

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR JULY 25, 2011**

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

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

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

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

APPROVAL OF MINUTES - July 11, 2011 Regular Meeting

Motion was made by Jay Newman, second by Frank Conrad to approve the Minutes as written. During roll call vote four Committee members voted in the affirmative. Richard Palombo abstained from voting.

REPORT OF GOVERNING BODY MEMBERS

Kristine Gabor, reported the Cape May County Animal Shelter had a 7th Birthday Celebration and Open House, which was well attended and a success. She also reported on a company that audits utility bills to find any discrepancies in billing, which she thought was worth looking into. Barbara Spiegel was directed to research the matter and possibly request proposals.

Curtis Corson, had one contract negotiation matter for closed session.

Jay Newman, reported that he has been in contact with the State Police Station Commander of the Woodbine Barracks regarding the enforcement of the Noise Ordinance and he is confident they are following the intent of the ordinance. He also reported on a storm that passed through the area on Sunday causing scattered power outages for several hours, however there was no significant damage from the storm.

Richard Palombo, reported that the Lifeguard Station is now in possession of an Automatic External Defibrillator (AED) that was donated by the Jennifer Ward Memorial Fund. He again thanked the organization for the lifesaving gift, which represents another measure of safety for the visitors to the Strathmere beach every year. He made a motion to hire Jon O’Neil, Richard Horn, Michael DeSalis and Timothy Drake as lifeguards, second by Curtis Corson. During roll call vote all five Committee members voted in the affirmative. The new hires will be ready to work when our guards start returning to school in

the next few weeks. He discussed possibly trading an old lifeboat in lieu of payment for repairs of other equipment. It was recommended that it should begin with requesting proposals for the service. Mr. Palombo finally reported that the County Freeholders will be having a special ceremony for the 10th Anniversary of September 11th, at 1:00 P.M. at the County Administration Building.

OTHER REPORTS

Wanda Gaglione, reminded the public that the next committee meeting will be on Tuesday August 9, 2011.

Daniel Young, had two matters for closed session, one litigation matter, and one contract negotiation.

Paul Dietrich, reported the beach fill project was sent out to bid by the State last week. Bids will be due back in mid-August. He next requested a couple of provisional promotions within the Public Works Department. John Hope for Mechanic's Helper, and Ralon Armstrong and John Chisolm for Truck Driver. Motion was made by Curtis Corson, second by Jay Newman. During roll call vote all five Committee members voted in the affirmative. Mr. Dietrich also reported the carpenter crew will be finishing work at the schools. He will have a final report outlining the projects that were completed and the material costs for each.

Barbara Spiegel, brought a request from the Tax Office to approve an employee to attend a Tax Collection review course. Motion was made by Richard Palombo, second by Frank Conrad. During roll call vote all five Committee members voted in the affirmative to approve the request.

RESOLUTIONS

1. Honoring Michael Douglas Hohman 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. 160-2011
RE: HONORING MICHAEL DOUGLAS HOHMAN ON ATTAINING THE
DESIGNATION OF "EAGLE SCOUT"**

WHEREAS, Michael D. Hohman, 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 Michael 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 constructing an observation platform at the Tennessee Avenue boat ramp in Ocean City. The platform, built with the intent to survive any storm, is a 16ft x 11ft wooden deck 3-4 feet above the marsh, with a 16ft long handicap accessible ramp leading to the main deck; and

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

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

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

2. Re-appointment of James R. Birchmeier as Municipal Court Judge for the Township of Upper.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 161-2011
RE: REAPPOINTMENT OF JAMES R. BIRCHMEIER
AS MUNICIPAL COURT JUDGE
FOR THE TOWNSHIP OF UPPER**

WHEREAS, N.J.S.A. 2B:12-1 requires every municipality to establish a Municipal Court and N.J.S.A. 2B:12-4 provides that each Judge of a Municipal Court shall serve for a term of three (3) years from the date of appointment and until a successor is appointed and qualified, provided that any appointment to fill a vacancy not caused by the expiration of term shall be made for the unexpired term only; and

WHEREAS, the Township Committee has determined to make the appointment hereinafter designated; and

WHEREAS, the Honorable James J. Birchmeier, J.M.C., who presently serves as Municipal Judge of the Township of Upper, shall be reappointed to a three year term effective August 1, 2011.

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. James R. Birchmeier, an attorney at law of the State of New Jersey, is hereby reappointed as Municipal Court Judge for the Township of Upper for a three year appointment. Said appointment to be effective August 1, 2011 and expires on July 31, 2014.
3. Said appointment is effective upon his taking and subscribing the required oath of office to be administered by a Judge of the Superior Court and the filing of said oath with the Municipal Clerk of the Township of Upper and upon further compliance with all requirements established by N.J.S.A. 2B:12-1, et seq.
4. A certified copy of this Resolution, attested to by the Municipal Clerk and sealed with the seal of the Township of Upper, shall be conclusive evidence of the appointment as Municipal Court Judge for the term prescribed by law.
5. This Resolution ratifies, confirms and approves the aforesaid actions heretofore taken by the Township Committee of the Township of Upper.

Resolution No. 161-2011

Offered by: Newman

Seconded by: Conrad

Adopted: July 25, 2011

Roll Call Vote:

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

3. **Authorizing the Mayor and Township Clerk to sign a contract with Cape Professional Billing, Inc., DBA Cape Medical Billing for Emergency Medical Billing Services.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 162 -2011**

**RE: AUTHORIZING THE MAYOR AND TOWNSHIP CLERK TO SIGN A
CONTRACT WITH CAPE PROFESSIONAL BILLING, INC., DBA CAPE MEDICAL
BILLING FOR EMERGENCY MEDICAL BILLING SERVICES**

WHEREAS, Cape Professional Billing, Inc. of 5 Locust Lane P.O. Box 670, Cape May Court House, New Jersey 08210 has submitted a proposal to renew a contract with the Township of Upper for emergency medical billing services; and

WHEREAS, the Township of Upper has previously contracted with Cape Professional Billing, Inc. for emergency medical billing services and wishes to continue such relationship by accepting the proposal and entering into another Professional Services Contract to cover the period of August 1, 2011 to July 31, 2012; and

WHEREAS, the proposed contract 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 is attached hereto as Exhibit "A"; and

WHEREAS, Cape Professional Billing has completed and submitted a Business Entity Disclosure Certification which certifies that Cape Professional Billing 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 Cape Professional Billing 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 execute a contract with Cape Professional Billing to provide billing services for emergency medical services.

3. Cape Professional Billing 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. 162-2011

Offered by: Newman

Seconded by: Gabor

Adopted: July 25, 2011

Roll Call Vote:

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

4. Authorizing the extension of a Shared Services Agreement with the municipalities of Avalon, Sea Isle City and Dennis Township for Mass Care Shelter Facilities for an additional term of one (1) year commencing September 1, 2011 to August 31, 2012.

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 163-2011

RE: AUTHORIZING THE EXTENSION OF A SHARED SERVICES AGREEMENT WITH THE MUNICIPALITIES OF AVALON, SEA ISLE CITY AND DENNIS TOWNSHIP FOR MASS CARE SHELTER FACILITIES FOR AN ADDITIONAL TERM OF ONE (1) YEAR COMMENCING SEPTEMBER 1, 2011 TO AUGUST 31, 2012

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

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

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

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Shared Services Agreement, dated August 28, 1992, entered into by the municipalities of Avalon, Sea Isle City, Dennis Township and Upper Township for a mass care shelter facility is hereby extended for an additional term of one (1) year, commencing **September 1, 2011** through and inclusive of **August 31, 2012**, upon the same terms and conditions, except that it shall now be referred to as the Shared Services Agreement.
3. Paragraph 6 of the Agreement of August 28, 1992 is hereby deemed amended so that the Contract term will expire on **August 31, 2012**.
4. This Resolution extending the term of the aforesaid Contract is conditioned upon similar action being taken by the Governing Bodies of the Borough of Avalon, the City of Sea Isle City and the Township of Dennis.
5. All officers and officials of the Township of Upper are authorized, directed and empowered to take such action as may reasonably be required or necessary to carry out the intent and purpose of this Resolution.
6. A certified copy of this Resolution shall be sent to each of the municipalities who are parties to such Shared Services Agreement.

Resolution No. 163 -2011

Offered by: Newman

Seconded by: Conrad

Adopted: July 25, 2011

Roll Call Vote:

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

5. Endorsement of an amendment to the Upper Township Wastewater Management Plan and Cape May County Water Quality Management (WQM) Plan.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 164 -2011**

**RE: ENDORSEMENT OF AN AMENDMENT TO THE UPPER TOWNSHIP
WASTEWATER MANAGEMENT PLAN AND CAPE MAY COUNTY
WATER QUALITY MANAGEMENT (WQM) PLAN**

WHEREAS, Ralph Clayton is requesting the Township of Upper provide an endorsement of an amendment to the Upper Township Wastewater Management Plan and Cape May County Water Quality Management Plan; and

WHEREAS, Ralph Clayton proposes to construct the John T. Shaw Farm Site Mobile Home Park, consisting of 134 single family dwellings on Block 639 Lots 15.01, 15.02 and 15.03 in the Marmora Section of Upper Township; and

WHEREAS, these proposed residential units will have an anticipated sewage flow of 33,525 gallons per day utilizing the wastewater flow criteria of N.J.A.C. 7:14A-23.3; and

WHEREAS, Ralph Clayton has applied to the New Jersey Department of Environmental Protection for an amendment to the Cape May County Water Quality Management Plan; and

WHEREAS, the New Jersey Department of Environmental Protection requires that the proposed wastewater treatment and conveyance facilities and wastewater treatment service areas, as well as related subjects, be in conformance with an approved WQM Plan; 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 finds that the proposed project will benefit the Township and there is the need for such affordable housing in Marmora.
3. The project site can support the proposed wastewater flow.

4. The Township Committee recommends that the County of Cape May and the New Jersey Department of Environmental Protection approve the amendment to the Cape May County Water Quality Management Plan for a sewage flow of 33,525 gallons.

Resolution No. 164 –2011

Offered by: Newman

Second by: Corson

Adopted: July 25, 2011

Roll Call Vote:

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

6. Capital Budget Amendment.

TOWNSHIP OF UPPER
COUNTY OF CAPE MAY
RESOLUTION NO. 105-2011
RE: **CAPITAL BUDGET AMENDMENT**

Whereas, the local capital budget for the year 2011 was adopted on the 11th day of April, 2011; and,

Whereas, it is desired to amend said adopted capital budget section,

Now, Therefore, Be it Resolved, by the Township Committee of the Township of Upper, County of Cape May, that the following amendment(s) to the capital budget section of 2011 be made:

RECORDED VOTE (Insert Last Names)	AYES	NAYS	ABSTAIN	ABSENT
Moved by: Frank Conrad Second by: Jay Newman	Conrad Corson Gabor Newman Palumbo			

Be it Further Resolved that two certified copies of this resolution be filed forthwith in the Office of the Director of Local Government Services.

It is hereby certified that this is a true copy of a resolution amending the capital budget section adopted by the governing body on the 25th day of July, 2011.

Certified by me this 25th day of July, 2011
Manda Galone
Manda Galone, Township Clerk

FROM
3 YEAR CAPITAL PROGRAM - 2011 to 2013
ANTICIPATED PROJECT SCHEDULE AND FUNDING REQUIREMENTS

1 PROJECT TITLE	2 PROJECT NUMBER	3 ESTIMATED TOTAL COST	4 Estimated Completion Time	FUNDING AMOUNTS PER BUDGET YEAR					
				5a 2011	5b 2012	5c 2013	5d 2014	5e 2015	5f 2016
Beach Replenishment	3	1,000,000.00		-	-	500,000.00		500,000.00	
All Other Projects		5,236,000.00		2,736,000.00	550,000.00	650,000.00	450,000.00	650,000.00	200,000.00
TOTAL - ALL PROJECTS		6,236,000.00	-	2,736,000.00	550,000.00	1,150,000.00	450,000.00	1,150,000.00	200,000.00

Capital Budget Amendment

Township of Upper

**3 YEAR CAPITAL PROGRAM - 2011 to 2013
SUMMARY OF ANTICIPATED FUNDING SOURCES AND AMOUNTS**

FROM

1 PROJECT TITLE	2 ESTIMATED TOTAL COST	BUDGET APPROPRIATIONS		4 Capital Improvement Fund	5 Capital Surplus	6 Grants - in - Aid and Other Funds	BONDS AND NOTES			
		3a Current Year 2011	3b Future Years				7a General	7b Self Liquidating	7c Assessment	7d School
Beach Replenishment	1,000,000.00			50,000.00			950,000.00	-		
All Other Projects	5,236,000.00	36,000.00		260,000.00			4,940,000.00			
TOTAL - ALL PROJECTS	6,236,000.00	36,000.00	-	310,000.00	-	-	5,890,000.00	-	-	-

ORDINANCES

7. **Public Hearing and Final Adoption of Ordinance No. 016-2011, RE: AN ORDINANCE AMENDING CHAPTER 20-7.2 OF THE CODE OF UPPER TOWNSHIP PROVIDING FOR THE APPOINTMENT OF MEMBERS OF THE ZONING BOARD OF ADJUSTMENT.** During the public comment section of the hearing there were no speakers. Motion was made by Curtis Corson, second by Frank Conrad to adopt Ordinance No. 016-2011. During roll call vote all five Committee members present voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E
ORDINANCE NO. 016-2011
AN ORDINANCE AMENDING CHAPTER 20-7.2 OF THE CODE OF UPPER
TOWNSHIP PROVIDING FOR THE APPOINTMENT OF MEMBERS OF THE
ZONING BOARD OF ADJUSTMENT**

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

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

20-7.2 Zoning Board of Adjustment.

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

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

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

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

SECTION 5: CODIFICATION: This Ordinance shall be codified in Chapter 20-7.2 of the Upper Township Code.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 27TH OF JUNE, 2011 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 25th DAY OF JULY, 2011 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.

WANDA GAGLIONE, TOWNSHIP CLERK
TOWNSHIP OF UPPER

8. Public Hearing and Final Adoption of Ordinance No. 017-2011, RE: AN ORDINANCE ESTABLISHING REQUIREMENTS FOR THE USE OF TOWNSHIP FACILITIES.

This ordinance is necessary in order to cover the cost of services and wear-and-tear on public facilities. It provides a fee exemption to organizations that include Upper Township religious or charitable organizations, the schools, including Ocean City schools; Upper Township approved ongoing sports and recreation programs, and Upper Township community or civic organizations. This exemption applies only to such organizations based primarily in Upper Township and which primarily serve Upper Township residents. During the public comment portion of the meeting, John Kevin Grubb, of 180 Perry Rd, Petersburg, objected to priority being given to Upper Township sponsored programs on the various sports fields. He stated that he had made his request in advance of theirs. The Committee answered that the fields were being used by Ocean City High School and that children have preference over adult sports. Mr. Grubb objected to having to pay the fees as he had requested the use of the fields prior to this Ordinance being adopted. He also objected to being required to obtain a signed Sports Participant Release form from each of his team participants. He inquired if his football team could be considered a charitable organization since they donate to Beacon Animal Control. He was directed to apply to the state for that designation. The public hearing portion was then closed. Motion was made by Kristine Gabor, second by Frank Conrad to adopt Ordinance No.017-2011. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE
ORDINANCE NO. 017-2011
AN ORDINANCE ESTABLISHING REQUIREMENTS FOR THE USE OF TOWNSHIP
FACILITIES**

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

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

CHAPTER XXI – USE OF TOWNSHIP FACILITIES

21-1. Purpose.

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

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

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

21-2.1 No fee required for certain participants.

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

21-2.2 Fee for use of facilities.

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

21.3 Requirements for use of facilities.

21.3.1 Application required

Any individual or organization requesting the use of a Township facility for an organized or scheduled event must submit an application and required documentation to the Township Clerk at least 30 days prior to the proposed event. The applicant must provide a full detailed explanation of the proposed event, including but not limited to, the

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

21.3.2 Insurance

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

21.3.3 State Police

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

21.3.4 Emergency management services

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

21.3.5 Background checks

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

21.3.6 Maximum capacity

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

21.3.7 Use restrictions

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

21.3.8 Township Clerk and Township Committee approval

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

21.3.9 Use of Facilities Agreement

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

21.3.10 Sports participant release and waiver

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

21.3.11 Park pavilions

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

21.3.12 Risk of unreasonable injury or property damage

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

21.3.13 Township resident priority

There is no guarantee that a Township facility will be available for the applicant=s proposed use. Priority for the use of all Township facilities

is to Township residents and existing Township programs. The scheduling and availability of all Township facilities and fields is subject to the ultimate approval of the Township of Upper.

21.3.14 Prior approval not required

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

21.3.15 Chapter IX unaffected

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

21.4 Violations and Penalties.

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

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

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

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

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

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 27TH OF JUNE, 2011 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 25TH DAY OF JULY, 2011 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.
BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.

WANDA GAGLIONE, TOWNSHIP CLERK

- 8. Public Hearing and Final Adoption of Ordinance No. 018-2011, RE: AN ORDINANCE AUTHORIZING SALE OF LANDS TO WIT BLOCK 558, LOT 45.** Municipal Attorney Daniel Young and Committeeman Curtis Corson did not participate in this matter due to conflict and stepped down from the dais. Attorney Norman Briggs represented the Township. It was discussed that a stipulation of the sale is that Lot 45 cannot be used in the calculation of lot area in any future development. During the public comment section of the hearing there were no speakers. Motion was made by Jay Newman, second by Frank Conrad to adopt Ordinance No. 018-2011. During roll call vote four Committee members voted in the affirmative. Mr. Corson did not participate and did not vote on this matter.

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

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

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

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

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

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

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

Block 558, Lot 45

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

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

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

SECTION 4: Echo Farms RV Resort, LLC shall pay the following sum to the Township Clerk prior to the adoption of this Ordinance: Upon approval of Township

Committee to offer property for sale at public auction \$500.00. Of this amount, \$250.00 will be retained by the Township and used to defray Township expenses involved in Authorizing the Sale and terms thereof; Engineer's review; Attorney's review; legal advertising, certified mail notices and other expenses. The balance of \$250.00 will be applied toward the cost of title report, title insurance and closing costs.

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

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

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

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

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

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

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

IF THE BIDDER IS THE ORIGINAL APPLICANT:

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

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

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

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

IF THE BIDDER IS NOT THE ORIGINAL APPLICANT:

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

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

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

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

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

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

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

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

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

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

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

Township as follows:

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

(B) Office of the Township Solicitor; or

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

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

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

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

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

Any and all other amounts paid to the Township shall be non-refundable. This sale is under and subject to any riparian claim which may affect said property. If any such claim exists, it shall be the sole responsibility of the purchaser to meet and satisfy all requirements of the State of New Jersey with respect to said riparian claim and the payment of any compensation to the State of New Jersey on account thereof. Nothing

herein shall be construed as obligating the Township of Upper to construct or maintain access roads to any portion of the property being sold. Such property may not qualify for a building permit due to lack of water supply, lack of sewer or septic facilities, lack of access, inadequate lot size, or other reasons, including those reasons set forth below.

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

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

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

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

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

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

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 27th DAY OF JUNE, 2011 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 25TH DAY OF JULY, 2011 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.
BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.

WANDA GAGLIONE, TOWNSHIP CLERK
TOWNSHIP OF UPPER

9. **Introduction and First Reading of Ordinance No. 019-2011, RE: BOND ORDINANCE PROVIDING FOR THE FUNDING OF THE STRATHMERE AND WHALE BEACH REPLENISHMENT PROJECTS INCLUDING THE ACQUISITION OF LAND OR EASEMENTS WHERE NECESSARY AND ALL RELATED COSTS IN AND BY THE TOWNSHIP OF UPPER, IN THE COUNTY OF CAPE MAY, NEW JERSEY, APPROPRIATING \$4,400,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$4,180,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF.** Motion was made by Jay Newman, second by Curtis Corson to introduce Ordinance No. 019-2011 with public hearing and final adoption set for August 9, 2011, at 7:30 PM. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE**

ORDINANCE NO. 019 -2011

RE: BOND ORDINANCE PROVIDING FOR THE FUNDING OF THE STRATHMERE AND WHALE BEACH REPLENISHMENT PROJECTS INCLUDING THE ACQUISITION OF LAND OR EASEMENTS WHERE NECESSARY AND ALL RELATED COSTS IN AND BY THE TOWNSHIP OF UPPER, IN THE COUNTY OF CAPE MAY, NEW JERSEY, APPROPRIATING \$4,400,000 THEREFOR AND AUTHORIZING THE ISSUANCE OF \$4,180,000 BONDS OR NOTES OF THE TOWNSHIP TO FINANCE PART OF THE COST THEREOF.

BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER, IN THE COUNTY OF CAPE MAY, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. The improvement described in Section 3(a) of this bond ordinance is hereby authorized to be undertaken by the Township of Upper, in the County of Cape May, New Jersey (the "Township") as a general improvement. For the improvement or purpose described in Section 3(a), there is hereby appropriated the sum of \$4,400,000, including the sum of \$220,000 as the down payment required by the Local Bond Law. The down payment is now available by virtue of provision for down payment or for capital improvement purposes in one or more previously adopted budgets.

Section 2. In order to finance the cost of the improvement or purpose not covered by application of the down payment, negotiable bonds are hereby authorized to be issued in the principal amount of \$4,180,000 pursuant to the Local Bond Law. In anticipation of the issuance of the bonds, negotiable bond anticipation notes are hereby authorized to be issued pursuant to and within the limitations prescribed by the Local Bond Law.

Section 3. (a) The improvement hereby authorized and the purpose for the financing of which the bonds are to be issued is the funding of the Strathmere and Whale Beach replenishment projects, including where necessary the acquisition by gift, eminent domain or otherwise of land, easements or other interest therein where necessary and all related costs.

(b) The estimated maximum amount of bonds or notes to be issued for the improvement or purpose is as stated in Section 2 hereof.

(c) The estimated cost of the improvement or purpose is equal to the amount of the appropriation herein made therefor.

Section 4. All bond anticipation notes issued hereunder shall mature at such times as may be determined by the chief financial officer; provided that no note shall mature later than one year from its date. The notes shall bear interest at such rate or rates and be in such form as may be determined by the chief financial officer. The chief financial officer shall determine all matters in connection with notes issued pursuant to this ordinance, and the chief financial officer's signature upon the notes shall be conclusive evidence as to all such determinations. All

notes issued hereunder may be renewed from time to time subject to the provisions of the Local Bond Law. The chief financial officer is hereby authorized to sell part or all of the notes from time to time at public or private sale and to deliver them to the purchasers thereof upon receipt of payment of the purchase price plus accrued interest from their dates to the date of delivery thereof. The chief financial officer is directed to report in writing to the governing body at the meeting next succeeding the date when any sale or delivery of the notes pursuant to this ordinance is made. Such report must include the amount, the description, the interest rate and the maturity schedule of the notes sold, the price obtained and the name of the purchaser.

Section 5. The Township hereby certifies that it has adopted a capital budget or a temporary capital budget, as applicable. The capital or temporary capital budget of the Township is hereby amended to conform with the provisions of this ordinance to the extent of any inconsistency herewith. To the extent that the purposes authorized herein are inconsistent with the adopted capital or temporary capital budget, a revised capital or temporary capital budget has been filed with the Division of Local Government Services.

Section 6. The following additional matters are hereby determined, declared, recited and stated:

(a) The improvement or purpose described in Section 3(a) of this bond ordinance is not a current expense. It is an improvement or purpose that the Township may lawfully undertake as a general improvement, and no part of the cost thereof has been or shall be specially assessed on property specially benefitted thereby.

(b) The period of usefulness of the improvement or purpose within the limitations of the Local Bond Law, according to the reasonable life thereof computed from the date of the bonds authorized by this ordinance, is 5 years.

(c) The Supplemental Debt Statement required by the Local Bond Law has been duly prepared and filed in the office of the Clerk, and a complete executed duplicate thereof has been filed in the office of the Director of the Division of Local Government Services in the

Department of Community Affairs of the State of New Jersey. Such statement shows that the gross debt of the Township as defined in the Local Bond Law is increased by the authorization of the bonds and notes provided in this bond ordinance by \$4,180,000, and the obligations authorized herein will be within all debt limitations prescribed by that Law.

(d) An aggregate amount not exceeding \$880,000 for items of expense listed in and permitted under N.J.S.A. 40A:2-20 is included in the estimated cost indicated herein for the purpose or improvement.

Section 7. The Township hereby declares the intent of the Township to issue bonds or bond anticipation notes in the amount authorized in Section 2 of this bond ordinance and to use the proceeds to pay or reimburse expenditures for the costs of the purposes described in Section 3(a) of this bond ordinance. This Section 7 is a declaration of intent within the meaning and for purposes of Treasury Regulations.

Section 8. Any grant moneys received for the purpose described in Section 3 hereof shall be applied either to direct payment of the cost of the improvement or to payment of the obligations issued pursuant to this ordinance. The amount of obligations authorized but not issued hereunder shall be reduced to the extent that such funds are so used.

Section 9. The chief financial officer of the Township is hereby authorized to prepare and to update from time to time as necessary a financial disclosure document to be distributed in connection with the sale of obligations of the Township and to execute such disclosure document on behalf of the Township. The chief financial officer is further authorized to enter into the appropriate undertaking to provide secondary market disclosure on behalf of the Township pursuant to Rule 15c2-12 of the Securities and Exchange Commission (the "Rule") for the benefit of holders and beneficial owners of obligations of the Township and to amend such undertaking from time to time in connection with any change in law, or interpretation thereof, provided such undertaking is and continues to be, in the opinion of a nationally recognized bond counsel, consistent with the requirements of the Rule. In the event that the Township fails to

comply with its undertaking, the Township shall not be liable for any monetary damages, and the remedy shall be limited to specific performance of the undertaking.

Section 10. The full faith and credit of the Township are hereby pledged to the punctual payment of the principal of and the interest on the obligations authorized by this bond ordinance. The obligations shall be direct, unlimited obligations of the Township, and the Township shall be obligated to levy *ad valorem* taxes upon all the taxable real property within the Township for the payment of the obligations and the interest thereon without limitation of rate or amount.

Section 11. This bond ordinance shall take effect 20 days after the first publication thereof after final adoption, as provided by the Local Bond Law.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE NO. 019-2011

NOTICE OF PENDING BOND ORDINANCE AND SUMMARY

The bond ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the governing body of the Township of Upper, in the County of Cape May, State of New Jersey, on **July 25, 2011**. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Upper Township Municipal Building, 2100 Tuckahoe Road, Petersburg, in the Township on **August 9, 2011** at **7:30** o'clock p.m. During the week prior to and up to and including the date of such meeting, copies of the full ordinance will be available at no cost and during regular business hours at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such bond ordinance follows:

Title: "Bond Ordinance Providing for the Funding of the Strathmere and Whale Beach Replenishment Projects Including the Acquisition of Land or Easements Where Necessary and All Related Costs in and by the Township of Upper, in the County of Cape May, New Jersey, Appropriating \$4,400,000 Therefor and Authorizing the Issuance of \$4,180,000 Bonds or Notes of the Township to Finance Part of the Cost Thereof."

Purpose: The funding of the Strathmere and Whale Beach replenishment projects, including where necessary the acquisition by gift, eminent domain or otherwise of land, easements or other interest therein where necessary and all related costs.

Appropriation: \$4,400,000
Bonds/Notes Authorized: \$4,180,000
Grant Appropriated: N/A
Section 20 Costs: \$880,000
Useful Life: 5 years

Wanda Gaglione, Clerk

CORRESPONDENCE

NEW BUSINESS

- 10. CityTri Racing Inc.--request to hold Tuckahoe Triathlon and Duathlon on August 14, 2011, and request for use of the Beesley's Point Beach parking lot.** Alejandra Reagan of CityTri Racing Inc. was present this evening. She was informed that her application was not complete and that all application requirements must be submitted to the Clerk's Office in order for an approving resolution to be on the August 9th agenda.

UNFINISHED BUSINESS:

DISCUSSION

Mr. Corson stated the NJ Department of Agriculture will be conducting gypsy moth egg mass surveys in Upper Township to determine if aerial treatment is needed. He requested any residents that have a problem with gypsy moths to inform the Clerk's Office.

PAYMENT OF BILLS:

"I hereby move that all claims submitted for payment at this meeting be approved and then incorporated in full in the minutes of this meeting." Motion was made by Jay Newman, second by Frank Conrad to approve all bills as submitted. During roll call vote all five Committee members voted in the affirmative.

Bills approved for payment:	\$117,355.25
Payroll:	\$215,009.82

REPORT OF MUNICIPAL DEPARTMENTS:

- 11. Emergency Medical Services**
- 12. MUA Report**
- 13. Zoning Officer Report**

Reports are available from the Clerk's Office.

PUBLIC COMMENT

John Grubb, 180 Perry Rd, Petersburg, asked if he was allowed to sit in on the closed session matter regarding Grubb v. Upper Township. Daniel Young advised that it was an ongoing litigation matter and therefore not open to the public.

Burt White, 19 Killdeer Hill Rd, Petersburg, thanked the Committee for the additional speed limit signs and the installation of the radar car on Killdeer Hill Rd. in an effort to reduce the speeding problem. However, the efforts have not worked. A State Police presence will be requested to monitor and ticket any speeders. Mr. Dietrich was directed to look into the feasibility of installing speed bumps on Killdeer Hill Rd and to report back at the next meeting.

Mike Jones, 263 Marshallville Rd, Tuckahoe, asked if Township sponsored teams are exempt from the new facility use agreement. He has an issue in that he was told the Men's Softball League was not covered under the Township's insurance. Committeewoman Gabor requested a

detailed listing from the Township's Risk Management Consultant of all Recreation programs covered under the Township's insurance program.

Ted Bamford, 1912 Commonwealth Ave, Strathmere, requested the Committee to ask the County to properly patch the potholes in front of his house to prevent the sand from accumulating on the road. Paul Dietrich was directed to reach out to the County Engineer.

John Kevin Grubb, 180 Perry Rd, Petersburg, asked how his Men's Flag Football League can become sanctioned by the Township and get covered under the Township's insurance. Mr. Palombo advised that Upper Township sponsored programs are for Township residents. Mr. Young advised Mr. Grubb to put his request before the Department of Sports and Recreation for review.

CLOSED SESSION

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

TOWNSHIP OF UPPER
RESOLUTION NO. 166-2011
MOTION GOING INTO CLOSED SESSION
July 25, 2011

I hereby move that a resolution be incorporated into the minutes authorizing the Township Committee to enter into an executive session for the following matters pursuant to the Open Public Meetings Act:

MATTERS:

1. Litigation – Grubb v. Upper Township
2. Contract negotiations – EMS billing collection agency

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

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

Motion: Jay Newman

Motion seconded: Frank Conrad

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

RECONVENE PUBLIC PORTION OF MEETING

ADJOURNMENT

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

***** Please be advised that the meetings for August will be on Tuesday, August 9, 2011, and Monday August 22, 2011. All meetings begin at 7:30 are held at Township Hall, 2100 Tuckahoe Road, Petersburg.**

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

Minutes prepared by

Wanda Gaglione, RMC
Municipal Clerk

Bill List

55914 07/26/11 A0006 ADVANCE TREADS INC 986.00 2675
55915 07/26/11 A0015 ADVANCE LEARNING 89.00 2675
55916 07/26/11 A0018 ACTION SUPPLY INC. 33.00 2675
55917 07/26/11 A0023 ADAMS, JOHN 148.38 2675
55918 07/26/11 A0051 ALL STATE LEGAL SUPPLIES 108.30 2675
55919 07/26/11 A0070 ALBERTSONS/ACME 83.92 2675
55920 07/26/11 A0091 ATLANTIC CITY ELECTRIC 18,803.90 2675
55921 07/26/11 A0117 AT&T 34.89 2675
55922 07/26/11 A0122 ANSELL,ZARO,GRIMM & AARON 122.50 2675
55923 07/26/11 A0143 BARLOW AUTOMOTIVE LLC 144.35 2675
55924 07/26/11 A0167 HESS CORPORATION 2,608.72 2675
55925 07/26/11 A0168 ATLANTIC CRANKSHAFT 68.00 2675
55926 07/26/11 B0035 BELMONT & CRYSTAL SPRINGS 942.09 2675
55927 07/26/11 B0076 BOND,LAURENCE E. 1,882.63 2675 Direct Deposit
55928 07/26/11 B0093 BARRY,CORRADO,GRASSI & GIBSON 5,530.00 2675
55929 07/26/11 B0152 BUCHANAN, KAREN A. 216.48 2675
55930 07/26/11 C0046 CAPE MAY COUNTY CLERK 8.00 2675
55931 07/26/11 C0048 CAPE MAY COUNTY MUA 34,839.79 2675
55932 07/26/11 C0060 CAPRIONI'S PORTABLE TOILETS 1,640.00 2675
55933 07/26/11 C0061 CAPRIONI FAMILY SEPTIC 300.00 2675
55934 07/26/11 C0068 COMCAST 110.08 2675
55935 07/26/11 C0089 CHANNING BETE COMPANY 321.55 2675
55936 07/26/11 C0171 COLONIAL ELECTRIC SUPPLY CO. 169.14 2675
55937 07/26/11 C0201 CRUZAN'S TRUCK SERVICE INC. 618.21 2675
55938 07/26/11 C0221 CRAGER, GARY 198.50 2675
55939 07/26/11 C0223 CASA PAYROLL SERVICE 286.85 2675
55940 07/26/11 C0242 CORE MECHANICAL, INC. 628.76 2675
55941 07/26/11 D0040 DELTA DENTAL OF N.J. INC. 7,040.54 2675
55942 07/26/11 E0047 EFINGER SPORTING GOODS CO 438.00 2675
55943 07/26/11 E0052 EDWARDS, MATTHEW 26.25 2675
55944 07/26/11 F0042 FLANAGANS SOUTH AUTO TIRE CENT 89.95 2675
55945 07/26/11 G0014 GARDEN STATE HWY PRODUCTS INC. 198.00 2675
55946 07/26/11 G0015 GALL'S, AN ARAMARK COMPANY 75.49 2675
55947 07/26/11 G0016 GARDNER HARDWARE INC. 430.82 2675
55948 07/26/11 G0028 GENTILINI FORD 68.98 2675
55949 07/26/11 G0035 GENRON FIRE PROTECTION 120.75 2675
55950 07/26/11 G0044 GILES & RANSOME, INC. 133.58 2675
55951 07/26/11 G0137 G.NEIL 279.96 2675
55952 07/26/11 H0018 HAROLD RUBIN/L & H SUPPLY 437.64 2675
55953 07/26/11 I0027 INTL. ASSN OF ELECTRICAL INSP. 146.10 2675
55954 07/26/11 K0007 KACZMARSKI, RICHARD 25.00 2675
55955 07/26/11 L0080 LOWES, INC. 218.03 2675
55956 07/26/11 L0087 LINE SYSTEMS INC 1,178.80 2675
55957 07/26/11 L0089 LILLA, JOHNNY 250.00 2675
55958 07/26/11 M0016 McAFEE, MEGAN 26.86 2675
55959 07/26/11 M0019 MAXIMUM MARINE 180.00 2675
55960 07/26/11 M0032 MARINE RESCUE PRODUCTS,INC. 122.70 2675
55961 07/26/11 M0188 MCCARTHY TIRE SERVICE OF PHILA 336.00 2675
55962 07/26/11 M0222 MUNICIPAL CAPITAL CORPORATION 392.00 2675
55963 07/26/11 N0004 NJ-AMERICAN WATER CO. 448.04 2675

55964 07/26/11 N0043 NAPA AUTO PARTS OF S.JERSEY 507.59 2675
55965 07/26/11 N0070 MARSH & MCLENNAN AGENCY, LLC 2,500.00 2675
55966 07/26/11 O0006 SJSHORE MARKETING,LLC 364.64 2675
55967 07/26/11 O0028 OAR HOUSE LLC 940.00 2675
55968 07/26/11 P0032 PEDRONI FUEL CO. 360.36 2675
55969 07/26/11 P0064 PITNEY BOWES 210.00 2675
55970 07/26/11 P0117 PYROTECNICO 3,000.00 2675
55971 07/26/11 P0121 PENGUIN COMMUNICATION LLC 60.96 2675
55972 07/26/11 Q0003 QC LABORATORIES 696.20 2675
55973 07/26/11 R0030 RIGGINS, INC. 6,680.60 2675
55974 07/26/11 R0044 RODIO TRACTOR SALES INC 261.48 2675
55975 07/26/11 S0001 SAM'S CLUB 92.60 2675
55976 07/26/11 S0066 SEETON TURF WAREHOUSE LLC 207.00 2675
55977 07/26/11 S0087 SHORE SUPPLY, INC. 2,385.93 2675
55978 07/26/11 S0097 SMH CPR TRAINING CENTER 28.00 2675
55979 07/26/11 S0121 SMUZ, THERESE A 45.51 2675
55980 07/26/11 S0122 SOMERS POINT LUMBER INC. 91.80 2675
55981 07/26/11 S0134 SO. JERSEY GAS COMPANY 32.17 2675
55982 07/26/11 S0162 SHAFTS AND SLEEVES CO., INC. 4,955.00 2675
55983 07/26/11 S0196 STEWART BUSINESS SYSTEMS LLC 165.50 2675
55984 07/26/11 S0209 STAPLES ADVANTAGE 54.15 2675
55985 07/26/11 S0239 SHORE VET. ANIMAL CONTROL LLC 2,550.00 2675
55986 07/26/11 S0249 SPORT SUPPLY GROUP, INC 232.00 2675
55987 07/26/11 S0253 SAMPLE MEDIA, INC. 169.20 2675
55988 07/26/11 T0032 THE PRESS & SUNDAY PRESS 580.26 2675
55989 07/26/11 T0044 THOMSON, KERRY AGENCY 1,187.50 2675
55990 07/26/11 T0048 TILL PAINT CO/D. FITZGERALD 630.00 2675
55991 07/26/11 T0055 TACTICAL PUBLIC SAFETY LLC 285.00 2675
55992 07/26/11 T0067 TOWNSHIP OF UPPER PETTY CASH 67.49 2675
55993 07/26/11 T0074 TRANSAXLE LLC 1,523.59 2675
55994 07/26/11 T0115 TURF & FARM SUPPLIES, INC. 420.00 2675
55995 07/26/11 U0012 U.T. SOCCER ASSOCIATION 236.25 2675
55996 07/26/11 U0047 U.S. MUNICIPAL SUPPLY, INC. 450.68 2675
55997 07/26/11 V0005 VAN EMBDEN, NATHAN, ATTORNEY 142.50 2675
55998 07/26/11 V0022 VERIZON 182.93 2675
55999 07/26/11 W0026 WEINSTEIN SUPPLY 411.98 2675
56000 07/26/11 W0030 WEST PUBLISHING CO. 356.94 2675
56001 07/26/11 W0085 WOODY, LESTER 129.99 2675
56002 07/26/11 W0089 WHEELEEZ INC. 412.00 2675
56003 07/26/11 Y0012 YOUNG,ROBERT 160.92 2675

total \$115,472.62