

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
MINUTES FOR August 25, 2003**

REGULAR MEETING OF THE TOWNSHIP COMMITTEE –4:00 P.M.

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

ROLL CALL

David Bucciarelli	Absent
Curtis Corson	Present
Andrew McCrosson	Present
John “Jay” Newman	Present
Richard Palombo	Present

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

**APPROVAL OF MINUTES - August 11, 2003 Regular Meeting and
Closed Session Minutes**

Moved by Curtis Corson, second by Andrew McCrosson to approve the Minutes. During roll call vote three voted in the affirmative and Mayor Palombo abstained from voting.

REPORT OF GOVERNING BODY MEMBERS

Andrew McCrosson, introduced motions for the following:

1. to oppose Assembly 1518 and Senate 725 known as the Home Based Business Bill. Second was by Curtis Corson with all four Committeemen present voting in the affirmative.
2. to support Senate 838 which outlaws punitive damages imposed on public entities. Second was by Jay Newman with all four Committeemen present voting in the affirmative.
3. to support Senate 1727 and Assembly 2619 for funding to continue Rt. 55. Curtis Corson seconded and all four Committeemen voted in the affirmative.

Jay Newman, reported that the Township purchased computer equipment to make photo identification cards for all Township employees. Employees at the Municipal Building will be required to wear a photo I.D. during working hours. Employees from other departments will not be required because of the possibility of it getting torn off, however they will be required to carry it with them during the workday. The employee handbook will be amended to include these requirements. Also, in accordance with N.J. Homeland Security, essential employees will be designated. In the case of emergency conditions, for instance during inclement weather conditions when the county or state may have roads blocked or closed in the township--the essential employee designation would permit access to certain employees to prevent interruption of emergency township services.

He introduced a motion to hire Angela Grayson and Robert Bennett as part-time Emergency Medical Technicians for the Rescue Squad. Curtis Corson seconded with all four Committeemen present voting affirmative.

He also announced that the Fort Nuwi organization will hold a "Sanding and Sealing" party on October 4 & 5, 2003, from 8:00 A.M. to 4:00 P.M. for the playground at Caldwell Park. Fort Nuwi is looking for volunteers to work as well as donations of food and drinks for the workers.

Richard Palombo, Mayor, announced that on August 26, 2003 at 5:30 P.M. the County will hold a ground breaking ceremony for the new county wide Animal Shelter.

He reported that due to staffing and budgetary problems beaches in Strathmere will be closed after Labor Day. He commended and thanked the lifeguards for their protection of our citizens this summer.

OTHER REPORTS

Paul Dietrich, Municipal Engineer, was authorized by the Township Committee to notify the State that the Township would participate in the Gypsy Moth Suppression program this year. Moved by Andrew McCrosson, second by Curtis Corson with all four Committeemen present voting affirmative. Mr. McCrosson commented that the Committee appropriates funds every year for gypsy moth suppression.

He reported that the County project roadwork being done along Roosevelt Blvd. and the Tuckahoe Road Extension will be completed by Labor Day weekend.

He presented the drawing for the sign to be placed at Amanda's Field. It will be a sandblasted painted wood design. A plaque dedicating the project has also been ordered.

RESOLUTIONS

1. **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.**

Mr. McCrosson explained that the contract is two tiered this year, one is for basic monitoring services of our beaches and part two insures additional monitoring if severe weather affects the beaches this winter.

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 166-2003

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.

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 November 18, 2002 and outlines services to be

performed on behalf of the Township during the calendar year 2003 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 November 18, 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, 2003. 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, 2003.

Resolution No. 166-2003

Offered by: Newman, Seconded by: McCrosson

Adopted: August 25, 2003

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Bucciarelli	_____	_____	_____	__x_____
Corson	__x_____	_____	_____	_____
McCrosson	__x_____	_____	_____	_____
Newman	__x_____	_____	_____	_____
Palombo	__x_____	_____	_____	_____

2. Authorizing the execution of an agreement with Noel McCreesh and the estate of Robert Guntner for the exchange of lands in Block 633, 634 and 635 on the official tax map of Upper Township, New Jersey.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 167-2003

RE: AUTHORIZING THE EXECUTION OF AN AGREEMENT WITH

**NOEL McCREESH AND THE ESTATE OF ROBERT GUNTNER
FOR THE EXCHANGE OF LANDS IN BLOCKS 633, 634 AND 635
ON THE OFFICIAL TAX MAP OF UPPER TOWNSHIP, NEW JERSEY**

WHEREAS, Noel McCreesh and the Estate of Robert Guntner are the owners of certain real property located in Blocks 633, 634 and 635 on the official tax map of Upper Township, New Jersey; and

WHEREAS, the Township of Upper, State of New Jersey is also the owner of certain real property located in Block 633, 634 and 635 on the official tax map of Upper Township, New Jersey; and

WHEREAS, Noel McCreesh and the Estate of Robert Guntner have proposed to Upper Township the exchange of certain parcels located within said blocks and to merge same with adjacent parcels thereto; and

WHEREAS, said parcels are located on Ocean Avenue and Noel McCreesh and the Estate of Robert Guntner have agreed to pave a portion thereof in connection with said exchange of lands; and

WHEREAS, Noel McCreesh and the Estate of Robert Guntner have also proposed to pay cash consideration to the Township in addition to the exchange of the subject lands in the amount of Ten Thousand Dollars (\$10,000.00); and

WHEREAS, said exchange of land agreement also calls for the Township to vacate portions of Pine Grove Avenue and Oakwood Avenue; and

WHEREAS, the aforesaid terms and conditions of the proposed exchange agreement are set forth in detail in the copy of said agreement attached hereto as Schedule A and incorporated herein as though set forth at length; and

WHEREAS, the Township Committee has determined that it is in the best interest of the Township to enter into said agreement for the exchange of lands and that the lands to be conveyed by the Township are no longer necessary for a public purpose; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee of the Township of Upper finds it in the best interest of the Township to enter into an agreement with Noel McCreesh and the Estate of Robert Guntner for the exchange of lands contained in Blocks 633, 634 and 635 on the official tax map of the Township of Upper as set forth in the attached Schedule A hereto.
3. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, the appropriate agreement with Noel McCreesh and the Estate of Robert Guntner. Upon execution by all parties thereto said contract shall become effective.
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. 167-2003
 Offered by: Corson, Seconded by: McCrosson
 Adopted: August 25, 2003

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Bucciarelli	_____	_____	_____	__x__
Corson	__x__	_____	_____	_____
McCrosson	__x__	_____	_____	_____
Newman	__x__	_____	_____	_____
Palombo	__x__	_____	_____	_____

3. Resolution: MAR, L.L.C./Osprey Point, Block 567, Lots 27 & 32.

TOWNSHIP OF UPPER
 CAPE MAY COUNTY
 RESOLUTION NO. 168-2003
 R E S O L U T I O N

RE: DETERMINING THAT THE MUNICIPAL SERVICES ACT, N.J.S.A. 40:67-23.2 TO 23.8 IS NOT APPLICABLE TO QUALIFIED PRIVATE COMMUNITIES IN THE TOWNSHIP OF UPPER BY REASON OF THE FACT THAT THE TOWNSHIP HAS NO LOCAL PURPOSE TAX

WHEREAS, MAR,LLC (hereinafter ADeveloper≡) is in the process of developing a certain age restricted housing project known as AOsprey Point≡ on Block 567, Lots 27 and 32 within the Township of Upper, County of Cape May and State of New Jersey; and

WHEREAS, it appears that AOsprey Point≡ is a qualified private community as defined by N.J.S.A. 40:67-23.2(e); and

WHEREAS, the Developer has requested that the Township indicate whether it will provide actual services or reimbursement to such qualified private community as would appear to be required by the Municipal Services Act or MSA, N.J.S.A. 40:67-23.2 to 23.8; and

WHEREAS, a legal question has arisen as to the applicability of the MSA to the Township of Upper since the Township does not have a local purpose tax and the express legislative intent of the MSA was to eliminate double payment for certain services which the residents of qualified private communities now pay through property taxes and fees to their Association (See Birarglen II Condominum v Township of Freehold 330 N.J. Super.345, 353 (App Div 2000); Stone Hill Property Owners Association Inc v Township of Vernon 312 N.J. Super 68, 75 (App Div 1998); New Jersey State League of Municipalities v State 257 N.J. Super 509 at 518 (App Div 1992); and

WHEREAS, the Township Committee has received a legal opinion which concludes that the MSA does not apply to any municipality which does not have a local purpose tax, that is, local taxes to support local municipal governmental operations; and

WHEREAS, notwithstanding the provisions of the MSA, all properties within Upper Township, i.e. Residential properties including single-family and multi-family housing developments and Commercial properties, have weekly collections of both solid waste and recyclable materials and the annual collection of leaves, thus already providing certain of the services required by the MSA; and

THEREFORE BE IT RESOLVED NOW By the township Committee of the

Township of Upper in the County of Cape May as follows:

1. The allegations of the preamble are incorporated herein by reference and are made express findings of fact and conclusions of law.
2. The Township declines to provide any services to Osprey Point, Block 567, Lot 27 and 32 pursuant to the Municipal Services Act, N.J.S.A. 40:67-23.2 to 23.8 for the reasons set forth in the preamble to this Resolution.
3. The Township will provide in accordance with Upper Township Code Chapter 24 weekly collections of solid waste and recyclable materials and the collection of leaves in accordance with an annual schedule developed by the Township Department of Public Works.
4. Certified Copies of this Resolution shall be provided to the Developer c/o Jules Konschak Esquire and to the New Jersey Department of Community Affairs.

Resolution No. 168-2003
 Offered by: McCrosson, Seconded by: Corson
 Adopted: August 25, 2003

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Bucciarelli	_____	_____	_____	___x___
Corson	__x__	_____	_____	_____
McCrosson	__x__	_____	_____	_____
Newman	__x__	_____	_____	_____
Palombo	__x__	_____	_____	_____

4. **Authorizing the extension of an interlocal services agreement with the Municipalities of Avalon, Sea Isle City and Dennis Township for Mass Care Shelter Facilities for an additional term of one (1) year commencing September 1, 2003 to August 31, 2004.**

**TOWNSHIP OF UPPER
 CAPE MAY COUNTY
 RESOLUTION
 RESOLUTION NO. 169--2003
 RE: AUTHORIZING THE EXTENSION OF AN INTERLOCAL SERVICES
 AGREEMENT WITH THE MUNICIPALITIES OF AVALON, SEA ISLE CITY
 AND DENNIS TOWNSHIP FOR MASS CARE SHELTER FACILITIES**

**FOR AN ADDITIONAL TERM OF ONE (1) YEAR COMMENCING
SEPTEMBER 1, 2003 TO AUGUST 31, 2004**

WHEREAS, pursuant to Ordinance No. 8-1992 the Township of Upper was authorized to enter into an Interlocal Services Agreement with the municipalities of Avalon, Sea Isle City and Dennis Township for a mass care shelter facility; and

WHEREAS, the parties desire to extend the term of such Agreement for an additional term of one (1) year; and

WHEREAS, the matter has been duly considered by the Township Committee, which has concluded that such extension is in the public interest and will promote the public health, safety and welfare.

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 Interlocal Services Agreement, dated August 28, 1992, entered into by the municipalities of Avalon, Sea Isle City, Dennis Township and Upper Township for a mass care shelter facility is hereby extended for an additional term of one (1) year, commencing September 1, 2003 through and inclusive of August 31, 2004, upon the same terms and conditions.
3. Paragraph 6 of the Agreement of August 28, 1992 is hereby deemed amended so that the Contract term will expire on August 31, 2004.
4. This Resolution extending the term of the aforesaid Contract is conditioned upon similar action being taken by the Governing Bodies of the Borough of Avalon, the City of Sea Isle City and the Township of Dennis.
5. All officers and officials of the Township of Upper are authorized, directed and empowered to take such action as may reasonable be required or necessary to carry out the intent and purpose of this Resolution.

6. A certified copy of this Resolution shall be sent to each of the municipalities who are parties to such Interlocal Services Agreement.

Resolution No. 169-2003

Offered by: Newman, Seconded by: Corson

Adopted: August 25, 2003

Roll Call Vote:

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

5. Establishing Rules and Regulations regarding the operation of the Upper Township Animal Shelter.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 170-2003
RE: ESTABLISHING RULES AND REGULATIONS REGARDING
THE OPERATION OF THE UPPER TOWNSHIP ANIMAL SHELTER**

WHEREAS, Upper Township Ordinance 8-10.7 authorizes the Township Committee of the Township of Upper to establish rules and regulations regarding the operation of the Upper Township Animal Shelter; and

WHEREAS, the Township Committee of the Township of Upper has determined that the Rules and Regulations attached hereto as Exhibit A are appropriate and should be adopted pursuant to Section 8-10.7 of the Township Ordinance; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee hereby adopts the Rules and Regulations for the operation of the Upper Township Animal Shelter attached hereto as Exhibit A.

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. 170-2003
 Offered by: Newman, Seconded by: Palombo
 Adopted: August 25, 2003
 Roll Call Vote:

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

6. Hiring Christine Hyde as School Crossing Guard.

TOWNSHIP OF UPPER
 CAPE MAY COUNTY
 R E S O L U T I O N
 RESOLUTION NO. 171-2003
 RE: APPOINTMENT OF CHRISTINE HYDE AS SCHOOL CROSSING GUARD

WHEREAS, a need exists to appoint qualified part-time personnel as school crossing guard to insure optimal safety and operation; and

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

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

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

2. Christine Hyde is hereby appointed to a part-time position effective immediately at an hourly rate of \$10.75 per hour in accordance with the Salary Ordinance.

3. This Resolution ratifies, confirms and approves action taken by the Township Committee.

Resolution No. 171-2003

Offered by: McCrosson, Seconded by: Newman

Adopted: August 25, 2003

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Bucciarelli	_____	_____	_____	_____x_____
Corson	_____x_____	_____	_____	_____
McCrosson	_____x_____	_____	_____	_____
Newman	_____x_____	_____	_____	_____
Palombo	_____x_____	_____	_____	_____

- 7. **Accepting the bid of and authorizing the execution of a contract with Arawak Paving Co., Inc. of Hammonton, New Jersey for the project known as the “2003 Paving Program” at a cost of \$464,000.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
RESOLUTION NO. 172-2003
RE: ACCEPTING THE BID OF AND AUTHORIZING THE
EXECUTION OF A CONTRACT WITH ARAWAK PAVING CO., INC.
OF HAMMONTON, NEW JERSEY FOR THE PROJECT KNOWN AS
A2003 PAVING PROGRAM≅ AT A COST OF \$464,000.00**

WHEREAS, the Township of Upper solicited bids for the furnishing of certain services, materials, labor or equipment, which bids were received on July 22, 2003; and

WHEREAS, the aforesaid bids were thereafter reviewed by the Township Engineer; and

WHEREAS, the Township Engineer has submitted a recommendation to the Township Committee with respect to the award of said bids; and

WHEREAS, the Chief Financial Officer of the Township of Upper has certified the availability of funds in sufficient amount to award a contract; and

WHEREAS, the Township intends to take formal action awarding the bid to the lowest responsible bidder as hereinafter provided;

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 hereby accepts the bid submitted by Arawak Paving Co., Inc. of Hammonton, New Jersey for the project known as A2003 Paving Program, Township of Upper, Cape May County, in the amount of \$464,000.00, subject to the following:

(A) The Bidder shall comply with all Bid Documents, including the Notice to Bidders, all of which are hereby incorporated herein by this reference.

(B) The Contract to be entered into must comply in all respects with applicable federal, state and local laws and regulations.

3. The Mayor and Township Clerk are further authorized to execute a Contract with the successful bidder and/or the Chief Financial Officer is hereby authorized, directed and empowered to issue a Purchase Order to the successful bidder in the amount authorized in this Resolution.

4. This Resolution ratifies and confirms the action taken by the Township Committee at its regular meeting held on July 28, 2003.

Resolution No. 172-2003

Offered by: Corson, Seconded by: Palombo

Adopted: August 25, 2003

Roll Call Vote:

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

8. Resolution rejecting all bids received for the “2003 or Newer Wheeloader”.

**CAPE MAY COUNTY
 RESOLUTION
 RESOLUTION NO. 173-2003
 RE: REJECTING ALL BIDS RECEIVED FOR THE FURNISHING AND
 DELIVERY OF A "WHEEL LOADER 2003 OR NEWER"
 FOR UPPER TOWNSHIP AND AUTHORIZING
 THE TOWNSHIP TO RE-ADVERTISE FOR BIDS.**

WHEREAS, the Township of Upper solicited bids for furnishing and delivery of a WHEEL LOADER 2003 OR NEWER for Upper Township; and

WHEREAS, bids were submitted from three companies; and

WHEREAS, the Township Committee intends to reject all bids heretofore received;

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. All bids for furnishing and delivery of a "Wheel Loader 2003 or newer" to Upper Township, which bids were received on July 22, 2003, are hereby rejected.
3. The Township Engineer and Township Clerk are hereby authorized to re-advertise for bids. Resolution No. 173-2003

Offered by: Corson, Seconded by: Newman

Adopted: August 25, 2003

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Bucciarelli	_____	_____	_____	__x_____
Corson	__x_____	_____	_____	_____
McCrosson	__x_____	_____	_____	_____
Newman	__x_____	_____	_____	_____
Palombo	__x_____	_____	_____	_____

9. Authorizing the Township to Purchase from State Contract.

**Township of Upper
 County of Cape May
 Resolution No. 174-2003
 Re: Purchase from State Contract**

WHEREAS, the Chief Financial Officer has requested a resolution authorizing the use of state contracts for various purchases, and:

WHEREAS, in the past, the Township of Upper has availed itself of the right to purchase materials, supplies and equipment under contracts for each, entered into on behalf of the State of New Jersey by the Division of Purchase and Property in the Department of the Treasury pursuant to N.J.S.A. 40A:11-12 and;

WHEREAS, it is desirable from time to time to obtain materials, supplies and equipment under contracts for such entered into on behalf to the State by the said Division without the necessity of advertising for bids or in the cases where no bids have been received, and;

WHEREAS, it is contemplated that it will be necessary or desirable to obtain materials, supplied and equipment under such contract or contracts entered into on behalf of the State of New Jersey by said Division during the year 2003, which contract may exceed the bid threshold of \$25,000.

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, County of Cape May, State of New Jersey, that the purchase by the Township of Upper, through the several municipal departments shall be purchased under a contract or contracts for the following:

ALL STAR SPORTS	A 814336
BCI BURKE CO.	A 47860

Resolution No. 174-2003
 Offered by: Newman, Seconded by: McCrosson
 Adopted: August 25, 2003

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Bucciarelli	_____	_____	_____	_____x_____
Corson	_____x_____	_____	_____	_____
McCrosson	_____x_____	_____	_____	_____
Newman	_____x_____	_____	_____	_____
Palombo	_____x_____	_____	_____	_____

10. Opposing Senate Bill No. 2516, which prohibits schools as polling sites.

**TOWNSHIP OF UPPER
 CAPE MAY COUNTY
 RESOLUTION
 RESOLUTION NO. 175-2003**

RE: OPPOSING S-2516 WHICH PROHIBITS SCHOOLS AS POLLING SITES

WHEREAS, S-2516 is currently pending before the New Jersey Senate; and

WHEREAS, S-2516 would prohibit the use of schools as polling sites on election day; and

WHEREAS, the adoption of S-2516 would create significant problems in that schools are convenient and accessible and other facilities are not readily available for use as polling places; and

WHEREAS, there would be a significant hardship to the voting public which would likely result in reduced voter turnout in the event S-2516 were adopted; and

WHEREAS, the Township of Upper hereby wishes to express its firm opposition to S-2516.

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 expresses its firm opposition to S-2516.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be forwarded to Governor James E. McGreevy, Honorable Senator Joseph A. Palaia, Honorable Senator John O. Bennett, Honorable Richard J. Codey, Cape May County Legislators and all Cape May County Municipalities.

Resolution No. 175-2003
Offered by: McCrosson, Seconded by: Corson
Adopted: August 25, 2003
Roll Call Vote:

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

11. Expressing support for Assembly No. 3627 proposing the removal of income limits for eligibility to receive homestead property tax reimbursement.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 176-2003

**RE: EXPRESSING SUPPORT FOR ASSEMBLY NO. 3627 PROPOSING
THE REMOVAL OF INCOME LIMITS FOR ELIGIBILITY TO RECEIVE
HOMESTEAD PROPERTY TAX REIMBURSEMENT**

WHEREAS, the Township Committee of the Township of Upper, County of Cape May, State of New Jersey recognizes the adverse consequences resulting from the limitations of the property tax reimbursement to senior citizens; and

WHEREAS, the Township Committee of the Township of Upper wishes to express its support for New Jersey Assembly Bill No. 3627 which proposes the removal of the income limits that a senior citizen must meet in order to be eligible to receive a homestead property tax reimbursements; and

WHEREAS, the Township Committee of the Township of Upper supports Assembly No. 3627 since it will allow all senior citizens, regardless of their income, who meet other eligibility qualifications, to participate in the homestead property tax reimbursement program.

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee hereby expresses its support for New Jersey Assembly Bill No. 3627 which proposes the removal of the income limit that a senior citizen must meet in order to be eligible to receive a homestead property tax reimbursement.
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.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be forwarded to Governor James E. McGreevey, Assemblyman Joseph Pennacchio, Cape May County Legislators and all Cape May County Municipalities.

Resolution No. 176-2003

Offered by: McCrosson, Seconded by: Palombo

Adopted: August 25, 2003

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Bucciarelli	_____	_____	_____	__x__
Corson	__x__	_____	_____	_____
McCrosson	__x__	_____	_____	_____
Newman	__x__	_____	_____	_____
Palombo	__x__	_____	_____	_____

ORDINANCES

12. Public Hearing and Final Adoption of Ordinance No. 005-2003 Re: An Ordinance Prohibiting Animals Running At Large.

This Ordinance was introduced at the 7-28-2003 meeting and scheduled for Public Hearing this evening. The purpose of it is to curtail the many complaints received with guinea hens, and other domestic fowl and animals running loose and causing traffic hazards. After review and discussion of the proposed ordinance it was concluded that it basically says the same thing as one in existence now about control of dogs and cats. The intent is to include all species and to provide for a warning for first occurrence and penalty if the second one occurs within six months.

Susan Luchese, from Palermo, submitted a letter and also commented it doesn't address animals accidentally running at large and she questioned on who would enforce it.

Robert Steck, from Marmora asked to have at-large defined—they are animals off of an owners property and that are not under owners control.

Nathalie Neiss, from Petersburg stated that her neighbors have guinea hens and she has no problem with them.

Motion by Andrew McCrosson, second by Richard Palombo to table thirty days in order to amend the ordinance with these changes. All four Committeemen present voted in the affirmative.

13. Introduction of Ordinance No. 006-2003 Re: An Ordinance Vacating A Certain Street or Right-of-Way Contiguous with Lots 1,2 and 4, of Block 22, and Lots 1 & 2, of Block 23 in the Township of Upper, County of Cape May, New Jersey. (Pine Road in Tuckahoe)

Property owner of Block 22, Lots 1 & 4 must consolidate lots before any further action is taken on this ordinance. When deed of consolidation is approved by Municipal Attorney and Engineer and recorded with the County, then Public Hearing and Final Adoption will take place. Moved by Jay Newman, second by Andrew McCrosson to take no further action until requirements listed above are met. During roll call vote all four Committeemen present voted affirmative.

**CAPE MAY COUNTY
ORDINANCE
ORDINANCE NO. 006-2003
RE: AN ORDINANCE VACATING A CERTAIN STREET OR
RIGHT-OF-WAY CONTIGUOUS WITH LOTS 1, 2 AND 4, BLOCK 22
AND LOTS 1 AND 2, BLOCK 23 IN 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 an unimproved portion of a certain street or right-of-way within the Township of Upper, as hereinafter provided.

WHEREAS, the Township Committee has also determined that the adoption of this Ordinance is expressly conditioned upon and subject to the execution and recording of a Deed of Consolidation combining and consolidating Lots 1 and 4, Block 22 as shown on the official tax map of the Township of Upper, County of Cape May and State of New Jersey into a single lot.

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 Pine Road lying between Reading Boulevard and Poplar Avenue and abutting Block 22 and Block 23 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.

CORRESPONDENCE

- 14. Stewart Farrell report of Beaches in Strathmere.** Report generally indicated that substantial depth of the beach has been lost but width has stayed stable. Dunes and dune grass are doing well. Snow fencing work is expected in the Fall.

NEW BUSINESS

- 15. Greater Tuckahoe Area Merchants Association, request to hold raffle on December 6, 2003. (RA:259).**
- 16. Church of the Resurrection, request to hold Raffles on September 28, 2003. (RA:260 & RA:261).**

Moved by Curtis Corson, second by Jay Newman to grant request to hold the three raffles listed above, (RA:259, RA:260 & RA:261). During roll call vote all four Committeemen present voted in the affirmative.

- 17. Thomas J. Breazeale, Request to purchase Township owned property, Block 636, Lots 14, 19 & 20.**

Application was previously received from this applicant but included additional lots. The request was denied at that time. Based on comments from the Committee, applicant has amended his request and has also become the owner of the adjacent lots. There was discussion on different lot configurations and how many building lots could be created. There was discussion that lots 22 and 23 may be included in a foreclosure proceeding but inadvertently not listed in it. Mr. Dietrich will look into the matter. Tabled until next meeting.

18. Nancy Didriksen, Request to vacate paper street known as Atlantic Ave., between Rt. 9 and Ocean Crest Ave., and request to purchase Township owned property, Block 588, Lots 31 – 34, and Block 595, Lots 1 – 12.

There was discussion that the Township may want to keep that property for future development of utilities as this is one of the few lots with frontage on Rt. 9 the Township owns. Mr. Dietrich commented that utility relay stations can be located in a back area not necessarily on the main thoroughfare. He also stated that there would be no landlocked parcels if Atlantic Ave. were vacated. Mrs. Didriksen objected to the comments about situating a utility relay station on that parcel because she has the Comcast switching station on the other side of her home now. She stated that it is very noisy, and that she would object to having one on the other side too. This is the reason she is attempting to buy additional property, etc. Motion to grant request by Curtis Corson, second by Jay Newman. During roll call vote all four Committeemen present voted affirmative.

19. Emma McIlhenny, Request to purchase Township owned property, Block 354, Lots 15 & 16.

Mrs. McIlhenny's house encroaches on Township property. It is very old, boarded up and does not have a conforming septic system. The property doesn't meet any of our zoning requirements. Mr. Dietrich recommended that applicant be required to purchase all four lots (13-16), as applicant's property is severely undersized. Mr. Young will look into the matter. No action was taken.

UNFINISHED BUSINESS:

20. UT Planning Board, Resolution MP 01-03, Master Plan Amendment and recommendation of Zoning change

The Land Use Ordinance was adopted in September of 2002 and sent to Pinelands Commission for Certification. The Pinelands conditionally certified our ordinance and required two revisions; one is to change the Golf Course Design Standard Compliance and the other--to review and consider rezoning some additional property on the northwesterly side of Washington Avenue or Woodbine Blvd. and Rt. 49, from RD to F-25.

The Committee sent it back to the Planning Board for their review; their report showing the revisions is being reviewed and considered tonight. One additional thing was added to the Ordinance-- the Alternative Septic Design Pilot Program to be able to certify smaller than 3.2 acre lots for a single family home. If the recommended ordinance from the Planning Board is introduced it would meet the conditions of the Pinelands Commission and they should certify it. If the consensus is that the conditions the Pinelands Commission has recommended were changes to the overall plan and are not acceptable, the Committee could repeal the prior zone change portion that was required for Certification. There was discussion about the possibility of having an open space requirement on the tract of land in the Petersburg area. It would require having to go back to the Planning Board for additional Master Plan reexamination to look at the Petersburg area and come up with standards for recreation for that area as well as going back to the Pinelands Commission.

The Pinelands Commission has extended our time limit in which to act on Certification to November 6, 2003. Additional items of concern—zone exchange of RD to F-25, creation of the F-10 zone, soil removal, home occupation, co-location of communication towers, reserved strip.

Moved by Jay Newman, second by Curtis Corson to approve everything except for the RD zone change to F-10 and F-25. The Golf Course standards will go back to the Planning Board for definitions. During roll call all four Committeemen present voting affirmative.

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.”

Payroll **\$138,394.46**

Bills submitted for payment: \$112,848.46

Moved by Andrew McCrosson, second by Jay Newman to pay all bills submitted for payment. During roll call vote all four Committeemen present voted affirmative.

REPORT OF MUNICIPAL DEPARTMENTS:

21. MUA Report

22. Zoning Office

Reports are available for inspection in the Clerk’s Office.

PUBLIC COMMENT

Nathalie Neiss, from Petersburg, asked when the tax maps are updated. They are updated when subdivisions are completed. She also has questions about her property. The Township Engineer asked her to either call him or come into the office the next day as he did not have the information in front of him at the meeting.

Ruth Wohlforth, from Seaville, was present at an earlier meeting to discuss the affect of property taxes on her lifestyle. She was here this evening to continue that discussion.

Robert Steck, from Marmora, was present representing the School Board, and asked how much the Township would be giving the School Board this year for budgeting purposes. The Committee was not able to give an exact figure right now, but that it would be less than the \$2 million given the last several years.

CLOSED SESSION

23. 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

Meeting was reconvened, motion to promote Richard Kaczmariski and David Pennello to Truck Drivers, made by Curtis Corson, second by Jay Newman with all four Committee voting affirmative.

ADJOURNMENT

There being no further business this evening the meeting was adjourned at 8:30 P.M. Next meeting to be September 8, 2003 at 7:30 P.M.

Minutes prepared by

Wanda Gaglione, RMC
Municipal Clerk

Bill List

08/26/03

TOWNSHIP OF UPPER

034418	08/25/03	A0018	ACTION SUPPLY INC.	483.16
034419	08/25/03	A0020	ACU-THERM SUPPLY CO., INC.	220.45
034420	08/25/03	A0050	ALL STAR SPORT CENTER	1,800.00
034421	08/25/03	A0068	AMERICAN RED CROSS	210.00
034422	08/25/03	A0078	ANCHOR RUBBER STAMP & PRINTING	10.00
034423	08/25/03	A0087	AT & T	599.32
034424	08/25/03	B0070	HORIZON BLUE CROSS/BLUE SHIELD	68,801.81
034425	08/25/03	B0109	BUCCIARELLI, DAVID	76.00
034426	08/25/03	C0061	CAPRIONI SEWERAGE SERVICE	230.00
034427	08/25/03	C0090	CHADWICK, DIANE	128.00
034428	08/25/03	C0115	CITY OF CAPE MAY	222.00
034429	08/25/03	C0131	CINTAS FIRST AID & SAFETY	348.19
034430	08/25/03	C0160	CONNECTIV POWER DELIVERY	11,751.86
034431	08/25/03	D0016	DALEY, FREDERICK T/A DALEYS PIT	380.00
034432	08/25/03	D0022	DATAPRINT CORPORATION	9.00
034433	08/25/03	D0040	DELTA DENTAL PLAN OF N.J. INC.	3,549.92
034434	08/25/03	D0105	DANONE WATERS OF NORTH AMERICA	298.66
034435	08/25/03	E0003	EASTERN SIGN	66.09
034436	08/25/03	E0030	EXECUTIVE BUSINESS PRODUCTS	490.19
034437	08/25/03	F0013	FARM RITE INC.	341.72
034438	08/25/03	G0016	GARDNER HARDWARE INC.	466.78
034439	08/25/03	H0018	HAROLD RUBIN/L & H SUPPLY	108.84
034440	08/25/03	J0002	J.P. COLLINS CO.	673.89
034441	08/25/03	J0014	JC MILLER CO.	1,240.88
034442	08/25/03	K0004	KENNEDY'S MARKET	65.00
034443	08/25/03	K0020	KENNEY, EDWARD	356.74
034444	08/25/03	M0010	McCROSSON, ANDREW J.	76.00
034445	08/25/03	M0059	MCDANIELS, WILLIAM J. III	69.95
034446	08/25/03	M0069	MIGLIACCIO FARMS	122.30
034447	08/25/03	M0076	MGL FORMS-SYSTEM	281.40
034448	08/25/03	N0052	NATL YOUTH SPORTS COACHED ASSN	280.00
034449	08/25/03	N0120	NORTHERN SAFETY CO. INC.	530.30
034450	08/25/03	P0032	PEDRONI FUEL CO.	1,110.91
034451	08/25/03	P0037	PENNSYLVANIA JERSEY CONCRETE	1,514.00
034452	08/25/03	R0029	RIDDELL/ALL AMERICAN	3,987.31
034453	08/25/03	R0030	RIGGINS, INC.	1,250.79
034454	08/25/03	R0055	ROSIK, CAROL	32.00
034455	08/25/03	R0061	RUTGERS, THE STATE UNIVERSITY	257.00
034456	08/25/03	S0031	SCHULER SECURITY, INC.	300.00
034457	08/25/03	S0134	SO. JERSEY GAS COMPANY	55.93
034458	08/25/03	S0139	SO. JERSEY WATER COND. INC.	141.75
034459	08/25/03	S0180	STEEL, NICOLLE	25.00
034460	08/25/03	S0181	STEEL, ASHLEY	6.25
034461	08/25/03	S0218	S.J.A.P. NATURALINK	1,370.00
034462	08/25/03	T0033	THE PRESS OF ATLANTIC CITY	53.41
034463	08/25/03	T0034	THE PAPER OF U.T./GAZETTE	139.74
034464	08/25/03	T0035	THE PAPER OF UT/GAZETTE	219.00
034465	08/25/03	T0048	TILL PAINT CO/D. FITZGERALD	480.00
034466	08/25/03	T0067	TOWNSHIP OF UPPER PETTY CASH	9.98
034467	08/25/03	T0095	JOHN HILL T/A	2,000.00
034468	08/25/03	T0126	TUCKAHOE SAND & GRAVEL CO.	4,078.78
034469	08/25/03	V0022	VERIZON	1,241.22
034470	08/25/03	W0016	WARRINGTON, MARILYN	48.00
034471	08/25/03	W0060	WOOLLEY, THOMAS	48.00
034472	08/25/03	Y0012	YOUNG, ROBERT	190.94

Total Paid: \$112,848.46
