of guardrails in the area of MP 4.53 Northbound of New Jersey State Highway Route 50, and;

WHEREAS, the resident at 1081 Route 50 has reported that vehicles have left the roadway several times over the last two years and almost hit his house, which is close to the right-of-way.

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 requests State officials to take the appropriate action forthwith in order to implement the installation of guardrails in the area of MP 4.53 Northbound of New Jersey State Highway Route 50.

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.

4. A copy of this Resolution shall be forwarded to the appropriate New Jersey state officials.

Resolution No. 154-2011

Offered by: Newman

Seconded by: Conrad

Adopted: June 27, 2011

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>_____</u> | <u>_____</u> | <u>_____</u> | <u>X</u> |
| Newman | <u>X</u> | <u>_____</u> | <u>_____</u> | <u>_____</u> |
| Palombo | <u>X</u> | <u>_____</u> | <u>_____</u> | <u>_____</u> |

9. Appointment of Urban Partners as Economic Feasibility Consultant to the Township of Upper with regard to Township Town Centers.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 155-2011
RE: APPOINTMENT OF URBAN PARTNERS AS
ECONOMIC FEASIBILITY CONSULTANT TO THE TOWNSHIP OF UPPER
WITH REGARD TO TOWNSHIP TOWN CENTERS**

WHEREAS, the Township of Upper requires an economic feasibility consultant to review the economic feasibility of development patterns and controls proposed for Upper Township for the town centers in the Marmora and Seaville sections of the Township; 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 Urban Partners as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-2.05; and

WHEREAS, Urban Partners will complete and submit a Business Entity Disclosure Certification which certifies that Urban Partners 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 Urban Partners 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. Urban Partners with offices at 829 Spruce Street, Suite 204, Philadelphia, Pennsylvania is hereby appointed Economic Feasibility Consultant for the Township of Upper for the purposes specified in this Resolution and the proposal provided by Urban Partners dated May 26, 2011 and attached hereto as Exhibit A.
3. The term of this contract is for a period not to exceed the length of time necessary for completion of the aforesaid project, 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 Urban Partners has professional knowledge which is particularly valuable to the Township Committee and this service is acquired as a non-fair and open contract pursuant to N.J.S.A. 19:44A-2.05.

NOTICE OF CONTRACT AWARD

5. 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 Urban Partners for economic feasibility consultant 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.

6. 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.

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

8. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Urban Partners 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. 155 -2011

Offered by: Conrad

Seconded by: Corson

Adopted: June 27, 2011

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> | _____ | _____ | _____ |

ORDINANCES

10. Introduction and First Reading of Ordinance No. 016-2011, RE: AN ORDINANCE AMENDING CHAPTER 20-7.2 OF THE CODE OF UPPER TOWNSHIP

PROVIDING FOR THE APPOINTMENT OF MEMBERS OF THE ZONING BOARD OF ADJUSTMENT. Motion was made by Jay Newman, second by Frank Conrad to introduce Ordinance No. 016-2011 with public hearing and final adoption set for July 25, 2011. During roll call vote all four Committee members present voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE
ORDINANCE NO. 016-2011
AN ORDINANCE AMENDING CHAPTER 20-7.2 OF THE CODE OF UPPER
TOWNSHIP PROVIDING FOR THE APPOINTMENT OF MEMBERS OF THE
ZONING BOARD OF ADJUSTMENT**

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

SECTION 1: Chapter 20-7.2a of the Revised General Ordinances of the Township of Upper shall be amended as hereinafter provided:

20-7.2 Zoning Board of Adjustment.

- a. A Zoning Board of Adjustment is hereby established consisting of seven (7) members and four (4) alternates in accordance with the Land Use Law N.J.S.A. 40:55D-69 *et seq.* Members and alternate members shall be appointed by the governing body of the Township of Upper.

SECTION 2: REPEALER: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION 3: SEVERABILITY: If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

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

SECTION 5: CODIFICATION: This Ordinance shall be codified in

Chapter 20-7.2 of the Upper Township Code.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 27TH OF JUNE, 2011 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 25th DAY OF JULY, 2011 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

11. Introduction and First Reading of Ordinance No. 017-2011, RE: AN ORDINANCE ESTABLISHING REQUIREMENTS FOR THE USE OF TOWNSHIP FACILITIES.

Motion was made by Curtis Corson, second by Frank Conrad to introduce Ordinance No. 017-2011 with public hearing and final adoption set for July 25, 2011. During roll call vote four Committee members present voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E
ORDINANCE NO. 017-2011
AN ORDINANCE ESTABLISHING REQUIREMENTS FOR
THE USE OF TOWNSHIP FACILITIES**

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

SECTION 1: Chapter XXI of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be adopted as follows:

CHAPTER XXI – USE OF TOWNSHIP FACILITIES

21-1. Purpose.

The intent of this Ordinance is to set forth the fees and requirements for use of the public facilities of Upper Township which include but are not limited to municipal buildings, municipal fields, municipal recreational facilities, beaches and Township streets and roads.

21-2. Fees for the use of public facilities.

The following fees shall be charged for the use of public facilities of Upper Township:

21-2.1 No fee required for certain participants.

Upper Township religious or charitable organizations, the Upper Township School District, the Ocean City School District, Upper Township approved ongoing sports and recreation programs, and Upper Township community or civic organizations shall be exempt from payment of fees for the use of Upper Township facilities. This exemption applies only to such organizations based primarily in Upper Township and which primarily serve Upper Township residents.

21-2.2 Fee for use of facilities.

- a. Community Center: \$50.00 per hour, per room
- b. Amanda's Field: \$100.00 per day, per field or facility
- c. Caldwell Park: \$100.00 per day, per field or facility
- d. Tuckahoe River Beach: \$100.00 per day or part thereof
- e. Beesley's Point Beach: \$500.00 per day or part thereof
- f. Beach wedding: \$200.00

21.3 Requirements for use of facilities.

21.3.1 Application required

Any individual or organization requesting the use of a Township facility for an organized or scheduled event must submit an application and required documentation to the Township Clerk at least 30 days prior to the proposed event. The applicant must provide a full detailed explanation of the proposed event, including but not limited to, the number of participants and spectators, the amount of any fee charged to a participant or spectator, the activities anticipated, whether or not food or beverages will be consumed at the site, the time and duration of the event and any other information requested by the Township in order to ascertain the nature and scope of the proposed event. Ongoing approved Upper Township sports or recreation programs shall not be required to submit an application for such ongoing activities. The Township Committee or the Department of Sports and Recreation Programs shall from time to time adopt rules and regulations governing such ongoing activities and approving the use of facilities for these programs. Unless otherwise exempted in this Ordinance, an application for use of Township facilities is required for any organized or scheduled event which is not part of the approved ongoing activities of the sports or recreation programs.

21.3.2 Insurance

The applicant must provide insurance coverage to the Township in the amount and type recommended by the Township's Risk Manager Consultant.

21.3.3 State Police

The applicant must provide written confirmation from the State Police as to any requirements, suggestions or concerns the State Police may have with respect to the proposed event.

21.3.4 Emergency management services

The applicant must provide written confirmation from the Upper Township Division of Emergency Management Services as to any requirements, suggestions or concerns the Division may have with respect to the proposed event.

21.3.5 Background checks

Any event which involves the coaching or supervision of minor children must be accompanied by a certification from the applicant that those supervising or having direct contact with minor children have undergone a successful criminal history record background check pursuant to N.J.S.A. 15A:3a-1.

21.3.6 Maximum capacity

Depending upon the nature of the event and the facility requested, the Township may impose limitations with respect to maximum capacity and number of participants and spectators.

21.3.7 Use restrictions

No glass, radios or pets shall be permitted within enclosed park areas and the use of alcohol, drugs, tobacco, profanity and abusive language are strictly prohibited in or about Township facilities. All children under the age of 12 years must be accompanied by a responsible adult at all times.

21.3.8 Township Clerk and Township Committee approval

The Township Clerk is authorized to issue the approval upon confirmation of compliance with the requirements of this Ordinance; provided, however, for an event where more than 100 participants and spectators are expected, final approval of the Township Committee is required. If an application for use of facilities is denied by the Township Clerk, the applicant may request a review of the decision by the Township Committee.

21.3.9 Use of Facilities Agreement

All applicants must execute a current use of facilities agreement on behalf of the Township which includes an indemnification of the Township by the applicant.

21.3.10 Sports participant release and waiver

Sports programs using Township facilities which are not a Township approved ongoing sports and recreation program must provide to the Township a liability release and waiver from every participant on a form acceptable to the Township Solicitor.

21.3.11 Park pavilions

Park pavilions may be utilized by groups of 75 persons or less without prior approval on a first come first served basis. Township residents may reserve the use of a pavilion in advance by scheduling same with the Township Clerk. For use of the pavilion by groups of more than 75 persons, an application for use of facilities must be submitted and the applicant must comply with the other provisions of this Ordinance with respect to use of facility requirements and fees.

21.3.12 Risk of unreasonable injury or property damage

The Township reserves the right, in its sole discretion, to deny, limit or revoke the use of requested facilities when in the opinion of the municipality the use presents a risk of unreasonable injury to persons or damage to property of the municipality or others.

21.3.13 Township resident priority

There is no guarantee that a Township facility will be available for the applicant=s proposed use. Priority for the use of all Township facilities is to Township residents and existing Township programs. The scheduling and availability of all Township facilities and fields is subject to the ultimate approval of the Township of Upper.

21.3.14 Prior approval not required

Parks, playgrounds, beaches, athletic fields and other similar facilities regularly open to the general public may be used without prior Township approval by individuals not participating in organized or scheduled events so long as such use does not interfere with an approved Township event, program or activity.

21.3.15 Chapter IX unaffected

The provisions of Chapter IX of the Revised General Ordinances of the Township of Upper with respect to Recreational Facilities shall remain in full force and effect and are not intended to conflict with the provisions of this Chapter XXI. All

provisions in Chapter IX shall apply to the use of recreational facilities in addition to the provisions of this Chapter XXI.

21.4 Violations and Penalties.

Any person violating the provisions of this section or found to have used Township facilities without appropriate approval shall, upon conviction, be subject to the penalty stated in Chapter I, Section 1-5 of this Code.

SECTION 2: REPEALER: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION 3: SEVERABILITY: If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

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

SECTION 5: CODIFICATION: This Ordinance shall be codified in Chapter XXI of the Upper Township Code commencing at 21-1.

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 27TH OF JUNE, 2011 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 25TH DAY OF JULY, 2011 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

12. Introduction and First Reading of Ordinance No. 018-2011, RE: AN ORDINANCE AUTHORIZING SALE OF LANDS TO WIT BLOCK 558, LOT 45.

Municipal Attorney Daniel Young and Committeeman Curtis Corson did not participate in this matter due to conflict and stepped down from the dais. Attorney Norman Briggs

represented the Township and reported that this is a continuation of discussion of an ordinance for the sale of Lot 45 that was previously addressed at the June 13th Committee meeting. At that time during the public comment portion of the hearing the applicant raised a number of objections with the previous ordinance wording with regards to the property consolidation requirements. Due to special circumstances such as the property configuration and encroachment, the Committee directed Mr. Briggs to redraft the ordinance to address the applicant's concerns. Motion was made by Jay Newman, second by Frank Conrad to introduce new Ordinance No. 018-2011 with public hearing and final adoption set for July 25, 2011. During roll call vote three Committee members present voted in the affirmative. Mr. Corson did not participate and did not vote on this matter.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E
ORDINANCE NO. 018-2011
RE: AN ORDINANCE AUTHORIZING SALE OF LANDS,
TO WIT BLOCK 558, LOT 45**

WHEREAS, the Township of Upper is the owner, in fee, of certain parcel of vacant ground located within the Township of Upper, County of Cape May, and State of New Jersey, set forth on the municipal tax map as Block 558, Lot 45; and

WHEREAS, the Township has received an offer from Echo Farms RV Resort, LLC, the owner of real property contiguous with said parcels owned by the Township, to purchase said parcels; and

WHEREAS, after discussion and deliberation the Township Committee is of the opinion that the sale of said parcels will be in the best interest of the Township; and

WHEREAS, the Township Committee has determined that the fair market value of such lots is the sum of Ten Thousand Four Hundred Dollars (\$10,400.00) in light of the appraisal prepared by Louis A. Bonato on November 23, 2010; and

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

SECTION 1: The Township of Upper is hereby authorized to sell the real property commonly known as follows:

Block 558, Lot 45

to the highest bidder from among all owners of real property contiguous thereto in accordance with N.J.S.A. 40A:12-13(b)(5). Such sale shall not be for less than the fair market value of said

real property and the minimum bid for the parcels sold is hereby established as follows: Fair Market Value: \$10,400.00

SECTION 2: Prior to said sale, the Township will obtain a title report from a title company or abstract company licensed to do business in the State of New Jersey. Said report shall be available to the purchaser prior to final adoption of this Ordinance.

SECTION 3: The property authorized to be sold together with the minimum price thereof shall be posted at Township Hall and advertisement of the sale shall be made in a newspaper circulating in the Township within five (5) days following enactment of this ordinance. Offers for the property may thereafter be made to the Township Committee for 20 days following said advertisement. The Township Committee may reconsider this ordinance not later than 30 days after enactment and thereafter advertise the property for public sale pursuant to N.J.S.A. 40A:12-13(a). The Township Clerk shall file with the Director of the Division of Local Government Services in the Department of Community Affairs sworn affidavits verifying the publication of the foregoing advertisements.

SECTION 4: Echo Farms RV Resort, LLC shall pay the following sum to the Township Clerk prior to the adoption of this Ordinance: Upon approval of Township Committee to offer property for sale at public auction \$500.00. Of this amount, \$250.00 will be retained by the Township and used to defray Township expenses involved in Authorizing the Sale and terms thereof; Engineer's review; Attorney's review; legal advertising, certified mail notices and other expenses. The balance of \$250.00 will be applied toward the cost of title report, title insurance and closing costs.

If the parcel is not sold at auction, this amount will be retained by the Township as **LIQUIDATED DAMAGES** and will be used to pay for the title report and other documents. If the highest bidder at the auction sale is not the original applicant:

The highest bidder will be required to pay, in addition to the purchase price and other expenses, an additional sum of \$300.00, representing pre-sale amounts paid by the original applicant requesting the sale, exclusive of the deposit for title insurance and closing costs; and the original applicant (who is not the highest bidder) will then be entitled to a complete refund of all sums paid (\$500.00) plus the application fee (\$50.00), for a total of \$550.00.

SECTION 5: The aforesaid parcel of real property shall be offered for sale at an auction to be conducted by the Township Clerk at a date and time to be set by the Township Clerk after the appropriate notice of sale has been sent to contiguous owners of the subject real property. Said notice shall be sent certified and regular mail to the owners of contiguous property at the address set forth on the tax assessor s records. Said notice shall be sent no greater than 30 days prior to the date of sale and no less than 14 days prior to the date of sale. At any time, the Township Clerk may adjourn said sale and re-notice in accordance with the provisions of this Ordinance and N.J.S.A. 40A:12-13.

SECTION 6: The Committee Township expressly reserves the right to reject any and all bids in the exercise of its sole judgment and discretion. The Township Committee is authorized to confirm the sale by resolution and complete the transaction pursuant to this Ordinance and N.J.S.A. 40A:12-13.

SECTION 7: In the event the highest bid at such auction exceeds the minimum bid established herein and the Township Committee rejects same in the exercise of its sole judgment and discretion, then, in such event, all deposits made by the original applicant or the highest bidder, as the case may be, shall be refunded except for the \$50.00 application fee which shall be non-refundable.

SECTION 8: All payments required to be made pursuant to said sale to the Township Clerk must be made by personal check, cash or certified check, or any combination of the foregoing. All payments required to be made hereunder to a title company or abstract company conducting the closing shall be made in collected funds, that is, by cash, certified check, cashier's check or wire transfer.

SECTION 9: A sum equal to ten percent (10%) of the highest bid for said parcel or parcels shall be paid to the Township of Upper by the highest bidder or bidders at the time of the sale. The remaining balance of ninety percent (90%) of the highest bid for the parcel or parcels shall be paid to the Township of Upper, and must be received by the Township Clerk, not later than thirty (30) days after the date of the sale. In addition to the deposit of ten percent (10%), the highest bidder or bidders shall also be required to pay or tender at the time of sale the following:

IF THE BIDDER IS THE ORIGINAL APPLICANT:

(A) The sum of \$250.00 (\$500.00 less the \$250.00 deposit, equals \$250.00), payable to a title company designated by the Township Clerk, which company prepared the report of title prior to the auction sale, and representing the following:

(i) The sum of \$100.00 for the preparation of the Deed.

(ii) The sum of \$30.00 for recording the Deed.

(iii) At closing the bidder shall be entitled to receive a refund in the event that the charges for title insurance or title search and other closing costs are less than \$380.00 or, in the alternative, the bidder will be required to pay to the title company conducting closing any excess amount.

IF THE BIDDER IS NOT THE ORIGINAL APPLICANT:

(A) The sum of \$300.00, payable to the Township of Upper, representing payment of the non-refundable application fee of \$50.00; payment to the Township for administrative expenses of \$250.00; to defray Township expenses, which amounts were required of the original applicant.

(B) The sum of \$500.00, payable to a title company designated by the Township Clerk, which company prepared the report of title prior to the auction sale, and representing the following:

(i) The sum of \$100.00 for the preparation of the Deed.

(ii) The sum of \$70.00 for recording the Deed.

(iii) The sum of \$250.00 as a deposit for the title search and title insurance and other closing costs. At closing the bidder shall be entitled to receive a refund in the event that the charges for title insurance or title search and other closing costs are less than said amount or, in the alternative, the bidder will be required to pay to the title company conducting closing any excess amount.

AT THE TIME OF CLOSING the successful bidder shall be required to pay the following sums:

(A) Any additional sum required for title search or title insurance.

(B) The cost of any survey ordered by the successful bidder. Successful bidder shall place such order directly with the surveyor or with the title company conducting

closing, but the survey must be prepared in time to permit the closing to take place as scheduled.

(C) Title company settlement fees covering services to both the Seller and the Buyer.

(D) Any additional fees or costs chargeable by the title company or otherwise necessary to complete the transaction on behalf of the purchaser.

SECTION 10: The closing of title shall take place as designated by the Township as follows:

(A) Township Hall, Petersburg, New Jersey; or

(B) Office of the Township Solicitor; or

(C) At the office of a title insurance company or title abstract company located within Cape May County.

SECTION 11: If the purchaser fails to close or fails to comply with the provisions hereof, the purchaser shall be in default and all amounts paid to the Township by or on behalf of the purchaser shall be retained by the Township as **LIQUIDATED DAMAGES AND NOT AS A PENALTY.**

SECTION 12: The Deed from the Township of Upper shall be what is commonly known as a Quitclaim Deed.

SECTION 13: The title to be delivered by the Township shall be free and clear of all taxes up to and including the date when the Deed is delivered and closing takes place. Purchaser shall be responsible for all taxes thereafter. Unless otherwise specified herein, the purchaser shall be liable for payment of all assessments, of any nature, against said land.

SECTION 14: The title to be delivered by the Township shall be under and subject to all easements and rights of way, recorded and unrecorded, whether for utilities or for others, and shall also be subject to all conditions, reservations and restrictions of record, if any. If the title report discloses an unmarketable condition of title, except as specified herein, the remedy of the purchaser shall be limited to the return of payments made to the Township of Upper on account of the purchase price and closing costs only.

Any and all other amounts paid to the Township shall be non-refundable. This sale is under and subject to any riparian claim which may affect said property. If any such claim exists, it shall be the sole responsibility of the purchaser to meet and satisfy all requirements of the

State of New Jersey with respect to said riparian claim and the payment of any compensation to the State of New Jersey on account thereof. Nothing herein shall be construed as obligating the Township of Upper to construct or maintain access roads to any portion of the property being sold. Such property may not qualify for a building permit due to lack of water supply, lack of sewer or septic facilities, lack of access, inadequate lot size, or other reasons, including those reasons set forth below.

The purchaser is required to comply with all applicable zoning, building and health ordinances and codes and regulations. The property being sold may be situated in a Flood Hazard Zone. The Township of Upper makes no warranties or representations, expressed or implied, as to the property being offered for sale, the condition or marketability of the title or any other matter. The Township of Upper makes no warranties or representations, expressed or implied, as to whether or not the property being offered for sale contains wetlands anywhere on the property. The Township makes no warranties or representations as to any matter of an environmental nature, or otherwise, which may prevent or limit building or construction.

SECTION 15: All references to Lots and Blocks described herein are to the Lots and Blocks as shown on the Current Official Tax Map of the Township of Upper.

SECTION 16: The purchaser shall be required to execute a document acknowledging that the sale is governed by the provisions of this Ordinance as well as N.J.S.A. 40A:12-13.

SECTION 17: The provisions of this Ordinance pertaining to this sale shall survive the closing of title and shall not merge into the Deed.

SECTION 18: It is a requirement of this sale that the purchaser of the subject property be a contiguous property owner. The subject property shall not be further subdivided into more than one lot, nor shall the subject property be utilized to create a buildable lot. The subject property shall not be utilized by the successful purchaser as part of any future subdivision or development. This restriction shall be included in the deed of conveyance and shall run with the land. The provisions of this Section shall survive closing and shall not merge into the Deed.

SECTION 19: This Ordinance shall take effect immediately upon final adoption and publication as required by law.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP

COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 27th DAY OF JUNE, 2011 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 25th DAY OF JULY, 2011 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

Mr. Briggs concluded his business this evening and left the meeting. Mr. Young and Mr. Corson then returned to the dais for the remainder of the meeting.

CORRESPONDENCE

NEW BUSINESS

13. **Request to release performance Bond Block 573, Lot 26 Willetts Road and White Oak Drive.** Motion was made by Curtis Corson, second by Jay Newman to approve the request. During roll call vote all four Committee members present voted in the affirmative. A resolution will be placed on a future agenda.
14. **Leslie Penecale: request for monthly payment plan of taxes for property at 1467 Stagecoach Road, Seaville, Block 563, Lot 3.** Motion was made by Curtis Corson, second by Jay Newman to approve the request. During roll call vote four Committee members present voted in the affirmative.
15. **Tuckahoe Area Merchants Association: request to hold raffle on August 7, 2011, Raffle #389.** Motion was made by Curtis Corson, second by Jay Newman to approve the request. During roll call vote all four Committee members present voted in the affirmative.

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 to approve all bills as submitted. During roll call vote all four Committee members present voted in the affirmative.

Payroll: \$172,940.28
Bills approved for payment: \$ 76,134.27

REPORT OF MUNICIPAL DEPARTMENTS:

16. Municipal Court
17. MUA Report
18. Zoning Board 2010 Annual Report

Reports are available from the Clerk's Office.

PUBLIC COMMENT

Ronald Mc Cole, 54 East Maple Shade Lane, Beesleys Point asked how much the new local purpose tax would generate for the Township; the Committee answered \$2.19 million. He also asked about item #9, which is a resolution concerning the Town Center development. The Committee explained that there are Town Center areas designated in Marmora and in Seaville for future planning of the Township. Item #9 authorizes the hiring of a consultant to assist in the development plan of the Marmora site. The plan for the Marmora site is to utilize the vacant car dealerships for the development of walkable shopping and restaurant areas. Also, the plans include a full interchange at GSP Exit 21, at Seaville to eliminate some of the traffic congestion now being experienced.

Ted Kingston, 5 East Willard Avenue, Strathmere addressed the Committee regarding his concerns with flooding issues in Strathmere. The Committee responded that the Township is currently working on plans for a future beach fill project, which is expected to go out to bid sometime in the fall. In addition preparations are being made for funding and meetings are being scheduled with the NJDEP.

Russell Morano, 5 Red Oak Drive, Marmora spoke with regard to drinking and driving. He urged everyone to do their part to help prevent drinking and driving. In response Mayor Palombo requested the following message be broadcast on UTTV channel 2 prior to the 4th of July Holiday "Don't Drink and Drive".

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.

TOWNSHIP OF UPPER
RESOLUTION NO. 156-2011
MOTION GOING INTO CLOSED SESSION
June 27, 2011

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 – Grubb v. Upper Township
2. Litigation – Citizens for Strathmere and Whale Beach v. Upper Township
3. Contract negotiations – A Plus Commercial Office Cleaning

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 negotiations 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.

Motion: Jay Newman

Motion seconded: Curtis Corson

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

RECONVENE PUBLIC PORTION OF MEETING

ADJOURNMENT

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

There was no further business for this evening and the meeting was adjourned at 8:50 P.M. Next meeting scheduled for July 11, 2011 at 7:30 P.M.

Please note that the August 8th meeting has been rescheduled to Tuesday August 9, 2011 and will be held at 7:30 P.M. at the Township Hall.

Minutes prepared by

Wanda Gaglione, RMC
Municipal Clerk

Bill List

55717 06/27/11 A0006 ADVANCE TREADS INC 620.00 2668
 55718 06/27/11 A0030 AFTER-PROM COMMITTEE OCHS 4,600.00 2668
 55719 06/27/11 A0070 ALBERTSONS/ACME 49.99 2668
 55720 06/27/11 A0091 ATLANTIC CITY ELECTRIC 6,504.50 2668
 55721 06/27/11 A0117 AT&T 35.04 2668
 55722 06/27/11 A0122 ANSELL,ZARO,GRIMM & AARON 17.50 2668
 55723 06/27/11 A0167 HESS CORPORATION 2,169.67 2668
 55724 06/27/11 A0168 ATLANTIC CRANKSHAFT 177.00 2668
 55725 06/27/11 B0017 BARNETT BRASS & COPPER,INC. 81.76 2668
 55726 06/27/11 B0035 BELMONT & CRYSTAL SPRINGS 298.73 2668
 55727 06/27/11 B0076 BOND,LAURENCE E. 1,882.63 2668
 55728 06/27/11 B0090 BROADLEY'S MDI. 172.50 2668
 55729 06/27/11 B0152 BUCHANAN, KAREN A. 132.87 2668
 55730 06/27/11 B0160 BONNER, ROSEMARY 58.05 2668
 55731 06/27/11 C0046 CAPE MAY COUNTY CLERK 4,301.54 2668
 55732 06/27/11 C0060 CAPRIONI'S PORTABLE TOILETS 1,924.00 2668
 55733 06/27/11 C0068 COMCAST 220.16 2668
 55734 06/27/11 C0131 CINTAS FIRST AID & SAFETY 50.98 2668
 55735 06/27/11 C0201 CRUZAN'S TRUCK SERVICE INC. 666.67 2668
 55736 06/27/11 C0223 CASA PAYROLL SERVICE 241.25 2668
 55737 06/27/11 D0016 DALEYS PIT 120.00 2668
 55738 06/27/11 D0040 DELTA DENTAL OF N.J. INC. 7,163.39 2668
 55739 06/27/11 D0137 DAUGHERTY, SHARON 50.00 2668
 55740 06/27/11 E0012 EHRlich PEST CONTROL INC 74.00 2668
 55741 06/27/11 E0016 ERco CEILINGS & BLINDS INC 2,986.56 2668
 55742 06/27/11 F0030 FASTENAL 8.00 2668
 55743 06/27/11 F0048 FOGG, LESLIE INC. 674.65 2668

55744 06/27/11 G0008 GALLO GMC TRUCK SALES INC. 289.13 2668
55745 06/27/11 G0014 GARDEN STATE HWY PRODUCTS INC. 1,533.40 2668
55746 06/27/11 G0044 GILES & RANSOME, INC. 196.42 2668
55747 06/27/11 H0018 HAROLD RUBIN/L & H SUPPLY 168.00 2668
55748 06/27/11 H0135 HANSON AGGREGATES 597.83 2668
55749 06/27/11 J0014 JC MILLER'S 947.52 2668
55750 06/27/11 J0040 JOHNSON & TOWERS, INC. 177.12 2668
55751 06/27/11 L0087 LINE SYSTEMS INC 1,199.11 2668
55752 06/27/11 M0076 MGL PRINTING SOLUTIONS 1,485.00 2668
55753 06/27/11 M0103 MODERN GAS COMPANY, INC. 2,512.48 2668
55754 06/27/11 M0180 MED-TECH RESOURCE, INC. 210.10 2668
55755 06/27/11 M0188 MCCARTHY TIRE SERVICE OF PHILA 572.64 2668
55756 06/27/11 M0222 MUNICIPAL CAPITAL CORPORATION 392.00 2668
55757 06/27/11 O0006 SJSHORE MARKETING, LLC 299.99 2668
55758 06/27/11 O0045 OCEAN VIEW TRAILER SALES 22.49 2668
55759 06/27/11 O0046 OAR HOUSE LLC 910.00 2668
55760 06/27/11 P0001 PC WEATHER PRODUCTS INC. 755.00 2668
55761 06/27/11 P0008 PALMER, NANCY 28.05 2668
55762 06/27/11 P0026 PAYNTER, JOSEPH 334.92 2668
55763 06/27/11 P0032 PEDRONI FUEL CO. 1,899.94 2668
55764 06/27/11 P0036 PENNELLO, DAVID 169.05 2668
55765 06/27/11 P0053 PFAFF, MICHAEL 26.25 2668
55766 06/27/11 P0064 PITNEY BOWES 210.00 2668
55767 06/27/11 P0073 POGUE INC. 2,586.00 2668
55768 06/27/11 P0096 PREVITI, MICHELE M. 28.8 2668
55769 06/27/11 P0121 PENGUIN COMMUNICATION LLC 67.20 2668
55770 06/27/11 P0127 PELLI, ROBERT 26.25 2668
55771 06/27/11 P0129 PORRECA, JOHN A. 25.00 2668
55772 06/27/11 R0030 RIGGINS, INC. 6,777.46 2668
55773 06/27/11 R0065 ROBERT BROWN TREE SERVICE 500.00 2668
55774 06/27/11 R0073 RICOH AMERICAS CORPORATION 512.10 2668
55775 06/27/11 R0075 RENTAL COUNTRY 239.96 2668
55776 06/27/11 S0001 SAM'S CLUB 261.36 2668
55777 06/27/11 S0015 SMYTH, PATRICIA 15.00 2668
55778 06/27/11 S0073 SENIOR TRAVEL SERVICE, INC. 2,112.00 2668
55779 06/27/11 S0113 SMITH, THOMAS G. 194.82 2668
55780 06/27/11 S0121 SMUZ, THERESE A 36.40 2668
55781 06/27/11 S0122 SOMERS POINT LUMBER INC. 78.49 2668
55782 06/27/11 S0134 SO. JERSEY GAS COMPANY 221.10 2668
55783 06/27/11 S0139 SO. JERSEY WATER COND. INC. 72.00 2668
55784 06/27/11 S0193 STRYKER CORPORATION 896.07 2668
55785 06/27/11 S0196 STEWART BUSINESS SYSTEMS LLC 110.50 2668
55786 06/27/11 S0253 SAMPLE MEDIA, INC. 58.80 2668
55787 06/27/11 S240 SJTP 2,500.00 2668
55788 06/27/11 T0022 TERMINIX 51.00 2668
55789 06/27/11 T0032 THE PRESS & SUNDAY PRESS 353.40 2668
55790 06/27/11 T0048 TILL PAINT CO/D. FITZGERALD 1,850.00 2668
55791 06/27/11 T0052 TOWNSHIP OF DENNIS 1,000.00 2668
55792 06/27/11 T0067 TOWNSHIP OF UPPER PETTY CASH 4.28 2668
55793 06/27/11 U0025 UNITED STATES POSTAL SERVICE 4,400.00 2668
55794 06/27/11 U0030 UPPER TOWNSHIP LACROSSE 26.25 2668
55795 06/27/11 U0034 UPPER TWP. GIRLS SOFTBALL ASSOC 131.25 2668
55796 06/27/11 V0005 VAN EMBDEN, NATHAN, ATTORNEY 232.50 2668
55797 06/27/11 V0024 VAL-U AUTO PARTS L.L.C. 112.78 2668
55798 06/27/11 W0038 WILLIAMS, JEREMIAH J. 29.00 2668
55799 06/27/11 W0050 WIRELESS ELECTRONICS, INC. 284.00 2668
55800 06/27/11 Z0001 ZOLL MEDICAL CORPORATION 122.54 2668

=====

Total Of All Funds: \$76,134.27