

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
MINUTES FOR FEBRUARY 9, 2004**

**BUDGET MEETING--6:00 P.M.**

Barbara Camp	Present
Curtis Corson	Present
Andrew McCrosson	Present
John "Jay" Newman	Present
Richard Palombo	Arrived at 6:05 P.M.

Also present were Municipal Clerk Wanda Gaglione, Finance Officer Patricia Garbutt, Municipal Attorney Daniel Young, and Municipal Auditor, Leon Costello.

This is the second workshop meeting for preparation of the 2004 Budget.

Mr. McCrosson asked Auditor Leon Costello to comment on the progress of this year's budget. He discussed that the Township's fund balance is decreasing and the importance of maintaining it.

Committeeman Andrew McCrosson commented that Upper Township does not have a local purpose tax, which is a unique situation in New Jersey. The Township is the collector of taxes for the Board of Education as well as for the County and Fire Districts. The Township is the receiving and disbursal agent for all those taxes. The percentage of tax collections is at 97.73%, which is the highest it's ever been. The collection rate is important because of the budget item *Reserve for Uncollected Taxes*, which is an appropriation fund based on the fact that not all taxes are collected. Although the percentage of tax collections is not 100% the Township must still remit the entire amount and sets that money aside through the *Reserve for Uncollected Taxes* appropriation.

The Property Revaluation project was discussed in that it can be paid for over a period of five years. An ordinance needs to be adopted which will be done after the bidding process is complete. The figure for the Reserve for sick pay is adequate.

There was discussion on the new roof needed at the Primary School. The anticipated cost is approximately \$500,000. Auditor Leon Costello explained that if the School Board paid for the roof, then the Board would be entitled to reimbursement from the State for 45% of the total cost. If the Township paid for the roof, the 45% reimbursement would not be available. The Township cannot designate how any of the annual contribution it makes to the Board of Education is used. Contributions number over \$52 million the last twenty years. Mr. Costello stated that it does not make sense and is unfair to taxpayers for the Township to incur the cost of the new roof when the School Board can be reimbursed from the State for 45% of the total cost. He explained that if the school authorizes debt for any purpose, currently the State is paying 45% of what they spend. Mr. Costello suggested that any other projects be grouped into the roof project with the low rates, etc. because the debt capacity of the School is more than adequate at a little over \$31.3 million.

Mr. McCrosson stated that the Township works hand in hand with our Schools by collecting their trash, plowing all their lots, doing their paving, creating the parking lots at the Middle School, and maintaining their fields. These are expenses other School Boards must incur themselves.

A figure of \$1.5 million for the *Transfer to the School Board* budget item was discussed. It represents a tax relief for our citizens. With this figure the budget is roughly \$100,000 over last year's budget, with the fund balance down to \$3,865,000, which is just \$35,000 more than last year.

During public comment, Elizabeth Bergus discussed an improvement the Township made to one of the school buildings.

Budget workshop meeting was adjourned.

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

### **CALL TO ORDER**

### **SUNSHINE ANNOUNCEMENT**

### **SALUTE TO THE FLAG – Cub Scout Pack 79.**

### **ROLL CALL**

Barbara Camp	Present
Curtis Corson	Present
Andrew McCrosson	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**

**January 26, 2004 Regular Meeting and  
Closed Session Minutes**

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

**Barbara Camp**, suggested that as we move through the budget process this year that UTTV be utilized to keep the public informed. It was suggested that Mr. McCrosson present a short program similar to what he did last year.

She commented on a letter she received from Cheryl Alessandrine. Mrs. Alessandrine requested that her animal rescue organization be allowed to lease the U.T. Animal Shelter building after the County Shelter is operational. She stated that they were not in a position at

this time to make a decision to lease the facility as other uses were being considered. It was discussed that the building could house lifeguard boats.

**Andrew McCrosson**, reported on the Treasurer's report in that the receipts are higher than the disbursements because our real estate taxes, which are due February 1<sup>st</sup>, are being collected. He explained that the taxes we collect do not represent money we use to operate our government. The money collected is used for our schools, the fire districts and the County. Typically we must operate on our reserve the first half of the year until any municipal aid is received.

Earlier this evening we had our second budget workshop for preparation of the 2004 Budget. Over the last several years we have been using large portions of our municipal surplus to provide tax relief in the form of contributions to the Board of Education to help them defray the costs. Over the last 20 years the Township has given the Board of Education over \$52 million, which is genuine property tax relief. We will continue to make an appropriation in our current year's budget but he reminded everyone that last year we cautioned the Board of Education that we could not continue to make those contributions at the current level. We expect to introduce our budget at the February 23, 2004 meeting.

**Curtis Corson, Deputy Mayor**, discussed a letter received from the Historical Society asking for directional signs for the Tuckahoe Train station. He directed the Engineer to look into this and to coordinate the completion of some of the other items listed.

**Jay Newman**, reported on the success of the Safety Vest Program and that an additional 100 vests were distributed at the Tuckahoe Fire Company's breakfast.

He commented on the tragic death of State Trooper, Bertram Zimmerman, who was killed in the line of duty this week. He made a motion to adopt a resolution in honor of his memory, Andrew McCrosson seconded with all five Committee members voting in the affirmative. Mr. Newman commended the State Police for being there everyday protecting us.

**Richard Palombo, Mayor**, commented on the retirement of William McDermott as member of the Great Egg Harbor National Scenic and Recreational River Council. Several applications were received from very capable people. John B. Olansen was nominated as the Upper Township representative to the River Council. Curtis Corson seconded with all five Committee members voting in the affirmative.

He received a letter of agreement from Mayor Knight of Ocean City that Upper Township would provide space for an emergency dispatch substation here in the event the Ocean City site is disabled.

He also received a letter from the Tuckahoe Post Office to utilize a part of the Community Center for mail sorting in the event the Post Office is not operational. He motioned to approve this, second by Curtis Corson with all five Committee members voting in the affirmative.

He attended the Seaville Fire Company installation dinner this past week and again thanked our fire and rescue people for giving their time to keep our community safe.

## **OTHER REPORTS**

**Wanda Gaglione, Municipal Clerk**, reported on a request made by the Safety Committee to appoint the two Union Representatives to the Safety Committee. It was explained that although both are appointed, that they could alternately attend the meetings. J. Michael Jones and Robert McCauley will be appointed to this committee. The public was reminded again about the free rabies clinic on Feb. 21, 2004.

**PRESENTATION**

- 1. Resolution No. 029-2004, entitled--Honoring Webelos Scouts of Cub Scout Pack 79, Matthew Luchese, Miles Schoedler, Carl Marks, Joseph Bradgon, Joseph Reign, William Ummarino, Eric Simmerman, David Dwyer, Holden Gentilini, Jack Harmelin, and Michael Williams, on attaining the Arrow of Light Award**  
Laminated copies of the resolution were presented to each Boy Scout.
  
- 2. Betty Corson, from Rutgers Cooperative Extension Service in Cape May Court House Presentation on a seminar being offered called Environmental Stewardship.**  
Mrs. Corson requested a postponement of this due to another pressing matter.

**RESOLUTIONS**

- 3. Honoring Robert Joseph Noble 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. 040-2004  
RE: HONORING ROBERT JOSEPH NOBLE ON ATTAINING THE  
DESIGNATION OF "EAGLE SCOUT"**

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**WHEREAS**, Robert Joseph Noble, a resident of Upper Township, 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 Robert 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 Robert'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 9th day of February, 2004.

Resolution No. 040-2004  
 Offered by: Corson,           Seconded by: McCrosson  
 Adopted: February 9, 2004  
 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>
Corson	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>
McCrosson	<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. Authorizing the partial release of Performance Bond for Richnan Group, L.P. for Block 453, Lot 98.01. Major Subdivision: Killdeer Hill Road.**

TOWNSHIP OF UPPER  
 CAPE MAY COUNTY  
 R E S O L U T I O N  
 RESOLUTION NO. 041-2004  
 RE: AUTHORIZING THE PARTIAL RELEASE OF PERFORMANCE BOND FOR  
 RICHNAN GROUP, L.P. FOR  
 BLOCK 453, LOT 98.01  
 OWNER AND/OR DEVELOPER: RICHNAN GROUP, L.P.

MAJOR SUBDIVISION: KILLDEER HILL ROAD  
PROPERTY: BLOCK 453, LOT 98.01

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WHEREAS, Richnan Group, L.P. (hereinafter ADeveloper≅), has completed the work on the project known as AKilldeer Hill Road Major Subdivision≅ and requested final inspection of same by the Municipal Engineer for the Township of Upper; and

WHEREAS, the Municipal Engineer has determined that certain improvements have been installed and are in satisfactory working condition; and

WHEREAS, the Municipal Engineer, based on the field inspection of the work completed, has recommended a partial release of the Performance Bond;

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 above are incorporated herein by this reference.

2. The original Performance Bond No. B194764 posted by the Developer shall be reduced as follows:

Amount of Cash Remaining: \$ 6,630.22

Amount of Bond Remaining: \$58,771.98

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

Resolution No. 041-2004

Offered by: McCrosson , Seconded by: Camp  
 Adopted: February 9, 2004  
 Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Camp	x			
Corson	x			
McCrosson	x			
Newman	x			
Palombo	x			

5. Supporting the redevelopment of Block 339, Lots 1-8, & 17-23.

TOWNSHIP OF UPPER  
 CAPE MAY COUNTY  
 R E S O L U T I O N  
 RESOLUTION NO. 042-2004  
 RE: SUPPORTING THE REDEVELOPMENT OF BLOCK 339, LOTS 1-8 AND 17-23

WHEREAS, the Township of Upper has applied for a grant from the New Jersey Department of Environmental Protection for the redevelopment of Block 339, Lots 1-8 and 17-23 on the municipal tax map; and

WHEREAS, the subject property has been in a dilapidated state since 1990; and

WHEREAS, the Township has incurred funds to purchase the Tax Sale Certificate in September 12, 1991; and

WHEREAS, the Township wishes to redevelop the subject property for office or retail use which would compliment the other retail and professional offices in the area; and

WHEREAS, redeveloping this property would help revitalize the Town of Tuckahoe; and

WHEREAS, having the clean up of environmental contamination at the subject property would make same more economically marketable for redevelopment and further prevent the

spread of any potential groundwater contamination that may exist;  
and

WHEREAS, the Township of Upper believes it is in the public's best interest to redevelop this property; and

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

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

2. The Township of Upper hereby supports the application to the New Jersey Department of Environmental Protection for grant money to redevelop Block 339, Lots 1-8 and 17-23 on the municipal tax map.

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

Resolution No. 042-2004

Offered by: Palombo,

Seconded by: McCrosson

Adopted: February 9, 2004

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>	
Corson	<u>x</u>	<u>          </u>	<u>          </u>	
McCrosson	<u>x</u>	<u>          </u>	<u>          </u>	
Newman	<u>x</u>	<u>          </u>	<u>          </u>	
Palombo	<u>x</u>	<u>          </u>	<u>          </u>	

6. Tax Corrections.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**Resolution No. 043-2004**  
**TAX CORRECTIONS**

**WHEREAS**, certain corrections have been recommended by the Upper Township Tax Collector in order to correct tax records,

**NOW, THEREFORE BE IT RESOLVED**, by the Township Committee of the Township of Upper, Cape May County, that corrections to the Tax records are hereby authorized and the Tax Collector is hereby directed to correct said records or take such action as indicated on the attached sheet.

Resolution No. 043-2004  
Offered by: McCrosson,      Seconded by: Newman  
Adopted: February 9, 2004  
Roll Call Vote:

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

**CANCEL TAX ERROR**  
**2003      597/38    \$2.85**

**CANCEL CREDIT ERROR**  
**2002      597/38      \$2.85**

- 7. Authorizing the execution of a N.J.D.E.P. Permit and Grant Application pursuant to Stormwater Rules and appointing the Township Engineer as Stormwater Program Coordinator.**

TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
R E S O L U T I O N  
RESOLUTION NO.    044 -2004  
RE: AUTHORIZING THE EXECUTION OF NJDEP PERMIT AND GRANT APPLICATIONS PURSUANT TO STORMWATER RULES AND APPOINTING

THE TOWNSHIP ENGINEER AS STORMWATER PROGRAM COORDINATOR

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WHEREAS, the State of New Jersey on January 5, 2004 adopted stormwater rules which impact municipalities; and

WHEREAS, under the aforesaid stormwater rules municipalities are required to apply for permits and grant monies to the NJDEP and a Stormwater Program Coordinator must be appointed by the Township in this regard; and

WHEREAS, the Township Committee of the Township of Upper has determined that the Township should make the appropriate applications for permits and grants pursuant to the stormwater rules and appoint the Township Engineer as Stormwater Program Coordinator; and

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

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

2. The appropriate Township officers are authorized to execute any and all applications for municipal stormwater permits and grant monies pursuant to the stormwater rules of the state of New Jersey.

3. The Township Engineer is hereby appointed Stormwater Program Coordinator pursuant to the state stormwater rules.

4. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or

advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 044-2004

Offered by: McCrosson, Seconded by: Newman

Adopted: February 9, 2004

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>
Corson	<u>x</u>	<u>          </u>	<u>          </u>	<u>          </u>
McCrosson	<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. Authorizing the award of a Professional Services contract with Dr. Stewart C. Farrell/Coastal Research Center of the Richard Stockton College of New Jersey for beach monitoring and consulting services or beach related issues.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY**

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

**RESOLUTION NO. 045-2004**

**RE: AUTHORIZING THE AWARD OF A PROFESSIONAL  
SERVICES CONTRACT WITH DR. STEWART C. FARRELL/COASTAL  
RESEARCH CENTER OF THE RICHARD STOCKTON COLLEGE OF  
NEW JERSEY FOR BEACH MONITORING AND CONSULTING  
SERVICES OR BEACH RELATED ISSUES**

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WHEREAS, the Township of Upper has received a proposal from Dr. Stewart C. Farrell on behalf of the Coastal Research Center of the Richard Stockton College of New Jersey, which proposal is dated December 1, 2003 and outlines services to be performed on behalf of the Township during the calendar year 2004 and provides a rate schedule for the services to be provided; and

WHEREAS, the Township Committee has considered this matter and has determined that it is in the best interest of the Township to authorize a Professional Services Contract as hereinafter provided;

**WHEREAS, the Township Solicitor has determined that the services to be provided are professional services and that a Contract may be awarded without competitive bid; and**

**WHEREAS, the Treasurer has certified the availability of funds to permit the Township to enter into a Professional Services Contract;**

**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 proposal of Dr. Stewart C. Farrell of the Coastal Research Center of the Richard Stockton College of New Jersey (hereinafter collectively referred to as AContractor≡), dated December 1, 2003, is hereby accepted, subject to the provisions of this Resolution. A copy of said proposal is attached hereto as Exhibit AA≡.**
- 3. The Mayor and Township Clerk are hereby authorized, directed and empowered to enter into a Professional Services Contract with the Contractor aforesaid for a one (1) year term commencing January 1, 2004. Said Agreement shall be prepared or approved by the Municipal Attorney for the Township of Upper. The Township Clerk is further authorized, directed and empowered to seal said Contract with the seal of the Township of Upper.**
- 4. The Township Clerk shall cause a Notice of Award of this Contract to be published in the official newspaper of the Township as required by N.J.S.A. 40A:11-5.**
- 5. This Contract is a Professional Services Contract and has been awarded without competitive bidding for the following reasons:**
  - (A) The services required are highly specialized or technical in nature;**
  - (B) The services require peculiar ability or skill, and demand a high degree of specialized knowledge or expertise;**

(C) The services required are professional services and/or unspecified extraordinary services within the meaning of N.J.S.A. 40A:11-5(a);

(D) The individual who will provide these services has demonstrated his competence and particular expertise in the services required;

(E) The services to be provided are such that their nature, scope and duration are not capable of precise measurement, but rather require a flexibility and discretion that render competitive bidding impractical and inefficient.

6. A certified copy of this Resolution shall be provided to the Contractor.

7. This Resolution shall take effect immediately provided, however, that the Contract awarded herein shall become effective January 1, 2004.

Resolution No. 045-2004

Offered by: McCrosson, Seconded by: Palombo

Adopted: February 9, 2004

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Camp	<u>x</u>	___	___	___
Corson	<u>x</u>	___	___	___
McCrosson	<u>x</u>	___	___	___
Newman	<u>x</u>	___	___	___
Palombo	<u>x</u>	___	___	___

**9. Adopting additional Upper Township Personnel Policies and amending and supplementing the Upper Township Employee Handbook.**

TOWNSHIP OF UPPER  
CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 046-2004

RE: ADOPTING ADDITIONAL UPPER TOWNSHIP PERSONNEL POLICIES AND  
AMENDING AND SUPPLEMENTING THE UPPER TOWNSHIP EMPLOYEE HANDBOOK

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WHEREAS, the Township of Upper maintains an Employment Practices Loss Control Program approved by the Municipal Excess Liability Joint Insurance Fund which requires the Township to review and update the Township Personnel Policies and Procedures Manual; and

WHEREAS, it is deemed necessary to supplement the current Township Personnel Policies and Procedures Manual and incorporate such supplements into the Township Employee Handbook; and

WHEREAS, the Township Committee of the Township of Upper has reviewed and approved new policies for Workplace Violence, Conflict of Interest, Political Activity, Employment Procedure and Requests for Employment Verification and Reference Procedure as set forth on the attached Exhibit A hereto and wishes to adopt same; and

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

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

2. The policies for Workplace Violence, Conflict of Interest, Political Activity, Employment Procedure and Requests for Employment Verification and Reference Procedure attached hereto as Exhibit A are hereby formally adopted as policies of the Township of Upper.

3. The aforesaid policies set forth in Exhibit A hereto shall be incorporated into the Township Employee Handbook.

4. To the extent existing policies or provisions in the Employee Handbook conflict with the attached Exhibit A, the terms and provisions of the attached Exhibit A shall supercede and control.

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. 046-2004

Offered by: Corson, Seconded by: McCrosson

Adopted: February 9, 2004

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>
Corson	<u>  x  </u>	<u>      </u>	<u>      </u>	<u>      </u>
McCrosson	<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 A

**SUPPLEMENTAL POLICIES OF THE TOWNSHIP OF UPPER  
TO BE INCLUDED IN THE UPPER TOWNSHIP EMPLOYEE HANDBOOK**

**Workplace Violence Policy**

The Township will not tolerate workplace violence. Violent acts or threats made by an employee against another person or property are cause for immediate dismissal and will be fully prosecuted. This includes any violence or threats made on Township property, at Township events or under other circumstances, that may negatively affect the Township's ability to conduct business.

**Prohibited conduct includes:**

- ☐ Causing physical injury to another person;
- ☐ Making threatening remarks;
- ☐ Aggressive or hostile behavior that creates a reasonable fear of injury to another person or subjects another individual to emotional distress;
- ☐ Intentionally damaging employer property or property of another employee;
- ☐ Possession of a weapon while on Township property or while on Township business except with the authority of the State Police; and
- ☐ Committing acts motivated by, or related to, sexual harassment or domestic violence.

Any potentially dangerous situations must be immediately reported. The Township will actively intervene in any potentially hostile or violent situation.

**Conflict of Interest Policy**

Employees including Township officials must conduct business according to the highest ethical standards of public service. Employees are expected to devote their best efforts to the interests of the Township. Violations of this policy will result in appropriate discipline including termination.

The Township recognizes the right of employees to engage in outside activities that are private nature and unrelated to Township business. However, business dealings that appear to create a conflict between the employee and the Township=s interests are unlawful under the New Jersey Local Government Ethics Act. Under the Act, certain employees and officials are required to annually file with the Township Clerk a state mandated disclosure form. The Township Clerk will notify employees and Township officials subject to the filing requirements of the Act.

A potential or actual conflict of interest occurs whenever an employee including a Township official is in a position to influence a Township decision that may result in a personal gain for the employee or an immediate relative including a spouse or significant other, child, parent, stepchild, sibling, grandparents, daughter-in-law, son-in-law, grandchildren, niece, nephew, uncle, aunt or any person related by blood or marriage residing in an employee=s household. Employees are required to disclose possible conflicts so that the Township may assess and prevent potential conflicts. If there are any questions whether an action or proposed course of conduct would create a conflict of interest, immediately contact the Township or the General Counsel of Upper Township to obtain clarification.

Employees are allowed to hold outside employment as long as it does not interfere with their Township responsibilities. Employees are prohibited from engaging in outside employment activities while on the job or using Township time, supplies or equipment in outside employment activities. The Personnel Officer may request employees to restrict outside employment if the quality of Township work diminishes. Any employee who holds an interest in, or is employed by, any business doing business with the Township must submit a written notice of these outside interests to the Township.

#### Political Activity Policy

Employees have exactly the same right as any other citizen to join political organizations and participate in political activities, as long as they maintain a clear separation between their official responsibilities and their political affiliations. Employees are prohibited from engaging in political activities while performing their public duties and from using Township time, supplies or equipment in any political activity. Any violation of this policy must be reported to the supervisor, Department Head, Personnel Officer or the General Counsel of Upper Township.

#### Employment Procedure

3 Recruitment: The Personnel Officer will coordinate the employment recruitment process for all vacancies to ensure

compliance with contractual, legal, Civil Service and equal opportunity requirements. When a vacancy occurs, it is the responsibility of the Department Head to notify the Personnel Officer who will distribute notification of the vacancy to all departments. The Personnel Officer will undertake to recruit qualified applicants in accordance with applicable Federal and State law (including New Jersey Department of Personnel regulations if the position is subject to Civil Service). Where positions are advertised, the media or other periodical utilized must have as wide circulation as possible to encourage applications from candidates from diverse backgrounds and must prominently state that the Township is an equal employment opportunity employer.

☐ Applications: All candidates must fully complete an application form. A resume will not be considered as a substitute for this form. The application is a confidential document and will not be available to anyone who is not directly involved in the hiring process.

☐ Interviews: The Personnel Officer or Department Head will coordinate the interview process including the scheduling of applicants, development of interview questions and standards to measure candidate responses. All questions must be in accordance with the New Jersey Division of Civil Rights Guidelines for Pre-Employment Inquiries. Reasonable accommodations must be made for disabled applicants.

☐ Physical Examinations: The Personnel Officer may require applicants, prior to employment, to successfully pass a physical examination consistent with the Americans with Disabilities Act to assure that the work required by the position will not cause injury to the employee or co-employees and that the person is fit to meet the requirements of the position. The Personnel Officer may require periodic physical examinations to determine the employee=s continued ability to perform the duties of the position. All physical examinations must be performed by a physician chosen by the Township at the expense of the Township. All medical records of employees and prospective employees are confidential and are to be maintained by the Personnel Officer separate from the employee=s official personnel file.

☐ Job Offers: The final decision will be made by the Township Committee after all references and other information has been verified. Every effort shall be made to offer reasonable accommodations pursuant to the Americans with Disabilities Act. The employment offer must be made in a letter to the candidate outlining all terms and conditions of the offer. The letter will also establish a deadline for acceptance.

- ☐ Acceptances and Rejections: If the first offer is rejected, the Township will decide to hire another candidate or re-open the position. Once a candidate accepts the employment offer, all other candidates will be notified in writing that they were not accepted for the position.
- ☐ Record Retention: All applications, notes made during interviews and reference checks, job offers and other documents created during hiring process must be returned to the Personnel Officer. Documents related to the successful candidate will be placed in the employee=s official personnel file except medical records including physical examinations must be maintained in a separate file. All records documents related to other candidates must be retained for at least one year. Records and documents created during the hiring process are confidential and must be retained in a locked cabinet.

**Requests for Employment Verification and Reference Procedure:**

Inquiries and written requests for references or employment verification regarding a current or former employee must be referred to the Personnel Officer. No employee may issue a reference letter without the permission of the Personnel Officer. Under no circumstances should any information be released over the phone.

In response to a request for information, the Personnel Officer will only verify an employee=s name, dates of employment, job title, department and final salary. No other data or information will be furnished unless (1) the Township is required to release the information by law or (2) the employee or former employee authorizes the Township in writing to furnish this information and releases the Township from liability.

**ORDINANCES**

**10. Public Hearing and Final Adoption of Ordinance No. 002-2004: An Ordinance vacating Myrtle Avenue between Reading Boulevard and Poplar Avenue within the Township of Upper, County of Cape May and State of New Jersey.**

There were no questions from the audience during the Public Comment portion of the hearing. Moved by Curtis Corson, second by Andrew McCrosson for final adoption. During roll call vote all Committee members voted in the affirmative.

TOWNSHIP OF UPPER  
 CAPE MAY COUNTY  
 O R D I N A N C E  
 ORDINANCE NO. 002-2004

**RE: AN ORDINANCE VACATING MYRTLE AVENUE BETWEEN READING BOULEVARD  
 AND POPLAR AVENUE WITHIN THE TOWNSHIP OF UPPER,  
 COUNTY OF CAPE MAY AND STATE OF 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, it is deemed to be in the public interest to vacate Myrtle 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  
THE CERTAIN UNIMPROVED STREET IN  
THE TOWNSHIP OF UPPER  
COUNTY OF CAPE MAY, AND  
STATE OF NEW JERSEY BEING VACATED:

That portion of Myrtle Avenue lying between Reading Boulevard and Poplar Avenue and abutting Block 21 and Block 22 as shown on the current Official Tax Map of the Township of Upper, County of Cape May, State of New Jersey;

SECTION 2: 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 3: REPEALER: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency only.

SECTION 4: 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 12TH OF JANUARY, 2004 AND WAS TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 9th DAY OF FEBRUARY, 2004 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

**11. Public Hearing and Final Adoption of Ordinance No. 003-2004: An ordinance vacating portions of certain unimproved streets known as Pine Grove Avenue abutting Block 633 and Block 634 and Oakwood Avenue abutting Block 634 and Block 635 as the same appear on the current official Tax Map of the Township of Upper, Cape May County, New Jersey.**

There were no questions from the audience during the Public Comment portion of the hearing. Moved by Jay Newman, second by Curtis Corson for final adoption. During roll call vote all Committee members voted in the affirmative.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
ORDINANCE  
ORDINANCE NO. 003-2004  
AN ORDINANCE VACATING PORTIONS OF CERTAIN  
UNIMPROVED STREETS KNOWN AS PINE GROVE AVENUE ABUTTING  
BLOCK 633 AND BLOCK 634 AND OAKWOOD AVENUE**

**ABUTTING BLOCK 634 AND BLOCK 635 AS THE  
SAME APPEAR ON THE CURRENT OFFICIAL TAX MAP OF  
THE TOWNSHIP OF UPPER, CAPE MAY COUNTY, NEW JERSEY.**

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**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**, Noel McCreesh and the Estate of Robert Guntner are the owners of individual lots in Tax Block 633, Tax Block 634 and Tax Block 635 on the current Official Tax Map of the Township of Upper and said parties requested the Township to vacate certain unimproved streets described in this Ordinance and has agreed to incur all costs and expenses associated therewith; and

**WHEREAS**, Noel McCreesh and the Estate of Robert Guntner have entered into an agreement with the Township which provides for the vacating of said unimproved streets and which details numerous conditions and requirements, including the exchange of certain lands between the parties; 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 roadways but nevertheless the adoption of this Ordinance is expressly conditioned upon and subject to the following conditions:

- A) The execution and recording of a Deed of Consolidation combining and consolidating said vacated portion of Pine Grove Avenue abutting the lands of Noel McCreesh and the

Estate of Robert Guntner with Block 634, Lots 17-24 and Block 633, Lots 33-40 into a single lot.

- B) The execution and recording of a Deed of Consolidation combining and consolidating said vacated portion of Oakwood Avenue abutting the lands of Noel McCreesh and the Estate of Robert Guntner with Block 635, Lots 1-4 and 14-18 and Block 635, Lots 5-13 into a single lot.

**WHEREAS**, it is deemed to be in the public interest to vacate unimproved portions of said certain streets or rights-of-way within the Township of Upper, as hereinafter provided; and

**WHEREAS**, the Township Committee of the Township of Upper previously attempted to vacate said portions of Pine Grove Avenue and Oakwood Avenue pursuant to Ordinance No. 012-2003 and it was subsequently discovered that said Ordinance was technically defective such that the Township now desires to correct said deficiency by adoption of the within Ordinance.

**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:

A. That portion of Pine Grove Avenue lying between Ocean Avenue and Pacific Avenue and abutting Block 633 and Block 634 as shown on the current Official Tax Map of the Township of Upper, Cape May County, New Jersey;

B. That portion of Oakwood Avenue lying between Ocean Avenue and Pacific Avenue and abutting Block 634 and Block 635 as shown on the current Official Tax Map of the Township of Upper, Cape May County, New Jersey.

**SECTION 2: 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 3: REPEALER:** All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency only.

**SECTION 4: 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 12TH OF JANUARY, 2004 AND WAS TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 9TH DAY OF FEBRUARY, 2004 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

**12. Introduction and First Reading of Ordinance No. 004-2004: An Ordinance authorizing sale of lands to wit: Block 588, Lots 31-34, and Block 595, Lots 1-12.**  
Motion to introduce ordinance with Public Hearing set for March 8, 2004 at the 7:30 P.M. meeting, by Curtis Corson, second by Andrew McCrosson with all five Committee people voting in the affirmative.

**TOWNSHIP OF UPPER**

**CAPE MAY COUNTY  
O R D I N A N C E  
ORDINANCE NO. 004-2004  
RE: AN ORDINANCE AUTHORIZING SALE OF LANDS, TO WIT BLOCK 588, LOTS 31-34 AND BLOCK 595, LOTS 1-12**

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WHEREAS, the Township of Upper is the owner, in fee, of certain parcels of vacant ground located within the Township of Upper, County of Cape May, and State of New Jersey, set forth on the municipal tax map as Block 588, Lots 31-34 and Block 595, Lots 1-12; and

WHEREAS, the Township has received an offer from Nancy Didriksen, the owner 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; will provide for the consolidation of existing undersized lots with an existing single family lot to create additional privately owned open space not subject to further development; 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:

Parcel A: Block 588, Lots 31-34

Parcel B: Block 595, Lots 1-12

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:

Parcel A: Block 588, Lots 31-34, Minimum Bid: \$4,000.00

Parcel B: Block 595, Lots 1-12, Minimum Bid: \$18,000.00

**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:** Nancy Didriksen shall pay the following sum to the Township Clerk prior to the adoption of this Ordinance:

Upon approval of Township  
Committee to offer property  
for sale at public auction.....\$500.00

Of this amount, \$250.00 will be retained by the Township and used to defray Township expenses involved in Authorizing the Sale and terms thereof; Engineer=s review; Attorney=s review; legal advertising, certified mail notices and other expenses.

The balance of \$250.00 will be applied toward the cost of title report, title insurance and closing costs.  
If the parcel is not sold at auction, This amount will be retained by the Township as **LIQUIDATED DAMAGES** and will be used to pay for 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 \$300.00, representing pre-sale amounts paid by the original applicant requesting the sale, exclusive of the deposit for title insurance and closing costs;

And

-The original applicant (who is not the highest bidder) will then be entitled to a complete refund of all sums paid (\$500.00) plus the application fee (\$50.00), for a total of \$550.00.

**SECTION 4:** 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 from the date of sale and no earlier than 14 days from 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 5:** The Committee Township 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 6:** 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 nonrefundable.

**SECTION 7:** 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 8:** 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) The sum of \$130.00 (\$380.00 less the \$250.00 deposit, equals \$130.00), payable to a title company designated by the Township Clerk, which company prepared the report of title prior to the auction sale, and representing the following:
  - (i) The sum of \$100.00 for the preparation of the Deed.
  - (ii) The sum of \$30.00 for recording the Deed.
  - (iii) At closing the bidder shall be entitled to receive a refund in the event that the charges for title insurance or title search and other closing costs are less than \$380.00 or, in the alternative, the bidder will be required to pay to the title company conducting closing any excess amount.

**IF THE BIDDER IS NOT THE ORIGINAL APPLICANT:**

- (B) The sum of 300.00, payable to the Township of Upper, representing payment of the non-refundable application fee of \$50.00; payment to the Township for administrative expenses of \$250.00; to defray Township expenses, which amounts were required of the original applicant.
- (C) The sum of \$380.00, payable to a title company designated by the Township Clerk, which company prepared the report of title prior to the auction sale, and representing the following:
  - (i) The sum of \$100.00 for the preparation of the Deed.
  - (ii) The sum of \$30.00 for recording the Deed.
  - (iii) The sum of \$250.00 as a deposit for the title search and title insurance and other closing costs. At closing the bidder shall be

entitled to receive a refund in the event that the charges for title insurance or title search and other closing costs are less than said amount or, in the alternative, the bidder will be required to pay to the title company conducting closing any excess amount.

**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.

**SECTION 9:** 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 10:** 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 11:** The Deed from the Township of Upper shall be what is commonly known as a Bargain and Sale Deed.

**SECTION 12:** 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 13:** 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 14:** 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 15:** 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 16:** The provisions of this Ordinance pertaining to this sale shall survive the closing of title and shall not merge into the Deed.

**SECTION 17:** 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 the bidder's existing 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 18:** 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 9TH OF FEBRUARY, 2004 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 9TH DAY OF FEBRUARY, 2004 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

**13. Introduction and First Reading of Ordinance No. 005-2004: An Ordinance authorizing sale of lands to wit: Block 24, Lots 38-42.**

Motion to introduce ordinance with Public Hearing set for March 8, 2004 at the 7:30 P.M. meeting, by Curtis Corson, second by Jay Newman with all five Committee people voting in the affirmative.

**TOWNSHIP OF UPPER**

**CAPE MAY COUNTY  
O R D I N A N C E  
ORDINANCE NO. 005-2004  
RE: AN ORDINANCE AUTHORIZING SALE OF LANDS,  
TO WIT BLOCK 24, LOTS 38, 39, 40, 41 and 42**

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WHEREAS, the Township of Upper is the owner, in fee, of certain parcels of vacant ground located within the Township of Upper, County of Cape May, and State of New Jersey, set forth on the municipal tax map as Block 24, Lots 38, 39, 40, 41 and 42; and

WHEREAS, the Township has received an offer from George and Connie Meher III, 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; will provide for the consolidation of existing undersized lots with a nonconforming lot to make a nonconforming lot more conforming; 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 24, Lots 38, 39, 40, 41 and 42

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 24, Lots 38, 39, 40, 41 and 42

Minimum Bid:           \$10,000.00

**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:** George and Connie Meher III shall pay the following sum to the Township Clerk prior to the adoption of this Ordinance:

Upon approval of Township  
Committee to offer property  
for sale at public auction.....\$500.00

Of this amount, \$250.00 will be retained by the Township and used to defray Township expenses involved in Authorizing the Sale and terms thereof; Engineer=s review; Attorney=s review; legal advertising, certified mail notices and other expenses.

The balance of \$250.00 will be applied toward the cost of title report, title insurance and closing costs.  
If the parcel is not sold at auction, This amount will be retained by the Township as **LIQUIDATED DAMAGES** and will be used to pay for 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 \$300.00, representing pre-sale amounts paid by the original applicant requesting the sale, exclusive of the deposit for title insurance and closing costs;

And

-The original applicant (who is not the highest bidder) will then be entitled to a complete refund of all sums paid (\$500.00) plus the application fee (\$50.00), for a total of \$550.00.

**SECTION 4:** 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 from the date of sale and no earlier than 14 days from 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 5:** The Committee Township 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 6:** 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 7:** 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 8:** 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) The sum of \$130.00 (\$380.00 less the \$250.00 deposit, equals \$130.00), payable to a title company designated by the Township Clerk, which company prepared the report of title prior to the auction sale, and representing the following:
  - (i) The sum of \$100.00 for the preparation of the Deed.
  - (ii) The sum of \$30.00 for recording the Deed.
  - (iii) At closing the bidder shall be entitled to receive a refund in the event that the charges for title insurance or title search and other closing costs are less than \$380.00 or, in the alternative, the bidder will be required to pay to the title company conducting closing any excess amount.

**IF THE BIDDER IS NOT THE ORIGINAL APPLICANT:**

- (B) The sum of 300.00, payable to the Township of Upper, representing payment of the non-refundable application fee of \$50.00; payment to the Township for administrative expenses of \$250.00; to defray Township expenses, which amounts were required of the original applicant.
- (C) The sum of \$380.00, payable to a title company designated by the Township Clerk, which company prepared the report of title prior to the auction sale, and representing the following:
  - (i) The sum of \$100.00 for the preparation of the Deed.
  - (ii) The sum of \$30.00 for recording the Deed.
  - (iii) The sum of \$250.00 as a deposit for the title search and title insurance and other closing costs. At closing the bidder shall be

entitled to receive a refund in the event that the charges for title insurance or title search and other closing costs are less than said amount or, in the alternative, the bidder will be required to pay to the title company conducting closing any excess amount.

**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.

**SECTION 9:** 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 10:** 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 11:** The Deed from the Township of Upper shall be what is commonly known as a Bargain and Sale Deed.

**SECTION 12:** 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 13:** 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 14:** 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 15:** 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 16:** The provisions of this Ordinance pertaining to this sale shall survive the closing of title and shall not merge into the Deed.

**SECTION 17:** 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 the bidder=s existing 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 18:** 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 9<sup>TH</sup> OF FEBRUARY, 2004 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 8TH DAY OF MARCH, 2004 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**

### **NEW BUSINESS**

- 14. N.J. Department of Environmental Protection, Green Acres Program; street vacation request.** The subject area is located in Strathmere and is under water. A letter will be sent to the Green Acres Program asking if they would incur the costs

involved in the request—advertisements, postage for extensive notices and ordinance preparation. Tabled to the February 23, 2004 meeting.

- 15. Upper Township Soccer Association, Inc., request to hold 50-50 raffle on March 19, 2004.** Motion by Andrew McCrosson, second by Jay Newman with all five Committee members voting 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 Curtis Corson, second by Richard Palombo with all five Committee members voting in the affirmative.

Payroll:	\$138,454.67
Bills approved for payment:	\$1,087,206.78

**REPORT OF MUNICIPAL DEPARTMENTS:**

- 16. Construction Code-end of month report and end of year report.**

**17. Clerk’s Office**

**18. Finance Office**

Reports are in the Clerk’s Office for inspection.

**PUBLIC COMMENT**

**Robert McAllister**, of 10 Magnolia Court. His request to purchase Township owned property was denied at the last meeting because the sale would have the potential of creating additional building lots. He amended his request to purchase just a portion of Block 549, Lot 70 so that an existing swale could be moved further from his house. Presently the swale is located about 20 feet from the house. He stated he would incur all costs to accomplish this. The Committee recommended that he work with the engineer to and come up with a plan to submit for review.

**Connie Meher**, asked about her land sale which the Township introduced tonight as Ordinance 005-2004. Attorney Daniel Young explained to her that there will be a Public Hearing at the March 8, 2004 meeting. Then notices for a land sale auction will be sent out to residents whose property adjoins these lots. The highest bidder will then be confirmed by a resolution from the Township Committee.

**Assistant Commander Edward Sink**, thanked the Committee and the residents for their expressions of sympathy in the death of N.J. State Trooper Bertram Zimmerman.

**CLOSED SESSION**

**19. 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**

**ADJOURNMENT**

There being no further business this evening the meeting was adjourned at 10:10 P.M. Next meeting to be February 23, 2004 at 4:00.

Minutes prepared by

Wanda Gaglione, RMC  
Municipal Clerk

**Bill List**

02/10/04

TOWNSHIP OF UPPER

035447	02/09/04	A0004	A+ COMMERCIAL OFFICE CLEANERS	175.00
035448	02/09/04	A0018	ACTION SUPPLY INC.	41.80
035449	02/09/04	A0023	ADAMS, JOHN	10.00
035450	02/09/04	A0061	ASSOC. CERT. TAX ASSESSORS CMC	610.00
035451	02/09/04	A0094	ARCH WIRELESS	15.65
035452	02/09/04	A0097	ATLANTIC GOLF & TURF	441.00
035453	02/09/04	B0008	BAILEY, CARROLL	20.00
035454	02/09/04	B0020	BLAKER, RAYMOND	240.85
035455	02/09/04	B0026	BETTER MATERIALS CORP.	1,271.22
035456	02/09/04	B0070	HORIZON BLUE CROSS/BLUE SHIELD	70,697.44
035457	02/09/04	B0076	BOND, LAURENCE E.	50.00
035458	02/09/04	B0092	BROKER, EUGENE JR.	34.00
035459	02/09/04	B0178	BUGANSKI, PETER R.	10.00
035460	02/09/04	C0002	C.M.C. CHAMBER OF COMMERCE, INC	465.00
035461	02/09/04	C0019	CITY OF OCEAN CITY	36,953.75
035462	02/09/04	C0021	CIVIL SOLUTION A DIVISION	840.00
035463	02/09/04	C0030	CAMP, BARBARA	174.00
035464	02/09/04	C0052	CAPE MAY COUNTY TREASURER	902,990.04
035465	02/09/04	C0060	CAPRIONI'S PORTABLE TOILETS	442.00
035466	02/09/04	C0094	CHERNOSKI, STEVE	200.00
035467	02/09/04	C0124	CMC MUNICIPAL CLERK'S ASSOC.	300.00
035468	02/09/04	C0160	CONECTIV POWER DELIVERY	16,459.74
035469	02/09/04	C0166	CONECTIV POWER DELIVERY	11,187.09
035470	02/09/04	D0026	DEAUGUSTINE, JOE	10.00
035471	02/09/04	D0040	DELTA DENTAL PLAN OF N.J. INC.	3,497.11
035472	02/09/04	D0080	DOWNAM, HARRY J. JR.	10.00
035473	02/09/04	D0083	DOUGLAS ELECTRIC	2,130.00
035474	02/09/04	D0105	DANONE WATERS OF NORTH AMERICA	16.33
035475	02/09/04	E0025	ELECTRO-MESH CORPORATION	37.00
035476	02/09/04	E0026	ERICH PRINTING INC.	3,151.00
035477	02/09/04	E0030	EXECUTIVE BUSINESS PRODUCTS	245.55
035478	02/09/04	F0053	FORD, SCOTT, SEIDENBURG & KENNEDY	6,200.00
035479	02/09/04	F0054	FORT DEARBORN LIFE INSURANCE	460.38
035480	02/09/04	G0006	GARBUTT, PATRICIA A.	4.00
035481	02/09/04	G0037	GFOA OF NEW JERSEY	150.00
035482	02/09/04	G0067	GLOBAL EQUIPMENT CO.	1,220.35
035483	02/09/04	G0093	GRUBB, JON KEVIN	10.00
035484	02/09/04	G0094	GRUBB, JON	10.00
035485	02/09/04	G0120	GILBERTSON, GILBERT O.	8.00

035486	02/09/04	H0006	HABERMAN, WILLIAM	10.00
035487	02/09/04	H0012	HALL,ARTHUR	10.00
035488	02/09/04	H0056	HIGBEE, LINDA	199.99
035489	02/09/04	H0057	HISTORICAL PRESERVATION	429.08
035490	02/09/04	H0060	HOLZER, JEFFREY	850.00
035491	02/09/04	H0073	HOME DEPOT CRC/GECF	34.96
035492	02/09/04	J0002	J.P. COLLINS CO.	359.66
035493	02/09/04	J0005	JACKSON,THOMAS ENTERPRISES,INC	150.00
035494	02/09/04	J0014	JC MILLER CO.	132.63
035495	02/09/04	J0018	JEFFERS FLORIST	353.74
035496	02/09/04	J0039	JOHNSON & TOWER INC.	725.00
035497	02/09/04	K0007	KACZMARSKI, RICHARD	59.98
035498	02/09/04	K0020	KENNEY,EDWARD	324.00
035499	02/09/04	K0047	KLINE, EDWARD T.	10.00
035500	02/09/04	L0018	LANIER WORLDWIDE, INC.	621.45
035501	02/09/04	L0034	LAYTON, BRENDA MRS.	56.00
035502	02/09/04	L0038	LAYTON, WILLIAM	10.00
035503	02/09/04	L0072	LLOYD, JOEL	10.00
035504	02/09/04	M0007	MCAA OF NJ	125.00
035505	02/09/04	M0009	MCCAULEY, ROBERT	10.00
035506	02/09/04	M0046	MASON, DAVID	36.00
035507	02/09/04	M0059	MCDANIELS, WILLIAM J. III	10.00
035508	02/09/04	M0103	MODERN GAS COMPANY, INC.	2,178.75
035509	02/09/04	M0142	MASON, NICHOLAS	10.00
035510	02/09/04	N0079	NIGP - SOUTH JERSEY	60.00
035511	02/09/04	P0008	PALMER,NANCY	88.06
035512	02/09/04	P0026	PAYNTER, JOSEPH	10.00
035513	02/09/04	P0030	PECO PERIPHERAL COMPANY, INC.	2,489.55
035514	02/09/04	P0032	PEDRONI FUEL CO.	941.89
035515	02/09/04	P0064	PITNEY BOWES CREDIT CORP.	585.00
035516	02/09/04	P0073	POGUE INC.	3,944.00
035517	02/09/04	R0030	RIGGINS, INC.	2,455.43
035518	02/09/04	R0061	RUTGERS, THE STATE UNIVERSITY	263.00
035519	02/09/04	S0001	SAM'S CLUB	36.56
035520	02/09/04	S0034	SCHULER, DANIEL	10.00
035521	02/09/04	S0036	SCHULER, JAMES	10.00
035522	02/09/04	S0072	SEGIN, STEWART S.	152.97
035523	02/09/04	S0122	SOMERS POINT LUMBER INC.	487.25
035524	02/09/04	T0006	T.C.T.A.OF NJ	150.00
035525	02/09/04	T0020	TERWILLIGER, DUANE E.	18.00
035526	02/09/04	T0032	THE PRESS & SUNDAY PRESS	191.76
035527	02/09/04	T0034	THE PAPER OF U.T./GAZETTE	949.28
035528	02/09/04	T0038	THOMAS, CHRISTOPHER	10.00
035529	02/09/04	T0067	TOWNSHIP OF UPPER PETTY CASH	33.89
035530	02/09/04	U0013	U.T. WRESTLING ASSOC.	865.00
035531	02/09/04	V0013	VERIZON WIRELESS	158.51
035532	02/09/04	V0022	VERIZON	246.15
035533	02/09/04	W0015	WASTE NEWS	25.00
035534	02/09/04	W0016	WARRINGTON,MARILYN	32.00
035535	02/09/04	W0029	WHILDEN,GARY	10.00
035536	02/09/04	W0030	WEST PUBLISHING CO.	1,157.00
035537	02/09/04	W0038	WILLIAMS, JEREMIAH J.	221.29
035538	02/09/04	W0060	WOOLLEY, THOMAS	86.00
035539	02/09/04	Y0008	YOUNG, DANIEL J. ESQUIRE PC	6,004.65
035540	02/09/04	Y0012	YOUNG,ROBERT	10.00

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Total            \$1,089,206.78