

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR APRIL 12, 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 April 9, 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 and Municipal Attorney Daniel Young

APPROVAL OF MINUTES - March 22, 2021 Regular and Closed Session Minutes

Motion by Edward Barr, second by John Coggins, to approve the March 22, 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

Kimberly Hayes, Committeewoman, reported that spring sports have started with no issues. She thanked the Public Works department for the excellent work maintaining the facilities. She next reported that the Ocean City Upper Township Rotary Club has offered to donate a bench for the Golden Oak Lane park. She stated that she has reached out to the Township Engineer to guide them through the process and Public Works will assist with the installation. She next reported about a group of cyclists who have extended an invitation to any that would like to join their group. They stage at Caldwell park and ride on Tuesdays at 5:30 pm and Saturdays and Sundays at 10:00 am. She requested all residents to be aware and careful of bike riders. Last, she reported that the Atlantic City mega site has numerous vaccines available.

Curtis Corson, Committeeman, also spoke about the availability of vaccines at the mega site in Atlantic City. He next reported that the County recently performed an emergency repair of the erosion

on Ocean Drive by the causeway. He thanked the Township Engineer and the County for moving quickly to address the issue.

Edward Barr, Committeeman, congratulated the Department of Public Works for the excellent job cleaning up the Williams Avenue beach access path. He next spoke regarding the new automated leaf collection equipment and reminded residents to make sure loose leaves are free of any sticks or debris.

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 the Office of Emergency Management recently submitted an EMAA funding questionnaire and are waiting for a review before moving forward with the next step.

Paul Dietrich, Township Engineer, gave a brief report on the progress of the construction of Beesley's Point Park project. He next reported that it is nesting bird season on the Strathmere beaches and the NJDEP has marked off several areas where nesting birds have been spotted. He reminded residents that dogs are no longer allowed on the beach for the season.

RESOLUTIONS

1. Honoring March 2021 as Women's History Month.

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

RESOLUTION NO. 105-2021

RE: HONORING MARCH 2021 AS WOMEN'S HISTORY MONTH

WHEREAS, National Women's History Month recognizes and spreads awareness of the importance of women in the history of the United States; and

WHEREAS, throughout the history of Upper Township and the United States, whether in the home, their workplace, school, the courts, or in wartime, women have fought for themselves, their families, and for all people of the United States; and

WHEREAS, Upper Township residents performed heroic efforts in wartime including:

- 1) Rebecca Stillwell who in 1777, defended the Great Egg Harbor Bay in Beesley's Point from the water landing of foreign soldiers during the Revolutionary War; and
- 2) Sarah Stillwell, sister of Rebecca, risked her life to save the life of her husband who had been captured during the Revolutionary War; and

WHEREAS, women led the efforts to secure suffrage and equal opportunity for women, and served in the abolitionist movement, the emancipation movement, labor movements, civil rights movements, and other causes to create a more fair and just society for all; and

WHEREAS, suffragists wrote, marched, were arrested, and ultimately succeeded in achieving the enactment of:

- 1) the 19th Amendment to the Constitution of the United States, section 1 of which provides that “The right of citizens of the United States to vote shall not be denied or abridged by the United States or by any state on account of sex”; and
- 2) the Voting Rights Act of 1965 (52 U.S.C. 10301 et seq.), which extended the protection of the right to vote to women of color and language minorities; and

WHEREAS, women have been and continue to be leaders in the forefront of social change efforts, business, science, government, math, art, literature, music, film, athletics, and more; and

WHEREAS, American women have served our country courageously in the military; and

WHEREAS, women now represent approximately half of the workforce of the United States; and

WHEREAS, President Jimmy Carter issued the first Presidential Proclamation designating March 2 through 8, 1980, as “National Women's History Week”; and

WHEREAS, in 1987, a bipartisan group of Senators introduced the first joint resolution to pass Congress designating “Women's History Month”; and

WHEREAS, President Ronald Reagan issued the first “Women's History Month” Presidential Proclamation in 1987; and

WHEREAS, despite the advancements of women in the United States, much remains to be done to ensure that women realize their full potential as equal members of society in the United States.

NOW, THEREFORE, BE IT RESOLVED, that the Township of Upper:

- 1) designates the month of March 2021 as Women's History Month; and
- 2) recognizes the celebration of Women's History Month as a time to reflect on the many notable contributions that women have made to Upper Township and to the United States.

Resolution No. 105-2021

Offered by: Hayes

Seconded by: Palombo

Adopted: April 12, 2021

Roll Call Vote:

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

2. Designating the 1st Thursday in May “A Day of Prayer in Upper Township”.

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

RESOLUTION NO. 106-2021

**RE: DESIGNATING THE 1ST THURSDAY IN MAY
“A DAY OF PRAYER IN UPPER TOWNSHIP”**

WHEREAS, Civic Prayers and National Days of Prayer have a long and revered history in our constitutional democracy, dating back to the First Continental Congress in 1775; and

WHEREAS, the Declaration of Independence, our first statement as Americans of national purpose and identity, made “the Laws of Nature and Nature’s God” the foundation of our United States of America and asserted that people have inalienable rights that are God-given; and

WHEREAS, the Supreme Court has affirmed the right of state legislatures to open their sessions with prayer and the Supreme Court and the U.S. Congress themselves begin each day with prayer; and

WHEREAS, in 1988, legislation setting aside the first Thursday in May in each year as a National Day of Prayer was passed unanimously by both Houses of Congress and signed by President Ronald Reagan; and

WHEREAS, the National Day of Prayer is an opportunity for Americans of all faiths to join in united prayer to acknowledge our dependence on God, to give thanks for blessings received, to pray for peace, to request healing for wounds endured; and to ask God to guide our leaders and bring wholeness to the United States and her citizens; and

WHEREAS, it is fitting and proper to give thanks to God by observing a day of prayer in the Township of Upper when all may acknowledge our blessings and express gratitude for them, while

recognizing the need for strengthening religious and moral values in our State and nation;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, that the first Thursday in May, 2021 is hereby designated as “A DAY OF PRAYER IN UPPER TOWNSHIP”, and all citizens of Upper Township are encouraged to observe the day in ways appropriate to its importance and significance.

Resolution No. 106-2021

Offered by: Barr

Seconded by: Coggins

Adopted: April 12, 2021

Roll Call Vote:

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

3. Congratulating employee Davida Wines of the Upper Township Clerk’s Office for her winning entry in the Upper Township Safety Award Program for the 2nd quarter of 2021.

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

RESOLUTION NO. 107-2021

**RE: CONGRATULATING EMPLOYEE DAVIDA WINES OF THE UPPER TOWNSHIP
CLERK’S OFFICE FOR HER WINNING ENTRY IN
THE UPPER TOWNSHIP SAFETY AWARD PROGRAM
FOR THE SECOND QUARTER OF 2021**

WHEREAS, employee Davida Wines, is recognized for her efforts to promote safety for her fellow employees and residents of the Township through her participation in the Upper Township Safety Award Program with the submission of a safety suggestion; and

WHEREAS, Davida’s safety suggestion was chosen by the Upper Township Safety Committee from the entries submitted in the second quarter for the promotion of safety for employees and the community; and

WHEREAS, Davida should be publicly recognized for reporting a safety concern of not being able to adjust the temperature of the hot water faucet in the lunch room at Town Hall; 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. That the Committee extends its appreciation and publicly recognizes Davida on her commitment to safety by identifying a potential safety hazard and offering a suggestion through participation in the program.

2. That the Committee, on behalf of our employees and the citizens of the Township of Upper, extend to Davida Wines our congratulations and present her with the “Safety Day Award” of one day off with pay.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper the 12th day of April, 2021.

Resolution No. 107-2021

Offered by: Barr

Seconded by: Hayes

Adopted: April 12, 2021

Roll Call Vote:

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

4. Resolution supporting Senate No. 3522, creating local part of the Public Employees’ Retirement System (PERS).

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

RESOLUTION NO. 108-2021

**RE: RESOLUTION SUPPORTING SENATE NO. 3522, CREATING LOCAL PART OF THE
PUBLIC EMPLOYEES’ RETIREMENT SYSTEM (PERS)**

WHEREAS, county, municipal, and other local governments have met their pension obligations as employers for more than a decade while the State of New Jersey has continued to underfund the pension systems in varying degrees since 1996 and thus creating one of the worst publicly funded retirement systems in the entire nation; and

WHEREAS, despite fulfilling their fiduciary duties in meeting their pension obligations, local governments across the State will experience double digit percentage increases in total employer pension contributions in 2021 as determined in figures recently published by the Division of Pension and Benefits in the State Department of Treasury; and

WHEREAS, even more alarming for local government employers is the fact that the unfunded accrued liability once again increased in 2021 to a staggering \$26.6 billion for PERS alone, causing in part, a decrease in the funded ratio for the Local Part of PERS to 65.4%, the State Part to

31.2%, and the combined rate to a disconcerting 52.2% far below the target funded ratio of 75.0%; and

WHEREAS, S-3522 would divide PERS into two parts: a State Part for state employees, and a Local Part for all other employees; and

WHEREAS, this legislation creates a seven member board consisting of; three labor employee representatives, three management representatives, and one determined by the Board, tasked with operating the retirement system and directing policies and investments to achieve and maintain full funding; and

WHEREAS, S-3522 would protect local governing bodies from the State of New Jersey further directing property taxpayer dollars to subsidize its long mismanagement and underfunding of the pension systems as it would provide the new balanced board of trustees of PERS with the ability to determine or modify member benefits, direct policies and investments to achieve full funding, and serve as fiduciary of the system.

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey hereby supports S-3522, which would establish a new board of trustees for the Local Part of the Public Employees' Retirement System (PERS) to preserve the structure and integrity of the more solvent Local Part.

BE IT FURTHER RESOLVED that certified copies of this Resolution shall be forwarded to Governor Phil Murphy, Senate President Stephen M. Sweeney, Speaker of the General Assembly Craig Coughlin, Senator Michael L. Testa, Jr., Assemblyman Erik K. Simonsen, Assemblyman Antwan A. McClellan and the New Jersey League of Municipalities.

Resolution No. 108-2021

Offered By: Coggins

Seconded By: Barr

Adopted: April 12, 2021

Roll Call Vote:

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

5. Accepting the written Indoor Air Quality Program and confirming the appointment of Paul E. Dietrich as air quality control officer in charge of compliance of the program, pursuant to the "PEOSH", Indoor Air Quality Compliance program under N.J.A.C. 12:100-13.

TOWNSHIP OF UPPER

**CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 109-2021

**RE: ACCEPTING THE WRITTEN INDOOR AIR QUALITY PROGRAM AND
CONFIRMING THE APPOINTMENT OF PAUL E. DIETRICH AS AIR QUALITY
CONTROL OFFICER IN CHARGE OF COMPLIANCE OF THE PROGRAM, PURSUANT
TO THE “PEOSH”, INDOOR AIR QUALITY COMPLIANCE
PROGRAM UNDER N.J.A.C. 12:100-13**

WHEREAS, the Township of Upper in order to comply with the Public Employees Occupational Safety and Health (PEOSH), Indoor Air Quality Standard Program pursuant to N.J.A.C. 12:100-13 adopted on May 21, 2007, established a program in February 2008, to promote good indoor air quality for employees working in Township of Upper municipal buildings; and

WHEREAS, to further comply with the PEOSH Program for Indoor Air Quality Standards an appointment is necessary to designate a person responsible for the enforcement and compliance of the requirements of N.J.A.C. 12-100-13 and the established program policies of the Township of Upper; and

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

1. The Indoor Air Quality Program, updated April 6, 2021 and attached as Exhibit “A” is hereby accepted by the Township of Upper.
2. Paul E. Dietrich’s appointment as the Indoor Air Quality Control Officer in charge of compliance of the Public Employees Occupational Safety and Health (PEOSH) Indoor Air Quality Program for the Township of Upper is hereby confirmed.
3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 109-2021

Offered by: Barr

Seconded by: Coggins

Adopted: April 12, 2021

Roll Call Vote:

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

6. Appointing Triad Advisory Services, Inc. to provide Administrative Services with regard to the Upper Township Affordable Housing program.

TOWNSHIP OF UPPER

**CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 110-2021

**RE: APPOINTING TRIAD ADVISORY SERVICES, INC. TO PROVIDE
ADMINISTRATIVE SERVICES WITH REGARD TO THE UPPER TOWNSHIP
AFFORDABLE HOUSING PROGRAM**

WHEREAS, Township of Upper has developed an Operating Manual for the Administration of providing Affordability Assistance to Homeowners (Affordability Assistance Manual) in accordance with the Uniform Housing Affordability Controls and the New Jersey Fair Housing Act; and

WHEREAS, the Township of Upper requires administrative services to update and administer the Affordability Assistance Program for Rental Assistance; and

WHEREAS, the Township of Upper requires administrative services for the Township's Market to Affordable program; and

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

WHEREAS, Triad Advisory Services, Inc. has completed and submitted a Business Entity Disclosure Certification, which certifies that Triad Advisory Services, Inc. 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 Triad Advisory Services, Inc. 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. Triad Advisory Services, Inc. with offices at 1301 W. Forest Grove Road, Vineland, New Jersey 08360, is hereby appointed Administrative Agent for the Township of Upper for the purposes in as specified in this Resolution and the attached Professional Service Agreement.

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

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

NOTICE OF CONTRACT AWARD

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

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

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

8. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Service Agreement with Triad Advisory Services, Inc. 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.

9. 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.

10. This Resolution shall be effective as of adoption.

Resolution No. 110-2021

Offered by: Barr

Seconded by: Corson

Adopted: April 12, 2021

Roll Call Vote:

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

7. Appointing Brian P. Trelease, Esquire as Hearing Officer for the Township of Upper.

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

RESOLUTION NO. 111-2021

**RE: APPOINTING BRIAN P. TRELEASE, ESQUIRE
AS HEARING OFFICER FOR THE TOWNSHIP OF UPPER**

WHEREAS, the Township requires legal counsel to serve as a hearing officer in connection with employment and personnel related matters; and

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

WHEREAS, Brian P. Trelease, Esquire has completed and submitted a Business Entity Disclosure Certification which certifies that said individual 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 said individual from making any reportable contributions through the term of the contract; and

WHEREAS, the Township has decided to acquire the services of Brian P. Trelease, Esquire as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. Brian P. Trelease, Esquire with offices at 555 US Highway 1 South, Iselin, New Jersey is hereby appointed as Hearing Officer with regard to employment and personnel matters as directed by the Township Committee.
3. This contract shall have a term of one (1) year from date of full execution.

4. This Contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Brian P. Trelease, Esquire has professional knowledge as to legal matters which knowledge is particularly valuable to the Township Committee.**NOTICE OF CONTRACT AWARD**

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

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

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

7. The Mayor and Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Brian P. Trelease, 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. 111-2021

Offered by: Barr

Seconded by: Corson

Adopted: April 12, 2021

Roll Call Vote:

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

8. Authorizing the Engineer to prepare specifications and solicit bids for towing, storage, and lockout services.

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

RESOLUTION NO. 112-2021

**RE: AUTHORIZING THE ENGINEER TO PREPARE SPECIFICATIONS
AND SOLICIT BIDS FOR TOWING, STORAGE, AND LOCKOUT SERVICES**

WHEREAS, the Township Committee of the Township of Upper has determined a need to solicit bids for towing, storage, and lockout services; and

WHEREAS, pursuant to the provisions of the Local Public Contracts Law, the Township of Upper intends to solicit bids as herein indicated; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Engineer is hereby authorized and directed to prepare specifications, bid documents and solicit bids for the following:

TOWING, STORAGE, AND LOCKOUT SERVICES

3. Sealed bids shall be received by the Township of Upper in accordance with the directives contained in the Notice to Bidders.

Resolution No. 112-2021

Offered by: Corson

Seconded by: Hayes

Adopted: April 12, 2021

Roll Call Vote:

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

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

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

RESOLUTION NO. 113-2021

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 30, 2020 in connection with the Township’s Declaratory Judgment Action; and

WHEREAS, the Township of Upper’s Affordable Housing Trust Fund collects development fee revenues consistent with the Township of Upper’s development fee ordinance for both residential and non-residential developments in accordance with FHAA’s rules and P.L. 2008, c.46, sections 8 (C. 52:27D-329.2) and 32-28 (C. 40:55D-8.1 through 8.7).; and

WHEREAS, pursuant to the terms of the current Spending Plan, the release of funds requires the adoption by the Township Committee of a resolution; and

WHEREAS, the Township Committee has reviewed the requested release of funds from the Affordable Housing Trust Fund for the specific use set forth herein and has determined it is in the best interest of the Township to authorize the release of payment from said fund.

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Chief Financial Officer is authorized to release the following funds pursuant to the Township’s Market to Affordable Program:

Triad Associates (MTA Technical Assistance)	\$ 75.00
Triad Associates (Admin Agent Rentals Wait List)	\$ 150.00

Resolution No. 113-2021

Offered By: Coggins

Seconded By: Barr

Adopted: April 12, 2021

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Barr	X			
Coggins	X			

Corson	X			
Hayes	X			
Palombo	X			

10. Authorizing Change Order No. 1 for the Reconstruction of Beesley's Point Park contract resulting in an increase in the amount of \$316,250.00.

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

RESOLUTION NO. 114-2021

**RE: AUTHORIZING CHANGE ORDER NO. 1 FOR THE RECONSTRUCTION
OF BEESLEY'S POINT PARK CONTRACT RESULTING IN AN INCREASE
IN THE AMOUNT OF \$316,250.00**

WHEREAS, the Township of Upper has awarded the Reconstruction of Beesley's Point Park bid to Fred M. Schiavone Construction, Inc., of Malaga, New Jersey, in the original Contract amount of \$1,909,201.31; and

WHEREAS, the Chief Financial Officer has issued a certification as to the availability of funds for this Change Order No. 1; and

WHEREAS, the aggregate amount of Change Order No. 1, comprising of extra work in the amount of \$316,250.00, and this work does not exceed twenty percent (20%) of the original Contract award; and

WHEREAS, the Township Engineer has requested this Change Order and has indicated that it is permitted under the applicable regulations and that, pursuant to N.J.A.C. 5:30-11.8, it is a minor modification due to unforeseen circumstances not foreseen at the time the specifications were written and the contract awarded and to effect economies and improve service; and

WHEREAS, this Change Order is in the best interests of the Township.

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. Change Order No. 1 to the Reconstruction of Beesley's Point Park contract with

Fred M. Schiavone Construction, Inc is hereby authorized as follows:

Increases.....	\$	0.00
Decreases.....	\$	0.00

Extra Work.....\$316,250.00

TOTAL.....\$316,250.00

3. A copy of the Change Order detailing the nature and the extent of the work to be done, together with all other prior Change Orders, if any, are attached to this Resolution as Exhibit "A".

4. The Mayor and Chief Financial Officer are hereby authorized, directed and empowered to execute the Change Order on behalf of the Township of Upper.

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.

Resolution No. 114-2021

Offered by: Barr

Seconded by: Hayes

Adopted: April 12, 2021

Roll Call Vote:

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

11. Authorizing assignment of Tax Sale Certificate #09-00006.

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

RESOLUTION NO. 115-2021

**AUTHORIZING ASSIGNMENT OF
TAX SALE CERTIFICATE #09-00006**

WHEREAS, N.J.S.A. 54:5-113 authorizes assignment by a municipality of tax sale certificates for the full amount of the certificate, including all subsequent municipal taxes and other municipal charges; and,

WHEREAS, Miriam Brennan has presented an offer to purchase, by assignment, Certificate of Sale #09-00006 which was issued to the Township of Upper at a Tax Sale held December 1, 2009, on Block 435 Lots 31, 33-36 known as Jackson Ave and assessed to Peter Kane, in the amount \$2,962.23, being the full amount of the certificate, including all subsequent municipal taxes and other municipal charges.

NOW, THEREFORE BE IT RESOLVED, that the Township of Upper hereby authorizes the Mayor and Municipal Tax Collector to execute the necessary assignment document to effect assignment of the above referenced Certificate of Sale.

Resolution No. 115-2021

Offered By: Coggins

Seconded By: Barr

Adopted: April 12, 2021

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

12. Appointing Water's Edge Environmental, LLC as an environmental consultant for the improvements associated with the replacement of the Beesley's Point Boat Ramp.

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

RESOLUTION NO. 116-2021

**RE: APPOINTING WATER'S EDGE ENVIRONMENTAL, LLC AS AN ENVIRONMENTAL
CONSULTANT FOR THE IMPROVEMENTS ASSOCIATED WITH THE REPLACEMENT
OF THE BEESLEY'S POINT BOAT RAMP**

WHEREAS, the Township requires an Environmental Consultant for the improvements associated with the replacement of the Beesley's Point Boat Ramp; and

WHEREAS, Water's Edge Environmental, LLC possesses the requisite skill and knowledge to perform these services; and

WHEREAS, a Resolution is required authorizing the award of a contract for professional services to Water's Edge Environmental, LLC as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, Water's Edge Environmental, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that said firm 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 Water's Edge Environmental, LLC from making any reportable contributions through the term of the contract; and

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

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

2. Water's Edge Environmental, LLC, with offices at 1259 A Asbury Avenue Ocean City, New Jersey, is hereby appointed as Environmental Consultant for the improvements associated with the replacement of the Beesley's Point Boat Ramp.

3. This contract shall have a term of one (1) year commencing upon 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 Water's Edge Environmental, LLC, has professional knowledge as to environmental issues which knowledge is particularly valuable to the Township Committee.

NOTICE OF CONTRACT AWARD

5. The Township Committee of the Township of Upper, State of New Jersey has awarded the contract without competitive bidding as a professional service pursuant to N.J.S.A. 40A:11-5(1)(a) to Water's Edge Environmental, LLC. This contract and the resolution authorizing same shall be available for public inspection in the office of the Municipal Clerk of the Township of Upper, State of New Jersey.

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

7. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Water's Edge Environmental, LLC 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. 116-2021
Offered by: Barr
Adopted: April 12, 2021
Roll Call Vote:

Seconded by: Hayes

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

13. Declaration of emergency pursuant to Township Ordinance Section 7-3.2 in order to provide temporary no parking restrictions during the construction of Beesley's Point Park.

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

RESOLUTION NO. 117-2021

**RE: DECLARATION OF EMERGENCY PURSUANT TO TOWNSHIP ORDINANCE
SECTION 7-3.2 IN ORDER TO PROVIDE TEMPORARY NO PARKING RESTRICTIONS
DURING THE CONSTRUCTION OF BEESLEY'S POINT PARK**

WHEREAS, Upper Township Ordinance Section 7-3.2 provides that upon the declaration of an emergency temporary no parking restrictions may be instituted; and

WHEREAS, the Township of Upper's construction of Beesley's Point Park project requires temporary parking restrictions consistent with the provisions of said Ordinance Section 7-3.2; and

WHEREAS, the Township Committee deems it appropriate to declare an emergency so as to institute temporary no parking restrictions along the following in Upper Township:

**Both sides of Harbor Road from North Shore Road to the Garden State Parkway
Beesley's Point Parking lot**

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 declares an emergency pursuant to Township Ordinance Section 7-3.2 and directs the posting of "EMERGENCY-NO PARKING" signs on both sides of Harbor Road from North Shore Road to the Garden State Parkway, and the Beesley's Point Park parking lot.
3. Said no parking restrictions shall be effective on Monday March 22, 2021, and shall continue for the duration of the project or until such time that it is deemed safe.

4. A copy of this resolution shall be provided to the New Jersey State Police and the Cape May County Sheriff's Office.

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

Resolution No. 117-2021

Offered by: Barr

Seconded by: Corson

Adopted: April 12, 2021

Roll Call Vote:

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

14. Authorizing the purchase of certain items with funds from the 2020 Capital Improvement Bond Ordinance in the amount of \$11,609.00.

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

RESOLUTION NO. 118-2021

**RE: AUTHORIZING THE PURCHASE OF CERTAIN ITEMS WITH FUNDS FROM THE
2020 CAPITAL IMPROVEMENT BOND ORDINANCE IN THE AMOUNT OF \$11,609.00**

WHEREAS, it is necessary for the Township of Upper to make certain capital purchases; 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's QPA has reviewed and approved the quote for the purchase of a 2020 Polaris Ranger 570 Crew by Atlantic City Cycle Center of Hammonton, 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 Atlantic City Cycle Center of Hammonton, New Jersey for the purchase of a 2020 Polaris Ranger 570 Crew in the

amount of \$11,609.00 from the 2020 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. 118-2021

Offered By: Coggins

Seconded By: Barr

Adopted: April 12, 2021

Roll Call Vote:

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

ORDINANCES

15. Public hearing and final adoption of Ordinance No. 007-2021 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XXIV (SOLID WASTE AND RECYCLABLES) OF THE CODE OF UPPER TOWNSHIP. During the public hearing portion there were no speakers. Motion by Edward Barr, second by Curtis Corson to adopt Ordinance No. 007-2021. 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. 007-2021

RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XXIV (SOLID WASTE AND RECYCLABLES) OF THE CODE OF UPPER TOWNSHIP

WHEREAS, the Township Committee desires to amend Chapter 24 – Solid Waste and Recyclables to reflect changes in the schedule for the collection of Tree Trimmings; and

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 24, Section 2 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended as hereinafter provided:

Section 24-2.7 Obligations of Residential and Commercial Occupant.

Revise and replace the following in Section 24-2.7(5):

5. Tree Trimming. Residential tree trimmings shall be placed at the curb with the large ends facing the street. The pile shall be neat and arranged in such a way as to facilitate handling. Tree trimmings shall

not include stumps or the trunk of a tree. No tree trimmings from either lot clearing or tree removal will be collected and the occupant must arrange for the disposal of such either personally or by contracting with a private or commercial hauler. Such materials will be collected by set schedule set forth by Township Committee. The Township may limit the amount of tree trimmings a resident may place at the curb by resolution of the Township Committee adopting such rule or regulation.

SECTION 2: EFFECTIVE DATE: This ordinance shall take effect immediately upon adoption and publication as required by law.

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

SECTION 4: SEVERABILITY: If any section, paragraph, subdivision, subsection, clause or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

SECTION 5: CODIFICATION: This Ordinance shall be codified as indicated in Chapter 24 of the Upper Township Code.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 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 12TH DAY OF APRIL, 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

16. Introduction and first reading of Ordinance No. 010-2021 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER X OF THE CODE OF UPPER TOWNSHIP. Motion by Edward Barr, second by John Coggins, to introduce Ordinance 010-2021 with a public hearing and final adoption scheduled for May 10, 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. 010-2021

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE
CHAPTER X 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 10, Section 10-1.3, of the Revised General Ordinances of the

Township of Upper, also known as the Code of Upper Township, shall be amended and supplemented as hereinafter provided:

10-1.3 Fees.

Revise and replace the following in Section 10-1.3a.:

1. Demolition Fees. The fee for a demolition or removal permit shall be \$150.00 for a structure of less than 5,000 square feet in area and less than 30 feet in height, for one- or two-family residences (use group R-5 of the building subcode), and structures on farms including commercial farm buildings under N.J.A.C. 5:23-3.2(d), and \$200.00 for all other use groups.
2. Sign Permits. The fee for a permit to construct a sign shall be in the amount of \$2.50 per square foot of surface area of the sign, computed on one side only for a double faced sign. The minimum permit fee for a sign shall be \$62.00.

Revise and replace the following in Section 10-1.3g.:

2. Fees for renovations, alterations and repairs are based on estimated cost of work:

\$1,000.00 up to \$50,000.00	\$30.00 per \$1,000.00
\$50,001.00 up to \$100,000.00	\$23.00 per \$1,000.00
\$100,001.00 and above	\$19.00 per \$1,000.00

For the purpose of determining estimated cost the applicant shall submit to the agency such cost data as may be available, produced by the architect or engineer of record, or by a recognized estimating firm or by the contractor. A bona fide contractor's bid, if available, shall be submitted. The agency shall make the final decision regarding the estimated cost.

Add the following in Section 10-1.3g.:

5. Fees for tents and temporary structures shall be \$95.00.
6. Fees for trailers/park models shall be \$100.00.

Add the following in Section 10-1.3i.:

12. For each monitor device for solar systems the fee shall be \$62.00.

Revise and replace the following in Section 10-1.3j.:

6. The fee for each kitchen exhaust system shall be \$125.00.

Add the following in Section 10-1.3j.:

9. The fee for the installation or demolition of tanks shall be \$65.00.
10. The fee for each smoke control system shall be \$65.00.
11. The fee for each fire pump shall be \$65.00.
12. The fee for each pre-action/dry/alarm valve shall be \$30.00.
13. The fee for each fireplace vent or metal chimney shall be \$65.00.

SECTION 2: 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 3: 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 4: EFFECTIVE DATE: This Ordinance shall take effect upon final adoption and publication as required by law.

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 12TH DAY OF APRIL, 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 TO BE HELD EXCLUSIVELY BY ELECTRONIC MEANS, AS SET FORTH BELOW, ON THE 10TH DAY OF MAY, 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 May 10, 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 May 10, 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>.

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.

17. Introduction and first reading of Ordinance No. 011-2021 RE: AN ORDINANCE PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS BUSINESSES WITHIN THE TOWNSHIP OF UPPER'S GEOGRAPHICAL BOUNDARIES AND AMENDING CHAPTER 20, SECTION 1.5 OF THE REVISED GENERAL ORDINANCES OF THE TOWNSHIP OF UPPER. Motion by Edward Barr, second by Kimberly Hayes, to introduce Ordinance 011-2021 with a public hearing and final adoption scheduled for May 10, 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. 011-2021

**RE: AN ORDINANCE PROHIBITING THE OPERATION OF ANY CLASS OF CANNABIS
BUSINESSES WITHIN THE TOWNSHIP OF UPPER’S GEOGRAPHICAL BOUNDARIES
AND AMENDING CHAPTER 20, SECTION 1.5 OF THE REVISED GENERAL
ORDINANCES OF THE TOWNSHIP OF UPPER**

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

WHEREAS, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license, for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer; and

WHEREAS, section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location manner and times of operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

WHEREAS, section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (i.e., by August 22, 2021); and

WHEREAS, pursuant to section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling, and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

WHEREAS, the Township Committee of the Township of Upper has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on the Township of Upper in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the Township of Upper's residents and members of the public who visit, travel, or conduct business in the Township of Upper, to amend the Township of Upper's zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the Township of Upper; and

WHEREAS, officials from two prominent non-profit organizations that have been established for the purpose of advising New Jersey municipalities on legal matters such as have been presented by the Act (those organizations being the New Jersey State League of Municipalities and the New Jersey Institute of Local Government Attorneys) have strongly urged that, due to the complexity and novelty of the Act; the many areas of municipal law that are or may be implicated in decisions as to whether or to what extent cannabis or medical cannabis should be permitted for land use purposes or otherwise regulated in any particular municipality; and the relatively short duration in which the Act would allow such decisions to be made before imposing an automatic authorization of such uses in specified zoning districts subject to unspecified conditions, the most prudent course of action for all municipalities, whether or not generally in favor of cannabis or medical cannabis land development and uses, would be to prohibit all such uses within the Act's 180-day period in order to ensure sufficient time to carefully review all aspects of the Act and its impacts; and

WHEREAS, pursuant to N.J.S.A. 40:55D-89 the Upper Township Planning Board undertook reexamination of its Master Plan in August 2018, November 2018 and March 2020 to determine the major problems and objectives relating to land development within the Township; and

WHEREAS, the Planning Board's Master Plan Reexamination identified the need to provide and create the appropriate land use controls if the sale and production of marijuana is legalized, including the prohibition of same in the Township; and

WHEREAS, this amendment to the Upper Township Zoning Ordinance prohibiting marijuana – related land use and development was recommended in the periodic reexamination of the Master Plan by the Planning Board; and

WHEREAS, pursuant to N.J.S.A. 40:55D-64 and N.J.S.A. 40:55D-26, this ordinance was referred by the Township Committee to the Upper Township Planning Board to determine the consistency of this ordinance with the Master Plan; and

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

SECTION 1: Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the Township of Upper, except for the delivery of cannabis items and related supplies by a delivery service.

SECTION 2: Chapter 20, Section 1.5, entitled “Prohibited Uses”, of the Revised General Ordinances of the Township of Upper, is hereby amended as follows:

Add the following in Section 20-1.5(b):

4. All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service.

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 immediately upon the final publication as required by law. **SECTION 6: CODIFICATION:** This Ordinance shall be codified in the Upper Township Code at the section referred to above.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 12th DAY OF APRIL, 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 10th DAY OF MAY, 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 May 10, 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 May 10, 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.

18. Introduction and first reading of Ordinance No. 012-2021 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER III (POLICE REGULATIONS) AND CHAPTER IV (GENERAL LICENSING) OF THE CODE OF UPPER TOWNSHIP. Motion by John Coggins, second by Edward Barr, to introduce Ordinance 012-2021 with a public hearing and final adoption scheduled for May 10, 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. 012-2021

**AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER III
(POLICE REGULATIONS) AND CHAPTER IV (GENERAL LICENSING) 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 III, Section 3-12, of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended as follows:

**3-12 PROHIBITING SMOKING AND THE CONSUMPTION OF CANNABIS IN
TOWNSHIP PUBLIC FACILITIES.**

Replace in its entirety Section 3-12.1:

3-12.1 Definitions.

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

Cannabis shall mean all parts of the plant *Cannabis sativa* L., whether growing or not, the seeds thereof, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant or its seeds; but does not include medical cannabis dispensed to registered qualifying patients pursuant to the “Jake Honig Compassionate Use Medical 27 Cannabis Act,” P.L.2009, c.307 (C.24:6I-1 et al.).

Cannabis products shall mean cannabis concentrate and products that are composed of cannabis and other ingredients and that are intended for use or consumption, including edible products, ointments, and tinctures.

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

Consume, Consuming, and Consumption shall mean the act of ingesting, inhaling or otherwise introducing cannabis into the human body.

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

Indoor place shall mean a structurally enclosed area.

Public Facility shall mean any municipally owned or maintained park, beach, building or other property including, but not limited to, athletic fields and maintained paths.

Smoking shall mean the inhaling, exhaling, vaping, aerosolizing or burning of a lighted cigar, cigarette, pipe, electronic device, or any other matter or substance containing tobacco or cannabis, whether natural or synthetic.

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

Replace in its entirety Section 3-12.2:

3-12.2 Smoking or the Consumption of Cannabis and Cannabis Products Prohibited.

Smoking or the consumption of cannabis and cannabis products shall be prohibited at all times at all Township Public Facilities.

Replace in its entirety Section 3-12.3:

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

- a. Any Certified Coach, Department Head or Supervisor, or their designee, may order any person smoking or consuming cannabis or cannabis products in violation of this section to comply with the provisions hereof. Thereupon, any member of the public who smokes or consumes cannabis or cannabis products in Public Facilities is in violation of this section, shall be subject to a fine as hereinafter provided.
- b. The supervisor or department head shall have the right to withhold the services of the supervisor's department, division or agency to any member of the public who smokes or consumes cannabis or cannabis products in any public area in which such conduct is prohibited, provided that the supervisor or department head shall first inform that person of this right. Services shall not be denied if the member of the public complies with the rules governing smoking or consuming cannabis or cannabis products after receiving this notice, and the supervisor or department head shall so inform that person.
- c. Any person waiting for services in a municipal building who leaves the building to smoke or consume cannabis or cannabis products shall, upon re-entering the building, have the right to regain his or her position in the order of persons receiving those services.

Replace in its entirety Section 3-12.4:

3-12.4 Posting of Signs.

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

SECTION 2: Chapter IV, Section 3.9, of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended as follows:

Replace the following in Section 4-3.9a:

4-3.9 General Rules.

- a. There shall be no smoking or consumption of cannabis or cannabis products on jitneys.

SECTIONS 3: REPEALER: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency only.

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

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 12th DAY OF APRIL, 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 10th DAY OF MAY, 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 May 10, 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 May 10, 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

19. **Scott Miller request for traffic calming study for Route 50 in the Tuckahoe Village section of Upper Township.** After a lengthy discussion, the Committee directed the Township Administrator to request the NJ State Police to increase patrols along the area. There was then a motion by Curtis Corson, second by John Coggins, to again request the NJDOT and State legislators for safety improvements to the area. During roll call vote all five Committee members voted in the affirmative.

UNFINISHED BUSINESS

DISCUSSION

PAYMENT OF BILLS

20. **"I hereby move that all claims submitted for payment at this meeting be approved and then incorporated in full in the minutes of this meeting."** Motion by John Coggins, second by Edward Barr. During roll call vote all five Committee members voted in the affirmative.

Bills approved for payment: \$2,949,525.23

Payroll: \$176,726.27

REPORT OF MUNICIPAL DEPARTMENTS:

- 21. Animal Control
- 22. Clerk's Office
- 23. Construction Code
- 24. Division of EMS
- 25. Finance Office

- 26. Municipal Court**
- 27. Tax Collector**
- 28. Public Works**

Motion by Richard Palombo, second by John Coggins, to accept the reports as submitted. During roll call vote all five Committee members voted in the affirmative.

PUBLIC COMMENT

Sean Whalen, Beesley's Point, inquired into the motion tonight regarding the Beesley's Point Boat Ramp. It was stated that there were two resolutions approved during tonight's meeting. One was for a change order for the current Beesley's Point Park contractor to reconstruct the boat ramp. The second was to hire a consultant to assist with obtaining permits for dredging of the ramp.

CLOSED SESSION

- 29. 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. 119-2021 MOTION GOING INTO CLOSED SESSION APRIL 12, 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. Litigation - Ralph and Deanna Holt v. Upper Township Board of Adjustment
2. Contract negotiation - W. Michael Bailey Safety Communications
3. Contract negotiation - Ancero IT Services
4. Contract negotiation - CASA Payroll Services
5. Contract negotiation - CASA Reporting Services
6. Contract negotiation - Adams Rehmann & Heggan Tax Map Maintenance Services
7. 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 this litigation matter such discussions will be made public when litigation is complete and the applicable appeal period has expired.
- C. With respect to contract negotiations such matters will be made public when negotiations have ceased and there is no longer a reason for confidentiality.
- D. With respect to 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: Edward Barr

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

RECONVENE PUBLIC PORTION OF MEETING

Motion by Richard Palombo, second by John Coggins, 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 9:02 P.M., with a motion by Richard Palombo, second by Edward Barr, and all five Committee members voting in the affirmative. The next regular meeting is scheduled for April 26, 2021 at 7:30 P.M.

Minutes prepared by,

Barbara L. Young, RMC
Municipal Clerk

Bills

77390 04/12/21 N0015 N.J. STATE DEPT. OF HEALTH 136.20 3181
77391 04/12/21 T0071 TOWNSHIP OF UPPER DOG ACCOUNT 398.80 3181
77392 04/12/21 T0081 TREAS. STATE OF N.J. D.C.A. 5,927.00 3181
77393 04/12/21 T0088 TREASURER, STATE OF NEW JERSEY 175.00 3181
77394 04/12/21 U0028 UPPER TOWNSHIP BD.OF EDUCATION 2,130,115.00 3181
77395 04/12/21 A0018 ACTION SUPPLY INC. 160.94 3182
77396 04/12/21 A0025 ADVANTAGE RENTAL & SALES 620.61 3182
77397 04/12/21 A0091 ATLANTIC CITY ELECTRIC 27,301.73 3182
77398 04/12/21 A0113 ARAWAK PAVING CO. INC. 60,375.65 3182
77399 04/12/21 A0175 Adams Rehmann & Haggan Assoc 240.00 3182
77400 04/12/21 A0212 ANCERO, LLC 20,784.87 3182
77401 04/12/21 A0235 AMAZON CAPITAL SERVICES, INC. 388.36 3182
77402 04/12/21 A0236 ALENCO FENCE & LUMBER CORP. 17,590.00 3182
77403 04/12/21 B0035 BELMONT & CRYSTAL SPRINGS 41.93 3182
77404 04/12/21 B0060 BIANCHINO LOU & SONS 215.00 3182
77405 04/12/21 B0201 BUCK'S ELECTRICAL SERVICE, INC 2,518.00 3182
77406 04/12/21 B0239 BAILEY, WILLIAM MICHAEL 791.66 3182
77407 04/12/21 B0248 BARNES LAW GROUP LLC 982.57 3182
77408 04/12/21 B0279 Borcky, Danielle 24.05 3182
77409 04/12/21 C0068 COMCAST 1,144.71 3182
77410 04/12/21 C0143 CODY'S POWER EQUIPMENT 148.95 3182
77411 04/12/21 C0182 CDW GOVERNMENT, INC 1,274.55 3182
77412 04/12/21 C0223 CASA PAYROLL SERVICE 463.50 3182
77413 04/12/21 C0279 CASA REPORTING SERVICES LLC 14.85 3182
77414 04/12/21 F0049 FOGGIO'S CARPET & DESIGN CENTE 1,983.80 3182
77415 04/12/21 G0014 GARDEN STATE HWY PRODUCTS INC. 338.00 3182
77416 04/12/21 G0015 GALL'S, AN ARAMARK COMPANY 142.99 3182
77417 04/12/21 G0086 W.W. GRAINGER, INC. 511.90 3182
77418 04/12/21 H0073 HOME DEPOT CRC/GECF 135.88 3182
77419 04/12/21 H0200 Haugh, Courtney 20.00 3182
77420 04/12/21 I0045 ICC GENERAL CODE, INC. 1,718.00 3182
77421 04/12/21 J0016 JERSEY SHORE PARTNERSHIP, INC 100.00 3182
77422 04/12/21 J0041 JONES, JAMES M. 279.00 3182
77423 04/12/21 J0074 J.A. MONTGOMERY RISK CONTROL 3,630.00 3182
77424 04/12/21 K0103 KYOCERA DOCUMENT SOLUTIONS 144.67 3182
77425 04/12/21 L0007 LC EQUIPMENT, INC. 530.00 3182
77426 04/12/21 L0043 LEE RAIN,INC. 854.35 3182
77427 04/12/21 M0035 MARMORA FIRE CO. DISTRICT #3 161,761.75 3182
77428 04/12/21 M0076 MGL PRINTING SOLUTIONS 880.00 3182
77429 04/12/21 M0080 McMANIMON, SCOTLAND & BAUMANN 600.00 3182
77430 04/12/21 M0235 MODERN GROUP, LTD 4,850.00 3182
77431 04/12/21 M0263 MANGAM SR., ANDREW C 164.83 3182
77432 04/12/21 M0275 Mirsky Joesph L. 24.05 3182
77433 04/12/21 M0277 EQUITABLE FINANCIAL LIFE INS. 171.60 3182

77434 04/12/21 M0308 McHENRY PRESSURE CLEAN SYSTEMS 1,668.41 3182
77435 04/12/21 M0312 Moeller, Arthur 24.05 3182
77436 04/12/21 N0004 NJ-AMERICAN WATER CO. 293.83 3182
77437 04/12/21 N0125 N.J. REGISTRAR'S ASSOCIATION 75.00 3182
77438 04/12/21 N0143 NATIONAL TIME SYSTEMS 376.10 3182
77439 04/12/21 N0164 New Jersey Prevention Network 150.00 3182
77440 04/12/21 O0006 SJSHORE MARKETING,LLC 777.03 3182
77441 04/12/21 O0012 OCEAN CITY BD. OF EDUCATION 307.13 3182
77442 04/12/21 P0032 PEDRONI FUEL CO. 4,598.63 3182
77443 04/12/21 P0056 TURF EQUIPMENT AND SUPPLY CO 300.87 3182
77444 04/12/21 P0087 PROFESSIONAL GOVT. EDUCATORS 180.00 3182
77445 04/12/21 R0030 RIGGINS, INC. 5,751.82 3182
77446 04/12/21 R0059 RUTGERS, THE STATE UNIVERSITY 275.00 3182
77447 04/12/21 R0135 Rearick, Jeffrey 24.05 3182
77448 04/12/21 S0018 SUBURBAN PROPANE, LP 131.63 3182
77449 04/12/21 S0020 THE HOME DEPOT PRO 154.88 3182
77450 04/12/21 S0031 SCHULER SECURITY, INC. 480.00 3182
77451 04/12/21 S0057 SERVICE TIRE TRUCK CENTERS 550.35 3182
77452 04/12/21 S0065 SEAVILLE FIRE CO. DISTRICT #4 144,022.25 3182
77453 04/12/21 S0134 SO. JERSEY GAS COMPANY 4,626.46 3182
77454 04/12/21 S0191 STRATHMERE FIRE CO.DISTRICT #1 23,650.50 3182
77455 04/12/21 S0196 STEWART BUSINESS SYSTEMS LLC 274.43 3182
77456 04/12/21 S0239 SHORE VET. ANIMAL CONTROL LLC 2,200.00 3182
77457 04/12/21 S0253 SAMPLE MEDIA, INC. 186.00 3182
77458 04/12/21 S0275 SCHAEFER FIREWORKS 2,120.00 3182
77459 04/12/21 S0362 FRED M. SCHIAVONE CONSTRUCTION 138,911.08 3182
77460 04/12/21 S0363 STARR GENERAL CONTRACTION CORP 472.00 3182
77461 04/12/21 T0032 THE PRESS OF ATLANTIC CITY 1,216.32 3182
77462 04/12/21 T0067 TOWNSHIP OF UPPER PETTY CASH 60.00 3182
77463 04/12/21 T0080 TREASURER STATE OF N.J. 266.00 3182
77464 04/12/21 T0117 TUCKAHOE FIRE DISTRICT #2 132,075.00 3182
77465 04/12/21 T0168 TOWNSHIP OF UPPER 291.92 3182
77466 04/12/21 T0180 TRI-COUNTY PEST CONTROL, INC 25.00 3182
77467 04/12/21 T0192 MARSH & McLENNAN AGENCY/TRION 275.50 3182
77468 04/12/21 U0067 UT HEALTH REIMB. ACCOUNT 2,046.96 3182
77469 04/12/21 V0013 VERIZON WIRELESS 1,526.95 3182
77470 04/12/21 V0025 V.E. RALPH & SON,INC. 150.30 3182
77471 04/12/21 V0052 VIKING TERMITE & PEST CONTROL 55.00 3182
77472 04/12/21 W0030 WEST PUBLISHING CO. 711.40 3182
77473 04/12/21 W0087 W.B. MASON EGG HARBOR 1,104.88 3182
77474 04/12/21 W0127 Wheeler, John 20.00 3182
77475 04/12/21 Y0008 YOUNG, DANIEL J. ESQUIRE PC 26,443.75 3182
Total: \$2,949,525.