

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR MAY 09, 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	Present

Also present were Municipal Clerk Wanda Gaglione, Finance Officer Barbara Spiegel, Municipal Attorney Daniel Young and Municipal Engineer Paul Dietrich. Municipal Auditor Leon Costello was present this evening for the School Board Budget matter.

**APPROVAL OF MINUTES - April 25, 2011 Regular Meeting and
Closed Session Minutes**

Motion was made by Jay Newman, second by Curtis Corson to approve the Minutes as written. During roll call vote four Committee members voted in the affirmative, Mr. Palombo abstained.

Mayor Palombo opened the meeting with discussion of the defeated School Budget. Due to conflict, Committeeman Jay Newman recused himself from any participation in this matter and stepped down from the dais.

2011 SCHOOL BOARD BUDGET

1. **Upper Township Board of Education**—RE: 2011-2012 Defeated School Budget. Superintendent Vincent Palmieri, and Administrator Laurie Ryan were present from the School Board; Leon Costello was present as auditor for both the school and the Township. The Mayor commented that the County Superintendent of Schools has advised that the Committee must make their final decision by May 19th ; the Committee plans to have it by the May 16th meeting. Further, he stated that the Committee has examined the 400+ page school budget carefully, that Mr. Conrad has met with several School Board members, and that this is a matter they do not take lightly. It was also discussed that the Township Committee can make recommendations however the School Board has the discretion as to what is ultimately cut. Last year's School Budget failed which was at \$22,100,328, with debt service of \$290,743. This year

the taxpayer's responsibility is \$22,049,000 with no debt service, which represents a decrease of 1.4 cents from what they were responsible for last year. Last year it was 99.8 this year is 98.4 (a 1.4 cent decrease). Mr. Conrad thanked Mr. Palmieri and Ms. Ryan for the information provided and stated that both the Township and the School Board are working together on a resolution to this matter. Mr. Conrad also stated that the Township Public Works construction crews will assist in making as many of the necessary repairs to the schools as they can. Mr. Costello stated that the Township Committee will make suggestions as to what items to decrease, and are responsible to certify the tax levy. The school can appeal that decision within 10 days, to the County Superintendent of Schools. The School Board members are here tonight for fact-finding rather than answering any questions. The Mayor opened the meeting for public comment. The following members of the audience spoke:

John Haynal, 207 Stagecoach, Marmora, stated that voters should have voted on the new school or the referendum for the repairs. The Mayor stated that the Committee is looking at the budget only, that it has no control over the referendum. The state has made money available for a set time only. Mr. Haynal stated that the schools were maintained but that things wear out and the building is old and trying to fix the school with students present is impossible.

Debra Worshall, 4 Farm Road, Petersburg, stated that she has 3 children and moved to Upper Township specifically for the school system. She was disappointed when the Budget failed and asked if they had to cut the budget, or if the Committee could keep it the way it was? The Mayor answered that they can do either. She asked that the Committee please not cut anything.

Terry O'Reilly, commented that "we keep coming back year after year and that the way we are doing it (presenting the budget) is not working". His opinion is that people feel they have no control on some of the other things happening in the state, but they have control of this so they voted the school budget down. He feels we do not need a new school and that we need to better present both the budget and education to the public. He referred to comments from Gazette. His wife is a teacher, and he commented that teachers are not just teaching anymore—they are counselors, therapists, and being parents to the students. "Large classes do not work. Teaching is so much different from when you or I went to school." He asked how can we ask the Superintendent to cut their staff when the Township does not do the same. The Committee stated that the Township has been scaling back in every area, a high level supervisor was not replaced, we have taken on more responsibilities with less help, we do the best we can with what we have and not increase people. The Mayor and Committee members do not have an administrative secretary they do much of their own work or rely on the Clerk's Office. Mr. O'Reilly stated that the point he is trying to make is that it always goes back to cutting the teachers. The Committee stated that they have never suggested cutting teachers. Mr. Corson stated that the School Board administrative end alone is \$1 million. Mr. O'Reilly suggests cuts be made to administration. He also suggested to change the method of grouping of children in the classrooms, that this would cut some staff. He stated that "we have to think of these kids, they have a bankrupt, country, state, social security and now a bankrupt school system. They are the ones that will dig us out of this hole. If you want to cut, don't cut the teachers."

Russell Morano, 5 Red Oak Drive, stated he also studied the 404-page school budget. He commented that 10 years ago the schools were run with 189 employee, last year that number was 377 with less students. In 2001 the Township operated with 150 employees; in 2010 that numbers was 172. He stated that "everyone that pays taxes is supporting these children;

presently these are tough times to find jobs, there is the gasoline tax, and everything else, and no raise on Social Security for the last 2 years. He asked that the Committee do not take away from the children, such as the after school sports. Mayor Palombo stated that the Committee has never recommended taking anything away from the children and that this is a difficult decision. Mr. Moreno stated that during this last budget there are more teachers listed that used to be part time and are now full time. In 2001 there were 74 support people, in 2011 there are 84 support people. With regards to the new Administrator and HR person; he asked were they necessary at \$100,000 savings each. The Mayor corrected that—the Administrator position is \$79,000 and HR person is \$75,000. Mr. Morano stated that he cannot see neglecting the maintenance of the schools; he recommended looking closely at support staff and determine what they really need. He suggested that all part timers made full time when their grants ran out should revert back to part time; that summer school should be paid for by the parents. Also with regards to the referendum—they have not missed out on that yet, they have a chance in September and then again in December before the money from the state is no longer available. He listed items not needed for building repair. The Committee stated that in fairness that some of the renovations are imposed by the state. Mr. Moreno stated that the Middle School does not need a vice principal—saving another \$100,000. He questioned why the school had 2 of its personnel that were part time, are now full time.

Michael Houdart, 1735 Rt. 9, he asked Mr. Costello about the Fair Share of \$18,772,525.

Williams Holmes, 140 Rt. 610, stated that the budget was defeated because of lack of knowledge. He said very few people go to the Board meetings, and that it was a foolish mistake to let all the “free state money” go by voting down the referendum. Schools always need to be maintained because money is taken from the maintenance budget. He asked that nothing be taken from education, that we are preparing our future leaders of American. They are our future teachers, doctors, etc. With regards to teachers, the school does have attrition; they take the new teachers and work them with the experienced teachers. He commented “you don’t wait until they all drop off and bring in all new inexperienced teachers; we need to train these kids to become the best they can be.”

Ted Kingston, Strathmere, read a statement into the record that included the following: “The Township Committee for the 3rd year in a row has to figure out the school budget. In 2001 after state aid there was a budget of \$9 million, in 5 years it was \$19 mil; it is \$22 million now. For many years taxpayers did not have to address the spending problem because of the generating station. The surplus is gone now and Strathmere property values are dropping. The voters have spoke clearly numerous times and want the Township Committee to honor those votes. That is no easy task. Last year the School Board enacted none of their (Township Committee’s) recommendations. Last year they hired a principal and an HR person and once again the maintenance does not get done. We cannot afford to come back next year and hear more people have been hired. Where does the money go? The \$400,000 bond payments have ended which equals 2¢; the \$800,000 returned from Ocean City equals 4¢; last year’s cuts equals 2¢. The tax payers have not seen any of that 8¢. If the School Board does not guarantee the money goes to maintenance then the Township Committee should cut and return the 8¢ to the taxpayers. We do not want a new school building. We want maintenance on the existing buildings to be paid for by pay as you go, not bonding.”

Mayor Palombo asked that if there were assurances that maintenance would be done, as a taxpayer, would that be agreeable? Mr. Kingston answered in the affirmative; “if they abandon

the new school building concept and fix what they have”, Mr. Kingston believes that many voters would be more favorable to the budget as it is. The building has to be fixed at a reasonable cost. The Mayor stated that if we were to make the cut it would be less likely that any building maintenance would occur. He stated that if he could be assured that the maintenance would be done and he would lean toward trying to let this thing move forward.

Stephen Martinelli, 1921 Tuckahoe Road, commented that if the School Board could submit other recommendations between now and Monday, would that be considered at Monday’s meeting? The Mayor answered in the affirmative and that they are receptive to any communication from now to the meeting.

Christy Chisolm, 18 Evergreen, stated that “teachers are paying 1.5% for benefits, that is 1.5% of their salary--not their benefits costs. The governor pays \$2400 for full coverage, he’s asking approval for all personnel to (increase that to) pay \$6000. Tuition reimbursement for summer school can be requested but not for Special Ed children.” She stated that Human Resources is a state required position; the Mayor responded that someone can take on dual rolls. She also stated that travel line items are contractual and must be paid until the contract ends. She stated that in 2005 the Committee no longer supported the Schools, the Mayor said it was because the Township had no more money—she commented that that was not solely the School Board’s fault. The Mayor stated that when the Township donated money it was for tax relief not support, and that the school built their budgets around the money the Township contributed. Besides the money the Township gave the school, they also did other jobs such as installing a new water system, replacing a roof, repairs to the parking lot, snow removal, trash pickup, etc. She commented that what we lack right now is a sense of community, there is bickering going on in sports, between parents, and now between these two boards. She stated that people come here because of our schools, and because of our reputation and we will not maintain that reputation if the budget is cut.

Anthony Chiccarine, Seaville, has lived here for 11 years. He read a statement into the record that urged the Committee not to cut the budget. He stated that even with a local purpose tax, (the first in 60 years), we are below tax rates of surrounding communities. He commented on the defeated referendum; the Committee stated that they have no jurisdiction on that.

Roberta Township, 801 Chestnut, Palermo, suggested that the schools build up a second story instead of out.

Andrea Hipkins, Killdeer Hill, Petersburg, discussed the repairs needed at the schools. “The issue is the condition of the schools, the teachers, students, etc. For us to quibble over \$160 (increase in our taxes) is incredible. In the community, teachers are made out to be money hungry. We’ve worked hard for our benefits.” She invited the people that commented to come in and volunteer; there is 1 librarian and 2 schools—she can’t do it all. “Then, at some point we could say we can’t hire someone but we can depend on these people. I hope you don’t cut a thing.”

Ronald McCole, 54 E. Maple Shade Lane, Beesley’s Point, advised the public that they should be talking at the school board meeting not here. Mrs. Gabor stated that these comments will help us make the decisions we need to make. He asked where the millions of dollars given to the schools went to.

Gretchen Picketts, 49 W. Katharine Avenue, she is retiring and they are not hiring a new teacher to replace her. “The School Board is doing the very best they can do to keep the budget down. Do not cut the budget.”

Michael Jones, 263 Marshallville Rd., Tuckahoe, stated that he pays 1.5% of his salary too and he did not get a pay raise this year.

Andrew Lovick, 251 Marshallville Rd., stated that “we need to keep the budget where it is or increase it. Technology is important and we have to prepare our children for the future.”

Victoria Scales, 610, Petersburg, stated that “most of the jobs our children will have in the future have not even been created yet and the majority are going to be in technology. Technology is important.”

Nancy Menshner, 141 Durano Ave, Somers Point, is a teacher at the school. She stated that “unless you are at the school on a regular basis, you truly don’t know what is needed so let the school board say what should be cut”. The Mayor stated that the procedure is that we must recommend what is to be cut and reasons why. She wants the budget to stay as it is, and that administrators are necessary.

Andrea Hipkins, stated that the reason why maintenance is not met is because Upper Township dumps all money into education.

This portion of the meeting was closed at 9:15 PM.

Mr. Newman then returned to the dais.

The Mayor directed that the Committee meet in closed session to discuss a matter of litigation- Upper Township v. Paynter, in order not to detain conflict attorney Norman Briggs later than was necessary for this matter. Mr. Young recused himself from participation in this matter and left the dais to avoid conflict. Motion was made by Jay Newman, second by Richard Palombo. During roll call vote all five Committee members voted in the affirmative. Mr. Newman read the following motion into the record.

UPPER TOWNSHIP
RESOLUTION NO. 120A-2011
MOTION GOING INTO CLOSED SESSION
May 9, 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 – Paynter v. Upper Township

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

- A. It is anticipated that the matters discussed in closed session may be disclosed to the public upon the determination of the Township Committee that the public interest will no longer be served by such confidentiality.
- B. With respect to 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: Richard Palombo

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

Adopted: May 9, 2011

The regular portion of the meeting was reopened.

REPORT OF GOVERNING BODY MEMBERS

Frank Conrad, moved, Kristine Gabor seconded the motion to waive the fee for the Community Center during the school Board election. During roll call vote all five Committee members voted in the affirmative.

Curtis Corson, Deputy Mayor reported that the Township received a rebate check from the CMC MUA in the amount of \$47,154. It represents the fees returned to us for community-wide recycling. He commented that recycling is important because it brings revenue back to our municipality and it does not go into the landfill helping the environment and prolonging the life of the site.

Jay Newman, reported that EMS was very busy this week; a crew answered a call that saved the life of a person that went into cardiac arrest. He also mentioned another crew that also went above and beyond their duty to assist a resident in distress. He directed that a resolution of commendation be placed on a future agenda for these EMS Technicians. He also discussed another incident that occurred on the GSP while emergency personnel were attending another accident. He reminded everyone to be careful on the roadways and give more space when emergency personnel are present.

Richard Palombo, Mayor discussed the possibility of bringing in a paramedics station into the Township. We have been approached to housing a satellite site here. It will provide additional service here as well as bring in revenue. He stated that the Committee is looking at every option we can for good opportunities for the Township that will bring in revenue.

OTHER REPORTS

Daniel Young, Municipal Attorney, had two items for Litigation, Tax Appeal Matters and Ginn v. Upper Township; and a Contract matter – Possible lease of Township facilities – AtlantiCare.

Paul Dietrich, Municipal Engineer, requested that the 2011 Beach Sweepers, and the part time seasonal laborers be hired for the summer. Motion was made by Curtis Corson, second by Jay Newman to hire the following for 2011 Beach Sweepers: Michael Pfaff, Hillary Morris and Michael Parsons; and the following for part time seasonal laborers: Justin Schenker, Robert Pelli, Matthew Edwards, and K. Wesley Super. During roll call vote all five Committee members voted in the affirmative. All will be hired at \$10.50 per hour and will start as soon as paperwork is in order. A resolution will be placed on a future agenda. Mayor Palombo stated that the part time laborers have been cut (from 8 last year) to 4 this year.

RESOLUTIONS

2. **Honoring Holden Gentilini of Boy Scout Troop 79 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. 111-2011
RE: HONORING HOLDEN GENTILINI OF TROOP 79 ON ATTAINING THE
DESIGNATION OF "EAGLE SCOUT"**

WHEREAS, Holden Gentilini 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 Holden 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 identifying and removal of five osprey nesting platforms in need of replacement and the construction and installation of the five new replacement platforms in the back bay area behind Ocean City, NJ; and

FURTHER RESOLVED that the Township Committee extends its congratulations and best wishes to Holden'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 of Troop 79 and all others who give so freely and generously of their time for the benefit of our youth.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 9th day of May, 2011.

3. Appointing the 2011 Season Beach Patrol Personnel.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO.112-2011
RE: APPOINTING THE 2011 SEASON BEACH PATROL PERSONNEL**

WHEREAS, the individuals hereinafter named have been determined to possess the requisite skills, training and are otherwise eligible for appointment to the position of lifeguard; 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 following individuals are appointed as lifeguards in the Township of Upper at a salary as stated below in accordance with the Salary Ordinance:

CAPTAIN
WILLIAM HANDLEY \$20.75 per hour

LIEUTENANTS
WILLIAM STULL \$15.75 per hour
JOSEPH LAROSA III \$15.75 per hour
MIKE MANNING \$15.75 per hour
JOSEPH O'NEIL \$15.75 per hour

SENIOR GUARDS
SPENSER POPESON \$13.25 per hour
ANDREW TOBIASON \$13.25 per hour

RETURNING GUARDS
BLAKE BOFFA \$11.45 per hour
EMILY CONOVER \$11.45 per hour
HAYLEY CONOVER \$11.45 per hour
CARLY COX \$11.45 per hour
MARY ELLEN CURRAN \$11.45 per hour
PAT CURRAN \$11.75 per hour
JAMES DUGAN \$11.75 per hour
ALEX FORESMAN \$11.75 per hour
JOSEPH GIARDINA \$11.45 per hour
JAMES GIBBONS \$11.75 per hour
PATRICK KELLY \$11.45 per hour
RICHARD KELLY \$11.75 per hour
KATELYNN KENNY \$11.75 per hour
ZACH KRANEFIELD \$11.45 per hour
FORD PALMER \$11.45 per hour
RODNEY TICE \$11.75 per hour
GREGORY VAN GILDER \$11.75 per hour
CARA THOMAS \$11.45 per hour
JOSEPH LAROSA, JR \$11.75 per hour
JOHN O'HARA \$11.75 per hour
WAYNE P. MAC MURRAY \$11.75 per hour

ABIGAIL FREITAG \$10.75 per hour
NICK ROASH \$10.75 per hour
DAN PALUMBO \$10.75 per hour
CHRIS MC CANN \$10.75 per hour

3. This Resolution shall be effective immediately and is further intended to ratify, confirm and approve any formal action taken by the Township Committee.

Resolution No. 112 - 2011

Offered by: Newman

Seconded by: Gabor

Adopted: May 9, 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>X</u>	<u> </u>

4. Designating certain Strathmere beach areas in the Township of Upper as a surfing beach, and a Catamaran/Sailboat beach for the 2011 Summer Season.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 113-2011
RE: DESIGNATING CERTAIN STRATHMERE BEACH AREAS IN
THE TOWNSHIP OF UPPER
AS A SURFING BEACH AND A CATAMARAN/SAILBOAT BEACH
FOR THE 2011 SUMMER SEASON

WHEREAS, in accordance with Chapter IX entitled *Recreational Facilities*, of the Revised General Ordinances it is necessary to designate certain beach areas along the Strathmere shore in the Township of Upper strictly for the use of surfboards, sailboats, catamarans and other similar devices, for the 2011 summer season; and

WHEREAS, after consideration and review of the beach conditions, recommendations were made to the Township Committee and duly considered at the meeting of May 9, 2011.

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. It has been determined by the Township Committee that for the 2011 summer season:
 - **Surfing Beach: Between Vincent Avenue and Sherman Avenue**
 - **Catamaran/ Sailboat Beach: Between Prescott Avenue and Nelson Avenue**

3. In accordance with the Revised General Ordinances of the Township of Upper, use of the designated beaches for surfboards, sailboats, catamarans, etc. are permitted only between the hours of 6:00 AM and 9:00 PM. Swimming on the beach areas designated above is prohibited except in front of lifeguard stand. Owners of permitted catamarans as defined in the ordinance are required to obtain a license from the Township Clerk's Office.

4. During imminent storm all watercraft shall be removed from the designated beach areas.

Resolution No. 113-2011

Offered by: Newman

Seconded by: Palombo

Adopted: May 9, 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			

5. Authorizing the Township of Upper to enter into a contract and/or issue purchase orders to Computer House of South Jersey, LLC, 740 South Sixth Avenue, Galloway, New Jersey 08205, for various services.

TOWNSHIP OF UPPER

CAPE MAY COUNTY

RESOLUTION

RESOLUTION NO. 114-2011

RE: AUTHORIZING THE TOWNSHIP TO ENTER INTO A CONTRACT AND/OR ISSUE PURCHASE ORDERS TO COMPUTER HOUSE OF SOUTH JERSEY, LLC, 740 SOUTH SIXTH AVENUE, GALLOWAY, NEW JERSEY 08205, FOR VARIOUS SERVICES

WHEREAS, the Township of Upper has previously entered into a Professional Services Contract with Computer House Of South Jersey, LLC to service Township computers and the Township wishes to extend and renew that Contract for an additional term; and

WHEREAS, the Township has also transferred past files and records to electronic storage under the rules and regulations and under the supervision of the State of New Jersey; and

WHEREAS, the rules and regulations of the State of New Jersey require certain tests and procedures to be made with respect to such electronic files and further requires that certain tests be performed at periodic intervals; and

WHEREAS, Computer House Of South Jersey, LLC has the necessary expertise, technology and qualifications to perform such service and has demonstrated their capacity and competency in their past services with the Township; and

WHEREAS, the Chief Financial Officer of the Township has certified the availability of funds to allow the award of Contract for the purchase herein authorized and has certified that adequate funds have been appropriated for this purpose in the 2011 Municipal Budget;

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 authorize the following services to be provided by Computer House Of South Jersey, LLC.

(A) Renewal of the Annual Maintenance/Annual Support Agreement for Alchemy versions upgrades, service patches, hot fixes, telephone technical support, one (1) on-site visit for up to four (4) hours and discounts of twenty percent (20%) on additional training and/or consulting, for a term commencing June 29, 2011 and ending June 29, 2012, at a cost of \$4,995.00. A copy of the proposal dated February 21, 2011 is attached hereto as Exhibit "A".

(B) Acceptance of the proposal for Preventive Maintenance Agreement for a cost of \$95 per month (one year prepaid \$1,140.00). A copy of the proposal is attached hereto as Exhibit "B".

(C) Acceptance of the proposal for a bi-annual component-level restoration of the Township of Upper's Alchemy Database Server to conform to the Township's IT Disaster Prevention/Recovery Plan for the certification of scanning and archiving of public records for the State of New Jersey Division of Archives and Records Management, to include bi-annual test cycle, for a total annual cost of \$2,700.00. A copy of the proposal dated February 21, 2011, is attached hereto as Exhibit "C".

(D) Acceptance of the proposal for Technical Services and Prepaid Support for a cost of \$1,000.00. A copy of the proposal is attached hereto as Exhibit "D".

(E) Acceptance of the proposal for Renewal of the AVG Network Antivirus Agreement (one year prepaid \$399.00) A copy of the proposal dated February 21, 2011, is attached hereto as Exhibit "E".

3. This Resolution is awarded subject to and conditioned upon the following:

- (i) Computer House Of South Jersey, LLC, in providing the services contemplated in this Resolution and in the attachments hereto, acknowledges that it is an independent contractor and not an employee of the Township. As such, Computer House Of South Jersey, LLC, represents and warrants that it will maintain in full force and effect workers compensation coverage and disability coverage for all of its employees.
- (ii) During the term of the Contract and any renewal or extension thereof, Computer House Of South Jersey, LLC, will maintain in full force and effect the following insurance:
 - (a) Commercial general liability insurance on an occurrence basis with limits of liability of not less than \$500,000.00 per occurrence and/or aggregate combined single limit, personal injury, bodily injury and property damage.
 - (b) Motor vehicle liability insurance, including applicable no-fault coverage, with limits of liability of not less than \$500,000.00 per accident, combined single limit, bodily injury and property damage. Coverage shall include all owned vehicles, all non-owned vehicles and all hired vehicles.
 - (c) Computer House Of South Jersey, LLC shall not be required to name the Township as an additional insured.
- (iii) Computer House Of South Jersey, LLC agrees to indemnify the Township and to hold it harmless from and against any and all damages, claims, losses and/or liabilities of any sort (including attorney's fees), which the Township may incur as a result of the performances of services under this Resolution and the attachments hereto by Computer House, LLC or its agents, servants and employees.

- (iv) Computer House Of South Jersey, LLC acknowledges that it must comply with the Affirmative Action requirements of the State of New Jersey, which requirements are attached to this Resolution as Exhibit "F".
- (v) Computer House Of South Jersey, LLC, 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.
- (vi) Computer House Of South Jersey, LLC, has not made and will not make any reportable contributions pursuant to N.J.S.A. 19:44A-1 et seq. that, pursuant to P.L. 2004, c.19 would bar the award of this contract and Computer House, LLC, shall not make any such reportable contributions during the term of this contract.

4. This Contract is awarded without competitive bidding for the reason that the aggregate of the amounts anticipated to be paid to Computer House Of South Jersey, LLC. are under the current bid threshold for the State of New Jersey.

5. A copy of this Resolution, when signed by the authorized representative of Computer House Of South Jersey, LLC, shall constitute a Contract executed in accordance with the requirements and provisions of the Local Public Contracts Law.

6. The Township Clerk shall cause a Notice of Award of this Contract to be published in the official newspaper of the Township as required by N.J.S.A. 40A:11-5.

7. The Chief Financial Officer is hereby authorized, directed and empowered to issue a purchase order consistent with the intention and purpose of this Resolution. All other Township officers and officials are authorized to take such action as may be necessary or required in order to carry out the intent and purpose of this Resolution.

Resolution No. 114-2011

Offered by: Newman

Seconded by: Corson

Adopted: May 9, 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	_____	_____	_____

6. **Accepting the written Indoor Air Quality Program and confirming the appointment of Paul E. Dietrich as Air Quality Control Officer in charge of compliance of the program, pursuant to the “PEOSH”, Indoor Air Quality Compliance Program under N.J.A.C. 12:100-13.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 115-2011
RE: ACCEPTING THE WRITTEN INDOOR AIR QUALITY PROGRAM AND
CONFIRMING THE APPOINTMENT OF PAUL E. DIETRICH
AS AIR QUALITY CONTROL OFFICER IN CHARGE OF COMPLIANCE OF THE
PROGRAM, PURSUANT TO THE “PEOSH”, INDOOR AIR QUALITY COMPLIANCE
PROGRAM UNDER N.J.A.C. 12:100-13**

WHEREAS, the Township of Upper in order to comply with the Public Employees Occupational Safety and Health (PEOSH), Indoor Air Quality Standard Program pursuant to N.J.A.C. 12:100-13 adopted on May 21, 2007, and established a program in February 2008, attached as Exhibit “A”, to promote good indoor air quality for employees working in Township of Upper municipal buildings; and

WHEREAS, to further comply with the PEOSH Program for Indoor Air Quality Standards an appointment is necessary to designate a person responsible for the enforcement and compliance of the requirements of N.J.A.C. 12-100-13 and the established program policies of the Township of Upper; and

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

1. The Indoor Air Quality Program, updated May 4, 2011 and attached as Exhibit “B” is hereby accepted by the Township of Upper.
2. Paul E. Dietrich is hereby appointed as the Indoor Air Quality Control Officer in charge of compliance of the Public Employees

Occupational Safety and Health (PEOSH) Indoor Air Quality Program for the Township of Upper.

- 3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.
- 4. This Resolution ratifies, confirms and approves action taken by the Township Committee, by motion, at the meeting of May 9, 2011.

Resolution No. 115-2011

Offered by: Corson

Seconded by: Conrad

Adopted: May 9, 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>	_____	_____	_____

- 7. **Authorizing a contract with Casa Payroll Service of Pleasantville, New Jersey for payroll services.**

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 116-2011

RE: AUTHORIZING A CONTRACT WITH CASA PAYROLL SERVICE OF PLEASANTVILLE, NEW JERSEY FOR PAYROLL SERVICES

WHEREAS, CASA Payroll Services ("CASA") has submitted a proposal to

the Township for payroll services; and

WHEREAS, N.J.A.C. 5:30-17.3 et seq. provides for electronic disbursement controls for payroll purposes and applies to entities which execute disbursements from and/or take possession of municipal bank accounts or funds; and

WHEREAS, the proposal of CASA does not permit CASA to execute disbursements from the Township's bank account or give CASA possession of Township funds and as such N.J.A.C. 5:30-17.3 et seq. does not apply; and

WHEREAS, the Township wishes to accept said proposal and to authorize a contract with CASA; and

WHEREAS, the proposal has been reviewed and approved by the Municipal Attorney and will be on record in the office of the Township Clerk and available for public inspection; and

WHEREAS, CASA has completed and submitted a Business Entity Disclosure Certification which certifies that CASA has not made any reportable contributions to a political or candidate committee in the Township that would bar the

award of this contract and that the contract will prohibit CASA from making any reportable contributions through the term of the contract; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the

Township of Upper, in the County of Cape May and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Mayor and Township Clerk are hereby authorized, directed and empowered to enter into a contract with CASA attached hereto as Exhibit "A", to provide payroll service within the Township of Upper commencing immediately.
3. CASA 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.
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.

Resolution No. 116-2011

Offered by: Conrad

Seconded by: Newman

Adopted: May 9, 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>	___	___	___

8. Annual Stormwater Report and Certification. Accepting the Annual Stormwater Report and Certification, and authorizing the Township Engineer to electronically sign and submit it to the NJDEP pursuant to Stormwater Rules. Mr. Dietrich stated that as

part of the Annual Stormwater reporting process for local public education, and in order to get certain points for certification they require us to annually discuss what we do and why it is important. This is a permit with the DEP to maintain Upper Township's storm water management system with certain ordinances that include such items as litter control, control of pet waste, storm water control for public roads, and the prohibiting of the feeding of wildlife. This is mandated through the EPA and requires that Mr. Dietrich attend classes in storm water management, that the Township work with organizations such as Clean Ocean action for biannual beach sweeps, it includes a storm drain inlet labeling program in which all are inspected annually for which there are over 700 inlets in the Township. One of the mandatory requirements of the State is to go through and inspect every inlet, because if they do not work they will flood. Educating the public not to put anything in swales (also considered an inlet) is important; grass clippings dumped in a backyard swale will cause it to malfunction and possibly flood. Also a part of this program is the street sweeping program; the more we clean up the streets the less dirt and debris gets into the drains. The salt barn enclosure is another element of the Stormwater plan for Upper Township—we were pro active as one of the first towns in the state to have salt enclosure. The vehicle washing station is another part of this program. It operates on a closed water system. We are in Shared Services agreements with Linwood and the CMC Public Works Department. They come over to use our system, which further helps the environment.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 117-2011
ANNUAL STORMWATER REPORT AND CERTIFICATION
ACCEPTING THE ANNUAL STORMWATER REPORT AND CERTIFICATION, AND
AUTHORIZING THE TOWNSHIP ENGINEER TO ELECTRONICALLY SIGN AND
SUBMIT IT TO THE NJDEP
PURSUANT TO STORMWATER RULES**

WHEREAS, the State of New Jersey on January 5, 2004 adopted stormwater rules which impact municipalities; and

WHEREAS, under the aforesaid stormwater rules municipalities are required to apply for permits and provide reports and certifications to the NJDEP; and

WHEREAS, the Township Committee of the Township of Upper has determined that the Township should make the appropriate applications for permits and prepare appropriate reports pursuant to the stormwater rules; 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 Stormwater Annual Report.

3. The Township Engineer is hereby authorized to execute said Report and Certification electronically pursuant to the stormwater rules of the State of New Jersey, which Report and Certification are attached hereto as Exhibit A.

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.

Resolution No. 117-2011

Offered by: Conrad

Seconded by: Newman

Adopted: May 9, 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	_____	_____	_____

8. **Refund EMS ambulance billing overpayment to Highmark Medicare Services, Inc.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 118-2011
RE: REFUND EMS AMBULANCE BILLING OVERPAYMENT
TO HIGHMARK MEDICARE SERVICES, INC.**

WHEREAS, an overpayment has occurred in the account of Mary H. Palladino, an EMS ambulance billing patient, where the monies sent to the Township of Upper by Highmark Medicare Services, Inc. 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>
\$292.02	Highmark Medicare Services, Inc. Attn: Cashier P.O. Box 890034 Camp Hill, PA 17089-0034

Resolution No. 118-2011

Offered by: Newman

Seconded by: Conrad

Adopted: May 9, 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>	___	___	___

10. Authorizing the Township Clerk to submit a grant application for participation in the Megan Nicole Kanka Foundation “Check ‘Em Out” Fingerprint Background Checks Program For Towns.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 119 -2011
RE: AUTHORIZING THE TOWNSHIP CLERK TO
SUBMIT A GRANT APPLICATION FOR
PARTICIPATION IN THE MEGAN NICOLE KANKA FOUNDATION
“CHECK ‘EM OUT” FINGERPRINT BACKGROUND
CHECKS PROGRAM FOR TOWNS**

WHEREAS, the Township of Upper wishes to take advantage of the

Megan Nicole Kanka “Check ‘Em Out” program, which provides one time grant funding to municipalities in New Jersey to do fingerprint background checks on volunteers that supervise children in sports and recreational activities; and

WHEREAS, the goal of the program is to help non-profit sports organizations and other non-profit volunteer organizations in New Jersey pay for state and federal fingerprint checks on their coaches, managers and adult volunteers; and

WHEREAS, the Township Committee fully supports and endorses the actions of the Township Clerk in her filing of the grant application;

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 Clerk of the Township of Upper is hereby

authorized, directed, and empowered to sign and submit the “Check ‘Em Out” Towns Grant application.

3. All Township officials, officers and employees are empowered to take such action as may be necessary or advisable in order to carry out the intent and purpose of this Resolution.

Resolution No. 119 - 2011

Offered by: Gabor Seconded by: Conrad

Adopted: May 9, 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> X </u>	<u> </u>	<u> </u>	<u> </u>

ORDINANCES

11. Public Hearing and Final Adoption of Ordinance No. 008-2011, RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XX (ZONING) OF THE CODE OF UPPER TOWNSHIP. During the Public Comment section of the hearing there were no speakers from the audience. The Committee’s comments included the following: this ordinance is the first of several anticipated as the result of recommendations made by the Planning Board during the Master Plan reexamination; it’s purpose is to develop a Marmora Town Center with a liveable, walkable downtown area; the ordinance also includes changes in signage requirements, includes 2 zone changes, and requirements for affordable housing on undersized lots. Motion to adopt Ordinance No. 008-2011 by Frank Conrad, second by Kristine Gabor. 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. ~~008000~~-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)(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)(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.

☒

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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 25⁸TH OF ~~APRIL~~FEBRUARY, 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~~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

11. **Public Hearing and Final Adoption 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.** It was recommended that this ordinance be withdrawn because the owner requested a license agreement rather than a lease agreement. Ordinance No. 011-2011 authorizing a license agreement with RC Cape May Holdings is on the agenda for introduction later this evening. There was no public hearing on ordinance No. 009. Motion was made by Jay Newman second by Curtis Corson to withdrawn ordinance 009-2011. During roll call vote all five Committee members voted in the affirmative.
12. **Introduction and First Reading of Ordinance No. 010-2011, RE: AN ORDINANCE AUTHORIZING SALE OF LANDS, TO WIT BLOCK 558, LOT 45.** Mr. Corson recused himself from participation in this matter and stepped down from the dais. Motion was made by Jay Newman, second by Frank Conrad to introduce Ordinance No. 010-2011, with public hearing and final adoption set for June 13, 2011. During roll call vote four Committee members voted in the affirmative. Mr. Corson did not participate and did not vote.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E
ORDINANCE NO. 010-2011
RE: AN ORDINANCE AUTHORIZING SALE OF LANDS,
TO WIT BLOCK 558, LOT 45**

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

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

WHEREAS, after discussion and deliberation the Township Committee is of the opinion that the sale of said parcels will be in the best interest of the Township and will provide for the consolidation of existing nonconforming lots with a conforming lot; and

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

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

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

Block 558, Lot 45

to the highest bidder from among all owners of real property contiguous thereto in accordance with N.J.S.A. 40A:12-13(b)(5). Such sale shall not be for less than the fair market value of said real property and the minimum bid for the parcels sold is hereby established as follows: Fair Market Value: \$10,400.00

SECTION 2: Prior to said sale, the Township will obtain a title report from a title company or abstract company licensed to do business in the State of New Jersey.

Said report shall be available to the purchaser prior to final adoption of this Ordinance.

SECTION 3: The property authorized to be sold together with the minimum price thereof shall be posted at Township Hall and advertisement of the sale shall be made in a newspaper circulating in the Township within 5 days following enactment of this ordinance.

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

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

If the parcel is not sold at auction, this amount will be retained by the Township as

LIQUIDATED DAMAGES and will be used to pay for the title report and other documents. If the highest bidder at the auction sale is not the original applicant:

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

SECTION 5: The aforesaid parcel of real property shall be offered for sale at an

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

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

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

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

SECTION 9: A sum equal to ten percent (10%) of the highest bid for said parcel or parcels shall be paid to the Township of Upper by the highest bidder or bidders at the time of the sale. The remaining balance of ninety percent (90%) of the highest bid for the parcel or parcels

shall be paid to the Township of Upper, and must be received by the Township Clerk, not later than thirty (30) days after the date of the sale. In addition to the deposit of ten percent (10%), the highest bidder or bidders shall also be required to pay or tender at the time of sale the following:

IF THE BIDDER IS THE ORIGINAL APPLICANT:

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

- (i) The sum of \$100.00 for the preparation of the Deed.
- (ii) The sum of \$30.00 for recording the Deed.
- (iii) At closing the bidder shall be entitled to receive a refund in the event that the charges for title insurance or title search and other closing costs are less than \$380.00 or, in the alternative, the bidder will be required to pay to the title company conducting closing any excess amount.

IF THE BIDDER IS NOT THE ORIGINAL APPLICANT:

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

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

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

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

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

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

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

(E) The cost of any survey ordered by the successful bidder. Successful bidder shall place such order directly with the surveyor or with the title company conducting closing, but the survey must be prepared in time to permit the closing to take place as scheduled.

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

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

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

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

(B) Office of the Township Solicitor; or

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

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

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

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

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

Any and all other amounts paid to the Township shall be non-refundable. This sale is under and subject to any riparian claim which may affect said property. If any such claim exists, it shall be the sole responsibility of the purchaser to meet and satisfy all requirements of the State of New Jersey with respect to said riparian claim and the payment of any compensation to the State of New Jersey on account thereof. Nothing herein shall be construed as obligating the Township of Upper to construct or maintain access roads to any portion of the property being sold. Such property may not qualify for a building permit due to lack of water supply, lack of sewer or

septic facilities, lack of access, inadequate lot size, or other reasons, including those reasons set forth below.

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

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

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

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

SECTION 18: It is a requirement of this sale that the purchaser of the subject property be a contiguous property owner. Said purchaser shall be required to take immediate action to cause a consolidation of the property being purchased with all of the purchaser's existing adjacent lots so as to constitute a single parcel of ground which shall not be further subdivided into more than one lot. This restriction shall be included in the deed of conveyance and shall run with the land. The purchaser shall complete the consolidation as a condition of the sale. The provisions of this Section shall survive closing and shall not merge into the Deed.

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

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 9TH DAY OF MAY, 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 13TH DAY OF JUNE, 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. 011-2011, RE: AN ORDINANCE AUTHORIZING THE TOWNSHIP OF UPPER TO ENTER INTO AN ANTENNA SITE LICENSE AGREEMENT WITH RC CAPE MAY HOLDINGS, LLC FOR NOMINAL CONSIDERATION. Motion was made by Jay Newman, second by Frank Conrad to introduce Ordinance No. 011-2011, with public hearing and final adoption set for June 13, 2011. 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. 011-2011
AN ORDINANCE AUTHORIZING THE TOWNSHIP OF UPPER TO ENTER INTO AN
ANTENNA SITE LICENSE AGREEMENT WITH RC CAPE MAY HOLDINGS, LLC
FOR NOMINAL CONSIDERATION**

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

SECTION 1: FACTUAL FINDINGS AND DETERMINATIONS: The Township Committee hereby expressly finds and determines the following:

- (A) Pursuant to N.J.S.A. 40A:12-5, a municipality is authorized to acquire an interest in real property, including by license agreement, as may be necessary and suitable for the performance of its functions and municipal public purposes.

- (B) The Township Committee has determined that there is a public need for an antenna site for 911 dispatch radio services and RC Cape May Holdings, LLC has agreed to license to the Township such site on their property commonly known as B. L. England Generating Station, 900 North Shore Road, Beesley's Point, New Jersey.

SECTION 2: The Township of Upper is hereby authorized to enter into a license agreement with RC Cape May Holdings, LLC for the use of an antenna site on the property owned by RC Cape May Holdings, LLC, commonly known as B. L. Generating Station, 900 North Shore Road, Beesley's Point, New Jersey at nominal consideration for the purpose of providing 911 dispatch radio services. Said license agreement shall be approved by the municipal attorney for the Township of Upper and ultimate final approval of said agreement shall be vested in the Township Committee, as the governing body of the Township of Upper.

SECTION 3: AUTHORITY OF TOWNSHIP OFFICIALS: All Township officers, officials and employees are hereby authorized to take all action necessary or required to carry out the intent and purpose of this Ordinance. Without in any way intending to limit the generality of the foregoing, the Mayor and Township Clerk are expressly authorized, empowered and directed to sign the License Agreement on behalf of the Township of Upper as Licensee and the Township Clerk is further authorized, directed and empowered to affix the Township seal to said License Agreement.

SECTION 4: REPEALER: All Ordinances or parts of Ordinances inconsistent herewith 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 9TH OF MAY, 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 13TH DAY OF JUNE, 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

15. Introduction and First Reading of Ordinance No. 012-2011, RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER VII OF THE CODE OF UPPER TOWNSHIP. Motion was made by Curtis Corson, second by Frank Conrad to introduce Ordinance No. 012-2011, with public hearing and final adoption set for June 13, 2011. 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. 012-2011
RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE
CHAPTER VII OF THE CODE OF UPPER TOWNSHIP**

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 7, Schedule I (entitled “No Parking”) and Schedule XVIII (entitled “Parking Area for Handicapped Persons”) of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be supplemented as hereinafter provided:

SCHEDULE I – NO PARKING

Add to include the following:

Street	Location
Ocean Drive	A distance of one hundred (100’) feet North from the curbline of Willard Avenue on the Westerly side.

SCHEDULE XVIII – PARKING AREA FOR HANDICAPPED PERSONS

Add to include the following:

Street	Location
Seacliff Avenue	Southerly side; beginning at a point sixty-six (66') feet from the Westerly curblineline of Commonwealth Avenue and extending to a point twenty-five (25') feet northwesterly thereof.

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

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

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

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 9TH DAY OF MAY 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 13TH DAY OF JUNE 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

16. Introduction and First Reading of Ordinance No. 013-2011, RE: AN ORDINANCE VACATING PORTION OF BAYVIEW DRIVE ADJACENT TO BLOCK 833, WITHIN THE TOWNSHIP OF UPPER, COUNTY OF CAPE MAY AND STATE OF NEW JERSEY. Motion was made by Jay Newman, second by Kristine Gabor to introduce Ordinance No. 011-2011, with public hearing and final adoption set for June 13, 2011. 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. 013-2011**

**AN ORDINANCE VACATING PORTION OF BAYVIEW DRIVE ADJACENT TO
BLOCK 833, 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, Gary and Barbara Seagraves are the owners of Block 833, Lot 4 and have requested that the Township vacate a portion of the street described in this Ordinance and have 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 a 2.5' portion of Bayview Drive 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 of a Portion of
Bayview Drive to be Vacated
Situate in the Township of Upper
Cape May County, New Jersey

BEGINNING at the point of intersection of the southeasterly line of Bayview Drive (50 feet wide) with the southwesterly line of Sumner Avenue (50 feet wide) and extending; thence

1) Southwestwardly, along said line of Bayview Drive, a distance of 200.00 feet to the northeasterly line of Sherman Avenue (50 feet wide); thence

2) Northwestwardly, along the extended northeasterly line of Sherman Avenue, at a right angle to the previous course, a distance of 22.50 feet to a point 22.50 feet southeastwardly of the centerline of Bayview Drive; thence

3) Northeastwardly, parallel with the centerline of Bayview Drive, a distance of 200.00 feet to the extended southeasterly line of Sumner Avenue; thence

4) Southeastwardly, along said extended line, at a right angle to the previous course, a distance of 2.50 feet to the point and place of beginning.

Being a portion of Bayview Drive between Sumner Avenue and Sherman Avenue.

The foregoing being prepared in accordance with a Survey for Street Vacation by Schwab Land Surveying and Planning, LLC dated April 4, 2011, Certificate No. 11-056.

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 9TH DAY OF MAY, 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 13TH DAY OF JUNE, 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

13. **Greater Tuckahoe Area Merchants Association, Inc.---** request to use the Tuckahoe Beach on August 7, 2011 for the Annual Canoe and Kayak Race. Motion was made by Frank Conrad, second by Richard Palombo to approve the request. During roll call vote all five Committee members voted in the affirmative. A resolution will be placed on a future agenda.
14. **William Handley, Middle Township, Middle School—Request use of the Beesley's Point Beach on June 8, 2011 for class field trip event.** Motion was made by Richard Palombo, second by Kristine Gabor to approve the request subject to the requester being responsible for the cost of the lifeguards. During roll call vote all five Committee members voted in the affirmative. A resolution will be placed on a future agenda.
15. **Second Cape May Baptist Church--request to use Softball fields at Amanda's Field for Church softball league on Mondays from May to August, 2011.** Motion was made by Richard Palombo second by Frank Conrad to approve the request. During roll call vote all five Committee members voted in the affirmative. A resolution will not be necessary for this event.

16. **Wesley United Methodist Church request to use the Community Center on June 24, 2011 for a dinner and auction event.** Motion was made by Jay Newman, second by Curtis Corson to grant the request. During roll call vote all five Committee members voted in the affirmative. A resolution will be placed on a future agenda.

UNFINISHED BUSINESS:

19. **David Grusemeyer request for the vacation of the street known as Pacific Avenue in Palermo.** Mr. Young recused himself from participation due to conflict and left the dais. Although Mr. Briggs was not present during this discussion he indicated previously that he would represent the Township in this matter were it to be approved by the Committee. Mr. Dietrich reported that a portion of Pacific Avenue could be vacated at the rear of Lot 34 between Lots 34 and 17. Motion was made by Curtis Corson, second by Jay Newman to approve the request. During roll call vote all five Committee members voted in the affirmative. Mr. Briggs will prepare an ordinance for a future meeting.

DISCUSSION

PAYMENT OF BILLS:

“I hereby move that all claims submitted for payment at this meeting be approved and then incorporated in full in the minutes of this meeting.” Motion made by Curtis Corson, second by Frank Conrad to pay all bills submitted including a bill, inadvertently omitted from the list, for Marmora Fire Co. During roll call vote all five Committee members voted in the affirmative.

Payroll: \$165,684.00
Bills approved for payment: \$2,883,221.18

REPORT OF MUNICIPAL DEPARTMENTS:

- 20. Construction Code
- 21. Clerk’s Office
- 22. Animal Control
- 23. Tax Assessor
- 24. Tax Collector
- 25. Finance Office
- 26. Zoning Officer

Reports are available from the Clerk’s Office.

PUBLIC COMMENT

Richard Lawson, resident of Ocean City, business owner in Upper Township, (Snap Fitness); asked about the plan for the Marmora Town Center--if there were any plans for a bike path connecting Ocean City and Upper Township. It was discussed that there are plans for sidewalks and paths throughout the Marmora Town Center but not a connection over the bridge. Mr.

Dietrich commented that if ever the 34st bridge were replaced standards would probably include a bike lane.

Russell Morano, Palermo, suggested sharing/using the same computer IT personnel at the school for the Township Hall. He thanked the Committee and said he appreciated coming before this board. He stated that many people he spoke with would support the school budget if they had a guarantee that maintenance on the schools would be acted upon.

Ted Kingston, he also commended the Township Committee and stated that anyone that wants to comment before the Committee is welcomed. He discussed last year's school budget in that there was no open forum after the recommendations were presented by the Committee. The Mayor answered that at that point it would have been more appropriate to address the school board rather than the Township Committee. Mr. Kingston commented that there is no open forum at the School Board meetings that they write down the question and get back to you later in the meeting. Mr. Kingston is concerned that there are no real assurances that the School Board would take the recommendations.

Michael Jones, Marshallville, questioned the salaries in the school budget as to striking the budget before an employee contract is adopted. It was discussed that the money is not in specific line items, and that while the Township must wait until November to transfer money, the school board can transfer money as soon as the budget is adopted.

There were no further speakers from the public and the regular portion of the meeting was closed.

CLOSED SESSION

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

UPPER TOWNSHIP
RESOLUTION NO. 120-2011
MOTION GOING INTO CLOSED SESSION
May 9, 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 - Tax Appeal Matters
2. Litigation – Ginn v. Upper Township
3. Contract negotiations – Possible lease of Township facilities - AtlantiCare

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

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

Moved by: Jay Newman

Motion seconded: Curtis Corson

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

Adopted: May 9, 2011

RECONVENE PUBLIC PORTION OF MEETING

Motion was made by Curtis Corson, second by Jay Newman to close the executive session prortion of the meeting and go back into open session. During roll call vote all five Committee members voted in the affirmative.

ADJOURNMENT

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

*****Please be advised that the meeting previously scheduled for May 23, 2011 has been cancelled and rescheduled for May 16, 2011 at 7:30 PM.**

There was no further business for this evening and the meeting was adjourned at 10:40 P.M.
Next meeting scheduled for May 16, 2010 at 7:30 P.M.

Minutes prepared by

Wanda Gaglione, RMC
Municipal Clerk

Bill List
55464 05/10/11 A0004 A+ COMMERCIAL OFFICE CLEANERS 250.00 2660
55465 05/10/11 A0006 ADVANCE TREADS INC 59.70 2660
55466 05/10/11 A0017 A.C.M. JIF C/O T. FREEDMAN 86,866.00 2660
55467 05/10/11 A0028 ADVANTAGE RENTAL CENTER INC. 347.18 2660
55468 05/10/11 A0035 AIRLINE HYDRAULIC CORP. 13.02 2660
55469 05/10/11 A0075 ADAMS, JOSHUA 212.94 2660
55470 05/10/11 A0086 AT&T MOBILITY 194.81 2660
55471 05/10/11 A0091 ATLANTIC CITY ELECTRIC 14,317.00 2660
55472 05/10/11 B0035 BELMONT & CRYSTAL SPRINGS 50.97 2660
55473 05/10/11 C0011 CAPE OFFICE MACHINES & SERVICE 720.00 2660
55474 05/10/11 C0019 CITY OF OCEAN CITY 51,495.25 2660
55475 05/10/11 C0052 CAPE MAY COUNTY TREASURER 1,175,804.99 2660
55476 05/10/11 C0068 COMCAST 205.20 2660
55477 05/10/11 C0071 CAPEHART & SCATCHARD, P.A. 2,700.00 2660
55478 05/10/11 C0077 CHERRY VALLEY TRACTOR SALES 403.80 2660
55479 05/10/11 C0131 CINTAS FIRST AID & SAFETY 73.62 2660

55480 05/10/11 C0146 COLLINS IRON WORKS, INC. 523.59 2660
55481 05/10/11 C0221 CRAGER, GARY 180.00 2660
55482 05/10/11 C0223 CASA PAYROLL SERVICE 221.35 2660
55483 05/10/11 D0003 DATA RESOURCE SOLUTIONS 680.00 2660
55484 05/10/11 D0133 DOLLARD-BAKER SEW AND VAC 32.99 2660
55485 05/10/11 F0048 FOGG, LESLIE INC. 282.58 2660
55486 05/10/11 F0053 FORD, SCOTT & ASSOCIATES 3,500.00 2660
55487 05/10/11 F0054 FORT DEARBORN LIFE INSURANCE 528.75 2660
55488 05/10/11 G0002 GAGLIONE, WANDA 90.97 2660
55489 05/10/11 G0016 GARDNER HARDWARE INC. 31.48 2660
55490 05/10/11 G0028 GENTILINI FORD 210.39 2660
55491 05/10/11 G0096 GRUND, GEORGE 212.54 2660
55492 05/10/11 H0012 HALL,ARTHUR 66.37 2660
55493 05/10/11 J0014 JC MILLER'S 509.55 2660
55494 05/10/11 K0007 KACZMARSKI, RICHARD 50.99 2660
55495 05/10/11 K0047 KLINE, EDWARD T. 37.98 2660
55496 05/10/11 L0031 LORCO PETROLEUM SERVICES 175.00 2660
55497 05/10/11 L0080 LOWES, INC. 311.43 2660
55498 05/10/11 M0035 MARMORA FIRE CO. DISTRICT #3 488,805.00 2660
55499 05/10/11 M0080 MCMANIMON & SCOTLAND,L.L.C. 1,581.13 2660
55500 05/10/11 M0081 MID-ATLANTIC WASTE SYSTEMS 375.72 2660
55501 05/10/11 M0103 MODERN GAS COMPANY, INC. 157.46 2660
55502 05/10/11 N0004 NJ-AMERICAN WATER CO. 59.43 2660
55503 05/10/11 N0024 N.J. DIVISION OF FIRE SAFETY 148.00 2660
55504 05/10/11 N0043 NAPA AUTO PARTS OF S.JERSEY 16.47 2660
55505 05/10/11 N0070 MARSH & MCLENNAN AGENCY, LLC 2,500.00 2660
55506 05/10/11 O0004 O.C. SENTINEL LEDGER INC. 40.00 2660
55507 05/10/11 P0032 PEDRONI FUEL CO. 2,260.15 2660
55508 05/10/11 P0050 PARSIO, ANTHONY 74.98 2660
55509 05/10/11 P0056 TURF EQUIPMENT AND SUPPLY CO 2,284.58 2660
55510 05/10/11 R0030 RIGGINS, INC. 6,572.25 2660
55511 05/10/11 R0073 RICOH AMERICAS CORPORATION 1,536.00 2660
55512 05/10/11 R0092 RUTGERS, THE STATE UNIVERSITY 1,040.00 2660
55513 05/10/11 S0065 SEAVILLE FIRE CO. DISTRICT #4 482,153.00 2660
55514 05/10/11 S0108 SOUTHERN NEW JERSEY NIGP 55.00 2660
55515 05/10/11 S0121 SMUZ, THERESE A 16.82 2660
55516 05/10/11 S0134 SO. JERSEY GAS COMPANY 350.40 2660
55517 05/10/11 S0161 SPICA STEEL, INC./J.D.L.GARAGE 150.00 2660
55518 05/10/11 S0191 STRATHMERE FIRE CO.DISTRICT #1 73,384.00 2660
55519 05/10/11 S0196 STEWART BUSINESS SYSTEMS LLC 146.00 2660
55520 05/10/11 S0209 STAPLES ADVANTAGE 223.00 2660
55521 05/10/11 S0239 SHORE VET. ANIMAL CONTROL LLC 2,400.00 2660
55522 05/10/11 S0246 SICIENSKY, BRANDY 65.00 2660
55523 05/10/11 T0018 TEKK COMM COMMUNICATIONS 1,000.00 2660
55524 05/10/11 T0028 TRACTOR SUPPLY COMPANY CREDIT 39.99 2660
55525 05/10/11 T0032 THE PRESS & SUNDAY PRESS 501.60 2660
55526 05/10/11 T0044 THOMSON, KERRY AGENCY 1,596.65 2660
55527 05/10/11 T0048 TILL PAINT CO/D. FITZGERALD 1,875.00 2660
55528 05/10/11 T0067 TOWNSHIP OF UPPER PETTY CASH 13.00 2660
55529 05/10/11 T0087 TREASURER-STATE OF NEW JERSEY 890.00 2660
55530 05/10/11 T0117 TUCKAHOE FIRE DISTRICT #2 437,268.00 2660
55531 05/10/11 T0129 TRUGREEN CHEMLAWN 995.00 2660
55532 05/10/11 U0025 UNITED STATES POSTAL SERVICE 2,000.00 2660
55533 05/10/11 V0005 VAN EMBDEN, NATHAN, ATTORNEY 1,387.50 2660
55534 05/10/11 V0013 VERIZON WIRELESS 649.80 2660
55535 05/10/11 V0018 VILLAGE PHARMACY, INC. 362.45 2660
55536 05/10/11 V0024 VAL-U AUTO PARTS L.L.C. 241.75 2660
55537 05/10/11 W0030 WEST PUBLISHING CO. 356.94 2660
55538 05/10/11 W0038 WILLIAMS, JEREMIAH J. 110.40 2660
55539 05/10/11 W0050 WIRELESS ELECTRONICS, INC. 5,880.00 2660
55540 05/10/11 W0085 WOODY, LESTER 107.11 2660
55541 05/10/11 Y0008 YOUNG, DANIEL J. ESQUIRE PC 17,566.16 2660
55542 05/10/11 Y0023 YOUNG, DANIEL J. ATTORNEY 2,625.00 2660
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Total: \$2,883,221.18