

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR OCTOBER 25, 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 October 22, 2021 the notice of this meeting of the Upper Township Committee was posted on the official Township Bulletin Board, the Upper Township Website, and 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, Municipal Engineer Paul Dietrich, Chief Financial Officer Barbara Ludy, and Municipal Attorney Daniel J. Young.

APPROVAL OF MINUTES - October 12, 2021 Regular and Closed Session Minutes

Motion by Edward Barr, second by John Coggins, to approve the October 12, 2021 Regular and Closed Session Minutes as submitted. During roll call vote all four Committee members voted in the affirmative. Mayor Richard Palombo abstained.

REPORT OF GOVERNING BODY MEMBERS

John Coggins, Committeeman, stated that with the daylight hours getting shorter there are many bike riders on the streets at dusk. He encouraged residents to place inexpensive led lights on their bikes for their protection.

Kimberly Hayes, Committeewoman, thanked Janet McBride and the employees that assisted with the recent Health Fair, and stated that it was a very nice event for the community. She next reported that earlier this evening she and her husband sent her eldest son off to basic training for the US Coast Guard. She thanked all the active duty and retired members of the community for their service and sacrifice.

Edward Barr, Committeeman, inquired into the status of the leaf collection program. The DPW Superintendent stated that the equipment is ready to go once the leaves start falling.

Curtis Corson, Committeeman, reported that Trunk or Treat has been postponed to October 27th from 6:00 to 8:00 pm at Amanda's Field. He next congratulated Senior EMT John Brittin and his dog Gigi for graduating from the Atlantic County Police training and obtaining their certification in search and rescue.

Richard Palombo, Mayor, reported that the Toys for Tots box is now in the Town Hall lobby for donations. He stated that it is a great program and encouraged all to participate. He next reported that this past Tuesday was the dedication of the Beesley's Point Park. He congratulated the Department of Public Works and the Municipal Engineer Paul Dietrich for all of their work to create a beautiful park. Lastly, he requested that the defeated Shared Service Agreement with Maurice River for road grading be reconsidered. Maurice River is now requesting just the use of the grader and an Upper Township employee to provide training on the use of the grader for one day. Motion by Mayor Palombo, second by Edward Barr, to allow Maurice River to utilize the equipment with one Upper Township employee providing training for the equipment. During roll call vote all five Committee members voted in the affirmative. A resolution for formal action will be placed on the next agenda.

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 Cape May County Health Department will be providing flu vaccination clinics on various dates. Next, he reported that on September 27th the Committee adopted the Master Technology Plan, and last week the Township was notified by JIF that the Township was approved for tier 3 status.

Barbara Young, Municipal Clerk, stated that the request forms for the Blue Star banners are available at the Clerk's Office and on the Township's website. She next reported that Trick or Treat will be on October 31st from 5:00 to 8:00 pm and encouraged all to follow CDC guidelines and be safe. Lastly, she reported that the General Election will be held on Tuesday November 2nd. Early in person voting is now available until October 31st at the Upper Township Library. On Election day the polling places and the Clerk's Office will be open from 6:00 am to 8:00 pm.

Paul Dietrich, Municipal Engineer, reported that the Upper Township Business Association's decorative planters have been received and placed throughout the Township. He next reported that the DEP has received a grant from the EPA to provide consultant assistance to Municipalities in performing NJ resilience activities, which are required for plan endorsement. He stated that it would be a good opportunity to utilize those funds for the Township's required planning resilience activities and requested approval to obtain proposals from several consultants.

PRESENTATIONS

1. **Presentation of Blue Star Banner to Joseph and Theresa Cotton for their son Captain Joseph D. Cotton.** Tuckahoe American Legion Post 239 1st Vice Commander William Eisele gave a history of the Blue Star Banner program. Mayor Palombo and 1st Vice Commander Eisele then presented the Blue Star Service Banner and pins to Mr. and Mrs. Cotton.
2. **Presentation of Blue Star Banner to Steven and Maryanne Callahan for their sons Corporal Steven M. Callahan and Seaman Recruit Christopher B. Callahan.** Mayor Palombo and 1st Vice Commander William Eisele presented the Blue Star Service Banner and pins to Mr. and Mrs. Callahan.

RESOLUTIONS

3. Designating November 7, 2021 as “Change Your Clock, Change Your Battery Day” in Upper Township.

TOWNSHIP OF UPPER CAPE MAY COUNTY RESOLUTION

RESOLUTION NO. 297-2021

DESIGNATING NOVEMBER 7, 2021 AS “CHANGE YOUR CLOCK, CHANGE YOUR BATTERY DAY” IN UPPER TOWNSHIP

WHEREAS, almost three of every five home fire deaths result from fires in properties without working smoke alarms (17%) or with no smoke alarms present (40%); and

WHEREAS, the risk of dying in a home fire is cut in half in homes with working smoke alarms; and

WHEREAS, smoke alarm maintenance is a simple, effective way to reduce home fire deaths, and

WHEREAS, the National Fire Safety Standards recommend a minimum of one smoke alarm on each level of a home, one inside each bedroom, and one outside each sleeping area; and

WHEREAS, “Change Your Clock, Change Your Battery”, is a national home fire safety program which urges Americans to change smoke alarm batteries when changing their clocks back to standard time each fall; and

WHEREAS the Township Committee of the Township of Upper is dedicated to the safety of life and property from the devastating effects of fire and are joined by our volunteer fire departments, businesses, schools, service clubs, churches, and all of our citizens in their fire safety efforts.

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, that Sunday November 7, 2021 is hereby designated as “Change Your Clock, Change Your Battery” Day in Upper Township; and

BE IT FURTHER RESOLVED that all citizens of the Township of Upper are urged to participate in “Change Your Clock, Change Your Battery Day” the entire month of November to ensure the safety of your loved ones from house fires.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 25th day of

October, 2021.

Resolution No. 297-2021

Offered by: Barr

Seconded by: Hayes

Adopted: October 25, 2021

Roll Call Vote:

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

4. Authorizing a Shared Services Agreement with the Cape May County Municipal Utilities Authority for the review and submission of the Township of Upper's 2021 Annual Recycling Tonnage Reports.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 298-2021

**RE: AUTHORIZING A SHARED SERVICES AGREEMENT WITH THE
CAPE MAY COUNTY MUNICIPAL UTILITIES AUTHORITY FOR THE
REVIEW AND SUBMISSION OF THE TOWNSHIP OF UPPER'S
2021 ANNUAL RECYCLING TONNAGE REPORTS**

WHEREAS, in accordance with N.J.S.A. 13:1E-96 5.b(1), commencing in 2012, each New Jersey municipality is required by the Recycling Enhancement Act ("REA") to have mandatory Annual Recycling Tonnage Reports approved and signed by a Certified Recycling Professional ("CRP"); and

WHEREAS, the State of New Jersey (State) requires that municipalities submit their Annual Recycling Tonnage Reports by April 30 of each year; and

WHEREAS, the Cape May County Municipal Utilities Authority (Authority) has one or more employees that have obtained designation as a CRP; and

WHEREAS, the Authority has indicated a willingness to assist the Township of Upper in securing their rightful recycling fund allotment from the State for its 2021 recycling activities; and

WHEREAS, N.J.S.A. 40A:65-1 et seq. authorizes a municipality to enter into a contract with any other local unit for the sharing of governmental services.

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Mayor and Municipal Clerk are hereby authorized and directed to execute a Shared Services Agreement with the CMCMUA for a Certified Recycling Professional services with regard to the submission of the Township of Upper's 2021 Annual Recycling Reports.
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. 298-2021

Offered by: Barr

Seconded by: Coggins

Adopted: October 25, 2021

Roll Call Vote:

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

5. Appointing Maley Givens, PC and M. James Maley, Jr. to act as Special Legal Counsel with regards to Redevelopment Law.

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

RESOLUTION NO. 299-2021

**RE: APPOINTING MALEY GIVENS, PC AND M. JAMES MALEY, JR. TO ACT AS
SPECIAL LEGAL COUNSEL WITH REGARD TO REDEVELOPMENT LAW**

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

WHEREAS, the Township has decided to acquire the services of the firm of Maley Givens, PC and M. James Maley, Jr. as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

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

WHEREAS, the firm of Maley Givens, PC and M. James Maley, Jr. have completed and submitted a Business Entity Disclosure Certification which certifies that said firm and said individual have not made any contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit said firm and said individual from making any contributions through the term of the contract; and

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. Maley Givens, PC and M. James Maley, Jr. with offices at 1150 Haddon Avenue, Suite 210, Collingswood, New Jersey are hereby appointed as Special Legal Counsel with regard to redevelopment law matters in conjunction with and at the direction of the regular Township Solicitor and as directed by the Township Committee.
3. This contract shall have a term of one (1) year from date of full execution.
4. This Contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Maley Givens, PC and M. James Maley, Jr. have professional knowledge as to legal matters 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 Maley Givens, PC and M. James Maley, Jr. 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.

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 has provided proof of that registration to the Township of Upper.

8. The Mayor and Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Maley Givens, PC and M. James Maley, Jr. 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 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.

10. This Resolution shall be effective as of adoption.

Resolution No. 299-2021

Offered by: Coggins

Seconded by: Barr

Adopted: October 25, 2021

Roll Call Vote:

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

6. Authorizing a contract with Marathon Engineering and Environmental Services for Environmental Consultant Services.

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

RESOLUTION NO. 300-2021

**RE: AUTHORIZING A CONTRACT WITH MARATHON ENGINEERING
AND ENVIRONMENTAL SERVICES FOR
ENVIRONMENTAL CONSULTANT SERVICES**

WHEREAS, the Township requires Environmental Consultant Services; and

WHEREAS, Marathon Engineering & Environmental Services 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 Marathon Engineering & Environmental Services as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, Marathon Engineering & Environmental Services has completed and submitted a Business Entity Disclosure Certification which certifies that Marathon Engineering & Environmental Services has not made any contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit Marathon Engineering & Environmental Services from making any contributions through the term of the contract; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Marathon Engineering & Environmental Services 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.
3. The term of this contract shall be for a period of one year.
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 Marathon Engineering & Environmental Services 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 Marathon Engineering & Environmental Services for environmental consultant services. This contract and the resolution authorizing same shall be available for public inspection in the office of the municipal clerk of the Township of Upper, State of New Jersey.

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

7. 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.

8. The Mayor and Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Marathon Engineering & Environmental Services, 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 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.

10. This Resolution shall be effective as of adoption.

Resolution No. 300-2021

Offered by: Coggins

Seconded by: Barr

Adopted: October 25, 2021

Roll Call Vote:

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

7. Amending Resolution 287-2021 appointing James Cotton as a temporary Construction Official on an as needed basis.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY**

RESOLUTION

RESOLUTION NO. 301-2021

RE: AMENDING RESOLUTION NO. 287-2021 APPOINTING JAMES COTTON AS A TEMPORARY CONSTRUCTION OFFICIAL ON AN AS NEEDED BASIS

WHEREAS, Resolution No. 287-2021 incorrectly appointed James Cotton to the position of Building Subcode Official; and

WHEREAS, the Township Committee has determined it is necessary to amend said Resolution No. 287-2021 to amend the position of James Cotton to reflect that he was not appointed Temporary Building Subcode Official such that he was only appointed Temporary Construction Official on an as needed basis effective October 12, 2021 at a rate of \$35.00 per hour in accordance with the Salary Ordinance.

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. Resolution No. 287-2021 is amended to reflect the removal of the title of Building Subcode Official for James Cotton and to reflect the appointment of Temporary Construction Official only.

Resolution No. 301-2021

Offered by: Barr

Seconded by: Coggins

Adopted: October 25, 2021

Roll Call Vote:

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

8. Appointing an official to bid at the Tax Sale scheduled for December 7, 2021 at 10:00 a.m.

TOWNSHIP OF UPPER CAPE MAY COUNTY RESOLUTION

RESOLUTION NO. 302-2021

**RE: APPOINTING AN OFFICIAL TO BID AT THE
TAX SALE SCHEDULED FOR DECEMBER 7, 2021**

WHEREAS, a Tax Sale is scheduled to be conducted by the Tax Collector of the Township of Upper on December 7, 2021 at 10:00 A.M.; and

WHEREAS, the Township Committee has duly considered the matter and has determined to take the action hereinafter designated.

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 Municipal Finance Officer, Barbara Ludy and or the Municipal Clerk, Barbara Young are hereby designated and appointed as the officials who may bid at said Tax Sale on behalf of the Township of Upper on the scheduled date, as well as on any other date to which the Tax Sale may be adjourned.
3. The Municipal Finance Officer, Barbara Ludy and or the Municipal Clerk, Barbara Young are hereby authorized to expend on behalf of the Township, up to \$1,000.00 in order to purchase Tax Liens.

Resolution No. 302-2021

Offered by: Coggins

Seconded by: Barr

Adopted: October 25, 2021

Roll Call Vote:

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

9. Appointing Christopher Belles as a part-time employee to the Upper Township Division of Emergency Medical Services.

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

RESOLUTION NO. 303-2021

**RE: APPOINTING CHRISTOPHER BELLES AS A PART-TIME EMPLOYEE TO THE
UPPER TOWNSHIP DIVISION OF EMERGENCY MEDICAL SERVICES**

WHEREAS, a need exists to appoint qualified personnel as part-time employee to the Upper Township Division of Emergency Medical Services to ensure optimal operation; and

WHEREAS, Christopher Belles possesses all the requisite qualifications for appointment to said position; and

WHEREAS, the individual's appointment is conditioned upon successful completion of pre-employment testing; 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. Christopher Belles is hereby conditionally appointed, pending successful completion of pre-employment testing to the Division of Emergency Medical Services as a part-time Emergency Medical Technician at a rate of \$17.00 per hour, in accordance with the Salary Ordinance.
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. 303-2021

Offered by: Corson

Seconded by: Hayes

Adopted: October 25, 2021

Roll Call Vote:

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

10. Appointing Kirby Stiltner as a part-time employee to the Upper Township Division of Emergency Medical Services.

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

RESOLUTION NO. 304-2021

**RE: APPOINTING KIRBY STILTNER AS A PART-TIME EMPLOYEE TO THE
UPPER TOWNSHIP DIVISION OF EMERGENCY MEDICAL SERVICES**

WHEREAS, a need exists to appoint qualified personnel as part-time employee to the Upper Township Division of Emergency Medical Services to ensure optimal operation; and

WHEREAS, Kirby Stiltner possesses all the requisite qualifications for appointment to said position; and

WHEREAS, the individual's appointment is conditioned upon successful completion of pre-employment testing; 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. Kirby Stiltner is hereby conditionally appointed, pending successful completion of pre-employment testing to the Division of Emergency Medical Services as a part-time Emergency Medical Technician at a rate of \$17.00 per hour, in accordance with the Salary Ordinance.
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. 304-2021

Offered by: Corson

Seconded by: Hayes

Adopted: October 25, 2021

Roll Call Vote:

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

11. Appointing William Marsden as a part-time employee to the Upper Township Construction Code Office to serve as Electrical Sub-Code Official.

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

RESOLUTION NO. 305-2021

**RE: APPOINTING WILLIAM MARSDEN AS A PART-TIME EMPLOYEE TO THE
UPPER TOWNSHIP CONSTRUCTION CODE OFFICE TO SERVE AS
ELECTRICAL SUBCODE OFFICIAL**

WHEREAS, a need exists to appoint a part-time employee to the Upper Township Construction Code Office to ensure optimal operation; and

WHEREAS, William Marsden possesses the requisite license as required by the New Jersey Uniform Construction Code to serve as the part-time Electrical Subcode Official; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. William Marsden is hereby provisionally appointed to the Upper Township Construction Code Office pending successful pre-employment testing effective October 26, 2021 to serve as Electrical Subcode Official at an annual salary of \$33,444.00.
3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 305-2021

Offered by: Barr Seconded by: Coggins

Adopted: October 25, 2021

Roll Call Vote:

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

12. Refunding a Zoning Board of Adjustment application fee for Block 647, Lot 19 in the Township of Upper, County of Cape May.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 306-2021

**RE: REFUNDING A ZONING BOARD OF ADJUSTMENT APPLICATION FEE FOR
BLOCK 647, LOT 19 IN THE TOWNSHIP OF UPPER, COUNTY OF CAPE MAY**

WHEREAS, a refund has been recommended by the Upper Township Zoning Board of Adjustments in order to refund monies on an application for Block 647, Lot 19 where a variance for proposed porch construction was found to be unnecessary and the monies were collected in error.

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, Cape May County, that a refund is hereby authorized and the Chief Financial Officer is hereby directed to refund monies as indicated below:

<u>BLOCK/LOT</u>	<u>AMOUNT</u>	<u>NAME</u>
647/19	\$250.00	Matthew & Tracy Hender 304 Burley Road Marmora, NJ 08223

Resolution No. 306-2021

Offered by: Coggins

Seconded by: Barr

Adopted: October 25, 2021

Roll Call Vote:

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

13. Authorizing the disposal of personal property with no market value.

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

RESOLUTION NO. 307-2021

**RE: AUTHORIZING THE DISPOSAL OF PERSONAL PROPERTY
WITH NO MARKET VALUE**

WHEREAS, N.J.S.A. 40A:11-36 authorizes a municipality to sell or dispose of certain personal property or equipment which is not needed for public use; and

WHEREAS, the Township of Upper determines that the property and equipment set forth on Exhibit A attached hereto is not needed for public use and has no market value, and should be disposed of.

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 property and equipment aforementioned on Exhibit A hereto is hereby determined to be useless for any public purpose and is also determined to be of no market value such that the Township Committee directs its disposal.

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. 307-2021

Offered by: Barr

Seconded by: Coggins

Adopted: October 25, 2021

Roll Call Vote:

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

EXHIBIT "A"

Asset	Asset No.	Division No.	Identifying Information
2003 Chevy Blazer	288	Administration	1GNDT13X53K154842

14. Certification of costs for abatement of nuisance on Block 476, Lot 9 and Block 549, Lot 85.

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

RESOLUTION NO. 308-2021

CERTIFICATION OF COSTS FOR ABATEMENT OF NUISANCE ON BLOCK 476, LOT 9 AND BLOCK 549, LOT 85

WHEREAS, pursuant to Township Code Section 11-1, the Code Enforcement Officer is empowered to enforce the Township's Property Maintenance Code; and

WHEREAS, in accordance with Township Code, the Code Enforcement Officer served a notice of violation of Section 11-1.9 (Grass, Weeds and Debris), to the property owner/agent of Block 476, Lot 9 and Block 549, Lot 85; and

WHEREAS, 10 days passed from the date of such notice of violation with no response from the property owner/agent and the Township thereafter remedied the violation; and

WHEREAS, pursuant to Township Code Section 11-1.19(a) and N.J.S.A. 40:48-2.14, the Code Enforcement Officer has certified the costs of remedying the said violations as set forth on the attached list; 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 declares that the costs as set forth on the attached list shall be certified to the Township Tax Collector as a lien against the properties in question which lien shall become and form a part of the taxes assessed and levied upon the properties pursuant to Township Code Section 11-1.19(b) and N.J.S.A. 40:48-2.14.
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. 308-2021

Offered by: Coggins

Seconded by: Barr

Adopted: October 25, 2021

Roll Call Vote:

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

ABATEMENT OF GRASS, WEEDS, AND DEBRIS

<u>BLOCK/LOT</u>	<u>LOCATION</u>	<u>COST</u>	<u>ADMIN FEE</u>	<u>TOTAL</u>
476/9	270 Old Tuckahoe Rd.	\$150.00	\$30.00	\$180.00
549/85	40 Linda Lane	\$150.00	\$30.00	\$180.00

15. Approval of settlement of litigation, Case Number: CPM-L-000277-21.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 309-2021

**RE: APPROVAL OF SETTLEMENT OF LITIGATION
CASE NUMBER: CPM-L-000277-21**

WHEREAS, Linwood Chatten (“Chatten”) brought litigation against the Township of Upper (“Upper Township”) in the Superior Court of New Jersey, Cape May County under Docket Number Case Number: CPM-L-000277-21 related to a dispute pertaining to his employment as an emergency medical technician (the “Litigation”); and

WHEREAS, Upper Township has denied the claims of Chatten and has otherwise indicated an intention to assert various affirmative defenses to Chatten’s allegations; and

WHEREAS, Upper Township and Chatten (collectively, the “Parties”) have participated in extensive settlement discussions related to the resolution of the Litigation, which discussions have led to a proposed settlement which is being recommended by the insurer of Upper Township; and

WHEREAS, that resolution will include both the dismissal of all claims asserted against all parties in the Litigation as well as the provision of full releases from Chatten; and

WHEREAS, Upper Township’s insurance carrier has agreed to fully fund the proposed settlement of the Litigation, subject solely to Upper Township’s deductible and coinsurance obligation; and

WHEREAS, both Chatten and Upper Township, without admission of liability or wrongdoing on the part of either party, and to avoid the uncertainties, expense, and delay inherent in litigation, have determined it to be mutually advantageous to conclusively resolve those claims as set forth in the Litigation, and to otherwise resolve all claims and issues currently existing between them.

NOW, THEREFORE, BE IT RESOLVED by the Committee of the Township of Upper, New Jersey, that the agreement resolving the Litigation be and hereby is APPROVED and that the same may and shall be signed by or on behalf of the Township of Upper by Mayor Richard Palombo.

Resolution No. 309-2021

Offered by: Coggins

Seconded by: Barr

Adopted: October 25, 2021

Roll Call Vote:

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

16. Approval of settlement of litigation, Case Number: CPM-L-111-20/App. Div. Docket No. A-3103-20.

TOWNSHIP OF UPPER

**CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 310-2021

**RE: APPROVAL OF SETTLEMENT OF LITIGATION
CASE NUMBER CPM-L-111-20/APP. DIV. DOCKET NO. A-3103-20**

WHEREAS, the Township of Upper (Upper Township) brought litigation against Whippoorwill Campground, LLC, et al. (Whippoorwill) under Docket Number: CPM-L-111-20/App. Div. Docket No. A-3103-20, in connection with a dispute pertaining to Whippoorwill's use of Township land and failure to obtain land use approvals (the "Litigation"); and

WHEREAS, Upper Township and Whippoorwill (collectively, the "Parties") have participated in extensive settlement discussions related to the resolution of the Litigation, which discussions have led to a proposed settlement; and

WHEREAS, that resolution will include both the dismissal of all claims asserted against all parties in the Litigation as well as the provision of full releases; and

WHEREAS, both Whippoorwill and Upper Township, to avoid the uncertainties, expense, and delay inherent in litigation, have determined it to be mutually advantageous to conclusively resolve those claims as set forth in the Litigation, and to otherwise resolve all claims and issues currently existing between them.

NOW, THEREFORE, BE IT RESOLVED by the Committee of the Township of Upper, New Jersey, that the agreement resolving the Litigation be and hereby is APPROVED and that the same may and shall be signed by or on behalf of the Township of Upper by Mayor Richard Palombo.

Resolution No. 310-2021

Offered by: Coggins

Seconded by: Barr

Adopted: October 25, 2021

Roll Call Vote:

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

17. Authorizing adoption of amendments to the Township's employee handbook to be entitled "Personnel Policies and Procedures Manual" and personnel policies and procedures manual to be entitled "Personnel Policies and Procedures Manual Supervisory Supplement". **Formal Action on this matter was taken after the closed session portion of the meeting.**

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

RESOLUTION NO. 311-2021

**AUTHORIZING ADOPTION OF AMENDMENTS TO THE TOWNSHIP'S
EMPLOYEE HANDBOOK TO BE ENTITLED "PERSONNEL POLICIES AND
PROCEDURES MANUAL" AND PERSONNEL POLICIES AND PROCEDURES MANUAL
TO BE ENTITLED "PERSONNEL POLICIES AND PROCEDURES MANUAL
SUPERVISORY SUPPLEMENT"**

WHEREAS, the Township determined that certain amendments and updates to the Employee Handbook and Personnel Policies and Procedures Manual are required to incorporate changes in State and Federal law and based on recommendations from the Municipal Excess Liability Joint Insurance Fund; and

WHEREAS, the Township determined that it is necessary to distribute a revised Employee Handbook to all employees and a revised Personnel and Policies and Procedures Manual to supervisory employees; and

WHEREAS, the adoption of a revised Personnel Policies and Procedures Manual (currently the Employee Handbook) and a revised Personnel Policies and Procedures Manual Supervisory Supplement (currently the Personnel Policies and Procedures Manual) and distribution of the Personnel and Policies and Procedures Manual and Personnel and Policies and Procedures Manual Supervisory Supplement will protect the interests and rights of both the Township and its employees; and

WHEREAS, the Township has made certain amendments and updates to the current Employee Handbook and the Personnel and Policies and Procedure Manual to conform with the requirements set forth above; and

WHEREAS, the revised Personnel Policies and Procedures Manual and Personnel Policies and Procedures Manual Supervisory Supplement will be distributed to all Township employees, as applicable; and

WHEREAS, the Township employees will acknowledge receipt of the revised Personnel Policies and Procedures Manual and Personnel Policies and Procedures Manual Supervisory Supplement, as applicable; and

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Upper that the aforesaid Personnel Policies and Procedures Manual and Personnel Policies and Procedures Manual Supervisory Supplement be and are hereby accepted and adopted.

BE IT FURTHER RESOLVED, that copies of the Personnel Policies and Procedures Manual and Personnel Policies and Procedures Manual Supervisory Supplement shall be distributed to all employees, as applicable.

BE IT FURTHER RESOLVED, that the Township Administrator be and is hereby authorized to execute such documents and undertake such acts as are reasonable and necessary to accomplish the purposes of this Resolution.

Resolution No. 311-2021

Offered by: Corson

Seconded by: Barr

Adopted: October 25, 2021

Roll Call Vote:

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

ORDINANCES

18. **Public hearing and final adoption of Ordinance No. 014-2021 RE: AN ORDINANCE AUTHORIZING SALE OF LANDS, TO WIT BLOCK 848, LOT 3. During the public hearing portion there were no speakers.** During the public hearing portion there were no speakers. Motion by Edward Barr, second by Curtis Corson, to adopt Ordinance No. 014-2021. 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. 014-2021

**RE: AN ORDINANCE AUTHORIZING SALE OF LANDS,
TO WIT BLOCK 848, LOT 3**

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 848, Lot 3; and

WHEREAS, the Township has received an offer from Scott Buehler, 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 848, Lot 3

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 848, Lot 3

Minimum Bid: \$44,000.00

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: Scott Buehler 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 existing adjacent property which shall not be used to create another building lot such that the subject property's use is restricted to additional land incorporated into an existing developed 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 27TH DAY OF SEPTEMBER, 2021 AT THE TOWNSHIP HALL, AND WAS TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 25TH DAY OF OCTOBER, 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

19. **Introduction and first reading of Ordinance No. 015-2021 RE: AN ORDINANCE REVISING JOB CLASSIFICATIONS AND TITLES AND AMENDING CHAPTER V, ENTITLED “PERSONNEL”, OF THE CODE OF UPPER TOWNSHIP.** Motion by John Coggins, second by Edward Barr, to introduce Ordinance 015-2021 with a public hearing and final adoption scheduled for November 22, 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. 015-2021

**RE: AN ORDINANCE REVISING JOB CLASSIFICATIONS AND TITLES AND
AMENDING CHAPTER V, ENTITLED “PERSONNEL”
OF THE CODE OF UPPER TOWNSHIP**

WHEREAS, the Township Committee of the Township of Upper, finds it necessary to amend Chapter V, entitled “Personnel” of the Code of Upper Township, Sections 5-6.2 and 5-6.3 to modify certain job classifications or job titles to support the continuity of Township business.

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

SECTION 1: Chapter V, entitled “Personnel” of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, Section 5-6.2 shall be amended and supplemented as follows:

Add the Following Positions:

**Assistant Zoning Officer
Code Enforcement Officer
Zoning Officer**

SECTION 2: Chapter V, entitled “Personnel” of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, Section 5-6.3 shall be amended and supplemented as follows:

Delete the Following Positions:

**Code Enforcement Officer
Deputy Zoning Officer
Zoning Officer**

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

SECTION 4: SEVERABILITY: This Ordinance shall be subject to the severability provisions set forth in Section 5-15 of Chapter V of the Code of Upper Township.

SECTION 5: 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 25th DAY OF OCTOBER, 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 ON THE 22nd DAY OF NOVEMBER, 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

20. **Introduction and first reading of Ordinance No. 016-2021 RE: AN ORDINANCE AMENDING ORDINANCE NO. 012-2020 KNOWN AS THE SALARY ORDINANCE FOR THE CALENDAR YEAR 2021.** Motion by John Coggins, second by Edward Barr, to introduce Ordinance 016-2021 with a public hearing and final adoption scheduled for November 22, 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. 016-2021

RE: AN ORDINANCE AMENDING ORDINANCE NO. 012-2020 KNOWN AS THE SALARY ORDINANCE FOR THE CALENDAR YEAR 2021

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

SECTION 1: Ordinance No. 12-2020, known as the Salary Ordinance of 2021 at Section 2, is hereby amended as hereinafter provided to amend existing line items or to add new line items as indicated below:

SECTION 2: SALARIES:

C. CODE ENFORCEMENT / ZONING ENFORCEMENT:

<u>POSITION</u>	<u>MINIMUM</u>	<u>MAX-2021</u>
Zoning Officer	No Min.	\$70,000.00
Temp. Elect. Subcode Official/Inspector	No Min.	\$43.00/hour
Code Enforcement Officer	No Min.	\$35.00/hour
Assistant Zoning Officer	No Min.	\$3,000.00

SECTION 3: SEVERABILITY: If any section, subsection, paragraph, sentence or other part of this Ordinance is adjudged unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Ordinance, but shall be confined in its effects to the section, subsection, paragraph, sentence or other part of this Ordinance directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Ordinance shall remain in full force and effect.

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

SECTION 5: 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 **25th DAY OF OCTOBER, 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 ON THE **22nd DAY OF NOVEMBER, 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

CORRESPONDENCE

NEW BUSINESS

18. **New Jersey Best Practices Worksheet CY2021/SFY2022.** CFO Barbara Ludy reported that the Township has scored a 21 out of 23 on the Best Practices questionnaire, resulting in no impact to the Township's State aid. She stated that one new question this year is has the Township governing body reviewed the feasibility of consolidating the four Fire Districts into one. The municipal attorney recommended that the Committee appoint two Committee members to meet with the Fire District Commissioners to review the matter. Mayor Palombo stressed that the Township is very appreciative of each Fire District and the purpose of the review is only to fulfill the obligations of the Best Practices questionnaire.

UNFINISHED BUSINESS

DISCUSSION

PAYMENT OF BILLS

19. **"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: \$1,747,012.73

Payroll: \$171,446.89

REPORT OF MUNICIPAL DEPARTMENTS

PUBLIC COMMENT

George Dress, Marshallville Road, Tuckahoe, stated that he lives on a private vacated section of Marshallville Road, and on several occasions he has had to call 911. He has given them directions to the house; however, the ambulance still has a very hard time finding the house because they are using GPS and because the road is private it does not come up. He requested assistance on how to solve this issue. It was stated that a sign can be installed designating the name of the street, and a discussion can be had with OC dispatch notifying them of the special designation. The Township will also look into how the road is deeded to see if the road can be turned over to the Township.

Blanche Adams, Woodbine Road, Steelmantown, Upper Township Business Association, stated that they were happy to participate in the Upper Township Health Fair and stated that Janet McBride and staff do a great job organizing the event. She next thanked Paul and the Department of Public Works for installing the UTBA's beautification project planters.

Andrew Shaw, Lake Corson Lane, publicly recognized the Planning and Zoning Boards and Paul Dietrich for participating in the Ocean City Winery hearing at the Agricultural Board. He stated that many neighbors were concerned that the OC Winery development would be approved without the appropriate parking and buffer zones.

Janice Connell, Strathmere, President of the Strathmere Improvement Association, introduced herself as the new president of the SIA and stated that she is looking forward to working with the Committee. She also thanked past SIA president Linda Bateman for her hard work and all she has accomplished for the residents of Strathmere.

Scott Phelps, Route 50, Petersburg, inquired into the Shared Services Agreement with Maurice River and questioned who is responsible if the equipment is damaged. It was stated that Maurice River would have insurance that would cover any damage. Mr. Phelps next questioned who is

responsible for the Township's Facebook page, and complained about a response he received. Mr. Phelps was asked to print out the post and forward it to the Township Administrator.

CLOSED SESSION

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

**TOWNSHIP OF UPPER
RESOLUTION NO. 312-2021
MOTION GOING INTO CLOSED SESSION
OCTOBER 25, 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

- Personnel
- Contract negotiation - Potential Land Exchange
- Contract negotiation - Collective Bargaining Agreement

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 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 John Coggins, second by Edward Barr, 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 9:35 P.M., with a motion by Richard Palombo, second by Kimberly Hayes, and all five Committee members voting in the affirmative. The next regular meeting is scheduled for November 8, 2021 at 7:30 P.M.

Minutes prepared by,

Barbara L. Young, RMC

Municipal Clerk

Bills

78393 10/25/21 10046 IRON KETTLE BBQ & CATERING LLC 1,990.00 3207
78394 10/25/21 A0018 ACTION SUPPLY INC. 343.72 3207
78395 10/25/21 A0091 ATLANTIC CITY ELECTRIC 21,211.36 3207
78396 10/25/21 A0165 ALBERTSONS ACME 960.00 3207
78397 10/25/21 A0193 ATLANTIC INVESTIGATIONS, LLC 694.00 3207
78398 10/25/21 A0212 ANCERO, LLC 120.00 3207
78399 10/25/21 A0239 AT&T MOBILITY NAT'L ACCTS LLC 75.53 3207
78400 10/25/21 B0076 BOND, LAURENCE E. 724.26 3207
78401 10/25/21 B0139 BATTELINI TRANSPORTATION 310.00 3207
78402 10/25/21 B0220 BERGEY'S TRUCK CENTERS 1,115.88 3207
78403 10/25/21 B0248 BARNES LAW GROUP LLC 750.00 3207
78404 10/25/21 C0052 CAPE MAY COUNTY TREASURER 1,562,353.46 3207
78405 10/25/21 C0068 COMCAST 830.17 3207
78406 10/25/21 C0103 St. Maximilian Kolbe 150.00 3207
78407 10/25/21 C0116 CINTAS CORPORATION 12.63 3207
78408 10/25/21 C0143 CODY'S POWER EQUIPMENT 5,030.47 3207
78409 10/25/21 C0223 CASA PAYROLL SERVICE 220.75 3207
78410 10/25/21 C0247 CMRS-FP 2,000.00 3207
78411 10/25/21 C0279 CASA REPORTING SERVICES LLC 201.60 3207
78412 10/25/21 C0307 CNS ACQUISITION CORPORATION 835.00 3207
78413 10/25/21 D0040 DELTA DENTAL OF N.J. INC. 5,968.97 3207
78414 10/25/21 D0181 DISTINCTIVE DECORATING, LLC 6,900.00 3207
78415 10/25/21 E0062 EASTERN SURPLUS & EQUIPMENT CO 740.00 3207
78416 10/25/21 F0003 FRA TECHNOLOGIES, INC. 675.00 3207
78417 10/25/21 F0233 FORERUNNER INDUSTRIES, INC. 7,000.00 3207
78418 10/25/21 G0028 GENTILINI FORD 1,728.02 3207
78419 10/25/21 G0086 W.W. GRAINGER, INC. 246.24 3207
78420 10/25/21 G0141 GENTILINI CHEVROLET 283.69 3207
78421 10/25/21 G0147 GREATAMERICA FINANCIAL SVCS. 196.00 3207
78422 10/25/21 G0182 GOLDENBERG, MACKLER & SAYEGH 80.00 3207
78423 10/25/21 H0097 HERRON, JOANNE R. 39.97 3207
78424 10/25/21 H0172 HYLAND DESIGN GROUP, INC. 1,909.50 3207
78425 10/25/21 K0019 KEL TEX IMPRINTS 1,730.00 3207
78426 10/25/21 K0037 KOHLER, JOHN F 45.89 3207
78427 10/25/21 M0080 McMANIMON, SCOTLAND & BAUMANN 2,483.17 3207
78428 10/25/21 M0088 MC SYSTEMS SOFTWARE LLC 4,000.00 3207
78429 10/25/21 M0247 MORGAN, SCOTT 37.30 3207
78430 10/25/21 M0277 EQUITABLE FINANCIAL LIFE INS. 189.38 3207
78431 10/25/21 M0303 MALEY GIVENS, A PROF CORP 247.00 3207
78432 10/25/21 N0004 NJ-AMERICAN WATER CO. 3.25 3207
78433 10/25/21 N0043 NAPA AUTO PARTS 1,267.31 3207
78434 10/25/21 N0100 N.J. LEAGUE OF MUNICIPALITIES 70.00 3207
78435 10/25/21 N0125 N.J. REGISTRAR'S ASSOCIATION 86.00 3207
78436 10/25/21 N0154 NEW HORIZON COMMUNICATIONS 837.66 3207
78437 10/25/21 O0025 OLD DOMINION BRUSH 5,395.00 3207
78438 10/25/21 O0052 OFFSHORE TRAILER COMPANY LLC 9,195.00 3207
78439 10/25/21 P0032 PEDRONI FUEL CO. 3,202.03 3207
78440 10/25/21 P0036 PENNELLO, DAVID 520.01 3207
78441 10/25/21 P0136 POSTNET 18.60 3207
78442 10/25/21 P0175 PRIEST JR., ANTHONY 125.00 3207
78443 10/25/21 P0176 PLUM LABORATORIES, INC. 1,482.90 3207
78444 10/25/21 P0203 PILOT SUPPLY CO 116.64 3207
78445 10/25/21 R0030 RIGGINS, INC. 615.42 3207
78446 10/25/21 R0100 ROBERTS OXYGEN COMPANY, INC. 113.35 3207
78447 10/25/21 R0119 RUDERMAN, ROTH LLC 18,259.00 3207
78448 10/25/21 R0140 ROBBINS, LINDSAY 42.00 3207
78449 10/25/21 S0051 SEAL MASTER PRODUCTS & SERVICE 14,392.23 3207
78450 10/25/21 S0057 SERVICE TIRE TRUCK CENTERS 623.89 3207
78451 10/25/21 S0134 SO. JERSEY GAS COMPANY 344.11 3207
78452 10/25/21 S0160 STAR LODGE # 65 150.00 3207
78453 10/25/21 S0249 BSN SPORTS 1,892.93 3207
78454 10/25/21 S0254 SHOPRITE 280.71 3207
78455 10/25/21 S0303 SITEONE LANDSCAPE SUPPLY, LLC 919.86 3207
78456 10/25/21 S0362 FRED M. SCHIAVONE CONSTRUCTION 42,983.23 3207
78457 10/25/21 T0080 TREASURER STATE OF N.J. 100.00 3207
78458 10/25/21 T0166 TREASURER, STATE OF NEW JERSEY 191.00 3207

78459 10/25/21 T0179 TUCKAHOE TURF FARMS, INC. 1,320.00 3207
78460 10/25/21 T0180 TRI-COUNTY PEST CONTROL, INC 25.00 3207
78461 10/25/21 V0001 VCI EMERGENCY VEHICLE 4,916.78 3207
78462 10/25/21 V0013 VERIZON WIRELESS 816.84 3207
78463 10/25/21 V0022 VERIZON 409.08 3207
78464 10/25/21 V0025 V.E. RALPH & SON,INC. 966.97 3207
78465 10/25/21 V0052 VIKING TERMITE & PEST CONTROL 155.00 3207
78466 10/25/21 W0030 WEST PUBLISHING CO. 746.97 3207
Total: \$1,747,012.73
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