

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR APRIL 11, 2011**

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

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

The following were present for the meeting tonight:

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

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

**APPROVAL OF MINUTES - **March 28, 2011 Regular Meeting and
Closed Session Minutes****

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

REPORT OF GOVERNING BODY MEMBERS

Frank Conrad, reported that he attended both School Board meetings held last Monday. The School Board discussed the referendum that will appear on the ballot for repairs to the schools; the referendum for a new school will not appear on the ballot because they have not heard from the State of New Jersey on funding. During that meeting the School Board introduced their budget, which resulted in a small decrease, and they publicly thanked the Township for assistance with accomplishing items on their projects list. Mr. Conrad stated that the Township would continue to assist as long as it doesn’t substantially impact our Township obligations. He reported that Patty Smyth successfully completed Municipal Tax Collections II and that she is very close to sitting for the exam.

Kristine Gabor, reported that the grant application for the cat “Spay/Neuter, Release” program from Pet Smart has been submitted thanks to Paul Dietrich. She reported that the Recreation and Sports programs are underway and the Dept. of Public Works has diligently worked to get everything ready. She is currently working on issues in scheduling the Community Center and other Twp. facilities and will report at a future meeting.

Curtis Corson, Deputy Mayor, reported that Paul Dietrich has received the projects list from the School Board and it will be discussed at the DPW's next supervisors meeting how best to assist the schools.

Jay Newman, reported that Chief Potter been working on a plan for the safe and secure placement of the AED's at our outdoor facilities. Chief Potter submitted specifications for an all-weather container for remote access, that is also secure from weather and vandalism. The plan will be evaluated and reported on at a later meeting.

Richard Palombo, Mayor, reminded everyone of a "Town Hall" meeting the Governor is holding tomorrow at 3PM at the CMC Airport. He reported on a conversation he had with Mr. Treen about the need for curb replacement in Sunset Acres. Although the ordinance specifies that the homeowner is responsible for the curb and sidewalks, he asked if it would be permissible for the Township to bid the project for the residents in an effort to secure a better rate for them. It was discussed that it may not result in any savings because the Township would be required to pay prevailing rate. It was also discussed that the neighborhood would need to be polled to see if all property owners would be willing to participate in the cost. Mr. Dietrich will research the matter and report at a future meeting as to the general idea of the expenditure involved for such a project.

He had closed session matters with regards to the Township's current policy in continuing education and advancing employees and a personnel issue.

OTHER REPORTS

Barbara Spiegel, had one item for closed session under personnel.

Paul Dietrich, Municipal Engineer reported on the status of the traffic light at Rt. 50 and Hope Corson Road. Phase one is a left hand turn from Rt. 50 onto Hope Corson Road expected to be installed sometime over the next month. Once that is completed the 2nd phase would be the actual traffic light, which he expects to be scheduled for installation sometime over the summer. Mr. Corson commented that this traffic light has been in the planning stage for a long time, that it was first requested 8 years ago. Mr. Dietrich also reported on the status of the reconstruction of Hope Corson Road by the County and that there may be some state and federal mitigation money to improve the drainage however he doesn't believe that there is a design scheduled as yet. Mr. Dietrich reported that today 4 crosswalk signs were installed in Strathmere. He reported on a FEMA meeting he attended and reported on the losses on the beach from the storms in 2010 and 2011 which resulted in significant erosion. He is attempting to get permission to move sand from one area to the affected areas to minimize the damage.

2011 MUNICIPAL BUDGET

1. **Public Hearing and Final Adoption of Ordinance No. 005-2011, Re: CALENDAR YEAR 2011 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14).** During the Public Comment section of the hearing there were no speakers. Public Comment was then closed and motion was made by Frank Conrad, second by Jay Newman to approve ordinance. During roll call vote all five Committee members voted in the affirmative.

TOWNSHIP OF UPPER

**CALENDAR YEAR 2011
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET
APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)
ORDINANCE NO. 005-2011**

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.0% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Township Committee of the Township of Upper in the County of Cape May finds it advisable and necessary to increase its CY 2011 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township Committee of the Township of Upper hereby determines that a 1.5 % increase in the budget for said year, amounting to \$ 147,048.57 in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the Township Committee of the Township of Upper hereby determines that any amount authorized hereinabove that is not appropriated, as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Township Committee of the Township of Upper, in the County of Cape May a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2011 budget year, the final appropriations of the Township of Upper shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to \$ 343,113.32 and that the CY 2011 municipal budget for the Township of Upper be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

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 14th DAY OF MARCH, 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 11th DAY OF APRIL, 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

2. **Resolution authorizing the reading of the 2011 Annual Municipal Budget by title only.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION NO. 092 -2011
RE: AUTHORIZING THE READING OF THE 2011
ANNUAL MUNICIPAL BUDGET BY TITLE ONLY**

WHEREAS, N.J.S.A. 40:A4-8 authorizes the reading of the budget by title only at the public hearing thereon, provided certain requirements are met; and

WHEREAS, the Township Committee of the Township of Upper is satisfied that such conditions have been satisfied.

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 majority of the full membership concurring, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee of the Township of Upper finds and determines that:
 - A. At least one (1) week prior to the date of this hearing, a complete copy of the approved budget, as advertised, was posted in the Township Hall, the principal municipal building of the municipality, and was made available to each person requesting the same

during the week immediately preceding the public hearing and is available to each person requesting a copy during the public hearing, as required by N.J.S.A. 40A:4-8.

B. The Township Committee of the Township of Upper hereby determines and declares that the conditions set forth in subsection 1.a and 1.b of N.J.S.A. 40A:4-8 have been met.

C. The Township Committee of the Township of Upper hereby determines that the 2011 Municipal Budget of the Township of Upper shall be read by its title only at the public hearing to be conducted thereon.

Resolution No. 92-2011

Offered by: Conrad

Seconded by: Newman

Adopted: April 11, 2011

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. 2011 Budget - Public Hearing.

The Public Hearing portion of the Budget was opened at which time there were no speakers from the public. Motion was made by Curtis Corson to close the public portion of the hearing. Motion was seconded by Frank Conrad. It was noted again that there was no public input. During roll call vote all five Committee members voted in the affirmative to close the public portion.

4. 2011 Budget - Amendment and Final Adoption.

The Budget Amendment includes a State adjustment to place the funds from employee benefit contributions outside of the cap. Motion was made by Curtis Corson to amend the Budget by Resolution No. 093A-2011, this was seconded by Frank Conrad. During roll call vote all five Committee members voted in the affirmative.

Motion was made by Frank Conrad to adopt the 2011 Budget, motion seconded by Kristine Gabor. During roll call vote all five Committee members voted in the affirmative.

RESOLUTION 2011-04-2011 TO AMEND BUDGET

WHEREAS, the local municipal budget for the year 2011 was approved on the 14TH day of March, 2011 and
 WHEREAS, the public hearing on said budget & amendment have been held as advertised, and
 WHEREAS, it is desired to amend said approved budget, now
THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, County of Crce May
 that the following amendments to the approved budget of 2011 be made:

Recorded Vote	{ PALOMBO	{	{
	{ GABOR	{	Abstained{
	Ayes{ CORSON	Nays{	{
	{ NEWMAN	{	{
	{ CONRAD	{	{
	{	{	Absent{
	{	{	{

CURRENT FUND:

ANTICIPATED REVENUES:

	Total	id.
6. Amount to be Raised by Taxes for Support of Municipal Budget		
Local Tax for Municipal Purposes Including Reserve for Uncollected Taxes	2,099,745.23	2,092,428.32
7. Total General Revenues	<u>11,516,867.23</u>	<u>11,509,550.32</u>

ANTICIPATED APPROPRIATIONS:

B. General Appropriations:		
a) Operations - within "CAPS"		
Insurance:		
Employee Group Health Insurance	1,414,400.00	1,404,400.00
Total Operations within "CAPS"		
Total Operations Including Contingent - within "CAPS"	9,000,078.00	8,991,078.00
Detail: Salaries & Wages	4,442,586.00	4,442,586.00
Detail: Other Expenses	4,557,490.00	4,547,490.00
Deferred Charges and Statutory Expenditures - "CAPS"		
Overexpenditure of Appropriation Reserves	0.00	2,506.26
Total Deferred Charges and Statutory Expenditures - within "CAPS"		
H-1 Total General Appropriations for Municipal Purposes within "CAPS"	9,757,628.00	9,750,135.26
a) Operations - Excluded from "CAPS"		
Insurance:		
Employee Group Health Insurance	33,350.00	33,750.00
Total Operations - Excluded from "CAPS"	33,350.00	33,750.00
Total Operations - Excluded from "CAPS"	67,685.00	68,088.00
H-2 Total General Appropriations for Municipal Purposes excluded from "CAPS"	795,416.00	795,846.00
O) Total General Appropriations Excluded from "CAPS"	795,416.00	795,846.00
P) Subtotal General Appropriations (Items (a)-(i) and (O))	10,553,073.00	10,545,887.26
M) Reserve for Uncollected Taxes	963,792.23	963,588.00
Total General Appropriations	<u>11,516,867.23</u>	<u>11,509,550.32</u>

BE IT FURTHER RESOLVED, that two certified copies of this resolution be filed forthwith in the office of the Director of Local Governmental Services for his certification of the local municipal budget so amended.

It is hereby certified that all additions and math in this amendment are correct.



Leon P. Costello, CPA, RMA

It is hereby certified that this is a true copy of a resolution amending the budget, adopted by the governing body on the 14th day of April, 2011.

Certified as a true copy of the Resolution passed by the Township Committee of the Township of Upper at a regular meeting held on April 11, 2011.
 Wanda Hopkins, Secretary, Upper Township, New Jersey

*****A complete copy of the Adopted Budget is available on the Upper Township website.**

RESOLUTIONS

5. Honoring Webelos Scouts of Cub Scout Pack 55, Cian O'Donoghue and Connor Tomlin, on attaining the Arrow of Light award.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO.94-2011
RE: HONORING WEBELOS SCOUTS OF CUB SCOUT PACK 55,
CIAN O'DONOGHUE AND CONNOR TOMLIN, ON ATTAINING
THE ARROW OF LIGHT AWARD**

WHEREAS, the Webelos Scouts of Cub Scout Pack 55, Cian O'Donoghue and Connor Tomlin, have recently achieved the Arrow of Light Award, which is the highest level of advancement for a Cub Scout; 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 this Township Committee extends its sincere congratulations to these graduating Webelos Scouts on the occasion of their receiving the Arrow of Light Award and commends them for this outstanding accomplishment; and it is

FURTHER RESOLVED that the Township Committee extends its congratulations and best wishes to their 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 11th day of April, 2011.

Resolution No. 94-2011

Offered by: Corson

Seconded by: Gabor

Adopted: April 11, 2011

Roll Call Vote:

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

6. Designating the 1st Thursday in May “A Day of Prayer in Upper Township”.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 95-2011
RE: DESIGNATING THE 1ST THURSDAY IN MAY
“ A DAY OF PRAYER IN UPPER TOWNSHIP”**

WHEREAS, Civic Prayers and National Days of Prayer have a long and revered history in our constitutional democracy, dating back to the First Continental Congress in 1775; and

WHEREAS, the Declaration of Independence, our first statement as Americans of national purpose and identity, made “the Laws of Nature and Nature’s God” the foundation of our United States of America and asserted that people have inalienable rights that are God-given; and

WHEREAS, the Supreme Court has affirmed the right of state legislatures to open their sessions with prayer and the Supreme Court and the U.S. Congress themselves begin each day with prayer; and

WHEREAS, in 1988, legislation setting aside the first Thursday in May in each year as a National Day of Prayer was passed unanimously by both Houses of Congress and signed by President Ronald Reagan; and

WHEREAS, the National Day of Prayer is an opportunity for Americans of all faiths to join in united prayer to acknowledge our dependence on God, to give thanks for blessings received, to pray for peace, to request healing for wounds endured; and to ask God to guide our leaders and bring wholeness to the United States and her citizens; and

WHEREAS, it is fitting and proper to give thanks to God by observing a day of prayer in the Township of Upper when all may acknowledge our blessings and express gratitude for them, while recognizing the need for strengthening religious and moral values in our State and nation;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, that they designate the first Thursday in May, 2011 as “**A DAY OF PRAYER IN UPPER TOWNSHIP**” and encourage the citizens of Upper Township to observe the day in ways appropriate to its importance and significance.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 11th day of April, 2011.

Resolution No. 95-2011

Offered by: Newman

Seconded by: Conrad

Adopted: April 11, 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> X </u>	<u> </u>	<u> </u>	<u> </u>
Newman	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Palombo	<u> X </u>	<u> </u>	<u> </u>	<u> </u>

7. **Authorizing the Upper Township PTA 5K Run Fundraiser to be held at Amanda’s Field in Petersburg, New Jersey on Sunday May 15, 2011.** Mr. Conrad did not participate in this matter.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 96- 2011
RE: AUTHORIZING THE UPPER TOWNSHIP PTA 5K RUN FUNDRAISER
TO BE HELD AT AMANDA’S FIELD
IN PETERSBURG, NEW JERSEY ON SUNDAY MAY 15, 2011**

WHEREAS, the Upper Township PTA, of P.O. Box 1077 Marmora, NJ 08223, has submitted a proposal to the Upper Township Committee requesting

authority to hold a 5K Run Fundraiser in Petersburg, New Jersey on May 15, 2011 which will consist of the use of Amanda's Field walking trail and parking areas, Registration beginning at 7:00 a.m., the Run beginning at 8:15 a.m. and ending about 12:00 p.m., as more particularly specified in their proposal, a copy of which is attached hereto as Exhibit A; and

WHEREAS, the 5K Run event, parking areas and registration site are proposed on Amanda's Field lots as described on maps attached hereto as Exhibit "B"; and

WHEREAS, the proposed event is sanctioned and insured by the Upper Township PTA, copy of insurance certificate attached as Exhibit "C"; and

WHEREAS, the event organizers have represented that approvals have been obtained from the New Jersey State Police, and any 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 the Upper Township PTA for the 5K Run Fundraiser event to be held on May 15, 2011 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 the Upper Township PTA. This sponsor has no connection, direct or indirect, with the Township of Upper or any of its officials or employees. This sponsor 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 this event sponsor to conduct the proposed Run, it must be made clear that the event is not and shall not be considered a Township of Upper sponsored or sanctioned event.

- (B) Upper Township PTA, has provided general comprehensive liability insurance in form and substance satisfactory to the Township of Upper's Risk Management Consultant. Said insurance includes a medical expense limit. 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) Upper Township PTA, the event sponsor, has obtained written approval from and complies 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.

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

- (D) Upper Township PTA has provided a Use of Facilities Agreement and 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 "D".
- (D) Setup for the event will take place at 7:00 a.m. the morning of the event.
- (E) 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 Sponsor fails to comply with any said condition or recommendation or any other condition of this Resolution.

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. 96-2011

Offered by: Gabor

Seconded by: Palombo

Adopted: April 11, 2011

Roll Call Vote:

NAME	YES	NO	ABSTAINED	ABSENT
Conrad	_____	_____	_____X_____	_____
Corson	_____X_____	_____	_____	_____
Gabor	_____X_____	_____	_____	_____
Newman	_____X_____	_____	_____	_____
Palombo	_____X_____	_____	_____	_____

8. Confirming sale of certain land, to wit: Block 10, Lots 107 and 108 to Alexandra and Joseph Hamilton.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 97-2011**

**RE: CONFIRMING SALE OF CERTAIN LAND
TO WIT: BLOCK 10, LOTS 107 AND 108,
TO ALEXANDRA AND JOSEPH HAMILTON**

WHEREAS, a public auction land sale was held on March 24, 2011, pursuant to Resolution No. 055-2011; and

WHEREAS, Alexandra and Joseph Hamilton submitted the highest bid for the purchase of Block 10, Lots 107 and 108; and

WHEREAS, the Township Committee is satisfied that all conditions precedent were complied with and that said sale was conducted in accordance with the requirements of the Resolution aforesaid and that proper notice of said sale was published in the Press of Atlantic City on March 2, 2011 and March 9, 2011 and posted on the bulletin board in Township Hall; and

WHEREAS, the Township Committee believes that it is in the public interest to confirm the sale of such parcel.

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 sale of Block 10, Lots 107 and 108 to Alexandra and Joseph Hamilton, at a sale price of \$10,000.00, is hereby confirmed, under and subject to the terms, conditions and provisions of Resolution No. 055-2011 and further subject to and conditioned upon the purchasers' compliance with said Resolution.

3. The Mayor and Township Clerk are hereby authorized, directed and empowered to execute and deliver, on behalf of the Township of Upper, to the aforesaid purchaser, a Bargain and Sale Deed conveying the Township's right, title and interest in the above described property and the Township Clerk is further authorized, directed and empowered to seal said Deed with the official seal of the Township of Upper.

Resolution No.97-2011

Offered by: Corson

Seconded by: Conrad

Adopted: April 11, 2011

Roll Call Vote:

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

9. Accepting the biennial review of the Plan Endorsement Report and recommending submittal to the Office for Planning Advocacy.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 98-2011
ACCEPTING THE BIENNIAL REVIEW OF PLAN ENDORSEMENT REPORT
AND RECOMMEND SUBMITTAL TO
THE OFFICE FOR PLANNING ADVOCACY**

WHEREAS, the New Jersey State Planning Commission on February 9, 2007 endorsed Upper Township's petition for Plan Endorsement; and

WHEREAS, in accordance with the petition's Planning and Implementation Agenda, Upper Township shall submit a report to the State biennially to report what the status is of the

planning activities recommended in the Planning and Implementation Agenda; and

WHEREAS, the Municipal Engineer has prepared a report dated March 31, 2011 (Exhibit "A") ; 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 hereby accepts the Municipal Engineer's Report, attached hereto as Exhibit A.
3. The Municipal Engineer shall submit said report to the State of New Jersey Office for Planning Advocacy.

Resolution No. 98-2011
Offered by: Conrad
Adopted: April 11, 2011
Roll Call Vote:

Seconded by: Newman

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

****Report is available on the Upper Township website.**

- 10. Authorizing the Chief Financial Officer to withdraw funds in the amount not to exceed \$6,286.01 from the account entitled Recreation Trust Fund-Developers for recreational improvements at Fort Nuwi in Caldwell Park.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 99-2011**

RE: AUTHORIZING THE CHIEF FINANCIAL OFFICER TO WITHDRAW FUNDS IN THE AMOUNT NOT TO EXCEED \$6,286.01 FROM THE ACCOUNT ENTITLED RECREATION TRUST FUND-DEVELOPERS FOR RECREATIONAL IMPROVEMENTS

AT FORT NUWI IN CALDWELL PARK

WHEREAS, the Township currently holds \$6,286.01, representing the balance remaining at the completion of the Fort Nuwi construction project and turned over to the Township on May 24, 2007; and

WHEREAS, it is necessary for the Township of Upper to make certain improvements at Fort Nuwi in Caldwell Park.

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 Chief Financial Officer of the Township of Upper is hereby authorized, directed and empowered to withdraw funds not to exceed the amount of \$6,286.01, from the account entitled Recreation Trust Fund-Developers for improvements at Fort Nuwi in Caldwell Park.

Resolution No.99-2011

Offered by: Corson

Seconded by: Conrad

Adopted: April 11, 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> X </u>	<u> </u>	<u> </u>	<u> </u>
Newman	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Palombo	<u> X </u>	<u> </u>	<u> </u>	<u> </u>

ORDINANCES

- 11. Public Hearing and Final Adoption of Ordinance No. 006-2011, Re: AN ORDINANCE VACATING THAT PAPER STREET KNOWN AS CEDAR ROAD IN BLOCK 21 ADJACENT TO LOT 1, WITHIN THE TOWNSHIP OF UPPER, COUNTY OF CAPE MAY AND STATE OF NEW JERSEY.**

During the Public Comment section of the hearing there were no speakers and the public comment section was closed. Motion to adopt Ordinance No. 006-2011 made by Curtis Corson, second by Jay Newman. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E
ORDINANCE NO. 006-2011
AN ORDINANCE VACATING THAT PAPER STREET KNOWN AS CEDAR ROAD IN
BLOCK 21 ADJACENT TO LOT 1, WITHIN THE TOWNSHIP OF UPPER, COUNTY
OF CAPE MAY AND STATE OF NEW JERSEY**

WHEREAS, N.J.S.A. 40:67-1 authorizes the Governing Body of a municipality to adopt an Ordinance, among other things, to vacate any street, highway, lane, alley, square, place or park, or any part thereof, dedicated to public use but not accepted by the municipality, whether or not the same, or any portion, has been actually opened or improved; and

WHEREAS, Elma Lou Dilks is the owner of Block 21, Lot 1 and has requested that the Township vacate a certain street described in this Ordinance and has agreed to pay the costs incurred by the Township to vacate said street; and

WHEREAS, the Township Committee has duly considered the matter and it appears reasonable to agree to the request since there is no present or foreseeable need or intention to utilize said roadway; and

WHEREAS, it is deemed to be in the public interest to vacate Cedar Road within the Township of Upper, as hereinafter provided.

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

SECTION 1: The public right in, along, upon and over the following described land is hereby vacated, surrendered and extinguished:

Description

Vacation of Cedar Road
Adjacent to Block 21
as shown on Tax Map Sheet No. 11
Tuckahoe Section of
Township of Upper

BEGINNING at the Southeasterly intersection of Cedar Road and Poplar Road extending along the Southerly line of Cedar Road and Lot 1 Block 21 a distance of 259.52' to a point at the Southwesterly intersection of Cedar Road and Reading Boulevard; thence across Cedar Road in a Northerly direction along the extension of the Westerly line of Reading Boulevard to the Northerly line of Cedar Road and Block 20; thence extending in a Westerly direction along Block 20 to the Northeasterly intersection of Cedar Road and Poplar Road; thence extending across Cedar Road in a Southerly direction a distance of 50' to the point of beginning.

SECTION 2: This Ordinance vacates no portion of the street except that portion set forth and described in **SECTION 1** above.

SECTION 3: EXCEPTION: This Ordinance expressly reserves and excepts from vacation all rights and privileges now possessed by public utilities, as defined in R.S. 48:2-13, and by any cable television company, as defined in the "Cable Television Act", P.L. 1972, c. 186, (C.48:5A-1, et seq.), to maintain, repair and replace their existing facilities in, adjacent to, over or under the street, highway, lane, alley, square, place or park, or any part thereof, to be vacated, as hereinabove described.

SECTION 4: REPEALER: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency only.

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

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 14TH DAY OF MARCH, 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 11th DAY OF April, 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

CORRESPONDENCE

NEW BUSINESS

12. **South Jersey Sand Sharks request to hold baseball clinics Thursdays September 1st thru October 28th at the Community Center.** Due to a scheduling conflict Mrs. Gabor moved to table this item until further notice; motion was seconded by Frank Conrad.
13. **Greater Tuckahoe Area Merchant's Association request to hold Bicycle Raffle at Amanda's Field during the Tour De Tuckahoe Bike event on May 1, 2011.** Motion was made by Jay Newman, seconded by Curtis Corson to approve raffle # RA-388. During roll call vote all five Committee members voted in the affirmative.
14. **Calvary Baptist Church request use of roads for community bike ride fundraising event May 21, 2011, rain date May 28, 2011.** It was discussed that the bike ride event consists of just passing through Upper Township and that the paperwork as submitted is satisfactory due to the minor impact of the event. In addition, a formal resolution would not be necessary for this event. Motion to approve made by Jay Newman seconded by Kristine Gabor. During roll call vote all five Committee members voted in the affirmative.
15. **Abundant Life Assembly of God request to use Township fields for church softball every Monday night from April thru September 2011.** Request was approved, motion by Jay Newman, second by Frank Conrad. During roll call vote all five Committee members voted in the affirmative. A resolution will be placed on a future agenda.
16. **NJDOT: request for resolution in support of a "No Passing Zone" along US Route 9, at MP23 (Wrights Lane).** It was discussed that the resolution should also include a "No Passing" request for the Rt. 9 roadway located at the front of Osprey Point. Motion was made by Curtis Corson, second by Jay Newman to adopt the resolution requested and to include roadway in front of Osprey Point. During roll call vote all five Committee members voted in the affirmative. A resolution will be placed on a future agenda.

UNFINISHED BUSINESS:

DISCUSSION

17. Discussion of proposed Land Use Ordinance changes.

It was discussed that the Planning Board had a Master Plan Re-examination that identified areas in the Township where there would be changes. One area identified for changes was the Marmora Town Center in order to promote ratables and to create a “walkable” downtown area. In order to do that appropriately Zoning Ordinance amendments are necessary. Another area identified for change is the mobile home zoning area. The material before the Committee tonight is a draft that identifies a series of changes and then to incorporate them into the Land Use Ordinance. The next step under the statute is to send this draft to the Planning Board and request them to confirm that it is consistent with the Master Plan Re-examination that they adopted. The Planning Board should confirm whether or not it is consistent with the Master Plan and offer recommendations before it is introduced and adopted. The changes proposed will promote good development in the Marmora area and once the economy improves it will allow some of the vacant properties to be redeveloped. The draft also includes needed changes in signage. It was discussed that other ordinances will come before this Committee as a result of the Master Plan Re-examination. Motion that the draft is forwarded to the Planning Board and that a consistency report be requested made by Curtis Corson, second by Kristine Gabor. During roll call vote all five Committee members voted in the affirmative.

PAYMENT OF BILLS:

“I hereby move that all claims submitted for payment at this meeting be approved and then incorporated in full in the minutes of this meeting.” Moved by Jay Newman, second by Frank Conrad. During roll call vote all five Committee members voted in the affirmative.

Bills submitted for payment: \$108,710.80
Payroll: \$175,836.46

REPORT OF MUNICIPAL DEPARTMENTS:

- 18. Construction Code**
 - 19. Clerk’s Office**
 - 20. Animal Control**
 - 21. Treasurer’s Report**
 - 22. Tax Collector**
 - 23. Rescue Squad**
 - 24. Municipal Court Reports for Upper Twp, Corbin City and Dennis Twp.**
- Reports are available from the Clerk’s Office.

PUBLIC COMMENT

Robert Cole, Beesleys Point, asked about the local purpose tax. The Mayor explained that that was part of the Budget hearing and was voted on earlier in the meeting. He mentioned that the Committee members have businesses. He questioned Mr. Newman on voting on the budget, on his business, and what he had on his property. He asked Mr. Corson about the dollars given to the school system. Mr. Corson stated that the money was given in the form of tax relief. He asked where the money went and if there was any accountability as to how the school spent that money. Mayor Palombo stated that the Committee has no jurisdiction or authority over how the School Board spends money; that the “Township certainly offers them aid in any way we can, and partnership in repairs”. He explained that when the School Budget is defeated the budget

comes before the Township Committee. The Committee by law may make recommendations to the School Board however they cannot enforce them. Last year and years prior during a defeated budget the Township Committee would make substantial cuts based on what the voters pronounced in the school board elections, and the Committee recommended what to cut out. However, the School Board only has to cut that amount of money out, the School Board has the control (not the Township) and can cut out whatever they want. Mr. Cole asked how giving the School Board the \$1.2 million lowered his taxes. Mayor Palombo stated that the money the Township gave the schools lowered taxes on a yearly basis; that in previous years when the Township gave a substantial amount of money to the Schools that it lowered how much taxes property owners paid in that particular year. "You could have paid substantially higher taxes every year the Township contributed the money." It allowed residents of Upper to pay less taxes. If the School Board passed a budget of a 4-5 cent increase, with the \$2 million from the Township, that rate would have been 8-9 cents without the money the Township gave. "That's why we did what we did in the past." He asked questions about the school (repairs) referendum and aid from the State of New Jersey. If the referendum gets turned down by the voters that part does not come back to the Township. If the budget fails, that would come back to the Township for recommendations for budget cuts; and the School Board has the power to appeal our cuts.

Al Lihou, Klains Lane, Marmora, commented that it was within the last 5 years that the surplus started to slump. The Township Committee responded that it has made substantial cuts in their budgets to make sure we didn't have a local purpose tax in previous years. There could have been one last year. The Township Committee further explained that the Township operated with the Energy Gross Receipt tax. Currently that is approximately \$6.4 million; it was at \$9-10 million 10 years ago. In addition we used to get substantial interest on investments, which is not available in the current economy; and there are State income cuts. If the Energy Receipt Tax had not been changed by the State, instead of \$6.3 million we would have gotten \$14 million a year. There is a move by NJ Mayors to bring that back, to return to the previous levels. Committee members explained that the history of the matter is that the State came in and froze the dollar amounts 12-13 years ago. The tax received by municipalities was based on what the utility produced, which today is enormous. The Energy Receipt Tax dollar sum to municipalities stayed the same, and the state took the excess off of the top; the law actually called it a "skim". The Energy Receipt Tax to municipalities has been going on almost 60 years. Mr. Young explained that the Middle School was paid for by the Township because of funds from the Energy Receipt Taxes. Mr. Corson stated members of the Township Committee did caution 12 years ago that the Township's surplus from the Energy Receipt Taxes was dwindling and that the School Board should be weaned. They were criticized and accused of crying wolf. There has been no contribution to school for the last 5 years. The Mayor advised by law the Township was and is never allowed to specify the use of any of the money contributed to the School Board. Mr. Young stated that almost 20 years ago he was on the School Board, a time when none of the current Township Committee was in office. The Township Committee at that time (20 years ago) was concerned about the same reason—what the money was being spent for. There was a liaison member from that Township Committee that would sit through School Board meetings and come back and report to the Committee. Upper Township was the only municipality in the state to give money to our school board. Mr. Corson stated that in recent years the Township actually constructed a roof on the school and installed a water system. Instead of giving the money, the Township installed the improvements for them. Mr. Lihou stated that giving the School Board substantial dollars in the past created an artificially low tax structure. It was discussed that what was done in the past was the best decision at the time by those Committees. Looking toward the future, one of the things this Master Plan (which was discussed previously in this meeting), is so important is that there are opportunities for this Township. Although at the

early stages, it was said that there are some individuals looking to develop some of those abandoned properties in Marmora which if developed would help offset some of these conditions.

There were no further speakers and the Public Comment section was closed.

CLOSED SESSION

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

TOWNSHIP OF UPPER
COUNTY OF CAPE MAY
Resolution No. 100-2011
MOTION GOING INTO CLOSED SESSION
April 11, 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. Contract negotiations – Comcast franchise renewals.
2. Litigation – Ginn v. Upper Township.
3. Personnel matters.
4. Contract negotiations – possible lease of radio antenna and equipment facility-Rockland Capital.

I also include in my motion the estimated time and the circumstances under which the discussion conducted in closed session can be disclosed to the public as follows:

- A. It is anticipated that the matters discussed in closed session may be disclosed to the public upon the determination of the Township Committee that the public interest will no longer be served by such confidentiality.
- B. With respect to employment and personnel matters such discussions will be made public if and when formal action is taken or when the individuals involved consent that it can be made public.
- C. With respect to contract negotiations such matters will be made public when negotiations have ceased and there is no longer a reason for confidentiality.
- D. With respect to litigation matters such discussions will be made public when litigation is complete and the applicable appeal period has expired.

Moved by Jay Newman

Motion seconded by Frank Conrad.

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

RECONVENE PUBLIC PORTION OF MEETING

ADJOURNMENT

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

There was no further business for this evening the meeting was adjourned at 9:35 P.M. Next meeting scheduled for April 25, 2011 at 7:30 P.M.

Minutes prepared by

**Wanda Gaglione, RMC
Municipal Clerk**

Bill List

55317 04/11/11 A0004 A+ COMMERCIAL OFFICE CLEANERS 550.00 2654
55318 04/11/11 A0006 ADVANCE TREADS INC 276.00 2654
55319 04/11/11 A0028 ADVANTAGE RENTAL CENTER INC. 42.78 2654
55320 04/11/11 A0035 AIRLINE HYDRAULIC CORP. 103.18 2654
55321 04/11/11 A0070 ALBERTSONS/ACME 57.60 2654
55322 04/11/11 A0086 AT&T MOBILITY 198.41 2654
55323 04/11/11 A0091 ATLANTIC CITY ELECTRIC 15,368.05 2654
55324 04/11/11 A0117 AT&T 4.62 2654
55325 04/11/11 B0035 BELMONT & CRYSTAL SPRINGS 59.89 2654
55326 04/11/11 B0091 BIRCHMEIER, JAMES 150.00 2654
55327 04/11/11 B0111 BROSS, GEORGE 36.00 2654
55328 04/11/11 C0048 CAPE MAY COUNTY MUA 144.00 2654
55329 04/11/11 C0060 CAPRIONI'S PORTABLE TOILETS 164.00 2654
55330 04/11/11 C0068 COMCAST 205.20 2654
55331 04/11/11 C0101 CHATTEN, LINWOOD R. 150.00 2654
55332 04/11/11 C0131 CINTAS FIRST AID & SAFETY 48.97 2654
55333 04/11/11 C0143 CODY'S POWER EQUIPMENT 60.81 2654
55334 04/11/11 C0223 CASA PAYROLL SERVICE 228.85 2654
55335 04/11/11 D0135 DITROIA, DARYL 435.00 2654
55336 04/11/11 E0047 EFINGER SPORTING GOODS CO 288.00 2654
55337 04/11/11 F0016 FAZZIO, JOSEPH INC. 255.60 2654
55338 04/11/11 F0054 FORT DEARBORN LIFE INSURANCE 528.75 2654
55339 04/11/11 G0012 GANN LAW BOOKS 102.00 2654
55340 04/11/11 G0016 GARDNER HARDWARE INC. 18.99 2654
55341 04/11/11 G0030 GENERAL SPRING SERVICE 945.13 2654
55342 04/11/11 G0057 GLOBALSTAR USA LLC 370.37 2654
55343 04/11/11 G0092 GRUND, BARBARA J. 163.98 2654
55344 04/11/11 J0014 JC MILLER'S 83.80 2654
55345 04/11/11 K0047 KLINE, EDWARD T. 73.95 2654
55346 04/11/11 M0050 MAGNUM COMPUTER CONSULTING 585.00 2654
55347 04/11/11 M0059 MCDANIELS, WILLIAM J. III 143.00 2654
55348 04/11/11 M0103 MODERN GAS COMPANY, INC. 1,864.73 2654
55349 04/11/11 M0188 MCCARTHY TIRE SERVICE OF PHILA 440.30 2654
55350 04/11/11 N0004 NJ-AMERICAN WATER CO. 315.92 2654
55351 04/11/11 N0052 NATL YOUTH SPORTS COACHED ASSN 920.00 2654
55352 04/11/11 N0070 MARSH & MCLENNAN AGENCY, LLC 2,500.00 2654
55353 04/11/11 N0087 NJ DEPT. OF HEALTH & SENIOR 62.50 2654
55354 04/11/11 N0098 N.J.A.P.Z.A. 120.00 2654
55355 04/11/11 O0006 SJSHORE MARKETING,LLC 285.00 2654
55356 04/11/11 P0032 PEDRONI FUEL CO. 1,153.05 2654
55357 04/11/11 P0061 PINELANDS MUNICIPAL COUNCIL 100.00 2654
55358 04/11/11 P0073 POGUE INC. 2,088.00 2654
55359 04/11/11 Q0003 QC LABORATORIES 2,261.80 2654
55360 04/11/11 R0030 RIGGINS, INC. 3,471.96 2654
55361 04/11/11 S0001 SAM'S CLUB 15.57 2654
55362 04/11/11 S0072 SEGIN, STEWART S. 174.28 2654
55363 04/11/11 S0108 SOUTHERN NEW JERSEY NIGP 30.00 2654
55364 04/11/11 S0185 STOCKTON STATE COLLEGE 37,738.24 2654
55365 04/11/11 S0196 STEWART BUSINESS SYSTEMS LLC 999.00 2654
55366 04/11/11 S0209 STAPLES ADVANTAGE 390.44 2654
55367 04/11/11 S0239 SHORE VET. ANIMAL CONTROL LLC 2,500.00 2654
55368 04/11/11 T0032 THE PRESS & SUNDAY PRESS 400.14 2654
55369 04/11/11 T0067 TOWNSHIP OF UPPER PETTY CASH 6.45 2654
55370 04/11/11 T0074 TRANSAXLE LLC 908.04 2654

55371	04/11/11	T0097	TRICO EQUIPMENT INC.	148.03	2654
55372	04/11/11	T0131	TROUT, ROSEMARY	31.32	2654
55373	04/11/11	U0038	UPPER TOWNSHIP RESCUE SQUAD	390.00	2654
55374	04/11/11	U0047	U.S. MUNICIPAL SUPPLY, INC.	206.12	2654
55375	04/11/11	U0055	U.T. CHALLENGER PROGRAM	2,204.15	2654
55376	04/11/11	V0013	VERIZON WIRELESS	576.96	2654
55377	04/11/11	V0022	VERIZON	190.00	2654
55378	04/11/11	V0024	VAL-U AUTO PARTS L.L.C.	58.31	2654
55379	04/11/11	Y0008	YOUNG, DANIEL J. ESQUIRE PC	21,437.50	2654
55380	04/11/11	Y0023	YOUNG, DANIEL J. ATTORNEY	2,625.00	2654
55381	04/11/11	Z0001	ZOLL MEDICAL CORPORATION	256.06	2654

Total: \$108,710.80