

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

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

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

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

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

APPROVAL OF MINUTES - September 26, 2011 Regular Meeting and Closed Session Minutes

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

REPORT OF GOVERNING BODY MEMBERS

Frank Conrad, reported that the NJDOT recently put the Rt. 50 paving project up for bid which will encompass roadway from Rt. 9 to the Tuckahoe bridge as well as curbing and the signal light at Hope Corson Road. He also reported that he met with the new Superintendent of Building and Grounds for the school district. He believes they are moving in the right direction with building repairs.

Kristine Gabor, reported that Halloween Trick or Treat is scheduled for October 31 from 5-8 pm. She also reported that the Pet Smart grant is being put to good use, with several residents taking advantage of the grant money to spay and neuter stray cats.

Jay Newman, reported that the Township had a very successful Fire Prevention Open House last Wednesday, with many in attendance. He also reported that he and Kristine Gabor attended a meeting at the County Office of Emergency Management to discuss the first steps

in consolidating 911 communications on the County level. He also discussed the need to hire five part-time EMTs. Motion was made by Jay Newman, second by Curtis Corson to appoint Andrea Burgey, Eileen Gannon, Amanda Grau, Lindsay Zwiebel, and Michael Linz Jr. as part time EMTs. Mr. Young stated that the appointments are conditioned upon Civil Service review as well as the standard background checks. During roll call vote all four Committee members present voted in the affirmative. A resolution will be placed on a future agenda.

OTHER REPORTS

Daniel Young, Municipal Attorney, reported he had one item for executive session; that being a Litigation matter, report of outstanding tax appeals.

Paul Dietrich, Municipal Engineer, reported that the Public Works Department has recently finished cleaning up the storm debris from the recent hurricane. He had a meeting with FEMA last Friday, starting the process for reimbursement of the cost of the emergency protective measures and debris cleanup performed as a result of Hurricane Irene. Final documentation should be ready for submittal to FEMA this week. He then reported that the State Bureau of Coastal Engineering has received the final signed contract for the Strathmere Beach Fill project. They will be forwarding the contract to the contractor and will be issuing them a notice to proceed. The contractor will have approximately 30-45 days to start work on the project. He then reported that the NJDOT and the State Historic Preservation Society are undecided as to what to do with the old closing gates on the existing Rt. 50 bridge. The State Historic Preservation Society would like the gates to be preserved, however it is not feasible to install them on the new bridge. They are looking for guidance from the Committee. It was discussed placing the gates on a Township owned site at Rt. 49 and Rt. 50 along with a sign placard however it would require the Township to maintain it like a park and that would require additional manpower for the upkeep. Mr. Corson suggested that it may be appropriate to place the gates in the Corbin City Park. The matter would be researched further.

RESOLUTIONS

- 1. Authorizing execution of NJDEP TWA-1 application Statements of Consent form regarding 5 W. Putnam Road, Strathmere, Block 828, Lot 1.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO.208-2011
RE: AUTHORIZING EXECUTION OF NJDEP TWA-1 APPLICATION
STATEMENTS OF CONSENT FORM REGARDING 5 W.PUTNAM ROAD,STRATHMERE
BLOCK 828, LOT 1**

WHEREAS, The Estate of Vincent J. Girard has or is about to make application to the New Jersey Department of Environmental Protection (hereinafter “DEP”) for Treatment Works Approval for a proposed three bedroom single family dwelling, and has requested that the Township complete a portion of DEP Form No. WQM-003, which merely consents to the submission of the application to the DEP and certifies that the project, as proposed, conforms with the requirements of all municipal Ordinances and does not otherwise impose any obligation or liability on the Township; and

WHEREAS, The Estate of Vincent J. Girard must apply to the New Jersey Department of Environmental Protection for Treatment Works Approval for the installation of a pressure dosing septic system, not in conformance with N.J.A.C.7:9A, for a three bedroom single family dwelling to be constructed on 5 W. Putnam Road, Strathmere, Block 828, Lot 1 of the municipal tax map of Upper Township, New Jersey; and

WHEREAS, the Township Engineer has informed the Township Committee as to the general nature of the project and has indicated that the Township has no ordinance prohibiting the proposed project; and

WHEREAS, the matter has been considered by the Township Committee and it has been determined that the consent by the Governing Body should be granted to this application to permit the application process to go forward; and

WHEREAS, the Township Committee wishes to authorize the Township officials to execute said documentation;

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 is hereby authorized to execute on behalf of the Township of Upper a Statements of Consent, Section A-1, in the form attached hereto as Exhibit “A” and said consent shall be completed by inserting therein this Resolution number and the date of its adoption.

3. This Statements of Consent is submitted in conjunction with the application of The Estate of Vincent J. Girard for treatment works approval for the property at Block 828, Lot 1 on the municipal tax map.

4. A certified copy of this Resolution shall be provided to the applicant.

Resolution No.208-2011

Offered by: Newman

Seconded by: Gabor

Adopted: October 11, 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>

- 2. Authorizing the Mayor to sign and accept a sub-award agreement from The College of New Jersey and sponsored by the NJ Department of Transportation.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO.209-2011
RE: AUTHORIZING THE MAYOR TO SIGN AND ACCEPT A SUBAWARD
AGREEMENT FROM THE COLLEGE OF NEW JERSEY AND
SPONSORED BY THE NJ DEPARTMENT OF TRANSPORTATION**

WHEREAS, the Township of Upper has been awarded a cost reimbursable subaward from the The College of New Jersey, Office of Academic Grants and Sponsored Research, sponsored by New Jersey Department of Transportation, in the amount of \$15,000 and available for the period of October 15, 2011 to January 31, 2012; and

WHEREAS, this subaward will be used for professional consultant services in assessing the market opportunities and financing potential for the current Marmora Town Center development and redevelopment plan; and

WHEREAS, the Township Committee fully supports and

endorses the actions of the Township Engineer in his filing of the grant application and gratefully accepts this subaward on behalf of the Township of Upper;

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Mayor is hereby authorized, directed and empowered to sign and submit the Subaward Agreement for the project entitled Upper Township Marmora Village Center and "Main Street" Market Assessment.
3. The signature of the Mayor on the Subaward Agreement constitute acceptance of the terms and conditions of the subaward agreement and accepts the subaward on behalf of the Township of Upper.
4. 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.209-2011

Offered by: Newman

Seconded by: Conrad

Adopted: October 11, 2011

Roll Call Vote:

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

3. Authorizing the Mayor and Township Clerk to sign a contract with Marsh & McLennan Agency, LLC for Employee Benefits Consultant Services.

Motion was made by Jay Newman, second by Frank Conrad to approve the resolution.

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

4. Authorizing the Township of Upper to enter into a contract with AtlantiCare Physician Group, PA to provide Occupational Medicine Services to members of Upper Township Division of EMS.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 211-2011

RE: AUTHORIZING THE TOWNSHIP OF UPPER TO ENTER INTO A CONTRACT
WITH ATLANTICARE PHYSICIAN GROUP, PA TO PROVIDE OCCUPATIONAL
MEDICINE SERVICES TO MEMBERS OF UPPER TOWNSHIP DIVISION OF EMS

WHEREAS, it is required that the Township establish a medical surveillance program in accordance with federal regulations (OSHA) and occupational health guidelines (NIOSH, NFPA) for the Township Division of Emergency Medical Services; and

WHEREAS, AtlantiCare Physician Group, PA has offered to provide such occupational medical services as required in the Medical Surveillance Program; and

WHEREAS, the Township intends to enter into a contract with AtlantiCare Physician Group, PA to provide such services for and on behalf of the members of the Upper Township Division of Emergency Medical Services; and

WHEREAS, the Township Solicitor has reviewed and approved a form of Contract between the Township of Upper and AtlantiCare Physician Group, PA, a copy of which is of record in the office of the Township Clerk; and

WHEREAS, AtlantiCare Physician Group, PA has completed and submitted a Business Entity Disclosure Certification which certifies that AtlantiCare Physician Group, PA 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 AtlantiCare Physician Group, PA from making any reportable contributions through the term of the contract; and

WHEREAS, the Township has available funds to permit it to enter into this Contract and the availability of such funds has been certified as required by law; 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 is hereby authorized to enter into a Contract with AtlantiCare Physician Group, PA for a term beginning on October 1, 2011 and ending on September 30, 2013 to provide occupational medicine services required by federal regulations and occupational health guidelines and the Mayor and Township Clerk are hereby authorized, directed and empowered to execute such Contract on behalf of 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.

Resolution No. 211 -2011

Offered by: Newman

Seconded by: Corson

Adopted: October 11, 2011

Roll Call Vote:

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

5. Requesting the Cape May County Freeholders to consider submitting a New Jersey Department of Environmental Protection Green Acres Program Local Government Assistance Application for Land Acquisition and Park Development.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO.212-2011
RE: REQUESTING THE CAPE MAY COUNTY FREEHOLDERS TO CONSIDER
SUBMITTING A NEW JERSEY DEPARTMENT OF ENVIRONMENTAL
PROTECTION GREEN ACRES PROGRAM LOCAL GOVERNMENT
ASSISTANCE APPLICATION FOR LAND ACQUISITION AND
PARK DEVELOPMENT

WHEREAS, Cape May County is eligible to receive up to \$900,000.00 for land acquisition and park development for the County Open Space and Farmland Preservation Program by applying for a matching grant offered through NJDEP Green Acres Program; and

WHEREAS, Green Acres matching funding can be used to acquire land for recreation and conservation purposes that will provide opportunity for both physical and visual public access; and

WHEREAS, Green Acre matching grant funds may be used to assist in efforts to complete the Cape May National Wildlife Refuge, which has only acquired 11,800 acres of the 21,820 acres that congress envisioned necessary to protect wetlands and wildlife resources of international importance; and

WHEREAS, the 2007 Cape May County Open Space and Recreation Plan recognizes that the County has an open space deficit of 4,001 acres and is in need of additional public recreational land and open space and therefore, recommends the maintenance and expansion of the existing County Park System, and the continuation of the County's Open Space preservation Program in conjunction and coordination with other public and private open space preservation programs; and

WHEREAS, ecotourism in Cape May County generates over \$522 million annually; and

WHEREAS, over \$260 million was approved through the last funding round of the “2009 Green Acres Bond Act” for local government open space acquisition and park development projects; 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 Upper Township Committee requests the Cape May County Freeholders to consider submitting an NJDEP Green Acres Program Local Government Assistance Application for Land Acquisition and Park Development.

3. A certified copy of this Resolution shall be provided to the County of Cape May Board of Chosen Freeholders.

Resolution No.212-2011

Offered by: Gabor Seconded by: Newman

Adopted: October 11, 2011

Roll Call Vote:

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

6. Authorizing participation in the Cape May County Municipal Utilities Authority “Litter Abatement Partnership Program”.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 213-2011

Re: Authorizing participation in the Cape May County Municipal Utilities Authority "Litter Abatement Partnership Program".

WHEREAS, the Cape May County Municipal Utilities Authority (CMCMUA/Authority) initially established a "Litter Abatement Partnership Program" in 1985 to address the problem of roadside litter and illegal refuse dumping; and

WHEREAS, the CMCMUA has periodically expanded and extended its "Litter Abatement Partnership Program"; and

WHEREAS, the Township of Upper has previously participated and is currently participating in the existing "Litter Abatement Partnership Program: and

WHEREAS, the CMCMUA proposes to authorize a similar "Litter Abatement Partnership Program", which shall be offered to the County of Cape May and to those municipalities that have entered into the "Shared Services Agreement for Solid Waste Disposal" with the CMCMUA; and

WHEREAS, the Township of Upper has entered into such "Shared Services Agreement for Solid Waste Disposal".

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. By the adoption of this Resolution, the Township Committee signifies its intention and willingness to participate in the "Litter Abatement Partnership Program" and in doing so, does hereby authorize and commit to continuing the following activities:

- (A) Providing a minimum of four (4) days of residential bulky waste collection services annually at no cost to individual customers (including or restoring bulky waste collection as part of the weekly municipal solid waste collection routes and schedules, at no cost to individual customers, would also satisfy this requirement). The schedule for these collection services must be established and provided to the Authority prior to being eligible for any benefits under this program.

- (B) Enforcing an anti-littering and anti-dumping ordinance which establishes penalties for littering and illegal dumping at a minimum \$500.00 fine, plus the cost of clean-up, and provides financial rewards for reporting such activities. Unless temporarily waived by the CMCMUA at the request of a municipality intending to comply with this requirement of eligibility, such an ordinance must be adopted prior to being eligible for any benefits under this program.

- (C) Considering as a supplement to these basic litter abatement services, the following measures:
 1. Provide satellite container and/or drop-off areas for household bulky wastes.

 2. Conduct special community-wide clean-up projects and/or special clean-up projects of selected local areas where illegal refuse dumping has occurred. (The CMCMUA must be advised, in advance, of the dates and locations of any special clean-up projects in order for any refuse collected from these special clean-up projects to be eligible as one of the municipality's four (4) no-cost disposal days at the Authority's solid waste disposal facilities).

 3. Develop and carry out, within six (6) months of program adoption, a community-wide litter abatement education and information program. Such a program should disseminate anti-littering information to the entire community at least once every six (6) months. Assistance in preparing such programs will be provided by the Authority upon request.

BE IT FURTHER RESOLVED that the "Litter Abatement Partnership Program", as outlined above, shall take effect immediately and shall remain in effect until the termination of the "Shared Services Agreement for Solid Waste Disposal" through December 31, 2018.

Resolution No. 213 -2011

Offered by: Conrad

Seconded by: Gabor

Adopted: October 11, 2011

NAME YES NO ABSTAINED ABSENT

Conrad	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Corson	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Gabor	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Newman	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Palombo	<u> </u>	<u> </u>	<u> </u>	<u> X </u>

7. Amendment of the Official Organizational Chart for the Township of Upper.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 214 -2011
AMENDMENT OF THE OFFICIAL ORGANIZATIONAL CHART FOR THE
TOWNSHIP OF UPPER**

WHEREAS, The Township of Upper finds it necessary to revise and update the Official Organizational Chart for the Township of Upper; and

WHEREAS, the aforesaid chart entitled “*Township of Upper Organizational Chart*” is attached hereto as Exhibit “A” and is available for inspection;

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 has determined that the chart attached as Exhibit “A” and identified as the “Township of Upper Organizational Chart” is hereby accepted and designated on October 11, 2011 as the official Organizational Chart until such time as amended by the Township Committee.

Resolution No. 214-2011

Offered by: Newman

Seconded by: Conrad

Adopted: October 11, 2011

Roll Call Vote:

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

8. Authorizing Township Officials to undertake certain actions with respect to an In Rem Foreclosure Action, Group 132, Superior Court of New Jersey, Docket No. F-034062-10.

**RESOLUTION
TOWNSHIP OF UPPER
CAPE MAY COUNTY, NEW JERSEY
RESOLUTION NO. 215-2011**

**Authorizing Township Officials to undertake certain
Actions with respect to an In Rem Foreclosure Action,
Group 132
Superior Court of New Jersey, Docket No. F-034062-10**

WHEREAS, the Township of Upper, pursuant to Resolution No. 55-2010 adopted February 23, 2010, authorized the filing of an In Rem Foreclosure Action in the Superior Court of New Jersey for the purpose of foreclosing certain Tax Sale Certificates held by the Township of Upper; and

WHEREAS, said action was filed and completed under Docket No. **F-034062-10** resulting in a Final Judgment entered by the Court in favor of the Township of Upper on July 29, 2011, and as a result of which the Township of Upper became the owner of and vested with an absolute and indefeasible estate of inheritance in fee simple, in the following described lands:

1	2	3	4		5
Schedule No,	Description of Land as appears in Tax Duplicate and Tax Sale Certificate Block/lot	Tax Sale Certificate No.	Recorded in Cape May Co. Clerk's Office Mortgage Book \ Page	Date	Name of Person Appearing as Owner in Tax Duplicate
132 -1	295 \ 6,7	94015	2289 \ 15	6/24/1994	Brehm, Jacob & Emma @ Graver, Anna
132 -2	323 \16	94016	2289 \ 13	6/24/1994	Odde, Edw I S @ J.McCusker

132 - 5	363 \ 9, 10	94026	2289 \ 55	6/24/1994	Casey, c/o McCusker, James
132 - 6	364 \ 7, 8	94027	2289 \ 53	6/24/1994	Vogel, Walter c/o Township of Upper
132 - 9	371 \ 6	94031	2289 \ 5	6/24/1994	Hopwood, L Est
132 - 11	482 \ 16, 17	94148	2288 \ 93	6/24/1994	Unknown
132 - 12	483 \ 37	94149	2289 \ 43	6/24/1994	Heuber, Regina @ Edw Krupnick
132 - 13	484 \ 21	94150	2289 \ 41	6/24/1994	Bernosky, JA & Wilde, EW
132 - 14	485 \ 12	94151	2289 \ 39	6/24/1994	Schninase, Estrea
132 - 15	497 \ 22	94153	2288 \ 91	6/24/1994	Unknown
132 - 16	504 \ 35, 36, 40	94155	2289 \ 37	6/24/1994	Becker, Carl & Mildred
132 - 17	519 \ 31, 32	94156	2288 \ 95	6/24/1994	Unknown
132 - 18	520 \ 34, 35	94157	2289 \ 35	6/24/1994	Carver, William & Erma @ Foglio
132 - 19	522 \ 17, 20	94158	2289 \ 33	6/24/1994	Schninasi, Estrea
132 - 20	528 \ 6, 7	94159	2289 \ 3	6/24/1994	Foglio, Frank & Migliaccio, A
132 - 21	528 \ 11-14	94160	2289 \ 1	6/24/1994	Foglio, Frank & Migliaccio, A
132 - 22	558 \ 53	94162	2288 \ 97	6/24/1994	Unknown
132 - 25	590 \ 36	94175	2289 \ 29	6/24/1994	Soffe, AM
132 - 26	618 \ 10, 11	94179	2289 \ 27	6/24/1994	Weyant, E Est & JD Dintzer
132 - 27	625 \ 3, 4	94181	2289 \ 25	6/24/1994	Israel, Fannine
132 - 28	629 \ 31, 32	94182	2288 \ 103	6/24/1994	Unknown

WHEREAS, a certified copy of said Final Judgment is filed of record in the Cape May County Clerk's Office in Deed Book 3468 at page 948 # 231 and is further on file in the Office of the Township Clerk and is a matter of public record; and

WHEREAS, the several parcels subject to the aforesaid in rem foreclosure action are further described below, including the name or names of the last transferee of title appearing of record:

Schedule #	Block \ Lot	Serial No. of Tax Sale Certificate	Name of Transferee or Purchaser of Title	Date of Deed	Recorded in Cape May County Clerk's Office	
					Date	Deed Book \ Page
132 -1	295 \ 6,7	94015	Jacob Brehm*	11/13/1928	11/23/1928	479 \ 376
			Emma V. Brehm*	11/13.1928	11/23/1928	479 \ 376
132 - 2	323 \16	94016	Edward J. Oddo*	1/18/1926	1/30/1928	466 \ 259
132 - 5	363 \ 9, 10	94026	Elizabeth Casey*	12/11/1928	12/29/1928	483 \ 447
132 - 6	364 \ 7, 8	94027	Walter Vogel*	1/2/1926	1/15/1926	430 \ 53
132 - 9	371 \ 6	94031	Herbert B. Hopwood*	1/25/1922	2/9/1929	484 \ 357
			Louisa F. Hopwood H/W*	1/25/1922	2/9/1929	484 \ 357
132 - 11	482 \ 16,17	94148	Koch Realty Company, Inc a New Jersey Corporation	6/12/1925	6/20/1925	406 \ 274
			Shirley A. Criste	9/14/1979	10/22/1979	1436 \ 565
			D. Richard Criste and Mark G. Criste	8/30/2002	9/26/2002	2984 \ 533
132 - 12	483 \ 37	94149	Regina Heubner*	10/4/1926	12/6/1926	438 \ 205
			Frederick Heubner*	Last Will	1950	Atlantic Co Surrogate
132 - 13	484 \ 21	94150	Jean Ann Bernosky	Last Will	11/25/1990	Cape May Co Surrogate
			Eugene W. Wilde, Jr.	Last Will	11/25/1990	Cape May Co Surrogate

132 - 14	485 \ 12	94151	Estrea Schinasi*	9/29/1927	3/21/1928	470 \ 236
132 - 15	497 \ 22	94153	Susquehanna Title & Trust Co., a Corp. of Pennsylvania**	11/7/1929	11/19/1929	500 \ 36
132 - 16	504 \ 35,36,40	94155	Carl Becker Mildred Easter Becker Irene Becker	7/7/1949 7/7/1949 Last Will	7/13/1949 7/13/1949 6/25/1955	736 \ 250 736 \ 250 Cape May Co Surrogate
132 - 17	519 \ 31, 32	94156	Koch Realty Company, Inc. a Corp. of New Jersey	6/12/1925	6/20/1925	406 \ 274
132 - 18	520 \ 34, 35	94157	William Garver* Erma J. Garver*	10/31/1925 10/31/1925	11/28/1925 11/28/1925	409 \ 209 409 \ 209
132 - 19	522 \ 17, 20	94158	Estrea Schinasu* Susquehanna Title & Trust Co. a Corp. of Pennsylvania** Ocean City Manor a New Jersey Partnership	3/15/1928 11/7/1929 1/24/1983	3/20/1928 11/19/1929 2/2/1983	472 \ 21 500 \ 36 1520 \ 560
132-20	528 \ 6, 7	94159	Anthony M. Migliaccio Patricia R. Migliaccio H/W Frank F. Foglio Doris M. Foglio H/W Lloyd Greenwalt	1/7/1966 2/6/2001	1/31/1966 6/6/2001	1142 \ 88 2915 \ 99
132-21	528 \ 11-14	94160	Anthony M. Migliaccio Patricia R. Migliaccio H/W Frank F. Foglio Doris M. Foglio H/W Lloyd Greenwalt	1/7/1966 2/6/2001	1/31/1966 6/6/2001	1142 \ 88 2915 \ 99

132 - 22	558 \ 53	94162	Henry Y. Clouting	2/14/1914	12/23/1914	307 \ 110	
			Cape May County Cancer Society	Last Will	3/1/1964	Surrogate	Cape Ma Co
			Cape May County Infantile Paralysis Fund	same as above		Real 30	Reel 30
			Cape May County Tuberculosis Society	same as above		Page 3025	
			Ocean City Tabernacle Assoc.	same as above			
			Children Seashore Home of Atlantic City, New Jersey	same as above			
			Betty Bacharach Home of Longport, New Jersey	same as above			
			Salvation Army	same as above			
			Cape May County Heart Assoc.	same as above			

132 - 25	590 \ 36	94175	Gertrude Howley Carey	Last Will	4/10/1964	Cape May Co. Surrogate Reel 184 Page 3025	
----------	----------	-------	-----------------------	-----------	-----------	---	--

132 - 26	618 \ 10, 11	94179	Ellen M. Weyant Frances M. Allen	12/14/1911 Last Will	10/11/1912	274 \ 306 Camden County Surrogate Will Book 83***	
			***per recital in Deed Book 714 pg 163				

132 - 27	625 \ 3, 4	94181	Fannine Israel	9/28/1921	7/20/1929	491 \ 327	
----------	------------	-------	----------------	-----------	-----------	-----------	--

132 - 28	629 \ 31, 32	94182	Nathan Rosenblum*	5/22/1918	5/23/1918	328 \ 231	
			[Tract 1]				
			Wm Povlatsky*	12/28/1920	1/29/1921	351 \ 214	
			Hyman Ruthberg*	12/28/1920	1/29/1921	351 \ 214	
			[Tract 2]				

* Records in the Cape May County Surrogate's Office show no Will or Estate information for these individuals.

** Secretary of Banking of Pennsylvania

Successor to Receiver of the Susquehanna Title and Trust Co.

*** Schedule 132-26: per recital in Deed Book 714 pg 163

WHEREAS, the Township Committee hereby authorizes certain action to be taken pursuant to said final judgment as hereinafter indicated;

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 reference.
2. Any and all accrued real estate taxes, including any interest or penalty thereon, on the foreclosed parcels shall be cancelled through and inclusive of the date of adoption of this Resolution.
3. All tax and assessment records of the Township of Upper shall be changed to reflect that the Township of Upper is the absolute and sole owner of each of the parcels of land described in this Resolution, and in the Final Judgment of the Superior Court referenced herein, in fee simple absolute, effective as of the date of the Final Judgment, pursuant to, and in accordance with said Final Judgment of the Superior Court of New Jersey.
4. A copy of this Resolution shall be filed with the Township Tax Collector and Township Tax Assessor and shall serve as authorization to undertake the actions specified herein or which may otherwise be necessary or required under the circumstances.
- 5 All Township Officials are herby authorized and directed to take such action or actions as may be reasonably necessary or required in order to carry out the intent and purpose of this Resolution.

Resolution No. 215-2011
 Offered By: Conrad
 Adopted: October 11, 2011

Seconded By: Corson

<u>ROLL CALL:</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Conrad	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Corson	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Gabor	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Newman	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Palombo	<u> </u>	<u> </u>	<u> </u>	<u> X </u>

ORDINANCES

9. **Public Hearing and Final Adoption of Ordinance No. 020-2011, RE: AN ORDINANCE VACATING THAT PAPER STREET KNOWN AS SECOND STREET, A PORTION OF WHICH WAS FORMERLY KNOWN AS ATLANTIC AVENUE, ADJACENT TO BLOCKS 446 AND 447 WITHIN THE TOWNSHIP OF UPPER, COUNTY OF CAPE MAY AND STATE OF NEW JERSEY.** During the public comment section of the hearing there were no speakers. Motion was made by Jay Newman, second by Frank Conrad to adopt Ordinance No. 020-2011. During roll call vote four Committee members present voted in the affirmative.

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

ORDINANCE NO. 020-2011

AN ORDINANCE VACATING THAT PAPER STREET KNOWN AS SECOND STREET, A PORTION OF WHICH WAS FORMERLY KNOWN AS ATLANTIC AVENUE, ADJACENT TO BLOCKS 446 AND 447 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, Steven and Maureen Conte are the owners of Block 446 Lot 1 and have requested that the Township vacate a certain 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 Second Street within the Township of Upper, as hereinafter provided.

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

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

Description

Vacation of Second Street, a portion of which was formerly known as Atlantic Avenue,
Adjacent to Blocks 446 and 447
as shown on Tax Map Sheet No. 13
Petersburg Section of
Township of Upper

BEGINNING at the Southwesterly intersection of Second Street and Tuckahoe Road extending in a Southerly direction along the Westerly line of Second Street and Lot 1.01 Block 447 a distance of 350' to a point; thence in a Easterly direction along the Southerly line of Second Street (formerly known as Atlantic Avenue) a distance of 260' to the Southwesterly intersection of Second Street (formerly known as Atlantic Avenue) and Perry Road; thence extending in a Northerly direction across Second Street (formerly known as Atlantic Avenue) a distance of 35'; thence along the Northerly line of Second Street (formerly

known as Atlantic Avenue) and Lot 1 Block 446 a distance of 200'; thence along the Easterly line of Second Street along Block 446 a distance of 310' to the Southeasterly intersection of Second Street and Tuckahoe Road; thence extending across Second Street in a Westerly direction a distance of 35' to the point of beginning.

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

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

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

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

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 12TH DAY OF SEPTEMBER, 2011 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 11TH DAY OF OCTOBER, 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

10. **Public Hearing and Final Adoption of Ordinance No. 021-2011, RE: AN ORDINANCE AUTHORIZING SALE OF LANDS, TO WIT BLOCK 622, LOTS 18, 19 and 20.** During the public comment section of the hearing there were no speakers. Motion was made by Jay Newman, second by Kristine Gabor to adopt Ordinance No. 021-2011. During roll call vote four Committee members present voted in the affirmative.

TOWNSHIP OF UPPER

CAPE MAY COUNTY

O R D I N A N C E

ORDINANCE NO. 021-2011

RE: AN ORDINANCE AUTHORIZING SALE OF LANDS,
TO WIT BLOCK 622, LOTS 18, 19 and 20

WHEREAS, the Township of Upper is the owner, in fee, of a certain parcels 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 622, Lots 18, 19 and 20; and

WHEREAS, the Township has received an offer from Roberta V. Townsend, 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 said lots with an existing lot; 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 622, Lots 18, 19 and 20

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 each parcel or parcels sold is hereby established as follows:

Block 622, Lots 18, 19 and 20

Minimum Bid: \$3,300.00

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 all prospective bidders.

SECTION 3: The list of 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: Roberta V. Townsend shall pay the following sum to the Township Clerk prior to the adoption of this Ordinance: \$500.00. This payment will be used by the Township and defray Township expenses involved in Authorizing the Sale and terms thereof; Engineer=s review; Attorney=s review; legal advertising, certified mail notices, title review expenses, closing costs and other expenses. If the parcel is not sold, this amount will be retained by the Township as **LIQUIDATED DAMAGES** and will be used to pay for the review of 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 \$500.00, representing pre-sale amounts paid by the original applicant requesting the sale and the original applicant (who is not the highest bidder) will then be entitled to a refund of all sums paid (\$500.00) except for the non-refundable application fee (\$50.00).

SECTION 5: The aforesaid parcels 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 Township Committee 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) (i) The sum of \$100.00 for the preparation of the Deed; and
- (ii) the sum of \$70.00 for recording the Deed.

IF THE BIDDER IS NOT THE ORIGINAL APPLICANT:

- (B) The sum of 500.00, payable to the Township of Upper, representing payment to the Township for expenses of \$500.00 to defray Township expenses, which amounts were required of the original applicant.
- (C) (i) The sum of \$100.00 for the preparation of the Deed.
- (ii) The sum of \$70.00 for recording the Deed.

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 bidder fails to close or fails to comply with the provisions hereof, such bidder shall be in default and all amounts paid to the Township by or on behalf of the bidder 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 bidder 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 successful bidder shall be required, at the time of the sale, 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 bidder=s existing adjacent property 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 successful bidder 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 12TH OF SEPTEMBER, 2011 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 11TH DAY OF OCTOBER, 2011 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

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

WANDA GAGLIONE, TOWNSHIP CLERK
TOWNSHIP OF UPPER

- 11. Public Hearing and Final Adoption of Ordinance No. 022-2011, RE: AN ORDINANCE AUTHORIZING THE EXCHANGE OF CERTAIN PARCELS OF VACANT GROUND WITH THE TOWNSHIP OF UPPER AND SUBJECT TO CERTAIN TERMS AND CONDITIONS.** 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. 022-2011. During roll call vote the four Committee members present voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE
ORDINANCE NO. 022-2011
RE: AN ORDINANCE AUTHORIZING THE EXCHANGE OF CERTAIN PARCELS
OF VACANT GROUND WITH THE TOWNSHIP OF UPPER AND SUBJECT TO
CERTAIN TERMS AND CONDITIONS**

WHEREAS, the Township of Upper is the owner, in fee, of a certain parcels of vacant ground located within the Township of Upper, County of Cape May, and State of New Jersey; and

WHEREAS, the Township has received an offer from Roberta V. Townsend to exchange certain lands; and

WHEREAS, after discussion and deliberation, the Township Committee is of the opinion that the exchange will be in the best interest of the Township and it will eliminate isolated parcels and will permit the Township as well as a private party to aggregate land providing for larger parcels; 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: Subject to the provisions hereafter set forth, the Township of Upper is authorized to exchange certain lands owned by it with lands owned by Roberta V. Townsend, more particularly described as follows:

- (A) The Township lands to be conveyed to Roberta V. Townsend are as follows: Block 584, Lots 35 and 36.
- (B) Roberta V. Townsend shall convey to the Township Block 584, Lot 1.

SECTION 2: In addition to the conveyance of the aforesaid lot by Roberta V. Townsend to the Township of Upper, Roberta V. Townsend shall pay cash consideration in the amount of \$1,257.00, which is based upon the fair market value of each lot appraised at \$1,257.00.

SECTION 3: The exchange of lands authorized in Sections 1 and 2 hereof is expressly conditioned and contingent upon the following:

- (A) The parties shall execute an agreement detailing the specifics of the entire transaction. Said agreement shall contain the terms and provisions of this Ordinance and such other terms and conditions as the Township deems appropriate to effectuate the purposes of this Ordinance.
- (B) A title report shall be prepared by a title abstracting company and title underwriter acceptable to the Township and Roberta V. Townsend. That title report must, at a minimum, provide evidence that the property to be exchanged is owned, in fee simple, by the parties who shall be conveying same, that title is marketable and insurable at regular rates and that there are no liens, encumbrances or conditions, reservations or restrictions of record which would interfere with the intended use of the property by the Grantee.
- (C) The agreement between the parties shall expressly provide that the exchange of lands and all contingencies and conditions contained in said agreement are inter-dependent and one shall not occur without the other. To that end, the parties agree that the exchange shall occur simultaneously.
- (D) Any property to be conveyed herein shall be conveyed by Bargain and Sale Deed. Roberta V. Townsend shall pay for the cost of the title report and all title company settlement charges. Each party shall bear the cost of preparation of the deed conveying the property to the other. Each party

shall be solely responsible for the cost of title insurance covering the parcels received by such party as a result of the exchange of lands.

(E) With respect to the property being conveyed by the Township, conveyance is under and subject to any riparian claim which may affect said property. In addition, the Township makes no representation as to the ability of the property to obtain a building permit or any other governmental approval. Roberta V. Townsend is required to comply with all applicable zoning, building and health ordinances, codes and regulations. The property to be transferred by the Township may be situate in a flood hazard zone. The Township of Upper makes no warranties or representations, expressed or implied, as to the property being transferred, the condition or marketability of 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 transferred contains wetlands anywhere on the property. The Township of Upper makes no warranties or representations as to any matter of an environmental nature, or otherwise, which may prevent or limit building or construction or use of the property.

(F) It is a requirement of this exchange that Roberta V. Townsend use the property transferred to her as contiguous property to her existing adjacent lands. Roberta V. Townsend shall be required to take immediate action to cause a consolidation of the property transferred to her from the Township with all of her existing adjacent lots so as to constitute all such lots in Block 584 as 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 from the Township and shall run with the land. Roberta V. Townsend shall complete consolidation as a condition of this exchange. The provisions of this Section shall survive closing and shall not merge into the deed.

SECTION 4: 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 12TH DAY OF SEPTEMBER, 2011 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 11TH DAY OF OCTOBER, 2011 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

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

WANDA GAGLIONE, TOWNSHIP CLERK
TOWNSHIP OF UPPER

- 12. Introduction and First Reading of Ordinance No. 023-2011, RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XX (ZONING) OF THE CODE OF UPPER TOWNSHIP.** Motion was made by Jay Newman, second by Curtis Corson to introduce Ordinance No. 023-2011 with public hearing and final adoption set for November 14, 2011. During roll call vote all four Committee members present voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE
ORDINANCE NO 023-2011
RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE
CHAPTER XX (ZONING) OF THE CODE OF UPPER TOWNSHIP**

WHEREAS, the Township Committee recently adopted revisions to Chapter XX of the Revised General Ordinances of the Township of Upper which amended zoning ordinance provisions in accordance with recommendations from the Upper Township Planning Board's most recent Master Plan Reexamination; and

WHEREAS, the Township Committee was notified by the Pinelands Commission that the provisions with respect to undersized lots set forth in Section 20-5.6g3 of the Code should not apply to lots in the Pinelands Management Area; and

WHEREAS, the Township Committee has also identified an omission with respect to required roof slope in Section 20-5.6g3 of the Code; and

WHEREAS, the Township Committee desires to further amend the zoning ordinance to comply with the requirements of the Pinelands Commission and correct the aforesaid omission; and

WHEREAS, the Township Committee intends to refer this further 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, this zoning ordinance revision and amendment is part of those recommended in connection with the periodic general examination of the Upper Township Master Plan as evidenced by the Master Plan Reexamination Report and Land Use Plan Amendment of January 20, 2011, as amended.

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, Section 20-5.6g3, of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended as hereinafter provided:

Revise the following **Section 20-5.6g3** as follows:

3. Any lot in a residential zoning district, except for lots situated in the “PV”, “RD”, “F3”, “F10” and “F25, 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 from 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%) 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;
and
- (q) Roof slope shall be a minimum of 4:1 slope.

SECTION 2: EFFECTIVE DATE: This ordinance shall take effect immediately upon the following:

- (a) Certification by the Pinelands Commission in accordance with N.J.A.C. 7:50 Subchapter 3 for sections affecting the Pinelands Management Zone; and
- (b) Publication as required by law.

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

SECTION 4: SEVERABILITY: If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

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

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 11TH OF OCTOBER, 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 14th DAY OF NOVEMBER, 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---Christmas in the Country Christmas Parade, 12/3/2011, 10:00 AM.** It was discussed that the State Police will have to be notified and a permit obtained from the NJDOT for the road closure. Motion was made by Jay Newman, second by Frank Conrad to approve the application. During roll call vote all four Committee members present voted in the affirmative. A resolution will be placed on a future agenda.

UNFINISHED BUSINESS:

DISCUSSION

PAYMENT OF BILLS:

“I hereby move that all claims submitted for payment at this meeting be approved and then incorporated in full in the minutes of this meeting.” Moved by Jay Newman, second by Frank Conrad with all four Committee members present voting in the affirmative.

Bill List: \$98,884.22

Payroll: \$166,139.65

REPORT OF MUNICIPAL DEPARTMENTS:

- 14. Construction Code**
- 15. Clerk’s Office**
- 16. Animal Control**
- 17. Tax Assessor**
- 18. Tax Collector**
- 19. Finance Office**

Reports are available from the Clerk’s Office.

PUBLIC COMMENT

Ruth Ann Coleman, 11 Timber Dr. West, Palermo, stated that during Hurricane Irene, there were no services available to evacuate her husband from their home. She explained that he is bedridden, and therefore is not able to evacuate and sit in a shelter; that he needs to go to a nursing home or a hospital. She requested that some procedure be implemented for her husband and others like him should another storm occur and a mandatory evacuation is ordered. She thanked Jay Potter and Jay Newman for their support during the storm, however she would like to know what will be done beforehand to evacuate special needs residents. The Committee assured her that this situation is a priority and asked for time to consult with

the County and establish a procedure for evacuation of special needs residents. Committeeman Newman stated that emergency procedures implemented during the storm are being closely reviewed and special needs residents are a main concern and will be reviewed in an upcoming county OEM meeting. It was discussed that any sheltering agreements with facilities in CMC would not have mattered in this instance because they were evacuated as well.

Mike Jones, Township OEM, spoke on Ruth Ann Coleman’s circumstances during Hurricane Irene. He reiterated that the situation will be addressed with the County.

Jay Potter, Chief of EMS, reported that the AtlantiCare Medic 15 unit is up and operational as of Sunday. They will be on call from 10:00 am to 10:00 pm 7 days a week.

CLOSED SESSION

20. 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. 216-2011
MOTION GOING INTO CLOSED SESSION
October 11, 2011

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

MATTERS:

1. Litigation of outstanding tax appeals.

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.

Moved by: Jay Newman

Second by: Frank Conrad

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

RECONVENE PUBLIC PORTION OF MEETING

ADJOURNMENT

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

There was no further business for this evening and the meeting was adjourned at 8:25 P.M. Next meeting scheduled for October 24, 2011 at 7:30 P.M.

Minutes prepared by

Wanda Gaglione, RMC
Municipal Clerk

Bill List

56324	10/11/11	A0004	A+ COMMERCIAL OFFICE CLEANERS	250.00	2688
56325	10/11/11	A0006	ADVANCE TREADS INC	217.00	2688
56326	10/11/11	A0018	ACTION SUPPLY INC.	95.52	2688
56327	10/11/11	A0028	ADVANTAGE RENTAL CENTER INC.	626.50	2688
56328	10/11/11	A0091	ATLANTIC CITY ELECTRIC	13,013.10	2688
56329	10/11/11	A0146	AACMC	425.00	2688
56330	10/11/11	A0166	Association of NJ Recyclers	80.00	2688
56331	10/11/11	B0093	BARRY,CORRADO,GRASSI & GIBSON	210.00	2688
56332	10/11/11	B0178	BUGANSKI,PETER R.	272.00	2688
56333	10/11/11	C0048	CAPE MAY COUNTY MUA	37,067.43	2688
56334	10/11/11	C0068	COMCAST	305.33	2688
56335	10/11/11	C0071	CAPEHART & SCATCHARD, P.A.	187.00	2688
56336	10/11/11	C0143	CODY'S POWER EQUIPMENT	5.15	2688
56337	10/11/11	C0171	COLONIAL ELECTRIC SUPPLY CO.	125.19	2688
56338	10/11/11	C0201	CRUZAN'S TRUCK SERVICE INC.	30.03	2688
56339	10/11/11	C0223	CASA PAYROLL SERVICE	232.55	2688
56340	10/11/11	E0012	EHRlich PEST CONTROL INC	77.96	2688
56341	10/11/11	E0047	EFINGER SPORTING GOODS CO	595.00	2688
56342	10/11/11	E0053	ENGLISH'S PORT. SANITATION LLC	175.00	2688
56343	10/11/11	F0054	FORT DEARBORN LIFE INSURANCE	477.30	2688
56344	10/11/11	G0016	GARDNER HARDWARE INC.	20.58	2688
56345	10/11/11	G0028	GENTILINI FORD	56.23	2688
56346	10/11/11	G0141	GENTILINI CHEVROLET	650.57	2688
56347	10/11/11	H0018	HAROLD RUBIN/L & H SUPPLY	353.06	2688
56348	10/11/11	H0037	HENRY SCHEIN	678.50	2688
56349	10/11/11	H0097	HERRON, JOANNE R.	526.31	2688
56350	10/11/11	J0014	JC MILLER'S	74.55	2688
56351	10/11/11	L0089	LILLA, JOHNNY	250.00	2688
56352	10/11/11	M0007	MCAA OF NJ	50.00	2688
56353	10/11/11	M0115	MOORE WALLACE NORTH AMERICA	125.00	2688
56354	10/11/11	M0188	MCCARTHY TIRE SERVICE OF PHILA	2,524.00	2688
56355	10/11/11	M0193	MAYNE, MICHAEL	52.98	2688
56356	10/11/11	M0214	MCDONALDS SAW SERVICE INC	62.00	2688
56357	10/11/11	N0004	NJ-AMERICAN WATER CO.	254.78	2688
56358	10/11/11	N0043	NAPA AUTO PARTS OF S.JERSEY	900.97	2688
56359	10/11/11	N0052	NATL YOUTH SPORTS COACHED ASSN	120.00	2688
56360	10/11/11	N0120	NORTHERN SAFETY CO.INC.	12.63	2688
56361	10/11/11	O0005	OFFICE BUSINESS SYSTEMS INC	257.50	2688
56362	10/11/11	P0032	PEDRONI FUEL CO.	1,884.32	2688
56363	10/11/11	P0050	PARSIO, ANTHONY	182.76	2688
56364	10/11/11	P0056	TURF EQUIPMENT AND SUPPLY CO	341.09	2688
56365	10/11/11	R0029	RIDDELL/ALL AMERICAN	2,748.21	2688
56366	10/11/11	R0030	RIGGINS, INC.	7,532.31	2688
56367	10/11/11	R0075	RENTAL COUNTRY	226.50	2688
56368	10/11/11	R0092	RUTGERS, THE STATE UNIVERSITY	113.00	2688
56369	10/11/11	S0001	SAM'S CLUB	165.79	2688

56370 10/11/11 S0016 SAMPSON, MICHELLE 150.00 2688
 56371 10/11/11 S0031 SCHULER SECURITY, INC. 144.45 2688
 56372 10/11/11 S0056 SEASHORE ASPHALT CORPORATION 150.00 2688
 56373 10/11/11 S0122 SOMERS POINT LUMBER INC. 284.96 2688
 56374 10/11/11 S0209 STAPLES ADVANTAGE 1,459.74 2688
 56375 10/11/11 S0239 SHORE VET. ANIMAL CONTROL LLC 2,400.00 2688
 56376 10/11/11 S0241 SAFEGUARD BUSINESS SYSTEMS 98.77 2688
 56377 10/11/11 S0255 SETON 160.85 2688
 56378 10/11/11 T0022 TERMINIX 51.00 2688
 56379 10/11/11 T0032 THE PRESS & SUNDAY PRESS 233.13 2688
 56380 10/11/11 T0067 TOWNSHIP OF UPPER PETTY CASH 3.75 2688
 56381 10/11/11 U0003 U.S. MUNICIPAL SUPPLY, INC. 142.06 2688
 56382 10/11/11 U0012 U.T. SOCCER ASSOCIATION 26.25 2688
 56383 10/11/11 U0020 URBAN PARTNERS 1,650.00 2688
 56384 10/11/11 U0048 U 1/2 2, INC 99.00 2688
 56385 10/11/11 V0001 VCI EMERGENCY VEHICLE 879.00 2688
 56386 10/11/11 V0013 VERIZON WIRELESS 587.98 2688
 56387 10/11/11 V0024 VAL-U AUTO PARTS L.L.C. 407.39 2688
 56388 10/11/11 V0025 V.E. RALPH & SON, INC. 180.75 2688
 56389 10/11/11 W0030 WEST PUBLISHING CO. 356.94 2688
 56390 10/11/11 Y0008 YOUNG, DANIEL J. ESQUIRE PC 12,162.50 2688
 56391 10/11/11 Y0023 YOUNG, DANIEL J. ATTORNEY 2,625.00 2688
 =====

Total Of All Funds: \$98,884.22