

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
MINUTES FOR OCTOBER 10, 2006 (TUESDAY)**

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

**CALL TO ORDER**

**SUNSHINE ANNOUNCEMENT**

**SALUTE TO THE FLAG**

Mayor Richard Palombo asked for a moment of silence to remember the two young lives tragically lost recently in a traffic accident in Upper Township, sisters Christina and Jacqueline Becker.

**ROLL CALL**

Barbara Camp	Present
Frank E. Conrad	Present
Curtis Corson	Present
John "Jay" Newman	Present
Richard Palombo	Present

Also present were Municipal Clerk Wanda Gaglione, Finance Officer Patricia Garbutt, Municipal Attorney Daniel Young and Municipal Engineer Paul Dietrich.

**APPROVAL OF MINUTES - September 25, 2006 Regular Meeting and Closed Session Minutes**

Motion to approved the Minutes as written by Barbara Camp, second by Frank Conrad with all five Committee members present voting in the affirmative.

**REPORT OF GOVERNING BODY MEMBERS**

**Frank Conrad**, reported that a Rt. 52, Ocean City Causeway, meeting is scheduled to be held in Ocean City on October 25, 2006.

**Barbara Camp**, asked about the lights in the parking lot at the Township Hall. A.C. Electric has been notified that they need to be repaired.

She reported that a citizen asked for more lighting at the Oak Forest entrance off of Rt. 9, however it was discussed that the lighting is sufficient at that location.

She requested that additional "Stop" signs be placed at Willents Road and White Oak. The Engineer was directed to inspect the area.

She asked about street lighting at the Wyndom project. Mr. Dietrich reported that a resident on the street stopped the installation of the streetlights.

She asked to have the Radar Cart be placed at Ocean Ave. near Rt. 9 and Stagecoach.

She discussed the Postmaster letter to move Ocean View mail delivery to Marmora Post Office. At this point the Postmaster is to conduct a survey.

She recommended the following promotions in the Department of Public Works:  
Harry Downam to Maintenance Repairer

Richard Kazmarski to Maintenance Repairer  
George Grund to Equipment Operator  
Arthur Hall to Truck Driver  
Steward Segan to Truck Driver

Motion by Barbara Camp, second by Frank Conrad with all five Committee members present voting in the affirmative. All promotions will be effective at the next pay period and will be provisional.

**Jay Newman**, reported on the Fire Prevention Week program on October 11, 2006 at Seaville Firehouse and invited everyone to attend.

He reported that the Ocean Drive Bridge repairs are moving along on schedule and that the weight limit has been raised to 7 tons.

He commented on the recent tragic traffic accident at Stagecoach and Tuckahoe Road and that it deeply affected the entire community. He discussed improvements necessary to insure safety at this site and several other high-risk locations. At minimum, he wants to see flashing red lights at this intersection. This and the other locations were discussed and motions were made to install traffic devices at the following locations.

1. Tuckahoe Rd. (Rt. 631) and Stagecoach, and Roosevelt Blvd. (Rt. 623) and Stagecoach-both lights and full signals. Motion by Jay Newman, second by Barbara Camp, with all five Committee members voting in the affirmative.
2. Stagecoach Rd. in front of Caldwell Park-no passing zone (double yellow lines). Motion by Richard Palombo, second by Barbara Camp, with all five Committee members voting in the affirmative.
3. Rt. 9 in front of Osprey Point-traffic control devices. Motion by Frank Conrad, second by Barbara Camp, with all five Committee members voting in the affirmative.

**Richard Palombo, Mayor** also discussed the recent tragic accident and read a letter into the record he received from Lt. Robert Watkins, Commander of the Woodbine State Police Barracks, extending appreciation and recognizing the professionalism of the Township emergency personnel called to the scene.

Mayor Palombo is scheduled to meet with Ocean City Mayor Perillo and Freeholder/Sea Isle City Mayor Leonard Desiderio on Tuesday for a meeting on Beach Replenishment.

He reminded everyone of the public hearing for the sale of the B.L. England power plant also on Tuesday, at 7PM at the Middle School.

November 19 to 25 is National Family Week and he made a motion to adopt a resolution, second by Barbara Camp with all five Committee members voting in the affirmative.

He congratulated Barbara Young of the Clerk's Office for successfully completing the first class of five necessary to sit for the RMC certification.

He reported that NJ American Water Company will be sending out a team to officially inspect the water tower in Strathmere.

## **OTHER REPORTS**

**Daniel Young, Municipal Attorney**, discussed the land donation from Bedell, Block 319, Lots 27-60. The Bedells own Lot 27. Title for lots 28 through 60 is unclear. The Bedells have been paying taxes on the entire parcel for years and want to donate it to the Township. The title company informed Mr. Young that the title search was expected to be complicated and costly. Without the search it would be impossible to get title insurance. Tax foreclosure would also necessitate the Township to incur the cost of a title search. A quitclaim deed to transfer the property would be a possibility, however we could have a defective interest in the

tract if we were ever to utilize or sell it. Mr. Dietrich stated that the property is located off of Mosquito Landing Road near the municipal beach area. The land is undevelopable because it is swampy; it is surrounded by NJ Game Preserve property, and would be of no purpose except for open space. Mr. Dietrich reviewed Township records and concluded that the lots were grouped together in 1960 when the tax map was created. Motion by Barbara Camp, second by Jay Newman to accept the lots without a title search. During roll call vote all five Committee members voted in the affirmative. An ordinance to transfer the property will be placed on a future agenda.

**Paul Dietrich, Municipal Engineer,** reported that there was significant erosion on the Strathmere Beaches during the recent high tides. The snow fence at Tecumseh is damaged and worn away in sections and needs to be replaced. Mayor Palombo asked for pictures of the damage so that he can present them at the Beach Replenishment meeting next week with Mayor Perillo of Ocean City.

Mr. Dietrich reported that Ralph Clayton stopped the dredging work at the Peach Orchard project. Mr. Clayton is doing grading work at the site.

He reported that the intersection of Rt. 49 and 50 has been repaired. Several sections of the roadway in the intersection were raised several inches due to the hot summer and the heavy use. The problem was reported to NJDOT in August and the repairs are now completed.

## **RESOLUTIONS**

### **1. Honoring Daniel Roger Petela on attaining the designation of "Eagle Scout".**

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
R E S O L U T I O N  
RESOLUTION NO.205-2006  
RE: HONORING DANIEL ROGER PETELA ON ATTAINING THE  
DESIGNATION OF "EAGLE SCOUT"**

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**WHEREAS,** Daniel Roger Petela, has recently achieved the designation of Eagle Scout in the Boy Scouts of America; 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 Daniel on the occasion of his receiving the designation of Eagle Scout and commends him for his outstanding accomplishment; and it is

**FURTHER RESOLVED** that the Township Committee extends its congratulations and best wishes to Daniel's 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 Scout Masters 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 10th day of October, 2006.

Resolution No. 205-2006

Offered by: Camp

Seconded by: Conrad

Adopted: October 10, 2006

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Camp	<u>X</u>	<u>          </u>	<u>          </u>	<u>          </u>
Conrad	<u>X</u>	<u>          </u>	<u>          </u>	<u>          </u>
Corson	<u>X</u>	<u>          </u>	<u>          </u>	<u>          </u>
Newman	<u>X</u>	<u>          </u>	<u>          </u>	<u>          </u>
Palombo	<u>X</u>	<u>          </u>	<u>          </u>	<u>          </u>

- Honoring John Castaldi on his dedicated service to the Boy Scouts of America Troop 55 and extending to him best wishes for his future endeavors.**

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY**

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

**RESOLUTION NO. 206-2006**

**RE: HONORING JOHN CASTALDI ON HIS DEDICATED SERVICE**

**TO THE BOY SCOUTS OF AMERICA TROOP 55 AND EXTENDING  
TO HIM BEST WISHES FOR HIS FUTURE ENDEAVORS**

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**WHEREAS**, John Castaldi has served the Boy Scouts of America BaySea District as Scoutmaster of Troop 55 since 1996; and

**WHEREAS**, John has a distinguished record of service and leadership with the Boy Scouts of America BaySea District that includes Committee Chairman, Scoutmaster, BaySea District Cub Scout Day Camp Program Director, BaySea District District Committee member; and

**WHEREAS**, John is a man of character, determination and enterprise whose efforts have brought pride and distinction to this community and his family and have earned his recognition as the recipient of various awards and honors; and

**WHEREAS**, his accomplishments during his tenure of service are the result of hard work and dedication and it is appropriate that he be publicly recognized.

**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, to honor John Castaldi on his dedicated service to the Boy Scouts of America Troop 55 and extend to him our best wishes for his future endeavors.

**GIVEN UNDER OUR HANDS** and the seal of the Township of Upper this 10<sup>th</sup> of October, 2006.

Offered by: Camp  
Adopted: October 10, 2006  
Roll Call Vote:

Seconded by: Conrad

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT\</u>
Camp	X			
Conrad	X			
Corson	X			
Newman	X			
Palombo	X			

**3. Authorizing the reduction of the Performance Bond of Cedar Villas for Block 453, Lots 240-242, Cedar Villas, Inc., for extension of Meghan Avenue Major Subdivision.**

TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
R E S O L U T I O N  
RESOLUTION NO. 207-2006

RE: AUTHORIZING THE REDUCTION OF THE PERFORMANCE BOND OF  
CEDAR VILLAS FOR  
BLOCK 453, LOTS 240-242  
OWNER AND/OR DEVELOPER: CEDAR VILLAS, INC.  
EXTENSION OF MEGHAN LANE MAJOR SUBDIVISION  
PROPERTY: BLOCK 453, LOTS 240-242

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WHEREAS, Cedar Villas, Inc. is the Owner and/or Developer of a major subdivision within the Township of Upper, described as follows: extension of Meghan Lane, Block 453, Lots 240-242; and

WHEREAS, pursuant to N.J.S. 40:55D-53, the Developer is required to furnish a Performance Guarantee in favor of the Township for improvements which the Upper Township Planning Board may deem necessary or appropriate; and

WHEREAS, as further required by N.J.S.A. 40:55D-53, the Municipal Engineer has prepared a revised itemized cost estimate of the improvements covered by the Performance Guarantee posted by the Developer, which copy of itemized cost estimate is annexed to this Resolution as Exhibit "A"; and

WHEREAS, the Performance Guarantee shall be reduced to reflect a Surety Bond Amount in the amount of \$90,811.80 as described in Bond Reduction letter dated September 22, 2006 which is attached hereto as Exhibit "B"; and

WHEREAS, the Developer has presented to the Township a reduced Performance Guarantee as follows:

Subdivision Performance Bond  
in the form of an  
Irrevocable Standby Letter of Credit  
Letter of Credit No: 26011  
Bond Reduction Letter: dated 9/22/2006

Principal: Cedar Villas, Inc.  
495 Kings Highway  
Cape May Court House, NJ 08210

Surety: Newfield National Bank  
18 West Boulevard  
Newfield, NJ 08344-9599

Bond Amount: \$90,811.80

Issue Date: May 2, 2006

Expiration Date: May 2, 2007

Bond Amount, Cash: \$10,090.20

Inspection Fee, Cash: \$13,000.00

Street Lights, Cash: \$18,000.00

WHEREAS, the Municipal Attorney has reviewed the Performance Guarantee/Bond Reduction letter and has determined that the same complies with the New Jersey Statutes and Township Ordinances applicable thereto and has recommended acceptance of same by the Township Committee;

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 revised cost estimate of the Municipal Engineer, which is attached hereto as Exhibit "A", is hereby accepted and approved.

3. The Surety Bond in the form of an Irrevocable Standby Letter of Credit/Bond Reduction letter, described in this Resolution and attached as Exhibit "B" are hereby accepted and approved.

4. The reduction of the Cash Bond Amount described in this Resolution is hereby accepted and approved.

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

Resolution No. 207-2006

Offered by: Conrad

Seconded by: Palombo

Adopted: October 10, 2006

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Camp	X	_____	_____	_____
Conrad	X	_____	_____	_____
Corson	X	_____	_____	_____
Newman	X	_____	_____	_____
Palombo	X	_____	_____	_____

**4. Authorizing the release of Performance Bond and acceptance of a 2-Year Maintenance Bond of Clayton Development Associates, LLC, for Migliaccio Major Subdivision, Block 348, Lot 94.**

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 208-2006

RE: AUTHORIZING THE RELEASE OF PERFORMANCE BOND AND THE ACCEPTANCE OF A 2-YEAR MAINTENANCE BOND OF

OWNER AND/OR DEVELOPER: CLAYTON DEVELOPMENT ASSOCIATES, LLC.  
SUBDIVISION: MIGLIACCIO MAJOR SUBDIVISION

PROPERTY: BLOCK 348, LOT 94

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WHEREAS, Clayton Development Associates, LLC., (hereinafter Developer ), has heretofore requested acceptance of a Maintenance Bond for the major subdivision project known as "Migliaccio Major Subdivision ; and

WHEREAS, Developer has completed all work in conformance with the plans and specifications for the project known as Migliaccio Major Subdivision as certified and inspected by the Township Engineer and the Performance Bond now held by the Township should be released; and

WHEREAS, Developer is required to furnish a Maintenance Bond for the aforesaid project; and

WHEREAS, said Maintenance Bond shall be for two (2) years in an amount equal to 15% of the original construction value of \$311,811.00 or \$46,711.65 in accordance with the municipal ordinance of the Township of Upper;

WHEREAS, pursuant to N.J.S.A. 40:55D-53, the Developer is required to post a maintenance bond; and

WHEREAS, the Developer has presented to the Township a Maintenance Guaranty as follows:

Maintenance Surety Bond  
Bond No. 5009736

Principal: Clayton Development Associates,  
LLC  
4019 Ocean Heights Avenue  
Egg Harbor Township, NJ 08234

Surety: Bond Safeguard Insurance Company  
631 Shute Lane  
Old Hickory, TN 37138

Bond Amount Cash: \$ 4,671.17

Bond Amount, Surety: \$42,094.48

Bond Date: December 21, 2004

WHEREAS, the Municipal Attorney has reviewed the Maintenance Guaranty and has determined that same complies with the New Jersey Statutes and the Township Ordinances applicable thereto and has recommended in his letter attached as "exhibit A", the acceptance of same by the Township Committee;

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 Surety Bond described in this Resolution is hereby accepted and approved.

3. The Performance Bond now held by the Township is hereby released.

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

Resolution No. 208-2006

Offered by: Newman

Seconded by: Corson

Adopted: October 10, 2006

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Camp	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Conrad	<u>      </u>	<u>      </u>	<u>      </u>	<u>      </u>
Corson	<u>  X  </u>	<u>      </u>	<u>  X  </u>	<u>      </u>
Newman	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Palombo	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>

5. Authorizing the revision of scope for the Smart Future Planning Grant with Office of Smart Growth.

TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
R E S O L U T I O N  
RESOLUTION NO. 209-2006  
RE: AUTHORIZING THE REVISION OF SCOPE FOR  
THE SMART FUTURE PLANNING GRANT WITH OFFICE OF SMART GROWTH

**WHEREAS**, the Township of Upper has previously received a \$50,000 Grant from Office of Smart Growth to prepare a Plan Endorsement Petition; and

**WHEREAS**, the Township has worked with the Office of Smart Growth (OSG) and New Jersey Department of Environmental Protection (NJDEP) to develop Center boundaries that promote Smart Growth; and

**WHEREAS**, the Township submitted a Plan Endorsement Petition to the State Planning Commission; and

**WHEREAS**, the OSG and the Township agree that in order to complete the Plan Endorsement Petition the Scope of Work for the original grant agreement needs to be revised in accordance with Exhibit #1 and the Township shall endeavor to submit the revised Plan Endorsement Petition and work items included the approved Memorandum of Agreement.

**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 agrees to adopt Exhibit No. 1 as a revision to the work scope for the Smart Future Planning Grant.
3. All Township officials are hereby authorized and directed to execute, on behalf of the Township of Upper, any and all such documents or applications and take any such further action as may be necessary in order to further the purposes of this Resolution.

Resolution No. 209-2006

Offered by: Palombo

Seconded by: Camp

Adopted: October 10, 2006

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Camp	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Conrad	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Corson	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Newman	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Palombo	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>

**Exhibit No. 1**

**SCOPE REVISION FOR SMART FUTURE GRANT FOR UPPER, DENNIS AND MIDDLE TOWNSHIPS: FY2004 (Grant No. 2004-99900-0237-01)  
June 12, 2006**

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**Background**

In FY2004, the Office of Smart Growth (OSG) awarded \$150,000 to the Townships of Upper, Dennis and Middle to create a plan addressing a range of issues, including redevelopment, water availability, preservation of environmental and rural resources, and coordination of service needs. This project was intended to provide conceptual plans for community-based, mixed-use, center-based development, including implementation strategies for planning and zoning changes as well as design recommendations. In this

regard, context-sensitive design concepts were to be applied for transportation proposals. Outside of centers, the plan was to outline measures for preventing sprawl by protecting open space and farmland. Overall, this plan was to serve as a key document for a joint Plan Endorsement petition by the three Townships. On the grantee side, Upper Township serves as the administrative agent of the grant.

As the Townships submitted their petitions for Plan Endorsement in late 2005 and met with OSG early this year, it became apparent that the petitions did not address several of the issues outlined in the grant scope. For instance, the petitions proposed centers but did not provide details as to their potential densities, implementation strategies, or design concepts. When OSG relayed this concern to Maser Consulting, the planning consultant for the project, the firm provided a copy of its scope agreement with the Townships. This scope was markedly different from the one agreed upon between OSG and the Townships, focused more on the procedure of meeting Plan Endorsement requirements rather than the substantive issues outlined above. Upper Township claimed that it provided its scope with the consultant in 2004 and later provided copies of communications. OSG's grant files did not contain this information. More importantly, there is no record of approval of any scope amendment.

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## **Current Situation**

The three Townships are at different phases of the Plan Endorsement process, but each has a number of consistency issues that would have to be resolved in order for OSG to be able to recommend their plans for endorsement. Upper Township has agreed to the Memorandum of Understanding (MOU) related to an OSG Policy Directive provide an extension of time and an action plan to resolve consistency issues. Middle Township has not yet agreed to the MOU and has expressed doubt about the 6-month timeline. Dennis Township did not meet the deadline to temporarily extend its CAFRA centers but has subsequently submitted a complete petition and is now in the consistency review phase.

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## **Revised Scope**

In light of the current situation, this scope revision proposes to address concerns raised by OSG and other state agencies in the consistency review and action plan documents. The revision therefore represents a compromise between the original scope and the Townships' needs for Plan Endorsement.

The below scope items outline how the Townships shall build upon their efforts to date in order to achieve consistency with the State Development and Redevelopment Plan.

In addition to activities outlined in the scope agreement between the Townships and Maser Consulting, grant funds shall be used for the following activities:

- The petitions shall develop conceptual details for proposed centers, identifying mixed-use cores for denser development. For cores and other parts of the centers the petitions shall determine a range of potential commercial and residential densities. For sections of centers outside the cores where density falls significantly short of State Plan criteria, the petition shall justify why they should remain in the centers. The petition should also discuss how the centers provide for other land uses such as municipal facilities and neighborhood parks, with an emphasis on pedestrian linkages and accessibility.
- If the Townships want to maintain transit-related items in the Planning & Implementation Agreement, the petitions should discuss how development will be concentrated in appropriate areas to support the viability of transit service. The petitions shall conceptually identify catchment areas around transit nodes where there is or will be easy pedestrian access to the service and provide strategies for how pedestrian access will be facilitated.
- The petitions shall identify strategies for the protection of environs outside the centers. This shall include consideration of clustering, transfer of development rights, downzoning, environmental protection measures, and land acquisition. The discussion shall be detailed enough to approximate how much one or more of these measures in combination will reduce development densities in the environs and potentially increase densities in centers.
- Master plan elements are typically outside the scope of Smart Future grants and are not part of this scope. However, the above issues represent a significant part of how the land use and housing elements outlined in the Plan Endorsement action plan will be reviewed for consistency. OSG therefore advises the Townships that the efforts outlined in the above activities be integrated into the master plan.

**6. Authorizing a refund for a building permit to Palmer Builder/Developer, LLC, in the amount of \$1580.00.**

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION  
RESOLUTION NO. 210 -2006  
RE: AUTHORIZING A REFUND FOR A BUILDING PERMIT**

**TO ANDREW S. PALMER OF PALMER BUILDER/DEVELOPER L.L.C.,  
IN THE AMOUNT OF \$1580.00**

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**WHEREAS**, Andrew Palmer of Palmer Builder/Developer L.L. C. has paid the sum of \$2139.00 for the payment of a building permit, and

**WHEREAS**, the application for permit #2005-0559, Block 551, Lot 9.02 was then withdrawn by the applicant and building permit was never issued; and

**WHEREAS**, it has been recommended by the Upper Township Code Enforcement Officer that a refund in the amount of \$1580.00 be given. The refunded amount is the difference between the total fee paid and the nonrefundable State and plan review fees as indicated on Exhibit A;

**NOW, THEREFORE BE IT RESOLVED**, by the Township Committee of the Township of Upper in the County of Cape May, that the Municipal Clerk is hereby directed to take such corrective action as indicated below.

Resolution No. 210-2006

Offered by: Camp

Seconded by: Conrad

Adopted: October 10, 2006

Roll Call Vote:

NAME	YES	NO	ABSTAINED	ABSENT
Camp	<u>X</u> _____	_____	_____	_____
Conrad	<u>X</u> _____	_____	_____	_____
Corson	<u>X</u> _____	_____	_____	_____
Newman	<u>X</u> _____	_____	_____	_____
Palombo	<u>X</u> _____	_____	_____	_____

Refund-Palmer Builder/Developer L.L. C.

(Permit attached at Exhibit A)

Total Sub Code fee was \$1925.00	
minus 20% plan review, returnable balance would be-----	\$1540.00
DCA fee of \$174.00 is paid to the State and is not returnable. -----	-0-
Certificate of Occupancy fee is \$40.00 and is returnable in full. ----	<u>\$40.00</u>
Total fee that should be returned is-----	\$1580.00

- 7. **Resolution of the Township Committee of the Township of Upper supporting the Borough of Woodbine’s Application for NJDCA Small Cities Innovative Development Funds to extend the Richland to Tuckahoe Rail Excursion Service to Woodbine.**

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY, NEW JERSEY  
RESOLUTION  
RESOLUTION NO. 211-2006  
RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE  
TOWNSHIP OF UPPER SUPPORTING  
THE BOROUGH OF WOODBINE’S APPLICATION FOR NJDCA SMALL CITIES  
INNOVATIVE DEVELOPMENT FUNDS TO EXTEND THE RICHLAND TO  
TUCKAHOE RAIL EXCURSION SERVICE TO WOODBINE**

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**WHEREAS**, the Township of Upper seeks to improve the Tuckahoe Village commercial district by encouraging visitors to shop and see local attractions; and

**WHEREAS**, the Cape May Seashore Line’s Excursion Rail Service plays a significant role in the revitalization efforts of the Township, and

**WHEREAS**, the expansion of the Cape May Seashore Line service to Woodbine would greatly add to the number and variety of attractions currently available in both Richland and Tuckahoe and thus attract a greater ridership which will directly benefit the commercial enterprises in Tuckahoe and encourage commercial investment in the Village area.

**NOW, THEREFORE, BE IT RESOLVED**, that the Township Committee of the Township of Upper strongly supports the Woodbine Rail Extension Project to Enhance Tourism in the Atlantic and Cape May County area.

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Camp	_____	_____	_____	_____
Conrad	_____	_____	_____	_____
Corson	_____	_____	_____	_____
Newman	_____	_____	_____	_____
Palombo	_____	_____	_____	_____

**ORDINANCES**

- 8. **Introduction and First Reading of Ordinance 022-2006, re: An Ordinance Authorizing Sale of Lands, to wit Block 10, Lots 16 and 19.**

Motion to introduce the ordinance with Public Hearing scheduled for November 13, 2006 at 7:30 P.M. Motion by Barbara Camp, second by Frank Conrad with all five Committee members present voting in the affirmative.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
O R D I N A N C E  
ORDINANCE NO. 022-2006  
RE: AN ORDINANCE AUTHORIZING SALE OF LANDS,  
TO WIT BLOCK 10, LOTS 16 and 19**

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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 10, Lots 16 and 19; and

WHEREAS, the Township has received an offer from Alex Hamilton and Joseph L. Hamilton, 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 undersized lot; 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 10, Lots 16 and 19

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 each parcel or parcels sold is hereby established as follows:

Block 10, Lot 16  
Minimum Bid: \$16,600.00  
Block 10, Lot 19  
Minimum Bid: \$16,600.00

**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:** Alex Hamilton and Joseph L. Hamilton 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 renote 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 10TH OF OCTOBER, 2006 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 13TH DAY OF NOVEMBER, 2006 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

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

WANDA GAGLIONE, TOWNSHIP CLERK  
TOWNSHIP OF UPPER

### **CORRESPONDENCE**

9. **NJ Department of Environmental Protection, Hazardous Discharge Site Remediation Fund-notice of completed review of site known as Block 339, Lots 1-8, 17-23, Est. of Sam Migliaccio, and recommendation of grant disbursement in the amount of \$6,170.00.** Correspondence duly noted. Mr. Dietrich was asked to have the weeds cut down at the site.
  
10. **Osprey Point Condominium Association, request from the Township for support for a “No Passing” zone or traffic light at the entrance of the condominium site on Rt. 9.** (See Reports on page 2 in that motion was made by Frank Conrad, second by Barbara Camp to adopt a resolution at the next meeting. During roll call vote all five voted in the affirmative.)

### **NEW BUSINESS**

11. **Request from Greater Tuckahoe Area Merchants Association to hold an on premise 50/50 Raffle on 12/2/06 (RA 306).** Motion was made by Barbara Camp, second by Richard Palombo to approve request. During roll call vote four Committee members present voted in the affirmative, Mr. Conrad abstained.
  
12. **Matthew Brogan, request for upgrade of street lighting on Kildeer Hill Road. streetlight is not yet installed in this area.** The residents of this area would like to upgrade their streetlights to a style similar to what is installed in Amanda’s Field and will be responsible for the difference in cost. The electric company will be contacted for the price difference of the requested upgrade.

### **UNFINISHED BUSINESS:**

## **DISCUSSION**

### **PAYMENT OF BILLS:**

**“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 to approve the bills as submitted by Barbara Camp, second by Frank Conrad with all five Committee members present voting in the affirmative.

Payroll: \$139,894.59

Bills submitted for payment: \$67,229.74

### **REPORT OF MUNICIPAL DEPARTMENTS:**

**13. Construction Code**

**14. Animal Control**

**15. Tax Assessor**

**16. Division of EMS**

**17. Tax Office**

Reports are available from the Clerk's Office.

### **PUBLIC COMMENT**

**Elizabeth Bergus, Strathmere**, discussed flooding during the recent high tide and asked about having the fallout system looked at. The Engineer is scheduling a contractor to video the system along Bayview Drive to assess any problems.

**Kitty Negler, Steelmantown**, discussed hurricane preparedness and using Rt. 557 as an evacuation route. She reported that the drainage along the road needs maintenance. Also the light at Steelmantown Road and Rt. 557, and the light at Rt. 49 and Rt. 557 are not working properly. She was disappointed that the Public Works yard was closed early one day last week. She wanted to drop off her recyclables and the gate was locked due to a training session that required all employees to attend.

### **CLOSED SESSION**

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

Motion by Frank Conrad, second by Barbara Camp to close the regular portion of the meeting and go into an executive session. During roll call vote all five Committee members present voted in the affirmative.

### **RECONVENE PUBLIC PORTION OF MEETING**

### **ADJOURNMENT**

There being no further business this evening the meeting was adjourned at 9:20 P.M. Next meeting to be October 23, 2006 at 4:00 P.M.

Minutes prepared by

Wanda Gaglione, RMC  
Municipal Clerk

**Bill List**

042025	10/10/06	A0006	ADVANCE TREADS INC	920.00
042026	10/10/06	A0025	ADVANTAGE RENTAL ACE HARDWARE	255.30
042027	10/10/06	A0041	ALL ACTION WATER SPORTS, INC.	99.00
042028	10/10/06	A0043	ALERT-ALL CORPORATION	577.50
042029	10/10/06	A0078	ANCHOR RUBBER STAMP & PRINTING	16.50
042030	10/10/06	A0081	ARMSTRONG, RALON I.	275.39
042031	10/10/06	A0087	AT & T	14.22
042032	10/10/06	A0091	ATLANTIC CITY ELECTRIC	7,056.53
042033	10/10/06	A0094	ARCH WIRELESS	11.61
042034	10/10/06	B0008	BAILEY, CARROLL	20.00
042035	10/10/06	B0090	BROADLEY'S MDI.	1,408.81
042036	10/10/06	B0152	BUCHANAN, KAREN A.	278.00
042037	10/10/06	C0071	CAPEHART & SCATCHARD, P.A.	288.00
042038	10/10/06	C0089	CHANNING BETE COMPANY	200.88
042039	10/10/06	C0091	CHISHOLM, JOHN R.	89.99
042040	10/10/06	C0143	CODY'S POWER EQUIPMENT	121.39
042041	10/10/06	C0146	COLLINS IRON WORKS, INC.	782.30
042042	10/10/06	C0156	COMPUTER HOUSE OF SOUTH JERSEY	5,200.00
042043	10/10/06	C0194	CUMMINS POWER SYSTEMS, INC.	4,815.34
042044	10/10/06	D0008	DIAMOND M LUMBER CO.	198.01
042045	10/10/06	D0011	DIVISION OF STATE POLICE CUI	108.00
042046	10/10/06	D0016	DALEY, FREDERICK T/A DALEYS PIT	160.00
042047	10/10/06	D0030	DEL CORIO, ROSEMARY MS.	48.06
042048	10/10/06	D0077	DIETRICH, PAUL	24.00
042049	10/10/06	D0086	DRAWING BOARD/WHEELER GROUP INC	161.79
042050	10/10/06	E0025	ELECTRO-MESH CORPORATION	252.40
042051	10/10/06	E0030	EXECUTIVE BUSINESS PRODUCTS	405.01
042052	10/10/06	E0034	ESRI, INC.	1,600.00
042053	10/10/06	E0039	EXPRESSIONS OF LOVE FLORIST	75.00
042054	10/10/06	F0054	FORT DEARBORN LIFE INSURANCE	474.48
042055	10/10/06	G0006	GARBUTT, PATRICIA A.	52.36
042056	10/10/06	G0008	GALLO GMC TRUCK SALES INC.	730.72
042057	10/10/06	G0016	GARDNER HARDWARE INC.	47.96
042058	10/10/06	G0036	GFOA OF N.J. FALL CONFERENCE	125.00
042059	10/10/06	H0011	HALE TRAILER BRAKE & WHEEL	127.22
042060	10/10/06	H0018	HAROLD RUBIN/L & H SUPPLY	118.00
042061	10/10/06	J0014	JC MILLER CO.	6.79
042062	10/10/06	J0016	JERSEY SHORE PARTNERSHIP, INC	100.00
042063	10/10/06	J0039	JOHNSON & TOWER INC.	98.84
042064	10/10/06	J0041	JONES, JAMES M.	485.84
042065	10/10/06	J0045	JONES & BARTLETT PUBLISHERS	439.91
042066	10/10/06	K0007	KACZMARSKI, RICHARD	66.78
042067	10/10/06	K0014	KEENAN, BRIAN	96.00
042068	10/10/06	K0031	KELLY PRODUCTS CO SUPPLIES	99.96
042069	10/10/06	K0034	KOHLER, CLAUDE JR.	104.50
042070	10/10/06	K0048	KLEPAC, THADDEUS	23.59
042071	10/10/06	L0038	LAYTON, WILLIAM	220.00
042072	10/10/06	L0040	LEA, SHELLEY	8.00
042073	10/10/06	M0046	MASON, DAVID	48.00
042074	10/10/06	M0128	MUNICIPAL CLERKS ASSOC. N.J.	30.00
042075	10/10/06	M0148	MYRON MANUFACTURING CORP.	238.53
042076	10/10/06	M0173	MONROE SYSTEMS FOR BUSINESS	156.45
042077	10/10/06	N0004	NJ-AMERICAN WATER CO.	11.11
042078	10/10/06	N0032	NEOPOST INC.	6,690.00
042079	10/10/06	N0052	NATL YOUTH SPORTS COACHED ASSN	700.00
042080	10/10/06	N0072	NFPA INTERNATIONAL	490.40
042081	10/10/06	N0100	N.J. LEAGUE OF MUNICIPALITIES	450.00
042082	10/10/06	N0120	NORTHERN SAFETY CO. INC.	257.84
042083	10/10/06	P0008	PALMER, NANCY	59.25
042084	10/10/06	P0015	PACIFIC SALES & MANUFACTURING	972.50
042085	10/10/06	P0075	POSITIVE PROMOTIONS INC	1,653.04
042086	10/10/06	R0030	RIGGINS, INC.	4,176.33
042087	10/10/06	R0055	ROSIK, CAROL	12.00
042088	10/10/06	S0036	SCHULER, JAMES	150.00
042089	10/10/06	S0054	SENN, FRANCES	56.00

042090	10/10/06	S0057	SERVICE TIRE TRUCK CENTERS	323.16
042091	10/10/06	S0072	SEGIN, STEWART S.	155.98
042092	10/10/06	S0118	SMITH, HASTINGS	70.74
042093	10/10/06	S0126	SPIEGEL, BARBARA	203.65
042094	10/10/06	S0216	DEPT.31 0000261489	447.89
042095	10/10/06	T0020	TERWILLIGER, DUANE E.	20.00
042096	10/10/06	T0032	THE PRESS & SUNDAY PRESS	34.56
042097	10/10/06	T0035	THE PAPER OF UT/GAZETTE	131.20
042098	10/10/06	T0038	THOMAS, CHRISTOPHER	148.00
042099	10/10/06	T0048	TILL PAINT CO/D. FITZGERALD	1,494.00
042100	10/10/06	T0067	TOWNSHIP OF UPPER PETTY CASH	48.75
042101	10/10/06	T0080	TREASURER STATE OF N.J.	451.00
042102	10/10/06	T0098	TULL,LYNN	275.00
042103	10/10/06	V0005	VAN EMBDEN,NATHAN, ATTORNEY	150.00
042104	10/10/06	V0013	VERIZON WIRELESS	290.07
042105	10/10/06	V0022	VERIZON	236.85
042106	10/10/06	V0024	VAL-U AUTO PARTS L.L.C.	199.29
042107	10/10/06	X0002	XEROX CAPITAL SERVICES,LLC	60.00
042108	10/10/06	Y0008	YOUNG, DANIEL J. ESQUIRE PC	17,238.61
042109	10/10/06	Y0020	YOUNG, BARBARA L.	210.56
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Total Paid:			\$67,229.74	
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