

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
MINUTES FOR SEPTEMBER 10, 2007**

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

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

A moment of silence was observed in remembrance of September 11th.

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 - August 27, 2007 Regular Meeting and
Closed Session Minutes**

Moved by Jay Newman, second by Curtis Corson to approve the Minutes as written. During roll call vote four Committee members voted in the affirmative, Mrs. Camp abstained.

REPORT OF GOVERNING BODY MEMBERS

Frank Conrad, reported that all four of the Upper Township Football teams won their games on Saturday against Ocean City.

Barbara Camp, reported that the Department of Public Works has been very busy and during the months of July and August they collected a total of 1,476 tons of solid waste, 590 tons of recyclable materials, 7.5 tons of electronics and 1.5 tons of rigid plastics.

Curtis Corson, Deputy Mayor, reported on a meeting with New Jersey American Water Company he attended along with Paul Dietrich and Jay Newman. The water company is planning on connecting the Upper Township system with Middle Township. He stated the plan would improve reliability as well as water pressure for customers. NJ American Water has completed their survey work. The plan shows the water system extending from Osprey Point and joining the Middle Township system at Avalon Boulevard. The system would be routed along Corson Tavern Road to Kings Highway and then through Dennis Township. This would also allow for the placement of fire hydrants along the Route 9 corridor which would be very beneficial for fire protection. Mr. Corson also reported that the residents in the area would have

the opportunity to connect their homes to the water system if they chose to, however water hookup would not be mandatory.

Jay Newman, moved to hire Raymond Norton as a part-time EMT. Frank Conrad seconded the motion with all five Committee members voting in the affirmative.

Mr. Newman also encouraged everyone to attend the 9/11 Remembrance Ceremony at the Cape May County Administration Building on Tuesday at 5:00 P.M.

Richard Palombo, Mayor discussed a memo he received from the Cape May County Department of Health in that they would be starting their rabies-baiting program around Sept. 24, 2007. The Health Department will be dropping the material along the Garden State Parkway marsh areas in an effort to control rabies in county wildlife, particularly raccoons. He also reported on an email he received from Gretchen Bennett requesting a larger “Stop” sign at the intersection of West Katherine and Stagecoach. It was discussed that Paul Dietrich, Township Engineer would inspect the site and report on his recommendations.

OTHER REPORTS

RESOLUTIONS

- 1. In Observance of September 11th as “Always Remember Day”, to honor the innocent victims of September 11, 2001 and those who continue to fight for the freedom of this great nation.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 179-2007**

**RE: IN OBSERVANCE OF SEPTEMBER 11 AS “ALWAYS REMEMBER DAY”, TO
HONOR THE INNOCENT VICTIMS OF SEPTEMBER 11, 2001
AND THOSE WHO CONTINUE TO FIGHT
FOR THE FREEDOM OF THIS GREAT NATION**

WHEREAS, on September 11, 2001, terrorists hijacked four civilian aircraft, crashing two into the World Trade Center in New York City, a third into the Pentagon outside of Washington, D.C., and a fourth into the countryside of Pennsylvania; and

WHEREAS, thousands of innocent people were killed and injured as a result of these reprehensible attacks;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, that we do hereby

WHEREAS, in the two centuries since our Nation's birth, more than a million men and women in uniform have paid the price of liberty with their lives; and

WHEREAS, joining the ranks of these heroes are the thousands who have been held as prisoners of war or whose fate has never been resolved; and

WHEREAS, Americans will never forget those who have borne the indignities and sufferings of captivity in service to our country, those missing in action, or those who died as prisoners of war, far from home and family;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, that we acknowledge National POW/MIA Recognition Day on September 21, 2007; and be it further

RESOLVED, that we honor former American prisoners of war and those whose fate is still undetermined; and be it further

RESOLVED, that we encourage the American people to remember with special sympathy and concern the courageous families who maintain their steadfast vigil and who persevere in the search for answers and the peace that comes only with certainty;

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 10th day of September, 2007.

Resolution No.180-2007

Offered by: Conrad

Seconded by: Newman

Adopted: September 10, 2007

Roll Call Vote:

NAME	YES	NO	ABSTAINED	ABSENT
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>

3. Appointing Michelle Johnson as Deputy Tax Assessor.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 181-2007
RE: APPOINTING MICHELLE JOHNSON
AS DEPUTY TAX ASSESSOR**

WHEREAS, there is a vacancy in the title of Deputy Tax Assessor and it has been determined that there is a need to have this title filled; and

WHEREAS, the Township Committee has duly considered the matter and has determined that Michelle Johnson possesses all of the requisite qualifications for appointment to said position; and

WHEREAS, the Township Committee is of the further opinion that the said Michelle Johnson is a competent, fit and suitable person for appointment to the hereinafter designated position;

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. Michelle Johnson is hereby appointed Deputy Tax Assessor of the Township of Upper effective August 30,2007, with a stipend of \$550.00 per year in accordance with the Salary Ordinance.

Resolution No.181-2007
Offered by:Corson Seconded by:Newman
Adopted: September 10, 2007
Roll Call Vote:

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

4. Appointing Laurence Bond as Acting Supervisor of Roads to the Upper Township Department Of Public Works.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 182-2007

RE: APPOINTMENT OF LAURENCE BOND AS ACTING SUPERVISOR OF ROADS TO THE UPPER TOWNSHIP DEPARTMENT OF PUBLIC WORKS

WHEREAS, a need exists to appoint qualified personnel to the Upper Township Department of Public Works to insure optimal operation; and

WHEREAS, a recommendation has been made to the Township Committee and duly considered at the meeting of August 27, 2007; and

WHEREAS, this Resolution is intended to ratify the action heretofore taken.

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. Laurence Bond is hereby appointed to the title of Acting Supervisor of Roads in the Department of Public Works,

effective August 30, 2007 at an annual salary of \$61,550.00 in accordance with the Salary Ordinance.

3. This Resolution ratifies, confirms and approves action taken by the Township Committee, by motion, at the meeting of August 27, 2007.

Resolution No. 182-2007

Offered by: Camp

Seconded by: Conrad

Adopted: September 10, 2007

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>

5. Appointment of Leroy Shone As Acting Assistant Supervisor of Roads to the Upper Township Department Of Public Works.

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 183-2007

RE: APPOINTMENT OF LEROY SHONE

AS ACTING ASSISTANT SUPERVISOR OF ROADS

TO THE UPPER TOWNSHIP DEPARTMENT OF PUBLIC WORKS

WHEREAS, a need exists to appoint qualified personnel to the Upper Township Department of Public Works to insure optimal operation; and

WHEREAS, a recommendation has been made to the Township Committee and duly considered at the meeting of August 27, 2007; and

WHEREAS, this Resolution is intended to ratify the action heretofore taken.

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. Leroy Shone is hereby appointed to the title of Acting Assistant Supervisor of Roads in the Department of Public Works, effective August 30, 2007 at an annual salary of \$56,398.00 in accordance with the Salary Ordinance.

3. This Resolution ratifies, confirms and approves action taken by the Township Committee, by motion, at the meeting of August 27, 2007.

Resolution No. 183-2007

Offered by: Camp

Seconded by: Conrad

Adopted: September 10, 2007

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>

6. Reappointing William Bramble as Plumbing Sub-Code Official.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 184-2007**

**RE: REAPPOINTING WILLIAM BRAMBLE
AS PLUMBING SUB-CODE OFFICIAL**

WHEREAS, there is a need to fill the title of Plumbing Sub-Code Official; and

WHEREAS, the Township Committee has determined that William Bramble possesses all of the requisite qualifications for reappointment to said position; and

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

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

2. William Bramble is hereby reappointed to a 3-year term as Plumbing Sub-Code Official of the Township of Upper effective September 22, 2007, at an annual salary of \$6,950 in accordance with the Salary Ordinance. Said term expires on September 21, 2010.

Resolution No. 184-2007
Offered by: Newman
Adopted: September 10, 2007
Roll Call Vote:

Seconded by: Corson

<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>

7. Authorizing Change Order No. 1 for the 2007 Paving Project-Arawak Paving, resulting in extra work and a cost increase in the amount of \$35,692.75.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 185-2007
RE: AUTHORIZING A CHANGE ORDER FOR THE 2007 PAVING PROJECT
RESULTING IN AN INCREASE AND EXTRA WORK
IN THE AMOUNT OF \$35,692.75

WHEREAS, the Township of Upper has previously awarded the 2007 Paving Project bid to Arawak Paving Company, Inc., 7503 Weymouth Road, Hammonton, NJ 08037, in the original Contract amount of \$234,900.00; and

WHEREAS, the Township wishes to approve a Change Order to the aforesaid Contract as hereinafter provided; and

WHEREAS, the Chief Financial Officer has issued a certification as to the availability of funds for this Change Order; and

WHEREAS, this Change Order, comprising both extra equipment, as well as cost increases, does not exceed twenty percent (20) of the original Contract award; and

WHEREAS, this Change Order is in the best interests of the Township;

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. Change Order No. 1 to the 2007 Paving Project with Arawak Paving Company, Inc. is hereby authorized as follows:

Increases.....	\$35,692.75
Decreases.....	\$0.00
Extra Work.....	\$0.00
TOTAL.....	\$35,692.75

3. A copy of the Change Order detailing the nature and the extent of the work to be done, together with a summary of the Change Order, together with all other prior Change Orders, if any, are attached to this Resolution as Exhibit "A".

4. The Mayor and Chief Financial Officer are hereby authorized, directed and empowered to execute the Change Order on behalf of the Township of Upper.

5. All Township officials and officers are hereby authorized and directed to take all action necessary to carry out the intent and purpose of this Resolution.

Resolution No. 185-2007

Offered by:Newman

Seconded by:Corson

Adopted: September 10, 2007

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> x </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>

8. Supporting the submission of a Water Quality Management Plan for the County of Cape May under the existing Water Quality Management Rules (N.J.A.C. 7:15 et seq).

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 186-2007

RE: SUPPORTING THE SUBMISSION OF A WATER QUALITY MANAGEMENT PLAN FOR THE COUNTY OF CAPE MAY UNDER THE EXISTING WATER QUALITY MANAGEMENT RULES (N.J.A.C. 7:15 et seq)

WHEREAS, the New Jersey Department of Environmental Protection (NJDEP) oversees Water Quality Management Planning in the State of New Jersey as directed by Section 208 of the Federal Water Pollution Control Act Amendments of 1972 and the subsequent Clean Water Act of 1977; and

WHEREAS, the NJDEP has established Water Quality Management Rules (N.J.A.C. 7:15 et seq) to implement a continuing planning process to restore and maintain the chemical, physical and biological integrity of the waters of the State; and

WHEREAS, the Water Quality Management Rules provide a framework for local Water Quality Management Planning Agencies to develop regional water quality management plans; and

WHEREAS, the County of Cape May has served as the WQMP agency for the County of Cape May and therefore has developed the Cape May County Water Quality Management Plan which has been approved by the NJDEP; and

WHEREAS, the Cape May County Water Quality Management Plan is set to expire on September 28, 2007; and

WHEREAS, in the May 21, 2007 New Jersey Register, the New Jersey Department of Environmental Protection introduced the "Proposed Readoption with Amendments" to the WQMP Rules; and

WHEREAS, the Township of Upper has reviewed the NJDEP proposal and has several concerns regarding the impact of these

rules with respect to the burden that these rules will place on local government agencies; and

WHEREAS, it is anticipated that there will be significant delay in the adoption of the new rules due to the nature of the changes proposed and the number of public comments that will likely be submitted; and

WHEREAS, the County of Cape May and the Township of Upper feels that it is in the best interest of the County and the municipalities to avoid a lapse WQMP process by having an approved WQMP in place; and

WHEREAS, the County of Cape May has thus proposed to update its existing WQMP and submit it for approval under the current WQMP Rules, rather than seeking to develop a new plan under the new regulations which are not yet in place;

NOW, THEREFORE BE IT RESOLVED that the Township of Upper does hereby support the position of the County in this matter and therefore encourages the submission of an updated WQMP under the existing WQMP Rule prior to the September 28, 2007 expiration date of the Cape May County WQMP;

BE IT FURTHER RESOLVED that the Township of Upper offers its full support and cooperation in this matter.

Resolution No. 186-2007

Offered by: Camp

Seconded by: Conrad

Adopted: September 10, 2007

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>

9. Setting fees for Maintenance Stormwater Facilities in accordance with Revised General Ordinance No. 19-7.7z.2. No action taken. Resolution tabled.

ORDINANCES

10. Public Hearing and Final Adoption of Ordinance No. 009-2007, as amended, Re: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE

**CHAPTER XIX and XX (LAND SUBDIVISION AND SITE PLAN AND ZONING)
OF THE CODE OF UPPER TOWNSHIP.**

Paul Dietrich commented that the Ordinance now reflects the changes that were recommended at the last public hearing on August 6, 2007, and included the following: increasing of the tract setbacks from 60 ft. to 75 ft., increasing the landscape buffers from 35 ft. to 50 ft., landscape buffer requirements, and changes to Schedule C for the building height and parking in Strathmere.

The Mayor opened up the Public Comment portion of the hearing. The following comments were received:

Libby Schuck, Seaville asked what the ordinance was about. Mr. Young explained that this is a massive ordinance that covers many areas in the Township; it revises most of the Land Use Ordinance and is pursuant to a 2-year study and a Master Plan Re-examination throughout the Township. She asked about the COAH plan in particular. There is one mobile home park area proposed at this time on the easterly side of Tuckahoe Road, also known as the old "Shaw farm". The Planning Board is still working on subsequent Ordinances with respect to the COAH plan. She asked if any town has ever directly appealed the "Mt. Laurel" decision to the Federal Courts. Mr. Young reported that the Mt. Laurel decision has been appealed for the last 25 years and is currently in the State Supreme Court. Ms. Schuck read a prepared statement into the record opposing any COAH plan in Upper Township.

Frederick Banner, 24 Oak Street Marmora expressed his concern with the section of the ordinance that allows the tract boundary setback to be reduced to 25 ft. along a non-residential use as outlined in section 20-4.17d3 and 20-4.17f(d) of the Ordinance. Mr. Banner's concern is that the railroad tracks that border some of the established neighborhoods are already fifty feet wide and therefore would not require a tree buffer. He asked the committee to extend the buffer zone.

Curt Kuermerlee, 46 Rivendell Road, Marmora commented that he agreed with Mr. Banner and has concerns with the buffer zones.

John Davis, 49 Rivendell Rd, Marmora, also agrees with Mr. Banner.

Brian Levering, 300 Church Road Marmora stated his concerns that property values would decrease.

Mayor Palombo, explained that the Township is working very hard to develop a plan that would have the least negative impact on the community. The Township has no choice and must develop a plan. He explained that the owner of the Tuckahoe Road site offered their property to be utilized in this way. He explained that this particular person could sell their lot to a developer and we could be faced with another "Builders Remedy" lawsuit and which most likely would succeed. We could be faced with the developer building a high-rise structure of all low income housing on that property, with no issues on zoning or any other restrictions for the developer. We are trying to develop a plan with the least affect on surrounding neighborhoods. We have looked at Township owned properties and are trying to utilize them with the least impact to those neighborhoods as well. We are only allowed to transfer 170 of the 334 required units, and estimate that that would cost us \$5.9 million. The fact is that all of us have enjoyed relatively reasonable taxes compared to other towns and if we were to turn that location into a residential section all of our taxes would increase dramatically because none of the houses can support what the school taxes are. Right now we are accounting for the \$10,000 to

\$15,000 per child that attend our schools whether you have children in the school system or not. This unfortunately is what happens to towns in this State. All New Jersey communities are faced with this. Corbin City and West Cape May are faced with court situations right now. We are trying to prevent that in Upper Township. This has been one of the most difficult scenarios in our time on Township Committee except for the threat of the B.L. England plant closing which would really have affected our taxes if we had lost that \$6.4 million.

Mr. Dietrich discussed the mobile home site in that it could contain 112 units. Of the 112 units, 20% would be low income; approx. 24-25 units with an average household income of approximately \$35,000 to \$40,000.

John LaRosa, 4 Jason Drive, Palermo asked if the language with regard to the buffer zone can be changed from twenty-five feet to fifty feet and agreed with Mr. Banner.

Donna Wilsol 6 Jason Drive, Palermo commented on the impact the proposed mobile home park would have in that the tax revenue generated from the development would be minimal compared to other construction.

Mr. Young stated her comment was correct that a mobile home would generate less tax revenue than a single-family home. He explained that an average home in the Township has a tax bill of \$4000 to \$7000 per year with part of that going to the county and a large portion going to the School Board. An average home has 2-3 children and it costs \$20,000 to \$35,000 a year to education those children. The best thing that could have been built there that was residential is age restricted and no low income housing, like Osprey Point. That would have given us money for the School Board and the County and would not send any children into the school system. The problem is that we can only do so much of that and it must include an element of low income. This scenario does both of those, it keeps the number of school children down and it provides for the State requirement the 20% of low income. They are developing a plan that would have the least impact, (to taxes as well as socially); in an environment that the State of New Jersey is requiring us to do this or they will allow a developer to build whatever they want which could result in 3000 additional children of which 20% would be low income.

Ms. Wilsol, asked why couldn't structures similar to Osprey Point be built there instead of trailers. Mr. Dietrich answered that in order to make town houses more economical developers would want a higher unit density.

Michael Wolicki, Church Road commented that he is concerned with the section addressing the buffer zone adjacent to non-residential uses such as the Conrail property.

Robert Millar, 10 Nadine Drive, Marmora was in favor of building permanent structures on the proposed site instead of mobile homes.

Richard Travers, 14 Nadine Drive, Marmora commented on the developer and the number of units. Mr. Young explained exclusionary zoning. It is a big part of lawsuits with regard to COAH housing where the town tells the developer they can build whatever they want but the developer cannot do it because it is not economically viable. The court can step in to allow the developer to build whatever they want to satisfy the requirement. He further explained that the Township has had an exclusionary zoning ordinance and land use plan for the past twenty-five years. The reason we have not been subject to these suits is because we had the benefit of no sewers, so therefore it wasn't our fault, it was because of environmental regulations. With the new technology available, they can take an isolated lot and build a development with a package treatment plant, and it would be

economically viable. That is why when towns do the planning analysis, the COAH State program requires proof that a builder actually intends to build there so the town is required to send in a list of potential builders in order for the plan to work. The builder attorney suit comes into play when that is not done.

Janice Mc Elhenny, 12 Nadine Blvd., Palermo commented she is concerned that the crime rate may go up. She asked if the Township would be forced to have a police department. Mayor Palombo explained that the decision would be up to the legislature. He also commented that the Township has no choice but to build low-income housing to meet the COAH requirements. He assured her they are doing everything possible to find the best way to meet those requirements that would have the least negative impact on the residents of the Township.

Vivian Gilbertson, Shore Acres, Palermo Asked how if the proposed development at Shaw's farm would have school children. Paul Dietrich explained that 80% of the project would be age restricted, and 20% would be income restricted. The proposed number of units of the 20% would allow approximately sixteen children. Bedroom restrictions would determine the number of children living at the site. A one-bedroom unit would contain no children, two-bedroom units would allow one child and three-bedroom units would have a maximum of two children. The 20% would be a mixture of one to three bedroom unit. She also agreed with the other public speakers that the buffer should be extended.

James Germanio, Belleplain asked if the development would be a gated community. Mayor Palombo stated that there is no plan for that at this time.

There were no other speakers and the public portion of the hearing was closed.

The Committee continued discussion on the ordinance.

The following are the sections of Ordinance No. 009-2007 that were amended this evening and are as follows:

Ordinance No. 009-2007 An Ordinance Amending Revised General Ordinance Chapter XIX And XX (Land Subdivision And Site Plan And Zoning) Of The Code Of Upper Township was introduced at a Regular Meeting of the Upper Township Committee of the Township of Upper held on July 23, 2007 and was read for the first time. This Ordinance was further considered for final passage at the meeting of the Upper Township Committee on August 6, 2007. At the August 6, 2007 meeting amendments to this Ordinance were read and introduced. A public hearing for consideration and final passage, as amended, was held by the Upper Township Committee at their meeting of September 10, 2007. Further amendments to this Ordinance were read and introduced by the Upper Township Committee at the meeting on September 10, 2007. A Public Hearing shall be held on the amended Ordinance No. 009-2007 and consideration for final adoption by the Upper Township Committee shall take place at the Municipal Building located at 2100 Tuckahoe Road, Petersburg, New Jersey at a meeting beginning at 7:30 P.M. on October 9, 2007.

A copy of the amended Ordinance is on file in the Office of the Municipal Clerk of the Township of Upper and can be obtained without cost by any member of the public.

The purpose of Ordinance No. 009-2007 is to revise provisions of The Code of Upper Township relating to zoning districts, land subdivision, site plan and zoning standards.

The following sections of previously proposed Ordinance No. 009-2007 were amended on September 10, 2007 as follows:

- 20-4.17d3 Tract boundary setback shall be seventy-five (75') feet. This setback shall be landscaped. The required buffer and landscape planting may be located within the tract boundary setback. No roads, parking or buildings or structures shall be located within tract boundary setback with the exception of access driveways serving the development and/or bike/ jogging paths. ~~The tract boundary setback may be reduced to twenty-five (25') feet along a non-residential use, utility easements more than fifty (50') feet in width and railroad right-of-way.~~
- 20-4.17f1(d) ~~The landscape buffer may be reduced if adjacent to an non-residential use that requires a similar buffer, but in no case less than fifteen (15') feet wide with a single row of evergreen trees planted fifteen (15') feet on center.~~
- Schedule C MH Mobile Home Zoning District shall be revised as follows:
- | | | |
|------------------|----------------------|--------------------|
| Front Yard | from 100' | to 75' |
| Side Yard | from 60' (both 120') | to 75' (both 150') |
| Rear Yard | from 60' | to 75' |
| Landscape Buffer | from 35' | to 50' |

The amendments listed above will be published for the public's information. Motion made by Curtis Corson, second by Jay Newman for re-introduction of the ordinance as amended, with Public Hearing and Final Adoption set for October 9, 2007 at 7:30 P.M.

11. Public Hearing and Final Adoption of Ordinance No. 017-2007, Re: AN ORDINANCE VACATING CALIFORNIA AVENUE ABUTTING BLOCK 414, LOT 45 AND BLOCK 451, LOT 4 AS THE SAME APPEAR ON THE CURRENT OFFICIAL TAX MAP OF THE TOWNSHIP OF UPPER, CAPE MAY COUNTY, NEW JERSEY. Committeeman Conrad did not participate in discussion on this matter. Committeeman Corson mentioned that a letter was received from contiguous property owners, Van Vorst stating that they had no objection to the vacation of that portion of California Avenue. During the public comment portion of the hearing there were no speakers, however Robert Caldwell contiguous property owner and requester of this ordinance, was present in the audience. Motion was made by Jay Newman, second by Curtis Corson to adopt Ordinance No. 017-2007. During roll call vote four Committee members voted in the affirmative. Mr. Conrad abstained from voting.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE
ORDINANCE NO. 017-2007
AN ORDINANCE VACATING CALIFORNIA AVENUE ABUTTING
BLOCK 414, LOT 45 AND BLOCK 451, LOT 4 AS THE
SAME APPEAR ON THE CURRENT OFFICIAL TAX MAP OF
THE TOWNSHIP OF UPPER, CAPE MAY COUNTY, NEW JERSEY**

WHEREAS, N.J.S.A. 40:67-1 authorizes the Governing Body of a municipality to adopt an Ordinance, among other things, to vacate any street, highway, lane, alley, square, place or park, or any part thereof, dedicated to public use but not accepted by the municipality, whether or not the same, or any portion, has been actually opened or improved; and

WHEREAS, Caldwell Sand and Gravel, Inc. is the owner of individual tax lots in Tax Block 414 and 451 on the current Official Tax Map of the Township of Upper and has requested that the Township vacate a certain unimproved street described in this Ordinance and has agreed to incur all costs and expenses associated therewith; and

WHEREAS, the Township Committee has duly considered the matter and it appears reasonable to agree to the request since there is no present or foreseeable need or intention to construct said roadway; and

WHEREAS, it is deemed to be in the public interest to vacate an unimproved portion of California Avenue within the Township of Upper, as hereinafter provided.

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

SECTION 1: The public right in, along, upon and over the following described land is hereby vacated, surrendered and extinguished:

DESCRIPTION
FOR THE VACATION OF
THOSE UNIMPROVED STREETS
IN THE TOWNSHIP OF UPPER
COUNTY OF CAPE MAY, AND
STATE OF NEW JERSEY BEING VACATED:

That portion of California Avenue abutting Block 414, Lot 45 and Block 451, Lot 4 as shown on the current Official Tax Map of the Township of Upper, Cape May County, New Jersey.

SECTION 2: This Ordinance vacates no portion of California Avenue except that portion set forth and described in **SECTION 1** above.

SECTION 3: EXCEPTION: This Ordinance expressly reserves and excepts from vacation all rights and privileges now possessed by public utilities, as defined in R.S. 48:2-13, and by any cable television company, as defined in the "Cable Television Act", P.L. 1972, c. 186, (C.48:5A-1, et seq.), to maintain, repair and replace their existing facilities in, adjacent to, over or under the street, highway, lane, alley, square, place or park, or any part thereof, to be vacated, as hereinabove described.

SECTION 4: COSTS: Caldwell Sand and Gravel, Inc. must pay to the Township Clerk all costs and expenses associated with this street vacation prior to the final adoption of this Ordinance.

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

SECTION 6: EFFECTIVE DATE: 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 6TH OF AUGUST, 2007 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 10TH DAY OF SEPTEMBER, 2007 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

- 12. Jerry Mancuso, refund request for unused Construction Permit.** Motion was made by Jay Newman, second by Barbara Camp to refund permit fees as allowed by law. During roll call vote all five Committee members voted in the affirmative

NEW BUSINESS

- 13. Clean Ocean Action, 22nd Annual Fall Beach Sweeps, Saturday, October 20, 2007, 9:00 A.M. to 12:30 P.M. at Webster Avenue in Strathmere.** The Municipal Clerk will send a letter notifying the organization of the committee's approval.
- 14. Request from Upper Township Soccer Association, Inc. to hold a raffle on 1/6/2008 at the Upper Township Community Center for a Super Bowl trip (RA 319).** Motion was made by Jay Newman, second by Curtis Corson to grant the request. During roll call vote all five Committee members voted in the affirmative.

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.” moved by Barbara Camp, second by Jay Newman to approve all bills submitted. During roll call vote all five Committee members present voted in the affirmative.

Payroll: \$162,427.80
Bills submitted for payment: \$65,231.29

REPORT OF MUNICIPAL DEPARTMENTS:

- 15. Construction Code**
16. Clerk's Office

- 17. Tax Assessor
- 18. Finance Office
- 19. Department of Public Works
- 20. Upper Township Division of EMS
- 21. Tax Office-Tax Sale November 27, 2007, 10:00 A.M. Township Hall

Reports are available from the Clerk's Office.

PUBLIC COMMENT

CLOSED SESSION

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

RECONVENE PUBLIC PORTION OF MEETING

Elizabeth Bergus, Strathmere commented on the boat ramp fees.

ADJOURNMENT

There being no further business this evening the meeting was adjourned at 9:50 P.M. Next meeting scheduled for September 24, 2007 at 4:00 P.M.

Minutes prepared by

Wanda Gaglione, RMC
Municipal Clerk

Bill List

09/11/07				
044289	09/10/07	A0004	A+ COMMERCIAL OFFICE CLEANERS	275.00
044290	09/10/07	A0006	ADVANCE TREADS INC	600.00
044291	09/10/07	A0018	ACTION SUPPLY INC.	500.63
044292	09/10/07	A0025	ADVANTAGE RENTAL ACE HARDWARE	834.23
044293	09/10/07	A0028	ADVANTAGE RENTAL CENTER INC.	317.10
044294	09/10/07	A0074	ATLANTIC CARE OCCU. MEDICINE	422.26
044295	09/10/07	A0091	ATLANTIC CITY ELECTRIC	13,458.19
044296	09/10/07	A0094	ARCH WIRELESS	16.67
044297	09/10/07	B0111	BROSS, GEORGE	200.00
044298	09/10/07	B0134	BERGUS, ELIZABETH R.	417.39
044299	09/10/07	C0030	CAMP, BARBARA	60.00
044300	09/10/07	C0042	CAMPBELL FREIGHTLINER, LLC	604.65
044301	09/10/07	C0060	CAPRIONI'S PORTABLE TOILETS	1,586.00
044302	09/10/07	C0138	COASTAL PLUMBING & HEATING INC	142.50
044303	09/10/07	C0187	CROWTHER, BILL	323.98
044304	09/10/07	C0201	CRUZAN'S TRUCK SERVICE INC.	3,112.36
044305	09/10/07	D0048	DEUTER,JOHN	28.43
044306	09/10/07	E0030	EXECUTIVE BUSINESS PRODUCTS	399.73
044307	09/10/07	F0013	FARM RITE INC.	269.31
044308	09/10/07	F0015	FRANKEL, AL	190.00
044309	09/10/07	F0054	FORT DEARBORN LIFE INSURANCE	561.54
044310	09/10/07	G0008	GALLO GMC TRUCK SALES INC.	40.58
044311	09/10/07	G0015	GALL'S INC.	79.97

044312	09/10/07	G0028	GENTILINI FORD	72.30
044313	09/10/07	G0036	GFOA OF N.J. FALL CONFERENCE	325.00
044314	09/10/07	G0044	GILES & RANSOME, INC.	429.54
044315	09/10/07	G0056	GARCIA, MIKE	140.00
044316	09/10/07	G0061	GLASS SURGEON	228.00
044317	09/10/07	G0096	GRUND, GEORGE	99.95
044318	09/10/07	H0018	HAROLD RUBIN/L & H SUPPLY	503.54
044319	09/10/07	H0019	HARPER, GARY	190.00
044320	09/10/07	H0073	HOME DEPOT CRC/GECF	514.01
044321	09/10/07	J0014	JC MILLER CO.	344.45
044322	09/10/07	J0026	JIMMY'S LAKESIDE GARAGE	412.50
044323	09/10/07	K0034	KOHLER, CLAUDE JR.	4.00
044324	09/10/07	K0038	KINDLE FORD MERCURY, INC.	118.88
044325	09/10/07	K0055	KING, MIKE	140.00
044326	09/10/07	L0018	LANIER WRLDWDE/RICOH BUSINESS	1,037.19
044327	09/10/07	L0031	LORCO PETROLEUM SERVICES	280.00
044328	09/10/07	L0093	LIPKE, NEAL	360.75
044329	09/10/07	M0009	MCCAULEY, ROBERT	96.00
044330	09/10/07	M0046	MASON, DAVID	72.00
044331	09/10/07	M0057	MEYERS, GEORGE	190.00
044332	09/10/07	M0142	MASON, NICHOLAS	89.99
044333	09/10/07	M0170	MURRAY, TIM	190.00
044334	09/10/07	N0004	NJ-AMERICAN WATER CO.	125.41
044335	09/10/07	N0043	NAPA AUTO PARTS OF S.JERSEY	84.39
044336	09/10/07	P0032	PEDRONI FUEL CO.	2,539.32
044337	09/10/07	P0056	PHILADELPHIA TURF CO.	134.60
044338	09/10/07	P0094	PUBLIC SAFETY CENTER, INC.	405.80
044339	09/10/07	R0030	RIGGINS, INC.	3,649.99
044340	09/10/07	R0055	ROSIAK, CAROL	24.00
044341	09/10/07	S0031	SCHULER SECURITY, INC.	155.00
044342	09/10/07	S0057	SERVICE TIRE TRUCK CENTERS	2,480.64
044343	09/10/07	S0075	SHARP, RHONDA L.	4.00
044344	09/10/07	S0112	SOUTH JERSEY COURT ADM. ASSOC.	60.00
044345	09/10/07	S0118	SMITH, HASTINGS	166.00
044346	09/10/07	S0151	SOUTH JERSEY ANIMAL SERVICES	1,333.33
044347	09/10/07	S0216	DEPT.31 OOOO261489	49.98
044348	09/10/07	T0006	T.C.T.A.OF NJ	44.00
044349	09/10/07	T0020	TERWILLIGER, DUANE E.	240.00
044350	09/10/07	T0032	THE PRESS & SUNDAY PRESS	82.44
044351	09/10/07	T0034	THE PAPER OF U.T./GAZETTE	104.40
044352	09/10/07	T0041	THE TREE-MAN	1,360.00
044353	09/10/07	T0067	TOWNSHIP OF UPPER PETTY CASH	34.24
044354	09/10/07	T0097	TRICO EQUIPMENT INC.	472.67
044355	09/10/07	T0115	TUCKAHOE TURF FARMS INC	3,744.00
044356	09/10/07	U0008	UPPER TOWNSHIP BEACH PATROL	251.37
044357	09/10/07	U0025	UNITED STATES POSTAL SERVICE	2,500.00
044358	09/10/07	V0001	VCI EMERGENCY VEHICLE	2,169.47
044359	09/10/07	V0005	VAN EMBDEN, NATHAN, ATTORNEY	1,335.00
044360	09/10/07	V0013	VERIZON WIRELESS	306.55
044361	09/10/07	V0022	VERIZON	23.43
044362	09/10/07	V0024	VAL-U AUTO PARTS L.L.C.	281.13
044363	09/10/07	V0026	VITAL COMPUTER RESOURCES, INC.	28.80
044364	09/10/07	V0027	VANORDER, ROGER	222.41
044365	09/10/07	W0038	WILLIAMS, JEREMIAH J.	24.00
044366	09/10/07	W0047	WILLIAMSON, ROSS	200.00
044367	09/10/07	W0060	WOOLLEY, THOMAS	192.99
044368	09/10/07	Y0008	YOUNG, DANIEL J. ESQUIRE PC	9,726.31
044369	09/10/07	Z0001	ZOLL MEDICAL CORPORATION	397.00

Total Paid: \$65,231.29
