

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
AGENDA FOR MARCH 22, 2021**

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

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

Mayor Palombo read the following Open Public meeting notice into the record.

“In compliance with the Open Public Meetings Law, I wish to state that on March 19, 2021 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
Kimberly Hayes	Present
Richard Palombo	Present

Also present were Municipal Clerk Barbara L. Young, Township Administrator Scott Morgan, Township Engineer Paul Dietrich, Chief Financial Officer Barbara Ludy, Municipal Attorney Daniel Young and Registered Municipal Accountant Leon Costello.

APPROVAL OF MINUTES - March 8, 2021 Regular and Closed Session Minutes

Motion by Edward Barr, second by Kimberly Hayes, to approve the March 8, 2021 Regular Meeting and Closed Session Minutes as submitted. During roll call vote five Committee members voted in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

Curtis Corson, Committeeman, reported that lifeguard tryouts will begin on June 12th at 11:00 am. He next reported that he was honored to attend the Rescue Squad installation dinner last Saturday. He stated that it was a very nice event and thanked the Rescue Squad for the invitation. He next reported that he recently met with several members of the Strathmere Fishing and Environmental Club (SFEC) to talk about several issues. He stated that one urgent issue is the erosion on Ocean Drive by the causeway. Mr. Corson requested that a letter be sent to the County requesting immediate repairs. After a brief discussion, there was a motion by Curtis Corson, second by Kimberly Hayes, to send a letter to the County requesting immediate assistance. During roll call vote all five Committee members voted in the affirmative. Next, Committeeman Corson reported that repairs are needed on the Bayview Avenue and Taylor Avenue boat ramps. The Public Works department was instructed to make the necessary repairs. Last, he reported that the Governor’s Executive Order 89 will open up grant money for statewide and community environmental resilience. He recommended that the Township look into applying for grants for the projects proposed by the SFEC, and made a motion to obtain proposals for

grant consultants. The motion was seconded by John Coggins. During roll call vote all five Committee members voted in the affirmative.

Kimberly Hayes, Committeewoman, reported that the Buildings and Grounds crew have been hard at work on preparing and repairing the fields and facilities for the upcoming season. She next made a motion to prepare a Resolution recognizing March as Women's History Month. The motion was seconded by Curtis Corson. During roll call vote all five Committee members voted in the affirmative. A resolution for formal action will be listed on the next agenda. Mrs. Hayes next reported that there has been some concern that the Women's Heritage Trail site at Beesley's Point may be disturbed during the construction project. She stated that after speaking with the engineer, it was determined that the trail will not be disturbed but she would like to develop a plan, in conjunction with the Historical Society, to move it to a more prominent area when the project is complete. Last, she reported that a resident has been going through some health issues and requested that all wish him a happy 15th birthday and pray for healing.

Edward Barr, Committeeman, reported that after speaking with the County regarding the state of New Bridge Road, the project is on the County's 2022 list for roadway reconstruction, and in the meantime the County will be coming to repair the potholes.

Richard Palombo, Mayor, thanked the Public Works Department for their efforts cleaning up the beach after the recent dredging project, and thanked Ocean City for generously donating the use of their equipment. He stated that the Township will be reimbursed for all expenses of the clean-up. Lastly, Mayor Palombo reported that he was hopeful to be able to go back to live Committee meetings soon, however there are still occupancy restrictions in place by Governor's Executive Order.

OTHER REPORTS

Scott Morgan, Township Administrator, gave a brief update on the latest information from the CMC Health Department regarding Covid-19. He next reported that NJ Municipal Emergency Management departments are required to review and update their emergency operations plan every four years. The Township recently filed the updated plan, and it has been approved and recertified for the next four years. He next reported that the Township will soon be applying for the next Emergency Management Assistance grant through FEMA. He next requested approval for Department of Public Works employee Richard Kaczmariski to attend a three day online Clean Communities Council Coordinator certification training course at a cost of \$275.00. Motion by Edward Barr, second by Kimberly Hayes to approve the request. During roll call vote all five Committee members voted in the affirmative.

Paul Dietrich, Township Engineer, reported that he recently met with FEMA regarding the reimbursement process for damages from the tornado and tropical storm last year. He will be working with Public Works and OEM to gather the required documentation and anticipates that the Township will claim approximately \$250,000 to \$300,000 in damages. He next reported that the Construction of Beesley's Point Park project has begun. Mayor Palombo stated that parking will be an issue during the project and made a motion, seconded by Edward Barr, to place a temporary no parking designation at the Beesley's Point boat ramp lot and the parking area at the Beesley's Point beach for the duration of the construction project or until such time that it is safe. During roll call vote all five Committee members voted in the affirmative. A resolution for formal action will be placed on the next agenda.

Barbara Ludy, Chief Financial Officer, reported that she has received correspondence requesting the Township to support Senate Bill 3522, which aims to protect the health and long-term viability of the local part of the pension system. Motion by Mayor Palombo, second by Curtis Corson, to prepare a resolution supporting Senate Bill 3522. During roll call vote all five Committee members voted in the affirmative. A resolution for formal action will be placed on the next agenda. She next requested approval to attend a 3 day online purchasing conference at a cost of \$236.00. Motion by John Coggins, second by Kimberly Hayes, to approve the request. During roll call vote all five Committee members voted in the affirmative.

2021 BUDGET - CAP Ordinance and Budget Introduction

1. **Introduction and first reading of Ordinance No. 008-2021, RE: CALENDAR YEAR 2021 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14).** Motion by John Coggins, second by Curtis Corson, to introduce Ordinance 008-2021 with a public hearing and final adoption scheduled for April 26, 2021. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CALENDAR YEAR 2021
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET
APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)**

ORDINANCE NO. 008-2021

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to **2.5%** unless authorized by ordinance to increase it to **3.5%** over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the **3.5%** percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the Township Committee of the Township of Upper in the County of Cape May finds it advisable and necessary to increase its CY 2021 budget by up to **3.5%** over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township Committee of the Township of Upper hereby determines that a **1.0 %** increase in the budget for said year, amounting to **\$120,301.44** in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the Township Committee of the Township of Upper hereby determines that any amount authorized hereinabove that is not appropriated, as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the Township Committee of the Township of Upper, in the County of Cape May a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2021 budget year, the final appropriations of the Township of Upper shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by **3.5 %**, amounting to \$ **\$421,055.04** and that the CY 2021 municipal budget for the Township of Upper be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

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 22ND DAY OF MARCH, 2021 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 EXCLUSIVELY

BY ELECTRONIC MEANS, AS SET FORTH BELOW, ON THE 26TH DAY OF APRIL, 2021 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.
BARBARA L. YOUNG, TOWNSHIP CLERK
TOWNSHIP OF UPPER

Please be advised, the April 26, 2021 Upper Township Committee meeting will be conducted exclusively by electronic means.

The public will be able to attend the meeting and participate in public comment by utilizing a computer, tablet, or smartphone that has a microphone and speaker, or by dialing in on a telephone.

The meeting will commence electronically on April 26, 2021 at 7:30 p.m.

From your computer, tablet or smartphone:

Please go to <https://www.gotomeet.me/UpperTownship-NJ/ut-public-meeting-room> or <https://global.gotomeeting.com/join/617672469>

To dial in using your phone:

United States: 1 (872) 240-3311

Access Code: 617 672 469

New to GoToMeeting? Get the app now and be ready when the first meeting starts: <https://global.gotomeeting.com/install/617672469>

For any questions please contact the Clerk's Office at 609-628-2011 ext. 200.

2. Introduction of 2021 Budget.

Registered Municipal Accountant Leon Costello stated that the 2021 Budget represents a 1.7 cent increase to the local purpose tax rate and is within the spending and levy caps. The budget can be modified up until the budget adoption scheduled for April 26th.

Municipal Clerk Barbara Young read the following Municipal Budget Resolution into the record: Municipal Budget of the Township of Upper, County of Cape May for the Fiscal Year 2021. Be it Resolved that the following statements of revenues and appropriations shall constitute the Municipal Budget for the Year 2021. Be it further Resolved that said Budget be published in the Press in the issue of the 1st day of April 2021.

Motion by John Coggins, second by Edward Barr, to introduce the 2021 Budget with a Public Hearing and Final Adoption of the Budget and Resolution for the year 2021 scheduled for April 26, 2021 at 7:30 P.M. During roll call vote all five Committee members voted in the affirmative. The introduced budget is available for public inspection on the Upper Township website, a copy is available at the Upper Township Branch of the Cape May County Public Library, and copies are available at the Clerk's Office.

3. Authorizing the execution of a Group Affidavit Re: Governing Body Certification of Compliance with United States Equal Employment Opportunity Commission's "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VIII of the Civil Rights Act 1964".

TOWNSHIP OF UPPER CAPE MAY COUNTY RESOLUTION

RESOLUTION NO. 85-2021

AUTHORIZING THE EXECUTION OF A GROUP AFFIDAVIT RE: GOVERNING BODY CERTIFICATION OF COMPLIANCE WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION'S "ENFORCEMENT GUIDANCE ON THE CONSIDERATION OF ARREST AND CONVICTION RECORDS IN EMPLOYMENT DECISIONS UNDER TITLE VIII OF THE CIVIL RIGHTS ACT 1964"

WHEREAS, N.J.S.A. 40A:4-5 as amended by P.L. 2017, c.183 requires the governing body of each municipality and county to certify that their local unit’s hiring practices comply with the United States Equal Employment Opportunity Commission’s “Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964,” *as amended*, 42 U.S.C. § 2000e *et seq.*, (April 25, 2012) before submitting its approved annual budget to the Division of Local Government Services in the New Jersey Department of Community Affairs; and

WHEREAS, the members of the governing body have familiarized themselves with the contents of the above-referenced enforcement guidance and with their local unit’s hiring practices as they pertain to the consideration of an individual’s criminal history, as evidenced by the group affidavit form of the governing body attached hereto as exhibit “A”; and

NOW, THEREFORE BE IT RESOLVED, that the Township Committee of the Township of Upper, hereby states that it has complied with N.J.S.A. 40A:4-5, as amended by P.L. 2017, c.183, by certifying that the local unit’s hiring practices comply with the above-referenced enforcement guidance and hereby directs the Clerk to cause to be maintained and available for inspection a certified copy of this resolution and the required affidavit to show evidence of said compliance.

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

Resolution No. 85-2021

Offered By: Barr

Seconded by: Palombo

Adopted: March 22, 2021

ROLL CALL:

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

Exhibit “A”

**TOWNSHIP OF UPPER
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

GROUP AFFIDAVIT

**GOVERNING BODY CERTIFICATION PURSUANT TO P.L. 2017, C.183
OF COMPLIANCE WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION'S "ENFORCEMENT GUIDANCE ON
THE CONSIDERATION OF ARREST AND CONVICTION RECORDS
IN EMPLOYMENT DECISIONS UNDER TITLE VII OF THE
CIVIL RIGHTS ACT OF 1964"**

We, members of the Township Committee of the Township of Upper, being duly sworn according to law, upon our oath depose and say:

1. We are duly elected members of the Township Committee of the Township of Upper, in the county of Cape May;
2. Pursuant to P.L. 2017, c.183, we have familiarized ourselves with the contents of the United States Equal Employment Opportunity Commission's "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964," *as amended*, 42 U.S.C. § 2000e *et seq.*, (April 25, 2012);
3. We are familiar with the local unit's hiring practices as they pertain to the consideration of an individual's criminal history;
4. We certify that the local unit's hiring practices comply with the above-referenced enforcement guidance.

RESOLUTIONS

4. Supporting Senate Bill No. 3528 allowing parental notification of a minor's possession or purchase of alcoholic beverages or cannabis.

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

RESOLUTION NO. 86-2021

**RE: SUPPORTING SENATE BILL NO. 3528 ALLOWING PARENTAL
NOTIFICATION OF A MINOR'S POSSESSION OR PURCHASE OF
ALCOHOLIC BEVERAGES OR CANNABIS**

WHEREAS, on February 22, 2021, Governor Phil Murphy signed into law legislation legalizing and regulating cannabis use and possession for adults 21 years and older (A-21, The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act) and decriminalizing marijuana and hashish possession (A-1897); and

WHEREAS, the Governor also signed Senate Bill No. 3454, addressing marijuana and cannabis use and possession penalties for individuals younger than 21 years old and imposing criminal penalties on law enforcement officers; and

WHEREAS, provisions in S-3454 essentially make law enforcement officers "guilty of a crime" if they notify parents of children under the age of 18 that their child was caught with marijuana or alcohol, on the first offense; and

WHEREAS, by passing S-3454, the Legislature and Governor Phil Murphy have enacted a law that will keep parents in the dark about what may be happening in the lives of their child, shows children that there are no major consequences if they are found using marijuana or alcohol for the first time, and takes a huge step backward on the path of ensuring that children are aware of both the short-term and long-term consequences of drug and alcohol use; and

WHEREAS, Senate Bill No. 3528 is the first step in correcting the grievous errors resulting from newly adopted legalized marijuana legislation, by providing that if a minor under age 18 unlawfully buys or possesses alcoholic beverages or cannabis and received a written warning from law enforcement, the minor's parent or guardian will be notified; 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 strongly supports Senate Bill No. 3528 and does hereby urge Governor Murphy and the State Legislature to take urgent steps to protect our children and law enforcement officers from the consequences of The New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act.
3. A copy of this resolution shall be sent to Congressman Jeff Van Drew, Governor Philip D. Murphy, Lieutenant Governor Sheila Oliver, Senator Michael L. Testa, Jr., Assemblyman Antwan McClellan, Assemblyman Erik Simonsen, the Cape May County Board of Commissioners, and the New Jersey State Police.

Resolution No. 86-2021

Offered by: Hayes

Seconded by: Barr

Adopted: March 22, 2021

Roll Call Vote:

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

5. Supporting legislation increasing State funding to the "Shore Protection Fund" from \$25 Million to \$50 Million (A-639/S-1071).

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

RESOLUTION NO. 87-2021

**EXPRESSING SUPPORT FOR LEGISLATION INCREASING
STATE FUNDING TO THE "SHORE PROTECTION FUND" FROM
\$25 MILLION TO \$50 MILLION (A-639/S-1071)**

WHEREAS, the State of New Jersey maintains the Shore Protection Fund, which was established in 1992; and

WHEREAS, the Shore Protection Fund provides important funding that allows the State and Municipalities to engage in cost-share partnerships with the U.S. Army Corps of Engineers on shore protection projects including beach restoration and maintenance; and

WHEREAS, the Shore Protection Fund is funded by State Realty Transfer Fee revenues, and is currently capped at \$25 million, an amount that was last adjusted in 1999; and

WHEREAS, following the devastating effects of Superstorm Sandy, it has become evident that the current funding to the Shore Protection Fund is inadequate for allowing the State and Municipalities to fund necessary recovery projects; and

WHEREAS, pending before the New Jersey Legislature are bills A-639 and S-1071, which would increase the cap on funding to the Shore Protection Fund to \$50 million; and

WHEREAS, the Upper Township Committee believes this proposed increase to the Shore Protection Fund is essential to protecting the shorelines of Cape May County and that of every other Shore Community compromising the Jersey Shore.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and the State of New Jersey, that it hereby expresses its support for an increase in funding to the Shore Protection Fund from \$25 million to \$50 million, as provided in the bills pending before the New Jersey Legislature as A-639 and S-1071.

BE IT FURTHER RESOLVED that a certified copy of this Resolution be transmitted to Governor Phil Murphy, Senate President Steve Sweeney, Assembly Speaker Craig Coughlin, Senator Declan O'Scanlon, Assemblywoman Serena DiMaso, Assemblyman Gerry Scharfenberger, Senator Michael Testa, Jr., Assemblyman Antwan McClellan, Assemblyman Erik Simonsen, and the Cape May County Board of Commissioners.

Resolution No. 87-2021

Offered by: Barr Seconded by: Coggins

Adopted: March 22, 2021

Roll Call Vote:

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

6. Strongly urging the County of Cape May to commence with the planned reconstruction of New Bridge Road in the Seaville section of the Township of Upper.

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

RESOLUTION NO. 88-2021

**RE: STRONGLY URGING THE COUNTY OF CAPE MAY TO COMMENCE
WITH THE PLANNED RECONSTRUCTION OF NEW BRIDGE ROAD
IN THE SEAVILLE SECTION OF THE TOWNSHIP OF UPPER**

WHEREAS, the County of Cape May has been planning for numerous years to undertake the reconstruction of New Bridge Road (CR 628); and

WHEREAS, New Bridge Road, which connects New Jersey State Highways (NJSH) Route 9 and Route 50, is subject to frequent traffic during the summer season from tourists and residents alike who, seeking to avoid the congestion on both NJSH Route 9 and NJSH Route 50, utilize New Bridge Road as a shortcut between the two; and

WHEREAS, for many years the entire span of New Bridge Road has consisted of rough and uneven pavement, deep potholes, wide cracks, and ponding of stormwater runoff; and

WHEREAS, the reconstruction of New Bridge Road is needed to provide a smoother and safer riding surface of the roadway, reduce stormwater ponding on the pavement, and update traffic stripes and markings; and

WHEREAS, the Township Committee hereby wishes to express its extreme concern with the length of time New Bridge Road has been in such poor condition and request the County Board of Commissioners to fund and commence this much needed reconstruction; 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. In order to insure the safety and well-being of its residents and all who travel over New Bridge Road, the Township Committee strongly urges the County of Cape May to immediately commence the reconstruction of New Bridge Road and cause same to be completed with all due speed.
3. A certified copy of this Resolution shall be provided to Senator Michael L. Testa, Jr., Assemblyman Antwan McClellan, Assemblyman Erik Simonsen, the Cape May County Board of Commissioners, and the Cape May County Engineer.

Resolution No. 88-2021

Offered by: Barr Seconded by: Hayes

Adopted: March 22, 2021

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Barr	X			
Coggins	X			

Corson	X			
Hayes	X			
Palombo	X			

7. Approving the application of the Tuckahoe Volunteer Fire Company for highway coin drops.

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

RESOLUTION NO. 89-2021

**RE: APPROVING THE APPLICATION OF THE TUCKAHOE VOLUNTEER
FIRE COMPANY FOR HIGHWAY COIN DROPS**

WHEREAS, the Tuckahoe Volunteer Fire Co., a non-profit corporation providing firefighting services, has made application to the Township Committee to hold coin drop solicitations in Upper Township; and

WHEREAS, the Township Committee has approved the requests; and

WHEREAS, the requests require approval from the County of Cape May and the State of New Jersey;

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 application of the Tuckahoe Volunteer Fire Co. to hold a coin drop within Upper Township is hereby approved for the following dates and locations:

Intersection of State Highway 49 & State Highway 50:

Friday, July 23, 2021 from 5:00 p.m. to 9:00 p.m.

AND

Intersection of State Highway 49 & State Highway 50:

Saturday, July 24, 2021 from 9:00 a.m. to 3:00 p.m.

AND

Intersection of County Route 617 & State Highway 49:

Sunday, July 25, 2021 from 3:00 p.m. to 8:00 p.m.

3. Attached to this Resolution is a certified copy of Ordinance No. 7-2001, authorizing coin drops within Upper Township enacted pursuant to N.J.S.A. 39:4-60.

4. A certified copy of this Resolution shall be provided to the State of New Jersey, Department of Transportation, and the Cape May County Board of Commissioners.

Resolution No. 89-2021

Offered by: Corson

Seconded by: Coggins

Adopted: March 22, 2021

Roll Call Vote:

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

8. Amending Resolution No. 12-2021 appointing various officers and employees to annual and specified terms.

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

RESOLUTION NO. 90-2021

**RE: AMENDING RESOLUTION NO. 12-2021 APPOINTING VARIOUS OFFICERS AND
EMPLOYEES TO ANNUAL AND SPECIFIED TERMS**

WHEREAS, the Township of Upper made appointments of various administrative, clerical and other personnel pursuant to Resolution 12-2021 in order to staff the various positions of the Township for the ensuing year; and

WHEREAS, the Township Committee has determined it is necessary to amend said Resolution No. 12-2021 to amend the salaries and certain appointments as contained in said Resolution; 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 positions, and persons appointed to said positions opposite his or her name for a term to expire on December 31, 2021, shall be amended as indicated below.

ANNUAL APPOINTMENTS - ONE (1) YEAR TERM

NAME	POSITION	SALARY
Mellissa Coker	Safety Coordinator	\$3,500.00
<i>Vacant</i>	Assistant Safety Coordinator	\$1,500.00

3. This Resolution shall be effective on March 9, 2021.

Resolution No. 90-2021

Offered by: Coggins

Seconded by: Barr

Adopted: March 22, 2021

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Barr	X			

Coggins	X			
Corson	X			
Hayes	X			
Palombo	X			

9. Amending Resolution No. 20-2021 confirming various positions required by the Atlantic County Municipal Joint Insurance Fund.

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

RESOLUTION NO. 91-2021

**RE: AMENDING RESOLUTION NO. 20-2021 CONFIRMING VARIOUS POSITIONS
REQUIRED BY THE ATLANTIC COUNTY MUNICIPAL JOINT INSURANCE FUND**

WHEREAS, Resolution No. 20-2021, appointing various positions required by the Atlantic County Municipal Joint Insurance Fund, was adopted on January 8, 2021; and

WHEREAS, it is necessary to amend Resolution No. 20-2021 in order to amend the appointments of Safety Coordinator, Assistant Safety Coordinator, and the Safety and Wellness Committee to reflect that the office of Chief EMT is now vacant; 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 amends the following appointments as Township representatives or Township committees with respect to Township participation in the Atlantic County JIF:

Safety Coordinator: Mellissa Coker, Deputy Chief EMT

Asst. Safety Coordinator: *Vacant*

Safety and Wellness Committee:

Curtis T. Corson, Jr.	
Scott Morgan	Alt. James M. Jones
Mellissa Coker	
Therese Smuz	Alt. Craig Reeves
Paul Dietrich	
Rhonda Sharp	Alt. Patricia Smyth
Barbara Young	Alt. Joanne Herron
Brian Keenan	Alt. Roger VanOrder
Jeremy Williams	

3. A certified copy of this Resolution shall be sent to the Atlantic County Joint

Insurance Fund to the attention of Paul Miola, Executive Director and a copy of this Resolution shall be provided to each of the persons named herein.

Resolution No. 91-2021

Offered by: Barr Second by: Coggins

Adopted: March 22, 2021

Roll Call Vote:

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

10. Amending Resolution No. 23-2021 appointing members to the Upper Township Municipal Court Security Committee.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 92-2021

**RE: AMENDING RESOLUTION NO. 23-2021 APPOINTING MEMBERS TO THE UPPER
TOWNSHIP MUNICIPAL COURT SECURITY COMMITTEE**

WHEREAS, Resolution 23-2021, appointing members to the Upper Township Municipal Court Security Committee in compliance with Municipal Court Directive #15-06 , was adopted on January 8, 2021; and

WHEREAS, it is necessary to amend Resolution No. 23-2021 in order to appoint an additional member to said Committee; 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 persons be and are hereby appointed to the Municipal Court Security Committee of the Township of Upper.

Mun. Court Judge: James R. Birchmeier, Esquire

Mun. Court Administrator: Loren Ready

Alternate: Tara Mathers

Upper Twp. OEM Coordinator: Scott Morgan

Alternate: James M. Jones

Upper Twp EMS: Mellissa Coker

Upper Twp. Committee Member: Curtis T. Corson, Jr.

Upper Twp. Engineer: Paul Dietrich

Risk Management Consultant: Thomas H. Heist IV, Thomas Heist Insurance Agency

3. The forgoing appointees shall constitute the sole members of the Municipal Court Security Committee, subject to the provision of Paragraph 4 hereof.

4. The Township Committee expressly reserves the right to supplement this Resolution at any time it deems it appropriate to change the membership of the Municipal Court Security Committee or change the policies, programs, and personnel with respect to any security activity of the Township.

5. A certified copy of this Resolution shall be sent to the Division Manager, Superior Court of New Jersey Municipal Division and a copy of this Resolution shall be provided to each of the persons named herein.

Resolution No. 92-2021

Offered by: Corson

Seconded by: Barr

Adopted: March 22, 2021

Roll Call Vote:

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

11. Appointing Norman W. Briggs to act as Special Legal Counsel.

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

RESOLUTION NO. 93-2021

**RE: APPOINTING NORMAN W. BRIGGS
TO ACT AS SPECIAL LEGAL COUNSEL**

WHEREAS, the Township requires legal counsel to provide legal services in the event such services are not provided by the regular Township Solicitor due to a conflict of interest or other reason as determined by the Township Committee; 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 Norman W. Briggs, Esquire as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, Norman W. Briggs, Esquire has completed and submitted a Business Entity Disclosure Certification which certifies that Norman W. Briggs, Esquire 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 Norman W. Briggs, Esquire 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. Norman W. Briggs, Esquire with offices at 110 Roosevelt Boulevard, Suite 201, Marmora, New Jersey is hereby appointed Special Legal Counsel to handle matters in which the regular Township Solicitor has a conflict of interest as well as other matters 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 Norman W. Briggs, Esquire has professional knowledge as to legal matters which knowledge 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

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 Norman W. Briggs, 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 the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Norman W. Briggs, 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. 93-2021

Offered by: Corson

Seconded by: Coggins

Adopted: March 22, 2021

Roll Call Vote:

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

12. Reappointing Paul Dietrich, Sr. as Municipal Engineer effective April 1, 2021.

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

RESOLUTION NO. 94-2021

**RE: REAPPOINTING PAUL DIETRICH, SR. AS MUNICIPAL ENGINEER EFFECTIVE
APRIL 1, 2021**

WHEREAS, N.J.S.A. 40A:9-140 requires every municipality to appoint a Municipal Engineer and provides for a term of office of three (3) years, unless otherwise provided by law; and

WHEREAS, this municipality operates under the Township form of government and the term of office of the Municipal Engineer is three (3) years; 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. Paul Dietrich, Sr. is hereby reappointed as Municipal Engineer for the Township of Upper effective April 1, 2021.
3. Compensation shall be in accordance with the 2021 Salary Ordinance and such other terms and conditions of employment as shall be as set forth in an employment agreement to be negotiated and approved by the Township Committee.
4. 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.

Resolution No. 94-2021

Offered by: Barr

Seconded by: Palombo

Adopted: March 22, 2021

Roll Call Vote:

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

13. Authorizing a contract amendment between the Township of Upper and KD National Force Security & Investigations, LLC for additional professional security services.

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

RESOLUTION NO. 95-2021

**RE: AUTHORIZING A CONTRACT AMENDMENT BETWEEN THE
TOWNSHIP OF UPPER AND KD NATIONAL FORCE SECURITY & INVESTIGATIONS,
LLC FOR ADDITIONAL PROFESSIONAL SECURITY SERVICES**

WHEREAS, the Township of Upper and KD National Force Security & Investigations, LLC entered into a contract on August 17, 2021 for professional security services pursuant to Resolution No. 209-2020; and

WHEREAS, the Township of Upper and KD National Force Security & Investigations, LLC desire to modify said contract to provide additional professional security services and parking enforcement officers with regard to the Township's parking enforcement; and

WHEREAS, the Township Committee has determined that it is in the best interest of the Township to authorize said amendment to the professional services contract with KD National Force Security & Investigations, LLC as hereinafter provided; and

WHEREAS, the Municipal Attorney has determined that the services provided by the proposed amendment to the existing contract are professional services and that the award of an amendment to the contract may be made without competitive bid and pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, the Chief Financial Officer has certified the availability of funds to permit the Township to enter into the proposed amendment to the professional services contract as aforesaid; 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 professional services contract between the Township of Upper and KD National Force Security & Investigations, LLC is hereby amended to include the additional services as set forth in the attached Amendment to Professional Services Contract between the Township of Upper and KD National Force Security & Investigations, LLC.
3. The Mayor and the Township Clerk are hereby authorized, directed and empowered to enter into said amendment to the professional services contract with KD National Force Security & Investigations, LLC aforesaid.
4. The Township Clerk shall cause a Notice of Award of this amendment to the professional services contract to be published in the official newspaper of the Township as required by N.J.S.A. 40A:11-5.
5. All Township officials and officers are hereby authorized and directed to take all action necessary to carry out the intent and purpose of this Resolution.
6. This Resolution shall be effective as of adoption.

Resolution No. 95-2021

Offered by: Corson

Seconded by: Coggins

Adopted: March 22, 2021

Roll Call Vote:

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

14. Authorizing a Shared Services Agreement with the County of Cape May for Emergency Medical Technician Services at County COVID-19 vaccination sites.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 96-2021

**RE: AUTHORIZING A SHARED SERVICES AGREEMENT WITH THE
COUNTY OF CAPE MAY FOR EMERGENCY MEDICAL TECHNICIAN SERVICES AT
COUNTY COVID-19 VACCINATION SITES**

WHEREAS, the Uniform Shared Services and Consolidation Act ('USSCA'), N.J.S.A. 40A:65-1 et seq., provides that any local governmental unit may enter into a contract with any other local governmental unit or units for the joint provision within their several jurisdictions of any service which any party to the agreement was empowered to render within its own jurisdiction; and

WHEREAS, the Township of Upper desire to enter into a Shared Services Agreement with the County of Cape May for members of the Upper Township Division of Emergency Management Services to provide Emergency Medical Technician (EMT) services at County COVID-19 vaccination sites; and

WHEREAS, the Township Committee of the Township of Upper deems that a Shared Services Agreement with the County of Cape May for the purposes expressed herein is in the mutual interest of all parties and also is in the public interest and will promote the public health, safety and welfare; and

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

1. **SHARED SERVICES AGREEMENT.** Pursuant to the provisions of the Uniform Shared Services Act, N.J.S.A. 40A:65-1, et seq., the Township of Upper is hereby authorized and empowered to enter into a Shared Services Agreement with the County of Cape May to provide EMT Services at County COVID-19 vaccination sites. 2. **SERVICES TO BE PROVIDED BY CONTRACT.** The Shared Services Agreement authorized in paragraph 1 hereof shall cover those services, which are enumerated in said Agreement, a copy of which is attached hereto.

3. **AUTHORIZATION TO MUNICIPAL OFFICIALS.** The appropriate Township officers and officials are hereby authorized to take any action necessary or advisable to carry out the intent and purpose of this Resolution. Specifically, the Mayor and Township Clerk are hereby authorized and directed to execute such Shared Services Agreement on behalf of the Township of Upper pursuant to the authority conferred by this Resolution. The Township Clerk is further authorized and directed to seal said Agreement with the official seal of the Township of Upper.

4. COMPLIANCE WITH STATUTORY REQUIREMENTS. The Shared Services Agreement between the County of Cape May and the Township of Upper shall meet and satisfy the requirements of N.J.S.A. 40A:65-1, et seq., as may be amended and supplemented.

5. SEVERABILITY. If any action, subsection, paragraph, sentence or other part of this Resolution is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Resolution, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Resolution directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Resolution shall remain in full force and effect.

6. REPEALER. All Resolutions or parts of Resolutions inconsistent herewith are hereby repealed to the extent of such inconsistency only.

7. EFFECTIVE DATE. This Resolution shall take effect immediately upon final adoption and publication in the manner provided by law.

Resolution No. 96-2021

Offered by: Corson Seconded by: Hayes

Adopted: March 22, 2021

Roll Call Vote:

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

15. Canceling & refunding tax on exempt property Block 650, Lot 42.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 97-2021

**CANCELING & REFUNDING TAX ON EXEMPT PROPERTY
BLOCK 650, LOT 42**

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

WHEREAS, certain properties became tax exempt for the year 2021; and

WHEREAS, Alexander Lischin is a 100% disabled American veteran residing at 412 Stagecoach Rd, Block 650, Lot 42 on the municipal tax map of Upper Township, New Jersey; and

WHEREAS, the Department of Veterans Affairs has determined that Mr. Lischin's 100% permanent wartime service connected disability was effective January 6, 2020; and

WHEREAS, Alexander Lischin made application February 2, 2021; and

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

Resolution No. 97-2021

Offered by: Coggins Seconded by: Palombo

Adopted: March 22, 2021

Roll Call Vote:

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

CANCEL TAX 2021

BLOCK/LOT

650/42

AMOUNT

\$ 1,955.56

NAME

REFUND TAX 2021

650/42

\$ 977.78

Alexander & Barbara Lischin
PO Box 632
Marmora, NJ, 08223

100% Totally Disabled Veteran for 2021. Owner paid 1st quarter 2021 property taxes and is requesting a refund.

16. Canceling & refunding tax on exempt property Block 453.10, Lot 334.12.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 98-2021

**CANCELING & REFUNDING TAX ON EXEMPT PROPERTY
BLOCK 453.10, LOT 334.12**

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

WHEREAS, certain properties became tax exempt for the year 2021; and

WHEREAS, Jeffrey LaFrance is a 100% disabled American veteran residing at 5 Anchorage Ave., Block 453.10 Lot 334.12 on the municipal tax map of Upper Township, New Jersey; and

WHEREAS, the Department of Veterans Affairs has determined that Mr.Lafrance's
100% permanent wartime service connected disability was effective May 18, 2020; and

WHEREAS, Jeffrey LaFrance made application March 13, 2021; and

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

Resolution No. 98-2021

Offered by: Coggins

Seconded by: Corson

Adopted: March 22, 2021

Roll Call Vote:

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

CANCEL TAX 2021

BLOCK/LOT

453.10/334.12

AMOUNT

\$3,835.06

NAME

REFUND TAX 2021

453.10/334.12

\$1,917.53

Jeffrey LaFrance & Christine Czaja
5 Anchorage Ave.
Seaville, NJ, 08230

100% Totally Disabled Veteran for 2021. Owner paid 1st quarter 2021 property taxes and is requesting a refund.

17. Authorize payments from the Affordable Housing Trust Fund of Upper Township.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 99-2021

**RE: AUTHORIZE PAYMENTS FROM THE
AFFORDABLE HOUSING TRUST FUND OF UPPER TOWNSHIP**

WHEREAS, the Township of Upper adopted an Affordable Housing Trust Fund
Spending Plan (hereinafter "Spending Plan") on April 30, 2012 pursuant to Resolution No. 105-2012; and

WHEREAS, the Township of Upper replaced this Spending Plan pursuant to Resolution
No. 167-2020 adopted on May 26, 2020 and consistent with P.L. 2008, c.46 COAH regulations and the
Fair Share Housing Center Settlement Agreement, which was subsequently approved by the Court on June

WHEREAS, it is necessary for the Township of Upper to make certain capital purchases; and

WHEREAS, the Township Committee adopted the 2008 Capital Improvement Bond Ordinance 013-2008 on August 11, 2008; and

WHEREAS, the Township's QPA has reviewed and approved the quote for the purchase of dune grass for the Strathmere section of Upper Township by Church's Garden Center of Cape May, New Jersey.

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 Church's Garden Center for the purchase of dune grass for the Strathmere section of Upper Township in the amount of \$2,340.00 from the 2008 Capital Improvement Bond.
3. 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. 100-2021

Offered By: Coggins Seconded By: Corson

Adopted: March 22, 2021

Roll Call Vote:

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

19. Authorizing the purchase of certain items through the Sourcewell National Cooperative contract with funds from the 2020 Capital Improvement Bond Ordinance in the amount of \$125,476.65.

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

RESOLUTION NO. 101-2021

**RE: AUTHORIZING THE PURCHASE OF CERTAIN ITEMS THROUGH THE
SOURCEWELL NATIONAL COOPERATIVE CONTRACT WITH FUNDS FROM THE 2020
CAPITAL IMPROVEMENT BOND ORDINANCE IN THE AMOUNT OF \$125,476.65**

WHEREAS, it is necessary for the Township of Upper to make certain capital purchases; and

WHEREAS, the Township Committee has determined that a purchase from the national cooperative contract will result in cost savings after all factors have been considered; and

WHEREAS, N.J.S.A. 52:34-6.2 allows the Township of Upper to utilize national cooperative contracts as a method of procurement; and

WHEREAS, the Township Committee adopted the 2020 Capital Improvement Bond Ordinance 010-2020 on November 9, 2020 and subsequently amended on March 8, 2021; and

WHEREAS, the Township of Upper intends to purchase a 2019 New Case 590SN 4-Wheel Drive Backhoe Loader in the amount of \$125,476.65 from Groff Tractor Mid Atlantic, LLC of Vineland, New Jersey through Sourcewell National Cooperative Contract No. 032119-CNH as herein indicated; and

WHEREAS, Groff Tractor Mid Atlantic, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that Groff Tractor Mid Atlantic, 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 Groff Tractor Mid Atlantic, 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 from the 2020 Capital Improvement Bond; and

WHEREAS, the Chief Financial Officer has confirmed that the Township has complied with N.J.S.A. 52:34-6.2 as well as all other legal requirements for this method of procurement.

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 Groff Tractor Mid Atlantic, LLC for the purchase of a 2019 New Case 590SN 4-Wheel Drive Backhoe Loader in the

amount of \$125,476.65 from the 2020 Capital Improvement Bond through Sourcewell National Cooperative Contract No. 032119-CNH.

3. 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. 101-2021

Offered By: Coggins

Seconded By: Corson

Adopted: March 22, 2021

Roll Call Vote:

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

20. Revised 2021 Temporary Budget.

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

RESOLUTION NO. 102-2021

RE: REVISED 2021 TEMPORARY BUDGET

WHEREAS, N.J.S.A. 40A:4-19 provides that the governing body shall by Resolution adopted prior to January 31 of the fiscal year make appropriations to provide for the period between the beginning of the fiscal year and the adoption of the budget; and

WHEREAS, the total of the appropriations so made shall not exceed 26.25% of the total of the appropriations made for all purposes in the Budget for the preceding year excluding public assistance, such amount being **\$3,667,261.96.**

NOW, THEREFORE BE IT RESOLVED, that the following appropriations shall constitute the Temporary Budget for the year 2021:

ADMINISTRATIVE & EXECUTIVE MAYOR AND COMMITTEE			Increase To:
	Salary and Wages	\$ 19,800.00	\$23,000.00
	Mayor and Committee O/E	\$ 2,000.00	3,500.00
	DCRP-Twp Committee	\$ 2,500.00	3,500.00
	Cape Mediation	\$ 2,800.00	
	Cape Assist EAP	\$ 1,155.00	
MUNICIPAL CLERK			
	Salary and Wages	\$ 65,200.00	74,600.00
OTHER EXPENSES			
	Miscellaneous O/E	\$ 7,500.00	12,000.00

FINANCIAL ADMINISTRATION

Salaries & Wages	\$	80,700.00	86,700.00
Miscellaneous O/E	\$	2,500.00	4,000.00
Computer	\$	38,000.00	60,000.00
Hardware/Software			
Annual Audit	\$	20,000.00	

ASSESSMENT OF TAXES

Salaries & Wages	\$	36,900.00	42,400.00
Miscellaneous O/E	\$	3,000.00	5,000.00

COLLECTION OF TAXES

Salaries & Wages	\$	34,200.00	39,200.00
Miscellaneous O/E	\$	1,000.00	2,500.00
Purchase TTL	\$	0	

LEGAL SERVICES AND COSTS

Other Expenses	\$	40,000.00	60,000.00
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MUNICIPAL COURT

Salaries & Wages	\$	40,000.00	65,000.00
Miscellaneous O/E	\$	8,000.00	

PUBLIC DEFENDER

Salaries & Wages	\$	8,060.00	10,080.00
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MUNICIPAL PROSECUTOR

Salaries & Wages	\$	12,500.00	14,500.00
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ENGINEERING SERVICES & COSTS

Salaries & Wages	\$	29,900.00	34,600.00
Other Expenses	\$	5,000.00	8,000.00

PUBLIC BUILDINGS & GROUNDS

Salaries & Wages	\$	188,300.00	209,000.00
Other Expenses	\$	80,000.00	140,000.00

PLANNING BOARD

Salaries & Wages	\$	11,800.00	13,800.00
Other Expenses	\$	2,000.00	6,000.00

BOARD OF ADJUSTMENT

Salaries & Wages	\$	11,800.00	13,800.00
Other Expenses	\$	2,000.00	6,000.00

CONSTRUCTION CODE

Salaries & Wages	\$	57,500.00	64,200.00
Other Expenses	\$	1,000.00	2,500.00

INSURANCE

Group Insurance for Employees	\$	669,000.00	1,119,000.00
Other Insurance Premiums	\$	65,000.00	70,000.00
Workers Compensation	\$	163,000.00	170,000.00

SCHOOL TRAFFIC GUARD

Salaries & Wages	\$	3,000.00	4,000.00
Miscellaneous O/E	\$	200.00	500.00

BEACH PATROL

Salaries & Wages	\$	1,000.00	
Other Expenses	\$	1,000.00	2,000.00

EMERGENCY MANAGEMENT/RTK

Salaries & Wages	\$	6,500.00	7,500.00
Miscellaneous O/E	\$	10,000.00	30,000.00

**ROAD REPAIRS &
MAINTENANCE**

Salaries & Wages	\$ 205,000.00	233,000.00
Miscellaneous O/E	\$ 40,000.00	95,000.00

SURFACING OF ROADS CONTRACTUAL

\$ 0.00

STREET LIGHTING

\$ 90,000.00 120,000.00

**GARBAGE & TRASH
REMOVAL**

Salaries & Wages	\$ 114,200.00	129,200.00
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Miscellaneous O/E	\$ 18,000.00	45,000.00
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Tipping Fees	\$ 110,000.00	140,000.00
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BOARD OF HEALTH

Salaries & Wages	\$ 150.00	200.00
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Miscellaneous O/E	\$ 100.00	
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DOG REGULATION

Miscellaneous O/E	\$ 26,300.00	58,000.00
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PUBLIC INFORMATION

Miscellaneous O/E	\$ 200.00	0.00
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ZONING/CODE OFFICIAL

Salaries & Wages	\$ 4,100.00	4,700.00
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Miscellaneous O/E	\$ 100.00	
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SPORTS & RECREATION

Salaries & Wages	\$ 13,800.00	15,800.00
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Miscellaneous O/E	\$ 10,000.00	20,000.00
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FIRST AID ORGANIZATION

Salaries & Wages	\$ 191,000.00	226,000.00
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Miscellaneous O/E	\$ 18,000.00	35,000.00
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RECYCLING

Salaries & Wages	\$ 90,000.00	125,000.00
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Miscellaneous O/E	\$ 18,000.00	45,000.00
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AFFORDABLE HOUSING

Salaries & Wages	\$ 675.00	775.00
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Miscellaneous O/E	\$ 100.00	
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COMMUNITY CENTER

Miscellaneous O/E	\$ 8,000.00	20,000.00
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CELEBRATION OF PUBLIC EVENTS

	\$ 2,000.00	4,000.00
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SOCIAL SECURITY SYSTEM

	\$ 100,000.00	110,000.00
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SPECIAL LITIGATION

	\$ 40,000.00	60,000.00
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SUI CONTRIBUTION

	\$ 1,800.00	2,000.00
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CENTRAL DISPATCH

	\$ 62,725.00	125,450.00
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ALCOHOL & DRUG TESTING

	\$ 1,000.00	2,000.00
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COMP. ABSENCES RESERVES

	\$ 100.00	
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PERS

	\$ 521,124.00	
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GYPSY MOTHS

	\$ 0.00	7,450.00
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Total \$3,420,289.00

Resolution No. 102-2021

Offered by: Coggins

Seconded by: Barr

Adopted: March 22, 2021

Roll Call Vote:

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

21. Adopting the Repetitive Loss Area Analysis for the Township of Upper.

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

RESOLUTION NO. 103-2021

**RE: ADOPTING THE REPETITIVE LOSS AREA ANALYSIS
FOR THE TOWNSHIP OF UPPER**

WHEREAS, as an active participant in FEMA's National Flood Insurance Program (NFIP), the Township of Upper has been certified as a Class 5 Community in the NFIP's Community Rating System (CRS), saving residents over \$120,000 annually on flood insurance premiums; and

WHEREAS, a requirement of the CRS program is for Communities to perform a repetitive loss area analysis (RLAA) to research and describe their repetitive loss problem, create a map showing the location of all repetitive loss properties and complete an annual outreach activity directed to the repetitive loss addresses; and

WHEREAS, the Township has performed a RLAA and a draft copy of the RLAA has been made available to the public; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township of Upper hereby formally adopts the Repetitive Loss Area Analysis, dated March 2021, prepared by Tetra Tech Inc.
3. The Township shall submit the RLAA to FEMA for review and approval.
4. All Township officials, officers and employees are empowered to take such action as may be necessary or advisable in order to carry out the intent and purpose of this Resolution.

Resolution No. 103-2021

Offered by: Coggins

Seconded by: Barr

Adopted: March 22, 2021

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Barr	X			
Coggins	X			
Corson	X			
Hayes	X			

Palombo	X			
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ORDINANCES

22. **Public hearing and final adoption of Ordinance No. 005-2021 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER IV OF THE CODE OF UPPER TOWNSHIP TO REGULATE THE TOWING AND STORAGE OF MOTOR VEHICLES BY THE TOWNSHIP.** During the public hearing portion there were the following speakers:

David Cummings, Commonwealth Avenue, inquired as to whom will be enforcing the parking restrictions for Strathmere. It was stated that the Township will be contracting with a private company for parking enforcement.

Lisa Carr, East Webster Avenue, inquired into the process of the parking enforcement.

Mayor Palombo then closed the public hearing. Motion by Curtis Corson, second by Edward Barr to adopt Ordinance No. 005-2021. During roll call vote all five Committee members voted in the affirmative. The Township Engineer then requested authority to prepare bid specifications for towing, storage, and lockout services. There was a motion by Richard Palombo, second by Edward Barr, to prepare a resolution for formal action authorizing the Township Engineer to prepare bid specifications for towing, storage, and lockout services. During roll call vote all five Committee members voted in the affirmative.

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

ORDINANCE NO. 005-2021

AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER IV OF THE CODE OF UPPER TOWNSHIP TO REGULATE THE TOWING AND STORAGE OF MOTOR VEHICLES BY THE TOWNSHIP

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 IV of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, is hereby amended and supplemented to add the following Section 4-4:

4-4 TOWING AND STORAGE

4-4.1 Purpose

The purpose of this ordinance is to establish procedures and standards for the award of a contract for the towing and storage of motor vehicles by the Township.

4-4.2 Award of Contract to Towing Contractor.

The contract to provide towing, lockout and storage services to the Township of Upper must be submitted in accordance with the terms of the Towing, Storage and Lockout Services Bid Specifications and Proposal Form. The terms and quotes provided by the prospective contractor in the Bid Specifications and Proposal Form are binding, and contracts will be based upon these terms.

From all submissions that are provided to the Township in accordance with the bid specifications and proposal form, the Township of Upper will award the contract to the lowest responsible bidder who is determined to be a qualified and reputable towing, storage and lockout contractor. Lowest responsible bidder does not indicate that the Township will merely choose the bidder with the lowest price quote, but instead the bidder determined to be qualified and reputable with the lowest price quote.

4-4.3 Term of Towing Contract.

- a. Initial Contract. The initial contract between the Township and the successful bidder will be for 12 months.
- b. Renewal of Initial Contract. The Township may, at their option, renew the contract for a twenty-four-month extension, to continue at identical terms to the initial contract.
- c. Maximum Duration of Contract. The total term of the contract cannot exceed 36 months, in accordance with N.J.S.A. 40A:11-15(22). After the 36 months, the contract is ended, and a new bidding process and acceptance must occur.

4-4.4 Services Provided by the Towing Contractor.

- a. Towing. The towing contractor will be responsible, at the discretion and request of the State Police, Township Administrator or the Township Parking Enforcement Officer, for the towing of:
 1. Abandoned vehicles;
 2. Disabled vehicles;
 3. Illegally parked vehicles;
 4. Stolen vehicles;
 5. Vehicles involved in accidents within the Township of Upper;
 6. Those vehicles whose owners are suspected of being involved in criminal activity within the Township of Upper;
 7. Any other vehicle identified and requested by the State Police, Township Administrator or Township Parking Enforcement Officer.
- b. Storage. The towing contractor will be responsible for the storage of any vehicles towed from the Township of Upper.
- c. Lockout Services. The towing contractor will be responsible, at the discretion and request of the State Police, the Township Administrator or Township Parking Enforcement Officer, for providing a lockout service for motorist's whose vehicles are located within the Township of Upper.

4-4.5 Qualifications of the Towing Contractor.

- a. The towing contractor must be able to demonstrate, to the satisfaction of the Township:
 1. That they are qualified and experienced in the business of towing, storage, and lockout services;
 2. That they are qualified and experienced in the removal of vehicles of all types;
 3. That they have the required and specified facilities and storage areas;
 4. That they have the required and specified equipment, expertise, and licensing; and

5. That they have the required and specified personnel.

- b. Each bidder must submit, with their bid, a criminal background check for each employee, either from the New Jersey State Police or another reputable provider. This criminal background check must have been conducted within one calendar year of the submission of the bid to be deemed valid for bidding purposes. Any conviction for a felony shall be a sufficient reason to disqualify any bidder, at the discretion of the Township.

Each bidder must also submit, with their bid, a copy of all current and valid driver's licenses for the operators of service equipment who are employed by the contractor and who will be directly involved in the fulfillment of the contract.

- c. The towing contractor shall submit, with their bid, a copy of their written Drug-Free Workplace Policy. This policy shall include, but is not limited to: pre-employment testing, on-going testing, employee assistance, and consequences of policy violation.
- d. The towing contractor shall submit, with their bid, the name of other municipalities and/or businesses to which they have previously and/or are currently providing contract towing, storage and lockout services.

Additionally, the towing contractor shall submit, with their bid, a list of towing, storage and lockout service contracts that they have held within the past three years that are similar in scope and nature to that offered by the Township of Upper. The Township reserves the right to use these references and/or their performance on any municipal/business towing, storage, and lockout service contracts in making its award determination.

4-4.6 Standby and Emergency Services.

- a. Equipment Necessary. The towing contractor will be required to furnish extra towing equipment and service during storms, snow emergencies, traffic emergencies, special events, disasters, any acts of God, or for any other reason so designated by the Township. During such periods, hereinafter "standby periods," the towing contractor will be required to provide adequate equipment and service, held ready to remove passenger vehicles and light trucks under 1 1/2 tons.
- b. Duration of Standby Services. Standby service will begin when Upper Township contacts the towing contractor. Standby service will end when Upper Township contacts the towing contractor to inform him of the termination.
- c. Additional Storage Locations. The Township reserves the right to, during any emergency, designate a temporary storage location on a property owned or leased by the Township. These temporary storage locations would be used to house vehicles at the direction of the Emergency Management Coordinator or his designee from the Township. Any transportation of vehicle to or from these temporary storage locations will carry with them the same charges as would transportation to the official storage facility.

4-4.7 Insurance Requirements.

- a. The contractor providing towing services must be insured by an insurance company authorized to do business in the State of New Jersey. In addition to providing the minimum insurance coverage required by N.J.A.C. 13:45A-31.3, the contractor shall provide such additional insurance as recommended by the Township Risk Management Consultant as set forth in the bid request.
- b. Insurance coverage must indemnify the Township of Upper, the general public including all elected and appointed officials, all employees and volunteers, or boards, commissions and or authorities and their board members, employees and volunteers against any loss due to injuries, accidents or damages of any kind where this damage is

the result of an act or omission by the towing contractor or his agents, in or due to the fulfillment of the Towing Contract.

4-4.8 Rights of Vehicle Owners.

- a. The owner of any vehicle that is towed has the right to remove property belonging to them from the stored vehicle, unless the vehicle is marked "Police Hold" on the towing form. Any items must be removed during the scheduled release hours, or as otherwise determined by the State Police.
- b. The vehicle owner or his representative retains the right to take photographs of their stored vehicle for insurance claim purposes.
- c. All complaints arising from the towing and storage of motor vehicles shall be submitted to the Township Administrator. The Township Administrator shall review and investigate any such complaint and make a determination as to the appropriate action, if any, or otherwise resolve the complaint.

4-4.9 Compliance with Other Laws and Regulations.

The contractor shall comply with all other laws and regulations, including but not limited to N.J.S.A. 56:13-7 et seq. and N.J.A.C. 13:45A-31.1 et seq.

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

SECTION 3: REPEALER: This Ordinance shall take effect immediately upon final adoption and publication as required by law.

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 8TH DAY OF MARCH, 2021 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 22ND DAY OF MARCH, 2021 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

23. **Public hearing and final adoption of Ordinance No. 006-2021 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER VII (TRAFFIC) OF THE CODE OF UPPER TOWNSHIP.** During the public hearing portion there were no speakers. Motion by Curtis Corson, second by Edward Barr to adopt Ordinance No. 006-2021. During roll call vote all five Committee members voted in the affirmative.

TOWNSHIP OF UPPER

**CAPE MAY COUNTY
ORDINANCE**

ORDINANCE NO. 006-2021

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

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 7A, Schedule I (entitled “No Parking”) of the Revised General Ordinance of the Township of Upper, also known as the Code of Upper Township, shall be amended as hereinafter provided:

SCHEDULE I – NO PARKING

Add the following:

Street	Location
East Randolph Avenue	North side of East Randolph Avenue from easterly side of Commonwealth Avenue to the easterly Terminus
North Bayview Drive	North side of North Bayview Drive from westerly intersection of North Commonwealth and North Bayview Drive extending 360 feet
West Putnam Avenue	North side of West Putnam Avenue from westerly side of Commonwealth Avenue to the easterly side of Bayview Drive
West Prescott Avenue	South side of West Prescott Avenue from westerly side of Commonwealth Avenue to the easterly side of Bayview Drive
Approved Public or Private Driveway	No Parking in front of an approved public or private driveway which is defined as the linear footage of width of the approved driveway opening, plus (2') feet beyond in each direction along the sideline of the street.

SECTION 2. Chapter 7A, Schedule XVIII (entitled “Parking Area for Handicapped Persons”) of the Revised General Ordinances of the Township of Upper, also known as the Code of

Upper Township, shall be amended as hereinafter provided:

SCHEDULE XVIII – PARKING AREA FOR HANDICAPPED PERSONS

Add to include the following:

Street	Location
Commonwealth Avenue (CR-619) Approved and authorized by The Cape May County Board Of Chosen Freeholders	Westerly side; beginning at a point 69 feet southwesterly of the marked crosswalk at the southerly side of Vincent Avenue across Commonwealth Avenue extending 25 feet southwesterly thereof
Putnam Avenue	Southerly side; beginning at a point 155 feet from the northeasterly curbline of Commonwealth Avenue and extending to a point 25 feet southeasterly thereof
Commonwealth Avenue	Two perpendicular spaces at the northern terminus of Commonwealth Avenue at a point 18 feet from the northeasterly terminus of Seaview Avenue at Commonwealth Avenue and extending 22 feet northwesterly thereof

Remove the following:

Street	Location
Seacliff Avenue	Southerly side; beginning at a point 66 feet from the westerly curbline of Commonwealth Avenue and extending to a point 25 feet northwesterly thereof
South Bayview Drive	Westerly side; beginning at a point 52 feet southwest of the southwesterly property line of Webster Avenue and extending to a point 25 feet thereof
Prescott Drive	Southerly side of Prescott Drive a distance 44 feet from the easterly curbline of Commonwealth Avenue

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

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

SECTION 6: 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 8TH DAY OF MARCH, 2021 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 22ND DAY OF MARCH, 2021 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

24. Introduction and first reading of Ordinance No. 009-2021 RE: AN ORDINANCE AUTHORIZING SALE OF LANDS, TO WIT BLOCK 414, LOT 39.12. Motion by John Coggins, second by Richard Palombo, to introduce Ordinance 009-2021 with a public hearing and final adoption scheduled for April 26, 2021. 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. 009-2021

**RE: AN ORDINANCE AUTHORIZING SALE OF LANDS,
TO WIT BLOCK 414, LOT 39.12**

WHEREAS, the Township of Upper is the owner, in fee, of a certain parcel of vacant ground located within the Township of Upper, County of Cape May, and State of New Jersey, set forth on the municipal tax map as Block 414, Lot 39.12; and

WHEREAS, the Township has received an offer from Stephen G. Schaffer, the owner of real property contiguous with said parcel owned by the Township, to purchase said parcel; and

WHEREAS, after discussion and deliberation the Township Committee is of the opinion that the sale of said parcel will be in the best interest of the Township and will provide for the consolidation of said lot with an existing lot; and

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

SECTION 1: The Township of Upper is hereby authorized to sell the real property commonly known as follows:

Block 414, Lot 39.12

to the highest bidder from among all owners of real property contiguous thereto in accordance with N.J.S.A. 40A:12-13(b)(5). Such sale shall not be for less than the fair market value of said real property and the minimum bid for such parcel sold is hereby established as follows:

Block 414, Lot 39.12

Minimum Bid: \$3,000.00

SECTION 2: Prior to said sale, the Township will obtain a title report from a title company or abstract company licensed to do business in the State of New Jersey. Said report shall be available to all prospective bidders.

SECTION 3: The list of property authorized to be sold together with the minimum price thereof shall be posted at Township Hall and advertisement of the sale shall be made in a newspaper circulating in the Township within 5 days following enactment of this ordinance. Offers for the property may thereafter be made to the Township Committee for 20 days following said advertisement. The Township Committee may reconsider this ordinance not later than 30 days after enactment and thereafter advertise the property for public sale pursuant to N.J.S.A. 40A:12-13(a). The Township Clerk shall file with the Director of the Division of Local Government Services in the Department of Community Affairs sworn affidavits verifying the publication of the foregoing advertisements.

SECTION 4: Stephen G. Schaffer shall pay the following sum to the Township Clerk prior to the adoption of this Ordinance: \$500.00. This payment will be used by the Township and defray Township expenses involved in Authorizing the Sale and terms thereof; Engineer's review; Attorney's review; legal advertising, certified mail notices, title review expenses, closing costs and other expenses. If the parcel is not sold, this amount will be retained by the Township as **LIQUIDATED DAMAGES** and will be used to pay for the review of the title report and other documents. If the highest bidder at the auction sale is not the original applicant, the highest bidder will be required to pay, in addition to the purchase price and other expenses, an additional sum of \$500.00, representing pre-sale amounts paid by the original applicant requesting the sale and the original applicant (who is not the highest bidder) will

then be entitled to a refund of all sums paid (\$500.00) except for the non-refundable application fee (\$50.00).

SECTION 5: The aforesaid parcel of real property shall be offered for sale at an auction to be conducted by the Township Clerk at a date and time to be set by the Township Clerk after the appropriate notice of sale has been sent to contiguous owners of the subject real property. Said notice shall be sent certified and regular mail to the owners of contiguous property at the address set forth on the tax assessor's records. Said notice shall be sent no greater than 30 days prior to the date of sale and no less than 14 days prior to the date of sale. At any time, the Township Clerk may adjourn said sale and renote in accordance with the provisions of this Ordinance and N.J.S.A. 40A:12-13.

SECTION 6: The Township Committee expressly reserves the right to reject any and all bids in the exercise of its sole judgment and discretion. The Township Committee is authorized to confirm the sale by resolution and complete the transaction pursuant to this Ordinance and N.J.S.A. 40A:12-13.

SECTION 7: In the event the highest bid at such auction exceeds the minimum bid established herein and the Township Committee rejects same in the exercise of its sole judgment and discretion, then, in such event, all deposits made by the original applicant or the highest bidder, as the case may be, shall be refunded except for the \$50.00 application fee which shall be non-refundable.

SECTION 8: All payments required to be made pursuant to said sale to the Township Clerk must be made by personal check, cash or certified check, or any combination of the foregoing. All payments required to be made hereunder to a title company or abstract company conducting the closing shall be made in collected funds, that is, by cash, certified check, cashier's check or wire transfer.

SECTION 9: A sum equal to ten percent (10%) of the highest bid for said parcel or parcels shall be paid to the Township of Upper by the highest bidder or bidders at the time of the sale. The remaining balance of ninety percent (90%) of the highest bid for the parcel or parcels shall be paid to the Township of Upper, and must be received by the Township Clerk, not later than thirty (30) days after the date of the sale. In addition to the deposit of ten percent (10%), the highest bidder or bidders shall also be required to pay or tender at the time of sale the following:

IF THE BIDDER IS THE ORIGINAL APPLICANT:

- (A) (i) The sum of \$100.00 for the preparation of the Deed; and
- (ii) the sum of \$70.00 for recording the Deed.

IF THE BIDDER IS NOT THE ORIGINAL APPLICANT:

- (B) The sum of 500.00, payable to the Township of Upper, representing payment to the Township for expenses of \$500.00 to defray Township expenses, which amounts were required of the original applicant.
- (C) (i) The sum of \$100.00 for the preparation of the Deed.
- (ii) The sum of \$70.00 for recording the Deed.

AT THE TIME OF CLOSING the successful bidder shall be required to pay the following sums:

- (D) Any additional sum required for title search or title insurance.
- (E) The cost of any survey ordered by the successful bidder. Successful bidder shall place such order directly with the surveyor or with the title company conducting closing, but the survey must be prepared in time to permit the closing to take place as scheduled.
- (F) Title company settlement fees covering services to both the Seller and the Buyer.
- (G) Any additional fees or costs chargeable by the title company or otherwise necessary to complete the transaction on behalf of the purchaser.

SECTION 10: The closing of title shall take place as designated by the Township as follows:

- (A) Township Hall, Petersburg, New Jersey; or
- (B) Office of the Township Solicitor; or
- (C) At the office of a title insurance company or title abstract company located within Cape May County.

SECTION 11: If the bidder fails to close or fails to comply with the provisions hereof, such bidder shall be in default and all amounts paid to the Township by or on behalf of the bidder shall be retained by the Township as **LIQUIDATED DAMAGES AND NOT AS A PENALTY.**

SECTION 12: The Deed from the Township of Upper shall be what is commonly known as a Quitclaim Deed.

SECTION 13: The title to be delivered by the Township shall be free and clear of all taxes up to and including the date when the Deed is delivered and closing takes place. Purchaser shall be responsible for all taxes thereafter. Unless otherwise specified herein, the purchaser shall be liable for payment of all assessments, of any nature, against said land.

SECTION 14: The title to be delivered by the Township shall be under and subject to all easements and rights of way, recorded and unrecorded, whether for utilities or for others, and shall also be subject to all conditions, reservations and restrictions of record, if any. If the title report discloses an unmarketable condition of title, except as specified herein, the remedy of the bidder shall be limited to the return of payments made to the Township of Upper on account of the purchase price and closing costs only. Any and all other amounts paid to the Township shall be non-refundable. This sale is under and subject to any riparian claim which may affect said property. If any such claim exists, it shall be the sole responsibility of the purchaser to meet and satisfy all requirements of the State of New Jersey with respect to said riparian claim and the payment of any compensation to the State of New Jersey on account thereof. Nothing herein shall be construed as obligating the Township of Upper to construct or maintain access roads to any portion of the property being sold. Such property may not qualify for a building permit due to lack of water supply, lack of sewer or septic facilities, lack of access, inadequate lot size, or other reasons, including those reasons set forth below. The purchaser is required to comply with all applicable zoning, building and health ordinances and codes and regulations. The property being sold may be situated in a Flood Hazard Zone. The Township of Upper makes no warranties or representations, expressed or implied, as to the property being offered for sale, the condition or marketability of the title or any other matter. The Township of Upper makes no warranties or representations, expressed or implied, as to whether or not the property being offered for sale contains wetlands anywhere on the property. The Township makes no warranties or representations as to any matter of an environmental nature, or otherwise, which may prevent or limit building or construction.

SECTION 15: All references to Lots and Blocks described herein are to the Lots and Blocks as shown on the Current Official Tax Map of the Township of Upper.

SECTION 16: The successful bidder shall be required, at the time of the sale, to execute a document acknowledging that the sale is governed by the provisions of this Ordinance as well as N.J.S.A. 40A:12-13.

SECTION 17: The provisions of this Ordinance pertaining to this sale shall survive the closing of title and shall not merge into the Deed.

SECTION 18: It is a requirement of this sale that the purchaser of the subject property be a contiguous property owner. Said purchaser shall be required to take immediate action to cause a consolidation of the property being purchased with all of the bidder's existing adjacent property so as to constitute a single parcel of ground which shall not be further subdivided into more than one lot. This restriction shall be included in the deed of conveyance and shall run with the land. The successful bidder shall complete the consolidation as a condition of the sale. The provisions of this Section shall survive closing and shall not merge into the Deed.

SECTION 19: This Ordinance shall take effect immediately upon final adoption and publication as required by law.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 22ND DAY OF MARCH, 2021 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 EXCLUSIVELY BY ELECTRONIC MEANS, AS SET FORTH BELOW, ON THE 26TH DAY OF APRIL, 2021 AT 7:30 P.M. AT THE TOWNSHIP HALL, TUCKAHOE, NEW JERSEY.

BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.
BARBARA L. YOUNG, TOWNSHIP CLERK
TOWNSHIP OF UPPER

Please be advised, the April 26, 2021 Upper Township Committee meeting will be conducted exclusively by electronic means.

The public will be able to attend the meeting and participate in public comment by utilizing a computer, tablet, or smartphone that has a microphone and speaker, or by dialing in on a telephone.

The meeting will commence electronically on April 26, 2021 at 7:30 p.m.

From your computer, tablet or smartphone:
Please go to <https://www.gotomeet.me/UpperTownship-NJ/ut-public-meeting-room> or <https://global.gotomeeting.com/join/617672469>

To dial in using your phone:
United States: 1 (872) 240-3311
Access Code: 617 672 469

New to GoToMeeting? Get the app now and be ready when the first meeting starts: <https://global.gotomeeting.com/install/617672469>

For any questions please contact the Clerk's Office at 609-628-2011 ext. 200.

CORRESPONDENCE

NEW BUSINESS

25. **American Legion Aaron Wittkamp Colwell Post 239 requests to hold Raffle RA-538 at the Heritage Links Golf Course, 1375 Route 9 on July 31, 2021.** Motion by Curtis Corson,

second by John Coggins, to approve the request. During roll call vote all five Committee members voted in the affirmative.

UNFINISHED BUSINESS

26. **Discussion on Marijuana Dispensaries.** After a lengthy discussion, there was a motion by Kimberly Hayes, second by Curtis Corson, to move forward with an Ordinance prohibiting the operation of any class of cannabis businesses in the Township, with the ordinance to be sent to the Planning Board for review after introduction and before final adoption. During roll call vote all five Committee members voted in the affirmative. Later in the meeting there was a motion by Richard Palombo, second by Edward Barr, to revise the current Ordinance that prohibits smoking of tobacco on Township owned properties to include prohibiting smoking, consumption, or any other use of cannabis on Township owned properties. During roll call vote all five Committee members voted in the affirmative.

DISCUSSION

27. **Beesley's Point Boat Ramp.** After a lengthy discussion, there was a motion by John Coggins, second by Richard Palombo, to approve closing the ramp during the Beesley's Point Park construction project, and to send a letter to season permit holders notifying them of the temporary closure. During roll call vote all five Committee members voted in the affirmative. There was then a motion by John Coggins, second by Curtis Corson, to authorize the Engineer to obtain a proposal for professional consultant services for the dredge permitting process. During roll call vote all five Committee members voted in the affirmative.

PAYMENT OF BILLS

28. **"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 Curtis Corson. During roll call vote all five Committee members voted in the affirmative.

Bills approved for payment: \$378,416.36

Payroll: \$186,490.41

REPORT OF MUNICIPAL DEPARTMENTS

29. Municipal Court

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

PUBLIC COMMENT

Linda Bateman, Tecumseh Avenue, spoke regarding the website page for the beach patrol, and when the introduced 2021 budget would be available to the public. It was stated that the introduced budget will be posted on the Township's website and paper copies will be available in the clerk's office beginning tomorrow.

David Cummings, Commonwealth Avenue, inquired as to if the budgets for previous years are located on the Township's website and if so, where. It was stated that they are posted under the Finance Department. He next thanked the Committee for addressing the issues from the recent dredge project. Lastly, he spoke regarding the recent cannabis legislation.

Randy Roash, Prescott Street, stated that the Committee should follow the will of the voters regarding any proposed cannabis restrictions. He next inquired into the Township's plans to fund and address rising sea levels and coastal mitigation. It was stated that the Township is actively pursuing grant funding for coastal mitigation efforts.

Larry Trulli, Route 9, thanked the Committee for carefully considering all sides of the cannabis issue.

CLOSED SESSION

30. 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. 104-2021
MOTION GOING INTO CLOSED SESSION
MARCH 22, 2021**

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 - Tax Lien Assignment
2. Contract negotiation - Affordable Housing Administrator
1. Litigation – Estate of Zajac v. Township of Upper
2. 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 contract negotiations such matters will be made public when negotiations have ceased and there is no longer a reason for confidentiality.
- C. With respect to this litigation matter such discussions will be made public when litigation is complete and the applicable appeal period has expired.
- D. 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.

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 Richard Palombo, to reconvene the public portion of the meeting. During roll call vote all five Committee members voted in the affirmative.

ADJOURNMENT

There being no further business this evening the meeting was adjourned at 11:13 P.M., with a motion by John Coggins, second by Edward Barr, and all five Committee members voting in the affirmative. The next regular meeting is scheduled for April 12, 2021 at 7:30 P.M.

Minutes prepared by,

Barbara L. Young, RMC
Municipal Clerk

Bill List

77311 03/22/21 A0018 ACTION SUPPLY INC. 105.32 3179
77312 03/22/21 A0035 AIRLINE HYDRAULIC CORP. 1,278.20 3179
77313 03/22/21 A0041 ALL ACTION WATER SPORTS, INC. 1,500.00 3179
77314 03/22/21 A0091 ATLANTIC CITY ELECTRIC 20,205.79 3179
77315 03/22/21 A0212 ANCERO, LLC 1,776.00 3179
77316 03/22/21 A0219 ALTERNATIVE MICROGRAPHICS, INC 4,124.61 3179
77317 03/22/21 A0235 AMAZON CAPITAL SERVICES, INC. 169.99 3179
77318 03/22/21 A0238 AMACC 50.00 3179
77319 03/22/21 B0035 BELMONT & CRYSTAL SPRINGS 75.40 3179
77320 03/22/21 B0092 BROKER, EUGENE JR. 150.00 3179
77321 03/22/21 B0220 BERGEY'S TRUCK CENTERS 657.19 3179
77322 03/22/21 B0232 BLUE FLAME GAS 531.46 3179
77323 03/22/21 C0008 CMC COURT ADMINISTRATORS ASSOC 50.00 3179
77324 03/22/21 C0042 CAMPBELL SUPPLY COMPANY 192.00 3179
77325 03/22/21 C0048 CAPE MAY COUNTY MUA 35,857.57 3179
77326 03/22/21 C0068 COMCAST 556.86 3179
77327 03/22/21 C0223 CASA PAYROLL SERVICE 223.75 3179
77328 03/22/21 C0230 CATAMARAN MEDIA COMPANY 158.81 3179
77329 03/22/21 C0296 COMCAST BUSINESS COMMUNICATION 1,386.86 3179
77330 03/22/21 C0305 CM3 BUILDING SOLUTIONS, INC. 337.96 3179
77331 03/22/21 C0307 CNS ACQUISITION CORPORATION 835.00 3179
77332 03/22/21 C0324 COOPER, RALPH 125.00 3179
77333 03/22/21 D0015 DAN'S WELDING 9,500.00 3179
77334 03/22/21 D0040 DELTA DENTAL OF N.J. INC. 5,699.64 3179
77335 03/22/21 D0045 DEPTCOR 140.00 3179
77336 03/22/21 E0012 EHRLICH PEST CONTROL INC 211.00 3179
77337 03/22/21 F0016 FAZZIO, JOSEPH INC. 646.84 3179
77338 03/22/21 G0016 GARDNER HARDWARE INC. 39.89 3179
77339 03/22/21 G0028 GENTILINI FORD 187.28 3179
77340 03/22/21 G0086 W.W. GRAINGER, INC. 636.41 3179
77341 03/22/21 G0147 GREATAMERICA FINANCIAL SVCS. 170.00 3179
77342 03/22/21 G0157 GRANTURK EQUIPMENT CO., INC. 339.90 3179
77343 03/22/21 G0182 GOLDENBERG, MACKLER & SAYEGH 1,879.77 3179
77344 03/22/21 H0002 H.A. DEHART & SON CORP. 202.57 3179
77345 03/22/21 H0073 HOME DEPOT CRC/GECF 744.26 3179
77346 03/22/21 H0095 HORIZON BCBSNJ 225,455.04 3179
77347 03/22/21 K0007 KACZMARSKI, RICHARD 300.00 3179
77348 03/22/21 K0100 KEEN COMPRESSED GAS CO. 128.00 3179
77349 03/22/21 L0027 LASHLEY HEATING & COOLING INC. 250.00 3179
77350 03/22/21 L0080 LOWES, INC. 100.22 3179
77351 03/22/21 L0116 LEA, ANTHONY 44.00 3179
77352 03/22/21 M0303 MALEY GIVENS, A PROF CORP 3,542.00 3179
77353 03/22/21 N0043 NAPA AUTO PARTS 321.22 3179
77354 03/22/21 N0052 NATL YOUTH SPORTS COACHED ASSN 560.00 3179
77355 03/22/21 N0154 NEW HORIZON COMMUNICATIONS 838.31 3179
77356 03/22/21 P0032 PEDRONI FUEL CO. 1,339.76 3179
77357 03/22/21 P0136 POSTNET 36.35 3179
77358 03/22/21 P0140 PIONEER MANUFACTURING CO, INC 1,999.94 3179
77359 03/22/21 P0152 READY, LOREN 130.00 3179
77360 03/22/21 Q0003 EUROFIN, QC LLC 155.00 3179
77361 03/22/21 Q0014 QBE SPECIALTY INSURANCE CO. 84.16 3179
77362 03/22/21 R0030 RIGGINS, INC. 3,189.31 3179
77363 03/22/21 R0100 ROBERTS OXYGEN COMPANY, INC. 113.35 3179
77364 03/22/21 R0119 RUDERMAN, ROTH LLC 9,196.00 3179
77365 03/22/21 S0001 SAM'S CLUB 170.48 3179
77366 03/22/21 S0018 SUBURBAN PROPANE, LP 87.69 3179
77367 03/22/21 S0020 THE HOME DEPOT PRO 408.67 3179
77368 03/22/21 S0057 SERVICE TIRE TRUCK CENTERS 351.90 3179
77369 03/22/21 S0112 SOUTH JERSEY COURT ADM. ASSOC. 30.00 3179
77370 03/22/21 S0113 SMITH, THOMAS G. 1,281.34 3179
77371 03/22/21 S0134 SO. JERSEY GAS COMPANY 1,926.45 3179
77372 03/22/21 S0161 SPICA STEEL, INC./J.D.L.GARAGE 1,785.00 3179
77373 03/22/21 S0249 BSN SPORTS 1,453.05 3179
77374 03/22/21 S0284 SOUTH JERSEY INTERPRETERS 150.00 3179
77375 03/22/21 S0361 SOUTH JERSEY WATER TEST, LLC 248.00 3179

77376 03/22/21 S0362 FRED M. SCHIAVONE CONSTRUCTION 22,592.92 3179
77377 03/22/21 T0032 THE PRESS OF ATLANTIC CITY 398.36 3179
77378 03/22/21 T0080 TREASURER STATE OF N.J. 356.00 3179
77379 03/22/21 T0129 TRUGREEN CHEMLAWN 3,202.01 3179
77380 03/22/21 T0179 TUCKAHOE TURF FARMS, INC. 2,200.00 3179
77381 03/22/21 T0180 TRI-COUNTY PEST CONTROL, INC 25.00 3179
77382 03/22/21 T0192 MARSH & McLENNAN AGENCY/TRION 334.59 3179
77383 03/22/21 V0024 VAL-U AUTO PARTS L.L.C. 418.86 3179
77384 03/22/21 W0038 WILLIAMS, JEREMIAH J. 68.34 3179
77385 03/22/21 W0087 W.B. MASON EGG HARBOR 0.00 03/22/21 VOID 0
77386 03/22/21 W0087 W.B. MASON EGG HARBOR 2,177.95 3179
77387 03/22/21 X0008 XEROX FINANCIAL SERVICES 221.76 3179
Total: \$378,416.36