

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR DECEMBER 6, 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 December 3, 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	Absent
John Coggins	Present
Curtis Corson	Present
Mark Pancoast	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 – November 22, 2021 Regular and Closed Session Minutes

Motion by Curtis Corson, second by John Coggins, to approve the November 22, 2021 Regular and Closed Session Minutes as submitted. During roll call vote all four Committee members present voted in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

Richard Palombo, Mayor reminded community members that there are individuals in the Township that are in need and if someone can help, please continue to donate unwrapped toys for the Toys for Tots program and or donate food for the area food banks and churches.

OTHER REPORTS

Scott Morgan, Township Administrator, reported on Covid-19 cases and vaccinations in the Northeastern USA, in New Jersey and in Cape May County. He reported that there will be two upcoming vaccination clinics taking place in Cape May County. On Tuesday, December 7, 2021, there will be a vaccination clinic at the Cape May County Library and on Wednesday, December 8, 2021 there will be a vaccination clinic at Avalon Community Hall. He next reported that the Cape May County Health Department is requesting to hold a Covid-19 and Flu vaccine clinic at the Upper Township Community Center on January 18, 2022. Lastly, he reported that during the week of

November 15-19th the Upper Township Office of Emergency Management, in conjunction with the Cape May County Prosecutor's Office and the NJ Office of Homeland Security conducted a training class for Active Shooter.

Craig Reeves, Public Works Supervisor, provided an update on leaf collection throughout the Township.

Paul Dietrich, Municipal Engineer, requested permission to register Township employees David Hall and Elizabeth Oaks for a three-day online Planning and Zoning education class. Motion by Richard Palombo, second by Curtis Corson to authorize David Hall and Elizabeth Oaks to attend the three-day online Planning and Zoning education class. During roll call vote all four Committee members present voted in the affirmative. Lastly, he reported that dredging for the Beesley's Point boat ramp is planned for the first or second week of January 2022 and this date will be dependent on the submission of paperwork by the contractor.

RESOLUTIONS

1. Honoring Amy C. Holmes on being named the 2021 Cape May County Volunteer of the Year and the 2021 Upper Township Citizen of the Year.

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

RESOLUTION NO. 328-2021

HONORING AMY C. HOLMES ON BEING NAMED THE 2021 CAPE MAY COUNTY VOLUNTEER OF THE YEAR AND THE 2021 UPPER TOWNSHIP CITIZEN OF THE YEAR

WHEREAS, Upper Township resident, Amy C. Holmes, has been chosen as the "2021 Cape May County Volunteer of the Year" by the Governor's Council on Alcoholism and Drug Abuse, and as the "2021 Upper Township Citizen of the Year" by the Ocean City-Upper Township Rotary Club; and

WHEREAS, these well-deserved honors have been bestowed upon Amy in part for her efforts in providing educational programs for teens and parents on the harmful effects of drug use and underage drinking, and for developing safe, fun, drug and alcohol-free events for Upper Township and Ocean City students; including the Ocean City High School After Prom, Hidden in Plain Sight, If They Had Known, and the 8th Grade Raider Nation Dance; and

WHEREAS, Amy has exemplified a life dedicated to helping others; choosing teaching as her profession, volunteering on mission trips to Haiti, serving as the director of Vacation Bible School, and establishing Cupcake Camp in honor of one of her students whose earthly life was cut short due to cancer; and

WHEREAS, along with her husband Bill, Amy has instilled this life of service to their four children Matthew, Evan, Charis, and Luke, all of whom participate and help their community through volunteerism; and

WHEREAS, it is fitting and proper that Amy be publicly recognized for her generosity, kindness, and service to our community; and

NOW THEREFORE BE IT RESOLVED by the Township Committee of the Township of Upper, on behalf of all citizens, that we extend to our friend, Amy C. Holmes, congratulations on being named the “2021 Cape May County Volunteer of the Year” and the “2021 Upper Township Citizen of the Year” and express our heartfelt gratitude and appreciation for her dedicated service to Upper Township.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper 6th day of December, 2021.

Resolution No. 328-2021

Offered by: Corson

Seconded by: Coggins

Adopted: December 6, 2021

Roll Call Vote:

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

2. Authorizing a first Lease Amendment between the Township of Upper and the New Jersey Transit Corporation for the Tuckahoe Railroad Station.

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

RESOLUTION NO. 329-2021

**RE: AUTHORIZING A FIRST LEASE AMENDMENT BETWEEN
THE TOWNSHIP OF UPPER AND THE NEW JERSEY TRANSIT CORPORATION
FOR THE TUCKAHOE RAILROAD STATION**

WHEREAS, the Township of Upper entered into a Lease Agreement with the New Jersey Transit Corporation on January 1, 1996 for the station parcel consisting of 20,000 square feet on Block 289, Lot 2, on the Official Tax Map of Upper Township, also known as the Tuckahoe Railroad Station; and

WHEREAS, both parties desire to amend the terms of said Agreement; 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 authorizes the Mayor and Township Clerk to sign a First Lease Amendment, attached hereto as Exhibit A, with the New Jersey Transit Corporation for the premises known as the Tuckahoe Railroad Station.
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. 329-2021

Offered by: Coggins

Seconded by: Pancoast

Adopted: December 6, 2021

Roll Call Vote:

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

3. Setting the date and time of the 2022 Reorganization Meeting of the Township of Upper.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 330-2021

**RE: SETTING THE DATE AND TIME OF THE
2022 REORGANIZATION MEETING OF THE TOWNSHIP OF UPPER**

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 annual Reorganization Meeting of the Township Committee shall be held on Friday, January 7, 2022, commencing at 6:00 P.M. at the Upper Township Municipal Building, 2100 Tuckahoe Road, Petersburg, New Jersey.
2. The annual Reorganization Meeting of the Township Committee may be held remotely by electronic means due to a declared emergency.
3. Notification of this meeting shall be given in accordance with the requirements of the Open Public Meetings Act of the State of New Jersey.

Resolution No. 330-2021

Offered by: Corson

Seconded by: Coggins

Adopted: December 6, 2021

Roll Call Vote:

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

4. Accepting the bid and authorizing the execution of a contract with Scarborough Marine Group, LLC of Marmora, New Jersey for the project known as Dredging at Beesley's Point Park at a cost of \$94,900.00.

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

RESOLUTION NO. 331-2021

**RE: ACCEPTING THE BID AND AUTHORIZING THE EXECUTION
OF A CONTRACT WITH SCARBOROUGH MARINE GROUP, LLC OF MARMORA, NEW
JERSEY FOR THE PROJECT KNOWN AS DREDGING AT BEESLEY'S POINT PARK AT
A COST OF \$94,900.00**

WHEREAS, the Township of Upper solicited bids for Dredging at Beesley's Point Park, which bids were received on November 16, 2021; and

WHEREAS, the aforesaid bids were thereafter reviewed by the Chief Financial Officer and the Township Engineer; and

WHEREAS, the Chief Financial Officer and the Township Engineer have submitted a recommendation to the Township Committee with respect to the award of said bid; and

WHEREAS, the Chief Financial Officer of the Township of Upper has certified the availability of funds attached hereto as "Exhibit A" in a sufficient amount to award a contract in the amount of \$94,900.00; and

WHEREAS, the Township intends to take formal action awarding the bid to the lowest responsible bidder as hereinafter provided; 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 hereby accepts the bid submitted by Scarborough Marine Group, LLC, 6 W. Roosevelt Blvd., Marmora, New Jersey for the project known as Dredging at Beesley's Point Park, in the amount of \$94,900.00, subject to the following:

- (A) The Bidder shall comply with all Bid Documents, including the Notice to Bidders, all of which are hereby incorporated herein by this reference.
- (B) The Contract to be entered into must comply in all respects with applicable federal, state and local laws and regulations.

3. The Mayor and Township Clerk are further authorized to execute a Contract with the successful bidder and/or the Chief Financial Officer is hereby authorized, directed and empowered to issue a Purchase Order to the successful bidder in the amount authorized in this Resolution.

Resolution No. 331-2021

Offered by: Coggins

Seconded by: Corson

Adopted: December 6, 2021

Roll Call Vote:

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

5. Directing the distribution of the Township of Upper's net returned surplus funds held in trust by the Atlantic County Municipal Joint Insurance Fund.

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

RESOLUTION NO. 332-2021

**RE: DIRECTING THE DISTRIBUTION OF THE TOWNSHIP OF UPPER'S NET
RETURNED SURPLUS FUNDS HELD IN TRUST BY THE ATLANTIC COUNTY
MUNICIPAL JOINT INSURANCE FUND**

WHEREAS, the Township of Upper hereinafter referred to as MUNICIPALITY, participated as a member municipality of the Atlantic County Municipal Joint Insurance Fund, hereinafter referred to as FUND, for one or more of the following FUND fiscal years beginning January 1, 2007; and

WHEREAS, the FUND is a statutory filed municipal joint insurance fund as defined in N.J.A.C. 11:15-2.1 et seq.; and

WHEREAS, the MUNICIPALITY joined the FUND knowing that membership carries with it joint and several liability with all other member municipalities for each year of the MUNICIPALITY's membership; and

WHEREAS, the MUNICIPALITY understands that the FUND's Executive Committee are the only persons authorized in law to make decisions as to when and how much of any available statutory surplus will be released by the FUND; and

WHEREAS, the MUNICIPALITY understands that the FUND's Executive Committee are the only persons authorized in law to make decisions as to when and how much of any projected deficit will be declared as an additional assessment due to the FUND; and

WHEREAS, the MUNICIPALITY understands that Available Statutory Surplus is defined to be the amount of money in excess of the projected value of claims by line of coverage, plus an actuarially determined value for Incurred But Not Reported claims, subject to the surplus reserve calculations as defined in N.J.A.C. 11:15-4.6 et seq., and subject to review and approval by the Department of Banking and Insurance and Department of Community Affairs, State of New Jersey, prior to release by the Executive Committee of the FUND; and

WHEREAS, the MUNICIPALITY understands that it remains jointly and severally liable into perpetuity despite the earlier release of Available Statutory Surplus due to the possibility that a FUND year wherein a return of Statutory Surplus has been duly authorized could later be presented with a claim for which it could be responsible causing a demand for an additional assessment from each participating member municipality of that FUND year; and

WHEREAS, the MUNICIPALITY understands that it remains jointly and severally liable into perpetuity despite the earlier collection of an additional assessment due to the possibility that a FUND year wherein an additional assessment has been duly authorized could later be presented with a need for additional assessments from each participating member municipality of that FUND year; and

WHEREAS, the MUNICIPALITY understands that its options for directing the distribution of its net share of released Statutory Surplus to be as follows:

1. Direct the FUND to apply the MUNICIPALITY's share to the MUNICIPALITY's premium as a credit in the next FUND fiscal year (N.J.A.C. 11:15-4.21(e)),
 2. Direct the FUND to issue a check to the MUNICIPALITY for the MUNICIPALITY's share,
 3. Direct the FUND to apply the MUNICIPALITY's share to the FUND's Aggregate Excess Loss Contingency Fund (A.E.L.C.F.), which provides member municipalities with an available individual contingency balance for use in satisfying any possible need for a supplemental assessment for any year they were a member and an annual capacity to use all or a portion of a member municipality's available balance in offsetting future premiums,
- or**

4. Direct the FUND to apportion the MUNICIPALITY's share as a stated dollar amount among options 1, 2 and 3 above such that the sum total of allocated dollars equals the amount of the Net Distribution available to the MUNICIPALITY as noted above.

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 MUNICIPALITY does hereby direct the FUND to apply the MUNICIPALITY'S net returned surplus funds, in the amount of \$56,926.00, to the FUND'S A.E.L.C.F.
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. 332-2021

Offered by: Coggins

Seconded by: Corson

Adopted: December 6, 2021

Roll Call Vote:

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

6. Tax refund Block 791, Lot 1.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 333-2021

**TAX REFUND
BLOCK 791, LOT 1**

WHEREAS, certain corrections have been recommended by the Upper Township Tax Collector in order to refund monies; and

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

Resolution No. 333-2021

Offered by: Pancoast

Seconded by: Coggins

Adopted: December 6, 2021

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Barr				X

Coggins	X			
Corson	X			
Pancoast	X			
Palombo	X			

REFUND BLOCK/LOT

791/1

AMOUNT

\$ 3,777.62

NAME

Michael & Lucy Ann McCarthy
277 W. Lincoln Hwy, Unit 201
Exton PA 19341

2021 4th Quarter taxes paid by home owner and Mortgage company.
Home owner is requesting a refund.

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

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 334-2021

**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 (Admin Agent Rentals Wait List)	\$ 150.00
Triad Associates (Market to Affordable Project)	\$ 150.00
Triad Associates (MTA Technical Assistance)	\$ 225.00
Triad Associates (Affirmative Marketing)	\$2,417.69

Resolution No. 334-2021

Offered By: Coggins

Seconded By: Corson

Adopted: December 6, 2021

Roll Call Vote:

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

8. Authorizing contract amendment No. 4F for a decrease of \$4,981.25 with Fred M. Schiavone Construction, Inc., for the Reconstruction of Beesley's Point Park.

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

RESOLUTION NO. 335-2021

**RE: AUTHORIZING CONTRACT AMENDMENT NO. 4F FOR A DECREASE
OF \$4,981.25 WITH FRED M. SCHIAVONE CONSTRUCTION, INC., FOR
THE RECONSTRUCTION OF BEESLEY'S POINT PARK**

WHEREAS, the Township of Upper has awarded the Reconstruction of Beesley's Point Park to Fred M. Schiavone Construction, Inc., of Malaga, NJ 08328; and

WHEREAS, the Township wishes to approve a Contract Amendment to the aforesaid Contract as hereinafter provided; and

WHEREAS, the aggregate amount of Contract Amendment No. 4F, comprising of a decrease of \$4,981.25, shall result in the final adjusted contract amount of \$2,330,021.29; and

WHEREAS, this Contract Amendment 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. Contract Amendment No. 4F for the Reconstruction of Beesley's Point Park contract with Fred M. Schiavone Construction, Inc., is hereby authorized as follows:

Decreases.....\$ -4,981.25

3. A copy of the Contract Amendment detailing the nature and the extent of decreases, together with all other prior Change Orders and Amendments, 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 Contract Amendment 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. 335-2021

Offered By: Coggins

Seconded by: Pancoast

Adopted: December 6, 2021

Roll Call Vote:

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

9. Authorizing final payment and release of retainage to Fred M. Schiavone Construction, Inc., for the Reconstruction of Beesley's Point Park.

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

RESOLUTION NO. 336-2021

**RE: AUTHORIZING FINAL PAYMENT AND RELEASE OF RETAINAGE TO
FRED M. SCHIAVONE CONSTRUCTION, INC., FOR THE RECONSTRUCTION
OF BEESLEY'S POINT PARK**

WHEREAS, the Township of Upper has awarded the Reconstruction of Beesley's Point Park to Fred M. Schiavone Construction, Inc., of Malaga, NJ 08328; and

WHEREAS, the Township has previously authorized Change Orders and Contract Amendments to the aforesaid contract; and

WHEREAS, Fred M. Schiavone Construction, Inc. has submitted an Application and Certificate for Payment for the final payment and closeout of the contract with a final payment in the amount of \$39,146.61; and

WHEREAS, the Township Engineer has certified that all work has been completed and is of acceptable quality in accordance with the contract documents such that Fred M. Schiavone Construction, Inc. is entitled to final payment in the amount of \$39,146.61; and

WHEREAS, the Township Chief Financial Officer has examined and approved the Fred M. Schiavone Construction, Inc. Application and Certificate for Payment; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee of the Township of Upper, County of Cape May, New Jersey hereby authorizes the final payment to Fred M. Schiavone Construction, Inc. in the amount of \$39,146.61.
3. The Chief Financial Officer of the Township of Upper is hereby authorized, directed and empowered to execute any and all necessary documents in order to implement the intent of this Resolution.

Resolution No. 336-2021

Offered By: Coggins

Seconded by: Corson

Adopted: December 6, 2021

Roll Call Vote:

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

10. Authorizing the execution of a NJDEP TWA-1 Application Statements of Consent form regarding 525 Perry Road, Petersburg, Block 477, Lot 4.

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

RESOLUTION NO. 337-2021

**RE: AUTHORIZING THE EXECUTION OF A NJDEP TWA-1 APPLICATION
STATEMENTS OF CONSENT FORM REGARDING 525 PERRY ROAD, PETERSBURG,
BLOCK 477, LOT 4**

WHEREAS, the Upper Township Board of Education c/o Laurie A. Ryan, Adm., (hereinafter referred to as “UTBOE”), has or is about to make application to the New Jersey Department of Environmental Protection (hereinafter “DEP”) for Treatment Works Approval for the Upper Township Middle School, and has requested that the Township complete a portion of DEP Form No. WQM-003, which merely consents to the submission of the application to the DEP and certifies that the project, as proposed, conforms with the requirements of all municipal Ordinances and does not otherwise impose any obligation or liability on the Township; and

WHEREAS, UTBOE must apply to the New Jersey Department of Environmental Protection for Treatment Works Approval in order to replace in kind the existing two 72’ x 180’ septic fields at 525 Perry Road, Block 477, Lot 4 of the municipal tax map of Upper Township, New Jersey; and

WHEREAS, the Township Engineer has informed the Township Committee as to the general nature of the project and has indicated that the Township has no ordinance prohibiting the proposed project; and

WHEREAS, the matter has been considered by the Township Committee and it has been determined that the consent by the Governing Body should be granted to this application to permit the application process to go forward; 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 is hereby authorized to execute on behalf of the Township of Upper a Statements of Consent, Section A-1, in the form attached hereto as Exhibit "A" and said consent shall be completed by inserting therein this Resolution number and the date of its adoption.

3. This Statements of Consent is submitted in conjunction with the application of UTBOE for treatment works approval for the property at Block 477, Lot 4 on the municipal tax map.

4. A certified copy of this Resolution shall be provided to the applicant.

Resolution No. 337-2021

Offered by: Corson

Seconded by: Coggins

Adopted: December 6, 2021

Roll Call Vote:

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

11. Budget Transfers.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 338-2021

RE: BUDGET TRANSFERS

WHEREAS, budgetary transfers between line items can be made after November 1st; and

WHEREAS, it is necessary to make transfers between certain line items of the
Municipal Budget of the Township of Upper.

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 following transfers between line items in the Municipal Budget of the
Township of Upper shall be made immediately:

<u>TO</u>	<u>FROM</u>
CLERK S/W \$1,000.00	ENGINEERING-CONSULTANT \$12,000.00
SPECIAL LITIGATION \$10,000.00	INS PREMIUMS EMPLOYEES \$50,000.00
ZONING BOARD O/E \$3,000.00	REGIONAL DISPATCH \$17,900.00
ZONING/CODE O/E	ROAD REPAIRS & MAINT. O/E

\$200.00
 GENERAL LIABILITY INS.
 \$3,000.00
 CROSSING GUARD S/W
 \$300.00
 EMERGENCY MGT. O/E
 \$6,000.00
 PUBLIC BLDGS & GRDS S/W
 \$1,000.00
 PUBLIC BLDGS & GRDS O/E
 \$10,000.00
 COMP ABSENCE RESERVE
 \$50,000.00
 MISC TIPPING FEES
 \$30,000.00

\$10,000.00
 RECYCLING O/E
 \$5,000.00
 GARBAGE & TRASH O/E
 \$5,000.00
 BOARD OF HEALTH MISC
 \$4,600.00
 MUNICIPAL COURT O/E
 \$10,000.00

Resolution No. 338-2021

Offered by: Coggins

Seconded by: Pancoast

Adopted: December 6, 2021

Roll Call Vote:

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

ORDINANCES

12. Public hearing and final adoption of Ordinance No. 017-2021 RE: AN ORDINANCE AUTHORIZING SALE OF LANDS, TO WIT BLOCK 10, LOTS 124 AND 125.

During the public hearing portion of the Ordinance there were no speakers. Motion by Curtis Corson, second by John Coggins, to adopt Ordinance 017-2021. During roll call vote all four Committee members present voted in the affirmative.

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

ORDINANCE NO. 017-2021

RE: AN ORDINANCE AUTHORIZING SALE OF LANDS, TO WIT BLOCK 10, LOTS 124 AND 125

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 10, Lots 124 and 125; and

WHEREAS, the Township has received an offer from Steven and Maria Benvenuti, (hereinafter jointly "Benvenuti"), the owners 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 lots 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 10, Lots 124 and 125

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 10, Lots 124 and 125

Minimum Bid: \$12,500.00

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: Benvenuti 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 renotice in accordance with the provisions of this Ordinance and N.J.S.A. 40A:12-13.

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

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

SECTION 8: All payments required to be made pursuant to said sale to the Township Clerk must be made by personal check, cash or certified check, or any combination of the foregoing.

All payments required to be made hereunder to a title company or abstract company conducting the closing shall be made in collected funds, that is, by cash, certified check, cashier's check, or wire transfer.

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

IF THE BIDDER IS THE ORIGINAL APPLICANT:

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

IF THE BIDDER IS NOT THE ORIGINAL APPLICANT:

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

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

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

- (G) Any additional fees or costs chargeable by the title company or otherwise necessary to complete the transaction on behalf of the purchaser.

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

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

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

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

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

SECTION 14: The title to be delivered by the Township shall be under and subject to all easements and rights of way, recorded and unrecorded, whether for utilities or for others, and shall also be subject to all conditions, reservations, and restrictions of record, if any. If the title report discloses an unmarketable condition of title, except as specified herein, the remedy of the bidder shall be limited to the return of payments made to the Township of Upper on account of the purchase price and closing costs only. Any and all other amounts paid to the Township shall be non-refundable. This sale is under and subject to any riparian claim which may affect said property. If any such claim exists, it shall be the sole responsibility of the purchaser to meet and satisfy all requirements of the State of New Jersey with respect to said riparian claim and the payment of any compensation to the State of New Jersey on account thereof. Nothing herein shall be construed as obligating the Township of Upper to construct or maintain access roads to any portion of the property being sold. Such property may not

qualify for a building permit due to lack of water supply, lack of sewer or septic facilities, lack of access, inadequate lot size, or other reasons, including those reasons set forth below. The purchaser is required to comply with all applicable zoning, building and health ordinances and codes and regulations. The property being sold may be situated in a Flood Hazard Zone. The Township of Upper makes no warranties or representations, expressed or implied, as to the property being offered for sale, the condition or marketability of the title or any other matter. The Township of Upper makes no warranties or representations, expressed or implied, as to whether or not the property being offered for sale contains wetlands anywhere on the property. The Township makes no warranties or representations as to any matter of an environmental nature, or otherwise, which may prevent or limit building or construction.

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

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

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

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

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

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 8TH DAY OF NOVEMBER, 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 6TH DAY OF DECEMBER, 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

CORRESPONDENCE

NEW BUSINESS

13. **Renewal of Commercial Bingo Hall License.** Motion by Curtis Corson, second by Richard Palombo, to renew the license for 2022. During roll call vote all four Committee members present voted in the affirmative.

14. **Draft 2022 Department of Public Works Resident Information packet.** A resolution for formal action will be placed on the next agenda.

UNFINISHED BUSINESS

DISCUSSION

PAYMENT OF BILLS

15. **“I hereby move that all claims submitted for payment at this meeting be approved and then incorporated in full in the minutes of this meeting.”** Motion by John Coggins, second by Curtis Corson. During roll call vote all four Committee members present voted in the affirmative.

Bills approved for payment: \$2,503,377.27

Payroll: \$187,828.43

REPORT OF MUNICIPAL DEPARTMENTS

16. **Construction Code**

17. **MUA Report**

18. **Tax Collector**

19. **Public Works**

Motion by Richard Palombo, second by Mark Pancoast, to accept the reports as submitted. During roll call vote all four Committee members present voted in the affirmative.

PUBLIC COMMENT

CLOSED SESSION

20. 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. 327-2021
MOTION GOING INTO CLOSED SESSION
DECEMBER 6, 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 - Annual Appointments
- Contract negotiation - Shared Services Agreement with Ocean City for EMS and Fire Suppression to Strathmere
- Contract negotiation - Collective Bargaining Agreement
- Contract negotiation - Shared Services Agreement with Fire Districts for Website Services
- Contract negotiation - Fixed Asset Maintenance
- Litigation - Upper Twp. v. Paynter
-

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

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

Moved by: John Coggins

Motion seconded by: Richard Palombo

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

RECONVENE PUBLIC PORTION OF MEETING

Motion by John Coggins, second by Curtis Corson, to reconvene the public portion of the meeting.

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

ADJOURNMENT

There being no further business this evening the meeting was adjourned at 9:19 P.M., with a motion by John Coggins, second by Curtis Corson, and all four Committee members present voting in the affirmative. The next regular meeting is scheduled for December 13, 2021 at 7:30 P.M.

Minutes prepared by,

Barbara L. Young, RMC
Municipal Clerk

Bill List

78626 12/06/21 N0015 N.J. STATE DEPT. OF HEALTH 2.40 3216
78627 12/06/21 T0071 TOWNSHIP OF UPPER DOG ACCOUNT 5.60 3216
78628 12/06/21 U0028 UPPER TOWNSHIP BD.OF EDUCATION 2,206,698.00 3216
78629 12/06/21 A0018 ACTION SUPPLY INC. 2,480.00 3217
78630 12/06/21 A0035 AIRLINE HYDRAULIC CORP. 154.56 3217
78631 12/06/21 A0091 ATLANTIC CITY ELECTRIC 6,245.27 3217
78632 12/06/21 A0148 ALL HOME RESORT, INC 888.00 3217
78633 12/06/21 A0176 ACTION FLAG COMPANY 139.82 3217
78634 12/06/21 A0212 ANCERO, LLC 1,385.26 3217
78635 12/06/21 A0219 ALTERNATIVE MICROGRAPHICS, INC 2,783.91 3217
78636 12/06/21 A0222 ANZELONE ELECTRIC COMPANY, LLC 486.00 3217
78637 12/06/21 B0035 BELMONT & CRYSTAL SPRINGS 39.90 3217

78638 12/06/21 B0076 BOND,LAURENCE E. 724.26 3217
 78639 12/06/21 B0248 BARNES LAW GROUP LLC 858.27 3217
 78640 12/06/21 C0019 CITY OF OCEAN CITY 7,033.91 3217
 78641 12/06/21 C0042 CAMPBELL SUPPLY COMPANY 791.71 3217
 78642 12/06/21 C0068 COMCAST 1,091.65 3217
 78643 12/06/21 C0131 CINTAS FIRST AID & SAFETY 10.42 3217
 78644 12/06/21 C0223 CASA PAYROLL SERVICE 222.75 3217
 78645 12/06/21 C0246 CRAFT OIL CORPORATION 408.56 3217
 78646 12/06/21 C0247 CMRS-FP 4,000.00 3217
 78647 12/06/21 C0332 COMPUTER SQUARE, INC. 4,500.00 3217
 78648 12/06/21 E0068 EPIC ENVIRONMENTAL 1,140.00 3217
 78649 12/06/21 E0079 EVANS III, WILLIAM 100.96 3217
 78650 12/06/21 G0002 GAGLIONE, WANDA 150.00 3217
 78651 12/06/21 G0037 GOVT FINANCE OFFICER ASN OF NJ 90.00 3217
 78652 12/06/21 G0157 GRANTURK EQUIPMENT CO., INC. 202.84 3217
 78653 12/06/21 G0169 GROFF TRACTOR MID ATLANTIC LLC 151.00 3217
 78654 12/06/21 H0073 HOME DEPOT CRC/GECF 164.90 3217
 78655 12/06/21 H0148 THOMAS H. HEIST INS AGENCY INC 2,416.60 3217
 78656 12/06/21 J0079 JAMES WYERS LANDSCAPING, LLC 350.00 3217
 78657 12/06/21 K0103 KYOCERA DOCUMENT SOLUTIONS 194.65 3217
 78658 12/06/21 M0019 MAXIMUM MARINE,LLC 525.00 3217
 78659 12/06/21 M0174 MCAFEE MEGAN 295.00 3217
 78660 12/06/21 M0277 EQUITABLE FINANCIAL LIFE INS. 186.35 3217
 78661 12/06/21 N0004 NJ-AMERICAN WATER CO. 125.61 3217
 78662 12/06/21 N0043 NAPA AUTO PARTS 1,510.59 3217
 78663 12/06/21 N0100 N.J. LEAGUE OF MUNICIPALITIES 975.00 3217
 78664 12/06/21 N0143 NATIONAL TIME SYSTEMS 371.85 3217
 78665 12/06/21 O0072 ONeil, Joseph 20.00 3217
 78666 12/06/21 P0032 PEDRONI FUEL CO. 2,512.83 3217
 78667 12/06/21 P0136 POSTNET 18.95 3217
 78668 12/06/21 P0175 PRIEST JR., ANTHONY 125.00 3217
 78669 12/06/21 P0204 Palombo, Michelle 44.50 3217
 78670 12/06/21 R0030 RIGGINS, INC. 1,056.70 3217
 78671 12/06/21 R0100 ROBERTS OXYGEN COMPANY, INC. 113.35 3217
 78672 12/06/21 S0018 SUBURBAN PROPANE, LP 120.45 3217
 78673 12/06/21 S0031 SCHULER SECURITY, INC. 310.00 3217
 78674 12/06/21 S0056 SEASHORE ASPHALT CORPORATION 688.24 3217
 78675 12/06/21 S0108 SJNIGP 100.00 3217
 78676 12/06/21 S0113 SMITH,THOMAS G. 525.50 3217
 78677 12/06/21 S0134 SO. JERSEY GAS COMPANY 839.93 3217
 78678 12/06/21 S0139 SOUTH JERSEY WATER COND SERV 374.00 3217
 78679 12/06/21 S0254 SHOPRITE 70.26 3217
 78680 12/06/21 S0320 Smith, Clarence 44.50 3217
 78681 12/06/21 S0362 FRED M. SCHIAVONE CONSTRUCTION 39,146.61 3217
 78682 12/06/21 T0085 TREASURER, STATE OF NEW JERSEY 54.00 3217
 78683 12/06/21 T0168 TOWNSHIP OF UPPER 255.94 3217
 78684 12/06/21 T0213 TREASURER, STATE OF NEW JERSEY 144,220.96 3217
 78685 12/06/21 U0067 UT HEALTH REIMB. ACCOUNT 2,788.51 3217
 78686 12/06/21 V0024 VAL-U AUTO PARTS L.L.C. 916.19 3217
 78687 12/06/21 V0025 V.E. RALPH & SON,INC. 998.60 3217
 78688 12/06/21 V0026 VITAL COMMUNICATIONS, INC. 100.00 3217
 78689 12/06/21 V0027 VANORDER, ROGER 133.15 3217
 78690 12/06/21 V0052 VIKING TERMITE & PEST CONTROL 65.00 3217
 78691 12/06/21 W0048 WINNER FORD OF CHERRY HILL 42,536.00 3217
 78692 12/06/21 Y0008 YOUNG, DANIEL J. ESQUIRE PC 15,297.50 3217
 Total: \$2,503,377.27