

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR NOVEMBER 14, 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	Absent
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 24, 2011 Regular Meeting and
Closed Session Minutes****

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

REPORT OF GOVERNING BODY MEMBERS

Kristine Gabor, reported that she will be attending a seminar at the League of Municipalities this Wednesday, which will provide a credit of \$250 to the Township. She next reported that she has requested a lighting company to submit a detailed proposal, as well as information on grant opportunities, for recreational field lighting. She then reported on a 2006 contest to name the streets in the Amanda’s Field complex. The contest winners were Amy Phillips, Doug Shallcross, Daniel Walawender, and Noah Spear. At the time the Township adopted a resolution naming them as the winners of the contest and they each received a gift card from a local sporting goods store. The street signs were just recently installed and Ms. Gabor is requesting that the winners of the contest be contacted for a photo opportunity.

Curtis Corson, read a portion of a letter from Corbin City, which directed Corbin City residents to drop off any electronics for recycling at the Upper Township Public Works Department and stated that Upper Township has not authorized the acceptance of recycled electronics from non-

residents. The Township Clerk was directed to look into the matter. He reported that he would be presenting suggestions on alternative methods of trash collection at the first meeting in December.

Jay Newman, reported that a temporary security committee has been formed to conduct surveys of safety issues throughout the Township and report the results back to the Township Committee. A motion was made by Jay Newman, second by Kristine Gabor to appoint Jay Newman, Curtis Corson, Jay Potter, Fran Donlan, Dennis O'Brien, and Paul Dietrich as members of the Security Committee. During roll call vote all four Committee members present voted in the affirmative. A resolution will be placed on a future agenda. He then reported on a power outage in the area today affecting portions of Route 9 in Marmora and Beesley's Point, as well as the traffic lights in the area. Traffic control was facilitated by the State Police, the Marmora Fire Company, and the Rescue Squad during the power outage.

Richard Palombo, offered his congratulations to Kristine Gabor on officially becoming Cape May County Freeholder elect. He next offered his congratulations to Anthony Inserra on becoming Township Committeeman elect. He then reported on a growing problem with trees growing into the electrical wires. Paul Dietrich was directed to see if Atlantic Electric has a program to deal with the maintenance and trimming of the tree branches.

OTHER REPORTS

Wanda Gaglione, Township Clerk, announced that the annual Christmas Tree lighting ceremony will be on November 28, 2011 at 6:30 pm. The event is sponsored by the Noon Rotary Club, who will also be naming their person of the year that evening. She encouraged everyone to come out for the tree lighting ceremony and stay for the Committee meeting that will follow at 7:30 pm. It was then discussed that the 2012 Reorganization meeting will be held on Friday January 6, 2012 at 6:30 pm.

Daniel Young, Municipal Attorney, reported on a conflict brought to his attention by the Upper Township Assessor regarding the assessment of an elected official's property. The matter has been referred to conflict attorney Thomas Smith, as well as the Dennis Township Assessor pursuant to our shared services agreement with Dennis Township. He next reported on a few items for closed session as being: Contract negotiations regarding the Marmora Town Center consultant, non union staff, and a potential shared services agreement with the County for plowing services, several personnel matters, Ginn v. Upper Township litigation, and potential litigation of Echo Farms land sale.

Paul Dietrich, Municipal Engineer, reported that he recently signed off on the final FEMA reimbursement for the federally declared storm Hurricane Irene, bringing the total reimbursement to \$70,565. It was discussed that a portion of the surveys performed by Dr. Farrell, from the Richard Stockton College Coastal Research Center, in response to federally declared storms dating back to 2009 will be reimbursed by FEMA 75%. He then reported that the Public Works Department will be starting loose leaf collection this week.

Mr. Dietrich was later asked to give a brief update on the Strathmere beach fill project. He reported that the dredge has left Galveston Texas and should arrive this week with dredging to commence next week. It was questioned if any plant life will be affected. He reported on measures that could be taken to protect the evening primrose plants, a state threatened species in the area of the project.

RESOLUTIONS

- 1. Congratulating employee David Pennello of the Upper Township Road Department for his winning entry in the Upper Township Safety Award Program for the 4th quarter of 2011.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 223-2011
RE: CONGRATULATING EMPLOYEE DAVID PENNELLO
OF THE UPPER TOWNSHIP ROAD DEPARTMENT
FOR HIS WINNING ENTRY IN
THE UPPER TOWNSHIP SAFETY AWARD PROGRAM
FOR THE 4TH QUARTER OF 2011**

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

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

WHEREAS, David should be publicly recognized for reporting the safety hazard that a clear dome on the playground equipment at the Somers Avenue Park playground was broken, causing a potential hazard of children getting cut on the sharp edges; and

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

1. That the Committee extends its appreciation and publicly recognizes David Pennello on his commitment to safety by his identifying a potential safety hazard and presenting a solution through participation in the program.

2. That the Committee, on behalf of our employees and the citizens of the Township of Upper extend to David Pennello our congratulations and present him with the "Safety Day Award" of one day off with pay.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper

this 14th day of November, 2011.

Resolution No. 223-2011

Offered by: Corson

Seconded by: Newman

Adopted: November 14, 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. **Reimbursement of property taxes paid for the 2011 tax year to totally disabled veteran Zekiel R. Lee, Sr. for Block 729, Lot 8 on the municipal tax map.**

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO.224-2011

RE: REIMBURSEMENT OF PROPERTY TAXES PAID FOR THE 2011 TAX YEAR TO TOTALLY DISABLED VETERAN ZEKIEL R. LEE SR. FOR BLOCK 729, LOT 8 ON THE MUNICIPAL TAX MAP

WHEREAS, Zekiel R. Lee Sr. is a 100% disabled American veteran residing at 37 Rt. US 9 North, Block 729, Lot 8 on the municipal tax map of Upper Township, New Jersey; and

WHEREAS, the Department of Veteran Affairs has determined that Mr. Lee's 100% permanent wartime service-connected disability was effective July 17, 2010; and

WHEREAS, pursuant to N.J.S.A. 54:4-3.30 & 54:4-3.32, the governing body of any municipality may, at it's discretion,

refund the amount of taxes collected on any property which would have been exempt from taxation; and

WHEREAS, the Township Committee of the Township of Upper has determined that it is just and appropriate in this instance to reimburse Zekiel R. Lee Sr. the real estate taxes paid for the 2011 tax year for Block 729, Lot 8; 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 of Upper shall hereby reimburse Zekiel R. Lee Sr. in the amount of \$2,139.88 for real estate taxes paid for the 2011 tax year for Block 729, Lot 8.

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. 224-2011

Offered by: Newman

Seconded by: Gabor

Adopted: November 14, 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>	_____	_____	_____

3. Canceling Taxes on Exempt Property.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
Resolution No. 225-2011
Canceling Taxes on Exempt Property**

WHEREAS, certain corrections have been recommended by the Upper Township Tax Collector in order to correct tax records,

WHEREAS, certain properties became tax exempt for the year 2011,

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, Cape May County, that corrections to the Tax records are hereby authorized and the Tax Collector is hereby directed to correct said records or take such action as indicated on the attached sheet.

Resolution No.225-2011

Offered by: Palombo Seconded by: Newman

Adopted: November 14, 2011

Roll Call Vote:

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

<u>Block</u>	<u>Lot/Qual.</u>	<u>2011 Taxes</u>
699	5	\$3,394.27 (James & Virginia Winder)
729	8	\$3,212.81 (Zekiel & Patricia Lee)

100% Totally Disabled Veteran - Tax Exempt for 2011

4. **Authorizing the Chief Financial Officer to withdraw funds in the amount of \$60,000.00 from the account entitled Recreation Trust-Fund Developers for recreational improvements.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 226-2011**

RE: AUTHORIZING THE CHIEF FINANCIAL OFFICER TO WITHDRAW FUNDS IN THE AMOUNT OF \$60,000.00 FROM THE ACCOUNT ENTITLED RECREATION TRUST FUND-DEVELOPERS FOR RECREATIONAL IMPROVEMENTS

WHEREAS, it is necessary for the Township of Upper to make certain improvements at the Amanda's Field Recreation Complex; and

WHEREAS, the Township has \$120,000.00 in the Recreation Trust-Developers account;

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 Chief Financial Officer of the Township of Upper is hereby authorized, directed and empowered to withdraw funds in the amount of \$60,000.00, being the balance of the work previously authorized and as shown on Exhibit "A", from the account entitled Recreation Trust Fund-Developers for improvements at various Township recreational facilities.

Resolution No. 226-2011

Offered by: Gabor Seconded by: Palombo

Adopted: November 14, 2011

Roll Call Vote:

NAME	YES	NO	ABSTAINED	ABSENT
Conrad	_____	_____	_____	__X__
Corson	__X__	_____	_____	_____

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>

Exhibit “A”

Miscellaneous Repairs & Upgrades	\$5,000.00
Fencing for Baseball Fields	\$15,000.00
Conduit for Baseball Fields	\$15,000.00
Infield Mix for Baseball Fields	\$10,000.00
Irrigation	\$15,000.00
TOTAL	\$60,000.00

5. Resolution requesting approval of the Director of the Division of Local Government Services to establish a Dedicated Trust by Rider for Upper Township Cafeteria Plan Trust pursuant to N.J.A.C. 5:30-15.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 227-2011

**RE: RESOLUTION REQUESTING APPROVAL OF THE DIRECTOR OF THE
DIVISION OF LOCAL GOVERNMENT SERVICES TO ESTABLISH A
DEDICATED TRUST BY RIDER FOR UPPER TOWNSHIP CAFETERIA PLAN TRUST
PURSUANT TO N.J.A.C. 5:30-15**

WHEREAS, permission is required of the Director of the Division of Local Government Services for approval as a dedication by rider of revenues received by a municipality when the revenue is not subject to reasonable accurate estimates in advance; and

WHEREAS, N.J.A.C. 5:30-15 permits municipalities to receive amounts for costs incurred for cafeteria plans; and

WHEREAS, N.J.S.A. 40A:4-39 provides that the Director of the Division of Local Government Services may approve expenditures of monies by dedication by rider.

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

1. The Township Committee of the Township of Upper hereby requests permission of the Director of the Division of Local Government Services to pay expenditures for employee's cafeteria plans created in accordance with the provisions of N.J.A.C. 5:30-15 as per N.J.S.A 40A:4-39; and
2. The Municipal Clerk of the Township of Upper is hereby directed to forward two certified copies of this resolution to the Director of the Division of Local Government Services.

Resolution No. 227-2011

Offered by: Newman

Seconded by: Gabor

Adopted: November 14, 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>	___	___	___

6. Refund EMS Ambulance billing overpayment to CIGNA Healthcare Proclaim/Accent Cost Containment Solutions.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 228-2011
RE: REFUND EMS AMBULANCE BILLING OVERPAYMENT
TO CIGNA HEALTHCARE PROCLAIM/
ACCENT COST CONTAINMENT SOLUTIONS**

WHEREAS, an overpayment has occurred in the account of Timothy J. Errickson, an EMS ambulance billing patient, where the monies sent to the Township of Upper by Cigna Healthcare Proclaim were in excess as evidenced by the attached copy of a letter attached hereto as Exhibit A.

<u>TO</u>	<u>FROM</u>
LEGAL SERVICES & COSTS O/E \$10,000.00	MISC. REGIONAL DISPATCH \$10,000.00
FIRST AID CONTRIBUTION \$5,000.00	BOARD OF HEALTH O/E \$10,600.00
MUNICIPAL PROSECUTOR S/W \$300.00	MUNICIPAL COURT S/W \$300.00
DOG REGULATION O/E \$600.00	CLEAN COMMUNITIES S/W \$1,298.50
COMMUNITY CENTER O/E \$5,000.00	
CLEAN COMMUNITIES O/E \$1,298.50	

Resolution No. 229-2011

Offered By: Corson

Seconded By: Newman

Adopted: November 14, 2011

ROLL CALL VOTE:

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

- 8. Withdrawing prior authorization of Township Officials to enter into a contract with Marsh & McLennan Agency, LLC for employee benefit consultant services.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 230-2011**

**RE: WITHDRAWING PRIOR AUTHORIZATION OF TOWNSHIP OFFICIALS TO
ENTER INTO A CONTRACT WITH MARSH & MCLENNAN AGENCY, LLC FOR
EMPLOYEE BENEFIT CONSULTANT SERVICES**

WHEREAS, the Township previously authorized the Mayor and Township Clerk to enter into a contract with Marsh & McLennan Agency, LLC to provide employee benefit consultant services pursuant to Resolution No. 210-2011; and

WHEREAS, the Township Committee has reviewed the most recent proposal from Marsh & McLennan Agency, LLC and has determined not to enter into an employee benefits consultant services contract at this time; 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 authorization to enter into a contract with Marsh & McLennan Agency, LLC is hereby withdrawn and Resolution No. 210-2011 is hereby rescinded.
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. 230-2011

Offered by: Gabor

Seconded by: Newman

Adopted: November 14, 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>	___	___	___

9. **A resolution to affirm the Township of Upper’s Civil Rights Policy with respect to all officials, appointees, employees, prospective employees, volunteers, independent contractors, and members of the public that come into contact with municipal employees, officials and volunteers.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY**

**RESOLUTION
RESOLUTION NO. 231-2011**

**RE: A RESOLUTION TO AFFIRM THE TOWNSHIP OF UPPER'S
CIVIL RIGHTS POLICY WITH RESPECT TO ALL OFFICIALS,
APPOINTEES, EMPLOYEES, PROSPECTIVE EMPLOYEES, VOLUNTEERS,
INDEPENDENT CONTRACTORS, AND MEMBERS OF THE PUBLIC THAT COME
INTO CONTACT WITH MUNICIPAL EMPLOYEES,
OFFICIALS AND VOLUNTEERS**

WHEREAS, it is the policy of the Township of Upper to treat the public, employees, prospective employees, appointees, volunteers and contractors in a manner consistent with all applicable civil rights laws and regulations including, but not limited to the Federal Civil Rights Act of 1964 as subsequently amended, the New Jersey Law against Discrimination, the Americans with Disabilities Act and the Conscientious Employee Protection Act, and

WHEREAS, the governing body of the of the Township of Upper has determined that certain procedures need to be established to accomplish this policy; and

NOW, THEREFORE BE IT RESOLVED to affirm and adopt the Township of Upper's civil rights policy as follows:

Section 1: No official, employee, appointee or volunteer of the Township of Upper by whatever title known, or any entity that is in any way a part of the Township of Upper shall engage, either directly or indirectly in any act including the failure to act that constitutes discrimination, harassment or a violation of any person's constitutional rights while such official, employee, appointee volunteer, or entity is engaged in or acting on behalf of the Township of Upper's business or using the facilities or property of the Township of Upper.

Section 2: The prohibitions and requirements of this resolution shall extend to any person or entity, including but not limited to any volunteer organization or inter-local organization, whether structured as a governmental entity or a private entity, that receives authorization or support in any way from the Township of Upper to provide services that otherwise could be performed by the Township of Upper.

Section 3: Discrimination, harassment and civil rights shall be defined for purposes of this resolution using the latest definitions contained in the applicable Federal and State laws concerning discrimination, harassment and civil rights.

Section 4: The Township Committee shall establish written procedures for any person to report alleged discrimination, harassment and violations of civil rights prohibited by this resolution. Such procedures shall include alternate ways to report a complaint so that the person making the complaint need not communicate with the alleged violator in the event the alleged violator would be the normal contact for such complaints.

Section 5: No person shall retaliate against any person who reports any alleged discrimination, harassment or violation of civil rights, provided however, that any person who reports alleged violations in bad faith shall be subject to appropriate discipline.

Section 6: The Personnel Officer shall establish written procedures that require all officials, employees, appointees and volunteers of the Township of Upper as well as all other entities subject to this resolution to periodically complete training concerning their duties, responsibilities and rights pursuant to this resolution.

Section 7: The Personnel Officer shall establish a system to monitor compliance and shall report at least annually to the governing body the results of the monitoring.

Section 8: At least annually, the Municipal Clerk shall cause a summary of this resolution and the procedures established pursuant to this resolution to be communicated within the Township of Upper. This communication shall include a statement from the governing body expressing its unequivocal commitment to enforce this resolution. This summary shall also be posted on the Township of Upper’s web site.

Section 9: This resolution shall take effect immediately.

Section 10: A copy of this resolution shall be published in the official newspaper of the Township of Upper in order for the public to be made aware of this policy and the Township of Upper’s commitment to the implementation and enforcement of this policy.

Resolution No. 231 -2011

Offered by: Gabor

Seconded by: Newman

Adopted: November 14, 2011

Roll Call Vote:

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

ORDINANCES

10. Public hearing and final adoption of Ordinance No. 023-2011 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XX (ZONING) OF THE CODE OF UPPER TOWNSHIP. This ordinance addresses a conflict the Pinelands Commission had pertaining to a non-conforming lot grandfather clause contained in a previous zoning amendment adopted in April 2011. It also clarifies a roof slope discrepancy that came up upon interpretation. During the public comment section of the hearing there were no speakers from the public. Motion was made by Jay Newman, second by Curtis Corson to adopt Ordinance No. 023-2011. 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%) percent of the median income for Region 6 as adjusted for family size; and
- (c) Said lot shall contain a minimum of four thousand (4,000) square feet; and
- (d) Building coverage shall not exceed twenty-five (25%) percent; and
- (e) Impervious coverage shall not exceed fifty (50%) percent; and
- (f) Parking requirements as defined by this chapter are met; and
- (g) Minimum Side Yard setback shall be six (6') feet; and
- (h) Minimum Rear Yard setback shall be fifteen (15') feet; and
- (i) Minimum Lot Frontage and Width shall be forty (40') feet; and
- (j) Front yard depth and setback shall conform to those of adjoining property owners; and
- (k) Maximum accessory structure coverage shall be five (5%) percent; and
- (l) Minimum accessory structure rear or side yard setback shall be five (5') feet; and
- (m) Maximum building height shall be twenty (20') feet; and
- (n) Minimum building size shall be eight hundred (800) square feet; and
- (o) Maximum gross floor area shall be one thousand two hundred (1,200) square feet; and
- (p) Maximum number of bedrooms shall be no more than two (2) bedrooms; 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

11. Richard Stockton College Coastal Research Center-2011 Proposal FEMA funded Beach Restoration Project in Upper Township. The proposal consists of four tasks, not contained in the Township's current contract with Dr. Farrel, pertaining to the Strathmere beach fill project currently underway. Motion was made by Richard Palombo, second by Jay Newman to accept the proposal, with the understanding that 75% of the costs in the proposal will be reimbursed by FEMA. During roll call vote all four Committee members present voted in the affirmative.

12. Energy Efficiency and Conservation Block Grant Rebate in the amount of \$23,008.46. This grant program is funded by the United States Department of Energy through the American Recovery and Reinvestment Act. The grant was applied for by the Township Engineer and has been awarded at no cost to the Township. The money will be used to replace the boiler in Township Hall, install a fourth HVAC unit and upgrade the thermostats to be programmable.

NEW BUSINESS

13. NJDEP Treatment Works Application (TWA) Statements of Consent form, Sallee Raffa, Block 823, Lot 1, 805 S. Commonwealth Avenue, Strathmere. Mr. Dietrich reported that Ms. Raffa has already received subdivision and variance approval and the property meets all the municipal and zoning standards of the Township. Motion was made by Jay Newman, second by Kristine Gabor to accept 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

14. Possible appointment of Zoning Board member. The matter was briefly discussed and it was agreed to postpone the matter to the next meeting.

PAYMENT OF BILLS:

“I hereby move that all claims submitted for payment at this meeting be approved and then incorporated in full in the minutes of this meeting.” Motion was made by Jay Newman seconded by Richard Palombo to pay all bills submitted. During roll call vote all four Committee members present voted in the affirmative.

Bills submitted for payment: \$ 354,352.46
Payroll: \$ 159,733.47

REPORT OF MUNICIPAL DEPARTMENTS:

- 15. Construction Code**
- 16. Clerk’s Office**
- 17. Animal Control**
- 18. Tax Assessor**
- 19. Finance Office**
- 20. Department of Public Works**
- 21. EMS Report**
- 22. Municipal Court**

Reports are available from the Clerk’s Office.

PUBLIC COMMENT

CLOSED SESSION

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

RESOLUTION NO. 232-2011
MOTION GOING INTO CLOSED SESSION
November 14, 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. Contract negotiations – Marmora Town Center consultant
- 2. Contract negotiations – non-union staff
- 3. Contract negotiations – Shared Services Agreement with Cape May County, plowing services
- 4. Personnel

- 5. Litigation – Ginn v. Upper Township
- 6. Potential Litigation – Echo Farms Land Sale

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

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

Moved by: Jay Newman
 Motion seconded: Richard Palombo

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> </u>	<u> </u>	<u> </u>	<u> x </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>

RECONVENE PUBLIC PORTION OF MEETING

Motion made by Jay Newman, second by Curtis Corson to grant the request to set the termination of employment date for Gary Crager as December 1, 2011. During roll call vote all four Committee members present voted in the affirmative.

Motion made by Curtis Corson, second by Jay Newman to accept Megan McAfee’s request for overtime to complete informal tax appeals, which will save the Township tax revenue for 2012. The overtime is not to exceed \$2,500 and is conditioned upon wage and hour requirements. During roll call vote all four Committee member present voted in the affirmative.

ADJOURNMENT

There being no further business to conduct for this evening and the meeting was adjourned at 9:50 P.M. Next meeting scheduled for November 28, 2011 at 7:30 P.M. Meetings for December are scheduled for 12/5/2011 and 12/19/2011.

Minutes prepared by

Wanda Gaglione, RMC
Municipal Clerk

BILL LIST

56481 11/14/11 A0004 A+ COMMERCIAL OFFICE CLEANERS 250.00 2694
56482 11/14/11 A0006 ADVANCE TREADS INC 223.00 2694
56483 11/14/11 A0017 A.C.M. JIF C/O T. FREEDMAN 82,038.00 2694
56484 11/14/11 A0018 ACTION SUPPLY INC. 427.23 2694
56485 11/14/11 A0028 ADVANTAGE RENTAL CENTER INC. 1,405.92 2694
56486 11/14/11 A0043 ALERT-ALL CORPORATION 737.00 2694
56487 11/14/11 A0071 ANCHOR FIRE PROTECTION CO. 1,275.00 2694
56488 11/14/11 A0091 ATLANTIC CITY ELECTRIC 14,836.99 2694
56489 11/14/11 A0113 ARAWAK PAVING CO. INC. 4,942.67 2694
56490 11/14/11 A0114 A.E. STONE INC. 336.37 2694
56491 11/14/11 A0116 AVALON CARPET & TILE 234.73 2694
56492 11/14/11 A0118 AMERICAN SHORE & BEACH 500.00 2694
56493 11/14/11 A0122 ANSELL, ZARO, GRIMM & AARON 1,382.50 2694
56494 11/14/11 A0145 AIRSEP CORPORATION 488.62 2694
56495 11/14/11 A0146 AACMC 85.00 2694
56496 11/14/11 A0165 ALBERTSONS ACME 2,664.75 2694
56497 11/14/11 A0168 ATLANTIC CRANKSHAFT 376.00 2694
56498 11/14/11 B0035 BELMONT & CRYSTAL SPRINGS 298.57 2694
56499 11/14/11 B0052 BENNETT BATTERIES, LLC. 983.10 2694
56500 11/14/11 B0103 GIRL SCOUT TROOP #42714 300.00 2694
56501 11/14/11 B0107 BROWNIE TROOP #41360 300.00 2694
56502 11/14/11 B0117 BRIDGESTATE FOUNDRY CORP 2,900.00 2694
56503 11/14/11 B0184 BUSHONG, BRIAN 119.50 2694
56504 11/14/11 B0199 BROWNIE TROOP #41372 300.00 2694
56505 11/14/11 B0203 BOY SCOUT TROOP 95 300.00 2694
56506 11/14/11 B0204 BOY SCOUT TROOP 95 300.00 2694
56507 11/14/11 B0205 BURGEY, ANDREA 26.25 2694
56508 11/14/11 C0019 CITY OF OCEAN CITY 75,395.25 2694
56509 11/14/11 C0031 CAPE ASSIST 450.00 2694
56510 11/14/11 C0046 CAPE MAY COUNTY CLERK 32.00 2694
56511 11/14/11 C0048 CAPE MAY COUNTY MUA 29,683.20 2694
56512 11/14/11 C0051 COUNTRY SHORE WOMEN'S CLUB 300.00 2694
56513 11/14/11 C0060 CAPRIONI'S PORTABLE TOILETS 911.00 2694
56514 11/14/11 C0068 COMCAST 115.09 2694
56515 11/14/11 C0071 CAPEHART & SCATCHARD, P.A. 306.00 2694
56516 11/14/11 C0072 CATERINA SUPPLY INC. 1,396.00 2694
56517 11/14/11 C0103 CHURCH OF THE RESURRECTION 300.00 2694
56518 11/14/11 C0131 CINTAS FIRST AID & SAFETY 90.22 2694
56519 11/14/11 C0143 CODY'S POWER EQUIPMENT 13.50 2694
56520 11/14/11 C0156 COMPUTER HOUSE OF SOUTH JERSEY 179.00 2694
56521 11/14/11 C0171 COLONIAL ELECTRIC SUPPLY CO. 225.84 2694
56522 11/14/11 C0190 CUB SCOUT PACK #79 600.00 2694
56523 11/14/11 C0201 CRUZAN'S TRUCK SERVICE INC. 1,000.93 2694
56524 11/14/11 C0223 CASA PAYROLL SERVICE 235.45 2694
56525 11/14/11 C0242 CORE MECHANICAL, INC. 2,676.97 2694
56526 11/14/11 C0244 COMTEC SYSTEMS, INC. 713.00 2694
56527 11/14/11 D0138 DAISY TROOP 44480 300.00 2694
56528 11/14/11 E0012 EHRLICH PEST CONTROL INC 156.86 2694
56529 11/14/11 E0016 ERCO CEILINGS & BLINDS INC 214.53 2694
56530 11/14/11 F0016 FAZZIO, JOSEPH INC. 124.87 2694
56531 11/14/11 F0048 FOGG, LESLIE INC. 215.85 2694

56532 11/14/11 F0054 FORT DEARBORN LIFE INSURANCE 477.30 2694
56533 11/14/11 F0080 FAMILIES UNITED NETWORK 300.00 2694
56534 11/14/11 G0002 GAGLIONE, WANDA 200.00 2694
56535 11/14/11 G0014 GARDEN STATE HWY PRODUCTS INC. 24.00 2694
56536 11/14/11 G0016 GARDNER HARDWARE INC. 17.08 2694
56537 11/14/11 G0022 G.T.A.M. ASSOCIATION 300.00 2694
56538 11/14/11 G0035 GENRON FIRE PROTECTION 963.35 2694
56539 11/14/11 G0044 GILES & RANSOME, INC. 2,366.52 2694
56540 11/14/11 G0064 GIRL SCOUT TROUP # 46721 300.00 2694
56541 11/14/11 G0142 GIRL SCOUT TROOP 41548 300.00 2694
56542 11/14/11 G0143 GIRL SCOUT TROOP 41323 300.00 2694
56543 11/14/11 G0145 GRAU, AMANDA 26.25 2694
56544 11/14/11 H0006 HABERMAN, WILLIAM 235.05 2694
56545 11/14/11 H0018 HAROLD RUBIN/L & H SUPPLY 1,862.69 2694
56546 11/14/11 H0045 HICKMAN, DOUGLAS 1,959.00 2694
56547 11/14/11 H0131 HPI PROCESSES, INC 1,004.17 2694
56548 11/14/11 I0034 IPMAHR NJ CHAPTER 35.00 2694
56549 11/14/11 J0014 JC MILLER'S 95.92 2694
56550 11/14/11 J0040 JOHNSON & TOWERS, INC. 126.60 2694
56551 11/14/11 K0028 KIRK'S PIZZA 1,249.25 2694
56552 11/14/11 K0037 KOHLER, JOHN F 217.37 2694
56553 11/14/11 L0080 LOWES, INC. 288.46 2694
56554 11/14/11 M0012 McCAULEY, RICHARD 395.02 2694
56555 11/14/11 M0080 McMANIMON & SCOTLAND,L.L.C. 2,635.48 2694
56556 11/14/11 M0103 MODERN GAS COMPANY, INC. 69.58 2694
56557 11/14/11 M0142 MASON, NICHOLAS 415.27 2694
56558 11/14/11 M0188 MCCARTHY TIRE SERVICE OF PHILA 919.27 2694
56559 11/14/11 M0217 MUNICIPAL EMERGENCY SERVICES 124.00 2694
56560 11/14/11 N0004 NJ-AMERICAN WATER CO. 230.35 2694
56561 11/14/11 N0043 NAPA AUTO PARTS OF S.JERSEY 395.62 2694
56562 11/14/11 N0052 NATL YOUTH SPORTS COACHED ASSN 300.00 2694
56563 11/14/11 N0070 MARSH & MCLENNAN AGENCY, LLC 2,500.00 2694
56564 11/14/11 N0088 N.J. CONFERENCE OF MAYORS 475.00 2694
56565 11/14/11 N0100 N.J. LEAGUE OF MUNICIPALITIES 32.00 2694
56566 11/14/11 O0012 OCEAN CITY BD. OF EDUCATION 1,350.00 2694
56567 11/14/11 O0014 OCEANPORT LLC 4,944.82 2694
56568 11/14/11 P0032 PEDRONI FUEL CO. 2,199.96 2694
56569 11/14/11 P0050 PARSIO, ANTHONY 52.36 2694
56570 11/14/11 P0056 TURF EQUIPMENT AND SUPPLY CO 2,078.21 2694
56571 11/14/11 P0073 POGUE INC. 532.00 2694
56572 11/14/11 P0075 POSITIVE PROMOTIONS INC 2,658.47 2694
56573 11/14/11 P0096 PREVITI, MICHELE M. 463.25 2694
56574 11/14/11 P0113 PA Recreation & Park Society 571.00 2694
56575 11/14/11 P0121 PENGUIN COMMUNICATION LLC 67.20 2694
56576 11/14/11 Q0003 QC LABORATORIES 696.20 2694
56577 11/14/11 R0030 RIGGINS, INC. 10,772.04 2694
56578 11/14/11 S0001 SAM'S CLUB 148.57 2694
56579 11/14/11 S0020 AM SAN 85.60 2694
56580 11/14/11 S0031 SCHULER SECURITY, INC. 175.00 2694
56581 11/14/11 S0056 SEASHORE ASPHALT CORPORATION 446.25 2694
56582 11/14/11 S0072 SEGIN, STEWART S. 219.95 2694
56583 11/14/11 S0121 SMUZ, THERESE A 39.16 2694
56584 11/14/11 S0139 SO. JERSEY WATER COND. INC. 62.75 2694
56585 11/14/11 S0160 STAR LODGE # 65 300.00 2694
56586 11/14/11 S0185 STOCKTON STATE COLLEGE 27,436.92 2694
56587 11/14/11 S0196 STEWART BUSINESS SYSTEMS LLC 483.07 2694
56588 11/14/11 S0200 SHIFFLER EQUIPMENT SALES, INC. 16.02 2694

56589 11/14/11 S0209 STAPLES ADVANTAGE 613.68 2694
 56590 11/14/11 S0239 SHORE VET. ANIMAL CONTROL LLC 2,300.00 2694
 56591 11/14/11 T0032 THE PRESS & SUNDAY PRESS 417.02 2694
 56592 11/14/11 T0048 TILL PAINT CO/D. FITZGERALD 160.00 2694
 56593 11/14/11 T0067 TOWNSHIP OF UPPER PETTY CASH 33.62 2694
 56594 11/14/11 T0074 TRANSAXLE LLC 702.00 2694
 56595 11/14/11 T0097 TRICO EQUIPMENT INC. 24.90 2694
 56596 11/14/11 T0115 TURF & FARM SUPPLIES, INC. 9,242.39 2694
 56597 11/14/11 U0024 UNIVERSAL COMPUTING SERV. INC. 715.40 2694
 56598 11/14/11 U0026 UNIVERSAL SUPPLY CO.INC. 89.45 2694
 56599 11/14/11 U0032 UPPER TOWNSHIP FOOTBALL ASSOC. 26.25 2694
 56600 11/14/11 U0033 UPPER TOWNSHIP HOCKEY ASSOC. 300.00 2694
 56601 11/14/11 V0005 VAN EMBDEN, NATHAN, ATTORNEY 450.00 2694
 56602 11/14/11 V0013 VERIZON WIRELESS 616.77 2694
 56603 11/14/11 V0022 VERIZON 184.93 2694
 56604 11/14/11 V0024 VAL-U AUTO PARTS L.L.C. 421.12 2694
 56605 11/14/11 V0025 V.E. RALPH & SON, INC. 516.03 2694
 56606 11/14/11 V0026 VITAL COMPUTER RESOURCES, INC. 2,113.94 2694
 56607 11/14/11 V0027 VANORDER, ROGER 146.20 2694
 56608 11/14/11 W0030 WEST PUBLISHING CO. 551.94 2694
 56609 11/14/11 W0050 WIRELESS ELECTRONICS, INC. 3,496.00 2694
 56610 11/14/11 W0085 WOODY, LESTER 200.62 2694
 56611 11/14/11 Y0006 YESTERDAY'S 800.00 2694
 56612 11/14/11 Y0007 YEP COMPANY 318.25 2694
 56613 11/14/11 Y0008 YOUNG, DANIEL J. ESQUIRE PC 16,406.25 2694
 56614 11/14/11 Y0012 YOUNG, ROBERT 125.54 2694
 56615 11/14/11 Y0020 YOUNG, BARBARA L. 150.00 2694
 56616 11/14/11 Y0023 YOUNG, DANIEL J. ATTORNEY 2,625.00 2694

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Total Paid: \$354,352.46