

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR APRIL 25, 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	Present
John “Jay” Newman	Present
Richard Palombo	Absent

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

**APPROVAL OF MINUTES - April 11, 2011 Regular Meeting and
Closed Session Minutes, and
Special Meeting of April 18, 2011 Minutes**

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

REPORT OF GOVERNING BODY MEMBERS

Frank Conrad, reminded everyone that the Greater Tuckahoe Area Merchants Association fundraiser bike ride and run event will be held on Sunday May 1st. It benefits their scholarship program and he will be participating in it.

Kristine Gabor, requested that resolutions be put on a future agenda to congratulate and thank William Bailey, Elizabeth Conrad, Adele Coggins, and Peter Schuler. They were instrumental in the formation of the LaCrosse program in Upper Township and in making it the success it is today.

She made a motion that authorizes the Clerk to send a letter on behalf of the Committee to apply for the Megan Kanka Foundation Grant that provides funding for fingerprint background checks for Township employees or volunteers that supervise children through sports or other group activities. Motion was seconded by Frank Conrad and during roll call vote all four Committee members voted in the affirmative. A resolution will be placed on a future agenda.

She also reported that she is working on formulating a procedure for scheduling events at the Community Center.

Curtis Corson, Deputy Mayor, reported that the Department of Public Works employees are continuing to work with the School Board to assist in the completion of some of their projects.

Jay Newman, reported that fire and rescue activities have been quiet for the last week. He also commented that he would not be able to attend the May 23rd meeting due to his son's graduation.

OTHER REPORTS

Wanda Gaglione, Municipal Clerk reminded everyone that April 27th was the School Board election and would be held from 2:00 PM to 9:00 PM. She asked the Committee if they would consider changing the date for the 2nd meeting in May to better schedule items to be acted upon that month. The request was that the May 23rd meeting be moved to May 16th. The reason being is that the Mayor would not be available to attend on May 23rd. He is a member of the NJ Board of Pharmacy as well as the past president of the National Board of Pharmacy and will attend the national convention the week of May 23rd. Motion to grant the request made by Curtis Corson, second by Jay Newman. During roll call vote all four Committee members voted in the affirmative. The Clerk will make the proper notifications for the change of dates. ***The meeting dates for May will be May 9, and May 16; there will be no meeting on May 23rd as previously advertised.***

She had two items for discussion in closed session, the first pertaining to security with regards to passport acceptance; the second was a matter under personnel.

Barbara Spiegel, Finance Officer, had one contract item for discussion in closed session.

Daniel Young, Municipal Attorney, reported that he has 3 matters for closed session under litigation.

PRESENTATION

1. Honoring John Doerr on attaining the designation of "Eagle Scout".

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 83-2011
RE: HONORING JOHN DOERR ON ATTAINING THE
DESIGNATION OF "EAGLE SCOUT"

WHEREAS, John Doerr, 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 John 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 working with the Upper Township Recreation Department in designing and building trashcan containers that would insure containers stay in place and upright during windy conditions. John was able to design a wooden container that holds two plastic cans, one for trash and one for recyclables. He made arrangements with local merchants to get the necessary pressure treated lumber and hardware needed to build 24 containers and then distributed them to the areas in need; and

BE IT FURTHER RESOLVED that the Township Committee extends its congratulations and best wishes to John'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 28th day of March, 2011.

2. 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.

RESOLUTIONS

3. Honoring Megan Norton on attaining the Girl Scout Gold Award.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 102-2011
RE: HONORING MEGAN NORTON ON ATTAINING THE
GIRL SCOUT GOLD AWARD**

WHEREAS, Megan Norton, has recently achieved the Gold Award in the Girl Scouts of the USA, North Cape May Unit, Troop 46721; 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 Megan on the occasion of her receiving the Gold Award and commends her for this outstanding accomplishment. Megan developed and facilitated a Self-Defense Workshop targeted towards teenage girls leaving college, with a focus on how to act in dangerous situations. Her program has been successfully run several times over the past year; and

FURTHER RESOLVED that the Township Committee extends its congratulations and best wishes to Megan'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 Girl Scout Leaders 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 25th day of April, 2011.

4. Honoring Amanda Turner on attaining the Girl Scout Gold Award.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 102A-2011
RE: HONORING AMANDA TURNER ON ATTAINING THE
GIRL SCOUT GOLD AWARD**

WHEREAS, Amanda Turner, has recently achieved the Gold Award in
the Girl Scouts of the USA, North Cape May Unit, Troop 46721; 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 Amanda on the occasion of her receiving the Gold Award and
commends her for this outstanding accomplishment. Amanda chose to help her 4H
community by planting trees at the fair grounds and riding area, providing
much needed shade for all. Amanda secured the donations of the trees and then
organized a group of volunteers to help with the planting; and

FURTHER RESOLVED that the Township Committee extends its
congratulations and best wishes to Amanda'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 Girl Scout Leaders 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 25th day of April, 2011.

5. **Congratulating employee Patricia Smyth of the Upper Township Tax Collector's Office for her winning entry in the Upper Township Safety Award Program for the 2nd quarter of 2011.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 103-2011
RE: CONGRATULATING EMPLOYEE PATRICIA SMYTH
OF THE UPPER TOWNSHIP TAX COLLECTOR'S OFFICE
FOR HER WINNING ENTRY IN
THE UPPER TOWNSHIP SAFETY AWARD PROGRAM
FOR THE 2ND QUARTER OF 2011**

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

WHEREAS, Patricia's safety suggestion was chosen by the Upper Township Safety Committee from the entries submitted in the second quarter for the promotion of safety for employees and the community; and

WHEREAS, Patricia should be publicly recognized for suggesting the safety precaution of posting an "Employees Only" sign on the door of each office, to help prevent unauthorized entry; and

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

1. That the Committee extends its appreciation and publicly recognizes Patricia Smyth on her commitment to safety by her identifying a potential safety hazard and presenting a solution through participation in the program.
2. That the Committee, on behalf of our employees and the citizens of the Township of Upper extend to

Patricia Smyth our congratulations and present her with the "Safety Day Award" of one day off with pay.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 25th day of April, 2011.

Moved by Frank Conrad
Second by Kristine Gabor
During roll call vote all four Committee members voted in the affirmative.

6. **Accepting the annual Stormwater Report and Certification, and authorizing the Mayor to electronically sign and submit it to the NJDEP pursuant to Stormwater rules.** The Engineer was not present this evening to present the report and the matter was moved to the next agenda.
7. **Appointment of Capehart & Scatchard, P.A. and Joseph F. Betley, Esquire to act as special legal counsel in employment and labor law matters.**

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 104-2011

RE: APPOINTMENT OF CAPEHART & SCATCHARD, P.A. AND
JOSEPH F. BETLEY, ESQUIRE TO ACT AS SPECIAL LEGAL COUNSEL IN EMPLOYMENT AND
LABOR LAW MATTERS

WHEREAS, the Township requires legal counsel to provide legal services in connection with employment law and labor law related issues; and

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

WHEREAS, the firm of Capehart & Scatchard, P.A. and Joseph F. Betley, Esquire have completed and submitted a Business Entity Disclosure Certification which certifies that said firm and said individual have 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 said firm and said individual from making any reportable contributions through the term of the contract; and

WHEREAS, the Township has decided to acquire the services of the firm of Capehart & Scatchard, P.A. and Joseph F. Betley, Esquire as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; 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. Capehart & Scatchard, P.A. and Joseph F. Betley, Esquire with offices at 8000 Midlantic Drive, Suite 300, Mount Laurel, New Jersey are hereby appointed Special Legal Counsel to handle employment law and labor law matters in conjunction with and at the direction of the regular Township Solicitor and as directed by the Township Committee.

3. This contract shall continue for the length of time necessary for completion of the aforesaid legal services, unless sooner terminated by the Township of Upper, at the option of the Township of Upper.

4. This Contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Capehart & Scatchard, P.A. and Joseph F. Betley, Esquire have professional knowledge as to legal matters which knowledge is particularly valuable to the Township Committee.

NOTICE OF CONTRACT AWARD

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

1. 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.

2. 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.

3. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Capehart & Scatchard, P.A. and Joseph F. Betley, Esquire in accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein. Upon execution of all parties thereto said contract shall become effective.

4. 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.

5. This Resolution shall be effective as of adoption.

Resolution No. 104 - 2011

Offered by: Newman

Seconded by: Conrad

Adopted: April 25, 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> x </u>	<u> </u>	<u> </u>	<u> </u>

Newman x
Palombo x

8. Authorizing the Upper Township Lacrosse Association to host the End of Season Playoffs at Amanda’s Field Complex on Sunday May 22, 2011.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 105 - 2011**

**RE: AUTHORIZING THE UPPER TOWNSHIP LACROSSE ASSOCIATION TO
HOST THE END OF SEASON PLAYOFFS AT AMANDA’S FIELD COMPLEX
ON SUNDAY MAY 22, 2011**

WHEREAS, the Upper Township Lacrosse Association, has submitted a proposal to the Upper Township Committee requesting authority to host the End of Season Playoffs for the Lacrosse League on May 22, 2011 at Amanda’s Field Complex, as well as entertainment and refreshments as more particularly specified in their proposal, a copy of which is attached hereto as Exhibit “A”; and

WHEREAS, these games and events will be held on property owned by the Township of Upper; and

WHEREAS, Party Hoppers, a provider of entertainment at the event as set forth in the proposal, has obtained the amount and type of insurance recommended by the Township’s Risk Management Consultant and a copy of their insurance certificate is attached as Exhibit “B”; and

WHEREAS, the event organizers have represented that approvals have been obtained from the New Jersey State Police, and any all other governmental agencies or entities having any jurisdiction or interest in the event; 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 Upper Township Lacrosse Association to host the End of Season Playoffs event to be held on May 22, 2011 as specified in this Resolution and in the accompanying Exhibits subject to and conditioned upon the following:

(A) Upper Township Lacrosse Association, and all event sponsors as set forth in the event proposal, have 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. Certificate(s) of Insurance have been provided to the Township Clerk, which the Risk Management Consultant of the Township of Upper has approved Certificate(s) of Insurance. Said Certificate(s) of Insurance names the Township of Upper, its officials, officers and employees, as an additional insured.

(B) Upper Township Lacrosse Association 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 sponsors have provided written authorization from the above entities, including any conditions required of said entities, to the Township Clerk.

- (C) Upper Township Lacrosse Association, has provided a Use of Facilities Agreement in the form attached hereto as Exhibit "C".
- (D) Setup for the event will take place at 8:00 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 Sponsors fail 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. 105 -2011
Offered by: Gabor
Adopted: April 25, 2011

Seconded by: Newman

Roll Call Vote:
NAME YES NO ABSTAINED ABSENT

Conrad	_____	_____	_____X_____	_____
Corson	_____X_____	_____	_____	_____
Gabor	_____X_____	_____	_____	_____
Newman	_____X_____	_____	_____	_____
Palombo	_____	_____	_____	_____X_____

9. Authorizing Abundant Life Assembly of God use of Softball field at Amanda’s Field Recreation Complex.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 106-2011
RE: AUTHORIZING ABUNDANT LIFE ASSEMBLY OF GOD TO USE
TOWNSHIP FACILITIES AND TO PLAY CHURCH SOFTBALL GAMES
AT AMANDA’S FIELD**

WHEREAS, Abundant Life Assembly of God a Church organization, (collectively “Sponsor”) of 44 Route 50, Seaville, New Jersey, has submitted a proposal to the Upper Township Committee requesting authority to use Township fields every Monday Night beginning April 11, 2011 to September 11, 2011 from 5:30 p.m. to 8:00 p.m. for Church Softball practices and games at Amanda’s Field;

WHEREAS, these practices and games will be held on property owned by the Township of Upper; and

WHEREAS, the proposed games are sponsored by Abundant Life Assembly of God Church and the Sponsor has obtained the amount and type of insurance recommended by the Township’s Risk Management Consultant and a copy of their insurance certificate is attached as Exhibit “A”; and

WHEREAS, the Sponsor has represented that approvals have been obtained from the New Jersey State Police, and any all other governmental agencies or entities having any jurisdiction or interest in the Softball events; 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 Abundant Life Assembly of God to permit the use of Township facilities at Amanda's Field for practices and games, as specified in this Resolution and in the accompanying exhibits subject to and conditioned upon the following:

(A) The events described in this Resolution are carried out by Abundant Life Assembly of God. The Sponsor has no connection, direct or indirect, with the Township of Upper or any of its officials or employees. The Sponsor shall not, in any way, directly or indirectly, represent that any practice or game 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 Softball events, it must be made clear that the events are not and shall not be considered Township of Upper sponsored or sanctioned events.

- (B) Abundant Life Assembly of God Church Organization has provided general comprehensive liability insurance in form and substance satisfactory to the Township of Upper's Risk Management Consultant. A Certificate of Insurance has been provided to the Township Clerk, which the Risk Management Consultant of the Township of Upper has approved. Said Certificate of Insurance names the Township of Upper as an additional insured.
- (C) Abundant Life Assembly of God Church the event Sponsor, has obtained written approval from and will comply with all conditions imposed by the following entities:
- (i) Risk Management Consultant of the Township of Upper.
 - (ii) New Jersey State Police.
 - (iv) Upper Township Rescue Squad.
- The event Sponsor has provided written authorization from the above entities, including any conditions or recommendations of said entities, to the Township Clerk.
- (D) Abundant Life Assembly of God Church has provided a Use of Facilities Agreement in favor of the Township of Upper, its officials, officers and employees in the form attached hereto as Exhibit "B".
- (E) Prior to the use of Township facilities, the Sponsor must:

(i) Provide to the Township executed Player Indemnification Agreements for all players, participants, coaches and team members. This Agreement must be on a form approved by the Township.

(ii) The Sponsor must inspect the field or facility prior to each use and report any defective, hazardous or dangerous conditions found at the facility to the Upper Township Superintendent of Public Works and immediately cease use of the facility until the conditions are remedied. After use of the facility the Sponsor shall immediately report to the Township any and all defects, hazards, damages or dangerous conditions upon or adjacent to the facility.

(F) The Sponsor must schedule the use of any Township facility, field at Amanda's Field in advance with the Department of Sports and Recreation Secretary. The Sports and Recreation Secretary shall confirm in writing to the Sponsor the dates and times of such authorized use. The Sports and Recreation Secretary shall have complete discretion in scheduling use and shall give priority to existing Township programs that utilize the fields and facilities. There is no guarantee as to the availability of any field or facility at any time.

- (G) After each game at Amanda’s Field, the Upper Township Superintendent of Public Works shall inspect the field or facility to determine if future games or use shall be permitted. The use of Amanda’s Field is only authorized on a game-by-game basis, depending upon the results of the inspection by the Superintendent of Public Works.
- (H) The approval granted herein is subject to all conditions and stipulations as may be recommended or imposed by the Township’s Risk Management Consultant or Insurance Representatives. The Township may revoke this approval if the event sponsors fail to comply with any said condition or recommendation or any other condition of this Resolution.
- (I) The authorization granted by this Resolution may be revoked by the Township Committee at any time if it determines it is in the best interest of the Township.

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. 106-2011
 Offered by: Newman
 Adopted: April 25, 2011
 Roll Call Vote:

Seconded by: Gabor

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

10. Resolution supporting a “No Passing Zone” along New Jersey State Highway Route 9 in the Vicinity of Mile Post 23 (Wrights Lane) and Mile Post 25 (Osprey Point), within the Township of Upper.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 107–2011
RE: RESOLUTION SUPPORTING A “NO PASSING ZONE”
ALONG NEW JERSEY STATE HIGHWAY ROUTE 9 IN THE
VICINITY OF MILE POST 23 (WRIGHTS LANE) AND
MILE POST 25 (OSPREY POINT CONDOMINIUMS),
WITHIN THE TOWNSHIP OF UPPER**

WHEREAS, the New Jersey Department of Transportation has conducted an investigation to inventory the existing center line markings along New Jersey State Highway Route 9 in Upper Township, Cape May County; and

WHEREAS, based on this investigation it has been recommended to revise the center pavement markings to a “No Passing Zone” along NJ Route 9 in the vicinity of Mile Post 23 (Wrights Lane) and Mile Post 25 (Osprey Point Condominiums); and

WHEREAS, in order to insure the safety of citizens, residents and the general public, the Township Committee of the Township of Upper supports the creation of a “No Passing Zone” along NJ Route 9 in the vicinity of Mile Post 23 (Wrights Lane) and Mile Post 25 (Osprey Point Condominiums); 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 of the Township of Upper hereby supports the installation of a “No Passing” lane on NJ Route 9 in the Vicinity of Mile Post 23 (Wrights Lane) and Mile Post 25 (Osprey Point Condominiums).

3. The Township Committee hereby requests all County and State officials take the appropriate action forthwith in order to implement the installation of the no passing zone as aforesaid along NJ Route 9.

4. 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.

5. A copy of this Resolution shall be forwarded to the appropriate Cape May County and State of New Jersey officials.

Resolution No. 107-2011

Offered by: Conrad

Seconded by: Corson

Adopted: April 25, 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>

11. Resolution to end State diversion of municipal revenues and demand compliance with State laws.

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 108-2011

RE: RESOLUTION TO END STATE DIVERSION OF MUNICIPAL REVENUES AND DEMAND COMPLIANCE WITH STATE LAWS

WHEREAS, there are two main formula-driven general municipal property tax relief programs currently on the books in our Garden State; and

WHEREAS, though often referred to as “State Aid” programs, these are actually revenue replacement programs, intended to replace property tax relief funding that was, formerly, generated through taxes assessed and collected locally; and

WHEREAS, the first is the Energy Tax Receipts Property Tax Relief program - the direct descendant of the Public Utility Gross Receipts and Franchise Tax, which was a tax on regulated public utilities originally assessed and collected at the municipal level; and

WHEREAS, in the early 1980s, at the request and for the convenience of the tax paying utilities, the State became the collection agent for this assessment, and the law that effected this change promised that the proceeds would be distributed back to the municipalities, which provide services to utility facilities and from whence come utility profits; and

WHEREAS, the State of New Jersey never honored that commitment, immediately and annually diverting large and growing portions of the proceeds to its own general fund; and

WHEREAS, modernization and deregulation led to a major reform of utility taxes in the mid-nineties, which validated and, supposedly, capped the State’s annual portion of the tax proceeds; and

WHEREAS, that law also included a ‘poison pill,’ which required the State to annually increase the municipal distribution of Energy Tax proceeds and to cap its skim; and it, further, provided that failure to honor that pledge would result in the forfeiture of the State’s authority to collect the tax; and

WHEREAS, around the same time, for its own convenience, the State decided to ‘consolidate’ a number of previously discrete municipal property tax relief programs; and

WHEREAS, while some may see ‘no rhyme or reason’ to the distribution of Consolidated Municipal Property Tax Receipts Aid (CMPTRA), each of its component parts was distributed according to state established formulas, and many of those parts were, like Energy Taxes, the lineal descendants of taxes that had once been assessed and collected at the municipal level; and

WHEREAS, among its many components, CMPTRA includes the Financial Business Tax, the Business Personal Property Tax Replacement, the Railroad Class II Property Tax, the Insurance Franchise Tax, the Corporation Business Tax on Banking Corporations and State PILOT payments, that had been under-funded for many years, prior to being folded into CMPTRA; and

WHEREAS, these are, or were, all municipal revenue replacement programs - not, properly speaking, State aid, in that they were not meant to make things better for municipal property taxpayers; they were only intended to keep things from getting worse; and

WHEREAS, in the late-nineties, a law was passed that required both the Energy Tax and CMPTRA distributions to be annually increased by the rate of inflation; and

WHEREAS, that law posed a special problem for future State budget makers, but, as those budget makers viewed the matter, the problem was not how to comply with the requirement; the problem was how to avoid compliance without invoking the Energy Tax ‘poison pill,’ and

WHEREAS, State policy makers found a way to increase Energy Tax distributions by the rate of inflation for five straight years without providing municipalities with one new dollar in property tax relief, which was done by annually reducing the CPMTRA distribution by the same amount that it increased the Energy Tax distribution; and

WHEREAS, thereafter, the State strayed even farther from original legislative intent, when, in 2008 (SFY 2009), CMPTRA was reduced by about \$62 million more than the Energy Tax was increased, and in 2009 (SFY 2010), the net loss equaled about \$32 million; and

WHEREAS, the State’s Fiscal Year 2011 budget, in which the total distribution of CMPTRA and ETR was reduced by approximately 17 percent, or \$272 million from \$1.565 billion to \$1.293 billion, honoring neither the letter nor the spirit of applicable State laws.

NOW, THEREFORE, BE IT RESOLVED, by the Township of Upper, that we demand an immediate end to the State’s reliance on the municipal property tax relief revenues to balance its budget and address other priorities; and

BE IT FURTHER RESOLVED, that we call on the Governor to introduce and the Legislature to adopt an FY 2012 State Budget that provides for the full statutory distribution of Energy Tax and CMPTRA revenue replacement funding, and to continue to honor the letter and spirit of the applicable State statutes, in all years, thereafter; and

BE IT FURTHER RESOLVED, that a copy of this Resolution be forwarded to the members of the New Jersey General Assembly, the New Jersey State Senate, the Lieutenant Governor and the Governor of State of New Jersey.

Resolution No. 108-2011

Offered by: Conrad Seconded by: Newman

Adopted: April 25, 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> X </u>	<u> </u>	<u> </u>	<u> </u>
Newman	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Palombo	<u> </u>	<u> </u>	<u> </u>	<u> X </u>

12. Refund EMS Ambulance Billing Overpayment to PGBA, LLC/Tricare Refunds.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY**

**RESOLUTION
RESOLUTION NO. 109-2011
RE: REFUND EMS AMBULANCE BILLING OVERPAYMENT
TO PGBA, LLC/TRICARE REFUNDS**

WHEREAS, an overpayment has occurred in the account of Eric Schairer, an EMS ambulance billing patient, where the monies sent to the Township of Upper by PGBS, LLC/Tricare were in excess as evidenced by the attached copy of a letter attached hereto as Exhibit A.

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

<u>AMOUNT</u>	<u>NAME</u>
145.00	PGBA, LLC Tricare Refunds Attention: Tricare North Region P.O. Box 870153 Surfside Beach, SC 29587-9753

Resolution No. 109-2011

Offered by: Newman

Seconded by: Conrad

Adopted: April 25, 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

13. Public Hearing and Final Adoption of Ordinance No. 007-2011, RE: AN ORDINANCE NAMING THE ALLEY FROM COMMONWEALTH DRIVE TO BAYVIEW DRIVE BETWEEN TAX BLOCKS 856 AND 856.01 IN THE STRATHMERE SECTION OF THE TOWNSHIP OF UPPER, CAPE MAY COUNTY, NEW JERSEY.

During the Public Comment section of the hearing there were no speakers. Motion to adopt

Ordinance No. 007-2011 made by Jay Newman, seconded by Frank Conrad. During roll call vote all 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. 007-2011

AN ORDINANCE NAMING THE ALLEY FROM COMMONWEALTH DRIVE TO BAYVIEW DRIVE BETWEEN TAX BLOCKS 856 AND 856.01 IN THE STRATHMERE SECTION OF THE TOWNSHIP OF UPPER, CAPE MAY COUNTY, NEW JERSEY

WHEREAS, there is an alley located in the Strathmere section of the Township. Said alley is entirely contained within Upper Township and does not connect with any street or highway in any other municipality; and

WHEREAS, the 9-1-1 regulations require that all municipal, county and state roadways be clearly named and appear on an official map of the municipality; and

WHEREAS, the Township Committee has received a request by residents of the Strathmere section of the Township to name the alley from Commonwealth Drive to Bayview Drive between Tax Blocks 856 and 856.01 "Bertha Wittkamp Alley" in honor of

Bertha Wittkamp who was the first baby born in the Strathmere section of the Township and whose family has resided in Strathmere for over 115 years.

WHEREAS, N.J.S.A. 40:67-1 authorizes the governing body of a municipality to provide for the naming and for the changing of the names of streets and highways, and the erection thereof of signs showing the names thereof, and guideposts for travelers; and

WHEREAS, it is in the public interest to name the aforesaid alley located in the Strathmere section of the Township to Bertha Wittkamp Alley;

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 alley that runs from Commonwealth Drive to Bayview Drive between Tax Blocks 856 and 856.01 in the Strathmere section of the Township shall hereafter be known as "Bertha Wittkamp Alley".

SECTION 2: The Department of Public Works is hereby authorized and directed to erect street signs in accordance with this street naming.

SECTION 3: All Township officials having jurisdiction or responsibility shall take such action as is necessary and warranted to effect such street naming on all official maps of the Township including but not limited to the Township Tax Map and the 9-1-1 Emergency Response Map covering the Township and this street name shall be communicated to the Upper Township Rescue Squad, all volunteer fire companies serving the Township of Upper and the New Jersey State Police.

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

SECTION 5: 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 6: 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 28TH 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 25TH 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

13. **Introduction and First Reading of Ordinance No. 008-2011, RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XX (ZONING) OF THE CODE OF UPPER TOWNSHIP.** Motion was made by Jay Newman, second by Frank Conrad to introduce Ordinance No. 008-2011 with Public Hearing and Final Adoption scheduled for May 9, 2011. During roll call vote all four Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E**

ORDINANCE NO. 008-2011

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XX
(ZONING) OF THE CODE OF UPPER TOWNSHIP**

WHEREAS, the Township Planning Board prepared and adopted a Conservation Plan Element Update and Master Plan Reexamination Report on February 17, 2011 in accordance with N.J.S.A.40:55D-89; and

WHEREAS, the Township Planning Board prepared a DRAFT Form Based Code in February 2010; and

WHEREAS, the Township Committee and the Upper Township Planning Board are working with the New Jersey Department of Transportation and the Municipal Land Use

Center on the Rt-9 Transportation Study which is analyzing the regional traffic concerns with the development of a walkable and liveable town center as outlined in Upper Township Resolution 247-2010; and

WHEREAS, the Township Committee desires to adopt Land Use Ordinance provisions incorporating a number of recommendations from the Master Plan Reexamination with the understanding that there will also be future ordinance amendments incorporating other Master Plan Reexamination recommendations as well as, possibly, findings of the ongoing Rt-9 Transportation Study.

WHEREAS, the Township wishes to create an economic viable and walkable town center; and

WHEREAS, the Township Committee referred this zoning ordinance amendment to the Upper Township Planning Board pursuant to N.J.S.A. 40:55D-64 and N.J.S.A. 40:55D-26; and

WHEREAS, the Township Planning Board reviewed and discussed the proposed zoning ordinance amendment and adopted a resolution approving this proposed zoning ordinance amendment finding said amendment is consistent with the Upper Township Master Plan Reexamination, as amended at their April 21, 2011 meeting; and

WHEREAS, the zoning ordinance revisions and amendment herein are part of those recommended in connection with the periodic general reexamination of the Upper Township Master Plan as evidenced by the Master Plan Reexamination Report and Land Use Plan Amendment of January 2011, as amended; and

WHEREAS, the Township Committee finds that the zoning ordinance revisions herein are substantially consistent with the Land Use Plan Element and Master Plan Reexamination to date;

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 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended and supplemented as hereinafter provided:

Amend **Section 20-2.1 Definitions of Township Wide-Application** as follows:

Build-to line shall mean for

- a. State Highways the line along the Desirable Typical Section (DTS) as defined in the New Jersey State Highway Access Code (N.J.A.C. 16:47)
- b. County Roads shall mean the line along the proposed right-of-way standards for the road classification as shown in the Cape May County Transportation Plan
- c. Local roads shall be 36' from the centerline of the road

Sign, awning shall mean a sign that is mounted, painted or attached to an awning or other window or door canopy that is otherwise permitted by ordinance.

Sign, directory shall mean a sign listing the tenants or occupants of a building or group of buildings and that may also indicate their respective professions or business activities.

Sign, freestanding shall mean any non-movable sign not affixed to a building.

Sign, monument shall mean a freestanding sign, other than a pole sign, in which the entire bottom is in contact with or is close to the ground. The base of the freestanding sign shall be of permanent materials such as stone, brick, decorative block compatible with the architecture of the principal building.

Sign, pole shall mean a sign that is mounted on a freestanding pole or other support so that the bottom edge of the sign is 6 feet or more above grade.

Sign, pylon shall mean a pole sign.

Add the following new zoning district to **Section 20-3.1 Zoning Districts**:

Symbol	Zoning District
MTC	Marmora Town Center (overlay district in TC and TCC)

Revise **Section 20-3.2 Zoning Map** as follows:

The map prepared by the Township Engineer last revised April 8, 2011 is hereby adopted as the Zoning Map of the Township of Upper and is incorporated into this Ordinance at the end of this Chapter XX.

Replace **Section 20-4.7e Area and Yard Requirements** with the following:

The area and yard requirements pertaining to all permitted uses within the “TC” and “TCC” Districts are provided on Schedule C Area and Yard Requirements for Zone Districts except as modified or supplemented by this section.

1. Within the Marmora Town Center District (MTC) the following shall apply:
 - (a) the maximum front yard setback of structures shall be zero (0’) feet from the build-to line.
 - (b) the majority of the building must be at the build-to line, but 25 percent of the façade may be set back at a maximum of ten (10’) feet to create one or more alcoves enclosed on three sides. Outdoor dining, canopies and balconies are permitted within such alcove areas.
 - (c) Within the Marmora Town Center District the side yard (each side) shall be a minimum of zero feet, if attached to an adjacent building or a minimum of five feet if not attached to an adjacent building.
 - (d) Within the Marmora Town Center District the minimum building height shall be two (2) stories.
2. The maximum building height shall be three (3) stories.
3. Standards for multifamily housing and townhouses are provided under subsection 20-4.7j.

Add the following to **Section 20-4.7g Parking Standards**:

- (4) Parking shall not be permitted in the front yard along any road.
- (5) For single uses or shopping centers that have more than a total of 80,000 square feet, seventy-five (75%) percent of the required parking shall be provided within a parking garage or other structure with two or more stories.
- (6) Parking Garages shall not be considered a building for the calculation of building coverage but must meet all other requirements for accessory setbacks and impervious coverage limits. If the parking garage is attached to the principal building then that portion dedicated to the parking of vehicles shall not be included in the calculation of building coverage.
- (7) Parking garages shall be provided with an architectural facade that screens the structure and is compatible with the principal use on the lot and shall comply with the standards set forth in subsection (i) below to the maximum extent practicable.

Add the following **Section 20-4.7k Open Space Plaza Design Standards**:

1. One (1) open space plaza shall be provided directly adjacent to a principal structure for each 80,000 square feet of non-residential building.
2. Open space plaza shall meet the following standards
 - i. Encompass two (2%) percent of the lot area but shall not be less than 2,000 square feet in size.

- ii. One (1) tree per 1,250 square feet of plaza.
 - iii. Planting bed area of 150 square feet per 1,250 square feet of plaza.
 - iv. Pedestrian-scaled lighting must maintain an average of 0.50 foot candle illumination within the plaza.
 - v. Benches and picnic tables with 1 seat or 24" of bench area per 200 square feet of plaza.
 - vi. One (1) Trash and recycling receptacle per 2,000 square feet of plaza.
 - vii. One (1) bike rack per 8,000 square feet of plaza.
 - viii. Plazas over 8,000 square feet shall one (1) piece of public art or water feature.
3. The open space plaza shall be maintained by the property owner.

Add the following **Section 20-5.6g3**:

3. Any lot in a residential zoning district not meeting the zoning requirements for a single-family residential unit may have a construction permit issued for a single family home provided that all of the following conditions are met:
- (a) The owner of the lot does not own any adjacent land and cannot either sell the lot to an adjacent owner or purchase adjacent land. The following documentation shall be submitted with zoning permit application to determine if the subject lot is an isolated lot which cannot acquire more land or be sold to an adjacent owner:
 - i. Real estate appraisal of the property determining its fair market value prepared by a licensed real estate appraiser; and
 - ii. Letter offering to buy adjacent vacant property and/or sell your property to an adjacent owner at fair market value; and
 - iii. Provide evidence by copy of the letter sent with the return receipt requested sent to all adjacent property owners; and
 - (b) The lot shall be deed restricted in perpetuity such that the residential unit shall be occupied by and affordable to households as defined by the Affordable Housing Rules as promulgated time to time by the State of New Jersey, such that as of the adoption of this Ordinance said deed restriction shall require the property be occupied by households earning no more than thirty (30%) percent of the median income for Region 6 as adjusted for family size; and
 - (c) Said lot shall contain a minimum of four thousand (4,000) square feet; and
 - (d) Building coverage shall not exceed twenty-five (25%) percent; and
 - (e) Impervious coverage shall not exceed fifty (50%) percent; and
 - (f) Parking requirements as defined by this chapter, are met; and
 - (g) Minimum Side Yard setback shall be six (6') feet; and
 - (h) Minimum Rear Yard setback shall be fifteen (15') feet; and
 - (i) Minimum Lot Frontage and Width shall be forty (40') feet; and
 - (j) Front yard depth and setback shall conform to those of adjoining property owners; and
 - (k) Maximum accessory structure coverage shall be five (5%) percent; and
 - (l) Minimum accessory structure rear or side yard setback shall be five (5') feet; and
 - (m) Maximum building height shall be twenty (20') feet; and

- (n) Minimum building size shall be eight hundred (800) square feet; and
- (o) Maximum gross floor area shall be one thousand two hundred (1,200) square feet; and
- (p) Maximum number of bedrooms shall be no more than two (2) bedrooms.

Amend following subsections from **Section 20-5.10. Signs** as follows:

Replace **Section 20-5.10.a.2.** with:

Freestanding signs, where permitted, shall be supported by one (1) or more columns or uprights which are firmly embedded in the ground, except within the TC and TCC zone districts, pole signs shall not be permitted. Exposed guy wires, chains or other connections shall not be made in permanent support of the freestanding signs.

Replace **Section 20-5.10.a.3. Height.** with:

Height. No freestanding or attached sign shall be higher at any point than the roofline of the building except that no sign shall exceed any lesser height if particularly specified in Section 20-4 or in this Section 20-5.10. In addition, no attached sign shall project into or hang over a street right-of-way, and no sign shall project beyond a building in a manner placing it above an area traversed by motor vehicles, such as, but not limited to, driveways and parking areas. Where signs project beyond a building facade or wall over a pedestrian way, the lowest portion of the sign shall be at least eight (8') feet above the walkway.

Replace **Section 20-5.10.a.7 Portable Signs.** with:

4. Portable Signs shall conform to the following:
 - (a) Each conforming commercial lot shall be permitted to have one (1) portable sign.
 - (b) Sign shall be of professional grade materials and quality.
 - (c) Shall not be illuminated or electronic.
 - (d) Sign shall not be located in the sight triangle.
 - (e) Sign shall be removed from display after business hours. Portable sign may be one (1) of the following types:
 - (1) A-Frame sign with a maximum dimension of two feet by three feet (2'x3').
 - (2) Yard sign with a maximum dimension of two feet by two feet (2'x2').
 - (3) Variable message sign with a maximum dimension of two feet by three feet (2'x3').
 - (f) Shopping Center shall be permitted one (1) portable sign per business. Sign shall be permitted in front of business on sidewalk, but not placed to block pedestrian access. Sign shall not be permitted along the roadway of a Shopping Center.

Replace **Section 20-5.10.a.13 Billboards and Off-site Commercial Advertising Signs.** with:

Billboards and Off-site Commercial Advertising Signs. No billboard or outdoor off-site commercial advertising signs, other than signs advertising agricultural commercial establishments, shall be permitted. Billboard or outdoor off-site commercial advertising signs advertising agricultural commercial establishments, shall be permitted provided that:

- (a). No more than two (2) signs shall be placed in any one direction along each road directly approaching the establishment; and
- (b). Sign shall not exceed thirty-two (32) square feet in area.
- (c). Shall be permitted a portable sign in accordance with subsection a.7 above.
- (d). Portable sign shall only be permitted during season that the commercial establishment is open.

Replace **Section 20-5.10.a.14** with:

Banners shall be permitted on walls, fences or supported by posts. Banners located on posts must meet the setback requirements for free-standing sign. Banners shall not exceed the total sign area permitted on the premises for a permanent wall signs. Such banners shall be permitted in addition to any permanent signage allowed. Banners are permitted for two (2), thirty (30) day periods within a calendar year. The Zoning Officer shall be notified in writing before a banner is displayed.

Replace **Section 20-5.10.b.3(b). Commercial "TC," "TCC," "CM2," "CM4," and "CMP" District (lot size under three (3) acres).** with:

- (b) Freestanding signs: One (1) unlighted or lighted freestanding sign for each principal building or group of attached principal buildings (except auto service stations) except all freestanding signs in the TC or TCC zones shall be monument signs.
 - (1) Height:
Thirty-five (35') feet or the height of the principal building, whichever is shorter except within the TC or TCC zone where the height shall not exceed eight feet (8').
 - (2) Setback:
At least twenty (20') feet from all street lines and fifty (50') feet from all side property lines. Where existing development or roadway alignment prevent adequate visibility of signs meeting the setback requirements of this Chapter, signs may be constructed up to the street line provided that adequate sight distance is provided and further provided that no portion of any sign extends beyond the street line.
 - (3) no change.

Replace **Section 20-5.10.b.4. Commercial "TC," "TCC," "CM2," "CM4," and "CMP" District (lot size of three (3) acres.)** with:

- (a) Attached signs: One (1) unlighted or lighted sign for each occupant of the building. The total sign area of the sign shall not exceed ten (10%) percent of the areas of the face of the store wall upon which such sign is attached or seventy-five (75) square feet, whichever is smaller. Where building(s) is (are) designed for rear or side entrances, one (1) unlighted sign may be attached flat against the building at the rear and side entrances,

each sign not to exceed an area equivalent to half that of the sign on the front of the building.

- (b) Freestanding signs: One (1) unlighted or lighted free-standing sign for each principal building or shopping Center except all freestanding signs in the TC or TCC zones shall be monument signs.

- (1) Height:

- Thirty- five (35') feet or the height of the principal building, whichever is shorter except within the TC or TCC zone where the height shall not exceed eight feet (8').

- (2) Setback:

- At least thirty (30') feet from any street or lot line. Where existing development or roadway alignment prevent adequate visibility of signs meeting the setback requirements of this Chapter, signs may be constructed up to the street line provided that adequate sight distance is provided and further provided that no portion of any sign extends beyond the street line.

- (3) no change

Replace **Section 20-6.4.e.7(a)** with:

- (a) One (1) freestanding sign advertising the name of the station or garage and the principal products sold on the premises, including any special company or brand name, insignia or emblem, provided that each such sign shall not exceed thirty-five (35') feet in area on a side and shall be set back twenty (20') feet from street lines and fifty (50') feet from side lot lines and provided further that the sign shall be not less than ten (10') feet, nor more than twenty (20') feet above the ground and provided that said sign comply with all provisions of Section 20-5.10.

Revise First sentence of **Note #4** to **Schedule A**:

Travel trailers, campers, boats and boat trailers to be parked or stored in the rear and side yards only. Their dimensions shall not be counted in determining total building coverage and they shall not be used for temporary or permanent living quarters while situate on a lot.

Add the following to **Schedule C**:

Footnote # (10) See additional TC and TCC front yard and side yard setback and height standards in subsection 20-4.7e. Add in second column under "Town Center Core" and "Town Center"

SECTION 2: EFFECTIVE DATE: This ordinance shall take effect immediately

upon the following:

- (a) Certification by the Pinelands Commission in accordance with N.J.A.C. 7:50

- Subchapter 3 for sections affecting the Pinelands Management Zone; and

(b) Publication as required by law.

SECTION 3: REPEALER: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION 4: 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 5: CODIFICATION: This Ordinance shall be codified in the Upper Township Code at the sections referred to above.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 25 TH OF APRIL, 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 9TH DAY OF MAY, 2011 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.
BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.

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WANDA GAGLIONE, TOWNSHIP CLERK
TOWNSHIP OF UPPER

14. **Introduction and First Reading of Ordinance No. 009-2011, RE: AN ORDINANCE AUTHORIZING THE TOWNSHIP OF UPPER TO ENTER INTO AN ANTENNA SITE LEASE AGREEMENT WITH RC CAPE MAY HOLDINGS, LLC FOR NOMINAL CONSIDERATION.** Motion was made by Jay Newman, seconded by Frank Conrad to introduce Ordinance No. 009-2011 with Public Hearing and Final Adoption scheduled for May 9, 2011. During roll call vote all four Committee members present voted in the affirmative.

CORRESPONDENCE

NEW BUSINESS

- 15. Church of the Resurrection request to amend Bingo License #385.**
Motion was made by Jay Newman, second by Kristine Gabor to approve the amendment. During roll call vote all four Committee members present voted in the affirmative.
- 16. Robert Barker request for handicap parking designation in front of Apt. #3 at the corner of Sea Cliff and N. Commonwealth in Strathmere.** Robert and Ellen Barker were present this evening. Mrs. Barker referred to her letter dated April 8th in that she requested a handicap parking space in front of her home in Strathmere. Motion was made by Curtis Corson, seconded by Jay Newman to approve the request for handicap parking. The Committee authorized Mr. Dietrich to prepare a handicap-parking ordinance for introduction at a future meeting.
Her 2nd request was for the use of a motorized golf cart on the beach for Mr. Barker who is handicapped. She commented that other NJ shore towns allow motorized vehicles on the beach. Although a valid request, there was concern as to whether or not the Beach Management Plan would even allow this. Mrs. Barker stated that other shore towns allow this. There will be further review prior to a final decision on this request.
- 17. David Grusemeyer request for the vacation of the street known as Pacific Avenue in Palermo.** Due to conflict, attorney Norman Briggs will handle this matter as this property is within the vicinity of property owned by Township employees. The matter was tabled to a future agenda.
- 18. Roberta Townsend: a) request to purchase Township owned property Block 584 Lot 36; b) request to exchange Block 584, Lot 1 for Township owned property at Block 584, Lot 36, located at Pacific and Seasounds Avenues, Palermo.** It was discussed that if granted this application would consist of an exchange of two Township lots for one of Mrs. Townsend's lots and the monetary difference between the values. Motion was made by Kristine Gabor, second by Jay Newman to grant the request. An ordinance will be placed on a future agenda.
- 19. Robert Breunig request to purchase Township owned property Block 453 Lot 1, at 1901 Dennisville Petersburg Road, Petersburg.** Jay Newman abstained from any participation in this matter and stepped away from the dais. It was discussed that this tract was included as part of the Township's COAH Plan however that it may not be needed due to changes in the Township's housing requirement. Further investigation is necessary before a decision can be made. Motion by Frank Conrad to table, second by Curtis Corson. During roll call vote there were three votes in the affirmative. Mr. Newman did not participate and did not vote.
- 20. Paul Baruffi (Sole Proprietor) request to use Community Center July 25th to 29th and August 1st to 5th for Hoops Basketball Camp.** There were questions as to whether U.T. Basketball sponsors this event or not. It was decided that more information is needed prior to a decision and the matter was tabled.

21. **Cape Atlantic Foods, Burger King—Marmora Shopping Center, Block 651, Lot 1; request for release of Performance Bond.** Motion was made by Curtis Corson, second by Frank Conrad to release the Performance Bond. During roll call vote all four Committee members present voted in the affirmative. A resolution will be placed on a future agenda.

23. **Reaffirming Resolution No. 095-2010, and review of annual Civil Rights Policy for the Township of Upper. The Municipal Clerk read the following into the record:** The Committee affirms the Township’s policy on civil rights, discrimination, and harassment, with respect to all officials, appointees, employees, prospective employees, volunteers, independent contractors, and members of the public that come into contact with municipal employees. Section 8 of Resolution No. 095-2010 requires that at least annually, the Municipal Clerk shall cause a summary of this resolution and the procedures established pursuant to this resolution to be communicated within the Township of Upper. This communication shall include a statement from the governing body expressing its unequivocal commitment to enforce this resolution. This summary is also posted on the Township of Upper’s website in order for the public to be made aware of this policy and the Township of Upper’s commitment to the implementation and enforcement of this policy.

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.” Moved by Jay Newman, second by Frank Conrad to approve all bills submitted for payment. During roll call vote all four Committee members present voted in the affirmative.

Bills approved for payment:	\$120,029.97
Payroll:	\$158,155.85

REPORT OF MUNICIPAL DEPARTMENTS:

24. **Zoning Office**

25. **Tax Assessor**

Reports are available from the Clerk’s Office.

PUBLIC COMMENT

Roberta Townsend, Chestnut Avenue, Palermo, asked about the introduction of Ordinance 008-2011 in that it creates zoning for mobile homes and commented that there are already enough campgrounds in Upper Township. The Committee advised her that the ordinance was creating zoning for mobile home parks and not campgrounds. She also commented on the large amount

of smoke from the campgrounds in her neighborhood; the Committee advised her to contact the local Fire Warden William Love.

Anthony Inserra, from Marmora, commented on the change of the meeting date. It was discussed that both the Mayor and Committeeman Jay Newman would not be able to attend the meeting of May 23rd and it was rescheduled to May 16th. The meetings for next month will be on May 9th and May 16th.

There were no other comments from the public and the regular portion of the meeting was closed.

CLOSED SESSION

26. **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 following motion into the record.

**TOWNSHIP OF UPPER
RESOLUTION NO. 110-2011
MOTION GOING INTO CLOSED SESSION
April 25, 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 – Citizens for Strathmere and Whale Beach v. Upper Township
2. Litigation – Ginn v. Upper Township
3. Litigation – Grubb v. Upper Township
4. Contract negotiations – CASA Payroll services
5. Personnel matters
6. Township security issues

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
Vote of Township Committee to adopt resolution.

Roll Call Vote:

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

RECONVENE PUBLIC PORTION OF MEETING

The following motions were made by Jay Newman and seconded by Frank Conrad:
a) Renew Casa Payroll contract for another year; and b) Move Passport Acceptance operations to the Tax Office with clerk typist from Finance to assist. During roll call vote all four Committee members present voted in the affirmative.

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 9:15 P.M. Next meeting is scheduled for May 9, 2011 at 7:30 P.M. Please be advised that the second meeting in May previously scheduled for the 23rd has been rescheduled for Monday May 16, 2011 at 7:30 PM. **The meetings scheduled for next month are May 9th and May 16th, (no meeting on May 23rd).**

Minutes prepared by

Wanda Gaglione, RMC
Municipal Clerk

Bill List:

55383 04/25/11 A0006 ADVANCE TREADS INC 355.00 2656
55384 04/25/11 A0018 ACTION SUPPLY INC. 260.24 2656
55385 04/25/11 A0028 ADVANTAGE RENTAL CENTER INC. 1,196.81 2656
55386 04/25/11 A0032 AGWAY /T/A J & S HOME & GARDEN 502.90 2656
55387 04/25/11 A0041 ALL ACTION WATER SPORTS, INC. 90.23 2656
55388 04/25/11 A0074 ATLANTICARE PHYSICIAN GROUP 3,426.75 2656

55389 04/25/11 A0091 ATLANTIC CITY ELECTRIC 5,063.10 2656
55390 04/25/11 A0167 HESS CORPORATION 1,668.42 2656
55391 04/25/11 B0024 BCMCAA 225.00 2656
55392 04/25/11 B0035 BELMONT & CRYSTAL SPRINGS 248.17 2656
55393 04/25/11 B0076 BOND, LAURENCE E. 1,882.63 2656
55394 04/25/11 B0184 BUSHONG, BRIAN 61.46 2656
55395 04/25/11 C0048 CAPE MAY COUNTY MUA 34,113.62 2656
55396 04/25/11 C0060 CAPRIONI'S PORTABLE TOILETS 1,092.00 2656
55397 04/25/11 C0068 COMCAST 220.16 2656
55398 04/25/11 C0077 CHERRY VALLEY TRACTOR SALES 29.99 2656
55399 04/25/11 C0078 CARTER, EDWARD, SR. 150.00 2656
55400 04/25/11 C0081 CAPE MAY COUNTY TECHNICAL HIGH 200.00 2656
55401 04/25/11 C0122 CMC LEAGUE OF MUNICIPALITIES 400.00 2656
55402 04/25/11 C0156 COMPUTER HOUSE OF SOUTH JERSEY 198.99 2656
55403 04/25/11 C0196 COMPUTER HOUSE 359.40 2656
55404 04/25/11 C0201 CRUZAN'S TRUCK SERVICE INC. 47.20 2656
55405 04/25/11 C0223 CASA PAYROLL SERVICE 218.35 2656
55406 04/25/11 D0016 DALEYS PIT 360.00 2656
55407 04/25/11 D0040 DELTA DENTAL OF N.J. INC. 7,066.25 2656
55408 04/25/11 E0012 EHRLICH PEST CONTROL INC 74.00 2656
55409 04/25/11 E0021 ENCHANTING FLORIST 575.99 2656
55410 04/25/11 E0047 EFINGER SPORTING GOODS CO 27.60 2656
55411 04/25/11 F0053 FORD, SCOTT & ASSOCIATES 8,500.00 2656
55412 04/25/11 G0021 GARTLAND, JOSEPH, INC. 307.81 2656
55413 04/25/11 G0028 GENTILINI FORD 74.98 2656
55414 04/25/11 H0073 HOME DEPOT CRC/GECF 320.95 2656
55415 04/25/11 J0014 JC MILLER'S 351.39 2656
55416 04/25/11 J0016 JERSEY SHORE PARTNERSHIP, INC 100.00 2656
55417 04/25/11 K0007 KACZMARSKI, RICHARD 141.96 2656
55418 04/25/11 K0031 KELLY PRODUCTS CO SUPPLIES 81.75 2656
55419 04/25/11 L0075 LEXISNEXIS T/A MATTHEW BENDER 5.34 2656
55420 04/25/11 L0080 LOWES, INC. 127.38 2656
55421 04/25/11 L0087 LINE SYSTEMS INC 1,440.88 2656
55422 04/25/11 M0059 MCDANIELS, WILLIAM J. III 292.98 2656
55423 04/25/11 M0103 MODERN GAS COMPANY, INC. 2,322.89 2656
55424 04/25/11 M0180 MED-TECH RESOURCE, INC. 137.34 2656
55425 04/25/11 M0188 MCCARTHY TIRE SERVICE OF PHILA 150.24 2656
55426 04/25/11 M0222 MUNICIPAL CAPITAL CORPORATION 392.00 2656
55427 04/25/11 N0043 NAPA AUTO PARTS OF S.JERSEY 490.87 2656
55428 04/25/11 N0052 NATL YOUTH SPORTS COACHED ASSN 20.00 2656
55429 04/25/11 O0025 OLD DOMINION BRUSH 159.14 2656
55430 04/25/11 P0032 PEDRONI FUEL CO. 1,272.43 2656
55431 04/25/11 P0050 PARSIO, ANTHONY 96.99 265655432 04/25/11 P0064 PITNEY BOWES 210.00 2656
55433 04/25/11 P0089 PREMIER SCHOOL AGENDAS, INC. 2,206.20 2656
55434 04/25/11 P0117 PYROTECNICO 3,000.00 2656
55435 04/25/11 P0121 PENGUIN COMMUNICATION LLC 79.68 2656
55436 04/25/11 R0029 RIDDELL/ALL AMERICAN 473.14 2656
55437 04/25/11 R0030 RIGGINS, INC. 9,278.30 2656
55438 04/25/11 S0020 AM SAN 367.86 2656
55439 04/25/11 S0072 SEGIN, STEWART S. 52.77 2656
55440 04/25/11 S0134 SO. JERSEY GAS COMPANY 286.32 2656
55441 04/25/11 S0185 STOCKTON STATE COLLEGE 3,136.91 2656
55442 04/25/11 S0196 STEWART BUSINESS SYSTEMS LLC 110.50 2656
55443 04/25/11 S0209 STAPLES ADVANTAGE 712.48 2656
55444 04/25/11 S0253 SAMPLE MEDIA, INC. 115.20 2656
55445 04/25/11 T0006 TCTA OF NJ C/O K. VERDOLINA 165.00 2656
55446 04/25/11 T0022 TERMINIX 51.00 2656
55447 04/25/11 T0032 THE PRESS & SUNDAY PRESS 100.32 2656
55448 04/25/11 T0034 THE PAPER OF U.T./GAZETTE 183.80 2656
55449 04/25/11 T0048 TILL PAINT CO/D. FITZGERALD 54.44 2656
55450 04/25/11 T0067 TOWNSHIP OF UPPER PETTY CASH 2.50 2656
55451 04/25/11 T0080 TREASURER STATE OF N.J. 30.00 2656
55452 04/25/11 T0085 TREASURER, STATE OF NEW JERSEY 331.00 2656
55453 04/25/11 T0087 TREASURER-STATE OF NEW JERSEY 1,958.00 2656
55454 04/25/11 T0089 TREASURER, STATE OF N.J. 304.00 2656
55455 04/25/11 T0131 TROUT, ROSEMARY 150.00 2656
55456 04/25/11 U0026 UNIVERSAL SUPPLY CO.INC. 145.25 2656
55457 04/25/11 V0005 VAN EMBDEN, NATHAN, ATTORNEY 187.50 2656
55458 04/25/11 V0022 VERIZON 48.35 2656
55459 04/25/11 W0045 WILDWOOD CATHOLIC HIGH SCHOOL 200.00 2656
55460 04/25/11 W0050 WIRELESS ELECTRONICS, INC. 19,127.87 2656

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Total: \$120,029.97