

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES AGENDA FOR OCTOBER 24, 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 - **October 11, 2011 Regular Meeting and
Closed Session Minutes****

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

REPORT OF GOVERNING BODY MEMBERS

Jay Newman, briefly reported on the formation of a subcommittee that will look into security measures for Township facilities.

Richard Palombo, reported he had one thing for executive session with respect to a personnel matter. He next reported that there is an opening on the Zoning Board. Applications can be submitted up to November 1st, and the matter would be considered at a future meeting. He then reported that Chief Jay Potter will be representing the Township at the NJ State Volunteer Recognition Ceremony on Wednesday October 26th. The Governor will be honoring volunteers for their work during Hurricane Irene. Finally, he reported that the Drug Enforcement Agency, along with local enforcement agencies, has coordinated a Take Back Initiative program for unused or expired prescription drugs on Saturday October 29th, between 10:00 am and 2:00 pm. Ocean City, Somers Point and Sea Isle are all participating in the program.

OTHER REPORTS

Wanda Gaglione, Township Clerk, reminded everyone that Halloween Trick or Treat is Monday October 31st from 5-8 pm. She also reported that the Township had an employee health fair last Friday, which was a great success. There were many vendors with great information and services made available to the employees. She made a suggestion of combining the health fair with another event next year in order to get more people in attendance such as employee’s family members.

Daniel Young, Municipal Attorney, reported he had a few items for executive session as follows: items under Litigation that include the Grubb matter, and the Yank, and Sansone matters; also a Contract Negotiation matter with respect to a health benefits consultant, and one personnel matter.

Paul Dietrich, Municipal Engineer, reported that he had a pre-construction meeting with the Bureau of Coastal Engineering, the DEP and Weeks Marine, the contractor for the beach fill project. The dredge equipment is anticipated to arrive around November 15 with pumping to commence immediately thereafter. Depending on weather conditions, the project is anticipated to be completed by early December. The pumping will start in Strathmere at Corson’s Inlet State Park and then continue south into Sea Isle City.

PRESENTATION Municipal Auditor Leon Costello review of capital projects issues.

Mr. Costello gave a summary on the procedure for authorization of Bonds or Notes, the types of projects, which can be bonded and their useful life. Also discussed were the long-term effects of bonding for capital projects.

RESOLUTIONS

- 1. Honoring John Renteria on attaining designation of Eagle Scout.**

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 217-2011
RE: HONORING JOHN RENTERIA ON ATTAINING THE
DESIGNATION OF "EAGLE SCOUT"

WHEREAS, John Renteria, has recently achieved the designation of Eagle Scout in the Boy Scouts of America; and

WHEREAS, the Township of Upper wishes to acknowledge this outstanding accomplishment; and

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

RESOLVED THAT the Township Committee extends its sincere congratulations to John on the occasion of his receiving the designation of Eagle Scout and commends him for this outstanding accomplishment and the completion of his Eagle Scout project consisting of the construction of an enclosed dog exercise area for Beacon Animal Shelter. John began by surveying the area, obtained all necessary permits and signed agreements to start construction, received a supply list and a cost estimate from Home Depot and started a campaign to raise the funds to purchase the supplies, and organized the work schedule to install the fence and gate; and

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

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

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 24th day of October, 2011.

Resolution No. 217 -2011

Offered by: Conrad

Seconded by: Corson

Adopted: October 24, 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>	_____	_____	_____
Gabor	<u> X </u>	_____	_____	_____
Newman	<u> X </u>	_____	_____	_____
Palombo	<u> X </u>	_____	_____	_____

2. Appointment of Andrea Burgey, Eileen Gannon, Amanda Grau, Lindsay Zwiebel, and Michael Linz Jr. as part-time employees to the Upper Township Division of Emergency Medical Services.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 218 -2011**

**RE: APPOINTMENT OF ANDREA BURGEY, EILEEN GANNON, AMANDA GRAU,
LINDSAY ZWIEBEL, AND MICHAEL LINZ, JR. AS PART-TIME EMPLOYEES
TO THE UPPER TOWNSHIP DIVISION OF EMERGENCY MEDICAL SERVICES**

WHEREAS, a need exists to appoint qualified personnel as part-time employees to the Upper Township Division of Emergency Medical Services to insure optimal operation; and

WHEREAS, a recommendation has been made to the Township Committee and duly considered at the meeting of October 11, 2011; and

WHEREAS, each individual’s appointment is conditioned upon successful completion of a background check, drug and alcohol testing, and Civil Service review; and

WHEREAS, this Resolution is intended to ratify the action heretofore taken; 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. Andrea Burgey, Eileen Gannon, Amanda Grau, Lindsay Zwiebel, and Michael Linz Jr. are hereby conditionally appointed as members of the Division of Emergency Medical Services in a part-time position effective immediately at a rate of \$13.00 per hour in accordance with the Salary Ordinance.
3. This Resolution ratifies, confirms and approves action taken by the Township Committee, by motion, at the meeting of October 11, 2011.

Resolution No. 218 -2011
Offered by: Newman
Adopted: October 24, 2011
Roll Call Vote:

Seconded by: Gabor

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

3. Authorizing the Chief Financial Officer to sign an agreement for a Section 125 Cafeteria Plan with American Family Life Assurance Company, (“AFLAC”) for Employee Health Benefits.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 219-2011
RE: AUTHORIZING THE CHIEF FINANCIAL OFFICER TO SIGN AN
AGREEMENT FOR A SECTION 125 CAFETERIA PLAN WITH
AMERICAN FAMILY LIFE ASSURANCE COMPANY, (“AFLAC”) FOR
EMPLOYEE HEALTH BENEFITS**

WHEREAS, the Township of Upper has considered the value of establishing a Cafeteria Plan for employee health benefits and has determined it to be in the best interest of the Township and it’s employees; and

WHEREAS, the creation of a Cafeteria Plan under section 125 of the Internal Revenue Code of 1986, allows employees to pay for certain eligible health expenses on a pretax basis, thereby saving both the employee and the Township of Upper the cost of certain taxes, including payroll taxes; and

WHEREAS, the Township has chosen American Family Life Assurance Company, (“AFLAC”), Benefit Services to provide administration services for establishing and maintaining Premium Only Plans and Flexible Spending Accounts for Township employees.

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 Upper hereby establishes a Cafeteria Plan under Section 125 of the Internal Revenue Code for use by eligible employees.
3. The Chief Financial Officer is hereby authorized, directed and empowered to enter into an agreement with “AFLAC” to provide administration services for employee Premium Only Plans and Flexible Spending Accounts, subject to the approval of the Chief Financial Officer and Municipal Attorney as per the terms of the agreement.
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. 219-2011

Offered by: Conrad Seconded by: Newman

Adopted: October 24, 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>	___	___	

4. Authorizing the Greater Tuckahoe Area Merchants Association Christmas Parade on December 3, 2011.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 220- 2011
RE: AUTHORIZING THE GREATER TUCKAHOE AREA MERCHANTS
ASSOCIATION CHRISTMAS PARADE ON DECEMBER 3, 2011**

WHEREAS, the Greater Tuckahoe Area Merchants Association, Inc., of P.O. Box 656 Tuckahoe, NJ 08250, has submitted a proposal to the Upper Township Committee requesting authority to hold a Christmas Parade on Saturday December 3, 2011, starting at the Tuckahoe train station and ending at L's Restaurant in Corbin City, beginning at 10:00 a.m. and ending at 10:20 a.m. as more particularly specified in their proposal, a copy of which is attached hereto as Exhibit "A"; and

WHEREAS, the parade will travel down Reading Avenue to NJSH Route 50 and over the Route 50 bridge into Corbin City and will utilize Township and State roads in Upper Township as described on a map attached hereto as Exhibit "B"; and

WHEREAS, the proposed event is sanctioned and insured by the Greater Tuckahoe Area Merchants Association, Inc. copy of insurance certificate attached as Exhibit "C"; and

WHEREAS, the event organizer has submitted an application for a Highway Occupancy permit to the New Jersey Department of Transportation, and upon receipt, shall submit a copy of said permit to the Township Clerk prior to the event; and

WHEREAS, the event organizers have represented that approvals have been obtained from the New Jersey State Police, and any and all other governmental agencies or entities having any jurisdiction or interest in the parade route; and

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

1. The allegations of the preamble are incorporated herein by this reference.

2. The Township Committee does hereby grant approval, to the extent that it has jurisdiction to do so, to the Greater Tuckahoe Area Merchants Association, Inc. for the Christmas Parade event to be held on December 3, 2011 as specified in this Resolution and in the accompanying Exhibits subject to and conditioned upon the following:

(A) The event described in this Resolution is carried out by the Greater Tuckahoe Area Merchants' Association, Inc. These sponsors have no connection, direct or indirect, with the Township of Upper or any of its officials or employees. These sponsors shall not, in any way, directly or indirectly, represent that the parade is, in any way, associated with or affiliated with the Township of Upper and shall make clear that the event is carried out with all appropriate governmental and other approvals. Although the Township of Upper has given permission, subject to the terms of this Resolution, to these event sponsors to conduct the proposed parade, it must be made clear that the event is not and shall not be considered a Township of Upper sponsored or sanctioned event.

(B) Greater Tuckahoe Area Merchants' Association, Inc., has provided general comprehensive liability insurance in form and substance satisfactory to the Township of Upper's Risk Management Consultant. Said insurance includes a medical expense limit. A Certificate of Insurance has been provided

to the Township Clerk, which the Risk Management Consultant of the Township of Upper has approved Certificate of Insurance. Said Certificate of Insurance names the Township of Upper, its officials, officers and employees, as an additional insured.

- (C) Greater Tuckahoe Area Merchants' Association, Inc., the event sponsors, will obtain written approval from and comply with all conditions imposed by the following entities:
- (i) the Risk Management Consultant of the Township of Upper.
 - (ii) the New Jersey State Police.
 - (iii) the Upper Township Rescue Squad.
 - (iv) The New Jersey Department of Transportation.

The event sponsors will provide written authorization from the above entities, including any conditions required of said entities, to the Township Clerk before the event.

- (D) Greater Tuckahoe Area Merchants' Association, Inc., has provided a Use of Facilities Agreement and an Indemnification and Hold Harmless Agreement in favor of the Township of Upper, its officials, officers and employees in the form attached hereto as Exhibit "D".

- (E) Setup for the event will take place at 10:00 a.m. the morning of the event.

(F)The approval granted herein is subject to all conditions and stipulations as may be recommended or imposed by the Township’s Risk Management Consultant or Insurance Representatives. The Township may revoke this approval if the Event Sponsors fail to comply with any said condition or recommendation or any other condition of this Resolution.

3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 220 -2011

Offered by: Gabor

Seconded by: Conrad

Adopted: October 24, 2011

Roll Call Vote:

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

5. Amending the Township of Upper’s Planning Implementation Agreement as Condition of Plan Endorsement. The State Planning Commission met on September 28, 2011 and approved our plan which was created as a result of a \$265,000 grant from the state. The plan endorsement is necessary to be able to develop commercial sites such as Shop Rite. The Committee discussed the future planning initiatives, which originally included a bike path along an old railroad bed that was based on a grant from the NJDOT. Mr. Dietrich discussed that there were problems with leasing the right-of-way from New Jersey Transit necessary to create the bike path and that the county experienced the same problems. In addition, if the Township were to place the bike bath back in the plan it would require a reapplication to the State for another review and reapproval. It was discussed that a second application and reapproval from the State of New Jersey would be time consuming and costly. Mr. Young commented that the bike path could be pursued through other avenues.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 221-2011
RE: Amending the Township of Upper's Planning Implementation Agreement as Condition of Plan Endorsement

WHEREAS, on February 21, 2007, the Commission granted the Township of Upper initial plan endorsement and designated center boundaries for two Town Centers, Marmora-Palermo-Beesley's Point (Marmora) and Seaville, and two Village Centers, Petersburg and Tuckahoe in Resolution No. 2007-01; and

WHEREAS, the endorsement of the Township of Upper, was contingent upon adoption and implementation of an agreed upon Planning Implementation Agreement (PIA), which was developed in conjunction with the petitioner, Staff of the Office of Smart Growth (predecessor to the Office for Planning Advocacy) and relevant State agencies; and

WHEREAS, on April 1, 2011, pursuant to N.J.A.C. 5:85-7.24, the Township of Upper submitted a biennial report to the Commission as required, including a petition to amend the PIA, attached hereto as EXHIBIT A; and

WHEREAS, pursuant to N.J.A.C. 5:85-7.24(b) the Township of Upper has submitted a statement and report regarding its petition to amend the PIA and a request for amendments as shown in EXHIBIT A; and

WHEREAS, on May 17, 2011, pursuant to N.J.A.C. 5:85-7.24(j), the Executive Director prepared a report containing findings and conclusions concerning the consistency of the subject of the petition to amend with the State Plan and recommending that the petition to amend the PIA be approved by the Commission, as shown in EXHIBIT B; and

WHEREAS, on May 25, 2011, pursuant to N.J.A.C. 5:85-7.24(k), the Township of Upper petition to amend was presented to the Planning Implementation Committee (PIC) for its consideration; and

WHEREAS, on September 28, 2011, pursuant to N.J.A.C. 5:85-7.24(l), the Commission held a hearing to consider the petition to amend and affirmed the report made by the Executive Director finding that the petition to amend is consistent with the State Plan.

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

Resolution No.221-2011

Offered by: Conrad

Seconded by: Palombo

Adopted: October 24, 2011

Roll Call Vote:

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

ORDINANCES

6. **Public Hearing and Final Adoption of Ordinance No. 024-2011, RE: AN ORDINANCE AMENDING CHAPTER XXI OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF UPPER WHICH ESTABLISH REQUIREMENTS FOR THE USE OF TOWNSHIP FACILITIES.** During the public comment section of the hearing there were no speakers from the audience. Motion was made by Curtis Corson, second by Kristine Gabor to adopt Ordinance No. 024-2011. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE**

ORDINANCE NO. 024-2011
AN ORDINANCE AMENDING CHAPTER XXI OF THE REVISED GENERAL
ORDINANCES OF THE TOWNSHIP OF UPPER WHICH ESTABLISH
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 amended as follows:

21.1 Unchanged.

21-2.1 No fee required for certain participants.

- a. Upper Township religious or charitable organizations, the Upper Township School District, the Ocean City High School, 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.
- b. When a participant has received approval for an event and has paid the required fee for the event, no additional fee shall be charged for use of a Township athletic field for practices for the event; provided, however, such use shall be strictly limited to practice only and the Township may schedule the practices at any available field, including those other than where the event will be held.
- c. Weddings of Township residents shall be exempt from payment of a fee for use of a Township facility so long as the facility is available and the use does not exceed 30 minutes in duration.

21-2.2 Fee for use of facilities.

- a. Unchanged.
- b. Unchanged.
- c. Unchanged
- d. Unchanged
- e. Beesley's Point Beach: \$200.00 per day or part thereof for use of the beach only; \$500.00 per day or part thereof for use of or the closure of the boat ramp.

- f. Beach in Strathmere and Whale Beach: \$200.00 per municipal beach block or part thereof.
- g. Use of any facility not specifically listed above: \$50.00 per hour.
- h. In addition to the above, any use of facilities involving Township personnel, services or materials shall pay an additional fee equal to the costs of such personnel, services or materials.

21.3. Requirements for use of facilities.

- 21.3.1 Unchanged
- 21.3.2 Unchanged
- 21.3.3 Unchanged
- 21.3.4 Unchanged
- 21.3.5 Background checks

Any event which involves unsupervised direct access to minor children must be accompanied by a certification from the applicant that those having unsupervised 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 Unchanged
- 21.3.7 Unchanged
- 21.3.8 Unchanged
- 21.3.9 Unchanged
- 21.3.10 Unchanged
- 21.3.11 Unchanged
- 21.3.12 Unchanged
- 21.3.13 Unchanged
- 21.3.14 Unchanged
- 21.3.15 Unchanged

21.4. Unchanged

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 the Ordinance shall be adjudged invalid, such adjudication shall only

apply to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of the 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 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 26TH 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 24TH 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

7. **Public Hearing and Final Adoption of Ordinance No. 025-2011, RE: AN ORDINANCE AUTHORIZING THE TOWNSHIP OF UPPER TO ENTER INTO A LEASE AGREEMENT WITH ATLANTICARE REGIONAL MEDICAL CENTER, A NEW JERSEY CORPORATION, WITH RESPECT TO OFFICE PREMISES AND PARKING SPACES LOCATED AT TOWNSHIP HALL, 2100 TUCKAHOE ROAD, PETERSBURG, 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. 025-2011. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE**

ORDINANCE NO. 025-2011

AN ORDINANCE AUTHORIZING THE TOWNSHIP OF UPPER TO ENTER INTO A LEASE AGREEMENT WITH ATLANTICARE REGIONAL MEDICAL CENTER, A NEW JERSEY CORPORATION, WITH RESPECT TO OFFICE PREMISES AND PARKING SPACES LOCATED AT TOWNSHIP HALL, 2100 TUCKAHOE ROAD, PETERSBURG, NEW JERSEY

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

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

- (A) Pursuant to N.J.S.A. 40A:12-14, a municipality is authorized to lease any real property, capital improvement or personal property not needed for public use and which is not otherwise dedicated or restricted pursuant to law.
- (B) N.J.S.A. 40A:12-14(c) further provides and authorizes a lease to a non-profit corporation for a public purpose, provided that such Lease shall be authorized by Ordinance and further authorizes such Lease for a nominal consideration. Said Statute further requires and mandates that the non-profit corporation file annual reports with the Governing Body as more particularly described and required in Section 4 hereof.
- (C) N.J.S.A. 40A:12-15 sets forth the purposes for which Leases or a public purpose may be made and provides a maximum term for a leasehold and expressly authorizes such Lease for health care and emergency services as well as the promotion of the health, safety, morals and general welfare of the community of any non-profit corporation or association (N.J.S.A. 40A:12-15(a), (b) and (i)).
- (D) It has been represented to the Township Committee that Atlanticare Regional Medical Center is a non-profit corporation organized and existing under the laws of the State of New Jersey and in good standing and the

Township Committee accepts and relies upon those representations made by or on behalf of Atlanticare Regional Medical Center.

- (E) The activities of Atlanticare Regional Medical Center will promote the public purpose of providing a medical office space as an EMS Field Office for the conduct of EMS Response for the benefit of the residents of Upper Township and nearby areas.

SECTION 2: The Township of Upper is hereby authorized to enter into a Lease Agreement with Atlanticare Regional Medical Center for the lease of office premises and parking spaces at Township Hall, 2100 Tuckahoe Road, Petersburg, New Jersey. Said Lease shall be for a term of one (1) year. Said Lease may thereafter be renewed for a successive term or terms as permitted by law. The consideration shall be equal to Four Hundred Fifty Dollars (\$450.00) per month for a total of Five Thousand Four Hundred Dollars (\$5,400.00) per year. Said Lease shall be prepared or approved by the Municipal Attorney for the Township of Upper and ultimate final approval of said Lease shall be vested in the Township Committee, as the Governing Body of the Township of Upper.

SECTION 3: CONDITIONS AFFECTING LEASE:The Lease authorized in Section 2 hereof shall be expressly subject to the following terms, reservations and restrictions:

- (A) The property described herein shall be used by Atlanticare Regional Medical Center as office premises and parking spaces subject to the terms and conditions of an Agreement to be negotiated between the Township of Upper and Atlanticare Regional Medical Center which defines the rights, duties and responsibilities of the Township and Atlanticare

Regional Medical Center with respect to the maintenance and use of the property described in this Ordinance.

- (B) In the event that Atlanticare Regional Medical Center should, in the opinion of the Township Governing Body, cease to exist or become inactive, then the right is reserved unto the Township of Upper, through its Governing Body, to terminate the Lease and to make the property described herein available to a successor entity or group to be used for the same or similar purpose or for any other purpose permitted by law.

SECTION 4: AUTHORITY OF TOWNSHIP OFFICIALS: All Township officers, officials and employees are hereby authorized to take all action necessary or required in order to carry out the intent and purpose of this Ordinance. Without in any way intending to limit the generality of the foregoing, the Mayor and the Township Clerk are expressly authorized, empowered and directed to sign the Lease Agreement on behalf of the Township of Upper as Lessor and the Township Clerk is further authorized, directed and empowered to affix the Township seal to said Lease.

SECTION 5: REPEALER: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION 6: EFFECTIVE DATE:This Ordinance shall take effect immediately upon final adoption and publication as required by law.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 26TH 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 24th 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

8. **Introduction and First Reading of Ordinance No. 026-2011, RE: AN ORDINANCE REPEALING ORDINANCE NO. 014-2011 AND AUTHORIZING THE SALE OF LAND KNOWN AS PART OF LOTS 5 THROUGH 9 AND LOTS 12 THROUGH 14 IN BLOCK 355 TOGETHER WITH THE SALE OF AN EASEMENT IN PART OF LOT 19 AND BLOCK 310 TO THE STATE OF NEW JERSEY, DEPARTMENT OF TRANSPORTATION.** Motion was made by Jay Newman, second by Frank Conrad to introduce Ordinance No. 026-2011 with public hearing and final adoption set for November 28, 2011. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE
ORDINANCE NO. 026-2011
RE: AN ORDINANCE REPEALING ORDINANCE NO. 014-2011 AND AUTHORIZING
THE SALE OF LAND KNOWN AS PART OF LOTS 5 THROUGH 9 AND LOTS 12
THROUGH 14 IN BLOCK 355 TOGETHER WITH THE SALE OF AN EASEMENT IN
PART OF LOT 19 BLOCK 310 TO THE STATE OF NEW JERSEY,
DEPARTMENT OF TRANSPORTATION**

WHEREAS, the Township of Upper is the owner, in fee, of 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 355, Lots 5 through 9 and Lots 12 through 14 and Block 310, Lot 19; and

WHEREAS, the Township of Upper previously adopted Ordinance No. 014-2011 regarding the sale of said lands to the New Jersey Department of Transportation and it has subsequently been determined that said Ordinance should be repealed and replaced with the within Ordinance; and

WHEREAS, pursuant to N.J.S.A. 40A:12-20 a municipality may sell any real property on behalf of any other political subdivision upon such terms and conditions as the governing body of the municipality may by ordinance adopt; and

WHEREAS, the Township Committee of the Township of Upper has determined that the real property identified in the legal description attached hereto as Schedule A, commonly known as part of Lots 5 through 9 and Lots 12 through 14 in Block 355 and an easement in part of Lot 19 in Block 310 on the municipal tax map, is not needed for a public purpose by Upper Township and it is in the best interest of the Township, in order to facilitate the New Jersey State Route 50 Tuckahoe River Bridge project, to convey said real property and easement to the State of New Jersey, Department of Transportation; 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: Ordinance No. 014-2011 of the Township of Upper is hereby repealed.

SECTION 2: The Township of Upper is hereby authorized to convey for One Dollar (\$1.00) consideration to the State of New Jersey, Department of Transportation, hereinafter referred to as The State, the real property and easement set forth in Schedule A attached hereto, commonly known as part of Lots 5 through 9 and Lots 12 through 14 in Block 355 and also known as an easement in part of Lot 19 in Block 310. The subject property is also identified by The State as Route 50 Tuckahoe River Bridge Project, Section 2, Parcels 29A and E29B.

SECTION 3: The Township of Upper is aware that it is entitled to an appraisal and consultation. The Township of Upper waives this right with respect to the conveyance of the real property set forth in this Ordinance.

SECTION 4: The proper municipal officers, the Mayor, Richard Palombo, and the Municipal Clerk, Wanda Gaglione, are hereby authorized to execute an Agreement of Sale between Upper Township and the New Jersey Department of Transportation. Said Mayor and said Municipal Clerk are further authorized to execute the deed and any other documents The State may require to effectuate the conveyance of the subject real property.

SECTION 5: 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 6: 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 24TH 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 28th 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

Upper Township Tax Assessor Re: refund of taxes collected for 2011 tax year-exempt property of 100% disabled veteran the Committee directed a resolution be drafted and placed on a future agenda.

NEW BUSINESS

- 9. Upper Township Soccer Association, Inc. request to hold Raffle RA #391 on January 6, 2012 at Upper Township Community Center.** Motion was made by Frank Conrad, second by Kristine Gabor to approve the request. During roll call vote all five Committee members voted in the affirmative.

UNFINISHED BUSINESS:

DISCUSSION

PAYMENT OF BILLS:

10. **“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 seconded by Frank Conrad to pay all bills submitted. During roll call vote all five Committee members voted in the affirmative.

Bills submitted for payment: \$1,489,959.36

Payroll: \$159,733.47

REPORT OF MUNICIPAL DEPARTMENTS:

11. Municipal Court

12. MUA Report

13. EMS Department

- 14. Tax Collector - Certification of Mailing of Added Assessment and Omitted/Added Assessment Taxes for 2011 Final/2012 Preliminary tax bills and Affidavit of Advertisement of properties for the recent tax sale.** Motion by Curtis Corson, second by Jay Newman to accept the report of the Tax Collector. During roll call vote all five Committee members voted in the affirmative.

Reports are available from the Clerk’s Office.

PUBLIC COMMENT

Ted Bamford of Commonwealth Ave. Strathmere discussed a street vacation that was done in 2008, which gave a portion of the street to the Department of Fish and Wildlife that Mr. Bamford believes is rightfully his. Mr. Dietrich reported that he has requested a copy of the survey from the Department of Fish and Wildlife, as there is no record on file in the office of the Tax Assessor as to why the change was done. Mr. Young commented that although he has not reviewed the documents that if there were no surveys or title searches done that would explain why the tax map might be inaccurate. Mr. Dietrich will contact Mr. Bamford when the survey map from the Department of Fish and Wildlife is received.

CLOSED SESSION

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

TOWNSHIP OF UPPER
RESOLUTION NO. 222-2011
MOTION GOING INTO CLOSED SESSION
October 24, 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. Litigation - Upper Township v. Yank
3. Litigation - Upper Township v. Sansone
4. Contract Negotiations – health benefits consultant
5. Personnel

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

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

Moved by: Jay Newman
Second by: Frank Conrad

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

RECONVENE PUBLIC PORTION OF MEETING

Motion by Jay Newman, second by Kristine Gabor to rescind the authorization for the health benefits contract with Marsh & McLennan Agency. During roll call vote all five committee members voted in the affirmative.

ADJOURNMENT

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

There being no further business this evening the meeting was adjourned at 9:40 P.M. Next meeting scheduled for November 14, 2011 at 7:30 P.M.

Minutes prepared by

Wanda Gaglione, RMC
Municipal Clerk

Bill List

56392 10/24/11 A0035 AIRLINE HYDRAULIC CORP. 430.00 2689
56393 10/24/11 A0081 ARMSTRONG, RALON I. 172.74 2689
56394 10/24/11 A0091 ATLANTIC CITY ELECTRIC 6,244.40 2689
56395 10/24/11 A0099 ATLANTIC TIME SYSTEMS,INC. 581.80 2689
56396 10/24/11 A0131 ACORN 300.00 2689
56397 10/24/11 A0143 BARLOW BUICK GMC 264.49 2689
56398 10/24/11 A0146 AACMC 127.50 2689
56399 10/24/11 A0167 HESS CORPORATION 1,811.12 2689
56400 10/24/11 B0035 BELMONT & CRYSTAL SPRINGS 230.93 2689
56401 10/24/11 B0076 BOND, LAURENCE E. 1,882.63 2689 Direct Deposit
56402 10/24/11 B0102 GIRL SCOUT TROOP#4474 300.00 2689
56403 10/24/11 B0160 BONNER, ROSEMARY 30.00 2689
56404 10/24/11 C0052 CAPE MAY COUNTY TREASURER 1,244,638.70 2689
56405 10/24/11 C0060 CAPRIONI'S PORTABLE TOILETS 824.00 2689
56406 10/24/11 C0068 COMCAST 225.12 2689
56407 10/24/11 C0186 CUB SCOUT PACK #55 300.00 2689
56408 10/24/11 C0223 CASA PAYROLL SERVICE 229.05 2689
56409 10/24/11 D0040 DELTA DENTAL OF N.J. INC. 7,077.68 2689
56410 10/24/11 E0012 EHRlich PEST CONTROL INC 77.96 2689
56411 10/24/11 E0016 ERCO CEILINGS & BLINDS INC 280.32 2689
56412 10/24/11 E0017 EDMUNDS & ASSOCIATES, INC. 25.00 2689
56413 10/24/11 E0047 EFINGER SPORTING GOODS CO 1,074.00 2689
56414 10/24/11 F0003 FRA TECHNOLOGIES, INC. 600.00 2689
56415 10/24/11 G0014 GARDEN STATE HWY PRODUCTS INC. 472.00 2689
56416 10/24/11 G0016 GARDNER HARDWARE INC. 38.97 2689
56417 10/24/11 G0028 GENTILINI FORD 18.52 2689
56418 10/24/11 G0044 GILES & RANSOME, INC. 377.62 2689
56419 10/24/11 G0133 GARCIA, VERONICA 48.00 2689
56420 10/24/11 G0144 GIRL SCOUT TROOP 45127 300.00 2689
56421 10/24/11 H0018 HAROLD RUBIN/L & H SUPPLY 137.00 2689
56422 10/24/11 H0057 HISTORICAL PRESERVATION 300.00 2689
56423 10/24/11 H0062 HOPE, JOHN J. 375.29 2689
56424 10/24/11 H0100 HARVEST MARKET 720.00 2689
56425 10/24/11 J0014 JC MILLER'S 222.95 2689
56426 10/24/11 J0049 DAISY TROOP 45853 300.00 2689
56427 10/24/11 J0063 JOHNSON WILSHIRE, INC 315.36 2689
56428 10/24/11 J0069 JET - VAC inc 106.67 2689
56429 10/24/11 K0007 KACZMARSKI, RICHARD 254.94 2689
56430 10/24/11 L0027 LASHLEY HEATING & COOLING INC. 250.00 2689
56431 10/24/11 L0031 LORCO PETROLEUM SERVICES 259.00 2689

56432 10/24/11 L0087 LINE SYSTEMS INC 1,130.96 2689
56433 10/24/11 M0007 MCAA OF NJ 50.00 2689
56434 10/24/11 M0103 MODERN GAS COMPANY, INC. 1,657.57 2689
56435 10/24/11 M0188 MCCARTHY TIRE SERVICE OF PHILA 520.86 2689
56436 10/24/11 M0193 MAYNE, MICHAEL 92.99 2689
56437 10/24/11 M0222 MUNICIPAL CAPITAL CORPORATION 392.00 2689
56438 10/24/11 N0043 NAPA AUTO PARTS OF S.JERSEY 557.22 2689
56439 10/24/11 N0070 MARSH & MCLENNAN AGENCY, LLC 5,000.00 2689
56440 10/24/11 P0018 PARTY HOPPERS LLC 300.00 2689
56441 10/24/11 P0024 PEER LEADERSHIP 300.00 2689
56442 10/24/11 P0032 PEDRONI FUEL CO. 2,357.53 2689
56443 10/24/11 P0056 TURF EQUIPMENT AND SUPPLY CO 403.71 2689
56444 10/24/11 P0064 PITNEY BOWES 210.00 2689
56445 10/24/11 P0075 POSITIVE PROMOTIONS INC 350.45 2689
56446 10/24/11 P0090 PTA, 7th GRADE CLASS 300.00 2689
56447 10/24/11 R0030 RIGGINS, INC. 6,567.62 2689
56448 10/24/11 S0015 SMYTH, PATRICIA 193.25 2689
56449 10/24/11 S0121 SMUZ, THERESE A 44.29 2689
56450 10/24/11 S0134 SO. JERSEY GAS COMPANY 135.70 2689
56451 10/24/11 S0139 SO. JERSEY WATER COND. INC. 165.00 2689
56452 10/24/11 S0196 STEWART BUSINESS SYSTEMS LLC 117.45 2689
56453 10/24/11 S0209 STAPLES ADVANTAGE 83.12 2689
56454 10/24/11 S0239 SHORE VET. ANIMAL CONTROL LLC 637.50 2689
56455 10/24/11 S0250 SOUTH JERSEY GLASS & DOOR CO 141.00 2689
56456 10/24/11 S0253 SAMPLE MEDIA, INC. 58.80 2689
56457 10/24/11 T0018 TEKK COMM COMMUNICATIONS 527.42 2689
56458 10/24/11 T0024 TAYLOR, MATTHEW 600.00 2689
56459 10/24/11 T0032 THE PRESS & SUNDAY PRESS 507.87 2689
56460 10/24/11 T0067 TOWNSHIP OF UPPER PETTY CASH 2.75 2689
56461 10/24/11 T0070 TOWNSHIP OF UPPER MAC 300.00 2689
56462 10/24/11 T0074 TRANSAXLE LLC 1,335.86 2689
56463 10/24/11 T0100 TROOP #55 TUCKAHOE 300.00 2689
56464 10/24/11 T0102 TROOP #79 300.00 2689
56465 10/24/11 T0154 TREASURER STATE OF NEW JERSEY 184,452.00 2689
56466 10/24/11 U0002 U.T. BASKETBALL ASSOCIATION 236.25 2689
56467 10/24/11 U0025 UNITED STATES POSTAL SERVICE 2,000.00 2689
56468 10/24/11 U0033 UPPER TOWNSHIP HOCKEY ASSOC. 26.25 2689
56469 10/24/11 U0048 U 1/2 2, INC 75.00 2689
56470 10/24/11 V0005 VAN EMBDEN, NATHAN, ATTORNEY 3,112.50 2689
56471 10/24/11 V0022 VERIZON 185.10 2689
56472 10/24/11 V0026 VITAL COMPUTER RESOURCES, INC. 100.00 2689
56473 10/24/11 W0031 WESLEY METHODIST CHURCH 300.00 2689
56474 10/24/11 W0050 WIRELESS ELECTRONICS, INC. 960.00 2689
56475 10/24/11 Y0012 YOUNG, ROBERT 31.08 2689
56476 10/24/11 Z0001 ZOLL MEDICAL CORPORATION 397.38 2689
56477 10/24/11 Z0003 ZEP INC. 219.12 2689

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Total: \$1,489,959.36