

**TOWNSHIP OF UPPER  
2100 TUCKAHOE ROAD  
PETERSBURG, NJ 08270  
CAPE MAY COUNTY  
MINUTES FOR TUESDAY MAY 26, 2020**

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

**CALL TO ORDER**

**SUNSHINE ANNOUNCEMENT**

Mayor Palombo read the following announcement. “In compliance with the Open Public Meetings Law, I wish to state that on May 22, 2020, the notice of this meeting of the Upper Township Committee was posted on the official Township Bulletin Board, the Upper Township Website, and the Town Hall Foyer, mailed to the Cape May County Gazette, the Atlantic City Press, the Ocean City Sentinel-Ledger, the Herald Times and filed with the Township Clerk. Tonight's meeting is being audio recorded up until the closed session portion of this meeting and will be available on the Upper Township website. I hereby direct that this announcement be made a part of the minutes of this meeting.”

**SALUTE TO THE FLAG**

**ROLL CALL**

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

Also present were Municipal Clerk Barbara Young, Municipal Attorney Daniel Young, Township Administrator Scott Morgan, Personnel Officer Sharon Taggart, Township Engineer Paul Dietrich, and Chief Financial Officer Barbara Ludy.

**APPROVAL OF MINUTES** - May 11, 2020 Regular and Closed Session Minutes

Motion by Edward Barr, second by Hobie Young, to approve the May 11, 2020 Regular Session Minutes as submitted. During roll call vote all five Committeemen voted in the affirmative.

**REPORT OF GOVERNING BODY MEMBERS**

**Hobie Young, Committeeman**, reported that tentative plans are underway to hold a small celebration event for July 4<sup>th</sup>. He stated that the fireworks contractor must be notified by June 15<sup>th</sup> if we want to postpone the fireworks. After a brief discussion, it was decided to make a final decision at the June 8<sup>th</sup> meeting. He next stated that the recreation fields are in phenomenal shape and thanked the Public Works Department for their work.

**Edward Barr, Committeeman**, also thanked the Department of Public Works for their efforts getting everything ready for the holiday weekend. He next inquired into the County's reconstruction project on Corson Tavern Road. He stated that there are several campgrounds along Corson Tavern and asked if the owners have been notified as to when to expect construction and the potential effects on their businesses. The Township Engineer was directed to coordinate with the County to get weekly updates out to the campground owners.

**Curtis Corson, Committeeman**, also thanked the Department of Public Works for the fantastic job getting ready for the weekend. He also stressed that Township employees should be setting an example by wearing masks while working together.

**Richard Palombo, Mayor**, also thanked the Department of Public Works. He stated that as far as he observed all visitors to the beach were doing their best to maintain social distancing. He next reported that the Governor is now allowing graduation ceremonies to be held outdoors. In speaking with Superintendent Palmieri, the Upper Township Middle School is requesting to hold their eighth grade graduation at either Amanda's Field or Caldwell Park. There was then a lengthy discussion regarding parking, bathroom facilities and seating, after which it was decided to accommodate the school's request but wait for more information to determine which facility will be utilized.

## **OTHER REPORTS**

**Scott Morgan, Township Administrator**, gave a brief status report on the total Covid-19 cases in New Jersey, Cape May County, and Upper Township. He urged all residents and visitors to continue following CDC guidelines, including handwashing, the wearing of masks when out in public, and practicing social distancing. He next thanked Public Works for the excellent job preparing the beaches for the holiday weekend. Next, he reported that in accordance with the Governor's Executive Order 148, on May 22<sup>nd</sup> he signed an emergency order allowing recreational campgrounds to accept transient seasonal or short-term rentals for a duration of less than 30 days effective immediately. Lastly, he gave a brief update on the issue of ATVs trespassing on Township property and the efforts the State Police have implemented to curb the issue.

**Barbara Young, Municipal Clerk**, reported that pursuant to the Governor's Executive Order, the Primary Election will be held on July 7, 2020, and will primarily be executed via mail in voting. The County will be implementing a modified program for in person voting and it is expected that there will be two polling places in Upper Township. More information will be forthcoming from the County in the next few weeks. She next urged everyone to complete the 2020 Census.

**Daniel Young, Municipal Attorney**, reported that there are a few items for closed session.

**Paul Dietrich, Township Engineer**, reported that the DEP has approved the renewal of the Township's dune and beach maintenance permit, as well as the Township's Municipal Public Access Plan. Lastly, he reported that the recertification of the Township's center designation plan endorsement is well underway. Based on a recent discussion at the Planning Board meeting, a small subcommittee of the planning board will be set up to help navigate the endorsement process. He stated that if any residents have any specific questions about the plan endorsement, maps, or how they might be changing, to contact him for updates.

**Barbara Ludy, Chief Financial Officer**, gave a brief update on the Township's revenues and expenditures to date. She stated that revenues are down 2% from last year, and expenditures are up 2%.

## **RESOLUTIONS**

1. Authorizing the award of a contract with Service Tire Truck Center, Inc. for tires.

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

#### **RESOLUTION NO. 160-2020**

#### **RE: AUTHORIZING THE AWARD OF A CONTRACT WITH SERVICE TIRE TRUCK CENTER, INC. FOR TIRES**

**WHEREAS**, from time to time the Township of Upper has a need to purchase tires from Service Tire Truck Center, Inc. as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, the Qualified Purchasing Agent has determined and certified in writing that the value of acquisitions with Service Tire Truck Center, Inc. for the year 2020 will exceed \$17,500; and

**WHEREAS**, Service Tire Truck Center, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that Service Tire Truck Center, Inc. has not made any reportable contributions to a political or candidate committee in the Township in the previous one year, and that the contract will prohibit Service Tire Truck Center, Inc. from making any reportable contributions through the term of the contract; and

**WHEREAS**, the Chief Financial Officer of the Township has certified the availability of funds to allow the award of contract for the purchase herein authorized and has certified that adequate funds have been appropriated for this purpose in the 2020 Municipal Budget.

**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, County of Cape May, New Jersey hereby authorizes the Qualified Purchasing Agent to enter into a contract with Service Tire Truck Center, Inc. as described herein.
3. The Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution.
4. The Chief Financial Officer is hereby authorized, directed and empowered to execute any and all necessary documents in order to implement the intent of this Resolution.

Resolution No. 160-2020

Offered by: Barr

Seconded by: Young

Adopted: May 26, 2020

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Barr	X			
Coggins	X			
Corson	X			

Young	X			
Palombo	X			

2. Appointing the 2020 season Beach Patrol personnel contingent upon background clearance.

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

**RESOLUTION NO. 161-2020**

**RE: APPOINTING THE 2020 SEASON BEACH PATROL PERSONNEL  
CONTINGENT UPON BACKGROUND CLEARANCE**

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**WHEREAS**, the individuals hereinafter named have been determined to possess the requisite skills, training and are otherwise eligible for appointment to the position of lifeguard, contingent upon background clearance; 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 following individuals are appointed as lifeguards in the Township of Upper contingent upon background clearance at a salary as stated below in accordance with the Salary Ordinance:

**RETURNING GUARDS**

<b>Dooner, William</b>	<b>5+</b>	<b>\$15.50 per hour</b>
<b>Gibbons, James</b>	<b>5+</b>	<b>\$15.50 per hour</b>
<b>Bobbitt, Gaige</b>	<b>5+</b>	<b>\$15.50 per hour</b>
<b>DeSalis, Mike</b>	<b>5+</b>	<b>\$15.50 per hour</b>

Resolution No. 161-2020

Offered by: Barr

Seconded by: Coggins

Adopted: May 26, 2020

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Barr	X			
Coggins	X			
Corson	X			
Young	X			
Palombo	X			

3. Authorizing a professional services contract with Suasion Communications Group for the maintenance of the Upper Township internet web site.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY**

# RESOLUTION

## RESOLUTION NO. 162-2020

### RE: AUTHORIZING A PROFESSIONAL SERVICES CONTRACT WITH SUASION COMMUNICATIONS GROUP FOR THE MAINTENANCE OF THE UPPER TOWNSHIP INTERNET WEB SITE

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**WHEREAS**, the Township of Upper maintains an internet web site which requires routine maintenance; and

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

**WHEREAS**, Suasion Communications Group has completed and submitted a Business Entity Disclosure Certification which certifies that Suasion Communications Group 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 Suasion Communications Group 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. Suasion Communications Group with offices at 235 Shore Road, Suite B, Somers Point, New Jersey 08244, is hereby appointed by the Township of Upper for the purposes as specified in this Resolution and the attached professional services agreement.
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 Suasion Communications Group 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 Suasion Communications Group for the maintenance of the Upper Township internet web site. This contract and 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. Suasion Communications Group 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. 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. 162-2020

Offered by: Coggins

Seconded by: Barr

Adopted: May 26, 2020

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Barr	X			
Coggins	X			
Corson	X			
Young	X			
Palombo	X			

4. Authorizing the award of a contract with AccessRec, LLC for mobile beach access mats.

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

**RESOLUTION NO. 163-2020**

**RE: AUTHORIZING THE AWARD OF A CONTRACT WITH ACCESSREC, LLC  
FOR MOBILE BEACH ACCESS MATS**

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**WHEREAS**, the Township of Upper wishes to purchase mobile beach access mats from AccessRec, LLC as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, the Qualified Purchasing Agent has determined and certified in writing that the value of acquisitions with AccessRec, LLC for the year 2020 will exceed \$17,500; and

**WHEREAS**, AccessRec, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that AccessRec, LLC has not made any reportable contributions to a political or candidate committee in the Township in the previous one year, and that the contract will prohibit AccessRec, LLC from making any reportable contributions through the term of the contract; and

**WHEREAS**, the Chief Financial Officer of the Township has certified the availability of funds to allow the award of contract for the purchase herein authorized and has certified that adequate funds have been appropriated for this purpose in the 2020 Municipal Budget.

**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, County of Cape May, New Jersey hereby authorizes the Qualified Purchasing Agent to enter into a contract with AccessRec, LLC as described herein.
3. The Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution.
4. The Chief Financial Officer is hereby authorized, directed and empowered to execute any and all necessary documents in order to implement the intent of this Resolution.

Resolution No. 163-2020

Offered by: Barr

Seconded by: Young

Adopted: May 26, 2020

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Barr	X			
Coggins	X			
Corson	X			
Young	X			
Palombo	X			

5. Adopting the Operating Manual for the program to provide affordability assistance to homeowners.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY**

# RESOLUTION

## RESOLUTION NO. 164-2020

### RE: ADOPTING THE OPERATING MANUAL FOR THE PROGRAM TO PROVIDE AFFORDABILITY ASSISTANCE TO HOMEOWNERS

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**WHEREAS**, the Governing Body of the Township of Upper has previously approved Affordability Assistance to Homeowners in Resolution 136-2013 on June 10, 2013; and

**WHEREAS**, Township of Upper's Fair Share Plan promotes an affordable housing program pursuant to the Fair Housing Act (N.J.S.A. 52:27D-301, et. seq.) and FHAA's Third Round Substantive Rules (N.J.A.C. 5:94-1, et. seq.); and

**WHEREAS**, the Township Committee of the Township of Upper wants to revise the current manual to include assistance for both rental properties, homeowners and emergency repair assistance; and

**WHEREAS**, the Township Committee of the Township of Upper has developed an Affordability Assistance Policies and Procedures Manual (Affordability Assistance Manual) dated May 2020 in accordance with the Uniform Housing Affordability Controls and the New Jersey Fair Housing Act; and

**WHEREAS**, the Township has appointed Triad Associates an Administrative Agent for this program, to administer and enforce said plan in coordination with the Township's Municipal Housing Liaison; and

**NOW THEREFORE BE IT RESOLVED**, the Township of Upper shall adopt this Affordability Assistance Manual and this manual is hereby attached to the original of this resolution; and

**BE IT FURTHER RESOLVED**, the Township's Municipal Housing Liaison will submit the Affordability Assistance Manual to the FHAA.

Resolution No. 164-2020

Offered by: Barr

Seconded by: Palombo

Adopted: May 26, 2020

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Barr	X			
Coggins	X			
Corson	X			
Young	X			
Palombo	X			



6. Authorizing a contract with Emergency Training & Consulting and Dr. Kenneth Lavelle for Medical Director Services.

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

**RESOLUTION NO. 165-2020**

**RE: AUTHORIZING A CONTRACT WITH EMERGENCY TRAINING & CONSULTING  
AND DR. KENNETH LAVELLE FOR  
MEDICAL DIRECTOR SERVICES**

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**WHEREAS**, the Township of Upper has received a proposal from Emergency Training & Consulting and Dr. Kenneth Lavelle, (hereinafter collectively referred to as “ETC”), for Medical Director Services for the Upper Township Division of Emergency Services; and

**WHEREAS**, the Township Committee has considered this matter and has determined that it is in the best interest of the Township to acquire the services of ETC as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

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

**WHEREAS**, ETC has completed and submitted a Business Entity Disclosure Certification which certifies that ETC 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 ETC from making any reportable contributions through the term of the contract; and

**WHEREAS**, the Township Chief Financial Officer, to the extent required, has certified the availability of funds to permit the Township to enter into said professional services 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 enter into a contract for Medical Director Services with ETC.
3. The Township Clerk shall cause a Notice of Award of this contract to be published in the official newspaper of the Township as required by N.J.S.A 40A:11-5.

4. This Contract is a Professional Services Contract and has been awarded without competitive bidding for the following reasons:

(A) The services required are highly specialized or technical in nature;

(B) The services require peculiar ability or skill, and demand a high degree of specialized knowledge or expertise;

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

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

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

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. 165-2020

Offered by: Barr

Seconded by: Coggins

Adopted: May 26, 2020

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Barr	X			
Coggins	X			
Corson	X			
Young	X			
Palombo	X			

7. Authorizing the Township of Upper to enter into a New Jersey Interoperable Communications System (NJICS) User Agreement with the New Jersey Office of Information Technology.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 166-2020**

**RE: AUTHORIZING THE TOWNSHIP OF UPPER TO ENTER INTO A NEW JERSEY  
INTEROPERABLE COMMUNICATIONS SYSTEM (NJICS) USER AGREEMENT WITH  
THE NEW JERSEY OFFICE OF INFORMATION TECHNOLOGY**

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**WHEREAS**, the New Jersey Office of Information Technology (NJOIT) is responsible for administering the Public Safety Interoperable Communications (PSIC) Grant on behalf of the local, county and state agencies; and

**WHEREAS**, the NJOIT has provided the Township of Upper with portable radios configured to operate on the Statewide 700 MHz, P-25 Trunked Radio System for the purposes of conducting testing by those agencies of Upper Township that may utilize the Statewide 700 MHz, P-25 Trunked Radio System; and

**WHEREAS**, the Township of Upper has conducted sufficient testing of the Statewide 700 Mhz. P-25 Trunked Radio System and has determined that the performance is acceptable; and

**WHEREAS**, the Township Committee has determined it to be in the best interest of the Township to enter into an Agreement with NJOIT to identify the terms and conditions of local agency participation in the Statewide 700 MHz, P-25 Trunked Radio System; and

**WHEREAS**, said agreement, attached hereto, has been reviewed and approved by the Municipal Attorney; 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 on behalf of the Township of Upper, is hereby authorized to execute the attached agreement entitled “New Jersey Interoperable Communications System (NJICS) User Agreement”, with the New Jersey Office of Information Technology.
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.

BARBARA L. YOUNG, TOWNSHIP CLERK

Resolution No. 166-2020

Offered by: Barr

Seconded by: Coggins

Adopted: May 26, 2020

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Barr	X			
Coggins	X			
Corson	X			
Young	X			
Palombo	X			

8. Resolution of the Township Committee of the Township of Upper, County of Cape May, State of New Jersey approving the Affordable Housing Spending Plan.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 167-2020**

**RE: RESOLUTION OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF  
UPPER, COUNTY OF CAPE MAY, STATE OF NEW JERSEY APPROVING THE  
AFFORDABLE HOUSING SPENDING PLAN**

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**WHEREAS**, on or about February 12, 2018 the Township of Upper (“Township”) entered a settlement agreement with Fair Share Housing Center (“FSHC”), which established the Township’s fair share obligation and preliminarily approved the Township’s compliance mechanisms in accordance with the March 10, 2015 decision of the Supreme Court, commonly referred to as “Mount Laurel IV”, which transferred responsibility to review and approve housing elements and fair share plans from the Council on Affordable Housing (“COAH”) to designated Mount Laurel trial judges within the Superior Court; and

**WHEREAS**, that Settlement Agreement was approved by the Superior Court via Order dated April 23, 2018; and

**WHEREAS**, pursuant to the approved Settlement Agreement, the Township’s Planning Board adopted a Housing Element and Fair Share Plan, which implements the Settlement on August 8, 2018, which was conditionally approved via Court Judgment of Compliance and Repose, dated August 31, 2018; and

**WHEREAS**, pursuant to the Conditional Judgment of Compliance and Repose, the Township must amend its Spending Plan and adopt it in accordance with N.J.A.C. 5:93-5.1, et. seq.; and

**WHEREAS**, the Township of Upper has prepared an Amended Spending Plan consistent with P.L.2008, c.46 COAH regulations and the FSHC Settlement Agreement, which will be submitted to the Court for approval in connection with the Township’s Declaratory Judgment Action; and

**NOW THEREFORE BE IT RESOLVED**, the by the Township Committee of the Township of Upper, County of Cape May, State of New Jersey hereby approves the Spending Plan that is attached hereto as Exhibit A.

Resolution No. 167-2020

Offered by: Coggins                      Seconded by: Young

Adopted: May 26, 2020

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Barr	X			
Coggins	X			
Corson	X			
Young	X			
Palombo	X			

**ORDINANCES**

9. **Public hearing and final adoption of Ordinance No. 005-2020 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XX (ZONING) OF THE CODE OF UPPER TOWNSHIP.** The Municipal Attorney reported that due to

noncompliance with Pinelands regulations, section 20-11.5.2 (h) should be removed. In addition, there are two small typos, the Affordable Senior Housing zone was not listed in the list of zones in the written part of the ordinance, and Schedule B lists a Utility zone which should be removed. He advised that these changes constitute non-substantive amendments to the Ordinance and can be acted on tonight without re-advertising. Mayor Palombo then opened the public hearing. During the public hearing portion Linda Bateman, Strathmere, inquired as to when the Ordinance if adopted will go into effect. Municipal Attorney Daniel Young stated that the Ordinance is effective upon adoption. There was no further public comment and Mayor Palombo closed the public hearing portion. Motion by Curtis Corson, second by Edward Barr, to adopt Ordinance 005-2020 with the two typos corrected and section 20-11.5.2(h) deleted. During roll call vote all five Committeemen voted in the affirmative.

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

**ORDINANCE NO. 005-2020**

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XX  
(ZONING) OF THE CODE OF UPPER TOWNSHIP**

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**WHEREAS**, pursuant to N.J.S.A. 40:55D-89 the Upper Township Planning Board undertook a reexamination of its Master Plan to determine the major problems and objectives relating to land development within the Township and to recommend specific changes to the Township's development regulations to address said problems and objectives to the betterment of the overall community; and

**WHEREAS**, on April 16, 2020, pursuant to Upper Township Planning Board Special Resolution 03-2020, the Upper Township Planning Board adopted the Upper Township 2020 Master Plan Reexamination Report and amended the Upper Township Master Plan; and

**WHEREAS**, the Township Committee, after review of Planning Board Special Resolution 03-2020 and the Upper Township 2020 Master Plan Reexamination Report, agrees that Chapter XX of the Code of Upper Township should be amended as recommended by the Upper Township Planning Board.

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

Add the following to **Section 20-2.1 Definitions of Township Wide Application:**

*Cupola* shall mean a decorative roof structure that has a small roof and the shaft that supports it sitting on top of a building. A Cupola in the RR and RC district may exceed the maximum building height if it is decorative only, is no more than 4 feet above the maximum building height (not including spire or weather vane) and contains no more than thirty-six (36) Square Feet of space. If a cupola provides rooftop access in the RR and RC district it shall not exceed the maximum permitted building height.

*Floor Area Ratio (FAR)* shall mean all building area in a principal structure above Flood Protection Area divided by the lot area. In calculating FAR attics, elevators, and decks/ porches shall not be included. Additionally, when located below the Flood Protection Elevation, storage areas and garages shall not be included in the FAR. The value in the FAR numerator shall be the area (in square feet) established by measuring from the exterior faces of exterior walls and shall include all building area having a floor to ceiling joist height of seven feet (7') and greater (if attics have a floor to ceiling height of seven-feet or greater they shall be included in the total floor area).

*Open Deck* shall mean an exterior part of a building outside of and extending beyond the exterior walls of the building, the exterior boundaries of which are completely and permanently open to the outside air and shall not have any enclosed space below or roof above (except for where two decks are stacked); provided that an open deck may have a solid wall in lieu of a railing, which wall extends not more than 36 inches above the floor of the deck or in accordance with applicable building code regulations. An open deck may be stacked such that a second open deck is above the lower deck.

Revise the following to **Section 20-2.1 Definitions of Township Wide Application:**

*Building* shall mean any structure or extension therefor or addition thereto having a roof supported by such things as columns, posts, piers or walls intended for the shelter, business, housing or enclosing of persons, animals or property. Open uncovered decks or raised patios more than 18 inches above grade, are considered parts of the building. For purposes of permitted encroachments any overhangs, soffits, chimney, bay windows or similar structure that extends more than 18 inches beyond the face of the building shall be considered parts of the building.

*Building coverage* shall mean the square footage or other area measurement by which all buildings occupy a lot as measured on a horizontal plane around the periphery of the foundations and including the area under the roof of any structure supported by columns, but not having walls, as measured around the outside of the outermost extremities of the roof above the columns. In the RR district open decks, up to 200 square feet, as defined herein are exempt from building coverage and shall be included in lot coverage. The area of any open deck over 200 square feet shall be included in building coverage.

*Building height* shall mean the vertical distance measured to the highest point from the mean elevation of the finished grade five (5') feet away from the foundation along the side(s) of building facing a street or a street line, whichever is closer to the foundation. On a corner lot, the height shall be measured on the street having the greatest slope. In all cases where this Chapter provides for height limitations by reference to specified height the intent is to limit height to the specified maximum footage. Properties located in the special flood hazard area or the advisory flood hazard area shall have the height measured from the flood protection elevation. Properties in the RR and RC zoning districts shall be limited to two (2) habitable stories above the flood protection elevation except as provided in Section 20-4.5b2(d)(iii).

Revise **Section 20-3.1 as follows:**

#### 20-3.1 Zoning Districts.

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

<b>Symbol</b>	<b>Zoning District</b>
AR	Agriculture and Rural Density Residential
R	Center Residential
R2	Moderate Density Residential
RR	Resort Residential
RC	Resort Commercial
TCC	Town Center Core
TC	Town Center
CM2	Commercial District
CM4	Rural Density Commercial District
CMP	Commercial District Pinelands
C	Conservation
RD	Rural Development
PV	Pinelands Village
F3	Rural Density Forest
F10	Low Density Forest
F25	Forest Conservation
RP	Recreation and Park
RPPV	Recreation and Park Pinelands Village
M	Mining
TV	Tuckahoe Village
TR	Tuckahoe Riverfront
MH	Mobile Home
AHGR	Affordable Housing Group Home
MTCD	Marmora Town Center District
ASH	Affordable Senior Housing
WTC	Waterfront Town Center

Revise **Section 20-3.2 as follows:**

20-3.2 Zoning Map.

The map is amended to reflect the zoning boundary changes as set forth on the revised Zoning Map of the Township of Upper prepared by Paul E. Dietrich, Sr., Upper Township Engineer, dated January 12, 2004 and revised through December 19, 2019. The Zoning Map is located at the end of Chapter XX.

Revise **Section 20-4.5 Resort Districts: "RR" Resort Residential and "RC" Resort Commercial as follows:**

**20-4.5 Resort Districts: "RR" Resort Residential and "RC" Resort Commercial.**

a. *Purpose.* The purpose of the "RR" and "RC" Resort Districts are to provide for development specifically related to the barrier beach community of Strathmere and Whale Beach. The purpose of the "RR" District is to provide for the continuance of single-family dwellings on Strathmere and Whale Beach. Building coverages, Floor Area Ratios and heights are utilized to ensure the scale of the residential structures maintain the charm of Strathmere\_& Whale Beach and not result in larger structures. The purpose of the "RC" District is to provide locations on Strathmere where relatively small retail and service establishments may be located. It is intended that any development will take place in accordance with the requirements specified under the FEMA Flood Hazard Regulations in recognition of the precarious environmental situation. Additionally, minimum ground floor elevations are established to ensure protection against flooding and allow for the continued improvement of street networks.

b. *"RR" Resort Residential District.*

1. Permitted Uses. The permitted uses pertaining to the "RR" Resort Residential District is provided on Schedule A Residential Districts—Permitted Principal, Conditional and Accessory Uses except as modified or supplemented by this section.
2. Area and Yard Requirements. The area and yard requirements pertaining to all permitted uses in the "RR" District are provided on Schedule C Area and Yard Requirements for Zone Districts except as modified or supplemented by the specific standards of the RR district under 20-4.5(b) in its entirety:
  - (a) Lot depth: Any existing lot appearing on the Tax Map as of July 1, 1995 which has a depth of ninety-five (95') feet and a minimum frontage of forty (40') feet shall be deemed to meet the requirements of this section. (All lots located in Strathmere on the west side of Commonwealth Avenue generally have a depth of ninety-five (95') feet.
  - (b) Roof top decks are permitted provided they do not exceed 25% of the total building footprint.
  - (c) A maximum building coverage of 27% is permitted. Open decks are excluded from the building coverage in the RR district or in the RC district when developed as single-family detached residential.
  - (d) A maximum Floor Area Ratio (FAR) of 0.54 is permitted.
    - (i) In calculating the floor area ratio decks/porches are excluded from the total floor area.
    - (ii) If a property owner encloses a deck or porch that area shall become part of the calculated floor area and subject to the maximum FAR.
    - (iii) Foyers, habitable space and storage areas are permitted above the flood protection elevation on the ground floor with two (2) stories above provided such areas do not exceed more than 30% of the total floor area on the ground level. All area above the flood protection elevation shall be included in the FAR calculation as floor area.
  - (e) Side yard setbacks shall be provided in accordance with the following:

Lot Width	Individual Side Yard	Aggregate Side Yard Setback
less than 50 feet	6 feet	12 feet
50 feet to less than 70 feet	6 feet	15 feet
70 feet to less than 90 feet	6 feet	16 feet
90 feet or greater	6 feet	18 feet

Existing single-family dwellings with less than the required aggregate are grandfathered and may raise and/or expand their footprint provided that no one setback is less than 6-feet and all other provisions of section 20-4.5 are met.

- (f) All outside showers, HVAC equipment and generators shall be setback from the property line a minimum of 6-feet.
3. Building Height
  - (a) Buildings shall not be more than thirty-five (35) feet above the Flood Protection Elevation.
  - (b) Roof structures or cupolas for stairway or elevator access are not permitted above the maximum permitted building height.
  - (c) No more than eighteen (18) inches of exposed rail is permitted on roof decks.



- (d) Any building having a roof slope less than 4:1 for more than 25% of the building shall be considered a flat roof and the prescribed building height limit shall be reduced by four (4') feet.
    - (e) Building height shall be measured from the Flood Protection Elevation.
  - 4. Minimum Gross Floor Area. Minimum gross floor area for a single-family detached dwelling shall be one thousand (1,000) square feet.
  - 5. Private residential swimming pools are prohibited in the "RR" District.
  - 6. Garages shall not be converted to habitable space.
- c. *"RC" Resort Commercial District.*
- 1. Permitted Uses.
    - (a) The permitted uses pertaining to the "RC" Resort Commercial District are provided on Schedule B Commercial and Mixed Use Districts Permitted Principal Condition and Accessory Uses.
    - (b) Single-Family Detached Residential uses in the RC district are a permitted conditional use except in Block 850, with the conditions being the standards under Section 20-4.5(b). Any variation from these standards require a variance under N.J.A.C. 40:55D-70d from the Board of Adjustment.
  - 2. Area and Yard Requirements. The area and yard requirements pertaining to all permitted uses in the "RC" District are provided on Schedule C Area and Yard Requirements for Zone Districts except as modified or supplemented by this section.
  - 3. Building Height
    - (a) Buildings shall not be more than thirty-five (35') feet above the Flood Protection Elevation
    - (b) Roof structures or cupolas for stairway or elevator access are not permitted above the maximum permitted building height.
    - (c) No more than eighteen (18) inches of exposed rail is permitted on roof decks.
    - (d) Any building having a roof slope less than 4:1 for more than 25% of the building shall be considered a flat roof and the prescribed building height limit shall be reduced by four (4') feet
    - (e) Building height shall be measured from the Flood Protection Elevation.
  - 4. General Requirements.
    - (a) One (1) building may contain more than one (1) use provided that the total building coverage of the combined uses does not exceed the maximum building coverage specified for the district and, further, that each use occupies a minimum gross floor area of five hundred (500) square feet.
    - (b) No merchandise, products or similar material or objects shall be displayed or stored outside unless appropriately screened and maintained. Any use resulting in the storage of vehicles outside shall have such area entirely enclosed by a fence, wall, plant material or combination thereof in order to provide a visual barrier between the storage areas and any street, residential zoning district or existing residential use. Such outside storage area shall not exceed thirty (30%) percent of the lot area and shall be located in the rear yard only.
    - (c) All buildings shall be compatibly designed whether constructed all at one time or in stages over a period of time. All building walls facing any street or residential district line shall be suitably finished for aesthetic purposes which shall not include unpainted or painted cinder block or concrete block walls.

- (d) All areas not utilized for buildings, parking, loading, access aisles and driveways or pedestrian walkways shall be suitably landscaped with shrubs, ground cover, seeding or similar plantings and maintained in good condition.
- (e) Each activity shall provide for off-street loading and unloading with adequate ingress and egress from streets and shall provide for such an area at the side or rear of the building.
- (f) There shall be at least one (1) trash or garbage pickup location provided by each building which shall be separated from the parking spaces by either a location within the building or in a pickup location outside the building. The trash and/or garbage shall be stored in a steel-like, totally enclosed container located in a manner to be obscured from view from parking areas, streets and adjacent residential uses or zoning districts by a fence, wall, planting or combination of three (3). If located within the building, the doorway may serve both the loading and trash/garbage functions. If a container is used for trash/garbage functions and is located outside the building, it may be located adjacent to or within the general loading area(s) provided the container in no way interferes with or restricts loading and unloading functions.

5. Private residential swimming pools are prohibited in the "RC" District.

d. Stormwater Control

- 1. Each property shall provide stormwater control to help alleviate the stormwater runoff in the RC and RR zones as set forth below.
- 2. Stormwater control shall meet Section 19-7.7 for all new development or shall provide the following minimum which the Municipal Engineer has calculated to meet the standards:
  - (a) Provide drywell constructed in accordance with NJAC 7:8-5.9(a).iii.
  - (b) Drywell shall be at least one hundred feet (100') of 24"x24" clean stone trench with 6" perforated pipe connected to downspouts that direct the runoff from at least 90% of the roof area.
  - (c) Prior to placement of stone in the drywell the excavation shall be inspected by the Municipal Engineer to verify that the soils meet the permeability standards of NJAC 7:8.
- 3. Pervious paving for driveway area is recommended and shall not be included in the calculation of impervious lot coverage.

e. Ground Floor Elevation

- 1. All new construction and substantial improvement to any structure shall have the ground floor elevated to Elevation 7.0 N.A.V.D. or higher except if the following conditions are met:
  - (a) the change in slope from the roadway to ground floor Elevation 7.0 N.A.V.D. shall be more than two (2') feet; and
  - (b) If the ceiling height of the ground floor and all door jamb headers are constructed to allow for future construction of a ground floor at Elevation 7.0 N.A.V.D. without having to raise the entire structure.

Delete **Section 20-4.9 "U" Utility.**

20-4.9. Reserved.

Revise the following subsections in **Section 20-4.20 "MTCD" Marmora Town Center District:**

20-4.20c. Permitted Principal Uses.

The permitted principal uses pertaining to the "MTCD" District shall require a mixed-use development limited to the following:

1. Mixed-use projects shall provide a combination of residential and non-residential development in accordance with the following:
  - a. Mixed-use developments shall have 40% of the total habitable space for non-residential development uses and 60% of the total habitable space for residential development uses.
  - b. The residential may be upper level apartments or stand-alone developments on the same parcel or contiguous parcel.
  - c. All development along Route 9 shall be non-residential with the option for upper level residential. No stand-alone residential building will be permitted along Route 9
  - d. Phasing is required in accordance with Subsection “1.” below.
  - e. All residential must provide a set aside for affordable housing required by Subsection “3f” below.
2. Within the mixed-use development the following non-residential uses are permitted:
  - a. Retail stores, restaurants and personal service uses.
  - b. General or professional offices.
  - c. Repair and servicing, indoors only, of any article for sale which is permitted in this district.
  - d. Banks and Similar Financial Institutions. Drive-through provided that such are compatible with the design of the building and are appropriately located at the side or rear of a building. Drive-through facilities servicing such uses shall be permitted provided that the scale of the drive through windows and lanes is compatible with the design of the building and site design. A maximum of three (3) drive-through lanes shall be permitted (inclusive of lanes for ATMs).
  - e. Day Care Centers.
  - f. Indoor theaters and bowling alleys.
  - g. Retail garden centers.
  - h. School of dance, drama. Karate, or any similar instructional institution.
  - i. Recreation, exercise and health clubs and facilities.
  - j. Shopping Centers including any of the above uses.
  - k. Hotels and Motels including ancillary uses such as conference halls, banquet rooms, and recreational facilities.

20-4.20d. Permitted Accessory Uses.

1. Recreational and/or open space facilities, including, but not limited to, walkways, courtyards and plazas.
2. Off-street parking and loading located to the rear of principal buildings or appropriately screened from public view.
3. Signage standards shall be compatible to the architectural design of the buildings. Monument signs, wall and hanging signs shall be limited in size and compatible with the pedestrian scale of the center. Pylon signs are prohibited.
4. Street furnishings, planters, street lights, and exterior, garden type, shade structures (gazebo).
5. Sidewalk cafes associated with permitted restaurants.
6. Fences and walls, which shall complement the architectural style, type and design of the building and the overall project design.
7. Decks, patios and terraces, which shall complement the architectural style, type and design of the building and the overall project design.
8. Parking Garages.

20-4.20l.1 Phasing

A phasing plan is required within the MTCD zone for each development tract as part of the site plan approval. The phasing plan shall demonstrate that there is a ratio of 40% non-residential habitable area to 60% residential habitable area before any approval may be granted for the proposed mixed-use development. The permitted residential density is 12 units per acre.

Add new **Section 20-4.22 "WTC" Waterfront Town Center** as follows:

- a. *Purpose.* The purpose of the "WTC" District is intended to promote the redevelopment of the BL England property and surrounding area while promoting the waterfront area. Existing land uses enhancing the waterfront area include restaurants, beach access, and water related recreational rentals.
- b. *Goals.* The goals of the "WTC" District include an appropriate reuse and/or redevelopment of the existing BL England property.
- c. *Permitted Principal Uses.*  
The permitted principal uses pertaining to the "WTC" District are as follows:
  1. Recreational Facilities and Entertainment uses.
  2. Jet-ski rental facilities.
  3. Restaurants.
  4. Retail stores and personal service uses.
  5. General or professional offices.
  6. Hotels and Motels including ancillary uses such as conference halls, banquet rooms, and recreational facilities.
  7. Parks, plazas and playgrounds.
  8. Building structures and uses owned or operated by the Upper Township for municipal purposes.
- d. *Permitted Accessory Uses.* The permitted accessory uses are as follow:
  1. Marinas.
  2. Recreational and/or open space facilities, including, but not limited to, walkways, courtyards and plazas.
  3. Off-street parking and loading located to the rear of principal buildings or appropriately screened from public view.
  4. Signage standards shall be compatible to the architectural design of the buildings. Monument signs, wall and hanging signs shall be limited in size and compatible with the pedestrian scale of the center. Pylon signs are prohibited.
  5. Street furnishings, planters, street lights, and exterior, garden type, shade structures (gazebos).
  6. Outdoor cafes associated with permitted restaurants.
  7. Fences and walls, which shall complement the architectural style, type and design of the building and the overall project design.
  8. Decks, patios and terraces, which shall complement the architectural style, type and design of the building and the overall project design.
- e. *Permitted Conditional Uses.*
  1. Electrical Substations.
    - a. The total land area devoted to electrical substations shall not exceed 10 acres.
    - b. Electrical substations are permitted but must be located at least 1,200 feet from the most waterward side of Lot 76.01 and 1,400 feet from North Shore Road.
    - c. Any new connections to the existing or future substations shall be underground.

- f. *Area and Yard Requirements.* The area and yard requirements pertaining to all permitted uses within the "WTC" District are provided on Schedule C Area and Yard Requirements for Zone Districts except as modified or supplemented by this section.

Revise the following subsection **Section 20-5.3a:**

20-5.3 Fences.

- a. *In the "R," "R2," "AR," "MTCD," "TC," "TCC," "RR," "RC," "C," "PV," "RD," "F-3," "F-10," "F-25," "TV," "TR," "WTC" Zones.* No fence shall be erected of barbed wire, topped with metal spikes or constructed of any material or in any manner which may be dangerous to persons or animals. Fences or walls permitted under this subsection shall not be erected or altered to be over four (4') feet in height in the front yard areas and six (6') feet in height in the side and rear yard areas.

Revise following **Section 20-5.9 Principle Use:**

20-5.9 Principal Use.

- a. Structures. No more than one (1) principal structure shall be permitted on one (1) lot, except as allowed in the MTCD, TC, TCC, WTC, CM2, CM4 and CMP or otherwise specified for in a particular zoning district.
- b. Use. No more than one (1) principal use shall be located on one (1) lot, except for forestry, agriculture, horticulture, fish and wildlife management, recreational development or agricultural lands and as allowed in the MTCD, TC, TCC, WTC, CM2, CM4 and CMP zones or otherwise specified for in a particular zoning district.

Revise following subsections in **Section 20-5.10 Signs**

20-5.10 Signs.

- a.2. Freestanding signs, where permitted, shall be supported by one (1) or more columns or uprights which are firmly embedded in the ground, except within the MTCD, WTC, TC and TCC zone districts, pole signs shall not be permitted. Exposed guy wires, chains or other connections shall not be made in permanent support of the freestanding signs.
- b.3. Commercial "MTCD," "TC," "TCC," "WTC", "CM2," "CM4," and "CMP" District (lot size under three (3) acres).
- (a) Attached signs: One (1) unlighted or lighted sign for each occupant of the building. The total area of the sign shall not exceed ten (10%) percent of the areas of the face of the wall upon which such sign is attached or thirty (30) square feet, whichever is smaller. Where building(s) is (are) designed for rear or side entrances, one (1) unlighted sign may be attached flat against the building at the rear and side entrances, each sign not to exceed an area equivalent to half that of the sign on the front of the building.
- (b) Freestanding signs: One (1) unlighted or lighted freestanding sign for each principal building or group of attached principal buildings (except auto service stations) except all freestanding signs in the MTCD, WTC, TC or TCC zones shall be monument signs.
- (1) Height: Thirty-five (35') feet or the height of the principal building, whichever is shorter except within the MTCD, WTC, TC or TCC zone where the height shall not exceed eight (8') feet.
- (2) Setback: At least twenty (20') feet from all street lines and fifty (50') feet from all side property lines. Where existing development or roadway alignment prevent adequate visibility of signs meeting the setback requirements of this Chapter, signs may be constructed up to the street line provided that adequate

sight distance is provided and further provided that no portion of any sign extends beyond the street line.

(3) Area:

Lot frontage: <150' Not to exceed thirty-two (32) square feet.

Lot frontage: >= 150' Not to exceed seventy-five (75) square feet.

b.4. Commercial "MTCD," "TC," "TCC," "WTC," "CM2," "CM4," and "CMP" District (lot size of three (3) acres.

(a) Attached signs: One (1) unlighted or lighted sign for each occupant of the building. The total sign area of the sign shall not exceed ten (10%) percent of the areas of the face of the store wall upon which such sign is attached or seventy-five (75) square feet, whichever is smaller. Where building(s) is (are) designed for rear or side entrances, one (1) unlighted sign may be attached flat against the building at the rear and side entrances, each sign not to exceed an area equivalent to half that of the sign on the front of the building.

(b) Freestanding signs: One (1) unlighted or lighted freestanding sign for each principal building or shopping center except all freestanding signs in the MTCD, WTC, TC or TCC zones shall be monument signs.

(1) Height: Thirty- five (35') feet or the height of the principal building, whichever is shorter except within the MTCD, WTC, TC or TCC zone where the height shall not exceed eight (8') feet.

(2) Setback: At least thirty (30') feet from any street or lot line. Where existing development or roadway alignment prevent adequate visibility of signs meeting the setback requirements of this Chapter, signs may be constructed up to the street line provided that adequate sight distance is provided and further provided that no portion of any sign extends beyond the street line.

(3) Area:

Lot frontage: <250' Not to exceed seventy-five (75) square feet.

Lot frontage: >= 250' Not to exceed one hundred (100) square feet.

Revise Section 20-6.3 Height Limits as follows:

**20-6.3 Height Limits**

- a. No building shall exceed the height limits as prescribed in Section 20-4.
- b. Roof structures for the housing of stairways, tanks, ventilating fans, air conditioning equipment or similar equipment required to operate and maintain the building; skylights; spires; cupolas; flagpoles; chimneys; or similar structures may be erected above the height limits prescribed by this Chapter, but in no case more than twenty-five (25%) percent more than the maximum height prescribed for the use in the district. Farm silos shall have no height restrictions. Roof structures or cupolas for stairway or elevator access are not permitted above the required building height in the RR and RC Zones.
- c. Any building having a roof slope less than 4:1 for more than 25% of the building shall be considered a flat roof and the prescribed building height limit in Section 20-4 shall be reduced by four (4') feet.

Revise the following subsections to Section 20-11.1c:

- c. Application. Application for zoning permit shall be:

1. Unchanged
2. Unchanged
3. Unchanged.
4. Unchanged.
5. Accompanied by a plot plan with the following information:
  - (a.) Drawn to scale with dimensions showing the exact size, shape, and location of all existing and proposed buildings and structures.
  - (b.) The proposed building or structure in its exact relation to lot and street lines.
  - (c.) Zoning schedule showing existing and proposed area and yard requirements.
  - (d.) Existing and proposed grading to show there will not be an impact to off-site properties.
  - (e.) The Zoning Officer may waive the plot plan requirements on minor applications not affecting structural change.
  - (f.) The Zoning Officer may require an as-built survey showing compliance with the information provided in (a) through (d) above.

Revise the following subsection **Section 20-15.4a1 Residential Development Fees:**

a. Imposed Fees.

1. Within all residential zone districts, Marmora Town Center District (MTCD), Waterfront Town Center (WTC), Town Center (TC) and Town Center Core (TCC) Zone Districts, and other zone districts which permit residential uses, residential developers, except for developers of the types of development specifically exempted below, shall pay a fee of one and one-half (1.5%) percent of the equalized assessed value of the land and improvements for all new residential construction on an unimproved lot or lots provided no increased density is permitted.

Replace **Schedule B** with the attached **Schedule B**.

Replace **Schedule C** with the attached **Schedule C**.

**SECTION 2: EFFECTIVE DATE:** This ordinance shall take effect immediately upon the following publication as required by law.

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

**SECTION 4: 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 5: CODIFICATION:** This Ordinance shall be codified in the Upper Township Code at the sections referred to above.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 27<sup>TH</sup> OF APRIL, 2020 AND WAS TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD EXCLUSIVELY BY ELECTRONIC MEANS, ON THE 26<sup>TH</sup> DAY

OF MAY, 2020 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

BARBARA L. YOUNG, TOWNSHIP CLERK  
TOWNSHIP OF UPPER

**CORRESPONDENCE**

**NEW BUSINESS**

**UNFINISHED BUSINESS**

**DISCUSSION**

**PAYMENT OF BILLS**

10. **“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 John Coggins, second by Edward Barr. During roll call vote all five Committeemen voted in the affirmative.

**Bills approved for payment: \$426,400.41**

**Payroll: \$175,926.79**

**REPORT OF MUNICIPAL DEPARTMENTS**

**11. Division of EMS**

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

**PUBLIC COMMENT**

**Ted Kingston, Strathmere**, thanked the Committee for adopting the zoning Ordinance. Later, he also expressed concern with the 4<sup>th</sup> of July parade in Strathmere and questioned who would determine if the parade takes place. It was stated that if the state of emergency is still in effect, the Township’s Emergency Management Coordinator, utilizing State and County guidelines, will be the one to decide whether the parade takes place.

**Linda Bateman, Strathmere**, inquired into several items including the installation of mobi-mats, the status of the Strathmere motel, and the Fourth of July parade.

**CLOSED SESSION**

12. 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. 168-2020  
MOTION GOING INTO CLOSED SESSION  
MAY 26, 2020**

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. Contract negotiation – Cape Physician Associates
2. Potential litigation – Drainage Pipe Repair
3. Personnel



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: John Coggins

Motion seconded by: Curtis Corson

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

### **RECONVENE PUBLIC PORTION OF MEETING**

Motion by John Coggins, second by Edward Barr, to reconvene the public portion of the meeting. During roll call vote all five Committeemen voted in the affirmative.

### **ADJOURNMENT**

There being no further business this evening the meeting was adjourned at 9:38 P.M., with a motion by John Coggins, second by Curtis Corson, and all five Committeemen voting in the affirmative. The next regular meeting is scheduled for June 8, 2020 at 7:30 P.M.

Minutes prepared by,

Barbara L. Young, RMC  
Municipal Clerk

#### Bill List

75765 05/26/20 0.00 05/26/20 VOID 0 (Reason: PRINTED IN ERROR)  
75772 05/26/20 A0072 AN ENCHANTING FLORIST 242.88 3135  
75773 05/26/20 A0078 ANCHOR RUBBER STAMP & PRINTING 45.95 3135  
75774 05/26/20 A0091 ATLANTIC CITY ELECTRIC 22,322.43 3135  
75775 05/26/20 A0125 AVALON WEED & INSECT CONTROL 1,994.00 3135  
75776 05/26/20 A0191 ACTION UNIFORM CO. LLC 118.00 3135  
75777 05/26/20 A0193 ATLANTIC INVESTIGATIONS, LLC 329.00 3135  
75778 05/26/20 A0218 ATLANTIC CITY CYCLE CENTER LLC 555.19 3135  
75779 05/26/20 A0219 ALTERNATIVE MICROGRAPHICS, INC 1,611.25 3135  
75780 05/26/20 A0231 ALL UNIQUE GIFTS, INC. 1,848.00 3135  
75781 05/26/20 B0035 BELMONT & CRYSTAL SPRINGS 63.63 3135  
75782 05/26/20 B0039 BEESLEY'S PT. SEA DOO, INC. 550.00 3135  
75783 05/26/20 B0182 BRIGGS LAW OFFICE, P.C. 413.25 3135  
75784 05/26/20 B0239 BAILEY, WILLIAM MICHAEL 791.66 3135  
75785 05/26/20 B0248 BARNES LAW GROUP LLC 750.00 3135  
75786 05/26/20 B0274 BIO BLASTING, LLC 355.00 3135  
75787 05/26/20 C0048 CAPE MAY COUNTY MUA 55,955.84 3135  
75788 05/26/20 C0061 CAPRIONI FAMILY SEPTIC 100.00 3135  
75789 05/26/20 C0068 COMCAST 582.39 3135  
75790 05/26/20 C0143 CODY'S POWER EQUIPMENT 319.91 3135  
75791 05/26/20 C0223 CASA PAYROLL SERVICE 273.25 3135

75792 05/26/20 C0246 CRAFT OIL CORPORATION 542.50 3135  
75793 05/26/20 C0247 CMRS-FP 4,000.00 3135  
75794 05/26/20 C0296 COMCAST BUSINESS COMMUNICATION 1,386.86 3135  
75795 05/26/20 C0302 CONSTELLATION, NEW ENERGY, INC 8.92 3135  
75796 05/26/20 C0307 CNS ACQUISITION CORPORATION 835.00 3135  
75797 05/26/20 D0040 DELTA DENTAL OF N.J. INC. 5,961.89 3135  
75798 05/26/20 D0157 DELL MARKETING LP 2,848.89 3135  
75799 05/26/20 G0147 GREATAMERICA FINANCIAL SVCS. 196.00 3135  
75800 05/26/20 H0016 HANDLEY, WILLIAM 42.80 3135  
75801 05/26/20 H0073 HOME DEPOT CRC/GECF 240.40 3135  
75802 05/26/20 H0197 HENDERSON AQUATICS, INC. 2,112.23 3135  
75803 05/26/20 H0198 HAMILTON, JOSEPH 375.00 3135  
75804 05/26/20 J0040 JOHNSON & TOWERS, INC. 364.83 3135  
75805 05/26/20 L0007 LC EQUIPMENT, INC. 946.00 3135  
75806 05/26/20 L0132 LAROSA, JOSEPH 42.80 3135  
75807 05/26/20 M0076 MGL PRINTING SOLUTIONS 761.00 3135  
75808 05/26/20 M0277 MONY LIFE INSURANCE COMPANY 172.71 3135  
75809 05/26/20 N0043 NAPA AUTO PARTS 35.00 3135  
75810 05/26/20 N0100 N.J. LEAGUE OF MUNICIPALITIES 50.00 3135  
75811 05/26/20 N0143 NATIONAL TIME SYSTEMS 389.00 3135  
75812 05/26/20 N0154 NEW HORIZON COMMUNICATIONS 792.17 3135  
75813 05/26/20 P0032 PEDRONI FUEL CO. 593.12 3135  
75814 05/26/20 R0030 RIGGINS, INC. 2,667.21 3135  
75815 05/26/20 R0100 ROBERTS OXYGEN COMPANY, INC. 125.90 3135  
75816 05/26/20 S0057 SERVICE TIRE TRUCK CENTERS 2,034.93 3135  
75817 05/26/20 S0065 SEAVILLE FIRE CO. DISTRICT #4 144,022.25 3135  
75818 05/26/20 S0113 SMITH,THOMAS G. 1,648.75 3135  
75819 05/26/20 S0121 SMUZ, THERESE A 129.99 3135  
75820 05/26/20 S0134 SO. JERSEY GAS COMPANY 1,751.78 3135  
75821 05/26/20 S0139 SOUTH JERSEY WATER COND SERV 853.30 3135  
75822 05/26/20 S0191 STRATHMERE FIRE CO.DISTRICT #1 23,650.50 3135  
75823 05/26/20 S0194 STULL, WILLIAM O 42.80 3135  
75824 05/26/20 S0196 STEWART BUSINESS SYSTEMS LLC 548.80 3135  
75825 05/26/20 S0253 SAMPLE MEDIA, INC. 186.00 3135  
75826 05/26/20 S0254 SHOPRITE 55.92 3135  
75827 05/26/20 S0327 SUASION COMMUNICATIONS GROUP 262.50 3135  
75828 05/26/20 T0032 THE PRESS OF ATLANTIC CITY 665.80 3135  
75829 05/26/20 T0080 TREASURER STATE OF N.J. 44.00 3135  
75830 05/26/20 T0117 TUCKAHOE FIRE DISTRICT #2 132,075.00 3135  
75831 05/26/20 U0043 ULINE, INC. 55.27 3135  
75832 05/26/20 V0013 VERIZON WIRELESS 546.05 3135  
75833 05/26/20 V0018 VILLAGE PHARMACY, INC. 65.00 3135  
75834 05/26/20 V0022 VERIZON 1,762.63 3135  
75835 05/26/20 V0024 VAL-U AUTO PARTS L.L.C. 295.61 3135  
75836 05/26/20 V0025 V.E. RALPH & SON,INC. 891.67 3135  
75837 05/26/20 V0026 VITAL COMMUNICATIONS, INC. 100.00 3135  
Total: 426,400.41