

**TOWNSHIP OF UPPER  
2100 TUCKAHOE ROAD  
PETERSBURG, NJ 08270  
CAPE MAY COUNTY  
MINUTES FOR AUGUST 28, 2017**

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

**CALL TO ORDER**

**SUNSHINE ANNOUNCEMENT**

**SALUTE TO THE FLAG**

**ROLL CALL**

Edward Barr	Present
John Coggins	Absent
Curtis Corson	Present
Hobart Young	Present
Richard Palombo	Present

Also present were Municipal Clerk Barbara L. Young, Municipal Attorney Daniel Young, Municipal Engineer Paul Dietrich, Chief Financial Officer Barbara Spiegel and Township Administrator Scott Morgan.

**APPROVAL OF MINUTES -** August 14, 2017 Regular Meeting and  
Closed Session Minutes

Motion by Edward Barr, second by Hobie Young, to approve the August 14, 2017 Regular Meeting and Closed Session Minutes as submitted. During roll call vote all four Committeemen present voted in the affirmative.

**REPORT OF GOVERNING BODY MEMBERS**

**Hobie Young, Committeeman,** gave a brief status update on the improvements at Caldwell Park and the Amanda's Field baseball fields. He next reported that a meeting will be held soon for volunteers for the Upper Township Fall Fest and Pumpkin Run.

**Edward Barr, Committeeman,** reminded everyone that school will be starting soon and asked that everyone be mindful of the school busses and children at the bus stops.

**Curtis Corson, Committeeman,** requested that the Township move forward with requiring Upper Township Businesses to install lock boxes at their establishments so that Emergency Personnel can access the buildings during an emergency. After a brief discussion, it was decided to gather more information and bring a proposal back to the Committee for further discussion.

**Richard Palombo, Mayor**, reported that the Strathmere and Beesley's Point beaches will be guarded through the Labor Day weekend, and there will be limited beaches guarded during the weekends on September 9<sup>th</sup> and 10<sup>th</sup> and the 16<sup>th</sup> and 17<sup>th</sup>. He next reported that several of the beach fence posts have been removed and used for bonfires on the beach. He requested that the posts be replaced.

### **OTHER REPORTS**

**Scott Morgan, Township Administrator**, reported that Hurricane season is upon us and Emergency Management is currently tracking a Tropical Storm right off the coast. He cautioned beach goers to be careful of rip currents and to swim only on protected beaches.

**Barbara Young, Municipal Clerk**, stated that she is very happy to be back and thanked everyone for the flowers, cards, and well wishes while she was out. She also thanked her staff for the wonderful job they did during her absence.

**Daniel Young, Municipal Attorney**, welcomed Barbara Young back and stated she was missed. He next reported that there are a number of contract negotiation, personnel, and potential litigation items for closed session.

**Paul Dietrich, Township Engineer**, reported that there has been minor erosion of the beaches in Strathmere and they will be closely monitoring the situation with the brewing Tropical Storm off the coast. He stated that he has notified the Army Corps of Engineers and the DEP of the situation.

**Barbara Spiegel, Chief Financial Officer**, requested authorization for the Engineer to attend a Floodplain Management class in Atlantic City on October 25<sup>th</sup> and 26<sup>th</sup>. Motion by Mayor Palombo, second by Hobie Young, to approve the request. During roll call vote all four Committeemen present voted in the affirmative.

### **PRESENTATIONS**

1. Recognizing Shawna Mulford as the Special Event Coordinator for the Upper Township 4<sup>th</sup> of July celebration.

## **TOWNSHIP OF UPPER CAPE MAY COUNTY R E S O L U T I O N**

### **RESOLUTION NO. 230-2017**

#### **RE: RECOGNIZING SHAWNA MULFORD AS THE SPECIAL EVENT COORDINATOR FOR THE UPPER TOWNSHIP 4<sup>TH</sup> OF JULY CELEBRATION**

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**WHEREAS**, in the spirit of patriotism, the Township of Upper has provided a family friendly event at Amanda's Field each year to celebrate the 4<sup>th</sup> of July; and

**WHEREAS**, the Township of Upper Special Event Coordinator, Shawna Mulford, is responsible for the organization and continued success of this celebration; and

**WHEREAS**, the Upper Township Committee wishes to acknowledge and thank Shawna Mulford for her continuous efforts and positive impact throughout this event, professionalism in making our 4<sup>th</sup> of July celebration a great success and providing our community with an enjoyable, family friendly event; and

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee on behalf of the citizens of the Township of Upper, to extend to the Shawna Mulford recognition on her outstanding commitment and dedication to the Township of Upper 4<sup>th</sup> of July Celebration and a heartfelt thanks and gratitude for her generous contribution of time and service to the community.

**GIVEN UNDER OUR HANDS** and the seal of the Township of Upper this 14<sup>th</sup> day of August 2017.

**RESOLUTIONS**

2. Commemorating the 16<sup>th</sup> Anniversary of September 11, 2001.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 248-2017**

**RE: COMMEMORATING THE 16<sup>TH</sup> ANNIVERSARY OF SEPTEMBER 11, 2001**

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**WHEREAS**, 16 years ago, on September 11, 2001, terrorists hijacked four civilian aircraft, crashing two into the World Trade Center in New York City, a third into the Pentagon outside of Washington, D.C., and a fourth into the countryside of Pennsylvania; and

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

**WHEREAS**, countless fire departments, police departments, first responders, emergency medical personnel, and volunteers responded heroically to those horrific events; and

**WHEREAS**, 16 years later, the men and women in the United States Armed Forces continue to defend and protect the United States of America against those who seek to threaten her people; and

**WHEREAS**, on the 16<sup>th</sup> anniversary of this tragic day, the thoughts of the citizens of Upper Township are with all of the victims of the events of September 11, 2001 and their families.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, that we do hereby observe the 16<sup>th</sup> anniversary of September 11 as “Always Remember Day”, to honor the innocent victims of September 11, 2001, the heroic actions of those who rushed to help their fellow citizens, and those who continue to fight for the freedom of this great Nation; and

**BE IT FURTHER RESOLVED**, that all persons within this municipality are urged to commemorate the 16<sup>th</sup> anniversary of September 11, 2001.

**GIVEN UNDER OUR HANDS** and the seal of the Township of Upper this 28<sup>th</sup> day of August 2017.

Resolution No. 248-2017

Offered by: Corson

Seconded by: Barr

Adopted: August 28, 2017

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>X</u>	___	___	___
Coggins	___	___	___	<u>X</u>
Corson	<u>X</u>	___	___	___
Young	<u>X</u>	___	___	___
Palombo	<u>X</u>	___	___	___

- Supporting the County of Cape May’s effort to secure grant funding for the construction of a pedestrian/bicyclist path along Roosevelt Boulevard, County Route 623, over Crook Horn Creek.

**TOWNSHIP OF UPPER**

**CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 249-2017**

**RE: SUPPORTING THE COUNTY OF CAPE MAY'S EFFORT TO SECURE GRANT FUNDING FOR THE CONSTRUCTION OF A PEDESTRIAN/BICYCLIST PATH ALONG ROOSEVELT BOULEVARD, COUNTY ROUTE 623 OVER CROOK HORN CREEK**

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**WHEREAS**, the County of Cape May is applying for a grant to construct a Shared Use (Pedestrian/Bicyclist) Path along Roosevelt Boulevard, CR 623, over Crook Horn Creek between the Marmora section of Upper Township and Ocean City; and

**WHEREAS**, the Roosevelt Boulevard Bridge remains one of the last major links in providing regional connectivity of non-motorized means of transportation; and

**WHEREAS**, the Township of Upper fully supports the County's proposed project and effort to secure grant funding for same; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee of the Township of Upper hereby endorses and supports Cape May County's grant application and effort in advancing a project to construct a Shared Use (Pedestrian/Bicyclist) Path along Roosevelt Boulevard, CR 623, over Crook Horn Creek between the Marmora section of Upper Township and Ocean City.

Resolution No. 249-2017

Offered by: Barr

Seconded by: Young

Adopted: August 28, 2017

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>X</u>	___	___	___
Coggins	___	___	___	<u>X</u>
Corson	<u>X</u>	___	___	___
Young	<u>X</u>	___	___	___
Palombo	<u>X</u>	___	___	___

4. Authorizing a five (5) year extension to the Lease between the Township of Upper and Beacon Animal Rescue, Inc. for the building commonly known as the “Former Animal Shelter” located on Butter Road, Palermo, New Jersey.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 250-2017**

**RE: AUTHORIZING A FIVE (5) YEAR EXTENSION TO THE LEASE BETWEEN THE  
TOWNSHIP OF UPPER AND BEACON ANIMAL RESCUE, INC.  
FOR THE BUILDING COMMONLY KNOWN AS THE “FORMER ANIMAL SHELTER”  
LOCATED ON BUTTER ROAD, PALERMO, NEW JERSEY**

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**WHEREAS**, the Township of Upper entered into a Lease Agreement on September 3, 2004 with Beacon Animal Rescue, Inc. for the premises commonly known as the “former Animal Shelter” located on Butter Road, Palermo, New Jersey; and

**WHEREAS**, the Township of Upper and Beacon Animal Rescue, Inc. extended said Agreement for additional terms on August 22, 2005 pursuant to Resolution 171-2005, on August 27, 2007 pursuant to Resolution 173-2007, and on August 27, 2012 pursuant to Resolution 185-2012; and

**WHEREAS**, the Township of Upper and Beacon Animal Rescue, Inc. wish to extend the term of said lease for an additional five years as provided in the original Lease Agreement; and

**WHEREAS**, the Township of Upper has received documentation from Beacon Animal Rescue as to their being a publicly supported organization therefore being exempt from federal income tax under section 501(a) of the Internal Revenue Code as an organization described in section 501 (c)(3); 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 extends the term of said lease for an additional five years, expiring on September 3, 2022.
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. 250-2017  
Offered by: Corson  
Adopted: August 28, 2017

Seconded by: Barr

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Coggins	<u>      </u>	<u>      </u>	<u>      </u>	<u>  X  </u>
Corson	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Young	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Palombo	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>

5. Appointing James A. Cotton as a part-time employee to the Upper Township Construction Code Office to serve as Plumbing Subcode Official.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 251-2017**

**RE: APPOINTING JAMES A. COTTON AS A PART-TIME EMPLOYEE TO  
THE UPPER TOWNSHIP CONSTRUCTION CODE OFFICE TO SERVE AS  
PLUMBING SUBCODE OFFICIAL**

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**WHEREAS**, there is a need by the Township of Upper to appoint a part-time employee to the Upper Township Construction Code Office to insure optimal operation; and

**WHEREAS**, James A. Cotton possesses the requisite licenses as required by the New Jersey Uniform Construction Code to serve as the part-time Plumbing Subcode Official; 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. James A. Cotton is hereby appointed as a part-time employee to the Upper Township Construction Code Office effective September 1, 2017 to serve as the Plumbing Subcode Official at an annual salary of \$15,000.00.

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. 251-2017  
Offered by: Barr  
Adopted: August 28, 2017

Seconded by: Young

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Coggins	<u>    </u>	<u>    </u>	<u>    </u>	<u>  X  </u>
Corson	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Young	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>
Palombo	<u>X</u>	<u>    </u>	<u>    </u>	<u>    </u>

6. Authorizing the Mayor and Township Clerk to sign a contract with Comcast Enterprise Services for dedicated Ethernet Services.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 252-2017**

**RE: AUTHORIZING THE MAYOR AND TOWNSHIP CLERK TO SIGN A CONTRACT WITH COMCAST ENTERPRISE SERVICES FOR DEDICATED ETHERNET SERVICES**

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**WHEREAS**, Comcast Enterprise Services has submitted a proposal to provide Dedicated Ethernet Services to the Township of Upper; and

**WHEREAS**, the proposed contract has been reviewed and approved by the Municipal Attorney and the Township's Computer Director and will be on record in the office of the Township Clerk and available for public inspection and is attached hereto as Exhibit "A"; and

**WHEREAS**, Comcast Enterprise Services has completed and submitted a Business Entity Disclosure Certification which certifies that Comcast Enterprise Services has not made any reportable contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit Comcast Enterprise Services from making any reportable contributions through the term of the contract; 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 Mayor and Township Clerk are hereby authorized, directed and empowered to execute a contract with Comcast Enterprise Services to provide Dedicated Ethernet Services for the Township of Upper.
3. This contract shall have a term of three (3) years commencing upon full execution of the contract and services have been activated and are available for use by the Township of Upper.
4. Comcast Enterprise Services has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and have provided proof of that registration to the Township of Upper.
5. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 252-2017  
 Offered by: Barr  
 Adopted: August 28, 2017

Seconded by: Palombo

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Coggins	<u>      </u>	<u>      </u>	<u>      </u>	<u>  X  </u>
Corson	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Young	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Palombo	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>

7. Appointing Ruderman, Horn & Esmerado, P.C. and Mark S. Ruderman, Esquire to act as Special Legal Counsel in Employment and Labor Law Matters.

**TOWNSHIP OF UPPER  
 CAPE MAY COUNTY  
 RESOLUTION**

**RESOLUTION NO. 253-2017**

**RE: APPOINTING RUDERMAN, HORN & ESMERADO, P.C. AND MARK S.  
 RUDERMAN, ESQUIRE TO ACT AS SPECIAL LEGAL COUNSEL IN  
 EMPLOYMENT AND LABOR LAW MATTERS**

**WHEREAS**, the Township requires legal counsel to provide legal services in connection with employment and labor law related matters; and

**WHEREAS**, a resolution is required authorizing the award of such contract for professional services; and

**WHEREAS**, the firm of Ruderman, Horn & Esmerado, P.C., and Mark S. Ruderman, Esquire have completed and submitted a Business Entity Disclosure Certification which certifies that said firm and said individual have not made any contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit said firm and said individual from making any contributions through the term of the contract; and

**WHEREAS**, the Township has decided to acquire the services of the firm of Ruderman, Horn & Esmerado, P.C., and Mark S. Ruderman, Esquire as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; 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. Ruderman, Horn & Esmerado, P.C., and Mark S. Ruderman, Esquire with offices at 675 Morris Avenue, Suite 100, Springfield, New Jersey are hereby appointed as Special Legal Counsel to handle employment law and labor law matters in conjunction with and at the direction of the regular Township Solicitor and as directed by the Township Committee.
3. This contract shall have a term of one (1) year from date of full execution.
4. This Contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Ruderman, Horn & Esmerado, P.C., and Mark S. Ruderman, Esquire

have professional knowledge as to legal matters 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 Ruderman, Horn & Esmerado, P.C., and Mark S. Ruderman, Esquire for legal 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 contractor has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.

7. The Mayor and Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Ruderman, Horn & Esmerado, P.C., and Mark S. Ruderman, Esquire in accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein. Upon execution of all parties thereto said contract shall become effective.

8. A notice of this contract award shall be published in the official newspaper of the Township of Upper within ten (10) days from the date of adoption.

9. This Resolution shall be effective as of adoption.

Resolution No. 253-2017  
Offered by: Barr  
Adopted: August 28, 2017

Seconded by: Corson

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>X</u>	___	___	___
Coggins	___	___	___	<u>X</u>
Corson	<u>X</u>	___	___	___
Young	<u>X</u>	___	___	___
Palombo	<u>X</u>	___	___	___

8. Appointing Judge Vincent J. Morrison, Judge F. Thomas Hillegass, and Judge Marian R. Ragusa to serve as temporary Municipal Judges on an as needed basis.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 254-2017**

**RE: APPOINTING JUDGE VINCENT J. MORRISON, JUDGE F. THOMAS  
HILLEGASS, AND JUDGE MARIAN R. RAGUSA TO SERVE AS TEMPORARY  
MUNICIPAL JUDGES ON AN AS NEEDED BASIS**

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**WHEREAS**, N.J.S.A. 2B:12-5 allows for the appointment of one or more temporary municipal judges to meet a special need of limited duration; and

**WHEREAS**, the Township has decided to acquire the services of Judge Vincent J. Morrison, Judge F. Thomas Hillegass, and Judge Marian R. Ragusa as non-fair and open contracts pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, a resolution is required authorizing the award of such contracts for professional services; and

**WHEREAS**, Judge Vincent J. Morrison, Judge F. Thomas Hillegass, and Judge Marian R. Ragusa have individually completed and submitted a Business Entity Disclosure Certification which certifies that each have not made any contributions to a political or candidate committee in the Township that would bar the award of these contracts

and that the contracts will prohibit each from making any contributions through the term of their contracts; and

**WHEREAS**, said appointments are conditioned upon compliance with all requirements established by N.J.S.A. 2B:12-1, et seq.; 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. Judge Vincent J. Morrison, Judge F. Thomas Hillegass, and Judge Marian R. Ragusa are hereby appointed as temporary municipal judges to serve on an as needed basis.
3. Each individual contract shall have a term of one (1) year from date of full execution.
4. These Contracts are awarded without competitive bidding as professional services in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Judge Vincent J. Morrison, Judge F. Thomas Hillegass, and Judge Marian R. Ragusa have professional knowledge as to legal and municipal court matters, which knowledge is particularly valuable to the Township Committee, and these services are acquired as non-fair and open contracts pursuant to N.J.S.A. 19:44A-20.5.

#### **NOTICE OF CONTRACT AWARD**

The Township Committee of the Township of Upper, State of New Jersey have awarded contracts without competitive bidding as a professional service pursuant to N.J.S.A. 40A:11-5(1)(a) to Judge Vincent J. Morrison, Judge F. Thomas Hillegass, and Judge Marian R. Ragusa for municipal judge services. The contracts 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. Certificates from the Chief Financial Officer of Upper Township showing the availability of adequate funds for each contract and showing the line item appropriation of the official budget to which the contracts will be properly charged have 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 separate and individual Professional Contract with Judge Vincent J. Morrison, Judge F. Thomas Hillegass, and Judge Marian R. Ragusa in accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein. 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. 254-2017

Offered by: Barr

Seconded by: Coggins

Adopted: August 28, 2017

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Coggins	<u>      </u>	<u>      </u>	<u>      </u>	<u>  X  </u>
Corson	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Young	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Palombo	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>

9. Accepting the bid and authorizing the execution of a contract for the project known as Replacement of Webster Avenue Bulkhead.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 255-2017**

**RE: ACCEPTING THE BID AND AUTHORIZING THE  
EXECUTION OF A CONTRACT FOR THE PROJECT KNOWN AS  
REPLACEMENT OF WEBSTER AVENUE BULKHEAD**

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**WHEREAS**, the Township of Upper solicited bids for Replacement of Webster Avenue Bulkhead, which bids were received on August 9, 2017; 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 attached hereto as "Exhibit A" in a sufficient amount to award a contract in the amount of \$117,776.00; 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 R.A. Walters & Son, Inc. of 18 Hoffman Drive, Cape May Court House, NJ for the project known as Replacement of Webster Avenue Bulkhead, in the amount of \$117,776.00, 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.

(C) The Bidder has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.

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.

Resolution No. 255-2017

Offered by: Young

Seconded by: Barr

Adopted: August 28, 2017

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>X</u>	_____	_____	_____
Coggins	_____	_____	_____	<u>X</u>
Corson	<u>X</u>	_____	_____	_____
Young	<u>X</u>	_____	_____	_____
Palombo	<u>X</u>	_____	_____	_____

10. Authorizing the Engineer to prepare specifications and solicit bids for park improvements at Webster Avenue.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 256-2017**

**RE: AUTHORIZING THE ENGINEER TO PREPARE SPECIFICATIONS  
AND SOLICIT BIDS FOR PARK IMPROVEMENTS AT WEBSTER AVENUE**

**WHEREAS**, the Township Committee of the Township of Upper has determined a need for improvements to the park area at Webster Avenue; and

**WHEREAS**, pursuant to the provisions of the Local Public Contracts Law, the Township of Upper intends to solicit bids as herein indicated; 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 Engineer is hereby authorized and directed to prepare

specifications, bid documents and solicit bids for the following:

a) Park Improvements at Webster Avenue.

3. Sealed bids shall be received by the Township of Upper in accordance

with the directives contained in the Notice to Bidders.

Resolution No. 256-2017

Offered by: Young

Seconded by: Barr

Adopted: August 28, 2017

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>  X  </u>	<u>          </u>	<u>          </u>	<u>          </u>
Coggins	<u>          </u>	<u>          </u>	<u>          </u>	<u>  X  </u>
Corson	<u>  X  </u>	<u>          </u>	<u>          </u>	<u>          </u>
Young	<u>  X  </u>	<u>          </u>	<u>          </u>	<u>          </u>
Palombo	<u>  X  </u>	<u>          </u>	<u>          </u>	<u>          </u>

11. Authorizing an addendum to the contract with Triad Advisory Services, Inc. for Administrative Consultant Services for the Township's COAH Market to Affordable Program.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 257-2017**

**RE: AUTHORIZING AN ADDENDUM TO THE CONTRACT WITH TRIAD ADVISORY SERVICES, INC. FOR ADMINISTRATIVE CONSULTANT SERVICES FOR THE TOWNSHIP'S COAH MARKET TO AFFORDABLE PROGRAM**

---

**WHEREAS**, the Township of Upper requires administrative consultant services to implement the Township of Upper's COAH Market to Affordable Program; and

**WHEREAS**, the Township has acquired the services of Triad Advisory Services, Inc. (trading as Triad Associates) as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, Triad Advisory Services, Inc. has proposed an addendum in order to modify Exhibit A (Scope of Services) and Exhibit B (Compensation) of the original contract; and

**WHEREAS**, the Township wishes to accept the proposed addendum and renew said contract with Triad Advisory Services, Inc. for an additional term; and

**WHEREAS**, Triad Advisory Services, Inc. has completed and submitted a Business Entity Disclosure Certification, which certifies that Triad Advisory Services, Inc. has not made any contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit Triad Advisory Services, Inc. from making any contributions through the term of the contract; 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 Mayor and Township Clerk are hereby authorized, directed and empowered to execute an Addendum, attached hereto as Schedule A, to the original Professional Services Agreement, dated September 17, 2015 and attached hereto as Schedule B, with Triad Advisory Services for Administrative Consultant Services for the Township of Upper's COAH Market to Affordable Program.
3. The term of this Agreement shall be for one (1) year from date of full execution.
4. This Contract is awarded without competitive bidding as a professional service in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Triad Advisory Services, Inc. has professional knowledge which is particularly valuable to the Township Committee and this service is acquired as a non-fair and open contract pursuant to N.J.S.A. 19:44A-20.5.

**NOTICE OF CONTRACT AWARD**

5. The Township Committee of the Township of Upper, State of New Jersey awarded the contract without competitive bidding as a professional service pursuant to N.J.S.A. 40A:11-5(1)(a) to. The 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.

6. 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.

7. The contractor has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and will provide proof of that registration to the Township of Upper.

8. The contractor agrees to the terms and provisions of Schedule C attached hereto and said provisions are incorporated herein at length.

9. Notice of this contract renewal and addendum shall be published in the official newspaper of the Township of Upper within ten (10) days from the date of adoption.

10. This Resolution shall be effective as of adoption.

Resolution No. 257-2017

Offered by: Barr

Seconded by: Corson

Adopted: August 28, 2017

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>X</u>	___	___	___
Coggins	___	___	___	<u>X</u>
Corson	<u>X</u>	___	___	___
Young	<u>X</u>	___	___	___
Palombo	<u>X</u>	___	___	___

12. Authorizing a contract with CCG Premium Recovery Group, LLC to perform a review of the Upper Township Fire Districts Workers' Compensation Accounts.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 258-2017**

**RE: AUTHORIZING A CONTRACT WITH CCG PREMIUM RECOVERY  
GROUP, LLC TO PERFORM A REVIEW OF THE UPPER TOWNSHIP FIRE  
DISTRICTS WORKERS' COMPENSATION ACCOUNTS**

---

**WHEREAS**, the Township of Upper has decided to perform a review of the Workers' Compensation accounts for the Upper Township Fire Districts to see if cost savings are available; and

**WHEREAS**, CCG Premium Recovery Group, LLC has submitted a proposal to review claims activity, loss information, experience modifications, retrospective rating adjustments, premium audits, payroll allocation, and class code rates of the Upper Township Fire Districts Workers' Compensation accounts; and

**WHEREAS**, a resolution is required authorizing the award of such contract for professional services; and

**WHEREAS**, the Township has decided to acquire the services of CCG Premium Recovery Group, LLC as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, CCG Premium Recovery Group, LLC has completed and submitted a Business Entity Disclosure Certification, which certifies that CCG Premium Recovery Group, LLC has not made any contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit CCG Premium Recovery Group, LLC from making any contributions through the term of the contract; 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 Mayor and Township Clerk are hereby authorized, directed and empowered to execute a contract with CCG Premium Recovery Group, LLC with offices at 39 Hudson Street #304, Hackensack, New Jersey, for a review of the claims activity, loss information, experience modifications, retrospective rating adjustments, premium audits, payroll allocation, and class code

rates of the Upper Township Fire Districts Workers' Compensation accounts.

3. This contract shall have a term of one (1) year from date of full execution.

4. This Contract is awarded without competitive bidding as a professional service in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because CCG Premium Recovery Group, LLC has professional knowledge which is particularly valuable to the Township Committee and this service is acquired as a non-fair and open contract pursuant to N.J.S.A. 19:44A-20.5.

### NOTICE OF CONTRACT AWARD

5. 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 CCG Premium Recovery Group, LLC for professional 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.

6. 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.

7. CCG Premium Recovery Group, LLC has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.

8. A notice of this contract award shall be published in the official newspaper of the Township of Upper within ten (10) days from the date of adoption.

9. This Resolution shall be effective as of adoption.

Resolution No. 258-2017

Offered by: Barr

Seconded by: Coggins

Adopted: August 28, 2017

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>X</u>	___	___	___
Coggins	___	___	___	<u>X</u>

Corson	<u>X</u>	___	___	___
Young	<u>X</u>	___	___	___
Palombo	<u>X</u>	___	___	___

13. Authorizing the Mayor and Township Clerk to sign a contract with Ancero, LLC for VoIP Telecommunication Services.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 259-2017**

**RE: AUTHORIZING THE MAYOR AND TOWNSHIP CLERK TO SIGN A CONTRACT  
WITH ANCERO, LLC FOR VOIP TELECOMMUNICATION SERVICES**

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**WHEREAS**, Ancero, LLC, with offices at 1001 Briggs Rd., Suite 220, Mount Laurel, NJ 08054, has submitted a proposal to provide VoIP telecommunication services; and

**WHEREAS**, the proposed contract has been reviewed and approved by the Municipal Attorney and the Township’s Computer Director and will be on record in the office of the Township Clerk and available for public inspection and is attached hereto as Exhibit “A”; and

**WHEREAS**, Ancero, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that Ancero, LLC has not made any reportable contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit Ancero, LLC from making any reportable contributions through the term of the contract; 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 Mayor and Township Clerk are hereby authorized, directed and empowered to execute a contract with Ancero, LLC to provide VoIP telecommunication services for the Township of Upper.
3. This contract shall have a term of three (3) years commencing upon full execution of the contract and services have been activated and are available for use by the Township of Upper.

4. Ancero, LLC has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and have provided proof of that registration to the Township of Upper.

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

Resolution No. 259-2017

Offered by: Barr

Seconded by: Corson

Adopted: August 28, 2017

Roll Call Vote:

<u>NAME</u>	<u>YES</u>	<u>NO</u>	<u>ABSTAINED</u>	<u>ABSENT</u>
Barr	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Coggins	<u>      </u>	<u>      </u>	<u>      </u>	<u>  X  </u>
Corson	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Young	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>
Palombo	<u>  X  </u>	<u>      </u>	<u>      </u>	<u>      </u>

## **ORDINANCES**

14. **Public hearing and final adoption of Ordinance No. 010-2017 RE: AN ORDINANCE UPDATING CHAPTER III POLICE REGULATIONS, WITHIN THE TOWNSHIP OF UPPER, COUNTY OF CAPE MAY AND STATE OF NEW JERSEY.** During the public hearing portion, there were the following speakers:

**Ralph Cooper of 6 Gladwyn Dr.,** spoke on behalf of the Upper Township Green Team in favor of the Ordinance and stated that the enhanced no smoking regulations and prohibition of balloon release will be good for the Community as well as helping the Green Team retain Upper Township's certification as a Sustainable Community.

**Kim Mounce of 37 Allendale Rd,** spoke in favor of Ordinance No. 010-2017.

There were no further speakers and Mayor Palombo closed the public hearing. Motion by Curtis Corson, second by Edward Barr, to adopt Ordinance No. 010-2017. During roll call vote all four Committeemen present voted in the affirmative.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
O R D I N A N C E**

**ORDINANCE NO. 010-2017**

**AN ORDINANCE UPDATING CHAPTER III POLICE REGULATIONS, WITHIN  
THE TOWNSHIP OF UPPER, COUNTY OF CAPE MAY AND STATE OF NEW  
JERSEY**

---

**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 III, Section 3-12, of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended as follows:

**Replace in its entirety Section 3-12.1:**

3-12.1 Definitions.

As used in this section, the following terms shall have the meaning indicated:

*Certified Coach* shall mean a coach of an approved Upper Township Sports Program.

*Department Head* shall have the meaning of "Supervisor" as defined herein.

*Indoor place* shall mean a structurally enclosed area.

*Public Facility* shall mean any municipally owned building and/or property that has a building or other improvements like athletic fields and maintained paths.

*Smoking* shall mean the burning of a lighted cigar, cigarette, pipe, e-device or any other matter or substance which contains tobacco.

*Supervisor* shall mean the person who ultimately controls, governs or directs the activities and conduct of employees within a certain department or division.

**Replace in its entirety Section 3-12.2:**

3-12.2 Smoking Prohibited.

Smoking shall be prohibited at all times at all Township Public Facilities.

**Replace in its entirety Section 3-12.3a:**

3-12.3a. Violation of Prohibition; Request to Comply; Denial of Services.

- a. Any Certified Coach, Department Head or Supervisor, or their designee, may order any person smoking in violation of this section to comply with the provisions hereof. Thereupon, any member of the public who smokes

in the Public Facilities is in violation of this section, shall be subject to a fine as hereinafter provided.

**Replace in its entirety Section 3-12.4:**

3-12.4 Posting of Signs.

The Township shall install appropriate signs which shall be posted in conspicuous places throughout Public Facilities affected by this section advising the public and employees that smoking is prohibited.

**SECTION 2:** Chapter III of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be revised to add the following Section 3-18:

**3-18 Release of Balloons**

3-18.1 Release of Balloons - Purpose and Intent.

The intent of this section is to protect the environment, particularly the wildlife, and the health, safety and well-being of persons and property by prohibiting the release of helium balloons into the atmosphere, including latex and mylar, as it has been determined that the release of balloons inflated with lighter-than-air gases pose a danger and nuisance to the environment, particularly to wildlife and marine animals so as to constitute a public nuisance and may pose a threat to the safety of its inhabitants and their property.

3-18.2 Prohibited Releases.

It shall be unlawful for any person, firm or corporation to intentionally release, organize the release, or intentionally cause to be released balloons inflated with a gas that is lighter than air within the Township of Upper, except for:

- (a) Balloon released by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes.
- (b) Hot air balloons that are recovered after launching.
- (c) Balloons released indoors.

3-18.3 Violations and Penalties.

Any person found in violation is guilty of a non-criminal infraction punishable by a fine not to exceed the sum of \$500.00.

**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 THE FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 24<sup>TH</sup> DAY OF JULY, 2017 AT THE TOWNSHIP HALL, AND WAS TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 28<sup>TH</sup> DAY OF AUGUST, 2017 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

15. **Introduction and first reading of Ordinance No. 013-2017 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XVIII (FLOOD DAMAGE CONTROL) AND CHAPTER XIX (LAND SUBDIVISION AND SITE PLAN) OF THE CODE OF UPPER TOWNSHIP.** Motion by Edward Barr, second by Hobie Young, to introduce Ordinance No. 013-2017 with the public hearing and final adoption scheduled for September 25, 2017. During roll call vote all four Committeemen present voted in the affirmative.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
O R D I N A N C E**

**ORDINANCE NO. 013-2017**

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE  
CHAPTER XVIII (FLOOD DAMAGE CONTROL) AND CHAPTER XIX (LAND  
SUBDIVISION AND SITE PLAN) OF THE CODE OF UPPER TOWNSHIP**

---

**WHEREAS**, the FEMA has prepared a new Flood Study and Flood Insurance Rate Maps for Cape May County and the New Jersey Department of Environmental Protection has adopted new model ordinance for the Special Flood Hazard Zone; and

**WHEREAS**, the Township Committee finds it appropriate to amend Chapter XVIII (Flood Damage Control) of the Code of Upper Township; and

**WHEREAS**, the Township Committee also finds it is appropriate to amend Chapter XIX of the Code of Upper Township to clarify site plan requirements for mining, excavation and fill activities; and

**WHEREAS**, the Township Committee referred these ordinance amendments to the Upper Township Planning Board; and

**WHEREAS**, the Township Planning Board discussed and reviewed this proposed ordinance and determined it is consistent with the Upper Township Master Plan Reexamination; and

**WHEREAS**, the ordinance revisions and amendments herein are substantially consistent with the Upper Township Master Plan and the Master Plan Reexamination Report and Land Use Plan Amendment of January 2011, as amended; and

**WHEREAS**, the Township Committee finds that the ordinance revisions herein are substantially consistent with the Land Use Plan Element and Master Plan Reexamination to date;

**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 18 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:

Revise existing **Section 18-1.2 Statement of Purpose** with the following:

**18-1.2 Statement of Purpose.**

It is the purpose of this Chapter to promote the public health, safety and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed:

- a. To protect human life and health.

- b. To minimize expenditure of public money for costly flood control projects.
- c. To minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public.
- d. To minimize prolonged business interruptions.
- e. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, and sewer lines, and streets and bridges located in areas of special flood hazard.
- f. To help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas.
- g. To ensure that potential buyers are notified that property is in an area of special flood hazard.
- h. To ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

Add the following to **Section 18-2 Definitions**:

*AO Zone* shall mean areas subject to inundation by 1-percent-annual-chance shallow flooding (usually sheet flow on sloping terrain) where average depths are between one and three feet.

*AH Zone* shall mean areas subject to inundation by 1-percent-annual-chance shallow flooding (usually areas of ponding) where average depths are between one and three feet. Base Flood Elevations (BFEs) derived from detailed hydraulic analyses are shown in this zone.

*Coastal A Zone* shall mean the portion of the Special Flood Hazard Area (SFHA) starting from a Velocity (V) Zone and extending up to the landward Limit of the Moderate Wave Action delineation. Where no V Zone is mapped the Coastal A Zone is the portion between the open coast and the landward Limit of the Moderate Wave Action delineation. Coastal A Zones may be subject to wave effects, velocity flows, erosion, scour, or a combination of these forces. Construction and development in Coastal A Zones is to be regulated the same as V Zones/Coastal High Hazard Areas.

*Cumulative substantial improvement* shall mean any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds forty (40%) percent of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

*Existing Manufactured Home Park or Subdivision* shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

*Floodplain Management Regulations* shall mean zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance and erosion control ordinance) and other applications of police power. The term describes such State or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

*Freeboard* shall mean a factor of safety usually expressed in feet above a flood level for purposes of flood plain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

*Highest Adjacent Grade* shall mean the highest natural elevation of the ground surface prior to construction next to the proposed or existing walls of a structure.

*Historic Structure* shall mean any structure that is:

- a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- c) Individually listed on a State inventory of historic places in States with historic preservation programs which have been approved by the Secretary of the Interior; or
- d) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - (1) By an approved State program as determined by the Secretary of the Interior; or
  - (2) Directly by the Secretary of the Interior in States without approved programs.

*New construction* shall mean structures for which the start of construction commenced on or after the effective date of a floodplain regulation adopted by a community and includes any subsequent improvements to such structures.

New manufactured home park or subdivision shall mean a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of the floodplain management regulations adopted by the municipality.

*Primary frontal dune* shall mean a continuous or nearly continuous mound or ridge of sand with relatively steep seaward and landward slopes immediately landward and adjacent to the beach and subject to erosion and overtopping from high tides and waves from coastal storms. The inland limit of the primary frontal dune occurs at the point where there is a distinct change from the relatively steep slope to a relatively mild slope.

*Recreational vehicle* shall mean a vehicle which is [i] built on a single chassis; [ii] 400 square feet or less when measured at the longest horizontal projections; [iii] designed to be self-propelled or permanently towable by a light duty truck; and [iv] designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

*Sand dunes* shall mean naturally occurring or man-made accumulations of sand in ridges or mounds landward of the beach.

*Variance* shall mean a grant of relief from the requirements of this ordinance that permits construction in a manner that would otherwise be prohibited by this ordinance.

*Violation* shall mean the failure of a structure or other development to be fully compliant with this ordinance. A new or substantially improved structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in 44 CFR §60.3(b)(5), (c)(4), (c)(10), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

Replace existing **Section 18-2 Definitions** with the following:

*Appeal* shall mean a request for a review of the local administrator's interpretation of any provision of this Chapter or a request for a variance.

*Area of special flood hazard* shall mean the land in the floodplain within a community subject to a one (1%) percent or greater chance of flooding in any given year. It is shown on the FIRM as Zone V, VE, V1-30, A, AO, A1-A30, AE, A99, or AH.

*Base flood elevation* shall mean the flood elevation shown on a published Flood Insurance Study (FIS) including the Flood Insurance Rate Map (FIRM). For zones AE, AH, AO, and A1-30 the elevation represents the water surface elevation resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year. For zones VE and V1-30 the elevation represents the stillwater elevation (SWEL) plus wave effect (BFE = SWEL + wave effect) resulting from a flood that has a 1-percent or greater chance of being equaled or exceeded in any given year.

*Best available flood hazard data* shall mean the effective Flood Insurance Risk Maps or most recent Advisory Flood Hazard Area Maps FEMA has provided.

*Best available flood hazard data elevation* shall be depicted on the effective FIRM or FIS, or an Advisory Flood Hazard Area Map or Advisory FIS.

*Coastal high hazard area* shall mean an area of special flood hazard extending from offshore to the inland limit of a primary frontal dune along an open coast and any other area subject to high velocity wave action from storms or seismic sources.

*Development* shall mean any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations located within the area of special flood hazard.

*Elevated building* shall mean a non-basement building (a) built in the case of a building in an area of special flood hazard to have the top of the elevated floor, or in the case of a building in a coastal high hazard area or Coastal A Zone, to have the bottom of the lowest horizontal structural member of the elevated floor, elevated above the base flood elevation plus freeboard by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water; and (b) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In an area of special flood hazard, "elevated building" shall also include a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of floodwaters. In areas of coastal high hazard and Coastal A Zones, "elevated building" shall also include a building otherwise meeting the definition of "elevated building" even though the lower area is enclosed by means of breakaway walls.

*Flood Insurance Study* shall mean the official report provided in which the Federal Insurance Administration has provided flood profiles, as well as the Flood Insurance Rate Map and the water surface elevation of the base flood.

*Flood protection elevation* shall mean the elevation that a structure must be elevated to in all special flood hazard areas and advisory flood hazard areas. Said elevation shall be two (2') foot higher than the best available flood hazard data elevation.

*Manufactured home* shall mean a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than one hundred eighty (180) consecutive days. For insurance purposes, the term "manufactured home" does not include park trailers, travel trailers and other similar vehicles. The term "manufactured home" does not include a "Recreational vehicle".

*Start of construction* (for other than new construction or substantial improvements under the Coastal Barrier Resources Act [P.L. 97-348]) shall include substantial improvement, and mean the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of a slab or footings, the installation of pilings, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation such as a clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

*Substantial improvement* shall mean any reconstruction, rehabilitation, addition, or other improvement of a structure during a 10-year period the cost of which equals or exceeds forty (40%) percent of the market value of the structure before the "start of construction" of the improvement. Substantial improvement also means "cumulative substantial improvement." This term includes structures which have incurred "substantial damage," regardless of the actual repair work performed or "repetitive loss." The term does not, however, include either:

- a. Any project for improvement of a structure to correct existing violations of State or local health, sanitary or safety code specifications which have been identified by the local Code Enforcement Officer and which are the minimum necessary to assure safe living conditions; or
- b. Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure."

Replace existing **Section 18-3.2** with the following:

**18-3.2 Basis for Establishing the Areas of Special Flood Hazard.**

The areas of special flood hazard for the Township of Upper, Community No. 340159 identified by the Federal Emergency Management Agency are identified and defined on the following documents:

- a. Scientific and engineering report entitled "The Flood Insurance Study (FIS) for the Cape May County, New Jersey (All Jurisdictions)" dated October 5, 2017, with accompanying Flood Insurance Rate Maps for Cape May County, New Jersey (All Jurisdictions)" as shown on Index and panels 34009C0017F, 34009C0028F, 34009C0029F, 34009C0036F, 34009C0037F, 34009C0039F, 34009C0041F, 34009C0042F, 34009C0043F, 34009C0044F, 34009C0061F, 34009C0062F, 34009C0063F, 34009C0064F, 34009C0066F, 34009C0067F, 34009C0068F, 34009C0069F, 34009C0086F, 34009C0088F, 34009C0131F, 34009C0132F, 34009C0134F, 34009C0151F, 34009C0152F, 34009C0153F, 34009C0154F, 34009C0156F, 34009C0157F, 34009C0158F, 34009C0159F, 34009C0162F, 34009C0166F, whose effective date is October 5, 2017, is hereby adopted and declared to be a part of this Chapter. The Flood Insurance Study and the Flood Insurance Rate Maps are on file in the office of the Township Clerk, Township Hall, 2100 Tuckahoe Rd, Petersburg, New Jersey.
- b. *Best Available Flood Hazard Data*. These documents shall take precedence over effective panels and FIS in construction and development regulations only. Where the Special Flood

Hazard Area (SFHA) and the Advisory Flood Hazard Area (AFHA) maps conflict or overlap, whichever imposes the more stringent requirement shall prevail.

Replace existing **Section 18-3.3** with the following:

### **18-3.3 Penalties for Noncompliance.**

No structure or land shall hereafter be constructed, re-located to, extended, converted, or altered without full compliance with the terms of this Chapter and other applicable regulations. Violation of the provisions of this Chapter by failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this Chapter or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than one thousand (\$1,000.00) dollars or imprisoned for not more than ninety (90) days, or both, for each violation and, in addition, shall pay all costs and expenses involved in the case. Nothing herein contained shall prevent the Township from taking such other lawful action as is necessary to prevent or remedy any violation.

Replace existing **Section 18-4.1 through 4.4** with the following:

#### **18-4.1 Establishment of Development Permit.**

A development permit shall be obtained before construction or development begins, including placement of manufactured homes, within any area of special flood hazard established in subsection 18-3.2. Application for a development permit shall be made on forms furnished by the Construction Official and may include, but not be limited to, plans in duplicate drawn to scale showing the nature, location, dimensions, and elevations of the areas in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing. Specifically, the following information is required:

- a. Elevation in relation to mean sea level, of the lowest floor (including basement) of all structures;
- b. Elevation in relation to mean sea level to which any structure has been floodproofed;
- c. Certification by a registered professional engineer or architect that the floodproofing methods for any nonresidential structure meet the floodproofing criteria in subsection 18-5.2, paragraph b;
- d. Description of the extent to which any watercourse will be altered or relocated as a result of proposed development.

#### **18-4.2 Designation of the Local Administrator.**

The Construction Official and the Floodplain Manger are hereby each appointed as the Local Administrator to implement applicable portions of this Chapter by granting or denying development permit applications in accordance with its provisions.

#### **18-4.3 Duties and Responsibilities of the Local Administrator.**

Duties of the Local Administrator shall include, but not be limited to:

- a. Permit Review.
  1. Review all development permits to determine that the permit requirements of this ordinance have been satisfied.

2. Review all development permits to determine that all necessary permits have been obtained from those Federal, State or local governmental agencies from which prior approval is required.
  3. Review all development permits in the coastal high hazard and Coastal A Zone area of the area of special flood hazard to determine if the proposed development alters sand dunes or other natural coastal protections so as to increase potential flood damage.
  4. Review plans for walls to be used to enclose space below the base flood level in accordance with section 18-5.3b4).
- b. *Use of Other Flood Data.* When base flood elevation and floodway data has not been provided in accordance with subsection 18-3.2, Basis for Establishing the Areas of Special Flood Hazard, the Township shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, in order to administer subsection 18-5.2, Specific Standards.
- c. *Information to Be Obtained and Maintained.*
1. Obtain and record the actual elevation in relation to 1988 North American Vertical Datum (NAVD) of the lowest floor (including basement) of all new or substantially improved structures and whether or not the structure contains a basement.
  2. For all new or substantially improved floodproofed structures:
    - (a) Obtain and record the actual elevation actual elevation in relation to 1988 North American Vertical Datum (NAVD) to which the structure has been floodproofed.
    - (b) Maintain the floodproofing certifications required in subsection 18-4.1, paragraph c.
  3. Maintain for public inspection all records pertaining to the provisions of this Chapter.
  4. In Coastal High Hazard and Coastal A Zone areas, certification shall be obtained from a registered professional engineer or architect that the provisions of 18-5.3b 1. And 18-5.3b, 2(a) and 2(b).
- d. *Alteration of Watercourse.*
1. Notify adjacent communities and the New Jersey Department of Environmental Protection, Bureau of Flood Control and the Land Use Regulation Program prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration.
  2. Require that maintenance is provided within the altered or relocated portion of the watercourse so that the flood carrying capacity is not diminished.
- e. *Interpretation of FIRM Boundaries.* Make interpretations, where needed, as to the exact location of the boundaries of the areas of special flood hazards (for example, where there appears to be a conflict between a mapped boundary and actual field conditions). The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in subsection 18-4.4.
- f. *Substantial Damage Review.*
1. After an event resulting in building damages, assess the damage to structures due to flood and non-flood causes.
  2. Record and maintain the flood and non-flood damage of substantial damage structures and provide a letter of Substantial Damage Determination to the owner and the New Jersey Department of Environmental Protection, Dam Safety and Flood Control Section.

3. Ensure substantial improvements meet the requirements of sections 18-5.2a SPECIFIC STANDARDS, RESIDENTIAL CONSTRUCTION, and 18-5.2b, SPECIFIC STANDARDS, NONRESIDENTIAL CONSTRUCTION.

#### **18-4.4 Variance Procedure.**

##### *a. Appeal Board.*

1. The Zoning Board as established by N.J.S.A. 40:55D-1 et seq. (the Municipal Land Use Law) shall hear and decide appeals and requests for variances from the requirements of this Chapter, as this Chapter and Ordinance No. 014-2012 relate to the nature and extent of the uses of land and of buildings and structures thereon pursuant to N.J.S.A. 40:55D-6.
2. The Zoning Board shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this Chapter.
3. Those aggrieved by the decision of the Zoning Board, or any taxpayer, may appeal such decision to the Superior Court of New Jersey, as provided in NJSA 40:55D-17h & 18.
4. In passing upon such applications, the Zoning Board shall consider all technical evaluations, all relevant factors, standards specified in other sections of this Chapter, and:
  - (a) The danger that materials may be swept onto other lands to the injury of others;
  - (b) The danger to life and property due to flooding or erosion damage;
  - (c) The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - (d) The importance of the services provided by the proposed facility to the community;
  - (e) The necessity to the facility of a waterfront location, where applicable;
  - (f) The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - (g) The compatibility of the proposed use with existing and anticipated development;
  - (h) The relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
  - (i) The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - (j) The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
  - (k) The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities, such as sewer, gas, electrical and water systems, and streets and bridges.
5. Upon consideration of the factors of subsection 18-4.4a.4. and the purposes of this Chapter, the Appeal Board may attach such conditions to the granting of variances as it deems necessary to further the purposes of this Chapter.
6. The Local Administrator shall maintain the records of all appeal actions, including technical information, and report any variances to the Federal Insurance Administration upon request.

##### *b. Conditions for Variances.*

1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half (1/2) acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items in paragraphs (a)—(k) of subsection 18-4.4a 4., have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.
2. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
3. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
4. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
5. Variances shall only be issued upon:
  - (a) A showing of good and sufficient cause;
  - (b) A determination that failure to grant the variance would result in exceptional hardship to the applicant; and
  - (c) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public as identified in subsection 18-4.4a 4., or conflict with existing local laws or ordinances.
6. Any applicant to whom a variance is granted shall be given written notice that the structure will be permitted to be built with a lowest floor elevation below the base flood elevation and that the cost of flood insurance will be commensurate with the increased risk resulting from the reduced lowest floor elevation.
7. Notwithstanding any provision contained within to the contrary, no variance shall be given unless the applicant/appellant can establish a factual basis therefor pursuant to N.J.S.A. 40:55D-70 as interpreted by applicable judicial decision.

Replace existing **Section 18-5.1a2** with the following:

2. All manufactured homes to be placed or substantially improved shall be anchored to resist flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

Replace existing **Section 18-5.1c.4** with the following:

4. For all new construction and substantial improvement the electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding or one (1') foot above grade if not part of substantial improvement or new construction.

Replace existing **Section 18-5.1e** with the following:

*Enclosure Openings.* For all new construction and substantial improvements, fully enclosed areas below the flood protection that are usable solely for parking of vehicles, building access

or storage in an area other than a basement, level that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two (2) openings in at least two (2) exterior walls of each enclosed area, having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one (1') foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

Replace existing **Section 18-5.1f** with the following:

*Enclosure Conversion.* No enclosure below the flood protection level shall be converted to habitable living space and shall not be utilized for any use other than access, utility and storage. The owner shall file a deed restriction for this area agreeing to this subsection and shall be to the benefit of the Township of Upper.

Delete the existing **Section 18-5.1g**:

Replace existing **Section 18-5.2** with the following:

### **18-5.2 Specific Standards.**

In all areas of special flood hazards where base flood elevation data has been provided as set forth in subsections 18-3.2 and 18-4.3 b the following standards are required:

a. *Residential Construction.*

1. For Coastal A Zone construction see Section 18-5.3 Coastal High Hazard Area and Coastal A Zone.
2. New construction and substantial improvement of any residential structure located in an A or AE Zone shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor, including basement and utilities (electrical, heating, ventilation, plumbing, duct work and air-conditioning equipment), be elevated to or above the flood protection elevation.

b. *Nonresidential Construction.*

1. For Coastal A Zone construction see Section 18-5.3 Coastal High Hazard Area and Coastal A Zone.
2. New construction and substantial improvement of any commercial, industrial or other nonresidential structure shall be elevated so that the bottom of the lowest horizontal structural member of the lowest floor, including basement and utilities (electrical, heating, ventilation, plumbing, duct work and air-conditioning equipment), be elevated to or above the flood protection elevation; or together with attendant utility and sanitary facilities, shall:
  1. Be flood proofed so that below the flood protection elevation the structure is watertight with walls substantially impermeable to the passage of water;
  2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy; and
  3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting the

applicable provisions of this subsection. Such certification shall be provided to the official as set forth in subsection 18-4.3, paragraph c, 2.

c. *Manufactured Homes.*

1. Manufactured homes shall be anchored in accordance with subsection 18-5.1, paragraph a, 2.
2. All manufactured homes to be placed or substantially improved within an area of special flood hazard shall
  - i. Be consistent with the need to minimize flood damage,
  - ii. Be constructed to minimize flood damage,
  - iii. Have adequate drainage provided to reduce exposure to flood damage, and
  - iv. Be elevated on a permanent foundation such that the bottom of the lowest horizontal structural member of the lowest floor including utilities (electrical, heating, ventilation, plumbing, duct work and air-conditioning equipment), is at or above the flood protection elevation.
  - v. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and be securely anchored to an adequately anchored foundation system to resist floatation, collapse, and lateral movement.

Replace existing **Section 18-5.3** with the following:

**18-5.3 Coastal High Hazard Area and Coastal A Zone.**

Coastal high hazard areas (V or VE Zones) and Coastal A Zones are located within the areas of special flood hazard established in subsection 18-3.2. These areas have special flood hazards associated with high velocity waters from tidal surges and hurricane wave wash; therefore, the following provisions shall apply:

- a. *Location of Structures.* All buildings or structures shall be located landward of the reach of the mean high tide. The placement of manufactured homes shall be prohibited, except in an existing manufactured home park or subdivision.
- b. *Construction Methods.*
  1. Elevation. All new construction and substantial improvements shall be elevated on pilings or columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the flood protection elevation, with all space below the lowest floor's supporting member open so as not to impede the flow of water, except for breakaway walls as provided for in subsection 18-5.3, paragraph b, 4.
  2. Structural Support.
    - (a) All new construction and substantial improvements shall be securely anchored on pilings or columns.
    - (b) The pile or column foundation and structure attached thereto shall be anchored to resist floatation, collapse or lateral movement due to the effects of wind and water loading values each of which shall have a one (1%) percent chance of being equaled or exceeded in any given year (100-year mean recurrence interval).
    - (c) There shall be no fill used for structural support of the building within the Zones V1-30, VE, V and Coastal A on the community's FIRM.
  3. Certification. A registered professional engineer or architect shall develop or review the structural design specifications and plans for the construction and shall certify that the

design and methods of construction to be used are in accordance with accepted standards of practice for compliance with the provisions of subsection 18-5.3, paragraph b, 1 and paragraph b, 2(a) and (b).

4. Space Below the Lowest Floor.
  - (a) Any alteration, repair, reconstruction or improvement to a structure started after the enactment of this Chapter shall not enclose the space below the lowest floor unless breakaway walls, open wood lattice-work or insect screening are used as provided for in this subsection.
  - (b) Breakaway walls, open wood lattice-work or insect screening shall be allowed below the flood protection elevation provided that they are intended to collapse under wind and water loads without causing collapse, displacement or other structural damage to the elevated portion of the building or supporting foundation system. Breakaway walls shall be designed for a safe loading resistance of not less than ten (10) and no more than twenty (20) pounds per square foot. Use of breakaway walls which exceed a design safe loading of twenty (20) pounds per square foot (either by design or when so required by local or State codes) may be permitted only if a registered professional engineer or architect certifies that the designs proposed meet the following conditions:
    - (1) Breakaway wall collapse shall result from a water load less than that which would occur during the base flood; and
    - (2) The elevated portion of the building and supporting foundation system shall not be subject to collapse, displacement or other structural damage due to the effects of wind and water load acting simultaneously on all building components (structural and non-structural). Water loading values used shall be those associated with the base flood. Wind loading values used shall be those required by applicable State or local building standards.
  - (c) If breakaway walls are utilized, such enclosed space shall be used solely for parking of vehicles, building access, or storage and not for human habitation.
  - (d) Prior to construction, plans for breakaway walls must be submitted to the Construction Code Official or Building Sub-Code Official for approval.
  - (e) All construction below the flood protection elevation as detailed in paragraph b.1 shall be anchored and constructed of flood-resistant materials in accordance to NFIP requirements.
- c. *Enclosure Conversion.* No enclosure constructed in accordance with paragraph b.4 shall be converted to habitable living space and shall not be utilized for any use other than access, utility and storage. The owner shall file a deed restriction for this area agreeing to this subsection and shall be to the benefit of the Township of Upper.

**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:

Add the following to **Section 19-4.2a Site Plan Review Required:**

8. Any mining, excavation, dumping or deposit of fill or dredge spoils, or landfill activities.

**SECTION 3. EFFECTIVE DATE:** The amendment to Chapter XIX in this Ordinance shall take effect immediately upon final adoption and publication as required by law and the amendments to Chapter XVIII in this Ordinance shall take effect on October 5, 2017.

**SECTION 4. REPEALER:** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency 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. CODIFICATION:** This Ordinance shall be codified as indicated in Chapters 18 and 19 of the Upper Township Code.

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 28<sup>TH</sup> DAY OF AUGUST, 2017 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 25<sup>TH</sup> DAY OF SEPTEMBER, 2017 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

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

### **CORRESPONDENCE**

### **NEW BUSINESS**

16. **Steven and Margaret DeMarchi request to vacate a portion of Mistletoe Avenue.**  
The Municipal Engineer stated that this is a section off Tuckahoe Road which is a paper street that parallels Elmwood Avenue and fronts Tuckahoe Road, Mr. Dietrich stated that there is no public purpose for this unimproved right of way and he is recommending that the Township approve this request from Monmouth Avenue to Tuckahoe Rd, to alleviate any potential road access issues in the future. The Municipal Attorney stated that the adjacent property owners will need to be contacted for their consent prior to moving forward with an Ordinance. Motion by Edward Barr,

second by Richard Palombo to approve the request. During roll call vote all four members present voted in the affirmative.

17. **Steven and Margaret DeMarchi request to purchase Township owned property Block 494, Lots 12, 13, and 14.** The Township Engineer stated that the Township owns the balance of the lots in Block 494, all are undersized with neither having a conforming lot. The Municipal Attorney recommended that it may be rational for the Township to sell the entire Township owned lots in Block 494. He stated that in the event Mistletoe Avenue is vacated prior to the sale all of the adjoining property owners will have the opportunity to purchase the lots with the condition the lots are consolidated with their existing property. Motion by Edward Barr, second by Curtis Corson to table the request to see if the requestor is open to purchasing the additional Township owned lots in Block 494. During the roll call all four Committee members present voting in the affirmative.
  
18. **New Jersey Department of Transportation request for an Ordinance designating Kendall Lane and Tuckahoe-Mount Pleasant Road (CR 664) as one way streets.** The Municipal Engineer stated that the State has already completed the one-way construction on Kendall Lane and Tuckahoe-Mt Pleasant Road. Kendall Lane, which is a Township owned street is very narrow and he recommends the consent of the one-way designation. Tuckahoe Mt. Pleasant Road is a County owned road which has been constructed as one-way from Kendall Lane to State Highway 50. The Municipal Attorney stated that due to the fact Tuckahoe-Mount Pleasant is a County road, County approval is required prior to drafting an Ordinance of consent. Motion by Edward Barr, second by Hobart Young to proceed with an Ordinance of consent. The Municipal engineer next requested the establishment of a “No Truck Traffic” prohibition and the installation of signs on the one-way portion of Tuckahoe Mt. Pleasant Road from Kendall Lane to State Highway 50. Motion by Edward Barr, second by Richard Palombo to request the establishment of a “No Truck Traffic” prohibition and the installation of signs on the one-way portion of Tuckahoe Mt. Pleasant Road.
  
19. **Upper Township Rescue Squad request to hold a Trunk or Treat fundraising event on October 24, 2017 at Amanda’s Field.** Motion by Hobie Young, second by Edward Barr, to approve the request. During roll call vote all four Committeemen present voted in the affirmative.
  
20. **Cape May Seashore Lines request to use the Tuckahoe Train Station for an Oktoberfest Express event on September 24, 2017 and Fall Foliage train ride on October 14 and 21, 2017.** Motion by Edward Barr, second by Hobie Young, to approve the request. During roll call vote all four Committeemen present voted in the affirmative.

#### **UNFINISHED BUSINESS**

21. **Cape May County proposal to install center line rumble strips on several County and Municipal Roads.** After a lengthy discussion on the subject a motion was made by Edward Barr, second by Curtis Corson to approve the request for Roads with speed limits 50 miles per hour or greater and direct the engineer to take the

appropriate action. During roll call vote three members voted in the affirmative. Committeeman Hobart Young voted no.

## **DISCUSSION**

### **PAYMENT OF BILLS**

**22. “I hereby move that all claims submitted for payment at this meeting be approved and then incorporated in full in the minutes of this meeting.”**

Motion by Edward Barr, second by Richard Palombo. During roll call vote all four Committeemen present voted in the affirmative.

**Bills approved for payment: \$313,673.71**

**Payroll: \$306,063.93**

### **REPORT OF MUNICIPAL DEPARTMENTS**

**23. Animal Control**

**24. Division of EMS**

**25. MUA Report**

Motion by Richard Palombo, second by Edward Barr, to accept the reports as submitted. During roll call vote all four Committeemen present voted in the affirmative.

### **PUBLIC COMMENT**

**Mike Jones, 63 Marshallville Rd Tuckahoe**, spoke regarding the design of rumble strips.

**Nathalie Neiss, Route 50 Petersburg**, addressed the Committee regarding Block 476 Lot 17 and agriculture use in a commercial and residential zone. Due to a conflict with this matter Mr. Corson did not participate in this matter. The Municipal Attorney stated that as he advised Ms. Neiss at a prior Township Committee meeting this is a Zoning matter and a determination on whether the use is permitted would come from the Zoning Officer and if Ms. Neiss does not agree with the determination she has the right to appeal the decision to the Zoning Board. Ms. Neiss next asked about a preliminary draft of a resolution that she received at a Planning Board meeting pertaining to Chapter XIX. The Municipal Attorney explained that the Ordinance introduced this evening regarding Chapter XIX includes a one line clarification to site plan requirements. The document Ms. Neiss is referring to is a Planning Board document which is a preliminary draft that has not yet been finalized and the Township Committee has not yet seen.

### **CLOSED SESSION**

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

**TOWNSHIP OF UPPER  
RESOLUTION NO. 260-2017  
MOTION GOING INTO CLOSED SESSION  
AUGUST 28, 2017**

I hereby move that a resolution be incorporated into the minutes authorizing the Township Committee to enter into an executive session for the following matters pursuant to the Open Public Meetings Act:

**MATTERS:**

1. Personnel
2. Contract negotiation - Animal Control Services
3. Contract negotiation - Additional Liability Insurance for Non-Profit Organizations
4. Contract negotiation - Bayview Avenue Boat Ramp
5. Contract negotiation - Atlantic Investigations
6. Contract negotiation - Conflict Tax Assessor
7. Contract negotiation - Safety and Security and Fall Festival Insurance
8. Potential litigation - 30 Rivendell

I also include in my motion the estimated time and the circumstances under which the discussion conducted in closed session can be disclosed to the public as follows:

- A. It is anticipated that the matters discussed in closed session may be disclosed to the public upon the determination of the Township Committee that the public interest will no longer be served by such confidentiality.
- B. With respect to employment and personnel matters such discussions will be made public if and when formal action is taken or when the individuals involved consent that it can be made public.
- C. With respect to contract negotiations such matters will be made public when negotiations have ceased and there is no longer a reason for confidentiality.
- D. With respect to litigation matters such discussions will be made public when litigation is complete and the applicable appeal period has expired.

Moved by: Richard Palombo

Motion seconded by: Edward Barr

During roll call vote all four Committee members present voted in the affirmative.

**RECONVENE PUBLIC PORTION OF MEETING**

Motion by Richard Palombo, second by Edward Barr, to reconvene the public portion of the meeting. During roll call vote all four Committeemen present voted in the affirmative.

Motion by Edward Barr, second by Curtis Corson, to appoint Louis Belasco as conflict Tax Assessor. During roll call vote all four Committee members present voted in the affirmative.

Motion by Hobart Young, second by Curtis Corson to hire Raymond Poudrier as a part time Fire Protection Subcode Official effective September 1, 2017 at an annual salary of \$5,000. During roll call vote all four Committeemen present voted in the affirmative.

## **ADJOURNMENT**

There being no further business this evening the meeting was adjourned at 10:10 P.M., with a motion by Richard Palombo, second by Edward Barr, and all four Committeemen present voting in the affirmative. The next regular meeting is scheduled for Monday September 11, 2017 at 7:30 P.M.

Minutes prepared by,

Barbara L. Young, RMC  
Municipal Clerk

### Bill List

69865 08/28/17 A0004 A COMMERCIAL OFFICE CLEANERS 1,100.00 2984  
69866 08/28/17 A0027 ACE PLUMBING SUPPLY,INC 67.98 2984  
69867 08/28/17 A0035 AIRLINE HYDRAULIC CORP. 76.82 2984  
69868 08/28/17 A0091 ATLANTIC CITY ELECTRIC 8,686.75 2984  
69869 08/28/17 A0114 A.E. STONE INC. 360.84 2984  
69870 08/28/17 A0191 ACTION UNIFORM CO. LLC 331.99 2984  
69871 08/28/17 A0193 ATLANTIC INVESTIGATIONS, LLC 390.00 2984  
69872 08/28/17 B0239 BAILEY, WILLIAM MICHAEL 791.66 2984  
69873 08/28/17 C0048 CAPE MAY COUNTY MUA 37,378.14 2984  
69874 08/28/17 C0068 COMCAST 570.53 2984  
69875 08/28/17 C0072 CATERINA SUPPLY INC. 777.00 2984  
69876 08/28/17 C0143 CODY'S POWER EQUIPMENT 188.00 2984  
69877 08/28/17 C0171 COLONIAL ELECTRIC SUPPLY CO. 930.82 2984  
69878 08/28/17 C0182 CDW GOVERNMENT, INC 1,826.00 2984  
69879 08/28/17 C0223 CASA PAYROLL SERVICE 278.15 2984  
69880 08/28/17 C0246 CRAFT OIL CORPORATION 1,462.50 2984  
69881 08/28/17 C0279 CASA REPORTING SERVICES LLC 148.00 2984  
69882 08/28/17 D0016 DALEYS PIT 150.00 2984  
69883 08/28/17 E0069 EVERSAN,INC 159.00 2984  
69884 08/28/17 F0181 FOR SHORE WEED CONTROL, INC 1,825.00 2984  
69885 08/28/17 G0014 GARDEN STATE HWY PRODUCTS INC. 150.00 2984  
69886 08/28/17 G0086 W.W. GRAINGER, INC. 56.48 2984  
69887 08/28/17 G0157 GRANTURK EQUIPMENT CO., INC. 1,198.21 2984  
69888 08/28/17 H0018 HAROLD RUBIN L & H SUPPLY 175.00 2984  
69889 08/28/17 H0095 HORIZON BCBSNJ 163,608.63 2984  
69890 08/28/17 L0007 LC EQUIPMENT, INC. 219.50 2984  
69891 08/28/17 L0117 LETS PARTY PAINTERS, LLC 900.00 2984  
69892 08/28/17 M0012 McCAULEY, RICHARD 334.88 2984  
69893 08/28/17 M0131 MULFORD, SHAWNA 1,549.34 2984  
69894 08/28/17 M0164 MURPHY FENCE COMPANY. INC. 750.08 2984  
69895 08/28/17 M0180 MED-TECH RESOURCE,LLC 384.85 2984  
69896 08/28/17 M0188 MCCARTHY TIRE SERVICE OF PHILA 696.94 2984  
69897 08/28/17 M0230 MCANJ 175.00 2984  
69898 08/28/17 M0247 MORGAN, SCOTT 160.65 2984  
69899 08/28/17 M0277 MONY LIFE INSURANCE COMPANY 192.41 2984  
69900 08/28/17 N0043 NAPA AUTO PARTS 782.90 2984  
69901 08/28/17 N0052 NATL YOUTH SPORTS COACHED ASSN 300.00 2984  
69902 08/28/17 N0154 NEW HORIZON COMMUNICATIONS 1,123.60 2984

69903 08/28/17 O0025 OLD DOMINION BRUSH 2,753.71 2984  
69904 08/28/17 P0032 PEDRONI FUEL CO. 866.85 2984  
69905 08/28/17 P0056 TURF EQUIPMENT AND SUPPLY CO 960.16 2984  
69906 08/28/17 P0078 PRO VIDEO ENGINEERING 694.15 2984  
69907 08/28/17 R0030 RIGGINS, INC. 4,190.95 2984  
69908 08/28/17 R0058 RUTGERS COOP.RESEARCH & 120.00 2984  
69909 08/28/17 R0099 HUNTER TRUCK SALES & SERVICE 236.49 2984  
69910 08/28/17 R0100 ROBERTS OXYGEN COMPANY, INC. 63.90 2984  
69911 08/28/17 R0101 R.R. DONNELLEY & SONS 105.00 2984  
69912 08/28/17 S0031 SCHULER SECURITY, INC. 185.00 2984  
69913 08/28/17 S0034 SCHULER, DANIEL 608.56 2984  
69914 08/28/17 S0073 SENIOR TRAVEL SERVICE,INC. 950.00 2984  
69915 08/28/17 S0092 SHONE, LEROY 779.50 2984  
69916 08/28/17 S0113 SMITH,THOMAS G. 1,144.01 2984  
69917 08/28/17 S0134 SO. JERSEY GAS COMPANY 406.64 2984  
69918 08/28/17 S0161 SPICA STEEL, INC./J.D.L.GARAGE 325.00 2984  
69919 08/28/17 S0185 STOCKTON STATE COLLEGE 7,965.63 2984  
69920 08/28/17 S0191 STRATHMERE FIRE CO.DISTRICT #1 42,417.00 2984  
69921 08/28/17 S0196 STEWART BUSINESS SYSTEMS LLC 152.80 2984  
69922 08/28/17 S0239 SHORE VET. ANIMAL CONTROL LLC 2,250.00 2984  
69923 08/28/17 S0254 SHOPRITE 20.59 2984  
69924 08/28/17 S0284 SOUTH JERSEY INTERPRETERS 171.73 2984  
69925 08/28/17 S0324 Steelman Julia 41.44 2984  
69926 08/28/17 S0327 SUASION COMMUNICATIONS GROUP 1,350.00 2984  
69927 08/28/17 T0067 TOWNSHIP OF UPPER PETTY CASH 2.24 2984  
69928 08/28/17 T0080 TREASURER STATE OF N.J. 500.00 2984  
69929 08/28/17 T0129 TRUGREEN CHEMLAWN 7,325.00 2984  
69930 08/28/17 T0192 MARSH & McLENNAN AGENCY/TRION 150.00 2984  
69931 08/28/17 U0067 UT HEALTH REIMB. ACCOUNT 3,619.94 2984  
69932 08/28/17 V0005 VAN EMBDEN, NATHAN, ATTORNEY 1,005.00 2984  
69933 08/28/17 V0013 VERIZON WIRELESS 1,046.56 2984  
69934 08/28/17 V0025 V.E. RALPH & SON,INC. 406.84 2984  
69935 08/28/17 V0026 VITAL COMMUNICATIONS, INC. 100.00 2984  
69936 08/28/17 W0030 WEST PUBLISHING CO. 469.23 2984  
69937 08/28/17 W0087 W.B. MASON 10.70 2984  
69938 08/28/17 W0106 Wheeley Jessica E. 21.44 2984

Total: \$313,673.71