

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR MAY 9, 2022**

REGULAR MEETING OF THE TOWNSHIP COMMITTEE – 4:30 P.M.

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

Mayor Corson read the following Open Public meeting notice into the record:
“In compliance with the Open Public Meetings Law, I wish to state that on May 6, 2022, 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

John Coggins	Present
Kimberly R. Hayes	Present
Jay Newman	Present
Mark E. Pancoast	Present
Curtis T. Corson, Jr.	Present

Also present were Municipal Clerk Barbara L. Young, Municipal Engineer Paul Dietrich, Chief Financial Officer Barbara Ludy, Municipal Attorney Daniel Reeves, and Township Administrator Gary DeMarzo.

APPROVAL OF MINUTES - April 25, 2022 Regular and Closed Session Minutes

Motion by Jay Newman, second by Kimberly Hayes, to approve the April 25, 2022 Regular and Closed Session Minutes as submitted. During roll call vote all five Committee members voted in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

Kimberly Hayes, Committeewoman, reported that the Skate Park repairs have been completed and the park is re-open. She thanked the Public Works Department, the Township Engineer, and the Township Administrator for their efforts in getting the park repaired and opened. She stated that the long-term plan is to modernize the whole facility. She next thanked the NJ State Police and the Superintendent of Public Works for their handling of recent vandalism at Amanda’s Field. She next reported that a nine-hole disc golf course will be installed at Amanda’s Field in the next few weeks. Lastly, she gave an update on the upcoming fourth of July event.

Mark Pancoast, Committeeman, thanked the Department of Public Works for their efforts during the recent storm. He stated that beginning on May 16th the DPW will be collecting brush resulting from the recent storm. He next thanked the Township Administrator for finding some cost saving measures with regard to hiring internally in order to promote a more efficient government.

Jay Newman, Committeeman, reported that fortunately the recent storm resulted in very few calls for emergency services. He next reported that the Marmora Fire Company will be holding their 75th Anniversary Celebration on June 11th. More information will be forthcoming. Lastly, he commemorated the 43rd anniversary of the death of Curtis Corson, Sr. who was killed in the line of duty fighting a fire in Marmora.

Curtis Corson, Mayor, reported that the Committee members have been invited to the Memorial Day service on May 30th at 11:00 a.m. at the William Godfrey Memorial Park at Osprey Point.

ADMINISTRATIVE REPORTS

Gary DeMarzo, Township Administrator, thanked the Mayor for the invite to the recent Day of Prayer ceremony and stated it was a well-attended event. He next introduced the Department Heads in attendance and gave a brief rundown of their good work as well as the various matters the Committee has tasked him with.

Daniel Reeves, Municipal Attorney, thanked the Committee for the opportunity to represent the Township and thanked Dan Young for his assistance with the transition.

Paul Dietrich, Municipal Engineer, requested authorization to prepare bid specifications for the Reconstruction of Bayview Drive Phase 4 and Prescott Avenue. Motion by Kimberly Hayes, second by Jay Newman, to approve the request. During roll call vote all five Committee members voted in the affirmative. Mr. Dietrich next requested authorization to prepare bid specifications for Stormwater Pumping in Strathmere which will utilize Coronavirus State and Local Fiscal Recovery Funds. Motion by Jay Newman, second by Mark Pancoast, to approve the request. During roll call vote all five Committee members voted in the affirmative. Lastly, he reported that he recently received a request from a resident for emergency roof repairs. The resident meets the eligibility requirements for the Affordability Assistance Emergency and Health/Safety Repairs program. Motion by Kimberly Hayes, second by John Coggins, to move forward with the process. During roll call vote all five Committee members voted in the affirmative. A resolution for formal action will be placed on a future agenda.

PRESENTATION

- 1. Recognizing Daniel J. Young for his service to the Township of Upper and extending to him our best wishes for his future endeavors.**

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

RESOLUTION NO. 153-2022

**RE: RECOGNIZING DANIEL J. YOUNG
FOR HIS SERVICE TO THE TOWNSHIP OF UPPER
AND EXTENDING TO HIM OUR BEST WISHES FOR HIS FUTURE ENDEAVORS**

WHEREAS, Daniel J. Young has served this Township for over 30 years, beginning as the Attorney for the Planning and Zoning Boards in 1991, and then as the Township Solicitor from March 1, 2003 to April 30, 2022; and

WHEREAS, throughout his tenure Dan has served this Township with honor, wisdom, and an unwavering commitment to fairness and justice; and

WHEREAS, as a natural born teacher, Dan has guided Township Committee members and Township employees through numerous legal issues, projects, and crises, including Strathmere beach replenishments, obtaining public rights to the beach, Strathmere de-annexation, Affordable Housing, the COVID 19 pandemic, and the sale of BL England; successfully protecting this Township and its residents from serious and sometimes frivolous litigation; and

WHEREAS, without fail, Dan has epitomized the highest of ethical standards in all aspects of his life, and has imparted a lasting legacy of honesty, morality, and integrity to all that have known and worked with him; and

WHEREAS, his kindness, his wit, his boundless energy, and superior legal knowledge will be sorely missed; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee on behalf of the citizens of the Township of Upper, in the County of Cape May, and State of New Jersey, that we publicly recognize and honor Daniel J. Young for his service and dedication to our Township and extend to him our best wishes for continued success in all his future endeavors.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 9th day of May, 2022.

2022 BUDGET

2. **Public hearing and final adoption of Ordinance No. 008-2022 RE: CALENDAR YEAR 2022 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14).** During the public hearing portion there were no speakers. Motion by Jay Newman, second by Kimberly Hayes, to adopt Ordinance 008-2022. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CALENDAR YEAR 2022
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET
APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)**

ORDINANCE NO. 008-2022

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to

2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

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

WHEREAS, the Township Committee of the Township of Upper in the County of Cape May finds it advisable and necessary to increase its CY 2022 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township Committee of the Township of Upper hereby determines that a 1.0% increase in the budget for said year, amounting to **\$125,033.41** in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

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

NOW THEREFORE BE IT ORDAINED, by the Township Committee of the Township of Upper, in the County of Cape May a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2022 budget year, the final appropriations of the Township of Upper shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5 %, amounting to **\$437,616.94** and that the CY 2022 municipal budget for the Township of Upper be approved and adopted in accordance with this ordinance; and,

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

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

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

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 28TH DAY OF MARCH, 2022 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 9TH DAY OF MAY, 2022 AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

BARBARA L. YOUNG, TOWNSHIP CLERK
TOWNSHIP OF UPPER

3. Authorizing the reading of the 2022 Annual Municipal Budget by title only.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 154-2022

RE: AUTHORIZING THE READING OF THE 2022

ANNUAL MUNICIPAL BUDGET BY TITLE ONLY

WHEREAS, N.J.S.A. 40:A4-8 authorizes the reading of the budget by title only at the public hearing thereon, provided certain requirements are met; and

WHEREAS, the Township Committee of the Township of Upper is satisfied that such conditions have been satisfied.

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 majority of the full membership concurring, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee of the Township of Upper finds and determines that:

A. At least one (1) week prior to the date of this hearing, a complete copy of the approved budget, as advertised, was posted on the Upper Township Website and in the Township Hall, the principal municipal building of the municipality, and was made available to each person requesting the same during the week immediately preceding the public hearing and is available to each person requesting a copy during the public hearing, as required by N.J.S.A. 40A:4-8.

B. The Township Committee of the Township of Upper hereby determines and declares that the conditions set forth in subsection 1.a and 1.b of N.J.S.A. 40A:4-8 have been met.

C. The Township Committee of the Township of Upper hereby determines that the 2022 Municipal Budget of the Township of Upper shall be read by its title only at the public hearing to be conducted thereon.

Resolution No. 154-2022

Offered by: Hayes

Seconded by: Newman

Adopted: May 9, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

4. 2022 Budget - Public Hearing.

During the public hearing there were no speakers.

RESOLUTION NO. 155-2022 – Second Reading and Public Hearing of the 2022 Municipal Budget. The Clerk read the following resolution into the record:

Be it Resolved by the Township Committee of the Township of Upper, County of Cape May, that the budget hereinbefore set forth is hereby adopted and shall constitute an appropriation for the purposes stated of the sums therein set forth as appropriations, and authorization of the amount of \$4,764,871.78 for municipal purposes.

Motion by Jay Newman, second by Kimberly Hayes, to adopt the 2022 Budget as amended. During roll call vote four Committee members voted in the affirmative. Committeeman Coggins voted no.

5. Local Unit Budget Exam.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 156-2022

LOCAL UNIT BUDGET EXAMINATION

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7 through 7.5 the Township of Upper has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the Township of Upper meets the necessary conditions to participate in the program for the 2022 budget year.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, County of Cape May, that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officers' certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:

- a. Payment of interest and debt redemption charges

- b. Deferred charges and statutory expenditures
- c. Cash deficit of preceding year
- d. Reserve for uncollected taxes
- e. Other reserves and non-disbursement items
- f. Any inclusions of amount required for school purposes

2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at 40A:4-45.3 et seq. are fully met. (Complies with “CAP” law.)

3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.

4. That pursuant to the Local Budget Law:
- a. All estimates of revenue are reasonable, accurate, and correctly stated.
 - b. Items of appropriation are properly set forth.
 - c. In itemization, form, arrangement, and content the budget will permit the exercise of the comptroller function within the municipality.

5. The budget and associated amendments have been introduced, publicly advertised, and adopted in accordance with the relevant provision of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A 40A:4-5 shall not prevent such certification.

6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution be forwarded to the Director of the Division of Local Government Services.

Resolution No. 156-2022

Offered By: Newman

Seconded By: Coggins

Adopted: May 9, 2021

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

CONSENT AGENDA:

ALL RESOLUTIONS LISTED BELOW ARE CONSIDERED TO BE ROUTINE IN NATURE AND WILL BE ENACTED BY ONE MOTION. IF THE MAYOR OR ANY COMMITTEE MEMBER WISHES A PARTICULAR RESOLUTION TO BE CONSIDERED SEPARATELY, IT WILL BE REMOVED FROM THE CONSENT AGENDA AND ACTED ON SEPARATELY.

RESOLUTIONS-CONSENT AGENDA

6. Honoring Nicholas George on attaining the designation of “Eagle Scout”.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 157-2022

**RE: HONORING NICHOLAS GEORGE ON ATTAINING THE
DESIGNATION OF "EAGLE SCOUT"**

WHEREAS, Nicholas George of Troop 79, Seaville, New Jersey has achieved the designation of Eagle Scout in the Boy Scouts of America; and

WHEREAS, the Township of Upper wishes to acknowledge the outstanding accomplishment of this remarkable young man; and

WHEREAS, the Township Committee extends its sincere congratulations to Nicholas on the occasion of his receiving the designation of Eagle Scout and commends him for this outstanding achievement and the completion of his Eagle Scout project which consisted of the installation of a permanent memorial at the New Jersey State Police Atlantic City Expressway Station at Farley Plaza in memory of Trooper Marienus J. Segeren, for the 50th anniversary of his passing, who died in the line of duty serving the citizens of New Jersey; and

WHEREAS, Nicholas also presented a donation of excess funds raised in the amount of \$2,290 to the New Jersey State Police Survivors of the Triangle, a New Jersey Chapter of Concerns of Police Survivors, Inc., which provides resources to assist in the rebuilding of the lives of surviving families of law enforcement officers killed in the line of duty.

NOW, THEREFORE, BE IT RESOLVED that the Township Committee extends its sincere congratulations and best wishes to Nicholas’ parents, family, and friends on this happy occasion; and it is

FURTHER RESOLVED that the Township Committee also extends its congratulations and appreciation to the Scout Masters and others who give so freely and generously of their time for the benefit of our youth.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 9th day of May, 2022.

7. Honoring Christopher Lemmon on attaining the designation of “Eagle Scout”.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 158-2022

**RE: HONORING CHRISTOPHER LEMMON ON ATTAINING THE
DESIGNATION OF "EAGLE SCOUT"**

WHEREAS, Christopher Lemmon of Troop 79, Seaville, New Jersey has achieved the designation of Eagle Scout in the Boy Scouts of America; and

WHEREAS, the Township of Upper wishes to acknowledge the outstanding accomplishment of this remarkable young man; and

WHEREAS, the Township Committee extends its sincere congratulations to Christopher on the occasion of his receiving the designation of Eagle Scout and commends him for this outstanding achievement and the completion of his Eagle Scout project which consisted of creating over 200 wooden hearts as a contribution towards Shore Medical Center for their memorial representing COVID-19 patients who recovered in their hospital; and

WHEREAS, Christopher, aided by troop members and Cub Scouts of Pack 79, created the hearts on posts, painted them in Shore Medical Center’s colors of purple and white and staked them into the hospital’s front lawn, serving as a memorial site for several weeks beginning on July 22, 2021.

NOW, THEREFORE, BE IT RESOLVED that the Township Committee extends its sincere congratulations and best wishes to Christopher’s parents, family, and friends on this happy occasion; and it is

FURTHER RESOLVED that the Township Committee also extends its congratulations and appreciation to Scout Masters Michael Sharp and Scott Halliday and others who give so freely and generously of their time for the benefit of our youth.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 9th day

of May, 2022.

8. Appointing the contact person for the Employment Practices Liability Attorney Consultation Service of the Atlantic County Municipal Joint Insurance Fund.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 159-2022

**RE: APPOINTING THE CONTACT PERSON FOR THE EMPLOYMENT PRACTICES
LIABILITY ATTORNEY CONSULTATION SERVICE OF THE ATLANTIC COUNTY
MUNICIPAL JOINT INSURANCE FUND**

WHEREAS, the Governing Body of the Township of Upper hereinafter referred to as "MUNICIPALITY", is a member of the Atlantic County Municipal Joint Insurance Fund, hereinafter referred to as "FUND"; and

WHEREAS, the FUND has adopted a policy authorizing the Employment Practices Liability Attorney Consultation Service; and

WHEREAS, the Fund had budgeted an annual allowance per member for EPL consulting services; and

WHEREAS, the FUND requires the MUNICIPALITY to designate specific managerial or supervisory individuals who will have telephone access to the EPL Hotline; and

NOW THEREFORE, be it resolved that the governing body of the Township of Upper does hereby appoint Rhonda Sharp, Personnel Officer as its Contact Person.

BE IT FURTHER RESOLVED that the governing body does hereby appoint Gary DeMarzo, Township Administrator as its additional Contact Person.

Resolution No. 159-2022

Offered by: Newman

Seconded by: Hayes

Adopted: May 9, 2022

Roll Call Vote:

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

9. Authorizing the Sustainable Jersey 2022 EDF Climate Corps program application.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 160-2022

**RE: AUTHORIZING THE SUSTAINABLE JERSEY 2022 EDF CLIMATE
CORPS PROGRAM APPLICATION**

WHEREAS, a sustainable community seeks to optimize quality of life for its residents by ensuring that its environmental, economic, and social objectives are balanced and mutually supportive; and

WHEREAS, the Township of Upper strives to save tax dollars, assure clean land, air and water, and improve working and living environments; and

WHEREAS, the Township of Upper is participating in the Sustainable Jersey Program; and

WHEREAS, one of the purposes of the Sustainable Jersey Program is to provide resources to municipalities to make progress on sustainability issues, and they have created the 2022 EDF Climate Corps Program; and

WHEREAS, the Township Committee of the Township of Upper has determined that the Township of Upper should apply for the aforementioned 2022 EDF Climate Corps Program. The assistance will assist the Township in meeting the energy goals of the most recent Plan Endorsement recertification including:

- Develop a community GHG Reduction Action Plan, including GHG reduction targets. GHG reduction actions should be incorporated into land use element of master plan. 1) Conduct Local Government Energy Audit (LGEA) of municipal facilities and operations, at a minimum, and community-wide audits, if feasible, and 2) using the results of these audits, develop action plans for reducing municipal energy consumption and GHG emissions - use NJ's 2020 GHG emissions reduction target as a goal; and
- Energy Tracking & Management - establish energy use baselines, tracking, mgt & reporting systems; and

WHEREAS, the Township of Upper will commit to providing staff support for the duration of the 2022 EDF Climate Corps Program, including access to data for energy projects such as utility billing data.

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

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

2. The submission of the aforementioned application to the 2022 EDF Climate Corps Program is hereby authorized.

3. All Township officials, officers and employees are empowered to take such action as may be necessary or advisable in order to carry out the intent and purpose of this Resolution.

Resolution No. 160-2022

Offered by: Newman

Seconded by: Hayes

Adopted: May 9, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			

Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

10. Authorizing the award of a professional services contract with Dr. Stewart C. Farrell of the Coastal Research Center at Stockton University for shoreline monitoring and consulting services for beach related issues.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 161-2022

**RE: AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT
WITH DR. STEWART C. FARRELL OF THE COASTAL RESEARCH CENTER
AT STOCKTON UNIVERSITY FOR SHORELINE MONITORING AND
CONSULTING SERVICES FOR BEACH RELATED ISSUES**

WHEREAS, the Township of Upper has received a proposal from Dr. Stewart Farrell on behalf of the Coastal Research Center at Stockton University, which outlines shoreline monitoring services to be performed on behalf of the Township during the calendar year 2022 and provides a rate schedule for the services to be provided; and

WHEREAS, the Township Committee has considered this matter and has determined that it is in the best interest of the Township to authorize a Professional Services Contract as hereinafter provided; and

WHEREAS, the Township Solicitor has determined that the services to be provided are professional services and that a contract may be awarded without competitive bid; and

WHEREAS, the Chief Financial Officer has certified the availability of funds to permit the Township to enter into a Professional Services Contract; and

WHEREAS, a Business Entity Disclosure Certification is not required since this contract is with an agency of the state government; and

WHEREAS, the Township has decided to acquire the services of Dr. Stewart C. Farrell of the Coastal Research Center at Stockton University as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The proposal of Dr. Stewart Farrell on behalf of the Coastal Research Center at Stockton University (hereinafter collectively referred to as “Contractor”), is hereby accepted, subject to the provisions of this Resolution.
3. The Mayor and Township Clerk are hereby authorized, directed and empowered to enter into a Professional Services Contract with the Contractor aforesaid for a one (1) year term commencing January 1, 2022. Said Agreement shall be prepared or approved by the Municipal Attorney for the Township of Upper. The Township Clerk is further authorized, directed and empowered to seal said Contract with the seal of the Township of Upper.
4. The Township Clerk shall cause a Notice of Award of this Contract to be published in the official newspaper of the Township as required by N.J.S.A. 40A:11-5.
5. This Contract is a Professional Services Contract and has been awarded without competitive bidding for the following reasons:
 - (A) The services required are highly specialized or technical in nature;
 - (B) The services require peculiar ability or skill, and demand a high degree of specialized knowledge or expertise;
 - (C) The services required are professional services and/or unspecified extraordinary services within the meaning of N.J.S.A. 40A:11-5(a);
 - (D) The individual who will provide these services has demonstrated his competence and particular expertise in the services required; and
 - (E) The services to be provided are such that their nature, scope and duration are not capable of precise measurement, but rather require a flexibility and discretion that render competitive bidding impractical and inefficient.
6. A certified copy of this Resolution shall be provided to the Contractor.
7. This Resolution shall take effect immediately provided, however, that the Contract awarded herein shall be effective as of January 1, 2022.

Resolution No. 161-2022

Offered by: Newman

Seconded by: Hayes

Adopted: May 9, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

11. Amending Resolution No. 20-2022 confirming various positions required by the Atlantic County Municipal Joint Insurance Fund.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 162-2022

**RE: AMENDING RESOLUTION NO. 20-2022 CONFIRMING VARIOUS POSITIONS
REQUIRED BY THE ATLANTIC COUNTY MUNICIPAL JOINT INSURANCE FUND**

WHEREAS, Resolution No. 20-2022, appointing various positions required by the Atlantic County Municipal Joint Insurance Fund, was adopted on January 7, 2022; and

WHEREAS, it is necessary to amend Resolution No. 20-2022 in order to amend the appointments to the Fund Commissioner, Assistant Safety Coordinator, and the Safety and Wellness Committee; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee hereby amends the following appointments as Township representatives or Township committees with respect to Township participation in the Atlantic County JIF:

Fund Commissioner: Gary S. DeMarzo, Township Administrator

Alternate Fund Commissioner: Therese Smuz

Asst. Safety Coordinator: Loren Ready

Safety and Wellness Committee:

Curtis T. Corson, Jr.	
Gary DeMarzo	Alt. James M. Jones
Mellissa Coker	
Loren Ready	
Therese Smuz	Alt. Craig Reeves
Paul Dietrich	

Rhonda Sharp Alt. Patricia Smyth
 Barbara Young Alt. Joanne Herron
 Brian Keenan Alt. Roger VanOrder
 Jeremy Williams

3. A certified copy of this Resolution shall be sent to the Atlantic County Joint Insurance Fund to the attention of Paul Miola, Executive Director and a copy of this Resolution shall be provided to each of the persons named herein.

Resolution No. 162-2022
 Offered by: Newman Second by: Hayes
 Adopted: May 9, 2022
 Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

12. A Resolution appointing Conditional Redeveloper and authorizing execution of a Memorandum of Understanding for Block 479, Lot 76.

**TOWNSHIP OF UPPER
 CAPE MAY COUNTY
 RESOLUTION**

RESOLUTION NO. 163-2022

**RE: A RESOLUTION APPOINTING CONDITIONAL REDEVELOPER AND
 AUTHORIZING EXECUTION OF A MEMORANDUM OF UNDERSTANDING FOR
 BLOCK 479, LOT 76**

WHEREAS, the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1, et seq., as amended and supplemented (the “Redevelopment Law”), provides a process for municipalities to participate in the redevelopment and improvement of areas in need of redevelopment; and

WHEREAS, pursuant to Resolution #30-2021 adopted on January 11, 2021, the Township Committee of the Township of Upper (the “Township Committee”), designated Block 479, Lots 76, 76.01, 94.01, 106.02, 107, 107.01, 108, and 108.01 within the Township of Upper, Cape May County, State of New Jersey (the “Township”) as an “Area in Need of Redevelopment” in accordance with the Redevelopment Law (the “Redevelopment Area”); and

WHEREAS, pursuant to Ordinance #001-2021 adopted on January 25, 2021, the Township Committee adopted a redevelopment plan for the Redevelopment Area (the “Redevelopment Plan”), which sets forth, inter alia, the plans for the rehabilitation and redevelopment of the Township; and

WHEREAS, Ocean Wind, LLC, (the “Conditional Redeveloper”) owns or will own a portion of Block 479, Lot 76 within the Redevelopment Area (the “Property”); and

WHEREAS, the Township has been in discussions with the Conditional Redeveloper regarding the rehabilitation and redevelopment of the Property; and

WHEREAS, the Redevelopment Law, as amended and supplemented, provides for a process for redevelopment entities to enter agreements with redevelopers to carry out and effectuate the terms of a redevelopment plan; and

WHEREAS, in order to stimulate and encourage the economic development of the Township, the Township and Conditional Redeveloper intend to enter into a Redevelopment Agreement for the Property; and

WHEREAS, in such event, the Township desires to designate Ocean Wind, LLC, as Conditional Redeveloper in order to negotiate with Conditional Redeveloper for a period of one hundred and eighty (180) days which period can be extended by mutual written agreement in an effort to agree upon a Redevelopment Agreement for the rehabilitation and redevelopment of the Property; and

WHEREAS, the Township and Conditional Redeveloper desire to memorialize, in writing, their agreement under a non-binding Memorandum of Understanding that evidences the Parties' statement of intent.

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

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. That Ocean Wind, LLC, is hereby designated as "Conditional Redeveloper" for the Property and the Mayor and Township Clerk are hereby authorized to execute a Memorandum of Understanding between the Township and Conditional Redeveloper evidencing the Parties' agreement to conduct exclusive negotiations toward the formulation of a Redevelopment Agreement for the rehabilitation and redevelopment of the Property.
3. This Resolution shall take effect immediately.

Resolution No. 163-2022

Offered by: Newman

Seconded by: Hayes

Adopted: May 9, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

13. Confirming sale of certain land, to wit: Block 848, Lot 3 to Scott Buehler.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 164-2022

**RE: CONFIRMING SALE OF CERTAIN LAND, TO WIT: BLOCK 848, LOT 3
TO SCOTT BUEHLER**

WHEREAS, a public auction land sale was held on April 5, 2022, pursuant to Ordinance No. 014-2021; and

WHEREAS, Scott Buehler submitted the highest bid for the purchase of Block 848, Lot 3; and

WHEREAS, the Township Committee is satisfied that all conditions precedent were complied with and that said sale was conducted in accordance with the requirements of the Ordinance

aforesaid and that proper notice was given to all persons owning property contiguous of the subject property being offered for sale; and

WHEREAS, the Township Committee believes that it is in the public interest to confirm the sale of such parcel.

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 sale of Block 848, Lot 3 to Scott Buehler, at a sale price of \$44,000.00, is hereby confirmed, under and subject to the terms, conditions, and provisions of Ordinance No. 014-2021 and further subject to and conditioned upon the purchasers' compliance with said Ordinance.

3. The Mayor and Township Clerk are hereby authorized, directed and empowered to execute and deliver, on behalf of the Township of Upper, to the aforesaid purchaser, a Quitclaim Deed conveying the Township's right, title and interest in the above described property and the Township Clerk is further authorized, directed and empowered to seal said Deed with the official seal of the Township of Upper.

Resolution No. 164-2022

Offered by: Newman

Seconded by: Hayes

Adopted: May 9, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

14. Authorizing the Historical Preservation Society of Upper Township to hold their annual Strawberry Festival at the Gandy Farmstead on Saturday, May 28, 2022 (rain date May 29, 2022).

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 165-2022

RE: AUTHORIZING THE HISTORICAL PRESERVATION SOCIETY OF UPPER TOWNSHIP TO HOLD THEIR ANNUAL STRAWBERRY FESTIVAL AT THE GANDY FARMSTEAD ON SATURDAY, MAY 28, 2022 (RAIN DATE MAY 29, 2022)

WHEREAS, the Historical Preservation Society of Upper Township, hereinafter “HPSUT”, of PO Box 658, Tuckahoe, NJ 08250, has submitted a proposal to the Upper Township Committee requesting authority to hold their annual Strawberry Festival at the Gandy Farmstead on Saturday May 28, 2022, rain date May 29, 2022, as more particularly specified in their Application for Use of Facilities and event description attached hereto as Exhibit “A”; and

WHEREAS, the HPSUT has provided a Use of Facilities Agreement and an Indemnification and Hold Harmless Agreement in favor of the Township of Upper, its officials, officers and employees in the form attached hereto as Exhibit “B”; and

WHEREAS, the HPSUT has provided general comprehensive liability insurance coverage to the Township in form and substance satisfactory to the Township of Upper’s Risk Management Consultant and which names the Township of Upper, its officials, officers, and employees as an additional insured, attached hereto as Exhibit “C”; and

WHEREAS, appropriate advice and approvals from the Township’s Risk Management Consultant, the New Jersey State Police, and the Division of EMS have been obtained; 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 does hereby grant approval to the HPSUT to hold their annual Strawberry Festival at the Gandy Farmstead on Saturday, May 28, 2022 (rain date May 29, 2022) as specified in this Resolution and in the accompanying Exhibits subject to and conditioned upon the following:

- (A) The event described in this Resolution is carried out by the HPSUT. The HPSUT has no connection, direct or indirect, with the Township of Upper or any of its officials or employees. The HPSUT shall not, in any way, directly or indirectly, represent that their Annual Strawberry Festival is, in any way, associated with or affiliated with the Township of Upper and shall make clear that the event is carried

out with all appropriate governmental and other approvals. Although the Township of Upper has given permission, subject to the terms of this Resolution, to the HPSUT to conduct the proposed event, it must be made clear that the event is not and shall not be considered a Township of Upper sponsored or sanctioned event.

(B) The approval granted herein is subject to all conditions and stipulations as may be recommended or imposed by the Township’s Risk Management Consultant. The Township may revoke this approval if the HPSUT fails to comply with any said condition or recommendation or any other condition of this Resolution.

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. 165-2022

Offered by: Newman

Seconded by: Hayes

Adopted: May 9, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

15. Authorizing the purchase of certain items and for the Chief Financial Officer to withdraw funds in the amount of \$20,256.00 from the account entitled Recycling Trust account for such purposes.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 166-2022

RE: AUTHORIZING THE PURCHASE OF CERTAIN ITEMS AND FOR THE CHIEF FINANCIAL OFFICER TO WITHDRAW FUNDS IN THE AMOUNT OF \$20,256.00 FROM THE ACCOUNT ENTITLED RECYCLING TRUST ACCOUNT FOR SUCH PURPOSES

WHEREAS, it is necessary for the Township of Upper to purchase certain recycling containers; and

WHEREAS, the Township of Upper has available \$20,256.00 in the Recycling Trust account to make such purchases; and

WHEREAS, the Township’s QPA has reviewed and approved the quote from Rudco Products, Inc. of Vineland, New Jersey for 12 recycling containers; and

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

WHEREAS, the Chief Financial Officer of the Township has certified the availability of funds to allow the award of contract for the purchase herein authorized and has certified that adequate funds have been appropriated for this purpose from the Recycling Trust account.

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, Cape May County, New Jersey hereby authorizes the purchase of recycling containers in the amount of \$20,256.00 from Rudco Products, Inc. of Vineland, New Jersey.
3. The Chief Financial Officer of the Township of Upper is hereby authorized, directed and empowered to withdraw funds in the amount of \$20,256.00 from the Recycling Trust Account to pay for the recycling containers and is empowered to execute any and all necessary documents in order to implement the intent of this Resolution.

Resolution No. 166-2022

Offered by: Newman

Seconded by: Hayes

Adopted: May 9, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

16. Accepting the donation of a bench for Golden Oak Lane Park from the Ocean City/Upper Township Rotary Club.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 167-2022

**RE: ACCEPTING THE DONATION OF A BENCH FOR GOLDEN OAK LANE PARK
FROM THE OCEAN CITY/UPPER TOWNSHIP ROTARY CLUB**

WHEREAS, the Ocean City/Upper Township Rotary Club has requested the placement of a bench in Golden Oak Lane Park; and

WHEREAS, the Ocean City/Upper Township Rotary Club will donate the bench to the Township of Upper; and

WHEREAS, the acceptance and installation of the bench will be contingent upon approval of the bench specifications and location by the Township Engineer, the Township Administrator, and the Committee member in charge of Public Buildings and Grounds; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township of Upper hereby accepts the donation of a bench to be placed in Golden Oak Lane Park subject to the following conditions:

1) The Township Engineer, Township Administrator and Township Committee member in charge of Building and Grounds shall approve the bench specifications and location.

2) The Township shall not be responsible for damage to, destruction of or loss of the bench or dedication plaque. The Township is not responsible for replacement of the bench or dedication plaque for any reason.

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.

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

17. Appointing the 2022 season Beach Patrol Personnel.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 168-2022

RE: APPOINTING THE 2022 SEASON BEACH PATROL PERSONNEL

WHEREAS, the individuals hereinafter named have been determined to possess the requisite skills, training and are otherwise eligible for appointment to the position of lifeguard; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The following individuals are appointed as lifeguards in the Township of Upper at

a salary as stated below in accordance with the Salary Ordinance:

RETURNING GUARDS

Culmone, Gabriella	2nd year	\$16.00 per hour
Durst, Corson	2nd year	\$16.00 per hour
Garoh, James	2nd year	\$16.00 per hour
Nilsen, James	2nd year	\$16.00 per hour
Schlucter, William	2nd year	\$16.00 per hour
Fisher, Aiden	3rd year	\$16.70 per hour
Miner, Nate	3rd year	\$16.70 per hour
Connell, Lorna	4th year	\$16.70 per hour
Robbins, Lindsay	4th year	\$16.70 per hour
Chase, Bruckner	5th year	\$17.00 per hour
Chiarello, Eve	5th year	\$17.00 per hour
Eller, Amanda	5th year	\$17.00 per hour
Fisher, Ryan	5th year	\$17.00 per hour
Handley, Brook	5th year	\$17.00 per hour
Handley, Reghan	5th year	\$17.00 per hour
MacMurray, Wayne	5th year	\$17.00 per hour
Steele, Grace	5th year	\$17.00 per hour
Van Gilder, Gregory	5th year	\$17.00 per hour
Boffa, Blake	Senior	\$20.25 per hour

Resolution No. 168-2022

Offered by: Newman

Seconded by: Hayes

Adopted: May 9, 2022

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Coggins	X			
Hayes	X			
Newman	X			
Pancoast	X			
Corson	X			

ORDINANCES

- 18. **Public hearing and final adoption of Ordinance No. 009-2022 RE: BOND ORDINANCE OF THE TOWNSHIP OF UPPER, COUNTY OF CAPE MAY, NEW JERSEY, CANCELLING CERTAIN FUNDED APPROPRIATION BALANCES HERETOFORE PROVIDED FOR VARIOUS CAPITAL PROJECTS AND REAPPROPRIATING SUCH FUNDED APPROPRIATION BALANCES FOR OTHER CAPITAL PROJECTS.** During the public hearing portion there were no speakers. Motion by Mark Pancoast, second by Kimberly Hayes, to adopt Ordinance No. 009-2022. During toll 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. 009-2022

**BOND ORDINANCE OF THE TOWNSHIP OF UPPER,
COUNTY OF CAPE MAY, NEW JERSEY, CANCELLING
CERTAIN FUNDED APPROPRIATION BALANCES
HERETOFORE PROVIDED FOR VARIOUS CAPITAL
PROJECTS AND REAPPROPRIATING SUCH FUNDED
APPROPRIATION BALANCES FOR OTHER CAPITAL
PROJECTS**

BE IT ORDAINED by the Township Committee of the Township of Upper, County of Cape May, New Jersey (not less than two-thirds of all the members thereof affirmatively concurring), pursuant to the provisions of the Local Bond Law, Chapter 169 of the Laws of 1960 of the State of New Jersey, as amended and supplemented ("Local Bond Law"), as follows:

Section 1. The following funded appropriations remaining as a balances in Bond Ordinances #012-2018, duly adopted on September 24, 2018, as amended by #006-2020, duly adopted on July 13, 2020; #020-2019, duly adopted on December 9, 2019; and #010-2020, duly adopted on November 9, 2020, as amended by #003-2021, duly adopted on March 8, 2021 (collectively, the "Ordinances") heretofore adopted by the Township Committee of the Township of Upper, County of Cape May, New Jersey ("Township"), together with the amount of \$19,500 from the Capital Improvement Fund made available for said Ordinances, are no longer necessary for the various purposes set forth below and are hereby cancelled:

Ordinance Number	Improvement Description	Amount to be Cancelled
Section 3(b)(i) of Ordinance #012-2018	Various improvements, including the acquisition and installation of a bandstand, sound system and a pole building for Amanda's Field.	\$60,000
Section 3(b)(i) of Ordinance #012-2018, as re-appropriated by Ordinance #006-2020	Security cameras at the recreation facilities.	\$3,000
Section 3(c)(ii) of Ordinance #012-2018	Acquisition of property at the Community Center, as more specifically described as Block 382, Lots 11.01 and 11.02 on the tax maps of the Township.	\$489,500 (includes \$14,500 from the Capital Improvement Fund)
Section 3(d)(i) of Ordinance #012-2018	The paving project for various roads, Sam's Gulf remediation and bulkhead replacement.	\$110,000
Section 3(a)(i) of Ordinance #020-2019	The acquisition of a side-arm packer.	\$8,700
Section 3(e)(i) of Ordinance #020-2019	The acquisition of portable radios.	\$12,500
Section 3(f) of Ordinance #020-2019	The acquisition of a utility vehicle.	\$21,300
Section 3(a)(i) of Ordinance #010-2020	Acquisition of a backhoe, a utility body pickup with extended cab, pickup trucks with extended cab with plow, a bat-wing mower, an automated trash truck and a leaf truck.	\$33,000
Section 3(a)(ii) of Ordinance #010-2020	The acquisition of a vehicle lift and an air compressor (tow behind).	\$4,000
Section 3(b)(i) of Ordinance #010-2020	Acquisition of digital display signs and the construction of a Caldwell Park press box and grandstand.	\$35,000
Section 3(c)(i) of Ordinance #010-02020	Acquisition of a Kubota for the beach.	\$1,500
Section 3(c)(ii) of Ordinance #010-2020, as amended by Ordinance #003-2021	Acquisition of portable light towers with generator.	\$21,500
Section 3(c)(iii) of Ordinance #010-2020, as amended by Ordinance #003-2021	Acquisition of portable radios.	\$70,000 (includes \$3,500 from the capital improvement fund)
Section 3(e)(ii) of Ordinance #010-2020	Acquisition of a power load stretcher.	\$30,000 (includes \$1,500 from the capital improvement fund)

Total:		<u>\$900,000</u>
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Section 2. The amount of \$900,000, which represents the funded appropriations cancelled from the Ordinances described in Section 1 hereof in the amount of \$880,500, together with the amount of \$19,500 from the Capital Improvement Fund originally made available from the Ordinances, is hereby re-appropriated from said Ordinances for the following:

<u>Purpose</u>	<u>Amount</u>
The acquisition of a drain truck, including all related costs and expenditures incidental thereto.	\$530,000
The acquisition and installation of football lighting, including all related costs and expenditures incidental thereto and further including all work and materials necessary therefor and incidental thereto.	\$200,000
Repairs/construction of Gandy and Train Station roofs, including all work and materials necessary therefor and incidental thereto.	\$80,000
The acquisition of a beach truck, including all related costs and expenditures incidental thereto.	\$40,000
The acquisition of an EMS truck, including all related costs and expenditures incidental thereto.	<u>\$50,000</u>
Total:	<u>\$900,000</u>

Section 3. The remaining funded and unfunded appropriation balances as authorized by the Ordinances shall be unaffected by this ordinance and shall remain available for the uses set forth therein.

Section 4. The period of usefulness of the purposes referred to in Section 2, within the limitations of the Local Bond Law and according to the reasonable lives thereof, is not less than 11.05 years.

Section 5. If required, the Capital Budget shall be amended to conform with the provisions of this ordinance to the extent of any inconsistency therewith, and the resolution promulgated by the Local Finance Board showing full detail of the Capital Budget and Capital Program as approved by the Director of the Division of Local Government Services, is on file with the Township Clerk and available for inspection.

Section 6. The improvements authorized hereby are not current expenses and are general improvements that the Township may lawfully make. No part of the cost of the improvements authorized hereby has been or shall be specially assessed on any property specially benefited thereby.

Section 7. All ordinances, or parts of ordinances, inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 8. This ordinance shall take effect twenty (20) days after the first publication thereof after final passage.

Date of Introduction: March 28, 2022

Date of Final Adoption: May 9, 2022

19. **Public hearing and final adoption of Ordinance No. 010-2022 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XII (CAMPGROUNDS AND TRAILERS), CHAPTER XIX (LAND SUBDIVISION, SITE PLAN AND LAND USE ADMINISTRATION) AND CHAPTER XX (ZONING) OF THE CODE OF UPPER TOWNSHIP.** Committeemen Corson and Newman abstained from this matter. The Municipal Attorney stated that he has received correspondence regarding potential litigation for this Ordinance and recommended that the matter be discussed in closed session prior to any action by the Committee. There was then a motion by Kimberly Hayes, second by Mark Pancoast, to postpone the public hearing of Ordinance 010-2022 to the May 23, 2022 meeting. During roll call vote three Committee members voted in the affirmative. Committeemen Corson and Newman abstained.
20. **Public hearing and final adoption of Ordinance No. 012-2022 RE: AN ORDINANCE VACATING A PORTION OF OCEAN CREST AVENUE, WITHIN THE TOWNSHIP OF UPPER, COUNTY OF CAPE MAY AND STATE OF NEW JERSEY.** During the public hearing portion there were no speakers. Motion by Kimberly Hayes, second by John Coggins to adopt Ordinance No. 012-2022. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE**

ORDINANCE NO. 012-2022

**AN ORDINANCE VACATING A PORTION OF OCEAN CREST AVENUE,
WITHIN THE TOWNSHIP OF UPPER, COUNTY OF CAPE MAY
AND STATE OF NEW JERSEY**

WHEREAS, N.J.S.A. 40:67-1 authorizes the Governing Body of a municipality to adopt an Ordinance, among other things, to vacate any street, highway, lane, alley, square, place or park, or any part thereof, dedicated to public use but not accepted by the municipality, whether or not the same, or any portion, has been actually opened or improved; and

WHEREAS, MSGBM, LLC is the owner of Block 587, Lot 16, and has requested that the Township vacate a portion of Ocean Crest Avenue as described in this Ordinance and has agreed to pay the costs incurred by the Township to vacate said street including the costs of the revisions to the tax map; and

WHEREAS, the Township Committee has duly considered the matter and it appears reasonable to agree to the request since there is no present or foreseeable need or intention to utilize said roadway; and

WHEREAS, it is deemed to be in the public interest to vacate a portion of Ocean Crest Avenue within the Township of Upper, as hereinafter provided.

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: The public right in, along, upon and over the following described land is hereby vacated, surrendered and extinguished:

Description

Vacation of a portion of Ocean Crest Avenue,
as shown on Current Municipal Tax Map Sheet No. 29.01
Palermo Section of Township of Upper

Beginning at the Southwesterly corner of Ocean Avenue (40 feet R.O.W.) and Ocean Crest Avenue (40 feet R.O.W.)

Thence #1: Along Block 587, South 48 Degrees 42 Minutes 00 Seconds West, the distance of 240.0 feet to the Northwest Corner of Ocean Crest Avenue and Pacific Avenue.

Thence #2: Across Ocean Crest Avenue, South 86 degrees 18 Minutes 00 Seconds East the distance of 56.56 feet to the Northeasterly corner of Pacific Avenue and Ocean Crest Avenue.

Thence #3: Along Block 586, North 48 Degrees 42 Minutes 00 Seconds East, the distance of 200.0 feet to the Southeasterly corner of Ocean Crest Avenue and Ocean Avenue.

Thence #4: Across Ocean Crest Avenue, North 41 degrees 18 Minutes 00 Seconds West a distance of 40.00 feet to the point and place of beginning.

SECTION 2: This Ordinance vacates no portion of the street except that portion set forth and described in **SECTION 1** above.

SECTION 3: EXCEPTION: This Ordinance expressly reserves and excepts from vacation all rights and privileges now possessed by public utilities, as defined in R.S. 48:2-13, and by any cable television company, as defined in the "Cable Television Act", P.L. 1972, c. 186, (C.48:5A-1, et seq.), to maintain, repair and replace their existing facilities in, adjacent to, over or under the street, highway, lane, alley, square, place or park, or any part thereof, to be vacated, as hereinabove described.

SECTION 4: REPEALER: All Ordinances or parts of Ordinances inconsistent with this Ordinance 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 11TH DAY OF APRIL, 2022 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 9TH DAY OF MAY, 2022 AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

BARBARA L. YOUNG, TOWNSHIP CLERK
TOWNSHIP OF UPPER

21. **Public hearing and final adoption of Ordinance No. 013-2022 RE: AN ORDINANCE AMENDING ORDINANCE NO. 012-2020 KNOWN AS THE SALARY ORDINANCE FOR THE CALENDAR YEAR 2021.** The Municipal Attorney stated that in consultation with the Township Administrator there is a pending personnel matter that will impact the Salary Ordinance. He recommended waiting until after closed session to have the public hearing on this Ordinance or postponing the public hearing to the next meeting. It was then stated that the same circumstances also apply to Ordinance 014-2022 and Ordinance 015-2022. Motion by Jay Newman, second by Kimberly Hayes to postpone Ordinance 013-2022 to the May 23, 2022 meeting.
22. **Public hearing and final adoption of Ordinance No. 014-2022 RE: AN ORDINANCE REVISING JOB CLASSIFICATIONS AND TITLES AND AMENDING CHAPTER V, ENTITLED “PERSONNEL”, OF THE CODE OF UPPER TOWNSHIP.** Motion by Mark Pancoast, second by Kimberly Hayes, to postpone the public hearing of Ordinance 014-2022 to the May 23, 2022 meeting.
23. **Public hearing and final adoption of Ordinance No. 015-2022 RE: AN ORDINANCE AMENDING ORDINANCE NO. 018-2021 KNOWN AS THE SALARY ORDINANCE FOR THE CALENDAR YEAR 2022.** Motion by Kimberly Hayes, second by Jay Newman, to postpone the public hearing of Ordinance 015-2022 to the May 23, 2022 meeting.

CORRESPONDENCE

NEW BUSINESS

24. **American Legion Aaron Wittkamp Colwell Post 239 requests to hold Raffle RA-550 at the Heritage Links Golf Course, 1375 Route 9 on August 20, 2022.** Motion by John Coggins, second by Kimberly Hayes, to approve the request. During roll call vote all five Committee members voted in the affirmative.
25. **Flood Response Plan (CRS Activity 610).** The Municipal Engineer reported that this plan addresses how efficiently the Township responds to a flood emergency and is required to advance to a class 4 rating in the CRS program. Motion by Curtis Corson, second by Kimberly Hayes, to accept the plan. During roll call vote all five Committee members voted in the affirmative. A resolution for formal action will be placed on the next agenda.

UNFINISHED BUSINESS

DISCUSSION

PAYMENT OF BILLS

26. **“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 Jay Newman, second by John Coggins. During roll call vote all five Committee members voted in the affirmative.

Bills approved for payment: \$298,691.12

Payroll: \$183,976.44

REPORT OF MUNICIPAL DEPARTMENTS

- 27. Animal Control
- 28. Clerk’s Office
- 29. Construction Code
- 30. Division of EMS
- 31. Finance Office
- 32. MUA Report
- 33. Public Works
- 34. Tax Collector

Motion by Curtis Corson, second by Kimberly Hayes, to accept the reports as submitted. During roll call vote all five Committee members voted in the affirmative.

PUBLIC COMMENT

Barbara Murphy Leary, Seaville, thanked the Department of Public Works for cleaning up the Township after the recent storm. She next inquired into the progress on the full exchange at Exit 20 as well as the Town Centers.

Edward DiMarcantonio, Strathmere, inquired into the placement of the port-o-pots in Strathmere this season. It was stated that the port-o-pots will be placed in the same locations on the beach as requested last year. He next inquired into plans to run sewer lines through Strathmere.

Nathalie Neiss, Petersburg, inquired into several items regarding the new Township Administrator, the Petersburg Maintenance Facility, and Township Committee member meeting attendance.

CLOSED SESSION

35. 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. 169-2022
MOTION GOING INTO CLOSED SESSION
May 9, 2022**

I hereby move that a resolution be incorporated into the minutes authorizing the Township Committee to enter into an executive session for the following matters pursuant to the Open Public Meetings Act:

MATTERS

- 1. Personnel
- 2. Contract negotiation - Medical Direction Services

3. Contract negotiation - Shared Service Agreement with Maurice River Township and Cumberland County
4. Contract negotiation - Redevelopment Agreement
5. Potential litigation - Zoning Permit Denials

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: Kimberly Hayes

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

Motion by Curtis Corson, second by Mark Pancoast, to approve the Blood Drive to be held at the Upper Township Community Center and offer a contest for one day off with pay to employees that donate blood. 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 7:16 P.M., with a motion by John Coggins, second by Kimberly Hayes, and all five Committee members voting in the affirmative. The next regular meeting is scheduled for May 23, 2022, at 6:30 P.M.

Minutes prepared by,

Barbara L. Young, RMC
Municipal Clerk

Bills

79466 05/09/22 A0018 ACTION SUPPLY INC. 22.53 3241
 79467 05/09/22 A0025 ADVANTAGE RENTAL & SALES 503.42 3241
 79468 05/09/22 A0091 ATLANTIC CITY ELECTRIC 6,442.25 3241
 79469 05/09/22 A0177 ALADTEC, INC 2,400.00 3241
 79470 05/09/22 A0191 ACTION UNIFORM CO. LLC 67.00 3241
 79471 05/09/22 A0212 ANCERO, LLC 1,628.71 3241
 79472 05/09/22 A0235 AMAZON CAPITAL SERVICES, INC. 119.96 3241
 79473 05/09/22 B0035 BELMONT & CRYSTAL SPRINGS 38.84 3241
 79474 05/09/22 B0076 BOND, LAURENCE E. 767.38 3241
 79475 05/09/22 B0090 BROADLEY'S MDI 1,327.04 3241
 79476 05/09/22 B0248 BARNES LAW GROUP LLC 890.00 3241
 79477 05/09/22 B0282 BEACON ATHLETICS, LLC 489.00 3241
 79478 05/09/22 C0019 CITY OF OCEAN CITY 63,978.50 3241

79479 05/09/22 C0042 CAMPBELL SUPPLY COMPANY 772.20 3241
79480 05/09/22 C0068 COMCAST 989.33 3241
79481 05/09/22 C0143 CODY'S POWER EQUIPMENT 121.49 3241
79482 05/09/22 C0223 CASA PAYROLL SERVICE 219.25 3241
79483 05/09/22 C0254 CHASE, BRUCKNER III 31.75 3241
79484 05/09/22 C0278 TIFFANY A. CUVIELLO, PP, LLC 2,250.00 3241
79485 05/09/22 C0312 CARTER, JONATHAN 41.37 3241
79486 05/09/22 D0186 DOCUTREND, INC. 58.44 3241
79487 05/09/22 F0219 FORTUNE TITLE AGENCY, INC. 350.00 3241
79488 05/09/22 G0028 GENTILINI FORD 305.61 3241
79489 05/09/22 G0086 W.W. GRAINGER, INC. 258.13 3241
79490 05/09/22 G0147 GREATAMERICA FINANCIAL SVCS. 191.00 3241
79491 05/09/22 H0073 HOME DEPOT CRC/GECF 439.00 3241
79492 05/09/22 H0148 THOMAS H. HEIST INS AGENCY INC 1,769.50 3241
79493 05/09/22 J0040 JOHNSON & TOWERS, INC. 677.90 3241
79494 05/09/22 K0007 KACZMARSKI, RICHARD 600.00 3241
79495 05/09/22 K0103 KYOCERA DOCUMENT SOLUTIONS 144.67 3241
79496 05/09/22 L0080 LOWES, INC. 284.96 3241
79497 05/09/22 M0290 MADDEN & MADDEN, PC 2,194.20 3241
79498 05/09/22 N0004 NJ-AMERICAN WATER CO. 108.93 3241
79499 05/09/22 N0094 NEW JERSEY PLANNING OFFICIALS 255.00 3241
79500 05/09/22 P0032 PEDRONI FUEL CO. 5,177.32 3241
79501 05/09/22 P0056 TURF EQUIPMENT AND SUPPLY CO 1,804.68 3241
79502 05/09/22 P0136 POSTNET 1,100.00 3241
79503 05/09/22 P0175 PRIEST JR., ANTHONY 250.00 3241
79504 05/09/22 R0030 RIGGINS, INC. 7,132.01 3241
79505 05/09/22 R0100 ROBERTS OXYGEN COMPANY, INC. 115.35 3241
79506 05/09/22 R0119 RUDERMAN ROTH LLC 13,566.00 3241
79507 05/09/22 S0020 THE HOME DEPOT PRO 669.05 3241
79508 05/09/22 S0031 SCHULER SECURITY, INC. 685.00 3241
79509 05/09/22 S0057 SERVICE TIRE TRUCK CENTERS 4,803.50 3241
79510 05/09/22 S0113 SMITH, THOMAS G. 1,337.58 3241
79511 05/09/22 S0134 SO. JERSEY GAS COMPANY 1,414.17 3241
79512 05/09/22 S0196 STEWART BUSINESS SYSTEMS LLC 274.40 3241
79513 05/09/22 S0209 STAPLES ADVANTAGE 162.20 3241
79514 05/09/22 S0239 SHORE VET. ANIMAL CONTROL LLC 2,300.00 3241
79515 05/09/22 S0254 SHOPRITE 119.56 3241
79516 05/09/22 S0361 SOUTH JERSEY WATER TEST, LLC 372.00 3241
79517 05/09/22 S0363 STARR GENERAL CONTRACTING CORP 855.00 3241
79518 05/09/22 T0168 TOWNSHIP OF UPPER 229.74 3241
79519 05/09/22 T0192 MARSH & McLENNAN AGENCY/TRION 251.75 3241
79520 05/09/22 T0213 TREASURER, STATE OF NEW JERSEY 146,772.49 3241
79521 05/09/22 U0067 UT HEALTH REIMB. ACCOUNT 2,259.15 3241
79522 05/09/22 V0013 VERIZON WIRELESS 337.83 3241
79523 05/09/22 V0025 V.E. RALPH & SON, INC. 655.05 3241
79524 05/09/22 V0052 VIKING TERMITE & PEST CONTROL 10.80 3241
79525 05/09/22 W0038 WILLIAMS, JEREMIAH J. 439.93 3241
79526 05/09/22 Y0003 Y-PERS INC 394.20 3241
79527 05/09/22 Y0008 YOUNG, DANIEL J. ESQUIRE PC 14,465.00 3241
Total: \$298,691.12