

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR FEBRUARY 14, 2011**

*******BUDGET WORKSHOP MEETING-6:30 P.M.*******

In preparation of the 2011 Municipal Budget the second budget workshop meeting was called to order this evening at 6:30 PM. A third budget workshop meeting will be held on Monday, February 28, 2011 at 6:30 PM and the regular business meeting scheduled for that date will begin at 7:30 PM.

The following were present for the meeting tonight:

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, and Municipal Engineer Paul Dietrich. The Municipal Auditor, Leon Costello was also present.

The Open Public Meeting notice was read into the record.

Mr. Conrad began the meeting by stating that there would be a local purpose tax this year however the Committee were going to look at each item and reduce the 12.3¢ figure arrived at the last workshop meeting even more. He commented that the Governor gives his budget address next Tuesday which will give the Township a better idea of how the budget looks when state aid figures are released.

Revenues were looked at first. The franchise fees from cable TV and cell towers were discussed in that they provide \$80,000 in revenue. In addition the adoption of the new ambulance fee ordinance 002-2011 scheduled for adoption at the 2-28-2011 meeting will also provide revenues to the Township. The revenues received were \$175,000 in 2010 and it is expected that a possible \$65,000 would be received with the new ambulance fee ordinance.

Expenses were looked at as follows: It was discussed to reduce the O/E figure for the Rescue Squad on the worksheet from \$91,800 to \$79,750. The beach survey money was discussed which was reduced to \$75,000. The funds are needed to maintain the necessary engineering and surveys of the beaches. The Capital Improvement fund was discussed; it was decided to reduce the contribution into that fund this year to \$50,000. The two largest items in the budget are insurance and salaries, in addition there is \$400,000 allotted for pension. It was discussed that the Township experienced 0% increase in medical benefit costs 2 years in a row and this year it increased somewhat again with state benefits but we are actually lower than in 2007. The worksheet shows a figure of \$1.5 million for health insurance; this figure does not take into consideration the contribution made by the employees.

There was discussion as to whether the part time seasonal workers were necessary and it was decided to cut 2 more part time employees from the Sports and Recreation Department. It was estimated that even more savings would result by employee retirement this year. It was discussed that 5 full time employees were lost between last year and this year, and not replaced. It was suggested that a study of our trash collection program may result in more efficient and cost effective ways of accomplishing the task. The Affordable Housing figure was discussed and it is anticipated that the \$17,500 budgeted would be needed due to new state regulations. Publishing the Bulletin was discussed. Mr. Dietrich will look into placing the information on the website rather than pay for the publication. The Mayor opened the meeting up for public comment. Ted Kingston from Strathmere commented that his house is assessed at \$800,000 much higher than the \$300,000 figure used to calculate what a sample tax increase would and he asked the Committee to consider this point. Mr. Corson suggested that the Department Heads be challenged to come up with budget cuts. The Mayor discussed paperless meetings. Mail is now distributed via flash drives however each Committee member could have a Township issued laptop. The Public Information figure was discussed. The cuts tonight brought the figure down to 9.6¢ which equates to paying another \$285 on a \$300,000 home. Another meeting is scheduled for February 28th at 6:30 PM. It was discussed that the budget could be ready to introduce on March 14, 2011. The Budget portion of the meeting was closed, a five-minute recess was taken and the regular meeting was opened as follows.

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 - January 10, 2011 Regular Meeting; Motion was made by Jay Newman, seconded by Curtis Corson to approve the Minutes as written. During roll call vote four Committee members present voted in the affirmative. Richard Palombo abstained.

January 24, 2011 Regular Meeting & Closed Session Minutes; January 31, 2011 Budget Workshop Minutes. Motion was made by Jay Newman, seconded by Frank Conrad to approve the Minutes as written. During roll call vote five Committee members present voted in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

Frank Conrad, reported that the Committee held another budget workshop meeting earlier this evening and that a 3rd one would be scheduled for February 28th at 6:30 PM, (1 hour prior to the regularly scheduled meeting). He is hopeful that state figures would soon be received and that the budget would be ready to be introduced at the March 14th meeting.

Kristine Gabor, reported that the first free rabies clinic for 2011 will be Saturday February 26th from 1:00 to 3:00 p.m. Another is scheduled for March 26 and a third clinic sometime in the Fall. She reported that the play structure at the Ft Nuwi playground located at Caldwell Park was deemed unsafe has been removed. She also discussed a complaint she received regarding the mining operations in the pit located behind the Sunset Acres development and operations going on overnight. Mr. Dietrich will look into the matter.

Jay Newman, Introduced Trooper Leo of the New Jersey State Police, Woodbine Barracks who gave an update on calls for Upper Township. He reported Lieutenant Fran Donlan is the new Station Commander at Woodbine Station and Sergeant Pretrella is the Assistant Commander.

Richard Palombo, Mayor, commented that the Corson's Inlet Bridge opened today. It had been closed since the accident that occurred last week in which a vehicle went off the bridge. Fortunately there were no major injuries. He made a motion which was seconded by Jay Newman to authorize a resolution urging the Cape May County Bridge Commission to expedite the bid process to replace the guardrails on the Corson's Inlet toll bridge. During roll call vote all five Committee members voted in the affirmative.

OTHER REPORTS

Daniel Young, Municipal Attorney, reported that he has several items for discussion in executive session as follows: 2 Litigation matters--DOT v. Hutchinson: a report on condemnation with regard to a DOT project that the Township is named in; and Ginn v. Upper Township. Also other matters to discuss included Personnel matters; Contract Negotiation matters and Shared Services Agreement for vehicle wash with the City of Linwood.

Paul Dietrich, Municipal Engineer, discussed the possibility of doing an efficiency study to evaluate various cost saving measures for trash collection. Mr. Dietrich also discussed a Township owned building that has deteriorated beyond repair. Motion by Curtis Corson, second by Kristine Gabor to authorize the Public Works Department to demolish the building located at Block 348, Lot 55. During roll call vote all five Committee Members voted in the affirmative. Also discussed was the draft transportation study, which will be part of the DOT's transportation analysis.

RESOLUTIONS

1. Appointment of Frank L. Corrado, Esquire to act as special legal counsel.

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 43-2011

RE: APPOINTMENT OF FRANK L. CORRADO, ESQUIRE TO ACT
AS SPECIAL LEGAL COUNSEL

WHEREAS, the Township Committee of Upper Township desires additional legal counsel to provide support legal services in connection with the Strathmere and Whale Beach de-annexation litigation; and

WHEREAS, a resolution is required authorizing the award of such contract for professional services; and

WHEREAS, the Township has decided to acquire the services of Frank L. Corrado, Esquire as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-2.05; and

WHEREAS, Frank L. Corrado, Esquire has completed and submitted a Business Entity Disclosure Certification which certifies that Frank L. Corrado, Esquire 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 Frank L. Corrado from making any reportable contributions through the term of the contract; and

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

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

2. Frank L. Corrado, Esquire with offices at 2700 Pacific Avenue, Wildwood, New Jersey is hereby appointed Special Legal Counsel in connection with the Strathmere and Whale Beach de-annexation litigation in conjunction with and at the direction of the regular Township Solicitor and as directed by the Township Committee.

3. This contract shall have a commencement date of February 14, 2011 and shall continue for the length of time necessary for completion of the aforesaid legal services, unless sooner terminated by the Township of Upper, at the option of the Township of Upper.

4. This Contract is awarded without competitive bidding as a "professional service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Frank L. Corrado, Esquire has professional knowledge as to legal matters which knowledge is particularly valuable to the Township Committee.

NOTICE OF CONTRACT AWARD

The Township Committee of the Township of Upper, State of New Jersey has awarded the contract without competitive bidding as a professional service pursuant to N.J.S.A. 40A:11-5(1)(a) to Frank L. Corrado, Esquire for legal services. This contract and the resolution authorizing same shall be available for public inspection in the office of the municipal clerk of the Township of Upper, State of New Jersey.

5. A certificate from the Chief Financial Officer of Upper Township showing the availability of adequate funds for this contract and showing the line item appropriation of the official budget to which this contract will be properly charged has been provided to the governing body and shall be attached to this Resolution and kept in the files of the municipal clerk.

6. The contractor has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.

7. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Frank L. Corrado, Esquire in accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein. Upon execution of all parties thereto said contract shall become effective.

8. A copy of this Resolution shall be published in the official newspaper of the

Township of Upper within ten (10) days from the date of adoption.

9. This Resolution shall be effective as of adoption.

Resolution No. 43 -2011

Offered by: Conrad

Seconded by: Newman

Adopted: February 14, 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>

- 2. Authorizing the award of a Professional Services Contract with Dr. Stewart C. Farrell/Coastal Research Center of the Richard Stockton College of New Jersey for Shoreline Monitoring and Consulting Services for beach related issues.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 44-2011**

RE: AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT WITH DR. STEWART C. FARRELL/COASTAL RESEARCH CENTER OF THE RICHARD STOCKTON COLLEGE OF NEW JERSEY FOR SHORELINE MONITORING AND CONSULTING SERVICES FOR BEACH RELATED ISSUES

WHEREAS, the Township of Upper has received a proposal from Dr. Stewart Farrell on behalf of the Coastal Research Center of the Richard Stockton College of New Jersey, which proposal is dated December 15, 2010 and outlines shoreline monitoring services to be performed on behalf of the Township during the calendar year 2011 and provides a rate schedule for the services to be provided; and

WHEREAS, the Township Committee has considered this matter and has determined that it is in the best interest of the Township to authorize a Professional Services Contract as hereinafter provided; and

WHEREAS, the Township Solicitor has determined that the services to be provided are professional services and that a contract may be awarded without competitive bid; and

WHEREAS, the Treasurer has certified the availability of funds to permit the Township to enter into a Professional Services Contract; and

WHEREAS, a Business Entity Disclosure Certification is not required since this contract is with an agency of the state government; and

WHEREAS, the Township has decided to acquire the services of Dr. Stewart C. Farrell of the Coastal Research Center of the Richard Stockton College of New Jersey as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-2.05; 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 proposal of Dr. Stewart Farrell on behalf of the Coastal Research Center of the Richard Stockton College of New Jersey (hereinafter collectively referred to as “Contractor”), dated December 15, 2010 is hereby accepted, subject to the provisions of this Resolution. A copy of said proposal is attached hereto as Exhibit “A”.
3. The Mayor and Township Clerk are hereby authorized, directed and empowered to enter into a Professional Services Contract with the Contractor aforesaid for a one (1) year term commencing January 1, 2011. Said Agreement shall be prepared or approved by the Municipal Attorney for the Township of Upper. The Township Clerk is further authorized, directed and empowered to seal said Contract with the seal of the Township of Upper.
4. The Township Clerk shall cause a Notice of Award of this Contract to be published in the official newspaper of the Township as required by N.J.S.A. 40A:11-5.

5. This Contract is a Professional Services Contract and has been awarded without competitive bidding for the following reasons:

(A) The services required are highly specialized or technical in nature;

(B) The services require peculiar ability or skill, and demand a high degree of specialized knowledge or expertise;

(C) The services required are professional services and/or unspecified extraordinary services within the meaning of N.J.S.A. 40A:11-5(a);

(D) The individual who will provide these services has demonstrated his competence and particular expertise in the services required; and

(E) The services to be provided are such that their nature, scope and duration are not capable of precise measurement, but rather require a flexibility and discretion that render competitive bidding impractical and inefficient.

6. A certified copy of this Resolution shall be provided to the Contractor.

7. This Resolution shall take effect immediately provided, however, that the Contract awarded herein shall be effective as of January 1, 2011.

Resolution No. 44-2011

Offered by: Newman

Seconded by: Gabor

Adopted: February 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. Authorizing a Professional Services Contract with Pogue, Inc. T/A Pogue Safety & Health Consortium for an alcohol and controlled substances training and testing program for certain township employees.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 45-2011
RE: AUTHORIZING A PROFESSIONAL SERVICES CONTRACT WITH POGUE,INC.**

**T/A POGUE SAFETY & HEALTH CONSORTIUM FOR AN ALCOHOL AND CONTROLLED
SUBSTANCES TRAINING AND TESTING PROGRAM FOR CERTAIN TOWNSHIP EMPLOYEES**

WHEREAS, the Omnibus Transportation Employee Testing Act of 1991 became applicable to the Township of Upper in 1996 in accordance with 49 C.F.R. §382.115(B) and mandates drug and alcohol testing for employees holding commercial driver’s licenses engaged in safety sensitive duties and further requires each employer to maintain a testing policy as required by 49 C.F.R. §382.401(C)(6)(ib); and

WHEREAS, the Township has previously determined to extend that policy to all employees working in hazardous or safety sensitive areas and also to public safety employees including the Division of EMS and Township lifeguards; and

WHEREAS, to administer such a program in accordance with the Federal rules, regulations and guidelines, it is necessary to employ the services of a firm possessing such specialized skill and training; and

WHEREAS, Pogue, Inc., t/a Pogue Safety & Health Consortium (hereinafter referred to as “Pogue”), has the required expertise and provides the same or similar services for several other municipalities; and

WHEREAS, Pogue has been performing such services in the Township of Upper since in or about May of 1996 and proposes to continue to provide such services; and

WHEREAS, the Township Committee intends to engage the services of Pogue under a Professional Services Contract; and

WHEREAS, Pogue, Inc. t/a Pogue Safety & Health Consortium has completed and submitted a Business Entity Disclosure Certification which certify that the contractor 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 the contractor from making any reportable contributions through the term of the contract; and

WHEREAS, the Chief Financial Officer has certified the availability of funds to permit said Contract to be entered into;

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. Pogue has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township.

3. The proposed Professional Services Contract between the Township and Pogue, a copy of which is on file in the office of the Township Clerk, is approved and the Mayor and the Township Clerk are hereby authorized, directed and empowered to execute said Contract on behalf of the Township of Upper and the Township Clerk is further authorized, directed and empowered to seal said Contract with the seal of the Township of Upper.

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

5. This Contract has been awarded without competitive bidding for the following reason or reasons:

(A) Professional services of the type herein sought are of such a nature as to require a high degree of trust or confidence in the individual providing the service and, in fact, may require the creation of a confidential or fiduciary relationship between that individual and the municipality;

(B) The services required are highly specialized or technical in nature;

(C) The services require peculiar ability or skill and demand a high degree of specialized knowledge or expertise;

(D) The services are such that their relative work must be judged by subjective considerations that are not susceptible of valuation by competitive bidding; and

(E) The individual who will provide these services has demonstrated his competence and particular expertise in the services required.

6. This Resolution shall take effect immediately and shall be deemed retroactive to January 1, 2011.

Resolution No. 45-2011

Offered by: Conrad Seconded by: Newman

Adopted: February 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>	_____	_____	_____

- 4 . **Authorizing the Township of Upper to enter into a contract with Benjamin Rau for the maintenance and development of the Upper Township Internet Website for the year 2011.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 46-2011
RE: AUTHORIZING THE TOWNSHIP OF UPPER
TO ENTER INTO A CONTRACT WITH BENJAMIN RAU
FOR THE MAINTENANCE AND DEVELOPMENT OF THE
UPPER TOWNSHIP INTERNET WEB SITE FOR THE YEAR 2011**

WHEREAS, the Township of Upper maintains an internet web site which requires routine maintenance and web site enhancement, including but not limited to the development of new pages, information and data for the web site; and

WHEREAS, Benjamin Rau possesses the requisite skill and knowledge to perform routine maintenance on the Upper Township web site and enhance same by developing new pages and information; and

WHEREAS, the Township of Upper desires to enter into a contract for services with said Benjamin Rau for the aforesaid purposes as set forth in said contract of which a copy is attached 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 is hereby authorized to enter into a contract for services with Benjamin Rau for routine maintenance and enhancement, including the development of new pages and information, with respect to the Township internet web site for the calendar year 2011.

A copy of the proposal dated February 3, 2011 is attached hereto as Exhibit "A".

3. The consideration to be paid said Benjamin Rau shall be the sum of two thousand nine hundred dollars (\$2,900.00) for the calendar year 2011.

4. A certificate from the Chief Financial Officer of Upper Township showing the availability of adequate funds for this contract and showing the line item appropriation of the official budget to which this contract will be properly charged has been provided to the governing body and shall be attached to this Resolution and kept in the files of the municipal clerk.

5. The contractor has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.

6. The contractor has not made any reportable contributions to a political or candidate committee in the Township that would bar the award of this contract and the contract will prohibit Contractor from making any reportable contributions through the term of the contract.

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

8. This Resolution shall be effective as of January 1, 2011.

Resolution No. 46 -2011

Offered by: Newman

Seconded by: Conrad

Adopted: February 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>	_____	_____	_____

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

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 47-2011
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 February 14, 2011 as the official Organizational Chart until such time as amended by the Township Committee

Resolution No. 47-2011

Offered by: Conrad

Seconded by: Corson

Adopted: February 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. **Authorizing a Shared Services Agreement with the County of Cape May for Heavy Equipment Fleet Maintenance.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 48-2011
RE: AUTHORIZING A SHARED SERVICES AGREEMENT WITH THE
COUNTY OF CAPE MAY FOR HEAVY EQUIPMENT FLEET MAINTENANCE**

WHEREAS, the County of Cape May has indicated a desire to enter into a Shared Services Agreement with the Township of Upper for heavy equipment fleet maintenance; and

WHEREAS, collectively, the Shared Services Agreement being authorized will significantly reduce the cost of providing this service; and

WHEREAS, the Township of Upper has deemed it to be in the Township's interest to provide the service to the County for a fee pursuant to the Shared Services Agreement; and

NOW, THEREFORE, BE IT RESOLVED 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:

1. **SHARED SERVICES AGREEMENT.** Pursuant to the provisions of the Uniformed Shared Services Act, (N.J.S.A. 40A:65-1, et seq., the Township of Upper is hereby authorized and empowered to enter into a Shared Services Agreement with the County of Cape May pertaining to heavy equipment fleet maintenance.

2. **SERVICES TO BE PROVIDED; CONTRACT.** The Shared Services Agreement authorized in paragraph 1 hereof shall cover those services, which are enumerated in said Agreement, a copy of which is attached hereto as Exhibit "A".

3. **AUTHORIZATION TO MUNICIPAL OFFICIALS.** The appropriate Township officers and officials are hereby authorized to take any action necessary or advisable to carry out the intent and purpose of this Resolution. Specifically, the Mayor and Township Clerk are hereby

authorized and directed to execute such Shared Services Agreement on behalf of the Township of Upper pursuant to the authority conferred by this Resolution. The Township Clerk is further authorized and directed to seal said Agreement with the official seal of the Township of Upper.

4. COMPLIANCE WITH STATUTORY REQUIREMENTS. The Shared Services Agreement between the County of Cape May and the Township of Upper shall meet and satisfy the requirements of N.J.S.A. 40A:65-1, et seq., as same may be amended and supplemented.

5. CONTRACT TERM. The term of this Agreement is for the period of March 25, 2011 to March 24, 2012.

6. SEVERABILITY. If any section, subsection, paragraph, sentence or other part of this Resolution is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Resolution, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Resolution directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Resolution shall remain in full force and effect.

7. REPEALER. All Resolutions or parts of Resolutions inconsistent herewith are hereby repealed to the extent of such inconsistency only.

8. EFFECTIVE DATE: This Resolution shall take effect immediately upon final adoption and publication in the manner provided by law.

Resolution No. 48-2011

Offered by: Conrad Seconded by: Newman

Adopted: February 14, 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>

7. Releasing the Street Lights Escrow for Extension of Meghan Lane Major Subdivision on Block 453, Lots 240-242.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 49-2011
RE: RELEASING THE STREET LIGHTS ESCROW
FOR EXTENSION OF MEGHAN LANE MAJOR SUBDIVISION
ON BLOCK 453, LOTS 240-242;
OWNER AND/OR DEVELOPER: CEDAR VILLAS, INC.
SUBDIVISION PLAN: EXTENSION OF MEGHAN LANE MAJOR SUBDIVISION
PROPERTY: BLOCK 453, LOT 240-242**

WHEREAS, Cedar Villas, Inc. (hereinafter “Developer”), has heretofore requested the release of unused street lights escrow for the Major Subdivision known as “Extension of Meghan Lane”; and

WHEREAS, the Developer has installed street lights for the project known as “Extension of Meghan Lane” and in accordance with recommendations made by the Township Engineer attached as Exhibit A, the Street Lights Escrow now held by the Township should be released; 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 Street Lights Escrow now held by the Township is hereby released as follows:

Street Lights Escrow \$8,240.78

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

Resolution No. 49-2011

Offered by: Newman

Seconded by: Conrad

Adopted: February 14, 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> </u>	<u> </u>	<u> X </u>	<u> </u>
Gabor	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Newman	<u> X </u>	<u> </u>	<u> </u>	<u> </u>

8. Releasing the Maintenance Bond for Camlough Road Subdivision on Block 453, Lots 79, 80.01 – 80.08.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 50-2011
RE: RELEASING THE MAINTENANCE BOND
FOR CAMLOUGH ROAD SUBDIVISION
ON BLOCK 453, LOTS 79, 80.01 - 80.08;
OWNER AND/OR DEVELOPER: ED BOSCH
SUBDIVISION PLAN: CAMLOUGH ROAD SUBDIVISION
PROPERTY: BLOCK 453 LOTS 79, 80.01 – 80.08**

WHEREAS, Ed Bosch (hereinafter “Developer”), has heretofore requested the release of a Maintenance Bond for the Subdivision known as “Camlough Road”; and

WHEREAS, the Developer has completed all work in conformance with the plans and specifications for the project known as “Camlough Road” Subdivision Plan and all improvements have been in place in excess of two years and are in satisfactory condition as certified and inspected by the Township Engineer and in accordance with recommendations made by the Township Engineer attached as Exhibit A, the Maintenance Bond now held by the Township, attached as Exhibit B, should be released; 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 Maintenance Bond now held by the Township is hereby released as follows:

Cash and Surety	\$19,909.72 plus accrued interest
Street Light Escrow and Inspection Fees	\$ 1,180.87

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

Resolution No. 50 -2011

Offered by: Corson

Seconded by: Conrad

Adopted: February 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. Releasing the Maintenance Bond for Tower Major Subdivision on Block 549.01, Lots 1.01, 1.02 and 1.03.

**TOWNSHIP OF UPPER
 CAPE MAY COUNTY
RESOLUTION
 RESOLUTION NO. 51-2011
 RE: RELEASING THE MAINTENANCE BOND
 FOR TOWER MAJOR SUBDIVISION
 ON BLOCK 549.01, LOTS 1.01, 1.02 AND 1.03
 OWNER AND/OR DEVELOPER: THOMAS TOWER
 SUBDIVISION PLAN: TOWER MAJOR SUBDIVISION
 PROPERTY: BLOCK 549.01, LOTS 1.01, 1.02 AND 1.03**

WHEREAS, Thomas Tower (hereinafter “Developer”), has heretofore requested the release of a Maintenance Bond for the Major Subdivision known as “Tower Major Subdivision”; and

WHEREAS, the Developer has completed all work in conformance with the plans and specifications for the project known as “Tower Major Subdivision” and all improvements have been in place in excess of two years and are in satisfactory condition as certified and inspected by the Township Engineer and in accordance with recommendations made by the Township Engineer attached as Exhibit A, the Maintenance Bond now held by the Township, attached as Exhibit B, should be released; 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 Maintenance Bond now held by the Township is hereby released as follows:

Cash and Surety	\$1,520.05 plus accrued interest
Inspection Fees	\$ 60.50

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

Resolution No. 51-2011

Offered by: Conrad

Seconded by: Corson

Adopted: February 14, 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>

10. Approving the application of the Marmora Volunteer Fire Co. for highway coin drops.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 52-2011
RE: APPROVING THE APPLICATION OF THE MARMORA VOLUNTEER FIRE CO.
FOR HIGHWAY COIN DROPS**

WHEREAS, the Marmora Volunteer Fire Co., a non-profit corporation providing firefighting services, has made application to the Township Committee to hold coin drop solicitations in Upper Township; and

WHEREAS, the Township Committee has approved the requests; and

WHEREAS, the requests require approval from the County of Cape May and the State of New Jersey;

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 application of the Marmora Volunteer Fire Co. to hold a coin drop within Upper Township at the Intersection of Roosevelt Boulevard from the Garden State Parkway South Exit and South Entrance West to the end of the Plaza on the South Side of Roosevelt Boulevard is hereby approved for the following dates:

Saturday, July 2, 2011, and Saturday, July 23, 2011 from 9:00 a.m. to 3:00 p.m.;

AND

Saturday, August 13, 2011, and Saturday, August 27, 2011 from 9:00 a.m. to 3:00 p.m.

3. Attached to this Resolution is a certified copy of Ordinance No. 7-2001, authorizing coin drops within Upper Township enacted pursuant to N.J.S.A. 39:4-60.

4. A certified copy of this Resolution shall be provided to the State of New Jersey, Department of Transportation and the Board of Chosen Freeholders of the County of Cape May.

Resolution No. 52-2011

Offered by: Gabor

Seconded by: Conrad

Adopted: February 14, 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> </u>	<u> </u>	<u> X </u>	<u> </u>
Palombo	<u> X </u>	<u> </u>	<u> </u>	<u> </u>

10. Authorizing an Affiliation and Medical Direction Agreement with the Cooper Health System for Basic Life Support and Ambulance Services.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 53-2011**

**RE: AUTHORIZING AN AFFILIATION AND MEDICAL DIRECTION AGREEMENT
WITH THE COOPER HEALTH SYSTEM FOR BASIC LIFE SUPPORT AND
AMBULANCE SERVICES**

WHEREAS, the Township of Upper has received a proposal from The Cooper Health System, a New Jersey non-profit corporation (“Cooper”) for an affiliation and medical direction agreement for basic life support and ambulance services; and

WHEREAS, the Township Committee has considered this matter and has determined that it is in the best interest of the Township to authorize said affiliation and medical direction agreement with Cooper; and

WHEREAS, the Township Solicitor has determined that the services to be provided are professional services and that the contract may be awarded without competitive bid; and

WHEREAS, the Township Chief Financial Officer, to the extent required, has certified the availability of funds to permit the Township to enter into said professional services contract; and

WHEREAS, a Business Entity Disclosure Certification is not required since this contract is with a non-profit entity; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Mayor and Township Clerk are hereby authorized, directed and empowered to enter into an affiliation and medical direction agreement for basic life support and ambulance services for a period of one year and thereafter from year to year unless terminated by either party.
3. The Township Clerk shall cause a Notice of Award of this contract to be published in the official newspaper of the Township as required by N.J.S.A 40A:11-5.
4. This Contract is a Professional Services Contract and has been awarded without competitive bidding for the following reasons:
 - (A) The services required are highly specialized or technical in nature;
 - (B) The services require peculiar ability or skill, and demand a high degree of specialized knowledge or expertise;
 - (C) The services required are professional services and/or unspecified extraordinary services within the meaning of N.J.S.A. 40A:11-5(a);
 - (D) The individual who will provide these services has demonstrated his competence and particular expertise in the services required; and
 - (E) The services to be provided are such that their nature, scope and duration are not capable of precise measurement, but rather require a flexibility and discretion that render competitive bidding impractical and inefficient.

Resolution No. 53-2011

Offered by: Conrad

Seconded by: Newman

Adopted: February 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>	<u> </u>	<u> </u>
Gabor	<u> X </u>	<u> </u>	<u> </u>
Newman	<u> X </u>	<u> </u>	<u> </u>
Palombo	<u> X </u>	<u> </u>	<u> </u>

11. Authorizing the acceptance of electronic funds transfer for tax payment.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
Resolution No. 54 –2011
AUTHORIZING THE ACCEPTANCE OF ELECTRONIC FUNDS TRANSFER
FOR TAX PAYMENT**

WHEREAS, it is the recommendation of the Tax Collector and the desire of the Governing Body of the Township of Upper to authorize the payment of property taxes through the use of electronic funds transfer payment in accordance with N.J.S.A. 40A:5-45; and,

WHEREAS, it is the intention of the Governing Body of the Township of Upper to authorize the Municipal Tax Collector to accept property tax payments through an electronic funds transfer payment known as the ACH process with Ocean City Home Bank.

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, Cape May County, that in accordance with the provisions of N.J.S.A 40A:5-45, The Governing Body of the Township of Upper authorizes the Municipal Tax Collector to accept Ocean City Home Bank’s ACH debit payment of property taxes.

Resolution No. 54-2011

Offered by: Conrad

Seconded by: Corson

Adopted: February 14, 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>

12. **Authorizing the sale of land at public auction, to wit: Block 10, Lots 107 and 108.** It was discussed that this property is in the Pinelands and will not create a buildable lot. Auction is set for March 24, 2011 at 1:00 PM at the Township Hall.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 055-2011
RE: AUTHORIZING THE SALE OF LAND AT PUBLIC AUCTION,
TO WIT: BLOCK 10, LOTS 107 AND 108**

WHEREAS, the Local Lands and Buildings Law (N.J.S.A. 40A:12-1, et seq.) authorizes the sale of any real property, capital improvements or interest therein which is not needed for public use; and

WHEREAS, the Township of Upper is the owner, in fee, of certain parcels of vacant land located within the Township of Upper, County of Cape May, and State of New Jersey as set forth on the municipal tax map as Block 10, Lots 107 and 108; and

WHEREAS, the Township has received a request from Alexandra Hamilton and Joseph L. Hamilton, III, to purchase said parcels; and

WHEREAS, it appears in the best interest of the Township of Upper to dispose of such real property, hereinafter further described, which is not needed for any public use; 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. It is determined that the following described parcels of real property are not needed for any public use:

Block 10, Lots 107 and 108

Such lots shall be offered for sale as a single parcel or unit and the lot shall not be offered for sale individually.

3. The aforesaid parcels of real property shall be offered for sale at a public auction to be conducted by the Township Clerk to be held as follows:

DATE: March 24, 2011
TIME: 1:00 p.m., prevailing time
PLACE: Township Hall, 2100 Tuckahoe, Road, Petersburg, New Jersey

4. A Notice of said sale shall be published in *The Press of Atlantic City*, in the issues of March 2, 2011 and March 9, 2011. A Notice of said sale shall also be posted on the bulletin board in Township Hall.

5. The minimum bid for such parcels being sold is hereby established as the sum of Ten Thousand Dollars (\$10,000.00) as set forth in the appraisal of the property dated September 22, 2010 by Louis A. Bonato.

6. The sale shall be subject to the terms and conditions of sale which are set forth in Schedule "A" attached hereto, incorporated herein and made a part hereof.

7. The Township Committee hereby expressly reserves the right to reject any or all bids in the exercise of its sole judgment and discretion.

8. The Township of Upper reserves the right to adjourn the sale to a later date. In the event of such adjournment, a public announcement will be made at the time originally scheduled for the sale. No further written or verbal notice will be given. The adjourned date, time and place of the sale will be announced on the date originally scheduled for the sale at the time originally scheduled.

9. Alexandra Hamilton and Joseph L. Hamilton, III shall pay the following sum to the Township Clerk within seven (7) days of the adoption of this Resolution: Five Hundred Dollars (\$500.00). This payment will be used by the Township to defray Township expenses involved in authorizing the sale and the terms thereof: engineering review; attorney review; legal advertising, title review expenses, closing costs and other expenses. If the parcels are not sold, this amount will be retained by the Township. If the highest bidder at the auction 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 Five Hundred Dollars (\$500.00), representing presale 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 (Five Hundred Dollars (\$500.00)) except for the nonrefundable application fee (Fifty Dollars (\$50.00)).

10. 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. 055-2011

Offered by: Newman

Seconded by: Conrad

Adopted: February 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>	___	___	

13. Authorizing the purchase of playground equipment for replacement of Fort Nuwi.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO.56-2011
RE: AUTHORIZING THE
PURCHASE OF PLAYGROUND EQUIPMENT FOR
REPLACEMENT OF FT. NUWI**

WHEREAS, the Township of Upper from time to time finds it necessary to upgrade and replace playground equipment throughout the municipality; and

WHEREAS, the wooden play structure at Ft. Nuwi located in Caldwell Park has become deteriorated and it is no longer cost effective to repair the structure; and

WHEREAS, pursuant to the provisions of the Local Public Contracts Law, the Township of Upper intends to purchase playground equipment from an authorized State Contract Vendor as herein 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 this reference.
2. The Township Committee discussed the replacement of the play structure at their November 22, 2010 regular meeting and authorized its replacement up to \$50,000.
3. The Municipal Engineer reviewed quotes from various State Contract Vendors and recommends purchasing the play structure from George Ely Associates, Inc., in accordance with State Contract No. A-59058 and as described in Exhibit A.

Resolution No. 56-2011
Offered by: Gabor Seconded by: Conrad
Adopted: February 14, 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>

14. Tax Refund.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
Resolution No. 57-2011
RE: TAX REFUND

WHEREAS, certain corrections have been recommended by the Upper Township Tax Collector in order to refund monies,

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. 57-2011

Offered by: Conrad Seconded by: Newman

Adopted: February 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>	_____	_____	_____

REFUND 2011

<u>BLOCK/LOT</u>	<u>AMOUNT</u>	<u>NAME</u>
475/6.13	\$1,361.91	EQUITY PLUS TITLE AGENCY 2106 NEW ROAD SUITE D-5 LINWOOD, NJ 08221

1ST QTR PAID BY TITLE COMPANY & MTG COMPANY.

- 15. Authorizing the Township Clerk and Chief Financial Officer to sign a Business Banking Agreement for Commercial Internet Banking Services.**

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 58-2011

**RE: AUTHORIZING THE TOWNSHIP CLERK AND CHIEF FINANCIAL OFFICER TO
SIGN A BUSINESS BANKING AGREEMENT FOR
INTERNET BANKING SERVICES WITH OCEAN CITY HOME BANK**

WHEREAS, Ocean City Home Bank has submitted a Business Banking Agreement for Municipalities to the Township to provide Internet banking services; and

WHEREAS, the Township wishes to accept said agreement and to authorize the execution of said agreement with Ocean City Home Bank; and

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

WHEREAS, Ocean City Home Bank has completed and submitted a Business Entity Disclosure Certification which certifies that Ocean City Home Bank 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 Ocean City Home Bank from making any reportable contributions through the term of the contract; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. Ocean City Home Bank has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.
3. The Business Banking Agreement between the Township and Ocean City Home Bank, a copy of which is on file in the office of the Township Clerk, is approved and the Township Clerk and Chief Financial Officer are hereby authorized, directed and empowered to execute said Business Banking Agreement on behalf of the Township of Upper and the Township Clerk is further authorized, directed and empowered to seal said Agreement with the seal of the Township of Upper.

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

Resolution No. 58-2011

Offered by: Conrad

Seconded by: Corson

Adopted: February 14, 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>

ORDINANCES

16. Public Hearing and Final Adoption of Ordinance No. 001-2011, RE: AN ORDINANCE AMENDING ORDINANCE NO. 014-2010 KNOWN AS THE SALARY ORDINANCE FOR THE CALENDAR YEAR 2011. During the public portion of the hearing there were no speakers from the public. Motion was made by Jay Newman to adopt the ordinance, seconded by Curtis Corson. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E
ORDINANCE NO. 001-2011
RE: AN ORDINANCE AMENDING ORDINANCE NO. 014-2010 KNOWN AS THE
SALARY ORDINANCE FOR THE CALENDAR YEAR 2011**

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: Ordinance No.014-2010, known as the Salary Ordinance of 2011 is hereby amended as hereinafter provided:

SECTION 2: SALARIES:

E. PUBLIC WORKS/SPORTS AND RECREATIONAL PROGRAMS:

<u>Title</u>	<u>Minimum</u>	<u>Maximum-2011</u>
Laborer 1 st year	\$12,500.00	\$36,378.00
Laborer 2 nd year	\$12,500.00	\$38,418.00
Laborer 3 rd year	\$12,500.00	\$40,458.00
Laborer 4 th year	\$12,500.00.	\$42,499.00
Laborer 5 th year	\$12,500.00	\$44,540.00
<u>Delete:</u>		
Laborer 6 th year	\$12,500.00	\$44,540.00

SECTION 3: SEVERABILITY: If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance, but shall be confined in its effects to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

SECTION 4: REPEALER: All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

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

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 24th DAY OF JANUARY, 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 FEBRUARY, 2011 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

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

WANDA GAGLIONE, TOWNSHIP CLERK
TOWNSHIP OF UPPER

16. Introduction and First Reading of Ordinance No. 003-2011, RE: AN ORDINANCE AUTHORIZING A LICENSE AGREEMENT OVER A PORTION OF WHITTIER AVENUE ADJACENT TO BLOCK 842, LOT 3.

Motion was made by Jay Newman, second by Frank Conrad to introduce Ordinance 003-2011 with Public Hearing and Final Adoption set for 03/14/2011. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E
ORDINANCE NO. 003-2011
RE: AN ORDINANCE AUTHORIZING A LICENSE AGREEMENT OVER A PORTION
OF WHITTIER AVENUE ADJACENT TO BLOCK 842, LOT 3**

WHEREAS, the Township of Upper is the owner of a certain right of way known as Whittier Avenue located within the Township of Upper, County of Cape May, and State of New Jersey, adjacent to Block 842, Lot 3 on the municipal tax map; and

WHEREAS, the Township has received a request from Francis J. Jankowski, Jr. and Laura C. Jankowski (“Jankowskis”), the owners of the only real property contiguous with a twenty (20) foot portion of Whittier Avenue adjacent to Block 842, Lot 3, to enter into a License Agreement permitting them to use said portion of Whittier Avenue; and

WHEREAS, after discussion and deliberation the Township Committee is of the opinion that authorizing a License Agreement for said portion of Whittier Avenue will be in the best

interest of the Township and will provide for the continuation of an existing marina use on the adjacent lot owned by the Jankowskis; and

WHEREAS, the Township Committee has determined that the fair market value of the use of such portion of Whittier Avenue is the sum of Five Thousand Dollars (\$5,000.00) per year; and

NOW, THEREFORE, BE IT RESOLVED 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 enter into a License Agreement with the Jankowskis for the use of the real property commonly known as follows:

The southernmost twenty (20) feet of Whittier Avenue
adjacent to Block 842, Lot 3

Said persons are the owners of the only real property contiguous thereto. The fair market value of said license is the sum of Five Thousand Dollars (\$5,000.00) per year in addition to the other obligations of the Licensee set forth in the License Agreement.

SECTION 2: A copy of the proposed License Agreement as authorized by this Ordinance shall be on file with the Township Clerk.

SECTION 3: The interest to be conveyed by the Township shall be under and subject to all easements, 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 a title report discloses an unmarketable condition of title, except as specified herein, the remedy of the purchaser of the license shall be limited to the cancellation of the agreement with no further liability to the Township of Upper. This transaction 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 of the license 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 in this transaction. 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 may be situate in a Flood Hazard Zone. The Township of Upper makes no warranties or representations, expressed or implied, as to the property, 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 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 4: 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 5: It is a requirement of this transaction that the purchaser of the license interest in the subject property be the only contiguous property owner. Said purchaser shall be required to use the licensed area in connection with the existing marina/boat rental operation on Lot 3, Block 842.

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 14th DAY OF FEBRUARY, 2011 AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING

OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE 14th DAY OF MARCH, 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

- 19. Cape May County Open Space & Farmland Preservation, request for resolution in support of a development easement for Block 10, Lot 202, Kenneth and Patricia Mason.** Jay Newman and Frank Conrad did not participate due to conflict. Motion to authorize the resolution by Richard Palombo, second by Curtis Corson. During roll call vote three Committee members voted in the affirmative. Jay Newman and Frank Conrad abstained.
- 20. Elma Lou Dilks request to vacate S. Cedar Road between Reading and Poplar Avenues in Tuckahoe.** Motion to approve by Curtis Corson, second by Jay Newman. During roll call vote all five Committee members present voted in the affirmative.
- 21. Amendment to Beach Management Plan.** Motion to authorize a resolution amending the plan by Richard Palombo, second by Frank Conrad. During roll call vote all five Committee members present voted in the affirmative. A resolution will be placed on a future agenda.
- 22. NJ Office of Clean Energy, request to apply for Direct Install Grant Program.** Mr. Dietrich reported that there are two grant program applications, one for the 2010 program year that is eligible for up to \$50,000 and one for the 2011 program year that is eligible for up to \$75,000. If awarded the grant the program allows the Install contractor to handle the installation process from beginning to end with no cost to the Township to make energy efficient upgrades to the Township Hall building. Motion to authorize the engineer to apply for the grants by Richard Palombo, second by Frank Conrad. During roll call vote all five Committee members voted in the affirmative. A resolution will be placed on a future agenda.

UNFINISHED BUSINESS:

- 23. Greater Tuckahoe Area Merchants Association, Inc. request to use Amanda's Field on May 1, 2011 for Tour de Tuckahoe, Bike ride and 5K run.** Previously there was a conflict with a football event on the same date. The matter has been resolved and the GTAMA event will remain on May 1st. Motion to approve the event by Curtis Corson, second by Curtis Corson. During roll call vote all five Committee members present voted in the affirmative.

DISCUSSION

PAYMENT OF BILLS:

18. **“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 Richard Palombo. During roll call vote all five Committee members present voted in the affirmative.

Payroll: \$ 188,019.87
Bills submitted for payment: \$ 1,428,270.39

REPORT OF MUNICIPAL DEPARTMENTS:

24. **Construction Code-January 2011 report and end of year 2010 report.**
25. **Clerk’s Office.**
26. **Animal Control.**
27. **Tax Assessor.**
28. **Tax Collector**-January 2011 report and 2010 Annual Report. Motion to accept the report by Curtis Corson, second by Frank Conrad with all five Committee members voting in the affirmative.
29. **Municipal Court.**
30. **Finance Office.**
31. **Certificate of Determination and Award-Bond Anticipation Note.**
32. **MUA Report.**
33. **Atlantic County Joint Insurance Fund-2010 recap.**
Reports are available from the Clerk’s Office.

PUBLIC COMMENT

There were no speakers from the public.

CLOSED SESSION

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

TOWNSHIP OF UPPER
RESOLUTION No. 059-2011
MOTION GOING INTO CLOSED SESSION
February 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. Litigation – NJDOT v. Hutchinson - condemnation
2. Litigation – Ginn v. Upper Township
3. Personnel matters
4. Contract negotiation – Shared Services Agreement for vehicle wash with Linwood

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: Kristine Gabor

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

RECONVENE PUBLIC PORTION OF MEETING

ADJOURNMENT

There was no further business for this evening and the meeting was adjourned at 9:20 P.M. Motion to adjourn by Jay Newman, second by Kristine Gabor with all five Committee members voting in the affirmative. Next meeting scheduled for February 28, 2011, Budget Workshop meeting scheduled for 6:30 P.M. and the regular meeting scheduled for 7:30 P.M.

Minutes prepared by

Wanda Gaglione, RMC
Municipal Clerk

Bill List

53137 02/14/11 A0004 A+ COMMERCIAL OFFICE CLEANERS 250.00 2645
53138 02/14/11 A0006 ADVANCE TREADS INC 643.00 2645
53139 02/14/11 A0015 ADVANCE LEARNING 169.00 2645
53140 02/14/11 A0025 ADVANTAGE RENTAL ACE HARDWARE 129.18 2645
53141 02/14/11 A0028 ADVANTAGE RENTAL CENTER INC. 1,912.26 2645
53142 02/14/11 A0035 AIRLINE HYDRAULIC CORP. 368.32 2645
53143 02/14/11 A0061 ASSOC. CERT. TAX ASSESSORS CMC 660.00 2645
53144 02/14/11 A0086 AT&T MOBILITY 198.41 2645
53145 02/14/11 A0091 ATLANTIC CITY ELECTRIC 20,975.96 2645
53146 02/14/11 A0099 ATLANTIC TIME SYSTEMS,INC. 185.07 2645

53147 02/14/11 A0117 AT&T 55.44 2645
53148 02/14/11 A0137 ADVANTAGE EQUIPMENT SERVICE 96.50 2645
53149 02/14/11 A0168 ATLANTIC CRANKSHAFT 169.00 2645
53150 02/14/11 B0020 BLAKER,RAYMOND 10.00 2645
53151 02/14/11 B0035 BELMONT & CRYSTAL SPRINGS 275.99 2645
53152 02/14/11 B0052 BENNETT BATTERIES,LLC. 217.80 2645
53153 02/14/11 B0093 BARRY,CORRADO,GRASSI & GIBSON 52.50 2645
53154 02/14/11 B0148 BLUE FLAME/PARACO GAS 727.77 2645
53155 02/14/11 B0178 BUGANSKI,PETER R. 112.97 2645
53156 02/14/11 B0182 BRIGGS LAW OFFICE, P.C. 1,226.97 2645
53157 02/14/11 B0201 BUCK'S ELECTRICAL SERVICE, INC 649.00 2645
53158 02/14/11 C0035 CAPE ASSIST EAP 1,155.00 2645
53159 02/14/11 C0048 CAPE MAY COUNTY MUA 26,226.60 2645
53160 02/14/11 C0052 CAPE MAY COUNTY TREASURER 1,196,206.79 2645
53161 02/14/11 C0068 COMCAST 389.50 2645
53162 02/14/11 C0071 CAPEHART & SCATCHARD, P.A. 6,570.80 2645
53163 02/14/11 C0124 CMC MUNICIPAL CLERK'S ASSOC. 25.00 2645
53164 02/14/11 C0138 COASTAL MECHANICAL SYSTEMS INC 860.86 2645
53165 02/14/11 C0171 COLONIAL ELECTRIC SUPPLY CO. 149.70 2645
53166 02/14/11 C0179 CONRAD, FRANK 150.00 2645
53167 02/14/11 C0201 CRUZAN'S TRUCK SERVICE INC. 89.26 2645
53168 02/14/11 C0223 CASA PAYROLL SERVICE 453.20 2645
53169 02/14/11 C0235 Crown Castle USA 3,600.00 2645
53170 02/14/11 D0040 DELTA DENTAL OF N.J. INC. 7,222.80 2645
53171 02/14/11 D0071 DLT SOLUTIONS INC. 4,116.99 2645
53172 02/14/11 D2001 DEJANA 302.05 2645
53173 02/14/11 E0003 EASTERN SIGN 3,570.22 2645
53174 02/14/11 E0021 ENCHANTING FLORIST 80.99 2645
53175 02/14/11 E0025 ELECTRO-MECH CORPORATION 3,618.00 2645
53176 02/14/11 F0042 FLANAGANS SOUTH AUTO TIRE CENT 90.00 2645
53177 02/14/11 F0053 FORD, SCOTT & ASSOCIATES 8,000.00 2645
53178 02/14/11 F0054 FORT DEARBORN LIFE INSURANCE 532.28 2645
53179 02/14/11 F0060 FARNAN, MARIA 18.00 2645
53180 02/14/11 G0016 GARDNER HARDWARE INC. 56.44 2645
53181 02/14/11 G0080 GOVDEALS 1,941.17 2645
53182 02/14/11 G0096 GRUND, GEORGE 459.46 2645
53183 02/14/11 G0112 GEORGE ELY ASSOCS.INC. 43,726.00 2645
53184 02/14/11 H0018 HAROLD RUBIN/L & H SUPPLY 561.08 2645
53185 02/14/11 H0073 HOME DEPOT CRC/GECF 999.00 2645
53186 02/14/11 H0135 HANSON AGGREGATES 868.23 2645
53187 02/14/11 J0014 JC MILLER'S 336.46 2645
53188 02/14/11 J0033 JANKOWSKI,MATTHEW 400.00 2645
53189 02/14/11 J0041 JONES, JAMES M. 10.00 2645
53190 02/14/11 K0034 KOHLER, CLAUDE JR. 12.00 2645
53191 02/14/11 K0047 KLINE, EDWARD T. 10.00 2645
53192 02/14/11 K0072 KANE, FRANCES 48.00 2645
53193 02/14/11 L0038 LAYTON, WILLIAM 10.00 2645
53194 02/14/11 L0080 LOWES, INC. 325.57 2645
53195 02/14/11 L0097 LeGore & Jones Appraisal Servc 2,500.00 2645
53196 02/14/11 M0021 MASER CONSULTING, P.A. 562.50 2645
53197 02/14/11 M0059 MCDANIELS, WILLIAM J. III 10.00 2645
53198 02/14/11 M0081 MID-ATLANTIC WASTE SYSTEMS 984.16 2645
53199 02/14/11 M0103 MODERN GAS COMPANY, INC. 2,574.12 2645
53200 02/14/11 M0128 MUNICIPAL CLERKS ASSOC. N.J. 675.00 2645
53201 02/14/11 M0142 MASON, NICHOLAS 10.00 2645
53202 02/14/11 M0180 MED-TECH RESOURCE,INC. 577.37 2645
53203 02/14/11 M0188 MCCARTHY TIRE SERVICE OF PHILA 1,550.44 2645
53204 02/14/11 M0209 MAYBERRY, JOHN D 165.91 2645
53205 02/14/11 M0217 MUNICIPAL EMERGENCY SERVICES 2,801.00 2645
53206 02/14/11 M0222 MUNICIPAL CAPITAL CORPORATION 392.00 2645
53207 02/14/11 M0224 McBRIDE, JANET E 26.25 2645
53208 02/14/11 N0004 NJ-AMERICAN WATER CO. 40.69 2645
53209 02/14/11 N0043 NAPA AUTO PARTS OF S.JERSEY 116.47 2645
53210 02/14/11 N0070 MARSH & MCLENNAN AGENCY, LLC 2,500.00 2645
53211 02/14/11 N0098 N.J.A.P.Z.A. 45.00 2645
53212 02/14/11 O0006 SJSHORE MARKETING,LLC 1,346.00 2645
53213 02/14/11 O0012 OCEAN CITY BD. OF EDUCATION 128.40 2645
53214 02/14/11 O0034 OSPREY POINT CONDO ASSOC. 7,679.16 2645
53215 02/14/11 P0032 PEDRONI FUEL CO. 1,852.20 2645
53216 02/14/11 P0043 PERRONE DOOR CO. INC. 599.50 2645

53217 02/14/11 P0050 PARSIO, ANTHONY 10.00 2645
53218 02/14/11 P0102 PUBLIC WORKS ASSOC OF N.J. 70.00 2645
53219 02/14/11 P0118 PLAYBUILDER INC 632.95 2645
53220 02/14/11 R0030 RIGGINS, INC. 8,676.24 2645
53221 02/14/11 R0092 RUTGERS, THE STATE UNIVERSITY 1,738.00 2645
53222 02/14/11 S0001 SAM'S CLUB 471.50 2645
53223 02/14/11 S0015 SMYTH, PATRICIA 150.00 2645
53224 02/14/11 S0072 SEGIN, STEWART S. 20.00 2645
53225 02/14/11 S0121 SMUZ, THERESE A 213.76 2645
53226 02/14/11 S0134 SO. JERSEY GAS COMPANY 1,081.55 2645
53227 02/14/11 S0139 SO. JERSEY WATER COND. INC. 476.85 2645
53228 02/14/11 S0196 STEWART BUSINESS SYSTEMS LLC 304.07 2645
53229 02/14/11 S0209 STAPLES ADVANTAGE 0.00 02/14/11 VOID 0
53230 02/14/11 S0209 STAPLES ADVANTAGE 2,511.22 2645
53231 02/14/11 S0239 SHORE VET. ANIMAL CONTROL LLC 2,200.00 2645
53232 02/14/11 S0249 SPORT SUPPLY GROUP, INC 741.57 2645
53233 02/14/11 S0253 SAMPLE MEDIA, INC. 115.20 2645
53234 02/14/11 T0022 TERMINIX 102.00 2645
53235 02/14/11 T0032 THE PRESS & SUNDAY PRESS 393.87 2645
53236 02/14/11 T0038 THOMAS, CHRISTOPHER 10.00 2645
53237 02/14/11 T0067 TOWNSHIP OF UPPER PETTY CASH 4.50 2645
53238 02/14/11 T0074 TRANSAXLE LLC 1,079.18 2645
53239 02/14/11 T0080 TREASURER STATE OF N.J. 1,463.00 2645
53240 02/14/11 U0002 U.T. BASKETBALL ASSOCIATION 26.25 2645
53241 02/14/11 U0029 UPPER TOWNSHIP BD.OF EDUCATION 1,873.40 2645
53242 02/14/11 V0005 VAN EMBDEN, NATHAN, ATTORNEY 1,380.00 2645
53243 02/14/11 V0013 VERIZON WIRELESS 299.39 2645
53244 02/14/11 V0022 VERIZON 286.38 2645
53245 02/14/11 V0024 VAL-U AUTO PARTS L.L.C. 143.28 2645
53246 02/14/11 V0025 V.E. RALPH & SON,INC. 116.00 2645
53247 02/14/11 V0026 VITAL COMPUTER RESOURCES, INC. 1,305.43 2645
53248 02/14/11 W0030 WEST PUBLISHING CO. 248.50 2645
53249 02/14/11 W0085 WOODY, LESTER 128.54 2645
53250 02/14/11 W0092 WTH TECHNOLOGY, INC 8,350.00 2645
53251 02/14/11 Y0008 YOUNG, DANIEL J. ESQUIRE PC 19,600.00 2645
53252 02/14/11 Y0012 YOUNG,ROBERT 10.00 2645
53253 02/14/11 Y0023 YOUNG, DANIEL J. ATTORNEY 2,625.00 2645
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Total: \$1,428,270.39
