

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR APRIL 16, 2012**

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

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Edward Barr	Present
Curtis Corson	Present
Antonio Inserra	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. Municipal Auditor Leon Costello was present for the Budget portion of the meeting.

**APPROVAL OF MINUTES - **March 26, 2012 Regular Meeting and
Closed Session Minutes, and March 30, 2012
Special Meeting and Closed Session Minutes****

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

REPORT OF GOVERNING BODY MEMBERS

Wanda Gaglione, Municipal Clerk, requested two changes to the meeting agenda; to move item #8, appointing Beach Sweepers, to the April 30, 2012 meeting; and to switch the order of items #2 and #3 so that the resolution authorizing the reading of the 2012 Annual Municipal Budget by title only will come before Ordinance No. 001-2012.

Daniel Young, Municipal Attorney, reported on correspondence from the New Jersey Board of Public Utilities regarding suggested language for the Comcast Franchise renewals. It is anticipated that Comcast will agree to the language and the Ordinances will be ready for introduction next month. He next reported on three closed session items; two contract negotiations for conflict attorney and computer consultant; and safety and security Issues.

Barbara Spiegel, Chief Financial Officer, requested permission to attend a three-day QPA review class in Egg Harbor Township at the end of May. The State Certification test will be held in June. Motion to approve the request by Curtis Corson, seconded by Jay Newman. During roll call vote all five committee persons voted in the affirmative.

Paul Dietrich, Municipal Engineer, gave an update on the Affordable Housing Rehabilitation program. He stated that nine applications were received and they are moving forward with the review process.

Curtis Corson, Committeeman, discussed a County Open Space application for Block 479, Lots 30, 31, 32, 35 and 37. He stated that, in his opinion, the parcels are not appropriate for Open Space. He believes that the land should be kept open, however if the County acquires it for Open Space, it will then be available for public use, and he questioned who was going to clean and maintain it. Freeholder Kristine Gabor suggested the Committee direct a letter to Freeholder Morey and set up a meeting to discuss all issues and concerns. Mr. Corson made a motion, second by Jay Newman to send a letter to the Cape May County Freeholders as well as the Director of Open Space and Farmland Preservation, Barbara Ernst. During roll call vote all five Committee members voted in the affirmative.

Jay Newman, Committeeman, reported that he recently noticed a signboard for bridge work on Rt. 631 to begin on April 16, however the Township has not been notified. He stated that the Township, the State Police and all Fire and Rescue personnel should be getting notifications so they can prepare for traffic delays in advance of an emergency. He next reported that the Security Committee will be meeting on April 19 to go over several issues. He will have a report back to the Committee along with any recommendations as they become available. He next reported on a fundraiser to benefit the daughter of a captain of the Marmora Fire Company. She has been diagnosed with a very rare disease and the emergency services community will be holding a day of fundraisers to raise money to cover her treatments. They will be holding a walk/run, a golf tournament, and a barbecue on Saturday May 18. Registration for the walk/run will begin at 9:00 am, and the barbecue will be held from 3:00 to 9:00 pm in Seaville near the Acme. He next acknowledged that Sergeant Brady, Assistant Station Commander of the NJ State Police Woodbine barracks, was in the audience. Sergeant Brady stated that he will be available during the meeting to address any concerns.

Richard Palombo, Mayor, reported that after having a conference call with State legislators, the NJDOT and Cape May County Engineer Dale Foster, the traffic light and left hand turn lane will be added back into the plans for the Rt 50 project with an assurance that it will be completed this calendar year. He thanked Freeholder Gabor for her help in resolving the issue regarding payment of electricity for the traffic signal.

OTHER REPORTS

1. Presentation of plans for Upper Township Senior Center, by C.M.C. Freeholder Kristine Gabor.

Freeholder Gabor reported that the facility will be redesigned to be a functioning senior center as well as provide a separate area for flu clinics and other wellness services for both seniors and the community. The building will be receiving new handicap door operators for the front entry, new roof shingles as well as a new roof design, vinyl siding, exterior building lights, new paint, tiles, light fixtures, flooring, windows, furniture, and a new expanded kitchen. The funding is coming from a grant and County employees will perform a large portion of the work. It is anticipated that the new construction will be started within the next month. During the renovations, seniors from the area may go to the Ocean City Senior Center or the Dennis Township Senior Center. Fare Free Transportation will be provided.

Mayor Palombo asked that the Township be notified when the project is near completion so that they can help with notifying the public of the new facilities and services.

Freeholder Gabor also reported that the County will be doing a tour of the County in the summer months to find out what the needs are of the area residents.

2012 BUDGET

2. Resolution authorizing the reading of the 2012 Annual Municipal Budget by title only.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY**

R E S O L U T I O N N O . 8 0 - 2 0 1 2

**RE: AUTHORIZING THE READING OF THE 2012
ANNUAL MUNICIPAL BUDGET BY TITLE ONLY**

WHEREAS, N.J.S.A. 40:A4-8 authorizes the reading of the budget by title only at the public hearing thereon, provided certain requirements are met; and

WHEREAS, the Township Committee of the Township of Upper is satisfied that such conditions have been satisfied.

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 majority of the full membership concurring, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee of the Township of Upper finds and determines

that:

A. At least one (1) week prior to the date of this hearing, a complete copy of the approved budget, as advertised, was posted in the Township Hall, the principal municipal building of the municipality, and was made available to each person requesting the same during the week immediately preceding the public hearing and is available to each person requesting a copy during the public hearing, as required by N.J.S.A. 40A:4-8.

B. The Township Committee of the Township of Upper hereby determines and declares that the conditions set forth in subsection 1.a and 1.b of N.J.S.A. 40A:4-8 have been met.

C. The Township Committee of the Township of Upper hereby determines that the 2012 Municipal Budget of the Township of Upper shall be read by its title only at the public hearing to be conducted thereon.

Resolution No. 80 - 2012

Offered by: Newman

Seconded by: Corson

Adopted: April 16, 2012

Roll Call Vote:

NAME	YES	NO	ABSTAINED	ABSENT
Barr	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Corson	<u> X </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. **Public Hearing and Final Adoption of Ordinance No. 001-2012, Re: CALENDAR YEAR 2012 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14).** Municipal Auditor, Leon Costello stated that this Ordinance allows the Township to establish a bank for the allowed portion of increase that was not spent in the 2012 budget. During the public comment section of the hearing there were no speakers. Motion was made by Curtis Corson, second by Jay Newman to adopt Ordinance No. 001-2012. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CALENDAR YEAR 2012
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET
APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)**

ORDINANCE NO. 001-2012

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Township Committee of the Township of Upper in the County of Cape May finds it advisable and necessary to increase its CY 2012 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township Committee of the Township of Upper hereby determines that a 1.0 % increase in the budget for said year, amounting to **\$97,501.35** in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the Township Committee of the Township of Upper hereby determines that any amount authorized hereinabove that is not appropriated, as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Township Committee of the Township of Upper, in the County of Cape May a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2012 budget year, the final appropriations of the Township of Upper shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to **\$ 341,254.73** and that the CY 2012 municipal budget for the Township of Upper be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 12th DAY OF MARCH, 2012 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 16TH DAY OF APRIL, 2012 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

4. **2012 Budget - Public Hearing.** Mr. Costello stated that there is no increase in the tax rate, the fund balance is approximately the same as last year, the budget is \$700,000.00 under cap, and spending is 100,000.00 less than last year. During the public comment section of the hearing there were no speakers. Motion was made by Curtis Corson, second by Jay Newman to adopt 2012 Budget. During roll call vote all five Committee members voted in the affirmative.

5. **Local Unit Budget examination.**

**TOWNSHIP OF UPPER
COUNTY OF CAPE MAY
RESOLUTION NO. 81 -2012
LOCAL UNIT BUDGET EXAMINATION**

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7 through 7.5 the Township Committee of the Township of Upper has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined

that the Township of Upper meets the necessary conditions to participate in the program for the 2012 budget year.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, County of Cape May, that in accordance with N.J.A.C. 5:30-7.6a & b and based upon the Chief Financial Officers' certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:

- a. Payment of interest and debt redemption charges
- b. Deferred charges and statutory expenditures
- c. Cash deficit of preceding year
- d. Reserve for uncollected taxes
- e. Other reserves and non-disbursement items
- f. Any inclusions of amount required for school purposes

2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at 40A:4-45.3 et seq. are fully met. (Complies with "CAP" law.)

3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.

4. That pursuant to the Local Budget Law:

- a. All estimates of revenue are reasonable, accurate, and correctly stated
- b. Items of appropriation are properly set forth
- c. In itemization, form, arrangement, and content the budget will permit the exercise of the comptroller function within the municipality.

5. The budget and associated amendments have been introduced, publicly advertised, and adopted in accordance with the relevant provision of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A 40A:4-5 shall not prevent such certification.

6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Director of the Division of Local Government Services.

Resolution No. 81-2012

Offered By: Corson

Seconded By: Newman

Adopted: April 16, 2012

Roll Call Vote:

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

CERTIFICATION OF APPROVED BUDGET

It is hereby certified that the Approved Budget complies with the requirements of the law and approval is given pursuant to N.J.S.A. 40A: 4-78(b) and N.J.A.C. 5:30-7.

It is further certified that the municipality has met the eligibility requirements of N.J.A.C. 5:30-7.4 and 7.5, and that I, as Chief Financial Officer, have completed the local examination in compliance with N.J.A.C. 5:30-7.6.

Barbara A. Spiegel, CFO

This certification form and resolution of the governing body executing such certification should be annexed to the adopted budget (N.J.A.C. 5:30-7.6(e)).

PROCLAMATION

- 6. Proclamation Re: Pediatric Acute-onset Neuropsychiatric Syndrome (“PANS”).**

PROCLAMATION
TOWNSHIP OF UPPER
COUNTY OF CAPE MAY, NEW JERSEY

WHEREAS, one of the most heartbreaking of personal and family tragedies is the affliction of an illness in which the cause and cure are unknown; and

WHEREAS, 10 year old Olivia Eggie and her family have been fighting a very rare disease known as Pediatric Acute-onset Neuropsychiatric Syndrome (“PANS”); and

WHEREAS, on May 12, 2012, the members of the Marmora Volunteer Fire Company will be holding “Keep the Eggies out of the PANS” fundraising events throughout the Township of Upper to help the Eggie family in their daunting challenge to pay for Olivia’s treatments not covered by their health insurance; and

WHEREAS, it is fitting and proper to give support to this worthwhile endeavor, to make this a special day for Olivia and her family, and to raise awareness for Pediatric Acute-onset Neuropsychiatric Syndrome;

NOW, THEREFORE BE IT PROCLAIMED that I, Richard Palombo, Mayor of the Township of Upper, do designate the 12th day of May 2012 as “**OLIVIA EGGIE DAY**”

and encourage the citizens of Upper Township to generously show their support for Olivia and the Eggie family at the “Keep the Eggies out of the PANS” fundraising events.

Proclaimed this 16th day of April, 2012

RICHARD PALOMBO, Mayor

RESOLUTIONS

- 7. Approving the application of the Tuckahoe 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. 82-2012

RE: APPROVING THE APPLICATION OF THE TUCKAHOE VOLUNTEER
FIRE CO. FOR HIGHWAY COIN DROPS

WHEREAS, the Tuckahoe 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 Tuckahoe Volunteer Fire Co. to hold a coin drop within Upper Township is hereby approved for the following dates and locations:

Intersection of Routes 49 & 50:

Friday, July 27, 2012 from 5:00 p.m. to 9:00 p.m.

Saturday, July 28, 2012 from 9:00 a.m. to 3:00

p.m.

AND

Intersection of Co. Route 617 & Route 49:

Sunday, July 29, 2012 from 3:00 p.m. to 8:00 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. 82-2012
Offered by: Corson
Adopted: April 16, 2012
Roll Call Vote:

Seconded by: Inserra

NAME	YES	NO	ABSTAINED	ABSENT
Barr	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Corson	<u> X </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>

8. **Appointing Michael Pfaff, Hillary Morris and Dennis Neville as Part-time Seasonal Beach Sweepers to the Upper Township Public Works Department.** Due to a resignation of one of the appointees, the Clerk requested that no action be taken and that the resolution be withdrawn from the agenda to be revised and then placed back on the agenda for the April 30th meeting. No action taken on this matter.
9. **Appointing the 2012 Season Beach Patrol Personnel.**

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

RESOLUTION NO.83-2012

RE: APPOINTING THE 2012 SEASON BEACH PATROL PERSONNEL

WHEREAS, the individual hereinafter named has been determined to possess the requisite skills, training and is otherwise eligible for appointment to the position of lifeguard; 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 following individual is appointed as a lifeguard in the Township of Upper at a salary as stated below in accordance with the Salary Ordinance:

CAPTAIN

WILLIAM HANDLEY

\$20.75 per hour

3. This Resolution shall be effective immediately and is further intended to ratify, confirm and approve any formal action taken by the Township Committee.

Resolution No. 83- 2012

Offered by: Palombo Seconded by: Newman

Adopted: April 16, 2012

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Corson	<u> X </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>

10. **Chapter 159 Resolution for the insertion of a special item of revenue into the 2012 Budget that was not determined at the time of the adoption of the budget – Upper Township Marmora Village Center and “Main Street” Market Assessment in the amount of \$4,000.00.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 84-2012**

RE: CHAPTER 159 RESOLUTION FOR THE INSERTION OF A SPECIAL ITEM OF REVENUE INTO THE 2012 BUDGET THAT WAS NOT DETERMINED AT THE TIME OF THE ADOPTION OF THE BUDGET—UPPER TOWNSHIP MARMORA VILLAGE CENTER AND “MAIN STREET” MARKET ASSESSMENT
IN THE AMOUNT OF \$4,000.00

WHEREAS, N.J.S. 40A-87 PROVIDES THAT THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES MAY APPROVE THE INSERTION OF ANY SPECIAL ITEM OF REVENUE IN THE BUDGET OF ANY COUNTY OR MUNICIPALITY WHEN SUCH ITEM SHALL HAVE BEEN MADE AVAILABLE BY LAW AND THE AMOUNT THEREOF WAS NOT DETERMINED AT THE TIME OF THE ADOPTION OF THE BUDGET; AND

WHEREAS, SAID DIRECTOR MAY ALSO APPROVE THE INSERTION OF AN ITEM OF APPROPRIATION FOR AN EQUAL AMOUNT; AND

WHEREAS, THE TOWNSHIP OF UPPER WILL RECEIVE AN AMOUNT OF \$4,000.00 FROM THE UPPER TOWNSHIP MARMORA VILLAGE CENTER AND “MAIN STREET” MARKET ASSESSMENT AND WISHES TO AMEND ITS 2012 BUDGET TO INCLUDE THIS AMOUNT AS A REVENUE.

NOW, THEREFORE, BE IT RESOLVED THAT THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HEREBY REQUESTS THE DIRECTOR OF THE DIVISION OF LOCAL GOVERNMENT SERVICES APPROVE THE INSERTION OF AN ADDITIONAL ITEM OF REVENUE IN THE BUDGET OF THE YEAR 2012 IN THE SUM OF \$4,000.00, WHICH IS NOW AVAILABLE AS A REVENUE FROM:

REVENUE: STATE & FEDERAL REVENUE OFFSET WITH APPROPRIATIONS:
UPPER TOWNSHIP MARMORA VILLAGE CENTER
AND “MAIN STREET” MARKET ASSESSMENT, AND

BE IT FURTHER RESOLVED THAT A LIKE SUM OF \$4,000.00 BE AND THE SAME IS HEREBY APPROPRIATED UNDER THE CAPTION OF:

APPROPRIATION: STATE AND FEDERAL PROGRAMS OFFSET BY REVENUE:
UPPER TOWNSHIP MARMORA VILLAGE CENTER
AND "MAIN STREET" MARKET ASSESSMENT

BE IT FURTHER RESOLVED, THAT THE TOWNSHIP CLERK FORWARD TWO COPIES OF THIS RESOLUTION TO THE DIRECTOR OF LOCAL GOVERNMENT SERVICES.

Resolution No. 84-2012
Offered by: Corson
Adopted: April 16, 2012

Seconded by: Newman

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Corson	<u>X</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>

11. Refund EMS ambulance billing overpayment to the PMA Insurance Group.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 85-2012

**RE: REFUND EMS AMBULANCE BILLING OVERPAYMENT
TO THE PMA INSURANCE GROUP**

WHEREAS, an overpayment has occurred in the account of Maria Fernandez, an EMS ambulance billing patient, where the monies sent to the Township of Upper by The PMA Insurance Group were in excess as evidenced by the attached copy of a letter attached hereto as Exhibit A.

WHEREAS, the New Jersey American Water Company has received rate increases repeatedly over the past decade, including in 2008 and 2010; and

WHEREAS, this rate increase, if approved by the New Jersey Board of Public Utilities will negatively impact ratepayers in Upper Township at a time when many homeowners and businesses are struggling to survive financially; and

WHEREAS, the Upper Township Committee has, by contrast, demonstrated a sensitivity to our residents, setting the course of public policy towards fiscal constraint and responsibility; and

WHEREAS, to obtain the New Jersey Board of Public Utilities approval, a utility must “prove” that such a change is merited, documenting in its application that increase or change is justified; and

WHEREAS, the New Jersey Division of Rate Counsel, tasked with protecting the interest of consumers, has conducted research on the issue and has determined that the New Jersey American Water Company’s request for a rate increase is not warranted based on the information provided by the NJAWC.

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 of the Township of Upper strongly opposes the rate increase proposed by the New Jersey American Water Company and submitted to the New Jersey Board of Public Utilities.
3. The Board of Public Utilities and the New Jersey Division of Rate Counsel shall be notified of the Township’s position on the matter, and it is hereby requested that this position be taken into account during any review of the matter by these agencies.
4. A copy of this Resolution shall be forwarded to all appropriate County, State, and Federal Officials.

Resolution No. 86 -2012

Offered by: Palombo

Seconded by: Inserra

Adopted: April 16, 2012

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>X</u>	<u> </u>	<u> </u>	<u> </u>

Corson	<u> X </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>

13. Requesting the restoration of Energy Taxes to New Jersey Municipalities.

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

RESOLUTION NO.87-2012

**RE: REQUESTING THE RESTORATION OF ENERGY TAXES TO NEW JERSEY
MUNICIPALITIES**

WHEREAS, taxes on gas and electric utilities were originally collected by the host municipalities to be used for local purposes and to compensate the public for the use of their rights of way; and

WHEREAS, when the State made itself the collection agent for these taxes, it promised to dedicate the proceeds to municipal property tax relief; since, just as municipalities collect property taxes for the benefit of school districts, counties and other entities; the State is supposed to collect Energy Taxes for the benefit of municipal governments; and

WHEREAS, for years State budget makers have diverted funding from Energy Taxes to fund State programs; and instead of being spent on local programs and services and used to offset property taxes, the money has been spent as successive Legislatures and Administrations have seen fit; and

WHEREAS, while the State may need to have the right to over-ride the statutory dedication of these revenues to local governments, in order to deal with emergencies and crises that may occur; current State policy makers should not exercise that right automatically; and

WHEREAS, while that right should be the exception, it has become the rule; and

WHEREAS, by using tactics such as reducing CMPTRA, ("Consolidated Municipal Property Tax Relief Act"), which is also comprised of revenues that should be returned to municipalities, State Budget makers have been able to continue collecting Energy Taxes, while keeping additional revenue that should have been returned to provide property tax relief; and

WHEREAS, from \$72 million in State Fiscal Year 2005, to \$505 million in State Fiscal Year 2011, the State's diversion of Energy Taxes has continued to grow; and

WHEREAS, in 2008, 2009 and 2010 (SFY 2009, 2010 and 2011), funding for municipal revenue replacement was slashed by about \$26 million in 2008 and \$32 million in 2009, followed by losses of about \$271 million in 2010; and

WHEREAS, the cumulative impact of years of underfunding has left many municipalities with serious needs and burdensome property taxes; and

WHEREAS, local elected officials are in the best position to decide the best use for these resources, which were always intended to fund local programs and services;

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 we join with the League of Municipalities in calling for the immediate restoration of funding diverted from Energy Taxes intended for local use; and

BE IT FURTHER RESOLVED, that we, respectfully, call on State policy makers to end the diversion of our municipal resources to cover State spending and to provide us with this important tool to relieve the worst-in-the-nation property tax burden borne, for too long, by the people of New Jersey; and

BE IT FINALLY RESOLVED, that copies of this Resolution be forwarded to the Governor of the State of New Jersey, our State Legislators and the League of Municipalities.

Resolution No. 87-2012
Offered by: Corson
Adopted: April 16, 2012

Seconded by: Newman

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>X</u>	<u> </u>	<u> </u>	<u> </u>
Corson	<u>X</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>

14. Authorizing the Greater Tuckahoe Area Merchants Association 3rd Annual Tour De Tuckahoe Bike Ride and 2nd Annual Duathlon to be Held at Amanda's Field in Petersburg, New Jersey on Sunday May 6, 2012.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 88 - 2012

**RE: AUTHORIZING THE GREATER TUCKAHOE AREA MERCHANTS
ASSOCIATION 3rd ANNUAL TOUR DE TUCKAHOE BIKE RIDE AND 2nd
ANNUAL DUATHLON TO BE HELD AT AMANDA'S FIELD
IN PETERSBURG, NEW JERSEY ON SUNDAY MAY 6, 2012**

WHEREAS, the Greater Tuckahoe Area Merchants Association, Inc., of P.O. Box 656 Tuckahoe, NJ 08250, has submitted a proposal to the Upper Township Committee requesting authority to hold a Bike Ride in Petersburg, New Jersey on May 6, 2012 which will consist of four different courses to accommodate riders of all levels, the family ride which will circle Amanda's Field and for the advanced rider a 16 mile, 40 mile or 62 mile ride, starting and ending at Amanda's Field, and a duathlon which will consist of a 2 mile run, 9 mile ride and end with a 2 mile run starting and ending at Amanda's Field, Registration beginning at 7:30 a.m., the duathlon beginning at 8:30 a.m., and the bike rides commencing at 9:00 a.m., as indicated in their Application for Use of Facilities and event description which is attached hereto as Exhibit A; and

WHEREAS, the bike tour and the duathlon will travel NJSH Route 50 and will utilize Township, County and State roads in Upper Township as described on maps attached hereto as Exhibit "B"; and

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

WHEREAS, the parking area and registration site for the event is proposed on Amanda's Field lots attached hereto as Exhibit "D"; and

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

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

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

2. The Township Committee does hereby grant approval, to the extent that it has jurisdiction to do so, to the Greater Tuckahoe Area Merchants Association, Inc. for the Bike Ride event to be held on May 6, 2012 as specified in this Resolution and in the accompanying Exhibits subject to and conditioned upon the following:

(A) The event described in this Resolution is carried out by the Greater Tuckahoe Area Merchants' Association, Inc. These sponsors have no connection, direct or indirect, with the Township of Upper or any of its officials or employees. These sponsors shall not, in any way, directly or indirectly, represent that the race is, in any way, associated with or affiliated with the Township of Upper and shall make clear that the event is carried out with all appropriate governmental and other approvals. Although the Township

of Upper has given permission, subject to the terms of this Resolution, to these event sponsors to conduct the proposed race, it must be made clear that the event is not and shall not be considered a Township of Upper sponsored or sanctioned event.

- (B) Greater Tuckahoe Area Merchants' Association, Inc., has provided general comprehensive liability insurance in form and substance satisfactory to the Township of Upper's Risk Management Consultant. Said insurance includes a medical expense limit. A Certificate of Insurance has been provided to the Township Clerk, which the Risk Management Consultant of the Township of Upper has approved Certificate of Insurance. Said Certificate of Insurance names the Township of Upper, its officials, officers and employees, as an additional insured.
- (C) Greater Tuckahoe Area Merchants' Association, Inc., the event sponsors, have obtained written approval from and comply with all conditions imposed by the following entities:
 - (i) the Risk Management Consultant of the Township of Upper.
 - (ii) the New Jersey State Police.
 - (iii) the Upper Township Rescue Squad.

(iv) Cape May County Board of Chosen Freeholders.

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

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

(E) Setup for the event will take place at 6:00 a.m. the morning of the event.

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

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

Resolution No. 88-2012
Offered by: Corson
Adopted: April 16, 2012

Seconded by: Newman

Roll Call Vote:

NAME	YES	NO	ABSTAINED	ABSENT
Barr	<u> X </u>	<u> </u>	<u> </u>	<u> </u>
Corson	<u> X </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>

15. Annual Fourth of July Fireworks Display.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 89 -2012
RE: ANNUAL FOURTH OF JULY FIREWORKS DISPLAY**

WHEREAS, for many years, the Township of Upper has provided a fireworks display for the residents of Upper Township and others; and

WHEREAS, the Township wishes to continue to provide a display of fireworks in celebration of the 4th of July; and

WHEREAS, the Township solicited bids from several Firework Companies and has selected Pyrotecnico, a Pennsylvania corporation; and

WHEREAS, the State of New Jersey, Department of Community Affairs, requires that the Township provide a Resolution approving same; and

WHEREAS, the site for the fireworks display will be determined in conjunction with a State of New Jersey Fire Inspector; and

WHEREAS, FAA Clearance will be applied for; and

WHEREAS, a plot/site plan for site display, showing the distances from the public and structures to the fireworks discharge area, has been provided by the Township Engineer; 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 in full herein by this reference.

2. Upon meeting all requirements of the State of New Jersey, Department of Community Affairs as well as any and all recommendations or requirements of the Township's Risk Management Consultant and the Joint Insurance Fund, the Township Clerk is hereby directed and authorized to provide a certified copy of this Resolution, with all attachments, to the Department of Community Affairs for their review and issuance of a Fireworks Permit.

3. The contractor shall comply with all terms and provisions of the Municipal Excess Liability Joint Insurance Fund Bulletin MEL 12-08, dated January 30, 2012.

4. 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.

5. 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, including but not limited to the entering into and execution of an Agreement to Furnish Fireworks Exhibition with Pyrotecnico, New Castle, PA, for the sum of \$6,000.00.

Resolution No. 89-2012

Offered by: Newman
Adopted: April 16, 2012

Seconded by: Inserra

Roll Call Vote:

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

- 16. Authorizing Upper Township Men's Softball, A NJ Nonprofit Corporation, to operate a men's softball league and to use Township facilities as an ongoing program.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 90 - 2012

**RE: AUTHORIZING UPPER TOWNSHIP MEN'S SOFTBALL,
A NJ NONPROFIT CORPORATION, TO OPERATE A MEN'S SOFTBALL LEAGUE
AND TO USE TOWNSHIP FACILITIES AS AN ONGOING PROGRAM**

WHEREAS, the Upper Township Men's Softball, a NJ Nonprofit Corporation, of 263 Marshallville Rd, Woodbine, NJ 08270, has submitted an application to the Upper Township Committee to become an Upper Township authorized Sports program pursuant to Article II of the Rules and Regulations of the Sports and Recreation Programs and the Use of Township Facilities; and

WHEREAS, Upper Township Men's Softball has received a letter of approval from the Upper Township Sports and Recreation Advisory Board, a copy of which is attached hereto as Exhibit A; and

WHEREAS, the Township Committee has reviewed this request and finds it in the best interest of the Township that Upper Township Men's Softball be authorized to operate a men's softball league and to use Township facilities as an ongoing program; 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 Township Committee does hereby grant approval to Upper Township Men's Softball, a NJ Nonprofit Corporation, to operate a men's softball league and to use Township facilities as an ongoing Township program, subject to the Township's Rules and Regulations of the Sports and Recreation Programs and the Use of Township Facilities, as may from time to time be amended. All participants in this program must be over 18 years of age.
2. 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 90- 2012
Offered by: Barr
Adopted: April 16, 2012

Seconded by: Newman

Roll Call Vote:

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

17. Authorizing the mayor to sign an escrow agreement for the Affordable Housing Trust Fund.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY**

RESOLUTION

RESOLUTION NO. 91-2012

**RE: AUTHORIZING THE MAYOR TO
SIGN AN ESCROW AGREEMENT FOR THE AFFORDABLE HOUSING TRUST FUND**

WHEREAS, it is necessary for the Township of Upper to sign a three-party Escrow Agreement for the Council on Affordable Housing (COAH) pursuant to their approval of the Township's Development Fee Ordinance; and

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

WHEREAS, the Escrow Agreement has been reviewed and approved by the Municipal Attorney and Ocean City Home Bank's attorney and is attached hereto as Exhibit A.

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 three-party Escrow Agreement between, COAH, the Township of Upper and Ocean City Home Bank is approved and the Mayor is hereby authorized, directed and empowered to execute said Escrow Agreement on behalf of the Township of Upper.

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

Resolution No. 91-2012
 Offered by: Corson
 Adopted: April 16, 2012

Seconded by: Inserra

Roll Call Vote:

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

18. Approval of issuance of tax-exempt obligation of Seaville Volunteer Fire & Rescue Company, Inc.

[\[Watermark1\]](#)

Comment:

**TOWNSHIP OF UPPER
 CAPE MAY COUNTY
 RESOLUTION**

RESOLUTION NO. 92 - 2012

RE: APPROVAL OF ISSUANCE OF TAX-EXEMPT OBLIGATION OF SEAVILLE VOLUNTEER FIRE & RESCUE COMPANY, INC.

WHEREAS, Seaville Volunteer Fire & Rescue Company, Inc. (The “Fire Company”), is (i) a non-profit corporation organized and existing under the laws of the State of New Jersey; and (ii) a “qualified volunteer fire company” within the meaning of Section 150(e) of the Internal Revenue Code of 1986 and related regulations (the “Code”), which is organized and operated to provide fire fighting or emergency medical services within Fire District No. 4, in the Township of Upper, County of Cape May, New Jersey (the “Township”), a political subdivision that is not otherwise provided with fire

fighting services for such Fire District No. 4; and

WHEREAS, the Fire Company is required by written agreement with the Commissioners of Fire District No. 4 of the Township, or by ordinance or statute, to provide fire fighting services to the Township, within the meaning of Section 150(e) of the Code; and

WHEREAS, under Section 150(e) of the Code, the Fire Company is considered a governmental entity for purposes of issuing its debt obligations, the interest paid on which is exempt from federal income taxes (“Tax-Exempt Obligation(s)”), subject, however, to the “public approval” requirements applicable to private activity bonds under Section 147(f) of the Code; and

WHEREAS, the Township has been requested by the Fire Company to approve the issuance of its Tax-Exempt Obligation, in the form of a note (the “Note”), solely for purposes of Sections 147(f) and 150(e) of the Code; and

WHEREAS, the Fire Company has proposed to issue the Note and use the proceeds of the Note for: (i) the refinancing of outstanding debt of the Fire Company previously issued to provide the funds for the reconstruction and improvement of fire house facilities located at #36 Route 50, Township of Upper, in the County of Cape May and State of New Jersey, and eligible for funding with proceeds of the Note, (ii) fund improvements to the fire house facilities, and (iii) the payment of costs and expenses of issuance of the Note (collectively, the “Project”); and

WHEREAS, the Township shall be in no manner responsible for any obligations or liability of the Fire Company in regard to its operations or its responsibility under said refinancing agreement, Note or other financial obligation; and

WHEREAS, the Township Committee of the Township hereby directs that it is appropriate that the Mayor acknowledge the emergency services which have been provided to the Township by the Fire Company as requested; and

WHEREAS, the Township Committee of the Township desires to authorize the Fire Company to conduct any and all public hearings in connection with the Project that are required to be held pursuant to Section 147(f) of the Code, and to authorize the Mayor of the Township as the applicable elected representative of the Township to approve the issuance of the Note and the Project as aforesaid and as required by Section 147(f) of the Code; 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 Fire Company and its officers, board members or attorneys, or any of them, are

hereby approved and confirmed as the lawful agent of the Township for the public hearing held as required by Section 147(f) of the Code, with respect to the Note and the Project, as required and contemplated by Section 147(f) of the Code.
3. The advertisement of such public hearing held on behalf of the Township

is hereby

approved and confirmed.
4. Such public hearing was held on March 12, 2012, and following such

public hearing

the Fire Company has submitted to the Township a brief report of the public hearing in order that the Township may take appropriate action upon the request of the Fire Company for approval, solely for purposes of Section 147(f) of the Code, of the issuance of the Note and of the proposed Project.

5. The Township hereby designates the Mayor of the Township to execute and deliver a Certificate of Approval, in the form attached hereto as Exhibit A, with respect to the issuance of the Note and the Project on behalf of the Township.
6. All actions of the Township and of the Fire Company taken and to be taken in conformity with the intent and purposes of this Resolution are ratified, confirmed and approved in all respects.
7. The action taken by or on behalf of the Township under this Resolution is taken only as required by Section 150(e) and Section 147(f) of the Code to qualify the Note as a “qualified tax-exempt obligation” and for no other purpose, and the adoption of this Resolution and the taking of the action authorized hereunder shall not create any other contractual, debt or legal obligation of, against or payable by the Township with respect to the Note or the Project or otherwise.
8. All resolutions or parts of resolutions, insofar as such shall be inconsistent herewith, shall be and the same expressly are repealed.

9. 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. 92-2012

Offered by: Newman

Second by: Inserra

Adopted: April 16, 2012

Roll Call Vote:

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

ORDINANCES

19. Introduction and First Reading of Ordinance No. 004-2012 Re: AN ORDINANCE AUTHORIZING THE EXCHANGE OF CERTAIN PARCELS OWNED BY THE TOWNSHIP OF UPPER FOR A ROADWAY EASEMENT SUBJECT TO CERTAIN TERMS AND CONDITIONS. Motion by Curtis Corson second by Jay Newman to introduce Ordinance No. 004-2012 with public hearing scheduled for May 14, 2012 at 7:30 P.M. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY**

ORDINANCE

ORDINANCE NO. 004-2012

RE: AN ORDINANCE AUTHORIZING THE EXCHANGE OF CERTAIN PARCELS OWNED BY THE TOWNSHIP OF UPPER FOR A ROADWAY EASEMENT SUBJECT TO CERTAIN TERMS AND CONDITIONS

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

WHEREAS, the Township has received an offer from Lana Shapiro to exchange certain lands for a roadway easement; and

WHEREAS, after discussion and deliberation, the Township Committee is of the opinion that the exchange will be in the best interest of the Township in that it will rectify title issues with respect to the existing paved portions of Ocean Avenue as well as allow a private party to aggregate existing Township lands that are currently not being utilized; and

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

SECTION 1: Subject to the provisions herein set forth, the Township of Upper is authorized to exchange certain lands owned by it with a roadway easement over lands owned by Lana Shapiro more particularly described as follows:

- (A) The Township lands to be conveyed to Lana Shapiro are as follows: Block 624, Lots 3 and 43.
- (B) Lana Shapiro shall convey to the Township a roadway easement over Block 624, Lots 43, 44, 45 and 46 as more particularly described in the legal description attached hereto as Exhibit A.

SECTION 2: In addition to the conveyance of the aforesaid lots by the Township to Lana Shapiro the Township shall pay cash consideration in the amount of

\$1,691.00. This additional consideration is based on the fair market value of Lot 3 and Lot 43, Block 624 of \$1,050 per lot and the fair market value of the roadway easement area (1,516.5 sq. ft.) of \$3,791.00 in accordance with appraisals prepared by Louis A. Bonato for such properties. Pursuant to N.J.S.A. 40A:12-16 said full and fair value is consistent with that determined by the Tax Assessor of Upper pursuant to N.J.S.A. 54:4-23.

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

- (A) The parties shall execute an agreement detailing the specifics of the entire transaction. Said agreement shall contain the terms and provisions of this Ordinance and such other terms and conditions as the Township deems appropriate to effectuate the purposes of this Ordinance.
- (B) Title reports shall be prepared by a title abstracting company and title underwriter acceptable to the Township and Lana Shapiro. The title reports must, at a minimum, provide evidence that the properties to be exchanged are owned, in fee simple, by the parties who shall be conveying same, and that title is marketable and insurable at regular rates and there are no liens, encumbrances or conditions, reservations or restrictions of record which would interfere with the intended use of the properties by the Grantee.
- (C) The agreement between the parties shall expressly provide that the exchange of lands and all contingencies and conditions contained in

said agreement are inter-dependent and one shall not occur without the other. To that end, the parties agree that the exchange shall occur simultaneously.

(D) Any property to be conveyed herein shall be conveyed by Bargain and Sale Deed and Deed of Easement. Each party shall bear the cost of the preparation of the deed conveying the property to the other. Each party shall be solely responsible for the cost of title searches and title insurance covering the parcels or interests received by such party as a result of the exchange of lands.

(E) With respect to the property being conveyed by the Township, the conveyance is under and subject to any riparian claim which may affect said property. In addition, the Township makes no representation as to the ability of the property to obtain a building permit or any other governmental approval. Lana Shapiro is required to comply with all applicable zoning, building and health ordinances, codes and regulations. The property to be transferred by the Township may be situate in a flood hazard zone. The Township of Upper makes no warranties or representations, expressed or implied, as to the property being transferred, the condition or marketability of title or any other matter. The Township of Upper makes no warranties or representations, expressed or implied, as to whether or not the property being transferred contains wetlands anywhere on the property. The Township of Upper makes no warranties or representations as to any

matter of an environmental nature, or otherwise, which may prevent or limit building or construction or use of the property.

- (F) The agreement between the parties for the exchange of interests herein shall contain a provision whereby the Township of Upper may inspect the roadway easement area for any and all physical conditions or environmental concerns. If for any reason the Township of Upper deems the property not to be suitable for its intended purposes, the Township of Upper may cancel the agreement with no further liability between the parties.

SECTION 4: This Ordinance shall take effect immediately upon final adoption and publication as required by law.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 16TH DAY OF APRIL, 2012 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 MAY, 2012 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

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

CLERK

WANDA GAGLIONE, TOWNSHIP
TOWNSHIP OF UPPER

CORRESPONDENCE

NEW BUSINESS

20. **Request for reimbursement of property taxes on Block 564, Lot 28 owned by a 100% disabled Veteran.** Motion was made by Curtis Corson, second by Jay Newman to approve the request. During roll call vote all five Committee members voted in the affirmative.
21. **Greater Tuckahoe Area Merchants Association request to hold Raffle on May 6, 2012.** Motion was made by Curtis Corson, second by Anthony Inserra to approve the request. During roll call vote all five Committee members voted in the affirmative.
22. **Strathmere Fire Co. 4th of July parade.** Motion was made by Jay Newman, second by Anthony Inserra to approve the request. During roll call vote all five Committee members voted in the affirmative.
23. **Request use of Township Roads for Calvary Baptist Church Community Bike Ride/Walk/Run fundraiser to be held June 9, 2012, raindate June 16, 2012.** Motion was made by Curtis Corson, second by Richard Palombo to approve the request. During roll call vote all five Committee members voted in the affirmative.
24. **Friends of Scouting, Troop 79 request to hold raffle and bingo on June 9, 2012 at the Seaville Fire Company.** Motion was made by Richard Palombo, second by Jay Newman to approve the request. During roll call vote all five Committee members voted in the affirmative.

UNFINISHED BUSINESS

25. **Kids of Atlantic County Athletic Organization request to hold Lacrosse Tournament on June 30, 2012 and July 1, 2012 at Amanda's Field.** A Resolution containing certain requirements that will have to be met with regard to traffic control, parking and supervision of the event will be placed on a future agenda.

DISCUSSION

26. **Charitable events at Community Center.** Committee discussed the potential of licensing the Community Center with the Legalized Games of Chance Control Commission to conduct legalized games of chance.

PAYMENT OF BILLS:

27. **“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.”**

Payroll: \$163,551.23
Bills approved for payment: \$112,403.50

REPORT OF MUNICIPAL DEPARTMENTS:

- 28. **Construction Code**
- 29. **Clerk’s Office**
- 30. **Animal Control**
- 31. **Tax Assessor**
- 32. **Tax Collector**
- 33. **Municipal Court**
- 34. **Finance Office**
- 35. **MUA Report**
- 36. **Zoning**
- 37. **EMS Report**

Reports are available from the Clerk’s Office.

PUBLIC COMMENT

Steve Martinelli, Board member and Chair, Building and Grounds Committee, Upper Township School Board, discussed concerns with the safety of students and parents pertaining to a traffic issue that occurs at the end of each day during student pickup at the Primary School; as a solution to the problem the school board is looking to revise the traffic circulation plan at the primary schools parking lot. The expansion of the lot could include purchasing a foreclosed property adjacent to the school. Dan Young directed Mr. Martinelli to contact the Tax collector for the status of the foreclosure. In addition Mr. Martinelli asked the Committee for assistance with the project; Curtis Corson responded that once the scope of the project is determined the township might be able to provide assistance with engineering and road grading for the project.

CLOSED SESSION

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

TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION NO. 093-2012
MOTION GOING INTO CLOSED SESSION
April 16, 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. Safety and security issues
2. Contract negotiations – conflict attorney contract
3. Contract negotiations – computer maintenance contract

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

- A. It is anticipated that the matters discussed in closed session may be disclosed to the public upon the determination of the Township Committee that the public interest will no longer be served by such confidentiality.
- B. With respect to contract negotiations such matters will be made public when negotiations have ceased and there is no longer a reason for confidentiality.

Motion by: Jay Newman

Motion seconded by: Curtis Corson

During roll call vote all five voted in the affirmative.

RECONVENE PUBLIC PORTION OF MEETING

ADJOURNMENT

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

There was no further business for this evening the meeting was adjourned at 9:20 P.M.
Next meeting scheduled for April 30, 2012 at 7:30 P.M.

Wanda Gaglione, RMC
Municipal Clerk

Bill List:
57355 04/16/12 A0004 A+ COMMERCIAL OFFICE CLEANERS 250.00 2723
57356 04/16/12 A0006 ADVANCE TREADS INC 406.00 2723

57357 04/16/12 A0024 ADVANCE DOOR & SUPPLY CO.,LLC 225.00 2723
57358 04/16/12 A0091 ATLANTIC CITY ELECTRIC 15,346.22 2723
57359 04/16/12 A0167 HESS CORPORATION 1,630.59 2723
57360 04/16/12 B0035 BELMONT & CRYSTAL SPRINGS 239.96 2723
57361 04/16/12 C0031 CAPE ASSIST 1,800.00 2723
57362 04/16/12 C0048 CAPE MAY COUNTY MUA 29,831.13 2723
57363 04/16/12 C0068 COMCAST 224.39 2723
57364 04/16/12 C0071 CAPEHART & SCATCHARD, P.A. 915.00 2723
57365 04/16/12 C0143 CODY'S POWER EQUIPMENT 12.79 2723
57366 04/16/12 C0156 COMPUTER HOUSE OF SOUTH JERSEY 1,829.40 2723
57367 04/16/12 C0171 COLONIAL ELECTRIC SUPPLY CO. 73.94 2723
57368 04/16/12 C0223 CASA PAYROLL SERVICE 235.65 2723
57369 04/16/12 C0247 CMRS-FP 2,000.00 2723
57370 04/16/12 D0016 DALEYS PIT 65.00 2723
57371 04/16/12 D0040 DELTA DENTAL OF N.J. INC. 6,896.01 2723
57372 04/16/12 F0016 FAZZIO, JOSEPH INC. 263.00 2723
57373 04/16/12 F0048 FOGG, LESLIE INC. 194.28 2723
57374 04/16/12 F0054 FORT DEARBORN LIFE INSURANCE 459.90 2723
57375 04/16/12 F0075 FAIRWAY CYCLE 74.25 2723
57376 04/16/12 G0002 GAGLIONE, WANDA 50.00 2723
57377 04/16/12 G0004 UPPER TOWNSHIP WRESTLING ASSOC 155.23 2723
57378 04/16/12 G0012 GANN LAW BOOKS 102.00 2723
57379 04/16/12 G0016 GARDNER HARDWARE INC. 12.59 2723
57380 04/16/12 G0057 GLOBALSTAR USA LLC 85.13 2723
57381 04/16/12 G0086 W.W. GRAINGER, INC. 297.00 2723
57382 04/16/12 G0096 GRUND, GEORGE 212.43 2723
57383 04/16/12 G0147 GREATAMERICA LEASING CORP. 246.47 2723
57384 04/16/12 G0149 GANNON, EILEEN 26.25 2723
57385 04/16/12 H0002 H.A. DEHART & SON CORP. 3,402.54 2723
57386 04/16/12 H0012 HALL,ARTHUR 131.95 2723
57387 04/16/12 H0018 HAROLD RUBIN/L & H SUPPLY 545.64 2723
57388 04/16/12 J0014 JC MILLER'S 150.34 2723
57389 04/16/12 K0007 KACZMARSKI, RICHARD 117.58 2723
57390 04/16/12 L0080 LOWES, INC. 851.88 2723
57391 04/16/12 M0017 MOORE MEDICAL LLC 331.80 2723
57392 04/16/12 M0103 MODERN GAS COMPANY, INC. 10.54 2723
57393 04/16/12 M0188 MCCARTHY TIRE SERVICE OF PHILA 451.74 2723
57394 04/16/12 M0217 MUNICIPAL EMERGENCY SERVICES 76.00 2723
57395 04/16/12 M0222 MUNICIPAL CAPITAL CORPORATION 392.00 2723
57396 04/16/12 N0024 N.J. DIVISION OF FIRE SAFETY 599.50 2723
57397 04/16/12 N0043 NAPA AUTO PARTS OF S.JERSEY 105.88 2723
57398 04/16/12 N0052 NATL YOUTH SPORTS COACHED ASSN 20.00 2723
57399 04/16/12 N0061 NJ E-Z PASS VIOLATION PROCESS 104.00 2723
57400 04/16/12 N0120 NORTHERN SAFETY CO.INC. 298.52 2723
57401 04/16/12 O0006 SJSHORE MARKETING,LLC 36.25 2723
57402 04/16/12 P0032 PEDRONI FUEL CO. 1,966.74 2723
57403 04/16/12 P0056 TURF EQUIPMENT AND SUPPLY CO 142.10 2723
57404 04/16/12 P0064 PITNEY BOWES 250.00 272
57405 04/16/12 P0082 POTTER, JAY 150.00 272
57406 04/16/12 P0096 PREVITI,MICHELE M. 19.34 2723
57407 04/16/12 P0104 PASHUCK, SUZANNE 56.85 2723
57408 04/16/12 Q0003 QC LABORATORIES 2,261.80 2723
57409 04/16/12 R0030 RIGGINS, INC. 4,891.70 2723
57410 04/16/12 R0045 RAINEAR,SCOTT 275.00 2723
57411 04/16/12 R0100 ROBERTS OXYGEN COMPANY, INC. 85.50 2723
57412 04/16/12 S0001 SAM'S CLUB 34.64 2723
57413 04/16/12 S0015 SMYTH, PATRICIA 113.01 2723
57414 04/16/12 S0021 LINZ, MELLISSA 150.00 2723
57415 04/16/12 S0056 SEASHORE ASPHALT CORPORATION 148.41 2723
57416 04/16/12 S0097 SMH CPR TRAINING CENTER 7.00 2723
57417 04/16/12 S0108 SOUTHERN NEW JERSEY NIGP 100.00 2723
57418 04/16/12 S0126 SPIEGEL, BARBARA 69.43 2723
57419 04/16/12 S0209 STAPLES ADVANTAGE 270.82 2723
57420 04/16/12 S0239 SHORE VET. ANIMAL CONTROL LLC 2,450.00 2723
57421 04/16/12 S0250 SOUTH JERSEY GLASS & DOOR CO 168.00 2723
57422 04/16/12 S0253 SAMPLE MEDIA, INC. 117.60 2723
57423 04/16/12 T0005 TCTA OF NEW JERSEY 185.00 2723
57424 04/16/12 T0022 TERMINIX 106.00 2723
57425 04/16/12 T0028 TRACTOR SUPPLY COMPANY CREDIT 123.65 2723
57426 04/16/12 T0032 THE PRESS & SUNDAY PRESS 754.14 2723
57427 04/16/12 T0044 THOMSON, KERRY AGENCY 1,886.45 2723

57428 04/16/12 T0067 TOWNSHIP OF UPPER PETTY CASH 15.45 2723
57429 04/16/12 U0002 U.T. BASKETBALL ASSOCIATION 52.50 2723
57430 04/16/12 V0001 VCI EMERGENCY VEHICLE 215.14 2723
57431 04/16/12 V0013 VERIZON WIRELESS 636.82 2723
57432 04/16/12 V0022 VERIZON 185.70 272
57433 04/16/12 V0024 VAL-U AUTO PARTS L.L.C. 371.89 2723
57434 04/16/12 W0030 WEST PUBLISHING CO. 374.79 2723
57435 04/16/12 W0038 WILLIAMS, JEREMIAH J. 147.99 2723
57436 04/16/12 W0085 WOODY, LESTER 255.43 2723
57437 04/16/12 Y0008 YOUNG, DANIEL J. ESQUIRE PC 18,644.60 2723
57438 04/16/12 Y0020 YOUNG, BARBARA L. 15.00 2723
57439 04/16/12 Y0023 YOUNG, DANIEL J. ATTORNEY 2,625.00 2723
57440 04/16/12 Z0001 ZOLL MEDICAL CORPORATION 123.24 2723
Total Paid: \$112,403.50