

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
MINUTES FOR January 12, 2004**

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

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

SALUTE TO THE FLAG

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 - December 22, 2003 Regular Meeting and
Closed Session Minutes and
Minutes of January 2, 2004 Reorganization Meeting**

Motion to approve the December 22, 2003 Minutes by Curtis Corson, second by Jay Newman with four Committee members voting in the affirmative. Mrs. Camp abstained from voting.

Motion to approve the January 2, 2004 Minutes by Jay Newman, second by Andrew McCrosson with all five Committee members voting in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

Andrew McCrosson, referred to the Treasurer’s report and commented on the disbursements and receipts. The December disbursements are substantial (\$2.5 million), however \$1.5 million of that is our contribution to the schools.

He received a request from Raymond Young from the Retired Railroad Workers West Jersey Chapter to use the Railroad Station on April 24, 2004 from 11:00 A.M. to 2:00 P.M. for a meeting. Motion to approve by Andrew McCrosson, seconded by Curtis Corson with all five Committee members voting in the affirmative. Insurance certificate will be obtained.

Curtis Corson, Deputy Mayor, reported that in November and December of 2003, the Road Department collected 2,594,000 pounds of leaves. All of it is recycled and he thanked the Road Department and reported they are ready for the predicted snowstorm later this week. He also reported that the Salt Barn floor is scheduled to be paved this week, temperature permitting. There was an alteration needed for the garage door but has since been resolved.

Jay Newman, reported that in Recreation, wrestling, basketball and cheerleading are in full progress right now.

He announced that the safety vest program distribute light reflective vests this Saturday at the Township Hall from 9:00 A.M. to 11:00 A.M. Boy Scout Troop 55 will assist Ted Klepac. Residents can stop at the Hall on Saturday morning to get one.

Richard Palombo, Mayor, reported that Bill McDermott who has served on the Great Egg Harbor River Council has recently resigned his position. He motioned to prepare a resolution for the next meeting in recognition of the fine job he's done for us on that council. This was seconded by Andrew McCrosson.

The Mayor asked that the Committee consider someone to replace Mr. McDermott on that council.

He also reported that the N.J. Marine Science Consortium is giving us signs to place on the beach to warn bathers about rip currents. Paid for by a State grant, the signs are being offered to all seashore communities along the New Jersey coast. We have ordered enough signs for all our beaches.

The Township has received recognition by the U.S. Marine Corps Toys for Tots program. We utilized Township Hall for accepting the many donations from our generous citizens. Regarding the Lifeguard Station in Strathmere, we are in the middle of the Public Comment period and toward the end of this month the Engineer will schedule a meeting with the DEP to review the permit.

OTHER REPORTS

Wanda Gaglione, Municipal Clerk, announced the date of the first free rabies clinic for this year is on February 21, 2004 at the Township Garage, from 2:00 P.M. to 4:00 P.M. Purchase of the 2004 dog licenses will also be available during the clinic. 2004 dog licenses must be purchased prior to March 1st to avoid a late charge.

Daniel Young, Municipal Attorney, recommended adding another resolution to the agenda for a tax appeal that is in litigation. The resolution approves the hiring of an appraiser if it is necessary. He asked that it be acted upon after the executive session.

Patricia Garbutt, Finance Officer, reported on a problem at the Township Hall in that water pipes froze. When the workman went into the ceiling to inspect they reported damage to the roof. A section needs the shingles replaced. Pipe work will primarily be done by an outside company with a small portion being done by our men. The Mayor asked that a record be kept on the hours spent on repairs by our people to submit to our insurance company. Work will be contracted out for the roof repair to insure a guarantee, insurance etc.

She also asked that dates for budget workshop meetings be scheduled as the Budget will be introduced by Feb. 10. The first budget workshop will be immediately after the January 26th 4:00 P.M. meeting.

Paul Dietrich, Municipal Engineer, gave a report on the progress of the Sam Migliaccio gas station clean up. He received a preliminary copy of the grant proposal and they are working on the site assessment report as well as a cost estimate to do the clean up and testing. It is expected that the information will be ready to submit so that the project work can continue. Mr. Dietrich has no figures of the approximate cost as yet. The site assessment work has been delayed due to the cold weather and the ground being frozen.

RESOLUTIONS

1. Tax Corrections.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION
Resolution No. -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. 022-2004

Offered by: Corson, Seconded by: McCrosson

Adopted: January 12, 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>	_____	_____	_____

REFUND

453/9.15 \$5,301.30 WELLS FARGO
AA on in error/duplicated assessment will come off by CBA.

559/16 \$498.23 SCOTT & KATHY DAVIS
3rd qtr paid by Title Co & Mtg Co.

TRANSFER from 2004 to 2003

Block/Lot **amount**
606/5 \$ 43.96

TRANSFER from 2002 to 2003 / to 2004

304/10 1.11

TRANSFER FROM 2003 TO 2004

26/71	31.51
416/2	21.29
416/3	23.83
440/1	66.09
453/175.02	16.14
453/241	159.05
453.01/51	1168.53
479/88.06	385.74
559/34	250.00
564/4	627.62
565.01/52.05	200.00
566/26.01	250.00
567/17.02/QF	17.57
567/45.13	718.81
571/4	44.51
580/26	93.44
599/16/C207	151.96
600/62/C0085	105.27
623/1	24.20
658/20	20.60
666/10.02	45.32
668/1	567.14
671/22	126.50
722/10	40.00
758/2	11.89
810/1	89.17
826/3	79.09
835/13.04	9.90

2. **Rejecting all bids received for a revaluation for Upper Township and authorizing the Township to re-advertise for bids.**

**TOWNSHIP OF UPPER
 CAPE MAY COUNTY
 R E S O L U T I O N
 RESOLUTION NO. 023-2004
 RE: REJECTING ALL BIDS RECEIVED FOR A REVALUATION
 FOR UPPER TOWNSHIP AND AUTHORIZING
 THE TOWNSHIP TO RE-ADVERTISE FOR BIDS.**

WHEREAS, the Township of Upper solicited bids for a Revaluation for Upper Township; and

WHEREAS, bids were submitted from two 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 a revaluation to Upper Township, which bids were received on November 17, 2003, are hereby rejected.
3. The Township Engineer and Township Clerk are hereby authorized to re-advertise for bids.

Resolution No. 023-2004

Offered by: McCrosson, Seconded by: Newman

Adopted: January 12, 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_____	_____	_____	_____

3. **Accepting the quote of and authorizing the execution of contracts with WilfredMcDonald, for a Giant Mow 48” Rotary Mover at a cost of \$2530.00; Advantage Rental Ace Hardware for a Salt Spreader at a cost of \$1,100.00; Princeton Nassau Conover Fore for an F-350 Mini Dump at a cost of \$32,578.00; Storr Tractor Co. for a Model 30789 Groundsmaster 345 Traction Unit at a cost of \$15,134.00—For the Department of Recreation AND Accepting the quote of and authorizing the execution of a contract with Princeton Nassau Conover Ford for a 2004 F-250 Pickup Truck Supercab 4-Wheel Drive at a cost of \$28,795.00—For the Department of Public Works.**

TOWNSHIP OF UPPER

CAPE MAY COUNTY

R E S O L U T I O N

RESOLUTION NO. 024-2004

**RE: PURCHASE FROM STATE CONTRACT THE FOLLOWING:
FROM PRINCETON NASSAU CONOVER FORD A F-350 MINI DUMP AT A COST OF \$32,578.00; AND FROM STORR TRACTOR CO. FOR A MODEL 30789 GROUNDMASTER 345 TRACTION UNIT AT A COST OF \$15,134.00 FOR THE DEPARTMENT OF RECREATION AND
AUTHORIZING THE PURCHASE FROM PRINCETON NASSAU CONOVER FORD A 2004 F-250 PICKUP TRUCK SUPERCAB 4-WHEEL DRIVE AT A COST OF \$28,795.00 FOR THE DEPARTMENT OF PUBLIC WORKS**

WHEREAS, the Township of Upper avails 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 necessary to obtain materials, supplies 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, 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 State Contract Price from Princeton Nassau Conover Ford for the delivery of a "F-350 Mini Dump" of \$32,578.00.
3. The Township hereby accepts the State Contract Price from Storr Tractor Co. for the delivery of a "Model 30789 Groundsmaster 345 Traction Unit" of \$15,134.00.
4. The Township hereby accepts the State Contract Price by Princeton Nassau Conover Ford for the delivery of a "2004 F250 Pickup Truck Supercab 4-Wheel Drive" of \$28,795.00.
5. The Vendors listed above shall provide all warranties and manuals applicable to said products and provide same at or before the time of delivery.

6. The Chief Financial Officer is hereby authorized, directed and empowered to issue a Purchase Order to the vendors in the amounts authorized in this Resolution.

7. This Resolution ratifies and confirms the action taken by the Township Committee at its regular meeting held on December 22, 2003.

Resolution No. 024-2004
 Offered by: Corson, Seconded by: Newman
 Adopted: January 12, 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_____	_____	_____	_____

4. Budget Transfers.

TOWNSHIP OF UPPER
 Budget Reserve Transfer
 RESOLUTION No. 025-2004

WHEREAS, VARIOUS 2003 BILLS HAVE BEEN PRESENTED FOR PAYMENT THIS YEAR, WHICH BILLS WERE NOT COVERED BY ORDER NUMBER AND/OR RECORDED AT THE TIME OF TRANSFERS BETWEEN THE 2003 BUDGET APPROPRIATION RESERVE IN THE LAST TWO MONTHS OF 2003; AND

WHEREAS, N.J.S. 40A:4-59 PROVIDES THAT ALL UNEXPENDED BALANCES CARRIED FORWARD AFTER THE CLOSE OF THE YEAR ARE AVAILABLE, UNTIL LAPSED AT THE CLOSE OF THE SUCCEEDING YEAR, TO MEET SPECIFIC CLAIMS, COMMITMENTS OR CONTRACTS INCURRED DURING THE PRECEDING FISCAL YEAR, AND ALLOW TRANSFERS TO BE MADE FROM UNEXPENDED BALANCES WHICH ARE EXPECTED TO BE INSUFFICIENT DURING THE FIRST THREE MONTHS OF THE SUCCEEDING YEAR;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWNSHIP COMMITTEE FO THE TOWNSHIP OF UPPER THAT THE TRANSFERS IN THE AMOUNT OF \$ 9, 000.00 BE MADE BETWEEN THE 2003 BUDGET APPROPRIATION RESERVES AS FOLLOWS:

TO	FROM
GARBAGE AND TRASH O/E	GARBAGE AND TRASH S/W
\$ 3,000.00	\$ 5,828.00
ROAD REPAIRS & MAINT. O/E	ROAD REPAIRS & MAINT. S/W
\$ 3,000.00	\$ 2,697.00
RECYCLING O/E	1 ST AID S/W
\$ 3,000.00	\$ 475.00

Resolution No. 025-2004

Offered by : Andrew McCrosson, Second by: Richard Palombo
Adopted: January 12, 2004

ROLL CALL VOTE:

	<u>Yes</u>	<u>No</u>	<u>Abstained</u>	<u>Absent</u>
CAMP	x			
CORSON	x			
McCROSSON	x			
NEWMAN	x			
PALOMBO	x			

5. Supporting repeal of the Fire Service Resource Emergency Deployment Act.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 026-2004
RE: SUPPORTING REPEAL OF
THE FIRE SERVICE RESOURCE EMERGENCY DEPLOYMENT ACT

WHEREAS, response time is of major importance in any fire emergency; and

WHEREAS, the Fire Service Resource Emergency Deployment Act restricts the mutual aid system used by local fire departments in responding to any fire emergency, and any delayed response would endanger the lives of our residents and the community; and

WHEREAS, the Fire Service Resource Emergency Deployment Act prevents a local fire department in one municipality from seeking assistance from a department in a neighboring municipality in cases of emergency and requires local fire departments only to seek help from a department in a municipality of comparable size; and

WHEREAS, the Township Committee of the Township of Upper supports repeal of the Fire Service Resource Emergency Deployment Act; 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 strongly supports the repeal of the Fire Service Resource Emergency Deployment Act.

3. The Township Committee of the Township of Upper strongly opposes the Fire Service Resource Emergency Deployment Act since it undermines the Home Rule and the ability of our local fire departments of all sizes to fight fires.

BE IT FURTHER RESOLVED that a certified copy of this Resolution shall be forwarded to Governor James E. McGreevy, Senator Len Connors, Cape May County Legislators and all Cape May County Municipalities.

Resolution No. 026-2004
Offered by: Newman, Seconded by: Palombo
Adopted: January 12, 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>	

ORDINANCES

6. Introduction and First Reading of Ordinance No. 001-2004: An Ordinance amending Revised General Ordinance Chapter 15 (Soils and Soil Removal), Chapter 19 (Land Subdivision and Site Plan), and Chapter 20 (Zoning) of the Code of Upper Township; and Amending Zoning Districts.

Municipal Engineer, Paul Dietrich discussed changes the Pinelands requested during their review. They ask that a portion of the "RP" Recreations Park Zone be renamed because in the Pinelands area there are two "RP" zones; one where the proposed golf course is, the other is where the existing recreation fields are in Amanda's Field.

Both are separated by Sunset Acres. They want the two sections differentiated by different zone names. The Pinelands ask that the section in the Amanda's Field area, which they feel is in Pinelands Village be renamed "RPPV" or Recreations Park Pinelands Village zone. The other section would remain "RP". Both zones would have the same standards just a different zone name. There was also discussion on the zone line near the County Park North. The changes are reflected in the Ordinance printed below. Moved by Jay Newman, second by Andrew McCrosson to Introduce, with Public Hearing set for January 26, 2004 meeting. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
O R D I N A N C E
ORDINANCE NO. 001-2004**

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER 15
(SOILS AND SOIL REMOVAL), CHAPTER 19 (LAND SUBDIVISION AND
SITE PLAN), AND CHAPTER 20 (ZONING) OF THE CODE OF UPPER
TOWNSHIP; AND AMENDING ZONING DISTRICTS**

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

SECTION 1. Chapter 15 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended and supplemented as hereinafter provided:

Section 15-1.4 License is revised as follows:

- a. Add the following: Application form shall include a certification, to the satisfaction of the Township Committee and the Pinelands Commission, if applicable, that all mining, restoration and other activities have been and continue to be conducted in accordance with an approved extraction permit.
- b. Unchanged.
- c. The application shall also disclose, with specificity, each and every other business, commercial or industrial activity which is carried out or proposed to be carried out at the licensed location including, but not limited to, an identification of any retail sales and the nature thereof and the nature of any products which are to be sold from the licensed premises.

- d. Every five (5) years the applicant shall make an application to the Township Planning Board for amended site plan approval in accordance with the Municipal Land Use Act of the State of New Jersey and the ordinances of the Township. The applicant shall file the following information:
1. The aforesaid documents.
 2. Statement of areas that have been mined and reclaimed during the previous amended site plan approval.
 3. Submit a certified list of all property owners located within five hundred (500=) feet of the property where the mining and excavation activity is to occur.
 4. A certification indicating that the applicant has served notice on all property owners within five hundred (500=) feet of the subject property that an application for a mining license has been filed with the Township Planning Board for amended site plan approval.
 5. As-built survey showing topographic conditions of the site including contours of the site both above and below the water surface. Contours shall be at one (1=) foot intervals and referenced to the New Jersey Geodetic Control Survey Datum. Said survey shall be prepared by a licensed land surveyor and shall have been completed within the previous three (3) months of application for site plan approval.
 6. The Township Planning Board shall proceed to consider such application for amended site plan review and shall report its findings to the applicant and to the Township Committee. If the Township Planning Board should deny amended site plan approval, no further action on the application for mining license renewal shall be taken by the Township Committee. If the applicant appeals to the Superior Court of New Jersey from the denial of amended site plan approval and does so within the time period specified by the Rules of Court, and notice of such appeal is filed with the Township Clerk, the application for a mining license shall be placed inactive pending a determination by the Superior Court of New Jersey. If the determination of the Township Planning

Board is affirmed by the Superior Court, the applicant for a mining license shall be required to submit a new application for site plan review including any required variance relief as would be required for a new mining facility prior to any action by the Township Committee. In addition to the granting of amended site plan approval, the Township Planning Board may make any other recommendation which it deems appropriate for the consideration of the Township Committee including, but not limited to, a recommendation of either approval or rejection of the mining application. The Township Committee may, in its sole discretion, accept, modify or reject the aforesaid recommendations of the Township Planning Board. The approval or rejection of site plan, however, shall be within the exclusive determination of the Township Planning Board and such determination of the Township Planning Board shall be binding upon the Township Committee.

- e. Every thirty (30) months an as-built survey showing topographic conditions of the site including contours of the site both above and below the water surface shall be submitted to the Township Engineer for review. The Township Engineer shall report to the Township Committee as to the status of operations at the mining operation prior to the subsequent mining re-license period. Contours shall be at one (1=) foot intervals and referenced to the New Jersey Geodetic Control Survey Datum. Said survey shall be prepared by a licensed land surveyor and shall have been completed within the previous three (3) months of submittal.
- f. Repealed.
- g. Repealed.

Section 15-1.6 Enforcement is revised as follows:

- a. Unchanged.
- b. Unchanged.
- c. Unchanged.
- d. In the event that the Township Committee, Planning Board and/or the Pinelands Commission determine that any such activity deviates from the conditions of the approved permit, the operator of the resource extraction operation shall be immediately notified of the deviation. The notice shall state the nature of the deviation, order the action necessary to

correct it, and set forth the date, time and location of a meeting to be held within ten (10) days of the notice, at which the operator shall present all relevant information concerning the deviation and the action take or to be taken to correct it. The order to take corrective action shall specify any activity which must be immediately ceased to prevent direct or indirect aggravation of the deviation or to avoid a danger to public health, safety or welfare. Such cessation shall continue until the deviation has been resolved to the satisfaction of the Planning Board and/or the Executive Director of the Pinelands Commission or until an agreement to resolve the deviation has been reached. Failure to resolve a deviation or to adhere to the terms and conditions of any agreement to resolve a deviation shall constitute sufficient cause for revocation of the permit.

- e. Violations of this section or the approved mining permit shall be punishable of a fine five hundred (\$500.00) dollars per day.

Section 15-1.12 License Term; Approval Term is revised as follows:

- a. The site plan approval issued by the Township Planning Board pursuant to Chapters 5, 19 & 20 shall be for a term of five (5) years. Any site plan approval granted prior to December 1, 2003 shall expire November 30, 2007.
- b. Unchanged.

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

Section 19-3 Definitions is revised as follows:

Reserve Strip. No privately owned reserve strips shall be permitted which controls access to any part of the subdivision or to any other adjacent parcel of land from any street, or from any land dedicated to public use, or which may be so dedicated. Said strip of land shall be considered a reserve strip if less than fifty (50') feet in depth or less if it can be reasonably shown that a physical structure could be erected above ground within the required setbacks of the zoning district.

Section 19-4.2 Jurisdiction, subsection a is revised as follows:

- a. Site Plan Review Required. Site plan review is required for any proposed development which includes:

1. Any new construction other than a single-family dwelling or an addition to an existing single-family dwelling or two-family dwelling.
2. Any change of use within a property.
3. Construction of five (5) or more parking spaces as required under the provisions of the Zoning Ordinance, or the change in the number, location, design or layout of parking facilities where the Zoning Ordinance requires five (5) or more resulting parking spaces.
4. Construction of any storage yard greater than one thousand five hundred (1,500) square feet in area.
5. Any change in the location of an access to or exit from a parking lot or a loading or unloading area to a public street.
6. Notwithstanding the foregoing, site plan review shall not be required for any project undertaken by a local communications provider on property which has received a prior site plan and use variance approvals for the co-location of local communications equipment provided that the following conditions are met:
 - (a) The local communications provider shall submit three (3) copies of a site plan showing location of all proposed communication equipment. Plans shall show a layout of the existing equipment in the compound and elevation view of the existing antennas on the tower
 - (b) The existing tower will not be increased in height.
 - (c) All proposed equipment can be installed in the previously approved compound area.
 - (d) Provide copy of all prior resolutions for site plan and use variances at the subject property.
 - (e) Provide engineering certification showing the need for the communications equipment at the existing facility.
 - (f) Provide engineering certification showing the existing tower can support the proposed equipment or can be modified without adding additional guy wire supports or increasing the height of the tower.

- (g) Provide additional landscape buffering for the compound as recommended by the Township Engineer.
 - (h) The Township Engineer and Zoning Officer must certify the aforementioned items have been submitted and are in compliance with this chapter.
7. Notwithstanding the foregoing, site plan review shall not be required for any construction project undertaken by the Township of Upper on property which is owned by the Township or on which the Township is the lessee, provided that the following conditions are met:
- (a) The Township property is located in a zone district wherein such use is a permitted use; and
 - (b) The Township Engineer either prepares or approves any engineering plans, plot plans, or surveys which are involved in such proposed construction and provided further that the Township Engineer files a copy of any such engineering plans with the Secretary of the Planning Board and with the Township Clerk, together with the Engineer's Certification, under seal, that the proposed construction project complies, with the site plan requirements of the Township of Upper.
 - (c) A notice is given to all property owners within two hundred (200') feet of the project by certified mail, return receipt requested. Such notice shall be given at least ten (10) days prior to the application for a construction permit. Provided that the Township makes a bona fide good faith effort to comply with this section, the inadvertent failure to give such notice to one or more property owners shall not void the application for a construction permit.

Section 19-7.1 Street and Highways, subsection b is amended to add the following at the end of the existing provision:

- b. ...Existing plotted streets shall be constructed full width to the standards of this

Chapter when the subject property is developed for either residential or commercial development. The street shall be extended to meet an existing paved street and continue the full length of frontage of the subject property.

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

Section 20-2.1 Definitions is amended to add the following to the existing definition of home occupation:

Home Occupation...; that no more than one commercial vehicle and trailer utilized as part of the said home occupation may be parked at the address of said home occupation; further no more than one non-commercial vehicle not registered at the address of the home occupation may be parked at the address of the home occupation; no vehicles utilized as part of the home occupation shall be parked on the public street;

Section 20-2.2 Pinelands Area Definitions is amended to add the following definition:

Alternate Design Pilot Program Treatment System shall mean an individual or community on-site wastewater treatment system that has the capability of providing a high level of treatment including a significant reduction in the level of total nitrogen in the wastewater, limited to the following systems authorized for use for residential development by the pilot program established in N.J.A.C. 7:50-10, Part IV:

Ashco RFS III;
FAST;
Cromaglass;
Bioclere; and
Amphidrome.

Section 20-3.1 Zoning District is revised as follows:

Zoning Districts. For the purpose of this Chapter the Township is hereby divided into various districts. Within the Pinelands Area, these districts are consistent with the Pinelands Management Areas set forth in N.J.A.C. 7:50, Subchapter 5.

Symbol
AR Agriculture and Low Density Single-Family Residential
R Moderate Density Residential

RC Resort Commercial

- RR Resort Residential
- RP Recreation & Park
- RPPV Recreation & Park Pinelands Village
- CM Commercial District
- C Conservation
- RD Rural Development
- PV Pinelands Village
- F3 Moderate Density Forest
- F10 Low Density Forest
- F25 Low Density Forest
- M Mining
- U Utility
- A Airport
- TV Tuckahoe Village
- TR Tuckahoe Riverfront

Section 20-3.2 Zoning Map is amended as follows:

Section 20-3.2 Zoning Map. The map prepared by Township Engineer dated January 12, 2004 is hereby adopted as the zoning map of the Township of Upper.

Section 20-4.2 "AR" Agricultural Low Density Single-Family Residential; "R" Moderate Density Residential, subsection b.5 is replaced with the following:

- 5. Golf courses as a conditional use, in accordance with the standards of Section 20-6.4.j.

Section 20-4.2 "AR" Agricultural Low Density Single-Family Residential; "R" Moderate Density Residential, subsection e is amended as follows:

Principal no change	no change	no change	no change	Golf course
Building				
Minimum				
Lot Area	no change	no change	no change	9 holes - 50 ac
				18 holes - 200 ac

...

Principal Building				
Maximum Percentage of Building Coverage	no change	no change	no change	1%

Maximum Percentage of Impervious Coverage	no change	no change	no change	10%
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...
...

Accessory Building Maximum Building Coverage	no change	no change	no change 1%
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Section 20-4.15 "RP" Recreation & Park District and "RPPV" Recreation & Park Pinelands Village District are added as follows:

- a. Purpose. The Recreation & Park zone is intended to recognize the need for recreational uses throughout the Township. This zone is established to encourage both commercial and public recreation that is compatible with the rural surroundings of the community. Passive and non-vehicular activities are encouraged. The Recreation & Park Pinelands Village Zone is that portion of the RP zone located in the Pinelands Village.
- b. Principal Permitted Uses on Land and in Buildings.
 - 1. Public Parks, playgrounds and conservation areas.
 - 2. Golf courses, miniature golf and golf driving ranges as a conditional use (see subsection 20-6.4j).
 - 3. Athletic fields, tennis courts, basketball courts, hockey rinks, skateparks.
 - 4. Swimming pools.
 - 5. Indoor commercial recreation facilities.
 - 6. Equestrian centers and trails.
 - 7. Bicycle (non-motorized) and jogging paths.
 - 8. Recreation - community centers.
- c. Accessory Uses Permitted.
 - 1. Garages, storage buildings and other customary accessory uses incidental to the principal use.
 - 2. Off-street parking (see subsection 20-5.7) and private garages. Detached garages shall not exceed twenty (20') feet in height.
 - 3. Signs. (See subsection 20-5.10.)
 - 4. Fences and walls. (See subsection 20-5.3.)
- d. Maximum Building Height. No building shall exceed thirty-five (35') feet in height and except further as allowed in subsection 20-6.3.
- e. Area and Yard Requirements.

Principal Bldg.		
	d	Detache
Minimum		Golf
		Structu
Lot area	res	Courses
		3.75 ac
		50
holes	ac-9	holes
	200	ac-18
Lot frontage		150'
		600
Lot width		150'
		600'
Lot depth		150=
		1,000'
Side yard		50'
		200'
Front yard		200'
		200'
Rear yard		200'
		75'
		200'
Accessory Bldg.		
Minimum		
Distance to side line		30'
		50'
Distance to rear line		30'
		50'

Distance to other bldg.	15'
	20'
Maximum Coverage by:	
Principal building	5%
	1%
Accessory building	2%
	.1%
Impervious Surface	10%
	10%
Landscape Buffer	20 ft.
	20 ft.

- f. Prohibited uses. Uses that rely on motorized vehicles or motorized equipment shall be prohibited. Such motorized uses are considered not to be in keeping with the adjoining residential communities. These uses may be permitted as conditional uses if such use is enclosed in a building, where the sound from any such motor is not audible at the property line. Any use not listed under subsection (b) above shall be considered prohibited.

Section 20-5.6 Nonconforming Uses, Structures and Lots, subsection i is hereby repealed.

Section 20-5.14 Pinelands Area Development Standards, subsection e.2 is revised:

- (2) If the proposed development is non-residential, it is located in the PV, RPPV or TV Zones or in that portion of the CM Zone located in a Pinelands Village; and

Section 20-5.14 Pinelands Area Development Standards, subsection h.2 is amended to add the following new provision:

- (g) Alternate Design Pilot Program Treatment Systems, provided that:
- (1) The proposed development to be served by the system is residential and is otherwise permitted pursuant to the provisions of this Ordinance;
 - (2) The design of the system and its discharge point, and the size of the entire contiguous parcel on which the system or systems is located will ensure that groundwater exiting from the entire contiguous parcel or entering a surface body of water will not exceed two parts

per million nitrate/nitrogen, calculated pursuant to the Pinelands dilution model dated December, 1993, as amended, subject to the provisions of subsection (g)(3) below. The entire contiguous parcel may include any contiguous lands to be dedicated as open space as part of the proposed development but may not include previously dedicated road rights-of-way or any contiguous lands that have been deed restricted pursuant to Section 20-6.7 of this Ordinance or N.J.A.C. 7:50-5.47;

- (3) Only contiguous lands located within the same zoning district and Pinelands management area as the proposed system or systems may be utilized for septic dilution purposes, except for the development of an individual single family dwelling on a lot existing as of January 14, 1981, non-residential development on a lot of five (5) acres or less existing as of January 14, 1981, or cluster development as permitted by N.J.A.C. 7:50-5.19;
- (4) The depth to seasonal high water table is at least five (5) feet;
- (5) Any potable water well will be drilled and cased to a depth of at least one hundred (100) feet, unless the well penetrated an impermeable clay aquiclude, in which case the well shall be cased to at least fifty (50) feet;
- (6) No more than ten (10) alternate design pilot program treatment systems utilizing the same technology shall be installed in the development of any parcel if those systems are each serving one single family dwelling;
- (7) Each system shall be equipped with automatic dialing capability to the manufacturer, or its agent, in the event of a mechanical malfunction;
- (8) Each system shall be designed and constructed so that samples of effluent leaving the alternate design pilot program septic system can be readily taken to confirm the performance of the technology;
- (9) The manufacturer or its agent shall provide to each owner an operation and maintenance manual approved pursuant to N.J.A.C. 7:50-10.22(a)2iv;

- (10) Each system shall be covered by a five-year warranty and a minimum five-year maintenance contract consistent with those approved pursuant to N.J.A.C 7:50-10.22(a)2v that cannot be cancelled and is renewable and which includes a provisions requiring that the manufacturer or its agent inspect the system at least once a year and undertake any maintenance or repairs determined to be necessary during any such inspection or as a result of observation made at any other time;
- (11) The property owner shall record with the deed to the property a notice consistent with that approved pursuant to N.J.A.C 7:50-10.22(a)2vi that identifies the technology, acknowledges the owner's responsibility to operate and maintain it in accordance with the manual required in subsection (g)(9) above, and grants access, with reasonable notice, to the local board of health, the Commission and its agents for inspection and monitoring purposes. The recorded deed shall run with the property and shall ensure that the maintenance requirements are binding on any owner of the property during the life of the system and that the monitoring requirements are binding on any owner of the property during the time period the monitoring requirements apply pursuant to the pilot program or any subsequent regulations adopted by the Commission that apply to said system; and
- (12) No system shall be installed after August 5, 2007.

Section 20-5.14 Pinelands Area Development Standards, subsection 1.5 is revised:

5. A cultural resource survey shall accompany all applications for development in the PV, RPPV and TV Zones and in that portion of the CM Zone located in a Pinelands Village . . . ;and a list of personnel involved and qualifications of the person(s) performing the survey

Section 20-5.14 Pinelands Area Development Standards, subsection p.1(b) is revised:

- 1(b) When a variance of density or minimum lot area requirements for a residential or principal nonresidential use in the PV Zone, the RPPV Zone, in that portion of the TV Zone located in the Pinelands Area or in that portion of the CM Zone located

in a Pinelands Village is granted by the Township, Pinelands Development Credits shall be used for all dwelling units or lots in excess of that permitted without the variance.

Section 20-5.19 Requirements for Golf Courses is hereby repealed.

Section 20-6.4 Conditional Uses, subsection e is revised as follows:

- e. Special Requirements for Service Stations
 1. For purposes of this Chapter, the term AService Station≡ shall include such uses as auto services, repair garages (automobile and boats), auto body shops, metal working, welding shops and contractor repair shop.
 2. The minimum lot size for service stations shall be twenty thousand (20,000) square feet and the minimum frontage shall be one hundred fifty (150') feet.
 3. All appliances, pits, storage areas and trash facilities other than gasoline filling pumps or air pumps shall be within a building. Gasoline filling pumps, air pumps and canopies over gasoline pumps shall be permitted within the required front yard space of service stations but shall be no closer than fifty (50') feet to any current or proposed street line. All lubrication, repair or similar activities shall be performed in a fully enclosed building and no dismantled parts shall be displayed outside of any enclosed building.
 4. No junked motor vehicle or part thereof, or motor vehicles incapable of normal operation upon the highway, shall be permitted on the premises of any service station. It shall be deemed prima facie evidence of violation of this Chapter if more than three (3) motor vehicles incapable of operation are located at any one (1) time upon any premises not within a closed and roofed building excepting, however, that a number not exceeding six (6) motor vehicles may be located upon any service station premises outside of a closed or roofed building for a period of time not to exceed thirty (30) days and providing that the owners of the motor vehicles are awaiting their repair or disposition.

5. Not more than two (2) items (such as motor vehicles, trailers, boats or similar equipment) shall be displayed for sale as part of a service station.
6. No parking shall be permitted on unpaved areas.
7. Auto service stations shall be permitted the following signs:
 - (a) One freestanding sign advertising the name of the station or garage and the principal products sold on the premises, including any special company or brand name, insignia or emblem, provided that each such sign shall not exceed thirty-five (35') feet in area on a side and shall be set back twenty (20') feet from street lines and fifty (50') feet from side lot lines and provided further that the sign shall be not less than ten (10') feet, nor more than twenty (20') feet above the ground.
 - (b) One temporary sign located inside the property line and specifically advertising special seasonal servicing of automobiles, providing that the sign does not exceed seven (7) square feet in area.
 - (c) Directional signs or lettering displayed over individual entrance doors or bays and consisting only of the words "washing", "lubrication", "repairs", "mechanic on duty" or other words closely similar in import, provided that there shall not be more than one (1) such sign over each entrance or bay.
 - (d) Customary lettering or other insignia which are a structural part of a gasoline pump, consisting only of the brand name of a gasoline sold, lead warning sign, a price indicator and any other sign required by law.
8. May not be located within 1,000 feet of a public water supply well or private water supply well for a public or private school if facility has underground fuel tanks or unpaved parking areas.

Section 20-6.4 Conditional Uses is amended to add the following new subsection:

- j. Special Requirements for Golf Courses

1. Wildlife and Habitat Preservation

- (a) All golf courses/clubs shall be designed to preserve existing wooded areas and utilize existing open space. In addition to existing cleared land, the amount of additional land permitted to be cleared shall be 75 acres or 25% of the existing wooded acreage, whichever is greater. An additional 15 acres of clearing is allowed if it can be demonstrated that such additional clearing were necessary in order to accommodate lakes and other permanent water surface areas to be utilized for drainage and /or irrigation purposes or to maintain sufficient fairway width for a championship length course. Existing cleared areas not to be utilized by the course shall be mitigated by replacement with native trees and shrubs, particularly in locations where stream corridors are not shaded by vegetation at the time of development. All landscaping, with the exception of that proposed for ornamental use or screening/buffering, shall utilize native shrubs and trees in accordance with Section 20-5.14.c4.(d).
- (b) A complete inventory of all wildlife and plant habitat and species on the property shall be conducted, including documentation of any endangered or threatened species habitat.
- (c) Clearing, grading and other land disturbance activities shall be designed to completely avoid the nesting, breeding and feeding areas of endangered and threatened animal species, as well as the locations of endangered and threatened plant species.
- (d) A Wildlife Habitat and Enhancement Plan, including maps of native species habitat, shall be submitted which outlines ways in which the course will maintain or enhance conditions for native animal and plant species, particularly

endangered and threatened animal and plant species.

- (e) Application of pesticides or fertilizers shall be prohibited in undisturbed areas and within 300 feet of any identified endangered and threatened species habitat or rare community type.
- (f) Gasoline powered golf carts shall be prohibited on any golf course (this excludes maintenance vehicles and equipment).
- (g) All golf courses shall be designed to minimize the visual impact of the course on the landscape through the provision of a forested buffer not less than 100 feet in width around the perimeter of the parcel.

2. Water Quality Management

- (a) A vegetated buffer at least 300 feet in width and consisting of native trees, shrubs and ground covers, shall be provided and maintained between any turf area which will be treated with fertilizers or pesticides and the closest point of any wetlands, on or off-site.
- (b) The applicant shall demonstrate that the amount of managed turf used on the course has been reduced to the maximum extent practical. Primary play areas and, if the need is demonstrated, secondary play areas are permitted to use managed turf not on the list below provided that it has been shown to decrease irrigation and pesticide application requirements. Other secondary play areas and all out-of-play areas shall use only those species of drought and pest resistant turf listed below:
 - i. Fescue species
 - ii. Smooth brome grass
 - iii. Reed canary grass
 - iv. Little bluestem
 - v. Deertongue
 - vi. Red top
 - vii. Switch grass
 - viii. Other varieties shown to be drought and pest resistant
- (c) The applicant shall demonstrate that Ano-mow \cong and Ano-spray \cong zones have

been incorporated in the course design and that such zones have been maximized in area and situated when appropriate adjacent to existing native vegetative cover and water bodies.

- (d) An Integrated Turf Management (ITM) Plan and Integrated Pesticide and Pest Management (IPM) Plan shall be submitted which are specific to the operation and maintenance of the proposed golf course. These plans shall be prepared in accordance with guidelines established by the New Jersey Department of Environmental Protection (NJDEP), and shall take into account guidelines promulgated by the United States Golf Association (USGA) and the Golf Course Superintendents' Association of America (GCSAA). These plans shall use Best Management Practices (BMPs) to prevent and/or minimize adverse impacts of the golf course on groundwater and surface water resources.
- (e) The ITM/IPM Plans required in 2(d) above shall incorporate at a minimum the following items:
 - i. Strategies to prevent or discourage recurring pest problems, which may include pest resistant turf, modifying microclimates, changing cultural practices, and using various non-chemical control measures;
 - ii. Selection of pesticides that have low toxicity, low solubility (<30 ppm), high sorption rates (K>300), and short half lives (<21-50 days);
 - iii. Delineation of high, medium and low maintenance areas and the thresholds of pest damage that the course will accept for each area;
 - iv. Descriptions of the planned turfgrass;
 - v. Identification of local disease, insect and weed problems; and

- vi. Identification of aesthetic and functional thresholds for pest and disease.
- (f) A Soil Erosion and Sedimentation Plan for the golf course shall be submitted which outlines coordinated soil erosion and sediment control measures by focusing on the perimeter of the graded areas. This Plan shall also limit the extent of clearing and soil exposure prior to revegetation, possibly through construction phasing. A grading plan, sufficient to determine consistency with the stormwater management requirements of Section 20-5.14.h.2(f), shall be submitted for the course, with individual grading plans submitted for specific holes as circumstances warrant.
- (g) All waterway crossings shall be bridged, not designed with culverts.
- (h) Monitoring of surface water and groundwater quality and quantity shall be provided by the owner(s) on a quarterly basis according to a Water Quality Monitoring Plan prepared specifically for the proposed golf course/club. This monitoring shall include testing for nitrates and all pesticides to be used on the course (only those found on the Pinelands approved list may be applied B other pesticides registered with the USEPA may be used only if they are approved by the Pinelands Commission following the submission of a report detailing their characteristics). At least 12 testing sites shall be required; such sites shall located next to tees, greens, and fairways in order to identify turf management issues, as well as at upgradient, downgradient and sidegradient locations on the golf course. Water table monitoring shall also be provided, using continuous water table monitoring equipment (data log). Such a monitoring program shall detail the type, timing and frequency of testing, as well as identify the specific chemical

parameters to be tested, and shall be established at the time the Integrated Turf Management Plan and the Integrated Pesticide and Pest Management Plans required in 2(d) above are approved by the Township. The monitoring program shall be consistent with the guidelines established for monitoring plans established by the New Jersey Department of Environmental Protection (NJDEP), Bureau of Water Quality Analysis and the Pinelands Commission.

- (i) Any streams that traverse the golf course shall be monitored at their entry and exit points to establish impacts on surface water quality.
- (j) Detection of levels of nitrates or pesticides above those standards outlined in the Water Quality Management Plan required in 2(h) above, or the presence of prohibited chemical constituents, shall result in immediate re-testing at the impacted well site(s). A second consecutive reading above allowable levels shall result in the use of the product causing the readings to be immediately discontinued at the site. A third test shall be conducted one month later; if the problem persists, or if there are any chemical spills or other occurrences that may present a hazard to local water quality or inhabitants, they shall be immediately reported by the owner to the appropriate authorities for possible mitigation. If the level of nitrate/nitrogen exceeds 2 ppm, the golf course superintendent shall provide to the Township and the Pinelands Commission a written description of how he or she intends to modify the turf management program in order to ensure consistency with the 2 ppm standard.
- (k) Fertilizer runoff shall be reduced via slow-release fertilizers and through the selection and use of organic products whenever possible.

- (l) Storage, handling, and disposal of chemicals shall be conducted in compliance with State and OSHA regulations. Maintenance employees shall be properly trained with respect to these procedures.
- (m) Porous materials such as wood chips and gravel shall be used as alternatives to asphalt and concrete in areas where traffic characteristics permit. Wood chips shall be generated from trees removed on-site to the maximum extent possible.
- (n) Paved parking areas shall be limited to 50 spaces, with additional parking areas consisting of porous materials.
- (o) Any planned construction, improvements, renovations or upgrades on the course shall include measures to prevent stormwater runoff and non-point pollution from entering waterways during construction.
- (p) Any non-point pollution control measures required as part of the course design shall be installed in a manner which protects adjacent areas from construction activities.
- (q) Storage and wash areas for maintenance equipment shall be covered as to prevent runoff of chemicals. All chemical storage areas and septic systems shall maintain a minimum distance of 300 feet from all freshwater wetlands.
- (r) Where applicable, grass clippings shall be composted rather than bagged.

3. Water Conservation Techniques

- (a) An Irrigation Water Management Plan (IWM) shall be submitted, specific to the operation and maintenance of the proposed golf course. The IWM shall demonstrate how, through the use of innovative technologies and practices, the course will reduce water use by at least 10% as compared to state-of-the-art golf courses currently being constructed outside the Pinelands. The IWM shall include specifics on installation of an approved irrigation system that

reduces water use to the maximum extent practicable, evaluation of the irrigation system and pump operation prior to season startup to ensure efficiency and proper functioning, proper scheduling of irrigations by following a predetermined monitoring and record-keeping procedure, installation of management tools and devices, and testing of irrigation water quality. All irrigation areas must be clearly delineated in the course layout. The IWM shall demonstrate that areas eligible for irrigation are limited to greens and collars, tees, greens approaches, fairway landing zones, and other fairway areas and shall demonstrate that the irrigation of roughs will be limited to the greatest extent possible. Watering shall be scheduled as to reduce evaporation and the potential for disease.

- (b) A water use budget and water recycling plan that complements the IWM Plan required in 3(a) above shall be prepared and submitted, which is specific to the proposed golf course. This plan shall detail the source of potable and irrigation water, the projected amounts which will be required and the water supply capacity of any aquifer from which such water will be withdrawn, and should ensure that consumptive water use is minimized.
- (c) Where native shade trees are planted, as around waterways, they shall be clustered as to reduce evaporation rates.
- (d) The construction of runoff collection ponds in upland areas shall be required for use as stormwater management devices and as potential sources of irrigation water. Best Management Practices (BMP's) shall be employed to maximize recharge of surface runoff. Ponds shall be designed and constructed to prevent stagnation, including the use of aeration devices and other techniques to maintain pond water circulation.

- (e) Unless the applicant can demonstrate that they are unnecessary, underdrain systems that will eventually feed lined lakes shall be required for tees and greens; these may be used as a source of irrigation water.
- (f) Following the installation of any well intended to serve as a water supply source for the golf course/club, and prior to the issuance of a certificate of occupancy, a pump test shall be conducted at the maximum projected pumping rate, to assess the impact(s) on other well users in the vicinity. The results of this test shall be used to project the cone-of-depression for production wells, and to determine whether existing wells or wetlands will be adversely affected. If adverse effects on existing wells or wetlands are projected, alternative water supply sources shall be required for the golf course.

SECTION 4: REPEALER: All Ordinances or parts of Ordinances which are in conflict or inconsistent herewith are hereby repealed to the extent of such inconsistency or conflict only.

SECTION 5: SEVERABILITY: If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

SECTION 6: EFFECTIVE DATE: This Ordinance shall take effect upon final adoption and publication as required by law.

SECTION 7: CODIFICATION: This Ordinance shall be codified in the Upper Township Code at the sections referred to above.

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 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 26th DAY OF January, 2004 AT 4:00 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

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

7. Introduction and First Reading 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.

Moved by Curtis Corson, second by Jay Newman to Introduce ordinance with Public Hearing and Final Adoption set for February 9, 2004, 7:30 P.M. meeting. During roll call vote all five 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 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

8. Introduction and First Reading 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.

Moved by Curtis Corson, second by Jay Newman to Introduce ordinance with Public Hearing and Final Adoption set for February 9, 2004, 7:30 P.M. meeting. During roll call vote all five 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.**

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 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

CORRESPONDENCE

NEW BUSINESS

- 9. George and Connie Meher, request to purchase Township owned property, Block 24, Lots 38-42.** Mrs. Meher was present. She stated she wants the lots to make her present property larger. Mr. Dietrich stated that the lots are low and wet and of no use to the Township and recommended granting the request. Attorney Daniel Young advised the Committee that this type of sale could be handled by ordinance instead of auction. Motion to grant request made by Curtis Corson, second by Andrew McCrosson with all five Committee members voting in the affirmative.

UNFINISHED BUSINESS:

DISCUSSION

- 10. Discussion of the retirement of John Hill from association with Tri-County Animal Control Services.**

Township Attorney, Daniel Young explained that John Hill is no longer operating as Animal Control Officer. Our contract needs to reflect that Joanne Hill is our Animal Control officer.

He suggested that a closed session discussion take place for contract amendment before any action takes place.

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 Jay Newman, second by Andrew McCrosson with all five Committee members voting in the affirmative.

Bills approved for payment:	\$169,005.15
Payroll:	\$211,944.92

REPORT OF MUNICIPAL DEPARTMENTS:

- 11. Construction Code**
- 12. Clerk’s Office**
- 13. Animal Control**
- 14. Tax Collector**
- 15. Finance Office**
- 16. Department of Public Works**
- 17. Tax Assessor**
- 18. Zoning Office**

Reports are available for review from the Clerk’s Office.

PUBLIC COMMENT

Linda Gentile, was present to discuss the contract with Tri County Animal Control and the recent newspaper article. She is a member of the Municipal Alliance Committee. She discussed the Township’s Alcohol and Drug Policy for employees. The Mayor explained that the policy is taken very seriously and that stringent testing procedures are followed for employees. She requested that it apply to our contract people.

Linda Kirchhoff, stated that driving while intoxicated is a very serious offense and that innocent people are killed every day by drunk drivers. She asked if we received her email.

Roberta Townsend as about her statement she made at the last meeting and about her request to purchase Township owned property. Attorney Daniel Young explained that both he and the Municipal Engineer are analyzing the information and will report on it when ready.

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.** Moved by Jay Newman, second by Curtis Corson to close the regular portion and go into an executive session. All voted in the affirmative during roll call vote.

RECONVENE PUBLIC PORTION OF MEETING

20. Resolution No. 027-2004 Re: Appointment of J.P. Bainbridge & Associates, Inc. and J. Paul Bainbridge as appraiser to appraise 111 Stagecoach Road.

TOWNSHIP OF UPPER
CAPE MAY COUNTY
R E S O L U T I O N
RESOLUTION NO. 027-2004
RE: APPOINTMENT OF J.P. BAINBRIDGE & ASSOCIATES, INC.
AND J. PAUL BAINBRIDGE
AS APPRAISER TO APPRAISE 111 STAGECOACH ROAD

WHEREAS, the Township requires an appraiser to provide services which include a complete summary report for the purpose of estimating retrospective market value to be utilized in the pending tax appeal of Frito-Lay, Inc. for the property located at Block 600, Lot 25 and commonly known as 111 Stagecoach Road; and

WHEREAS, a resolution is required authorizing the award of such contract for professional services; 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. J. P. Bainbridge & Associates, Inc. and J. Paul Bainbridge with offices at 300 Goshen Road, Cape May Court House, New Jersey is hereby appointed Appraiser for the Township of Upper for the appraisal of Block 600, Lot 25.

3. The term of this contract is for a period not to exceed the length of time necessary for completion of the aforesaid project, unless sooner terminated by the Township of Upper, at the option of the Township of Upper.

4. This Contract is awarded without competitive bidding as Aprofessional service≅ in accordance with N.J.S.A. 40A:11-

5(1)(a) of the New Jersey Local Public Contract Law because J. P. Bainbridge & Associates, Inc. and J. Paul Bainbridge have professional knowledge as to appraisal issues which knowledge is particularly valuable to the Township Committee.

NOTICE OF CONTRACT AWARD

The Township Committee of the Township of Upper, State of New Jersey has awarded the contract without competitive bidding as a professional service pursuant to N.J.S.A. 40A:11-5(1)(a) to J. P. Bainbridge & Associates, Inc. and J. Paul Bainbridge for appraisal services. This contract and the resolution authorizing same shall be available for public inspection in the office of the municipal clerk of the Township of Upper, State of New Jersey.

5. A certificate from the Chief Financial Officer of Upper Township showing the availability of adequate funds for this contract and showing the line item appropriation of the official budget to which this contract will be properly charged has been provided to the governing body and shall be attached to this Resolution and kept in the files of the municipal clerk.

6. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with J. P. Bainbridge & Associates, Inc. and J. Paul Bainbridge in accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein as well as the written proposal dated December 12, 2003 and attached hereto as Exhibit A. Upon execution of all parties thereto said contract shall become effective.

7. A copy of this Resolution shall be published in the official newspaper of the Township of Upper within ten (10) days from the date of adoption.

8. This Resolution shall be effective as of adoption.

Resolution No. 027-2004

Offered by: McCrosson,

Seconded by: Newman

Adopted: January 12, 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>

ADJOURNMENT

There being no further business this evening the meeting was adjourned at 10:15 P.M. Next meeting to be January 26, 2004 at 4:00; and immediately after this regular meeting a Budget Workshop meeting will be held.

Minutes prepared by

Wanda Gaglione, RMC
Municipal Clerk

Bill List

035249	01/12/04	A0004	A+ COMMERCIAL OFFICE CLEANERS	1,025.00
035250	01/12/04	A0006	ADVANCE TREADS INC	1,555.12
035251	01/12/04	A0014	ABBIAMO, INC.	225.00
035252	01/12/04	A0017	A.C.M. JIF C/O T. FREEDMAN	60,817.00
035253	01/12/04	A0018	ACTION SUPPLY INC.	702.24
035254	01/12/04	A0025	ADVANTAGE RENTAL ACE HARDWARE	456.21
035255	01/12/04	A0041	ALL ACTION WATER SPORTS, INC.	3,308.49
035256	01/12/04	A0064	AMERICAN FOREST & PAPER ASSOCI	52.00
035257	01/12/04	A0094	ARCH WIRELESS	15.65
035258	01/12/04	B0034	BCI BURKE COMPAMY, INC.	257.00
035259	01/12/04	B0080	BOROUGH OF AVALON	680.00
035260	01/12/04	B0092	BROKER, EUGENE JR.	320.00
035261	01/12/04	B0109	BUCCIARELLI, DAVID	100.00
035262	01/12/04	B0148	BLUE FLAME GAS OF N.J.	221.56
035263	01/12/04	B0152	BUCHANAN, KAREN A.	449.78
035264	01/12/04	C0006	CMC TAX COLL/TREAS. ASSOC.	375.00
035265	01/12/04	C0012	CANDERAN, ROBERT	20.00
035266	01/12/04	C0046	CAPE MAY COUNTY CLERK	8.00
035267	01/12/04	C0048	CAPE MAY COUNTY MUA	36,262.90
035268	01/12/04	C0136	COASTAL ENGRAVING CO., INC.	32.50
035269	01/12/04	C0138	COASTAL PLUMBING & HEATING INC	710.10
035270	01/12/04	C0156	COMPUTER HOUSE TECH.CENTER INC	1,000.00
035271	01/12/04	C0157	COMPUSERVE/WORLD HEADQUARTERS	9.95
035272	01/12/04	C0160	CONECTIV POWER DELIVERY	15,983.40
035273	01/12/04	C0201	CRUZAN'S TRUCK SERVICE INC.	243.20
035274	01/12/04	C0202	CRAIG TESTING LABS, INC.	2,200.00
035275	01/12/04	D0004	DB ELECTRONICS	2,315.00
035276	01/12/04	D0033	DECOMPRESSION WEAR	2,586.32
035277	01/12/04	D0049	DEVER ELECTRIC, INC.	79.00

035278	01/12/04	D0066	GARBUTT, PATRICIA A.	16.00
035279	01/12/04	D0080	DOWNAM, HARRY J. JR.	46.95
035280	01/12/04	D0105	DANONE WATERS OF NORTH AMERICA	277.50
035281	01/12/04	E0030	EXECUTIVE BUSINESS PRODUCTS	694.88
035282	01/12/04	F0013	FARM RITE INC.	293.02
035283	01/12/04	F0054	FORT DEARBORN LIFE INSURANCE	460.38
035284	01/12/04	G0006	GARBUTT,PATRICIA A.	8.00
035285	01/12/04	G0011	GAMETIME, INC.	458.00
035286	01/12/04	G0014	GARDEN STATE HWY PRODUCTS INC.	15.00
035287	01/12/04	G0016	GARDNER HARDWARE INC.	17.72
035288	01/12/04	G0044	GILES & RANSOME, INC.	371.01
035289	01/12/04	H0002	H.A. DEHART & SON CORP.	1,180.81
035290	01/12/04	H0018	HAROLD RUBIN/L & H SUPPLY	333.28
035291	01/12/04	H0057	HISTORICAL PRESERVATION	925.00
035292	01/12/04	H0060	HOLZER, JEFFREY	850.00
035293	01/12/04	H0073	HOME DEPOT CRC/GECF	341.57
035294	01/12/04	I0002	IAAO	77.50
035295	01/12/04	J0014	JC MILLER CO.	937.72
035296	01/12/04	J0041	JONES, JAMES M.	200.00
035297	01/12/04	K0012	KEEP AMERICA BEAUTIFUL	389.25
035298	01/12/04	K0014	KEENAN,BRIAN	74.85
035299	01/12/04	L0013	LANIER HEALTHCARE	157.99
035300	01/12/04	L0018	LANIER WORLDWIDE, INC.	880.59
035301	01/12/04	L0030	LAWYERS DIARY AND MANUAL	73.25
035302	01/12/04	L0034	LAYTON, BRENDA MRS.	150.00
035303	01/12/04	L0038	LAYTON, WILLIAM	191.00
035304	01/12/04	M0009	MCCAULEY, ROBERT	188.00
035305	01/12/04	M0033	MARMORA HARDWARE	617.00
035306	01/12/04	M0076	MGL FORMS-SYSTEM	328.51
035307	01/12/04	M0103	MODERN GAS COMPANY, INC.	865.92
035308	01/12/04	M0115	MOORE WALLACE NORTH AMERICA	147.49
035309	01/12/04	N0004	NJ-AMERICAN WATER CO.	7.18
035310	01/12/04	N0052	NATL YOUTH SPORTS COACHED ASSN	220.00
035311	01/12/04	P0032	PEDRONI FUEL CO.	187.54
035312	01/12/04	P0055	PHILADELPHIA GENERAL TIRE	187.00
035313	01/12/04	P0075	POSITIVE PROMOTIONS INC	614.89
035314	01/12/04	R0030	RIGGINS, INC.	2,499.42
035315	01/12/04	S0011	SALVIA, ANTHONY	70.00
035316	01/12/04	S0012	SALVIA, JOE	75.00
035317	01/12/04	S0034	SCHULER, DANIEL	80.38
035318	01/12/04	S0036	SCHULER, JAMES	249.00
035319	01/12/04	S0054	SENN, FRANCES	24.00
035320	01/12/04	S0072	SEGIN, STEWART S.	147.39
035321	01/12/04	S0087	SHORE SUPPLY, INC.	1,431.64
035322	01/12/04	S0093	SHORE TRUE VALUE HARDWARE	454.31
035323	01/12/04	S0122	SOMERS POINT LUMBER INC.	3,542.11
035324	01/12/04	S0130	SOUTH JERSEY CHIEFS ASSOC.	37.00
035325	01/12/04	S0133	SOUTH JERSEY AUTO SUPPLY	131.18
035326	01/12/04	S0134	SO. JERSEY GAS COMPANY	1,659.40
035327	01/12/04	S0135	S.J. GIRLS SOCCER LEAGUE	1,015.00
035328	01/12/04	S0144	SOUTH SHORE FORD	199.46
035329	01/12/04	S0216	DEPT.31 0000261489	330.92
035330	01/12/04	T0011	TAYLOR, JASON	304.18
035331	01/12/04	T0013	TARBY, RAYMOND	247.43
035332	01/12/04	T0016	TEAL, ALICE MS.	1,670.00
035333	01/12/04	T0032	THE PRESS & SUNDAY PRESS	155.71
035334	01/12/04	T0034	THE PAPER OF U.T./GAZETTE	30.26
035335	01/12/04	T0037	THORNTON, JESSICA	20.00
035336	01/12/04	T0038	THOMAS, CHRISTOPHER	236.00
035337	01/12/04	T0048	TILL PAINT CO/D. FITZGERALD	1,520.95
035338	01/12/04	T0067	TOWNSHIP OF UPPER PETTY CASH	100.00
035339	01/12/04	T0080	TREASURER STATE OF N.J.	2,942.05
035340	01/12/04	V0013	VERIZON WIRELESS	155.28
035341	01/12/04	V0022	VERIZON	1,145.36
035342	01/12/04	W0016	WARRINGTON,MARILYN	24.00
035343	01/12/04	Y0008	YOUNG, DANIEL J. ESQUIRE PC	3,712.50

total \$169,005.15
