

**TOWNSHIP OF UPPER  
2100 TUCKAHOE ROAD  
PETERSBURG, NJ 08270  
CAPE MAY COUNTY  
MINUTES FOR JANUARY 28, 2013**

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

In preparation of the 2013 Municipal Budget the first budget workshop meeting was called to order this evening at 6:30 PM. A second budget workshop meeting will be held on Monday, February 11, 2013 at 6:30 PM and the regular business meeting scheduled for that date will begin at 7:30 PM.

The following were present for the meeting tonight:

Edward Barr	Present
Curtis Corson	Present
Antonio Inserra	Present
John "Jay" Newman	Present
Richard Palombo	Present

Also present were Municipal Clerk Barbara L. Young, Finance Officer Barbara Spiegel, and Municipal Engineer Paul Dietrich.

The Open Public Meeting notice was read into the record.

Mr. Corson began the meeting by stating that currently the 2013 proposed Budget is under CAP and is \$250,000 from having no increase in the local purpose tax. He suggested that they go through the budget line item by line item and discuss possible cuts.

**Township Clerk** - It was discussed that the O/E line item in the budget has been allocated at \$45,000. However, actual expenditures have been much less for the past few years. There was a general consensus to reduce the O/E line item by \$5,000.

**Financial Administration** – It was discussed that the Computer Services line item increased to \$57,200.00 because of a proposal to video record the Committee Meetings. It was decided to reduce the Computer Services line item by \$5,000 due to a savings resulting from a change in Webmaster Services.

**Legal Services** – There was a general consensus to reduce the Special Litigation line item by \$25,000.

**Affordable Housing** – It was decided that because the Other Expenses line item was not used last year, it will be reduced by \$10,000.

**Capital Improvements** - There was a brief discussion on the Road Construction/Reconstruction line item. This being a bondable item, it was decided to remove this appropriation.

Mr. Corson stated that based on decisions made tonight the total operations appropriations were reduced by \$295,000. There was a brief discussion on whether there is a potential for cost savings by performing Regional Dispatch Services in house. It was stated that with equipment and labor costs, savings would not be feasible at this time.

Mr. Corson then opened up the meeting for public comment. There being no public comment a motion was then made by Curtis Corson, seconded by Jay Newman, to adjourn the Budget Workshop. During roll call vote all five Committee Members voted in the affirmative. A Budget and Capital Bond Projects Workshop meeting is scheduled for February 11, 2013 at 6:30 pm.

**There was a 7 minute recess and then the regular meeting convened.**

## **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 Barbara Young, Finance Officer Barbara Spiegel, Municipal Attorney Daniel Young and Municipal Engineer Paul Dietrich.

**APPROVAL OF MINUTES** - **January 14, 2013 Regular Meeting and Closed Session Minutes-** Motion by Jay Newman, second by Ed Barr to approve the closed session and regular minutes as submitted. During roll call vote four members voted in the affirmative. Richard Palombo abstained.

### **REPORT OF GOVERNING BODY MEMBERS**

**Richard Palombo, Mayor**, announced that the New Jersey Supreme Court has denied the Citizens for Strathmere and Whale Beach petition of appeal. He commended Township Attorney Daniel Young for all of his hard work over the years as lead attorney for this matter. Mr. Palombo also commended Special Legal Counsel Frank Corrado, and the Township’s Planning Board attorney, Dean Marcolongo. Mayor Palombo stated that the Committee is

ready to move forward and continue working for the benefit of Strathmere residents and residents of the entire Township. Mayor Palombo again offered his thanks to the Township Attorney.

He next reported on a meeting he and Mr. Newman had with South Jersey Gas Company regarding the transition of the BL England Generating Station to natural gas. Currently the project is in the preliminary stages of obtaining the necessary permits and it is anticipated that the project will be completed by the end of 2014. The conversion will extend the life of the BL England generating plant and ensure the Township continues to receive much needed energy receipt tax revenue. Mayor Palombo next reported on a few opportunities to expand the distribution of public information to residents through the Township's website, UTTV, the reverse 911 system, and a proposal to broadcast the Committee meetings on UTTV or online.

**Edward Barr, Committeeman**, reported that the Township held it's free Rabies Clinic this past Saturday at Shore Veterinarians Animal Clinic at which time 152 Dogs and 22 Cats were vaccinated and over 100 dog licenses were purchased. The next Free Rabies Clinic will be held on February 23<sup>rd</sup> from 1:00 to 3:00 P.M. at Shore Veterinarians Animal Hospital.

**Anthony Inserra, Committeeman**, reported that although the type of trash receptacle required for use with the new trash truck has not yet been determined a few examples of proposed trash receptacles are available for the public to view at the Municipal Building.

**Curtis Corson, Deputy Mayor**, reported that the next Budget workshop and Capital Bond projects meeting is scheduled for February 11, 2013 at 6:30 pm. prior to the regular Committee meeting at 7:30 pm.

**Jay Newman, Committeeman**, reported that Lieutenant Richard Bumbera is now the new Station Commander at the Woodbine Barracks.

## **OTHER REPORTS**

**Daniel Young, Municipal Attorney**, reported that there are several items for closed session; Personnel, Contract Negotiation-Right of entry agreement with the New Jersey Turnpike Authority and a Litigation matter-Tax Appeal-Ruth Management.

**Paul Dietrich, Municipal Engineer**, gave an update on the Affordable Housing Rehabilitation Program. Six projects have been completed and the mortgages have been filed with the County Clerk. Two are near completion, and three more are on the final bidding stages to commence work. Mr. Dietrich stated that 14 projects should be completed by the spring, as obligated under the Affordable Housing Plan. Mr. Dietrich next reported on a proposed shared services agreement with Cape May County for snow plowing. Under the proposal the Township would plow County roads that are within the Township but isolated from the main thoroughfares. The Township Attorney advised consulting with the Township's Risk Management Consultant to work out any potential liability, and compile the costs and risks to determine an appropriate value of the contract. It was stated that from a public safety standpoint, it makes sense to look into the feasibility of such an agreement. Mr. Dietrich will compile the information regarding liability and cost effectiveness and report

back at the next meeting under closed session. Mr. Dietrich next reported that Dennis Township has reached out to discuss entering into a Shared Services for a Recycling Coordinator. Currently they do not have a Recycling Coordinator; it is a requirement that every Municipality submit a yearly tonnage report that is certified by a Recycling Coordinator to the NJDEP. The Committee directed Mr. Dietrich to obtain a proposal from Dennis Township and report back at the next meeting under the closed session agenda.

**RESOLUTIONS**

1. Appointing Perry Coker as part-time employee to the Upper Township Division of Emergency Medical Services.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 031-2013**

**RE: APPOINTING PERRY COKER AS PART-TIME EMPLOYEE  
TO THE UPPER TOWNSHIP DIVISION OF EMERGENCY MEDICAL SERVICES**

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

**WHEREAS**, a recommendation has been made to the Township Committee and duly considered at the meeting of January 14, 2013; and

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

**WHEREAS**, this Resolution is intended to ratify the action heretofore taken; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. Perry Coker is hereby conditionally appointed as a member of the Division of Emergency Medical Services in a part-time position at a rate of \$13.50 per hour in accordance with the Salary Ordinance.
3. This Resolution ratifies, confirms and approves action taken by the Township Committee, by motion, at the meeting of January 14, 2013.

Resolution No. 031-2013  
Offered by: Newman  
Adopted: January 28, 2013

Seconded by: Palombo

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>	_____	_____	_____

2. Appointment of McManimon, Scotland & Baumann, LLC to act as Special Bond Counsel to the Township of Upper with regard to capital improvement projects.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 032-2013**

**RE: APPOINTMENT OF McMANIMON, SCOTLAND & BAUMANN, LLC TO ACT AS SPECIAL  
BOND COUNSEL TO THE TOWNSHIP OF UPPER WITH REGARD TO CAPITAL  
IMPROVEMENT PROJECTS**

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**WHEREAS**, the Township of Upper requires special legal counsel services with regard to bonding for capital improvement projects and related issues; and

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

**WHEREAS**, the Township has decided to acquire the services of McManimon, Scotland & Baumann, L.L.C. as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-2.05; and

**WHEREAS**, McManimon, Scotland & Baumann, L.L.C. have completed and submitted a Business Entity Disclosure Certification which certifies that McManimon, Scotland & Baumann, L.L.C. has not made any contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit McManimon, Scotland & Baumann, L.L.C. from making any 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. McManimon, Scotland & Baumann, L.L.C. with offices at 75 Livingston Avenue, Roseland, New Jersey 07068 is hereby appointed Special Legal Bond Counsel to handle matters regarding capital improvement projects and related issues as directed by the Township Committee.

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

4. This Contract is awarded without competitive bidding as a professional service in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because McManimon, Scotland & Baumann, L.L.C. has professional knowledge as to legal matters which knowledge 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**

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 McManimon, Scotland & Baumann, L.L.C. for legal services. This contract and the resolution authorizing same shall be available for public inspection in the office of the municipal clerk of the Township of Upper, State of New Jersey.

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

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

7. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with McManimon, Scotland & Baumann, L.L.C. 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. 032-2013  
Offered by: Corson  
Adopted: January 28, 2013

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>	___	___	___

3. 2013 Mining License renewals.

**TOWNSHIP OF UPPER**

**CAPE MAY COUNTY**

**R E S O L U T I O N**

**RESOLUTION NO. 033-2013**

**RE: RESOLUTION RENEWING MINING LICENSES AS FOLLOWS:**

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**GEORGE HARMS CONSTRUCTION CO., INC.  
CALDWELL PIT  
BLOCK 414, LOT 45 AND BLOCK 451, LOT 4  
DENNISVILLE/PETERSBURG ROAD  
PETERSBURG, NEW JERSEY**

**THOMAS TOWER/ACTION SUPPLY, INC.  
BLOCK 565.03, LOT 54  
BLOCK 549, LOTS 110, 132, 133, 134, 135 & 136  
1413 STAGECOACH ROAD  
SEAVILLE, NEW JERSEY**

**THOMAS TOWER /ATLANTIC MASONRY SUPPLY, INC.  
BLOCK 565.03, LOTS 55.02, 56 & 57;  
BLOCK 549, LOTS 111, 127, 128 & 129  
1413 STAGECOACH ROAD**

**SEAVILLE, NEW JERSEY**

**TUCKAHOE SAND AND GRAVEL  
BLOCK 248, LOTS 1, 2, 3, 4, 5, 6, 7 & 8  
BLOCK 247, LOTS 4, 9 & 10  
BLOCK 453, LOT 2  
ROUTE 610  
PETERSBURG, NEW JERSEY**

**WINIFRED JOAN DALEY T/A DALEY'S PIT  
BLOCK 453, LOT 3  
ROUTE 610 DENNISVILLE/PETERSBURG ROAD  
PETERSBURG, NEW JERSEY**

**HANSON AGGREGATES, BMC, INC.  
UPPER TOWNSHIP SAND & GRAVEL  
BLOCK 453, LOT 4  
1401 ROUTE 610  
WOODBINE, NJ 08270**

**HANSON AGGREGATES, BMC, INC.  
JULIES PIT  
BLOCK 414, LOT 44  
1401 ROUTE 610  
WOODBINE, NJ 08270**

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**WHEREAS, Chapter XV of the Code of Upper Township requires a license for the excavation or mining of sand, gravel, earth, soil or mineral products which license shall be issued on an annual basis;**

**WHEREAS, each of the mining operations hereinafter designated has completed the application process in accordance with the Code of Upper Township; and**

**WHEREAS, the Township Committee has reviewed the recommendation of the Township Engineer after his inspection of said mining facilities and review of each application for license renewal and has determined to renew said licenses in accordance with the terms hereinafter specified;**



**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 mining and soil excavation licenses are hereby renewed for a term of one (1) year commencing February 1, 2013:**

**A. George Harms Construction Company, Inc., Block 414, Lot 45 and Block 451, Lot 4, Dennisville/Petersburg Road, Petersburg, New Jersey, in accordance with and subject to compliance with all terms, conditions and other approvals as specified in any resolution of the Upper Township Planning Board or Upper Township Zoning Board of Adjustment, as applicable.**

**B. Thomas Tower/Action Supply, Inc., Block 565.03, Lot 54; Block 549, Lots 110, 132, 133, 134, 135 & 136, 1413 Stagecoach Road, Seaville, New Jersey, in accordance with and subject to compliance with all terms, conditions and other approvals as specified in any resolution of the Upper Township Planning Board or Upper Township Zoning Board of Adjustment, as applicable.**

**C. Thomas Tower and Atlantic Masonry Supply, Inc., Block 565.03, Lots 55.02, 56 & 57; Block 549, Lots 111, 127, 128 & 129, 1413 Stagecoach Road, Seaville, New Jersey, in accordance with and subject to compliance with all terms,**

conditions and other approvals as specified in any resolution of the Upper Township Planning Board or Upper Township Zoning Board of Adjustment, as applicable.

**D. Tuckahoe Sand and Gravel; Block 248, Lots 1, 2, 3, 4, 5, 6, 7 & 8; Block 247, Lots 4, 9 & 10; Block 453, Lot 2; Route 610; Petersburg, New Jersey, in accordance with and subject to compliance with all terms, conditions and other approvals as specified in any resolution of the Upper Township Planning Board or Upper Township Zoning Board of Adjustment, as applicable.**

**E. Winifred Joan Daley, T/A Daley's Pit; Block 453, Lot 3; Route 610 Dennisville/Petersburg Road, Petersburg, New Jersey, in accordance with and subject to compliance with all terms, conditions and other approvals as specified in any resolution of the Upper Township Planning Board or Upper Township Zoning Board of Adjustment, as applicable.**

**F. Hanson Aggregates, BMC, Inc./Upper Township Sand & Gravel; Block 453, Lot 4; Route 610 Dennisville/Petersburg Road, Petersburg, New Jersey, in accordance with and subject to compliance with all terms, conditions and other approvals as specified in any resolution of the Upper Township Planning Board or Upper Township Zoning Board of Adjustment, as applicable.**

**G. Hanson Aggregates, BMC, Inc./Julies Pit; Block 414, Lot 44; Route 610 Dennisville/Petersburg Road, Petersburg, New Jersey, in accordance with and subject to compliance with all terms, conditions and other approvals as specified in any resolution of the Upper Township Planning Board or Upper Township Zoning Board of Adjustment, as applicable.**

**3. All officials of the Township are hereby authorized to take such action as may be necessary or required to carry out the intent and purpose of this Resolution.**

**4. This Resolution shall become effective on February 1, 2013.**

**Resolution No. 033-2013**

**Offered by: Corson**

**Seconded by: Barr**

**Adopted: January 28, 2013**

**Roll Call Vote:**

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

**4. A Resolution supporting Assembly Bill A-2753 and Senate Bill S-1923 requiring direct payment of energy taxes to Municipal Government.**

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 034-2013**

**RE: A RESOLUTION SUPPORTING ASSEMBLY BILL A-2753 AND SENATE BILL S-1923  
REQUIRING DIRECT PAYMENT OF ENERGY TAXES TO MUNICIPAL GOVERNMENT**

**WHEREAS**, taxes on gas and electric utilities were originally collected by the host municipalities, and when the State made itself the collection agent for these taxes, it promised to dedicate the proceeds to municipal property tax relief; and

**WHEREAS**, 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, though, State officials have diverted funding from Energy Taxes to plug holes in the State budget and to fund State programs; and

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

**WHEREAS**, municipalities lost \$331 million in combined Energy Tax and Consolidated Municipal Property Tax Relief Aid (CMPTRA) funding in Fiscal Years 2009, 2010, and 2011, while also being denied scheduled incremental funding; and

**WHEREAS**, as a result of these cuts, in a number of municipalities property taxes are higher now, despite the fact that they are spending less, proving that the State's diversion of tax relief funding has contributed to higher municipal property taxes; and

**WHEREAS**, A-2753, sponsored by Assemblymen Daniel Benson and Wayne DeAngelo, and S-1923, sponsored by Senator Linda Greenstein, would restore the \$331 million in municipal property tax relief funding, ensure that each municipality will be restored to the 2007 (SFY 2008) Energy Tax Receipts/CMPTRA level and adjust that amount to account for inflation.; and

**WHEREAS**, the bills would require certain energy tax receipts to be paid directly to municipalities and, thereby, would assure local property taxpayers compensation for hosting transmission facilities and lines that allow gas and electric energy corporations to serve customers and conduct business in our Garden State; and

**WHEREAS**, the time has come to restore to local budgets the millions in property tax relief that have been annually diverted to meet State needs; now therefore be it

**RESOLVED**, that the Township of Upper salutes the sponsors for listening to the Mayors in their districts and all around New Jersey and for advancing this legislation; and be it further

**RESOLVED**, that we enthusiastically support and urge our State Legislators to pass A-2753/S-1923; and be it finally

**RESOLVED**, that certified copies of this Resolution be forwarded to Governor Chris Christie, Lieutenant Governor Kim Guadagno, New Jersey Senate President Stephen Sweeney, New Jersey Senate Republican Leader Thomas Kean, Jr., New Jersey Assembly Speaker Sheila Oliver, New Jersey Assembly Republican Leader Jon Bramnick, New Jersey State Senator Jeff Van Drew, New Jersey Assemblyman Nelson T. Albano, New Jersey Assemblyman Matthew Milam, and the New Jersey League of Municipalities.

Resolution No. 034-2013  
 Offered by: Newman  
 Adopted: January 28, 2013

Seconded by: Corson

Roll Call Vote:

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

- In Support of the Installation of a “No Passing Zone” along New Jersey State Highway Route 50 between the vicinity of Mile Post 4.93 (Tuckahoe Road) and Mile Post 6.32 (Marshall Avenue) within the Township of Upper.

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

**RESOLUTION NO. 035-2013**

**RE: IN SUPPORT OF THE INSTALLATION OF A “NO PASSING ZONE”  
 ALONG NEW JERSEY STATE HIGHWAY ROUTE 50 BETWEEN THE VICINITY  
 OF MILE POST 4.93 (TUCKAHOE ROAD) AND MILE POST 6.32 (MARSHALL  
 AVENUE) WITHIN THE TOWNSHIP OF UPPER**

**WHEREAS**, the Township of Upper has previously requested the installation of a “No Passing Zone” along Route 50 which included the vicinity of Mile Post 4.93 (Tuckahoe Road) and Mile Post 6.32 (Marshall Avenue) within the Township of Upper (being Resolution 099-2010 of which a copy is attached); and

**WHEREAS**, Traffic Regulation Order NPZ 2010-07 (a copy which is attached) was approved by the Commissioner of Transportation to designate and establish “No Passing Zones” along Route NJ 50; however it does not delineate the limits of the “No Passing Zone”; and

**WHEREAS**, the Township Committee of Township of Upper has been aware of a dangerous traffic condition along New Jersey State Highway Route 50 between the vicinity of Mile Post 4.93 (Tuckahoe Road) and Mile Post 6.32 (Marshall Avenue) in the Township of Upper; and

**WHEREAS**, there continues to exist a dangerous and unsafe condition with vehicles attempting to pass along this stretch of Route 50 which includes ingress and egress to Upper Township Community Center and Tuckahoe Fire Company; and

**WHEREAS**, in order to insure the safety of citizens, residents and the general public, the Township Committee of the Township of Upper again requests the installation of a “no passing zone” along Route 50 between Mile Post 4.93 and Mile Post 6.32; 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 of the Township of Upper hereby again requests the installation of a “no passing lane” along Route 50 between the vicinity of Mile Post 4.93 (Tuckahoe Road) and Mile Post 6.32 (Marshall Avenue).

3. The Township Committee hereby again requests all County and State officials take the appropriate action forthwith in order to implement the installation of the “no passing zone” as aforesaid along Route 50.

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

5. A copy of this Resolution and aforesaid mentioned Resolution shall be forwarded to the appropriate Cape May County and State of New Jersey officials.

Resolution No. 035-2013  
 Offered by: Corson  
 Adopted: January 28, 2013

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>	___	___	___

6. Appointing contact person for the Employment Practices Liability Helpline of the Atlantic County Municipal Joint Insurance Fund.

**TOWNSHIP OF UPPER  
 CAPE MAY COUNTY  
 RESOLUTION**

**RESOLUTION NO. 036-2013**

**RE: APPOINTING CONTACT PERSON FOR  
 THE EMPLOYMENT PRACTICES LIABILITY HELPLINE OF THE  
 ATLANTIC COUNTY MUNICIPAL JOINT INSURANCE FUND**

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**WHEREAS**, the Governing Body of the Township of Upper hereinafter referred to as "MUNICIPALITY", is a member of the Atlantic County Municipal Joint Insurance Fund, hereinafter referred to as "FUND"; and

**WHEREAS**, the FUND has purchased Employment Practices Liability coverage from XL Insurance Company; and

**WHEREAS**, XL Insurance has arranged for the Fund members to have access to an EPL HELPLINE service and;

**WHEREAS**, the HELPLINE will provide the following services;

- Attorneys will answer *specific* HR and Employment Law questions
  - Confidential and timely responses
  - Attorney client privilege
  - Via Website/E-mail
  - By Telephone with written follow up response
- On Line Training
  - Managers/Supervisors
  - Slides, Audio, File Downloads
  - Small Chapters
  - Certificates of Completion
- Additional On Line Resources
  - Question of The Month
  - Case of The Month
  - HR Alerts via e-mail and posted on website
  - Federal/State News Updates
  - HR Posters
  - Model Policies/Handbook

**WHEREAS**, the FUND requires the MUNICIPALITY to designate specific managerial or supervisory individuals who will have access to the HELPLINE;

**NOW THEREFORE**, be it resolved that the governing body of the Township of Upper does hereby appoint Barbara Spiegel, Personnel Officer as its Contact Person.

**BE IT FURTHER RESOLVED** that the governing body does hereby appoint Rhonda Sharp, Deputy Personnel Officer as its additional Contact Person.

Resolution No. 036-2013

Offered by: Newman

Seconded by: Corson

Adopted: January 28, 2013

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>	_____	_____	_____

7. 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.



CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 037-2013

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

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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 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 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, 2013.

Resolution No. 037-2013

Offered by: Newman                      Seconded by: Inserra

Adopted: January 28, 2013

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>	_____	_____	_____

8. 2013 Temporary Budget – Debt Service.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 038-2013**

**RE: 2013 TEMPORARY BUDGET – DEBT SERVICE**

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WHEREAS, N.J.S.A. 40A:4-19 provides authority for appropriating in a temporary resolution the permanent debt service requirements for the coming fiscal year providing that such resolution is not made earlier than the last ten days of the preceding fiscal year; and

WHEREAS, the date of this resolution is subsequent to that date; and

WHEREAS, principal and interest will be due on various dates from January 1, 2013 to December 31, 2013, inclusive, on sundry bonds issued and outstanding.

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, in the County of Cape May, State of New Jersey, that the following appropriations be made to cover the period from January 1, 2013 to December 31, 2013, inclusive:

**DEBT SERVICE – TOWNSHIP OF UPPER**

Interest on Bond Anticipation Note	\$ 26,847.77
Payment on Bond Anticipation Note	<u>5,120,000.00</u>
	\$5,146,847.77

Resolution No. 038-2013  
Offered by: Corson                      Seconded by: Newman  
Adopted: January 28, 2013

Roll Call Vote:

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

**ORDINANCES**

**CORRESPONDENCE**

**NEW BUSINESS**

- 9. Request for street light at 1 Greendale Drive, Marmora.** Motion by Curtis Corson, second by Richard Palombo, to approve the request. During roll call vote all five Committee members voted in the affirmative.

**UNFINISHED BUSINESS**

**DISCUSSION**

- 10. Proposal for preparation of FEMA Hazard Mitigation Grant Program Grant Application.** Motion by Richard Palombo, second by Curtis Corson, to authorize

Task #1 of the report. During roll call vote all five Committee members voted in the affirmative.

## **PAYMENT OF BILLS**

11. "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 by Jay Newman, second by Richard Palombo. During roll call vote all five Committee members voted in the affirmative.

**Bills approved for payment: \$ 310,828.26**

**Payroll: \$ 156,298.84**

## **REPORT OF MUNICIPAL DEPARTMENTS**

### **12. Municipal Court**

Reports are available in the Clerk's office.

## **PUBLIC COMMENT**

**Charles Kona, 13 Mosquito Landing Rd, Tuckahoe**, stated his opposition to the new FEMA advisory base flood elevation maps and Governor Christie's order to adopt the maps into law. He requested the Committee join with other area municipalities to voice their questions and concerns to the State.

**Lynn Fayter, 118 Putnam Avenue, Strathmere**, requested the Township hire a coastal engineer to prepare an appeal of the FEMA flood regulatory maps. She next requested that every home within the flood zone be included in the FEMA Hazard Mitigation Grant application. She next requested the Township to coordinate a meeting with FEMA officials for a question and answer session. The Township Engineer was directed to coordinate with school officials and FEMA to arrange a meeting at the Middle School. Proposals for a Coastal Engineer were also directed to be gathered.

**Natalie Neiss, 759 Route 50, Petersburg**, inquired if any Township officials have attended FEMA meetings. It was stated that the Township Engineer has attended numerous meetings. She next inquired of damaged homes from Hurricane Sandy receiving lower tax assessments. It was stated that homes that were damaged in the hurricane are eligible to receive a temporary reduction in their property assessment until the home is repaired.

**Russell Morano, 5 Red Oak Drive, Marmora**, requested a resolution honoring the members of the Upper Township School Board for their work. Motion was made by Edward Barr, seconded by Richard Palombo, to place a resolution on the next agenda. During roll call vote all five Committee members voted in the affirmative.

**Ted Kingston, Strathmere**, inquired if any other municipalities adopted flood damage control Ordinances stricter than FEMA standards. It was stated from a member of the audience, Mr. Charles Kona, that most municipalities have adopted stricter standards because of lower insurance rate incentives.

## **CLOSED SESSION**

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

TOWNSHIP OF UPPER  
RESOLUTION NO. 039-2013  
MOTION GOING INTO CLOSED SESSION  
January 28, 2013

I hereby move that a resolution be incorporated into the minutes authorizing the Township Committee to enter into an executive session for the following matters pursuant to the Open Public Meetings Act:

**MATTERS:**

1. Contract negotiation – New Jersey Turnpike Authority - Right of Entry Agreement.
2. Litigation – Ruth Management - Tax appeal.
3. Personnel.

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

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

Moved by: Newman

Motion seconded by: Corson

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

## **RECONVENE PUBLIC PORTION OF MEETING**

Motion by Jay Newman, seconded by Curtis Corson, to appoint Anthony Inserra and Edward Barr as liasons to the Upper Township School Board. During roll call vote all five Committee members voted in the affirmative.

## ADJOURNMENT

There being no further business this evening the meeting was adjourned at 9:12 P.M. Next meeting scheduled is February 11, 2013 with a Capital Bond Projects and Budget Workshop meeting at 6:30 P.M. and the regular meeting at 7:30 P.M.

Minutes prepared by

Barbara L. Young, RMC  
Municipal Clerk

### Bill List

60248	01/28/13	A0017	ATLANTIC CO. MUNICIPAL JIF	88,783.00	2762
60249	01/28/13	A0018	ACTION SUPPLY INC.	875.76	2762
60250	01/28/13	A0023	ADAMS, JOHN	129.99	2762
60251	01/28/13	A0061	ASSOC. CERT. TAX ASSESSORS CMC	660.00	2762
60252	01/28/13	A0091	ATLANTIC CITY ELECTRIC	3,729.86	2762
60253	01/28/13	A0099	ATLANTIC TIME SYSTEMS,INC.	91.45	2762
60254	01/28/13	A0134	ANSELL ZARO GRIMM & AARON, PC	595.00	2762
60255	01/28/13	A0167	HESS CORPORATION	2,989.41	2762
60256	01/28/13	B0106	BARLOW BUICK GMC	213.57	2762
60257	01/28/13	B0117	BRIDGESTATE FOUNDRY CORP	2,755.00	2762
60258	01/28/13	C0002	C.M.C. CHAMBER OF COMMERCE,INC	600.00	2762
60259	01/28/13	C0031	CAPE ASSIST	1,155.00	2762
60260	01/28/13	C0048	CAPE MAY COUNTY MUA	27,575.16	2762
60261	01/28/13	C0052	CAPE MAY COUNTY TREASURER	10,320.23	2762
60262	01/28/13	C0060	CAPRIONI'S PORTABLE TOILETS	852.00	2762
60263	01/28/13	C0061	CAPRIONI FAMILY SEPTIC	260.00	2762
60264	01/28/13	C0068	COMCAST	239.51	2762
60265	01/28/13	C0156	COMPUTER HOUSE OF SOUTH JERSEY	2,495.00	2762
60266	01/28/13	C0201	CRUZAN'S TRUCK SERVICE INC.	351.48	2762
60267	01/28/13	C0223	CASA PAYROLL SERVICE	1,788.35	2762
60268	01/28/13	C0247	CMRS-FP	2,000.00	2762
60269	01/28/13	C0248	CHAPMAN FORD SALES, INC	581.59	2762
60270	01/28/13	D0040	DELTA DENTAL OF N.J. INC.	6,428.62	2762
60271	01/28/13	D0077	DIETRICH,PAUL	15.00	2762
60272	01/28/13	D0144	DUNBAR ARMORED. INC.	742.76	2762
60273	01/28/13	E0017	EDMUNDS & ASSOCIATES,INC.	9,974.00	2762
60274	01/28/13	E0047	EFINGER SPORTING GOODS CO	105.00	2762
60275	01/28/13	F0165	FREW, BILL	62.97	2762
60276	01/28/13	G0028	GENTILINI FORD	113.34	2762
60277	01/28/13	G0030	GENERAL SPRING SERVICE	963.00	2762
60278	01/28/13	G0057	GLOBALSTAR USA LLC	84.98	2762
60279	01/28/13	G0147	GREATAMERICA FINANCIAL SVCS.	202.97	2762
60280	01/28/13	H0083	HUBER LOCKSMITHS, INC.	30.00	2762
60281	01/28/13	H0095	HORIZON BCBSNJ	110,689.22	2762
60282	01/28/13	I0021	INTERSTATE BATTERIES	411.80	2762
60283	01/28/13	J0040	JOHNSON & TOWERS, INC.	480.00	2762
60284	01/28/13	L0007	LC EQUIPMENT, INC.	63.00	2762
60285	01/28/13	L0080	LOWES, INC.	4.74	2762
60286	01/28/13	L0087	LINE SYSTEMS INC	2,760.08	2762
60287	01/28/13	M0017	MOORE MEDICAL LLC	725.74	2762
60288	01/28/13	M0046	MASON, DAVID	1,198.80	2762
60289	01/28/13	M0103	MODERN GAS COMPANY, INC.	1,956.58	2762
60290	01/28/13	M0188	MCCARTHY TIRE SERVICE OF PHILA	3,878.42	2762
60291	01/28/13	M0217	MUNICIPAL EMERGENCY SERVICES	800.00	2762
60292	01/28/13	N0043	NAPA AUTO PARTS OF S.JERSEY	0.00	01/28/13 VOID 0
60293	01/28/13	N0043	NAPA AUTO PARTS OF S.JERSEY	805.41	2762
60294	01/28/13	N0052	NATL YOUTH SPORTS COACHED ASSN	415.00	2762
60295	01/28/13	O0006	SJSHORE MARKETING,LLC	178.61	2762
60296	01/28/13	O0042	ORCHARDS HYDRAULIC SERVICE INC	306.22	2762
60297	01/28/13	P0032	PEDRONI FUEL CO.	579.60	2762
60298	01/28/13	P0034	PEIFER, SUSAN R.	1,198.80	2762

60299	01/28/13	P0137	PARDO'S TRUCK SERV PARTS WHSE	389.58	2762
60300	01/28/13	Q0003	QC LABORATORIES	696.20	2762
60301	01/28/13	R0030	RIGGINS, INC.	5,491.96	2762
60302	01/28/13	R0100	ROBERTS OXYGEN COMPANY, INC.	59.75	2762
60303	01/28/13	R0101	R.R. DONNELLEY & SONS	125.00	2762
60304	01/28/13	S-0257	South Jersey Energy Service Pl	97.32	2762
60305	01/28/13	S0015	SMYTH, PATRICIA	200.00	2762
60306	01/28/13	S0056	SEASHORE ASPHALT CORPORATION	93.50	2762
60307	01/28/13	S0121	SMUZ, THERESE A	12.66	2762
60308	01/28/13	S0134	SO. JERSEY GAS COMPANY	3,175.16	2762
60309	01/28/13	S0139	SO. JERSEY WATER COND. INC.	779.95	2762
60310	01/28/13	S0209	STAPLES ADVANTAGE	1,394.45	2762
60311	01/28/13	S0249	BSN SPORTS	105.75	2762
60312	01/28/13	S0267	Martha M. Septynski	26.00	2762
60313	01/28/13	T0018	TEKK COMM COMMUNICATIONS	90.00	2762
60314	01/28/13	T0022	TERMINIX	108.00	2762
60315	01/28/13	T0067	TOWNSHIP OF UPPER PETTY CASH	15.83	2762
60316	01/28/13	T0074	TRANSAXLE LLC	777.24	2762
60317	01/28/13	T0080	TREASURER STATE OF N.J.	880.00	2762
60318	01/28/13	U0026	UNIVERSAL SUPPLY CO., INC.	59.95	2762
60319	01/28/13	V0001	VCI EMERGENCY VEHICLE	407.90	2762
60320	01/28/13	V0005	VAN EMBDEN, NATHAN, ATTORNEY	300.00	2762
60321	01/28/13	V0024	VAL-U AUTO PARTS L.L.C.	418.54	2762
60322	01/28/13	W0095	WISE COMPANY INC	690.00	2762
60323	01/28/13	Y0006	YESTERDAY'S	217.50	2762
Total:				\$310,828.26	