

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR FEBRUARY 23, 2015**

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

In preparation of the 2015 Municipal Budget the third budget workshop meeting was called to order this evening at 6:30 PM.

Mayor Palombo read the Open Public meeting notice into the record.

ROLL CALL

Edward Barr	Present
John Coggins	Present
Jeffrey Pierson	Present
Hobart Young	Present
Richard Palombo	Present

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

Committee Coggins reported that numerous proposed adjustments to the Budget requests have resulted in a decrease of \$378, 296.00, and if accepted, will ensure that there will be no increase to the Municipal tax levy and no reduction in services. The following adjustments were discussed:

Reduction of Department Salaries & Wages	\$ 65,556.00
Reduction of Department O/E	\$ 35,900.00
Reduction in Computer Services	\$ 30,000.00
Reduction of Shore Protection	\$ 14,300.00 – this reduction is a result of the gain in Shore Protection realized from the Army Corps of Engineers beach replenishment.
Reduction in Repairs to Municipal Building	\$ 10,000.00
Reduction in purchase of Road Equipment	\$ 260,000.00
Increase in Recycling O/E	\$ 6,000.00
Increase in Garbage O/E	\$ 3,000.00
Increase in Public Buildings & Grounds O/E	\$ 2,400.00
Allocation of funds for vacant Construction Office Staff	\$ 26,060.00

Motion by Jeffrey Pierson, second by Edward Barr to accept the budget adjustments as discussed tonight. During roll call vote all five Committeeman voted in the affirmative. Mayor Palombo stated that budget will be ready for introduction at the March 9, 2015 Committee Meeting. Mayor Palombo then opened up the meeting for Public Comment. There were no speakers.

Motion by Mayor Palombo, second by Jeffrey Pierson, to adjourn the budget workshop. During roll call vote all five Committee members voted in the affirmative.

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

CALL TO ORDER

Mayor Palombo reported that the meeting is being held tonight in the Upper Township Community Center due to flooding from a burst pipe in the Town Hall Court/Meeting room.

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

Edward Barr	Present
John Coggins	Present
Jeffrey Pierson	Present
Hobart Young	Present

Richard Palombo Present

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

APPROVAL OF MINUTES - February 2, 2015 and February 9, 2015 Budget Workshop, Regular Meeting and Closed Session Minutes

Motion by Jeffrey Pierson, second by Hobie Young, to approve the February 2, 2015 Budget Workshop, Regular Meeting, and Closed Session Minutes as submitted. During roll call vote four Committee members voted in the affirmative. Committeeman Barr abstained.

Motion by John Coggins, second by Jeffrey Pierson, to approve the February 9, 2015 Budget Workshop, Regular Meeting, and Closed Session Minutes as submitted. During roll call vote all five Committee members voted in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

John Coggins, Committeeman, reported that the budget workshops have been completed and thanked everyone for their hard work. He next thanked the Public Works Department for their extra effort in setting up the Community Center for tonight's meeting.

Hobie Young, Committeeman, reported that various projects which include the installation of lights at Amanda's Field have been delayed due to weather conditions; however, he stated that he is pleased with the progress they have made so far. He next reported that the Spring Fling will be held on March 29th from 1:00 to 4:00 pm at Amanda's Field. An Easter egg hunt, pony rides, DJ, and numerous other activities are planned. The next meeting for the special events Committee will be held on Tuesday February 24th at 7:00 pm at Township Hall. He next commended Mike Jones for his work with the various maintenance issues that have come up due to the cold weather.

Edward Barr, Committeeman, thanked the Road Department for their hard work with the snow removal. He requested that the Ordinance restricting parking on the road during snow events be posted on the website and UTTV. He encouraged all residents to remove their cars from the road during snow storms to allow easy passage for the snow plows. He next reported that construction is underway on the improvements to Bayview Avenue. Lastly, he reported that the first meeting of the Floodplain Management team was recently held and went very well.

Jeffrey Pierson, Committeeman, reported that he recently attended the JIF Safety breakfast. He stated the Township received a \$1,250 Safety Incentive reward. He also stated that Tom Heist, the Township's Risk Management Consultant, received the 2015 Special Safety Recognition Award for his "Yo Dude" safety campaign. He made a motion to recognize and honor Mr. Heist for his work on the Safety Committee. The motion was seconded by Edward Barr. During roll call vote all five Committee members voted in the affirmative. A resolution will be prepared for the next meeting. He next suggested that due to the JIF's emphasis on wellness and accident prevention, the name of the Township's Safety Committee should be changed to Safety and Wellness Committee. He next reported that a meeting was recently held with South State, the contractor for the Route 50 Bridge project. The Township has submitted their requests with regards to the bridge closure, the requests will be submitted to the DOT for their review, and a meeting will be scheduled for further discussion. As soon as the details are set, a public meeting will be scheduled. He stated that the Cape May County Herald recently reported in error that a public meeting is scheduled for March 30th. He stated that at this time a public meeting for the Route 50 Bridge has not been scheduled. He next requested that AnnMarie McMahon be appointed as an additional member of the Security Committee. Mr. Pierson stated that Ms. McMahon has a background with the FBI and is the department head of the County Facilities and Services. He made a motion, second by Hobie Young, to appoint Ms. McMahon to the Security Committee. During roll call vote all five Committee members voted in the affirmative. A resolution appointing Ms. McMahon will be listed on the next agenda for formal action. Lastly, Mr. Pierson reported that a free rabies clinic will be held on February 28 from 1:00 to 3:00 pm at Shore Veterinarians.

OTHER REPORTS

Daniel Young, Municipal Attorney, reported that the litigation matter involving former employee John Kevin Grubb is finished. Every court decision and appeal has been decided in favor of the Township, and there are no further appeals available to Mr. Grubb. He next

reported that there are two contract negotiation matters and a safety and security matter for closed session.

Paul Dietrich, Municipal Engineer, reported that a preconstruction meeting was recently held with the DOT regarding the replacement of the railroad crossing on Butter Road, and the road is scheduled to be closed to traffic on March 17th & 18th. The schools, EMS, and Fire & Rescue have all been notified of the closure and detour details. He next reported that the Green Team is moving along with the preliminary plans for the Farmers Market to begin in late June. The Farmer's Market Association is in the process of going through their by-laws and forming an Executive Board, and the Trinity United Methodist church has offered their property as a location to hold the market.

PRESENTATION

RESOLUTIONS

1. Congratulating Jade Phelps on winning the USA Wrestling New Jersey State Championship.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 54-2015**

**RE: CONGRATULATING JADE PHELPS ON WINNING THE 2015 USA
WRESTLING NEW JERSEY STATE CHAMPIONSHIP**

WHEREAS, Jade Phelps, who has wrestled for three years with the Upper Township Green Hornets, is having an outstanding season winning the USA Wrestling New Jersey State Championship in the 103 Pound, 6-8th Grade Division, being the only female to ever win this title; and

WHEREAS, Jade has also won Third Place at the Schalick 26th Annual Open Wrestling Tournament, and Second Place in the War of the Roses New Jersey State Championship; and

WHEREAS, Jade has qualified to compete in the Ohio Tournament of Champions and plans to compete in the Mid-Atlantic Wrestling Association as well as the 2015 Girls Folkstyle National Championships in Oklahoma City; and

WHEREAS, it is appropriate that on behalf of the citizens of Upper Township we congratulate Jade on her New Jersey State Championship title and celebrate the dedication, hard work and perseverance she exemplifies in her wrestling as well as a student and member of the Upper Township Indians Varsity Football Team; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee, on behalf of the citizens of the Township of Upper, to congratulate Jade Phelps on winning the USA Wrestling New Jersey State Championship in the 103 Pound, 6-8th Grade Division.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 23rd day of February, 2015.

Resolution No. 54-2015

Offered by: Young

Seconded by: Barr

Adopted: February 23, 2015

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	X			
Coggins	X			
Pierson	X			
Young	X			
Palombo	X			

2. Honoring Cub Scouts of Pack 79 Joey Brace, Sonny DeFranco, Nicholas George, Travis Koches, Christopher Lemmon, William McLees, Stephen Scales and Evan Troxel on attaining the Arrow of Light Award.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 055-2015**

**RE: HONORING CUB SCOUTS OF PACK 79 JOEY BRACE, SONNY DEFRANCO,
NICHOLAS GEORGE, TRAVIS KOCHES, CHRISTOPHER LEMMON,
WILLIAM MCLEES, STEPHEN SCALES AND EVAN TROXEL
ON ATTAINING THE ARROW OF LIGHT AWARD**

WHEREAS, the Scouts of Cub Scout Pack 79, Joey Brace, Sonny DeFranco, Nicholas George, Travis Koches, Christopher Lemmon, William McLees, Stephen Scales and Evan Troxel, have recently achieved the Arrow of Light Award, which is the highest level of advancement for a Cub Scout; and

WHEREAS, the Scouts of Cub Pack 79 have completed numerous tasks involving citizenship, outdoorsmanship, engineering skills, communication skills and fitness as well as participated in the annual food drive and community clean up to satisfy the requirements of the Arrow of Light Award; and

WHEREAS, the Township of Upper wishes to acknowledge this outstanding accomplishment; 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:

RESOLVED THAT this Township Committee extends its sincere congratulations to these graduating Cub Scouts on the occasion of their receiving the Arrow of Light Award and commends them for this outstanding accomplishment; and it is

FURTHER RESOLVED that the Township Committee extends its congratulations and best wishes to their parents, family and friends on this happy occasion; and it is

FURTHER RESOLVED that the Township Committee also extends its congratulations and appreciation to the Den Leaders, Kathleen DeFranco and Debbie Brace, and others who give so freely and generously of their time for the benefit of our youth.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 23rd day of February, 2015.

Resolution No. 55-2015
Offered by: Barr
Adopted: February 23, 2015

Seconded by: Young

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	X	_____	_____	_____
Coggins	X	_____	_____	_____
Pierson	X	_____	_____	_____
Young	X	_____	_____	_____
Palombo	X	_____	_____	_____

3. Congratulating Employee Janet McCrosson of the Upper Township Municipal Court for her winning entry in the Upper Township Safety Award Program for the 1st Quarter of 2015.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO.56-2015**

**RE: CONGRATULATING EMPLOYEE JANET MCCROSSON
OF THE UPPER TOWNSHIP MUNICIPAL COURT
FOR HER WINNING ENTRY IN
THE UPPER TOWNSHIP SAFETY AWARD PROGRAM
FOR THE 1ST QUARTER OF 2015**

WHEREAS, employee Janet McCrosson, is recognized for her efforts to promote safety for her fellow employees and residents of the Township through her participation in the Upper Township Safety Award Program with the submission of a safety suggestion in 2014; and

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

WHEREAS, Janet should be publicly recognized for reporting the need for updates to the Emergency Evacuation Plan creating a safer environment for the employees and the community; and

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

1. That the Committee extends its appreciation and publicly recognizes Janet McCrosson on her commitment to safety by her identifying a potential safety hazard and offering a suggestion through participation in the program.
2. That the Committee, on behalf of our employees and the citizens of the Township of Upper, extend to Janet McCrosson our congratulations and present her with the "Safety Day Award" of one day off with pay.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper the 23rd day of February, 2015.

Resolution No. 56-2015
Offered by: Pierson
Adopted: February 23, 2015

Seconded by: Coggins

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
-------------	------------	-----------	------------------	---------------

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. Due to the compelling public need for the safety of our residents, economy, and protection of our environment, the Township Committee of the Township of Upper strongly requests South Jersey Gas apply for permission to the Pinelands Commission to construct this much needed pipeline, and ask that the Pinelands Commission render its decision favorable.
3. A copy of this resolution shall be provided to Governor Christie, Lieutenant Governor Guadagno, Congressman LoBiondo, Senate President Sweeney, Senator Van Drew, Senator Whelan, Assemblyman Fiocchi, Assemblyman Andrzejczak, Assemblyman Brown, Assemblyman Mazzeo, The Press of Atlantic City, and the Cape May County Herald.

Resolution No. 57-2015
Offered by: Pierson
Adopted: February 23, 2015

Seconded by: Barr

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>X</u>	___	___	___
Coggins	<u>X</u>	___	___	___
Pierson	<u>X</u>	___	___	___
Young	<u>X</u>	___	___	___
Palombo	<u>X</u>	___	___	___

5. Appointment of Thomas G. Smith, Esquire to act as Special Legal Counsel regarding matters in which the Regular Township Solicitor may have a conflict of interest.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 58-2015

**RE: APPOINTMENT OF THOMAS G. SMITH, ESQUIRE TO ACT AS SPECIAL
LEGAL COUNSEL REGARDING MATTERS IN WHICH THE REGULAR
TOWNSHIP SOLICITOR MAY HAVE A CONFLICT OF INTEREST**

WHEREAS, the Township requires legal counsel to provide legal services in the event a conflict of interest arises in regard to the services provided by the regular Township Solicitor; 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 Thomas G. Smith, Esquire as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-2.05; and

WHEREAS, Thomas G. Smith, Esquire has completed and submitted a Business Entity Disclosure Certification which certifies that Thomas G. Smith, Esquire 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 Thomas G. Smith, Esquire 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. Thomas G. Smith, Esquire with offices at 2106 New Road, Linwood, New Jersey is hereby appointed Special Legal Counsel to handle tax appeal matters in which the regular Township Solicitor has a conflict of interest as well as other matters directed by the Township Committee.
3. This contract shall have a term of one (1) year from date of full execution.
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 Thomas G. Smith, Esquire 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 Thomas G. Smith, Esquire for legal services. This contract and the resolution authorizing same shall be available for public inspection in the office of the municipal clerk of the Township of Upper, State of New Jersey.

5. A certificate from the Chief Financial Officer of Upper Township showing the availability of adequate funds for this contract and showing the line item appropriation of the official budget to which this contract will be properly charged has been provided to the governing body and shall be attached to this Resolution and kept in the files of the municipal clerk.
6. The contractor has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.
7. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Thomas G. Smith, Esquire in accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein. Upon execution of all parties thereto said contract shall become effective.
8. Notice of this contract award 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. 58-2015
Offered by: Pierson
Adopted: February 23, 2015

Seconded by: Coggins

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>X</u>	_____	_____	_____
Coggins	<u>X</u>	_____	_____	_____
Pierson	<u>X</u>	_____	_____	_____
Young	<u>X</u>	_____	_____	_____
Palombo	<u>X</u>	_____	_____	_____

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

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 59-2015

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

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. The contract shall have a term of one (1) year from date of full execution.
4. The 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. The 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 the contract and showing the line item appropriation of the official budget to which the 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. This authorization is subject to the contract being reviewed and approved by the Municipal Attorney prior to its execution.

9. Notice of this contract award shall be published in the official newspaper of the Township of Upper within ten (10) days from the date of adoption.

10. This Resolution shall be effective as of adoption.

Resolution No. 59-2015
Offered by: Coggins
Adopted: February 23, 2015

Seconded by: Pierson

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>X</u>	___	___	___
Coggins	<u>X</u>	___	___	___
Pierson	<u>X</u>	___	___	___
Young	<u>X</u>	___	___	___
Palombo	<u>X</u>	___	___	___

ORDINANCES

- 7. Introduction and first reading of Ordinance No: 003-2015 RE: AN ORDINANCE AUTHORIZING SALE OF LANDS, TO WIT BLOCK 607, LOTS 7 AND 8.**
Motion by Hobie Young, second by John Coggins, to introduce Ordinance No. 003-2015, with a public hearing scheduled for March 30, 2015. During roll call vote all five Committeemen voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE**

ORDINANCE NO. 003-2015

**RE: AN ORDINANCE AUTHORIZING SALE OF LANDS,
TO WIT BLOCK 607, LOTS 7 AND 8**



WHEREAS, the Township of Upper is the owner, in fee, of a certain parcels of vacant ground located within the Township of Upper, County of Cape May, and State of New Jersey, set forth on the municipal tax map as Block 607, Lots 7 and 8; and

WHEREAS, the Township has received an offer from Tim and Karen Larson, (hereinafter "Larson"), the owners of real property contiguous with said parcels owned by the Township, to purchase said parcels; and

WHEREAS, after discussion and deliberation the Township Committee is of the opinion that the sale of said parcels will be in the best interest of the Township and will provide for the consolidation of said lots with an existing lot; and

WHEREAS, the Township Committee has determined the minimum bid for such lots is the sum of \$6,365.00, as said amount is the fair market value as determined by an appraisal prepared by Louis A. Bonato dated December 5, 2014; 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: The Township of Upper is hereby authorized to sell the real property commonly known as follows:

Block 607, Lots 7 and 8

to the highest bidder from among all owners of real property contiguous thereto in accordance with N.J.S.A. 40A:12-13(b)(5). Such sale shall not be for less than the fair market value of said real property and the minimum bid for such parcels sold is hereby established as follows:

Block 607, Lots 7 and 8

Minimum Bid: \$6,365.00

SECTION 2: Prior to said sale, the Township will obtain a title report from a title company or abstract company licensed to do business in the State of New Jersey. Said report shall be available to all prospective bidders.

SECTION 3: The list of property authorized to be sold together with the minimum price thereof shall be posted at Township Hall and advertisement of the sale shall be made in a newspaper circulating in the Township within 5 days following enactment of this ordinance. Offers for the property may thereafter be made to the Township Committee for 20 days following said advertisement. The Township Committee may reconsider this ordinance not later than 30 days after enactment and thereafter advertise the property for public sale pursuant to N.J.S.A. 40A:12-13(a). The Township Clerk shall file with the Director of the Division of Local Government Services in the Department of Community Affairs sworn affidavits verifying the publication of the foregoing advertisements.

SECTION 4: Larson shall pay the following sum to the Township Clerk prior to the adoption of this Ordinance: \$500.00. This payment will be used by the Township and defray Township expenses involved in Authorizing the Sale and terms thereof; Engineer's review; Attorney's review; legal advertising, certified mail notices, title review expenses, closing costs and other expenses. If the parcel is not sold, this amount will be retained by the Township as **LIQUIDATED DAMAGES** and will be used to pay for the review of the title report and other documents. If the highest bidder at the auction sale is not the original applicant, the highest bidder will be required to pay, in addition to the purchase price and other expenses, an additional sum of \$500.00, representing pre-sale amounts paid by the original applicant requesting the sale and the original applicant (who is not the highest bidder) will then be entitled to a refund of all sums paid (\$500.00) except for the non-refundable application fee (\$50.00).

SECTION 5: The aforesaid parcels of real property shall be offered for sale at an auction to be conducted by the Township Clerk at a date and time to be set by the Township Clerk after the appropriate notice of sale has been sent to contiguous owners of the subject real property. Said notice shall be sent certified and regular mail to the owners of contiguous property at the address set forth on the tax assessor's records. Said notice shall be sent no greater than 30 days prior to the date of sale and no less than 14 days prior to the date of sale. At any time, the Township Clerk may adjourn said sale and renotice in accordance with the provisions of this Ordinance and N.J.S.A. 40A:12-13.

SECTION 6: The Township Committee expressly reserves the right to reject any and all bids in the exercise of its sole judgment and discretion. The Township Committee is authorized to confirm the sale by resolution and complete the transaction pursuant to this Ordinance and N.J.S.A. 40A:12-13.

SECTION 7: In the event the highest bid at such auction exceeds the minimum bid established herein and the Township Committee rejects same in the exercise of its sole judgment and discretion, then, in such event, all deposits made by the original applicant or the highest bidder, as the case may be, shall be refunded except for the \$50.00 application fee which shall be non-refundable.

SECTION 8: All payments required to be made pursuant to said sale to the Township Clerk must be made by personal check, cash or certified check, or any combination of the foregoing. All payments required to be made hereunder to a title company or abstract

company conducting the closing shall be made in collected funds, that is, by cash, certified check, cashier's check or wire transfer.

SECTION 9: A sum equal to ten percent (10%) of the highest bid for said parcel or parcels shall be paid to the Township of Upper by the highest bidder or bidders at the time of the sale. The remaining balance of ninety percent (90%) of the highest bid for the parcel or parcels shall be paid to the Township of Upper, and must be received by the Township Clerk, not later than thirty (30) days after the date of the sale. In addition to the deposit of ten percent (10%), the highest bidder or bidders shall also be required to pay or tender at the time of sale the following:

IF THE BIDDER IS THE ORIGINAL APPLICANT:

- (A) (i) The sum of \$100.00 for the preparation of the Deed; and
- (ii) the sum of \$70.00 for recording the Deed.

IF THE BIDDER IS NOT THE ORIGINAL APPLICANT:

- (B) The sum of 500.00, payable to the Township of Upper, representing payment to the Township for expenses of \$500.00 to defray Township expenses, which amounts were required of the original applicant.

- (C) (i) The sum of \$100.00 for the preparation of the Deed.
- (ii) The sum of \$70.00 for recording the Deed.

AT THE TIME OF CLOSING the successful bidder shall be required to pay the following sums:

- (D) Any additional sum required for title search or title insurance.
- (E) The cost of any survey ordered by the successful bidder. Successful bidder shall place such order directly with the surveyor or with the title company conducting closing, but the survey must be prepared in time to permit the closing to take place as scheduled.
- (F) Title company settlement fees covering services to both the Seller and the Buyer.
- (G) Any additional fees or costs chargeable by the title company or otherwise necessary to complete the transaction on behalf of the purchaser.

SECTION 10: The closing of title shall take place as designated by the Township as follows:

- (A) Township Hall, Petersburg, New Jersey; or
- (B) Office of the Township Solicitor; or
- (C) At the office of a title insurance company or title abstract company located within Cape May County.

SECTION 11: If the bidder fails to close or fails to comply with the provisions hereof, such bidder shall be in default and all amounts paid to the Township by or on behalf of the bidder shall be retained by the Township as **LIQUIDATED DAMAGES AND NOT AS A PENALTY.**

SECTION 12: The Deed from the Township of Upper shall be what is commonly known as a Quitclaim Deed.

SECTION 13: The title to be delivered by the Township shall be free and clear of all taxes up to and including the date when the Deed is delivered and closing takes place. Purchaser shall be responsible for all taxes thereafter. Unless otherwise specified herein, the purchaser shall be liable for payment of all assessments, of any nature, against said land.

SECTION 14: The title to be delivered by the Township shall be under and subject to all easements and rights of way, recorded and unrecorded, whether for utilities or for others, and shall also be subject to all conditions, reservations and restrictions of record, if any. If the title report discloses an unmarketable condition of title, except as specified herein, the remedy of the bidder shall be limited to the return of payments made to the Township of Upper on account of the purchase price and closing costs only. Any and all other amounts paid to the Township shall be non-refundable. This sale is under and subject to any riparian claim which may affect said property. If any such claim exists, it shall be the sole responsibility of the purchaser to meet and satisfy all requirements of the State of New Jersey with respect to said riparian claim and the payment of any compensation to the State of New Jersey on account thereof. Nothing herein shall be construed as obligating the Township of Upper to construct or maintain access roads to any portion of the property being sold. Such property may not qualify for a building permit due to lack of water supply, lack of sewer or septic facilities, lack of access, inadequate lot size, or other reasons, including those reasons set forth below. The purchaser is required to comply with all applicable zoning, building and health ordinances and codes and regulations. The property being sold may be situated in a Flood Hazard Zone. The Township of Upper makes no warranties or representations, expressed or implied, as to the property being offered for sale, the condition or marketability

of the title or any other matter. The Township of Upper makes no warranties or representations, expressed or implied, as to whether or not the property being offered for sale contains wetlands anywhere on the property. The Township makes no warranties or representations as to any matter of an environmental nature, or otherwise, which may prevent or limit building or construction.

SECTION 15: All references to Lots and Blocks described herein are to the Lots and Blocks as shown on the Current Official Tax Map of the Township of Upper.

SECTION 16: The successful bidder shall be required, at the time of the sale, to execute a document acknowledging that the sale is governed by the provisions of this Ordinance as well as N.J.S.A. 40A:12-13.

SECTION 17: The provisions of this Ordinance pertaining to this sale shall survive the closing of title and shall not merge into the Deed.

SECTION 18: It is a requirement of this sale that the purchaser of the subject property be a contiguous property owner. Said purchaser shall be required to take immediate action to cause a consolidation of the property being purchased with all of the bidder's existing adjacent property so as to constitute a single parcel of ground which shall not be further subdivided into more than one lot. This restriction shall be included in the deed of conveyance and shall run with the land. The successful bidder shall complete the consolidation as a condition of the sale. The provisions of this Section shall survive closing and shall not merge into the Deed.

SECTION 19: 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 23rd DAY OF FEBRUARY, 2015 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 30th DAY OF MARCH, 2015 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

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

BARBARA L. YOUNG, TOWNSHIP CLERK
TOWNSHIP OF UPPER

- 8. Introduction and first reading of Ordinance No. 004-2015 **RE: AN ORDINANCE ADOPTING REVISED GENERAL ORDINANCE CHAPTER XVII (CONSTRUCTION OF BULKHEADS) OF THE CODE OF UPPER TOWNSHIP AND AMENDING REVISED GENERAL ORDINANCE CHAPTERS XIX (LAND SUBDIVISION, SITE PLAN AND LAND USE ADMINISTRATION) AND XX (ZONING) OF THE CODE OF UPPER TOWNSHIP.** Motion by Hobie Young, second by Jeffrey Pierson, to introduce Ordinance No. 004-2015 with a public hearing scheduled for March 30, 2015. During roll call vote all five Committeemen voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E**

ORDINANCE NO. 004-2015

RE: AN ORDINANCE ADOPTING REVISED GENERAL ORDINANCE CHAPTER XVII (CONSTRUCTION OF BULKHEADS) OF THE CODE OF UPPER TOWNSHIP AND AMENDING REVISED GENERAL ORDINANCE CHAPTERS XIX (LAND SUBDIVISION, SITE PLAN AND LAND USE ADMINISTRATION) AND XX (ZONING) OF THE CODE OF UPPER TOWNSHIP

WHEREAS, the Township Committee desires to adopt an ordinance regulating the construction of bulkheads and amending the existing ordinances with respect to land subdivision, site plan, land use administration and zoning; and

WHEREAS, at its meeting on November 20, 2014, and memorialized pursuant to Special Resolution 06-14, the Township Planning Board reviewed and considered proposed amendments to the Township ordinances, accepted public comment regarding same and found the proposed amendments satisfactory such that the amendments to Chapter XVII (construction of bulkheads), Chapter XIX (land subdivision, site plan and land use administration) and Chapter XX (zoning) are substantially consistent with the Upper Township Master Plan and Master Plan Reexamination; and

WHEREAS, the Upper Township Planning Board further recommended a zoning change of the Wyndom Way Subdivision from CM-2 (Commercial District) Zoning District, to an R-2 (Moderate Density Residential) Zoning District as set forth in said Special Resolution 06-14 of the Upper Township Planning Board.

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

SECTION 1. Chapter 17 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be adopted as hereinafter provided:

CHAPTER 17. CONSTRUCTION OF BULKHEADS

17-1 PURPOSE.

The Township of Upper desires to create uniform regulations for the construction, reconstruction, repair or renovation of existing or new bulkheads within the Township of Upper along any waterway or beach of Upper Township. It is the purpose of this Chapter to promote public health, safety and general welfare, and to minimize public and private losses due to flood conditions. Bulkheads are an integral component for Flood Damage Control and are designed to:

- a. Protect human life and health.
- b. Protect public and private infrastructure.
- c. Minimize expenditure of public and private money for costly repairs from flood damage.
- d. Minimize prolonged interruptions to business and residential activities due to street flooding.

- e. Reduce the extent of flood waters that may flow across public and private property which may cause flood damage.
- f. Reduce flood wave velocities.

17.2 BULKHEAD REQUIRED.

A bulkhead shall be provided on properties as required by Revised General Ordinance Section 20-5.19.

17.3 PERMIT REQUIRED.

A permit shall be required before beginning the construction, reconstruction, repair or renovation of any bulkhead on any waterway or beach within the Township of Upper. Applications for a bulkhead permit shall be submitted to the Municipal Engineer. The fee for said permit shall be Four Hundred Dollars (\$400.00).

All applications shall be on the form provided by the Township and accompanied by plans showing the size, shape, configuration and location of such bulkheads, the specifications of material to be used in construction, reconstruction, renovation or repair, the manner in which materials shall be incorporated into the bulkhead and the fee for review. Bulkhead plans and specifications must be designed by an engineer licensed to practice in the State of New Jersey and signed and sealed by such engineer. The plan must contain the label "issued for construction". Two (2) copies of the plan shall be provided along with an electronic copy in pdf format.

17-4 PERMIT APPROVALS.

The Municipal Engineer shall review the plans and grant or deny the application within twenty (20) business days upon receipt of a completed application. The review by the Municipal Engineer shall be in conformity with this Chapter, consistent with the minimum specifications and performance standards contained herein. For bulkhead repairs valued at less than One Thousand Dollars (\$1,000.00), the requirements for meeting minimum specifications and performance standards, including the requirements for engineered plans, may be waived by the Municipal Engineer.

17-5 NOTIFICATION OF COMMENCEMENT OF CONSTRUCTION.

The Municipal Engineer shall receive notice of commencement of construction at least two (2) business days in advance of said construction.

17-6 FINAL INSPECTION.

Notice of project completion shall be given to the Municipal Engineer within seven (7) days of substantial completion of the project. The Municipal Engineer shall make a final inspection and receive a certification from a licensed engineer or land surveyor of the elevations of completed bulkhead height and adjacent water body soundings.

17-7 STATE AND FEDERAL APPROVALS.

Application for bulkhead work must be made to appropriate agencies of the State or Federal government including but not limited to the New Jersey Department of Environmental Protection and the United States Army Corps of Engineers. No permit for work shall be issued until a valid permit is received from appropriate State or Federal Agencies having jurisdiction over the work. If the bulkhead is required by this Ordinance but the State or Federal agency having jurisdiction over the work denies the application then said denial shall supersede this Ordinance.

17-8 MINIMUM SPECIFICATIONS.

The minimum specifications for construction, reconstruction, repair or renovation of bulkheads are as follows:

- a. Bulkhead design shall provide for expected toe scour or proposed dredge depth and shall be shown on plans.
- b. Non-Oceanfront Bulkheads
 1. The minimum elevation of the top of the bulkhead shall be as follows:
 - a. Along Strathmere Bay (Blocks 750, 756, 757, 825, 826, 841, 842, 849 and 850): 7.0' NAVD, 1988 Datum.
 - b. Along Great Egg Harbor (Block 479, 682 and 735): 10.0' NAVD, 1988 Datum.
 - c. Along Tuckahoe River (Block 12, 15, 19 and 310): one (1') above the existing bank along the spring high tide line.
 - d. Along Tuckahoe River (Block 348): 9.0' NAVD, 1988 Datum.
 2. Additional outfall piping requires written approval from the Municipal Engineer. If drainage conditions require piping, all new infrastructure must have an approved tide-control device.
 3. Existing privately owned outfall piping will be extended and fitted with an approved tide-control device.
 4. Existing Township owned storm drains that penetrate private bulkheads shall be extended and maintained by the private property owner.
 5. Bulkhead construction shall not adversely effect the depth of the adjacent water body.
- c. Oceanfront Bulkheads
 1. Oceanfront Bulkheads shall be required when adjacent to the Atlantic Ocean and extending along Corson's Inlet to the Corson's Inlet Bridge.
 2. The minimum elevation of the top of the bulkhead shall be 11.0' NAVD, 1988 datum. The existing timber bulkhead along the oceanfront shall be considered grandfathered as meeting these standards.
 3. If the proposed construction methods shall require access and/or disturbance of Township property, a detailed plan outlining the proposed limits of disturbance and proposed restoration shall be provided for approval by the Township Engineer. Township property shall be restored to a condition equal to preconstruction conditions.

17-9 PERFORMANCE STANDARDS.

All bulkhead construction, reconstruction, repair or renovation must meet the following performance standards in addition to the minimum specifications set forth above.

Applicants utilizing innovative methods of construction must be prepared to show how such methods will meet the performance standards.

- a. Bulkheads also function as flood protection. All bulkheads shall be designed to function as such.
- b. All bulkhead reconstruction shall utilize generally accepted engineering principles and practices.
- c. Material selection must include evaluation of environmental impacts that are caused by the materials.
- d. Bulkhead construction shall not adversely affect adjacent properties.
- e. Bulkhead shall extend the entire length of the property with appropriate returns and connections to adjacent bulkheads.
- f. Bulkhead construction shall meet the requirements of the New Jersey Department of Environmental Protection.

17-10 UTILITIES.

It is the responsibility of the applicant to protect all existing utilities. The applicant is responsible for obtaining current “utility mark-out” for appropriate State or Local Agencies prior to commencement of construction.

17-11 MAINTENANCE, DUTY TO REPAIR.

All private bulkheads within the Township of Upper shall be maintained so they shall not pose a danger to the health, safety or welfare of the citizens of the Township of Upper or to property within the Township of Upper. The bulkheads shall be kept in a state of repair to prevent erosion or damage to abutting, adjacent or adjoining properties. Whenever a bulkhead has deteriorated to such a degree that it poses a danger to the property, or adjoining properties, the Municipal Engineer shall notify the property owner, in writing, of the nature of the deterioration and require the owner to make the necessary repairs. Said repairs shall be made in conformance with this Chapter. The property owner shall submit a plan of corrective action to the Municipal Engineer no later than thirty (30) days from receipt of the notice. Upon approval of the corrective action by the Municipal Engineer, the property owner shall complete all necessary repairs forthwith. If permits are required from the State of New Jersey or the Federal government, such permits shall be immediately applied for. In the event the property owner fails to submit a corrective action plan or fails to implement that plan, he shall be liable for the penalties and violations contained herein.

17-12 VIOLATION; PENALTIES.

Anyone violating any of the provisions of this Chapter shall be subject to a fine not to exceed the sum of One Thousand Dollars (\$1,000.00) and/or imprisonment not to exceed ninety (90) days for each violation. Each day of a continuing violation shall be a separate offense and shall be punishable as a separate offense.

SECTION 2. Chapter 19 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended and supplemented as hereinafter provided:

Section 19-9.2 Requirements.

Replace the Checklist with Exhibit A attached hereto to add the following application items to the Checklist:

65. Neighborhood Map showing aerial map 500' beyond the subject property. Required for all applications.
66. Electronic copy of the full application including: application, photos, maps, reports, plans and other exhibits in pdf format. Electronic copy may be in separate files. Required for all applications.
67. Buy and sell letters to adjacent property owners for any variance for bulk requirements pursuant to N.J.A.C. 40-55d-70c.(1) on forms provided by Township.

SECTION 3. Chapter 20 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended and supplemented as hereinafter provided:

Section 20-2.1 Definitions of Township Application.

Add, replace or delete the following Definitions:

Building shall mean any structure or extension therefor or addition thereto having a roof supported by such things as columns, posts, piers or walls intended for the shelter, business, housing or enclosing of persons, animals or property. Open uncovered decks or raised patios less than eighteen inches (18") above grade, are considered parts of the building. For purposes of permitted encroachments any overhangs, soffits, chimney, bay windows or similar structure that extends more than eighteen inches (18") beyond the face of the building shall be considered parts of the building.

Flag Lot – delete

Habitable Space. A space in a building for living, sleeping, eating or cooking. Garage, storage, stairs, halls or utility and other similar spaces are not considered habitable spaces.

Impervious coverage. Any surface that has been compacted or covered with a layer of material so that it prevents, impedes or slows infiltration or absorption of fluid, including stormwater directly into the ground, and results in either reduced groundwater recharge or increased stormwater runoff sufficient to be classified as impervious in Urban Areas by the United States Department of Agriculture, Natural Resources Conservation Service Title 210 – Engineering, 210-3-1 – Small Watershed Hydrology (WINTR-55) Version 1.0. Such surfaces may have varying degrees of permeability and shall include building coverage.

Mezzanine. An intermediate level or levels between the floor and ceiling of any story and shall be considered a 1/2 story when determining number of stories for building height.

Monument Sign. A free-standing sign, generally having a low profile where the base of the sign structure is on the ground or a maximum of twelve inches (12") above the lowest point of the ground adjacent to the sign such that the sign has the appearance

of a solid base. The maximum height shall be eight feet (8') from the ground and the width of the sign base shall be at least 75% of the sign face at its widest point.

Story, Habitable. Shall mean a story that has more than ten percent (10%) of the gross building floor area is considered a habitable story.

Tree Preservation shall mean an area of tree(s) that must be maintained with natural tree(s) on a parcel of land. Said area shall be restricted from clearing or removal of any trees two inches (2") in diameter, except dead trees greater than five inches (5") in diameter and trees within 35' of the principal structure may be removed to prevent a safety hazard. Vegetation shall mean trees and shrubs and the area shall be measured along the perimeter of the canopy of the tree(s). The area beneath the canopy of the tree(s) may be maintained or unmaintained.

Waterfront Property shall mean any property where the principal structure is located within fifty feet (50') of the mean high water line or the toe of the waterward side of the primary frontal dune whichever is closer.

Section 20-3.2 Zoning Map

The map is amended to reflect the zoning boundary changes as set forth on the revised zoning map of the Township of Upper prepared by Paul E. Dietrich, Sr., Upper Township Engineer, dated January 12, 2004 and revised through February 23, 2015 and attached hereto as Exhibit B.

Section 20-4.6d General Requirements.

Add the following to Section 20-4.6d:

7. Outside sales display area shall be permitted subject to the following:

- (a) Display area shall be limited to fifty (50) square feet for every fifty feet (50') of road frontage and not to exceed a total of two hundred (200) square feet.
- (b) Items within the display area shall not exceed a height of six feet (6').
- (c) Items shall not be located within the sight triangle of any driveway or roadway intersection or inhibit pedestrian or vehicle circulation.
- (d) Temporary display areas shall be permitted two (2) nonconsecutive 45 day periods per year. Temporary zoning permit shall be required for each period at least 10 days prior to the start of the temporary display area.

Section 20-4.7. "TC" Town Center and "TCC" Town Center Core

Add the following to Section 20-4.7

1. Outside sales display area for commercial uses shall be permitted subject to the following:

1. Display area shall be limited to fifty (50) square feet for every fifty feet (50') of road frontage and not to exceed a total of two hundred (200) square feet.
2. Items within the display area shall not exceed a height of six feet (6').

3. Items shall not be located within the sight triangle of any driveway or roadway intersection or inhibit pedestrian or vehicle circulation.
4. Temporary display areas shall be permitted two (2) nonconsecutive 45 day periods per year. Temporary zoning permit shall be required for each period at least 10 days prior to the start of the temporary display area.

Section 20-5.8 Performance Standards For All Uses.

Revise and replace the following in Section 20-5.8:

An application for subdivision or site plan shall provide documentation that the intended use will comply with the performance standards enumerated below. In the case of a structure being built where the future use is not known, a construction permit may be issued with the condition that no Certificate of Occupancy will be issued until such time as this documentation is submitted with respect to the particular occupant. It shall be the burden of the applicant to prove beyond a reasonable doubt that the proposed use meets the standards required by this Chapter.

- a. Unchanged
 1. Unchanged.
 2. Unchanged.
 3. Unchanged.
 4. Unchanged.
 5. Residential Buffer. This type of buffer is appropriate buffer between two adjacent residential uses which is provided to soften the impact of the land use on the community. Properties may provide additional buffer but is not required to provide such buffer as long as they provide the minimum vegetation in subsection (b) below.
 - (a) All existing trees should be preserved and the plans must specify appropriate grading and tree protection details to assure the preservation of the vegetation.
 - (b) Areas void of significant vegetation shall receive landscape plantings as follows for every one hundred (100') linear feet of buffer area:

Type	Quantity
Evergreen or Shade Tree	2
Ornamental Tree	2
Shrubs	5
 6. General Landscape Standards. All areas not occupied by structures, impervious cover and natural vegetation shall be maintained and planted as follows:
 - (a) Area shall be kept clean of all debris, rubbish, weeds and tall grass (over twelve inches (12") in height).
 - (b) Area shall be planted with grass or ground cover to prevent erosion of soil in accordance with the Cape-Atlantic Soil Conservation District Standards.
 - (c) An underground irrigation system shall be provided for non-residential properties.

- (d) Landscape areas shall be permanently maintained, and plant material which does not live shall be replaced within one (1) year or one (1) growing season.
- (e) Landscape buffer plan material shall be so placed that at the maturity, the plant will be no closer than three feet (3') from any street.
- (f) The buffer area shall not be broken unless specifically approved by the Planning Board or Zoning Board of Adjustment.
- (g) Plant material within the buffer shall be the following: a minimum height of six feet (6') to eight feet (8') for evergreen trees, two feet (2') to two and half feet (2.5') for shrubs and a minimum caliper of one inch (1") to one and half inches (1.5") for ornamental trees and a minimum caliper of two inches (2") and two and half inches (2.5") for shade trees.
- (h) The plant material shall be of a species common to the area, be of nursery stock, shall be free of insect and disease, and shall be otherwise conform to the landscaping provisions of subsection 20-5.14c. which are applicable within the Pinelands Area.
- (i) No roads, parking or buildings or structures shall be located within prescribed landscape buffer with the exception of access driveways serving the development, sidewalks and bike/jogging paths.
- (j) Off-street parking lots shall be landscaped in accordance with Section 20-5.7a.4.
- (k) At a minimum ten percent (10%) of the lot area shall be landscaped. The landscaping shall be located in protected areas along walkways, in center islands, adjacent to the building and in all irregular spaces not used for parking. The landscape areas shall include a combination of ground cover, shrubbery, ornamental plantings and shall include one canopy tree per 1,225 square feet of required landscape area. Said area shall be in addition to the required landscape buffer requirements.

Section 20-5.9 Principal Use.

Revise Section 20-5.9 as follows:

- a. *Structures.* No more than one (1) principal structure shall be permitted on one (1) lot, except as allowed in the TC, TCC, CM2, CM4 and CMP or otherwise specified for in a particular zoning district.
- b. *Use.* No more than one (1) principal use shall be located on one (1) lot, except for forestry, agriculture, horticulture, fish and wildlife management, recreational development or agricultural lands and as allowed in the TC, TCC, CM2, CM4 and CMP zones or otherwise specified for in a particular zoning district.

Add the following Section 20-5.19:

Section 20-5.19 Bulkheads.

- a. The Township of Upper desires to create uniform regulations for the construction, reconstruction, repair or renovation of existing or new bulkheads within the Township of Upper along any waterway or beach of Upper Township. It is the purpose of this section to promote public health, safety and general welfare, and

to minimize public and private losses due to flood conditions. Bulkheads are an integral component for Flood Damage Control and are designed to:

- 1) Protect human life and health.
 - 2) Protect public and private infrastructure.
 - 3) Minimize expenditure of public and private money for costly repairs from flood damage.
 - 4) Minimize prolonged interruptions to business and residential activities due to street flooding.
 - 5) Reduce the extent of flood waters that may flow across public and private property which may cause flood damage.
 - 6) Reduce flood wave velocities.
- b. A bulkhead shall be provided for all new development and existing development which is being substantially improved in accordance with the standards of Chapter 18 – Flood Damage Control which is located on a waterfront property as follows:
- 1) Non-Oceanfront Bulkheads
 - i. Along Strathmere Bay (Tax Blocks 750, 756, 757, 825, 826, 841, 842, 849 and 850 as shown on the current official Tax Map)
 - ii. Along Great Egg Harbor (Tax Blocks 479, 682 and 735 as shown on the current official Tax Map)
 - iii. Along Tuckahoe River (Tax Blocks 12, 15, 19, 310 and 348 as shown on the current official Tax Map)
 - 2) Oceanfront Bulkheads
 - i. Oceanfront Bulkheads shall be required when adjacent to the Atlantic Ocean and extending along Corson’s Inlet to the Corson’s Inlet Bridge.
- c. The bulkhead shall obtain a permit, be designed and constructed in accordance with Chapter 17 – Construction of Bulkheads.

Add the following Section 20-5.20:

Section 20-5.20 Used Clothing Containers.

- a. Generally. Used clothing donation steel or similar storage containers (hereinafter referred to in this section as “bins”) are prohibited in the Township of Upper.
- b. Exceptions. Registered 401(c) nonprofit organizations are permitted to place used clothing bins on nonresidential property in accordance with the following:
 1. Nonresidential premises are permitted to have only three (3) used clothing donation bins on the property, which are devoted to nonprofit purposes.
 2. The bin(s) shall be appropriately located so as not to interfere with sight triangles, on-site circulation, required accessory side yard setbacks, landscaping, parking, and any other requirements that may have been imposed as part of the site plan approval for the premises, and shall be placed on a concrete surface.
 3. The bin(s) shall be of the type that are enclosed by use of a receiving door and locked so that the contents of the bin(s) may not be accessed by anyone other than those responsible for the retrieval of the contents.
 4. Each bin shall not cover a ground surface area in excess of five feet (5’) by five feet (5’) nor be more than six feet (6’) in height.

5. Each bin must be regularly emptied of its contents so that it does not overflow, resulting in used clothing being strewn about the surrounding area.
6. Each bin shall be maintained in good working order and be free of graffiti and rust.
7. A permit for used clothing donation bin(s) shall be required. The permit shall be issued by the Clerk's Office, but can only be granted when it is determined by the Zoning Officer that:
 - (a) The bin(s) are for use by a duly registered nonprofit organization;
 - (b) The proper types of bin(s) are being used as described by this section;
 - (c) The bin(s) are being placed in a proper location as described by this section;
 - (d) Letter of authority/permission from the owner of the property upon which the bin(s) are to be and/or are already located; and
 - (e) Name, address and phone number of the nonprofit organization or Church displayed on each bin.
- c. If any used clothing donation bins are placed without a permit, or an inspection reveals that such bins are not in compliance with this section, enforcement and abatement shall take place as generally provided under this article.

Section 20-6.5 Flag Lots – This section is deleted

Section 20-12.1 Penalty for Violation.

Replace Section 20-12.1 as follows:

Any person, firm or corporation that shall violate any provision of this Chapter, shall, upon conviction thereof by any court authorized by law to hear and determine the manner, be subject to the General Penalty established in Chapter I, Section 1-5 of this code and be required to abate the violation by complying with the applicable standards of this Chapter.

The owner of any building or structure, lot or land or part thereof, and/or the tenant or occupant of any building or structure, lot or land or part thereof, where anything in violation of this Chapter shall be placed or shall exist or be suffered, allowed or permitted to exist, and any architect, builder, developer, contractor, agent, person or corporation engaged in connection therewith and who assists in the commission of any such violation, shall each be guilty of a separate violation and upon conviction thereof shall each be liable to the fine or imprisonment or both specified above.

Schedule A in Chapter 20: Delete the reference to Flag Lots in Schedule A and replace Schedule A with attached Exhibit C.

Schedule C in Chapter 20: Delete Note 3 and add Note 11 in Schedule C and replace Schedule C with attached Exhibit D.

SECTION 4: EFFECTIVE DATE: This ordinance shall take effect immediately upon adoption and publication as required by law.

SECTION 5: REPEALER: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

SECTION 6: SEVERABILITY: If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

SECTION 7: CODIFICATION: This Ordinance shall be codified as indicated in Chapters 17, 19 and 20 of the Upper Township Code.

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 23rd DAY OF FEBRUARY, 2015 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 30th DAY OF MARCH, 2015 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

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

BARBARA L. YOUNG, TOWNSHIP CLERK
TOWNSHIP OF UPPER

CORRESPONDENCE

NEW BUSINESS

UNFINISHED BUSINESS

DISCUSSION

PAYMENT OF BILLS

9. "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 John Coggins, second by Richard Palombo. During roll call vote all five Committee members voted in the affirmative.**

Bills approved for payment: \$94,096.90

Payroll: \$163,008.73

REPORT OF MUNICIPAL DEPARTMENTS:

10. Municipal Clerk's Office

Motion by Richard Palombo, second by Jeffrey Pierson to accept all reports as submitted. During roll call vote all five Committee members voted in the affirmative.

PUBLIC COMMENT

Nathalie Neiss, Tuckahoe, spoke in opposition to several issues including the South Jersey Gas pipeline project, the closure of the Route 50 Bridge, and butterfly sized drones.

Ted Kingston, Strathmere, spoke in favor of the South Jersey Gas pipeline project because it will ensure that the BL England plant remains open.

Georgina Shadling, Ocean City, spoke in opposition to the South Jersey Gas pipeline project.

Steven Fenichel, Ocean City, spoke in opposition to the South Jersey Gas pipeline project. He also requested that the Committee look into passing an ordinance establishing a no drone zone.

Robert Young, Tuckahoe, inquired with the previous speaker as to what the difference is between "fracked natural gas" and "natural gas". Mr. Fenichel answered that there is no difference.

Ralph Holt, Jill Avenue, reported that he recently received a judgment from Superior Court which overturned the Zoning Board's decision on his application. He was subsequently informed that in order to be heard before the Zoning Board again, he is required to place additional funds in an escrow, notice the property owners within 200 feet of his project, and provide 16 copies of his application to the Zoning Board. Mr. Holt stated that he has already provided the notice and application copies when he previously applied before the zoning board, and stated that he does not understand why he has to spend the money to provide these items again. He also questioned how his previous escrow funds were spent. It was stated that the notice requirements are set by Statute, and the Committee does not have the authority to waive those requirements. It was also suggested that Mr. Holt can submit an OPRA request to see how the previous escrow funds were distributed, however the escrow requirement is set by Ordinance and the Committee does not have the power to waive the escrow

requirement. Mr. Holt was advised that should he choose to do so he has the option to re-petition the Superior Court Judge for relief from these requirements.

CLOSED SESSION

11. 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. 60-2015
MOTION GOING INTO CLOSED SESSION
FEBRUARY 23, 2015

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 - Shared Services with Cape May County for Heavy Equipment Fleet Maintenance
2. Safety and Security
3. Contract negotiation - Engineer

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.

Moved by: John Coggins

Motion seconded by: Richard Palombo

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

RECONVENE PUBLIC PORTION OF MEETING

ADJOURNMENT

There being no further business this evening the meeting was adjourned at 9:36 P.M. The next regular meeting is scheduled for March 9, 2015 at 7:30 P.M.

Minutes prepared by

Barbara L. Young, RMC
Municipal Clerk

Bill List

64586 02/23/15 A0035 AIRLINE HYDRAULIC CORP. 16.63 2864
64587 02/23/15 A0081 ARMSTRONG, RALON I. 150.00 2864
64588 02/23/15 A0091 ATLANTIC CITY ELECTRIC 18,977.21 2864
64589 02/23/15 A0191 ACTION UNIFORM CO. LLC 196.00 2864
64590 02/23/15 B0035 BELMONT & CRYSTAL SPRINGS 53.16 2864
64591 02/23/15 B0092 BROKER, EUGENE JR. 150.00 2864
64592 02/23/15 B0152 BUCHANAN, KAREN 150.00 2864
64593 02/23/15 C0048 CAPE MAY COUNTY MUA 27,409.10 2864
64594 02/23/15 C0060 CAPRIONI'S PORTABLE TOILETS 412.00 2864
64595 02/23/15 C0068 COMCAST 270.75 2864
64596 02/23/15 C0116 CINTAS CORPORATION 91.12 2864
64597 02/23/15 C0143 CODY'S POWER EQUIPMENT 21.65 2864
64598 02/23/15 C0171 COLONIAL ELECTRIC SUPPLY CO. 305.16 2864
64599 02/23/15 C0201 CRUZAN'S TRUCK SERVICE INC. 71.34 2864
64600 02/23/15 C0223 CASA PAYROLL SERVICE 241.75 2864
64601 02/23/15 D0096 DELL MARKETING L.P. 210.60 2864
64602 02/23/15 D0148 DIRECT ENERGY BUSINESS 4,311.81 2864
64603 02/23/15 D0155 DTC WORLDWIDE 3,085.00 2864
64604 02/23/15 F0174 F.W. SHAWL & SONS, INC. 14,492.24 2864
64605 02/23/15 G0006 GARBUTT, PATRICIA A. 1,258.80 2864
64606 02/23/15 G0028 GENTILINI FORD 119.50 2864
64607 02/23/15 G0086 W.W. GRAINGER, INC. 153.07 2864
64608 02/23/15 G0096 GRUND, GEORGE 262.31 2864
64609 02/23/15 G0147 GREATAMERICA FINANCIAL SVCS. 176.97 2864
64610 02/23/15 G0163 GOVCONNECTION, INC 19.70 2864
64611 02/23/15 H0018 HAROLD RUBIN L & H SUPPLY 296.82 2864
64612 02/23/15 H0131 HPI PROCESSES, INC 644.00 2864
64613 02/23/15 J0064 JOHN DEERE LANDSCAPES, INC. 551.25 2864
64614 02/23/15 J0072 JERSEY WEB DESIGNS 1,272.50 2864
64615 02/23/15 L0072 LLOYD, JOEL 159.60 2864
64616 02/23/15 M0180 MED-TECH RESOURCE, LLC 413.22 2864
64617 02/23/15 M0218 MARY BRIDGET ENTERPRISES 185.74 2864
64618 02/23/15 N0043 NAPA AUTO PARTS 468.26 2864
64619 02/23/15 N0141 NETCARRIER TELECOM, INC. 1,383.13 2864
64620 02/23/15 O0042 ORCHARD HYDRAULIC SERVICE INC 480.09 2864
64621 02/23/15 P0032 PEDRONI FUEL CO. 1,288.20 2864
64622 02/23/15 P0116 PENN CARE INC 471.00 2864
64623 02/23/15 R0030 RIGGINS, INC. 4,752.60 2864
64624 02/23/15 R0099 RANSOME INTERNATIONAL, LLC 65.97 2864
64625 02/23/15 R106 RUMER, LISA 171.20 2864
64626 02/23/15 S0015 SMYTH, PATRICIA 150.00 2864
64627 02/23/15 S0018 SUBURBAN PROPANE, LP 202.79 2864
64628 02/23/15 S0056 SEASHORE ASPHALT CORPORATION 197.50 2864
64629 02/23/15 S0072 SEGIN, STEWART S. 150.00 2864
64630 02/23/15 S0121 SMUZ, THERESE A 30.36 2864
64631 02/23/15 S0134 SO. JERSEY GAS COMPANY 1,637.14 2864
64632 02/23/15 S0196 STEWART BUSINESS SYSTEMS LLC 286.70 2864
64633 02/23/15 S0209 STAPLES ADVANTAGE 45.08 2864
64634 02/23/15 S0285 SCARANO, JAMES P. 25.70 2864
64635 02/23/15 T0022 TERMINIX 59.00 2864
64636 02/23/15 T0024 TAYLOR, MATTHEW 249.00 2864
64637 02/23/15 T0032 THE PRESS & SUNDAY PRESS 413.10 2864
64638 02/23/15 T0166 TREASURER, STATE OF NEW JERSEY 599.50 2864
64639 02/23/15 T0168 TOWNSHIP OF UPPER 209.52 2864
64640 02/23/15 U0037 UPPER TOWNSHIP P.T.A. 400.00 2864
64641 02/23/15 V0001 VCI EMERGENCY VEHICLE 1,498.77 2864
64642 02/23/15 V0005 VAN EMBDEN, NATHAN, ATTORNEY 750.00 2864
64643 02/23/15 V0013 VERIZON WIRELESS 1,119.41 2864

64644 02/23/15 V0022 VERIZON 190.98 2864
64645 02/23/15 V0024 VAL-U AUTO PARTS L.L.C. 0.00 02/23/15 VOID 0
64646 02/23/15 V0024 VAL-U AUTO PARTS L.L.C. 536.69 2864
64647 02/23/15 V0025 V.E. RALPH & SON, INC. 136.21 2864

Total: 94,096.90