

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR JANUARY 9, 2012**

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

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Curtis Corson	Present
Antonio Inserra	Present
John “Jay” Newman	Present
Richard Palombo	Present

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

APPROVAL OF MINUTES - December 19, 2011 Closed Session Meeting Minutes

Motion was made by Jay Newman, second by Curtis Corson to approve the Minutes as submitted. During roll call all four Committee members voted in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

Antonio Inserra, thanked the Committee and the Township employees for a warm welcome. He commented that the Reorganization meeting was very nice. He mentioned that he would like to see other AED’s placed throughout the Township. Last year the Jennifer Ward Foundation presented an AED for use at the Strathmere Lifeguard Stand. Jay Newman commented that both Chief Jay Potter and Asst. Emergency Management Director Michael Jones would come up with a safe and secure container for another AED.

Curtis Corson, reported that budget packets will be available for the next meeting. He next reported that the Public Works recycling rate for 2011 was 52.8%. He stated that it was a great testimony of the conscientious efforts of the Township residents and employees to recycle.

Jay Newman, reported on the EMS operations report for 2011. The EMTs responded to 1,459 emergency calls in 2011. He then briefly spoke on all of the additional services the EMTs provide to the Township, such as emergency service and support on the beaches, securing the recreational fields, and reporting street light outages. Jay Newman then made a motion, second by Richard Palombo to appoint Tanya M. Pickert and Patrick Dugan as part time EMTs. Mr. Young stated that the appointments are conditioned upon Civil Service review as well as the standard background checks. During roll call vote all four Committee members voted in the affirmative. A resolution will be placed on a future agenda.

Richard Palombo, reported on a recommendation from the Township's Animal Control Officer, Dr. Holland of Shore Veterinarians, that the Township amend the Animal Control Ordinance requiring warm bedding for animals that are housed outside during the winter. He requested Mr. Young to look into amending the Ordinance. He then reported that the Committee is close to going totally paperless. He was using his laptop during this meeting and is hoping that the whole Committee will begin using them for the first meeting in February.

OTHER REPORTS

Wanda Gaglione, Municipal Clerk, requested a correction on Resolution 008-2012 adopted at the January 6, 2012 Reorganization Meeting. The Meeting date for May will be changed from May 7 to May 14. Motion was made by Jay Newman, second by Curtis Corson to make the correction. During roll call all four Committee members voted in the affirmative.

Daniel Young, Municipal Attorney, reported that he had several items for executive session. Potential Litigation matters of EMS Collections, King v. Upper Twp Tax Appeal, Upper Twp v. Yank, Upper Twp. v. Paynter which will be handled by Norman Briggs, a contract negotiation matter with Comcast franchise ordinances and a few personnel matters.

Paul Dietrich, Township Engineer, gave a brief update on the beach fill project. The project is a few days behind schedule however they are making good progress. He next reported that the rehabilitation for the water damage at the Community Center will be starting Tuesday January 10 and the heater in the Community Center should be repaired by the end of this week.

Later in the meeting Mr. Dietrich reported that loose-leaf collection has now been completed. Bagged leaves will now be collected until April. Brush collection will begin the week of January 23.

Barbara, Chief Financial Officer, reported on a change in the Atlantic County Joint Insurance Fund Safety Incentive Program. Previously the JIF allotted \$1,500 to be used towards safety incentives for employees, such as flashlights, first aid kits, etc. The Safety Incentive Program budget is now optional, allowing the money to be used towards the Township's assessment to lower the JIF insurance bill. Motion was made by Richard Palombo, second by Curtis Corson to continue using the money towards safety incentives and education for Township employees. During roll call all four Committee members voted in the affirmative. Barbara next reported that she had two personnel items for executive session.

RESOLUTIONS

- 1. Appointment of William C. Handley as the Upper Township Representative and Steve C. Eisenhower as the Alternate Upper Township Representative to the Great Egg Harbor National Scenic River Council.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO.24-2012
RE: APPOINTMENT OF WILLIAM C. HANDLEY
AS THE UPPER TOWNSHIP REPRESENTATIVE AND**

**STEVE C. EISENHAUER AS THE ALTERNATE UPPER TOWNSHIP
REPRESENTATIVE TO THE GREAT EGG HARBOR NATIONAL SCENIC
AND RECREATIONAL RIVER COUNCIL**

WHEREAS, the Great Egg Harbor National Scenic and Recreational River Council (“River Council”) is comprised of one representative from each of the 12 municipalities involved and one representative from the Great Egg Harbor Watershed Association, and Upper Township is one of the municipalities involved; and

WHEREAS, the “River Council” provides input on a wide variety of issues from federal and state permits for construction projects in the river corridor to the expenditure of funds made available through the National Park Service; and

WHEREAS, the present Upper Township Representative to the “River Council”, is William C. Handley; and

WHEREAS, the Township of Upper has determined that William C. Handley should be reappointed as the Representative of the Township of Upper to the “River Council”; and

WHEREAS, from time to time the need for an Alternate Upper Township Representative to the “River Council” has arisen; and

WHEREAS, the present Alternate Upper Township Representative to the “River Council”, is Steve C. Eisenhauer; and

WHEREAS, the Township of Upper has determined that Steve C. Eisenhauer should be reappointed as the Alternate representative of the Township of Upper to the “River Council”; 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. William C. Handley is hereby reappointed for a two year term commencing on February 1, 2012 and ending on January 31, 2014 to the "River Council" as the Representative of Upper Township, New Jersey.

3. Steve C. Eisenhower is hereby reappointed for a two year term commencing on February 1, 2012 and ending on January 31, 2014 to the "River Council" as the Alternate Representative of Upper Township, New Jersey.

4. A copy of this Resolution shall be forwarded to the Great Egg Harbor National Scenic and Recreational River Council c/o Fred Akers – Administrator, P.O. Box 109, Newtonville, New Jersey 08346.

Resolution No. 24-2012

Offered by: Corson

Seconded by: Palombo

Adopted: January 9, 2012

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Corson	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Vacant	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Inserra	<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 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 2012.**

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 25-2012

**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 2012**

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 2012. A copy of the proposal dated December 7, 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 2012.
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, 2012.

Resolution No. 25 -2012

Offered by: Corson

Seconded by: Newman

Adopted: January 9, 2012

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Corson	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
VACANT	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Inserra	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Newman	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Palombo	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

3. Authorizing 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

R E S O L U T I O N

RESOLUTION NO.26-2012

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, 2012.

Resolution No. 26-2012

Offered by: Newman

Seconded by: Inserra

Adopted: January 9, 2012

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Corson	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
VACANT	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Inserra	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Newman	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Palombo	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

4. Authorizing a Professional Services contract with Cape May County Council on Alcoholism and Drug Abuse, Inc. for an employee assistance program for Township employees.

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 27-2012

RE: AUTHORIZING A PROFESSIONAL SERVICES CONTRACT WITH CAPE MAY COUNTY COUNCIL ON ALCOHOLISM AND DRUG ABUSE, INC. FOR AN EMPLOYEE ASSISTANCE PROGRAM FOR TOWNSHIP EMPLOYEES

WHEREAS, the Township of Upper wishes to continue its Employee Assistance Program to provide assessment, evaluation intervention, referral and case management services for employees of the Township; and

WHEREAS, the Township of Upper has previously contracted with Cape May County Council on Alcoholism and Drug Abuse, Inc., a New Jersey non-profit corporation (hereinafter referred to as “Cape Assist”) for such services and wishes to continue such relationship by entering into a Professional Services Contract to cover the period from January 1, 2012 to December 31, 2012; and

WHEREAS, Cape Assist has the required expertise to provide and implement the Upper Township Employee Assistance Program; and

WHEREAS, the Township Committee intends to engage the services of Cape Assist under a Professional Services Contract attached hereto as Exhibit A; and

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

WHEREAS, Cape Assist has completed and submitted a Business Entity Disclosure Certification which certifies that Cape Assist has not made any reportable contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit Cape Assist 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. Cape Assist 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 proposed Professional Services Contract between the Township of Upper and Cape Assist, a copy of which is on file in the office of the Township Clerk, is hereby 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, 2012.

Resolution No. 27-2012

Offered by: Corson

Seconded by: Newman

Adopted: January 9, 2012

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Corson	<u>X</u>	___	___	___
VACANT	___	___	___	___
Inserra	<u>X</u>	___	___	___
Newman	<u>X</u>	___	___	___
Palombo	<u>X</u>	___	___	___

5. **A Resolution to adopt the provisions of Chapter 48 (N.J.S.A. 52:14.17.38) under which a public employer may agree to pay for the State Health Benefits Program and/or School Employees' Health Benefits Program coverage of certain retirees.**

RESOLUTION NO. 28 2012
STATE OF NEW JERSEY
DEPARTMENT OF THE TREASURY
DIVISION OF PENSIONS AND BENEFITS

**STATE HEALTH BENEFITS PROGRAM
SCHOOL EMPLOYEES' HEALTH BENEFITS PROGRAM**
PO BOX 299 TRENTON, NEW JERSEY 08625-0299

RESOLUTION


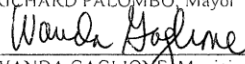
A RESOLUTION to adopt the provisions of Chapter 48 (N.J.S.A. 52:14.17.38) under which a public employer may agree to pay for the State Health Benefits Program (SHBP) and/or School Employees' Health Benefits Program (SEHBP) coverage of certain retirees.

BE IT RESOLVED:

1. The Township of Upper 0053-00
CORPORATE NAME OF EMPLOYER - COUNTY SHBP/SEHBP ID NUMBER
hereby elects to adopt the provisions of N.J.S.A. 52:14-17.38 and adhere to the rules and regulations promulgated by the State Health Benefits Commission and School Employees' Health Benefits Commission to implement the provisions of that law.
2. This resolution affects employees as shown on the attached Chapter 48 *Resolution Addendum*. It is effective on the 1st day of January, 2012.
MONTH YEAR
3. We are aware that adoption of this resolution does not free us of the obligation to pay for post-retirement medical benefits of retirees or employees who qualified for those payments under any *Chapter 88 Resolution* or *Chapter 48 Resolution* adopted previously by this governing body.
4. We agree that this *Resolution* will remain in effect until properly amended or revoked with the SHBP and/or SEHBP. We recognize that, while we remain in the SHBP and/or SEHBP, we are responsible for providing the payment for post-retirement medical coverage as listed in the attached *Chapter 48 Resolution Addendum* for all employees who qualify for this coverage while this *Resolution* is in force.
5. We understand that we are required to provide the Division of Pensions and Benefits complete copies of all contracts, ordinances, and resolutions that detail post-retirement medical payment obligations we undertake. We also recognize that we may be required to provide the Division with information needed to carry out the terms of this *Resolution*.

I hereby certify that the foregoing is a true and correct copy of a resolution duly adopted by the

<u>Township of Upper</u> CORPORATE NAME OF EMPLOYER on the <u>9th</u> day of <u>January</u> , 20 <u>12</u> _____ SIGNATURE <u>Municipal Clerk</u> OFFICIAL TITLE	<u>2100 Tuckahoe Road</u> ADDRESS <u>P.O. Box 205</u> <u>Tuckahoe, NJ 08250</u> CITY STATE ZIP CODE <u>609</u> <u>628-2805</u> AREA CODE TELEPHONE NUMBER
--	---


 RICHARD PALOMBO, Mayor

 WANDA GAGLIONE, Municipal Clerk

Resolution No. 28 -2012
Offered by: **Inserra**
Adopted: January 9, 2012

Seconded by: **Palombo**

Roll Call Vote:

NAME	YES	NO	ABSTAINED	ABSENT
Corson	<u>X</u>	_____	_____	_____
VACANT	_____	_____	_____	_____
Inserra	<u>X</u>	_____	_____	_____
Newman	<u>X</u>	_____	_____	_____
Palombo	<u>X</u>	_____	_____	_____

6. **Authorizing the Mayor and Township Clerk to sign a contract with Marsh & McLennan Agency, LLC for employee benefits consultant services.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N**

RESOLUTION NO. 29 -2012

**RE: AUTHORIZING THE MAYOR AND TOWNSHIP CLERK TO SIGN A
CONTRACT WITH MARSH & MCLENNAN AGENCY, LLC FOR EMPLOYEE
BENEFITS CONSULTANT SERVICES**

WHEREAS, the Township has decided to acquire the services of the firm of Marsh & McLennan Agency, LLC as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-2.05; and

WHEREAS, Marsh & McLennan Agency, LLC has submitted a proposal to the Township to provide employee benefits consultant services; and

WHEREAS, the Township wishes to accept said proposal and to authorize the execution of a contract with Marsh & McLennan Agency, LLC; and

WHEREAS, the proposed contract has been reviewed and approved by the Municipal Attorney and will be on record in the office of the Township Clerk and available for public inspection; and

WHEREAS, Marsh & McLennan Agency, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that Marsh & McLennan Agency, LLC 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 Marsh & McLennan Agency, LLC from making any reportable contributions through the term of the contract; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Mayor and Township Clerk are hereby authorized, directed and empowered to execute a contract with Marsh & McLennan Agency, LLC to provide employee benefits consultant services.
3. 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 Marsh & McLennan Agency, LLC has professional knowledge which is particularly valuable to the Township Committee and this service is acquired as a non-fair and open contract pursuant to N.J.S.A. 19:44A-2.05.

NOTICE OF CONTRACT AWARD

4. 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 Marsh & McLennan Agency, LLC for employee benefits consultant 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 will provide 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 Marsh & McLennan Agency, LLC 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. 29-2012
Offered by: Corson
Adopted: January 9, 2012

Seconded by: Inserra

Roll Call Vote:

NAME	YES	NO	ABSTAINED	ABSENT
Corson	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
VACANT	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Inserra	<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. Reserve Budget Transfers.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 30-2012
RE: RESERVE BUDGET TRANSFERS**

WHEREAS, various 2011 bills have been presented for payment this year, which bills were not covered by order number and/or recorded at the time of transfers between the 2011 budget appropriation reserve in the last two months of 2011; and

WHEREAS, N.J.S.A. 40A:4-59 provides that all unexpended balances carried forward after the close of the year are available until lapsed at the close of the succeeding year to meet specific claims, commitments or contracts incurred during the

preceding fiscal year and allow transfers to be made from unexpended balances which are expected to be insufficient during the first three months of the succeeding year.

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, that the transfers in the amount of \$13,500.00 be made between the 2011 budget appropriation reserves as follows:

<u>TO</u>	<u>FROM</u>
DOG REGULATION O/E \$500.00	RECYCLING S/W \$3,500.00
LEGAL SERVICES & COSTS O/E \$10,000.00	ROAD REPAIRS & MAINT. S/W \$10,000.00
STREET LIGHTING COSTS \$3,000.00	

Resolution No. 30-2011

Offered By: Corson

Seconded By: Inserra

Adopted: January 9, 2012

ROLL CALL VOTE:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Corson	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
VACANT	<u> </u>	<u> </u>	<u> </u>	<u> </u>
Inserra	<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

CORRESPONDENCE

8. **Comcast Cable Communications Inc.-Use Variance and Site Plan Application Block 588, Lots 5, 8 and 9.** The cable company needs to expand the gated storage shed and tower area off of Route 9. The lot is undersized and variances are required. The variance process requires that the property owner make attempts to purchase more property to make their lot more conforming. The Township owns surrounding lots. The Township Committee discussed the possibility of selling the cable company additional property. It would assist the cable company and would generate additional tax ratable property. The Committee directed that the solicitor for the cable company be advised to contact the Township.

NEW BUSINESS

9. **Major Subdivision, Block 453, Lots 10 & 11.01—request for Performance Bond release.** Motion was made by Curtis Corson, second by Jay Newman to release the

Performance Bond on Block 453, Lots 10 & 11.01. During roll call vote all four Committee members voted in the affirmative.

UNFINISHED BUSINESS:

DISCUSSION

PAYMENT OF BILLS:

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

Payroll: \$158,089.41
Bills submitted for payment: \$1,923,309.28

REPORT OF MUNICIPAL DEPARTMENTS:

11. **Construction Code**
12. **Clerk’s Office**
13. **Animal Control**
14. **Tax Assessor**
15. **Tax Collector**
16. **Finance Office**
17. **MUA Report**
18. **Department of Public Works**
19. **EMS Report**

Reports are available from the Clerk’s Office.

PUBLIC COMMENT

Natalie Neiss, 759 Rt. 50 Petersburg, asked a few questions regarding the Mayor’s letter to the editor regarding former Township employee Kevin Grubb. Mayor Palombo stated that he responded in his official capacity as Mayor to clear up untruths written by Mr. Grubb in a previous editorial. She also commented that a lot several hundred feet from her property is causing her property to flood. She commented that the property owner is constructing a new house on it and has installed an unauthorized driveway. Mr. Dietrich answered that the new building lot is not the reason her property floods and that the new driveway is not illegal.

CLOSED SESSION

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

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION NO. 031-2012
MOTION GOING INTO CLOSED SESSION**

January 9, 2012

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. Potential litigation – EMS collections
2. Litigation – King v. Upper Township tax appeal
3. Potential litigation – Upper Township v. Joseph and Victoria Paynter
4. Litigation – Upper Township v. Yank condemnation
5. Contract negotiation – Comcast franchise ordinances
6. Personnel matters

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.

Motion: Jay Newman
Motion seconded: Curtis Corson

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

RECONVENE PUBLIC PORTION OF MEETING

Motion was made by Curtis Corson second by Jay Newman authorizing Mr. Briggs to offer

Joseph Paynter III and Victoria Paynter a deadline of 3/1/2012 to clean up his property rather than taking the matter to court. Curtis Corson made motion, second by Jay Newman to authorize conflict attorney Norman Briggs to file notice to seek additional fees in the Joseph Paynter, Jr. and Elma Lou Paynter property clean up matter.

Motion was made by Jay Newman second by Curtis Corson to authorize \$1500 (part of the funds authorized in 2011 but not used) for the Tax Assessor to complete informal tax appeals. During roll call all four Committee members voted in the affirmative.

Motion was made by Jay Newman, second by Curtis Corson to authorize the solicitor to settle the tax appeal on the Kittie King property at 57 acres of farmland for a \$7,600 assessment, and the homestead and outbuilding for a \$267,300 assessment. During roll call vote all four Committee members voted in the affirmative.

Motion was made by Jay Newman, second by Curtis Corson to grant the request of Joseph D'Augustine to carry over four of his vacation days to this year. Extraordinary circumstances forced him to delay using the days. During roll call vote all four Committee members voted in the affirmative.

Motion was made by Jay Newman, seconded by Curtis Corson to appoint Committeeman Inserra to replace former Committeewomen Gabor on the negotiation team in the collective bargaining meetings. During roll call vote all four Committee members voted in the affirmative.

ADJOURNMENT

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

There being no further business this evening the meeting was adjourned at 9:40 P.M. Next meeting scheduled for January 23, 2012 at 7:30 P.M.

Minutes prepared by

Wanda Gaglione, RMC
Municipal Clerk

Bill List

56834 01/09/12 N0015 N.J. STATE DEPT. OF HEALTH 16.20 2706
56835 01/09/12 T0071 TOWNSHIP OF UPPER DOG ACCOUNT 91.80 2706
56836 01/09/12 T0081 TREAS. STATE OF N.J. D.C.A. 3,366.00 2706
56837 01/09/12 T0088 TREASURER, STATE OF NEW JERSEY 325.00 2706
56838 01/09/12 U0028 UPPER TOWNSHIP BD.OF EDUCATION 1,827,333.00 2706
56839 01/09/12 A0004 A+ COMMERCIAL OFFICE CLEANERS 250.00 2708
56840 01/09/12 A0006 ADVANCE TREADS INC 774.06 2708
56841 01/09/12 A0028 ADVANTAGE RENTAL CENTER INC. 495.10 2708
56842 01/09/12 A0075 ADAMS, JOSHUA 156.16 2708
56843 01/09/12 A0078 ANCHOR RUBBER STAMP & PRINTING 24.00 2708
56844 01/09/12 A0091 ATLANTIC CITY ELECTRIC 18,855.83 2708
56845 01/09/12 A0146 AACMC 382.50 2708
56846 01/09/12 A0167 HESS CORPORATION 1,613.53 2708
56847 01/09/12 B0020 BLAKER, RAYMOND 47.57 2708
56848 01/09/12 B0035 BELMONT & CRYSTAL SPRINGS 60.04 2708
56849 01/09/12 B0052 BENNETT BATTERIES, LLC. 94.90 2708
56850 01/09/12 B0178 BUGANSKI, PETER R. 365.03 2708

56851 01/09/12 C0068 COMCAST 449.49 2708
56852 01/09/12 C0071 CAPEHART & SCATCHARD, P.A. 1,989.80 2708
56853 01/09/12 C0124 CMC MUNICIPAL CLERK'S ASSOC. 400.00 2708
56854 01/09/12 C0201 CRUZAN'S TRUCK SERVICE INC. 429.24 2708
56855 01/09/12 C0223 CASA PAYROLL SERVICE 237.05 2708
56856 01/09/12 D0003 DATA RESOURCE SOLUTIONS 740.00 2708
56857 01/09/12 D0040 DELTA DENTAL OF N.J. INC. 7,077.68 2708
56858 01/09/12 D0077 DIETRICH, PAUL 150.00 2708
56859 01/09/12 D0080 DOWNAM, HARRY J. JR. 43.07 2708
56860 01/09/12 D0104 DSC SYSTEMS GRAPHICS 132.52 2708
56861 01/09/12 D0128 DAVIS, JAY 220.00 2708
56862 01/09/12 E0012 EHRlich PEST CONTROL INC 77.64 2708
56863 01/09/12 E0021 ENCHANTING FLORIST 200.00 2708
56864 01/09/12 E0038 EMSAR NEW JERSEY 973.08 2708
56865 01/09/12 F0014 FACE 189.00 2708
56866 01/09/12 F0048 FOGG, LESLIE INC. 795.57 2708
56867 01/09/12 F0054 FORT DEARBORN LIFE INSURANCE 477.30 2708
56868 01/09/12 F0081 FIRST STUDENT, INC. 346.51 2708
56869 01/09/12 G0002 GAGLIONE, WANDA 150.00 2708
56870 01/09/12 G0016 GARDNER HARDWARE INC. 44.62 2708
56871 01/09/12 G0028 GENTILINI FORD 1,653.10 2708
56872 01/09/12 H0018 HAROLD RUBIN/L & H SUPPLY 2,857.86 2708
56873 01/09/12 I0035 IMAGES UNLIMITED 145.00 2708
56874 01/09/12 L0030 LAWYERS DIARY AND MANUAL 89.00 2708
56875 01/09/12 L0080 LOWES, INC. 439.51 2708
56876 01/09/12 M0076 MGL PRINTING SOLUTIONS 590.00 2708
56877 01/09/12 M0088 MC SYSTEMS SOFTWARE LLC 400.00 2708
56878 01/09/12 M0103 MODERN GAS COMPANY, INC. 2,612.10 2708
56879 01/09/12 M0142 MASON, NICHOLAS 44.85 2708
56880 01/09/12 M0148 MYRON CORP. 337.16 2708
56881 01/09/12 M0188 MCCARTHY TIRE SERVICE OF PHILA 1,297.50 2708
56882 01/09/12 M0222 MUNICIPAL CAPITAL CORPORATION 392.00 2708
56883 01/09/12 N0004 NJ-AMERICAN WATER CO. 53.32 2708
56884 01/09/12 N0043 NAPA AUTO PARTS OF S.JERSEY 324.54 2708
56885 01/09/12 N0052 NATL YOUTH SPORTS COACHED ASSN 300.00 2708
56886 01/09/12 N0104 NEW JERSEY MAYORS ASSOCIATION 100.00 2708
56887 01/09/12 N0131 NJ DIV OF PENSIONS & BENEFITS 2,000.00 2708
56888 01/09/12 O0012 OCEAN CITY BD. OF EDUCATION 560.64 2708
56889 01/09/12 O0042 ORCHARDS HYDRAULIC SERVICE INC 495.00 2708
56890 01/09/12 P0032 PEDRONI FUEL CO. 1,022.18 2708
56891 01/09/12 P0064 PITNEY BOWES 203.96 2708
56892 01/09/12 P0104 PASHUCK, SUZANNE 35.45 2708
56893 01/09/12 P0121 PENGUIN COMMUNICATION LLC 67.20 2708
56894 01/09/12 P0130 POTTER, BOBBI 26.25 2708
56895 01/09/12 R0030 RIGGINS, INC. 7,970.55 2708
56896 01/09/12 R0065 ROBERT BROWN TREE SERVICE 700.00 2708
56897 01/09/12 R0092 RUTGERS, THE STATE UNIVERSITY 930.00 2708
56898 01/09/12 S0001 SAM'S CLUB 151.65 2708
56899 01/09/12 S0015 SMYTH, PATRICIA 50.00 2708
56900 01/09/12 S0020 AM SAN 59.44 2708
56901 01/09/12 S0031 SCHULER SECURITY, INC. 407.00 2708
56902 01/09/12 S0036 SCHULER, JAMES 600.00 2708
56903 01/09/12 S0056 SEASHORE ASPHALT CORPORATION 253.00 2708
56904 01/09/12 S0072 SEGIn, STEWART S. 59.99 2708
56905 01/09/12 S0121 SMUZ, THERESE A 13.68 2708
56906 01/09/12 S0134 SO. JERSEY GAS COMPANY 715.90 2708
56907 01/09/12 S0139 SO. JERSEY WATER COND. INC. 638.15 2708
56908 01/09/12 S0165 S.E.T. COMMUNICATIONS INC 44.25 2708
56909 01/09/12 S0209 STAPLES ADVANTAGE 891.83 2708
56910 01/09/12 S0239 SHORE VET. ANIMAL CONTROL LLC 2,247.00 2708
56911 01/09/12 S0249 SPORT SUPPLY GROUP, INC 214.08 2708
56912 01/09/12 S0256 SEAVILLE UNITED METHODIST CHUR 300.00 2708
56913 01/09/12 T0005 TCTA OF NEW JERSEY 75.00 2708
56914 01/09/12 T0020 TERWILLIGER, DUANE E. 150.00 2708
56915 01/09/12 T0032 THE PRESS & SUNDAY PRESS 144.56 2708
56916 01/09/12 T0074 TRANSAXLE LLC 3,335.35 2708
56917 01/09/12 U0029 UPPER TOWNSHIP BD.OF EDUCATION 395.78 2708
56918 01/09/12 U0043 ULINE, INC. 110.46 2708
56919 01/09/12 V0001 VCI EMERGENCY VEHICLE 713.92 2708
56920 01/09/12 V0005 VAN EMBDEN, NATHAN, ATTORNEY 112.50 2708
56921 01/09/12 V0013 VERIZON WIRELESS 603.05 2708
56922 01/09/12 V0022 VERIZON 183.32 2708
56923 01/09/12 V0024 VAL-U AUTO PARTS L.L.C. 199.31 2708
56924 01/09/12 V0025 V.E. RALPH & SON, INC. 72.67 2708
56925 01/09/12 W0030 WEST PUBLISHING CO. 356.94 2708
56926 01/09/12 W0085 WOODY, LESTER 33.74 2708
56927 01/09/12 Y0008 YOUNG, DANIEL J. ESQUIRE PC 12,531.25 2708

56928 01/09/12 Y0023 YOUNG, DANIEL J. ATTORNEY 2,625.00 2708

Total Paid: \$1,923,309.28