

**TOWNSHIP OF UPPER  
2100 TUCKAHOE ROAD  
PETERSBURG, NJ 08270  
CAPE MAY COUNTY  
MINUTES FOR AUGUST 8, 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 August 5, 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 Young, Chief Financial Officer Barbara Ludy, Municipal Engineer Paul Dietrich, Municipal Attorney Daniel Reeves, and Township Administrator Gary DeMarzo.

**APPROVAL OF MINUTES** – July 25, 2022 Regular and Closed Session Minutes

Motion by Jay Newman, second by Mark Pancoast, to approve the July 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**

**Mark Pancoast, Committeeman**, reported that Public Works will be collecting compost twice in August. He next reported that he received a quote from the security professional to add additional security for Caldwell Park. Next, he reported that the virtual leaf collection map should be in place by next month. Last, he made a motion to authorize the Department of Agriculture to conduct a gypsy moth survey in the fall. The motion was seconded by Kimberly Hayes. During roll call vote all five Committee members voted in the affirmative.

**John Coggins, Committeeman**, congratulated Committeewoman Hayes and everyone involved with the installation of the disc golf course at Amanda’s Field. He stated that the public has reacted very favorably, and it is a nice addition to Amanda’s Field.

**Kimberly Hayes, Committeewoman**, reported that she and the Engineer recently met with representatives from the County Open Space program regarding the Skate Park Application. She next reported on the recent vandalism at Caldwell Park and stated that she and Committeeman Pancoast are finding ways to expand security of the area. She also spoke about potentially offering some recreation programs later in the evening. She next made a motion to renew the Township's membership with the Cape May County Chamber of Commerce at a cost of \$750.00. The motion was seconded by Mark Pancoast. During roll call vote all five Committee members voted in the affirmative.

**Jay Newman, Committeeman**, spoke about the continuing problem with holes being dug on the beach. He asked that signage be placed warning against the hazard. He next spoke about several door-to-door solicitation incidents over the weekend. He then gave a brief report on the Beach Patrol's activity for 2022 and the EMS Department's activity for the month of July.

### **ADMINISTRATOR OVERVIEW AND FILING OF REPORTS**

1. Clerk's Office
2. Construction Code
3. Division of EMS
4. MUA Report
5. Public Works
6. Tax Collector Certification of mailing of 2022 Final / 2023 Preliminary tax bills and advice copies.

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

**Gary DeMarzo, Township Administrator**, thanked the State Police for their help with the recent vandalism at Caldwell Park. He next reported that he and mayor Corson had a great meeting with the Strathmere Improvement Association today. Next, he stated that he has received numerous calls regarding door-to-door solicitations. He recommended that residents that are concerned should contact the NJ State Police. He next requested approval for the Chief Financial Officer to attend a 3-day conference at a cost of \$550.00. Motion by Curtis Corson, second by Kimberly Hayes to approve the request. During roll call vote all five Committee members voted in the affirmative. He next thanked EMT Chief Coker for her assistance with the parking in Strathmere. Last, he requested that number 9 be pulled from the consent agenda and moved to the closed session agenda for further discussion.

**Paul Dietrich, Township Engineer**, reported that he is finalizing the design plans for the Reconstruction of Bayview Drive and Prescott Avenue project and will also be sending out notices to affected residents of the upcoming project. He next gave a brief explanation of items 12 and 13 on the consent agenda pertaining to the Township Affordability Assistance and Market to Affordable Programs.

**Barbara Ludy, Chief Financial Officer**, reported on the results of the recent Bond Anticipation Note sale. She stated there were four bidders for the approximately \$3,450,000.00 bond, with the winning bidder at 2.8 percent. The documents will be ready for the Mayor and Clerk to sign later this week.

### **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**

7. Canceling tax on exempt property Block 453, Lot 67, C6702.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 259-2022**

**CANCELING TAX ON EXEMPT PROPERTY  
BLOCK 453, LOT 67, C6702**

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

**WHEREAS**, certain properties became tax exempt for the year 2022; and

**WHEREAS**, Randolph B. Scott is a 100% disabled American veteran residing at 4 Nordic Dr., Unit B, Block 453, Lot 67, C6702 on the municipal tax map of Upper Township, New Jersey; and

**WHEREAS**, the Department of Veterans Affairs has determined that Mr. Scott's 100% permanent wartime service connected disability was effective April 21, 2021; and

**WHEREAS**, Randolph B. Scott made application April 8, 2022; 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. 259-2022

Offered by: Newman

Seconded by: Hayes

Adopted: August 8, 2022

Roll Call Vote:

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

**CANCEL TAX 2022**

**BLOCK/LOT**  
453/67 - C6702

**AMOUNT**  
\$ 3,187.10

**NAME**  
Scott B. Randolph  
4 Nordic Dr., Unit B

100% Totally Disabled Veteran for 2022.

- 8. Canceling & refunding tax on exempt property Block 723, Lot 21.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 260-2022**

**CANCELING & REFUNDING TAX ON EXEMPT PROPERTY  
BLOCK 723, LOT 21**

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

**WHEREAS**, certain properties became tax exempt for the year 2022; and

**WHEREAS**, Charles Griffin is a 100% disabled American veteran residing at 10 Lake Corson Lane, Block 723, Lot 21 on the municipal tax map of Upper Township, New Jersey; and

**WHEREAS**, the Department of Veterans Affairs has determined that Mr. Griffin’s 100% permanent wartime service connected disability was effective February 21, 2022; and

**WHEREAS**, Charles Griffin made application June 1, 2022; 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. 260-2022

Offered by: Newman                      Seconded by: Hayes

Adopted: August 8, 2022

Roll Call Vote:

| NAME     | YES | NO | ABSTAIN | ABSENT |
|----------|-----|----|---------|--------|
| Coggins  |     |    |         |        |
| Hayes    |     |    |         |        |
| Newman   |     |    |         |        |
| Pancoast |     |    |         |        |
| Corson   |     |    |         |        |

**CANCEL TAX 2022**

**BLOCK/LOT**

723/21

**AMOUNT**

\$ 5,582.61

Year 2022 Taxes (After Proration)

**REFUND TAX 2022**

**BLOCK/LOT**

723/21

**AMOUNT**

\$ 2,220.87

1<sup>st</sup> & 2<sup>nd</sup> Quarter 2022 Effective 2/21/2022  
Owner Responsible for 51 days.

9. Authorizing a contract with Mark V. Shourds Consulting, PC for engineering services. **This matter was moved to the closed session agenda for further discussion.**
10. Authorizing member participation in a Cooperative Pricing System for Rock Salt with the County of Cape May.

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

**RESOLUTION NO. 261-2022**

**RE: AUTHORIZING MEMBER PARTICIPATION IN A COOPERATIVE PRICING SYSTEM  
FOR ROCK SALT WITH THE COUNTY OF CAPE MAY**

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**WHEREAS**, N.J.S.A. 40A:11-11(5) authorizes contracting units to establish a Cooperative Pricing System and to enter into Cooperative Pricing Agreements for its administration; and

**WHEREAS**, the County of Cape May, hereinafter referred to as the “Lead Agency” has offered voluntary participation in Cooperative Pricing System 25CMACP for the purchase of goods and services; and

**WHEREAS**, the Township of Upper has duly considered participation in Cooperative Pricing System 25CMACP for the provision of Rock Salt.

**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 hereby authorizes participation in Cooperative Pricing System 25CMACP for the provision of Rock Salt.
3. The Chief Financial Officer is hereby authorized, directed and empowered to execute any and all necessary documents in order to enter into Cooperative Pricing System 25CMACP for the provision of Rock Salt with the Lead Agency.
4. The Lead Agency shall be responsible for complying with the provisions of the Local

Public Contracts Law (N.J.S.A. 40A:11-1 et seq.) and all other provisions of the revised statutes of the State of New Jersey.

5. This resolution shall take effect immediately upon passage.

Resolution No. 261-2022

Offered by: Newman

Seconded by: Hayes

Adopted: August 8, 2022

Roll Call Vote:

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

11. Authorizing a five (5) year extension to the lease between the Township of Upper and Beacon Animal Rescue, Inc. for the property commonly known as the “Former Animal Shelter” located on Butter Road, Palermo, New Jersey.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 262-2022**

**RE: AUTHORIZING A FIVE (5) YEAR EXTENSION TO THE LEASE BETWEEN THE  
TOWNSHIP OF UPPER AND BEACON ANIMAL RESCUE, INC.  
FOR THE PROPERTY COMMONLY KNOWN AS THE “FORMER ANIMAL SHELTER”  
LOCATED ON BUTTER ROAD, PALERMO, NEW JERSEY**

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**WHEREAS**, the Township of Upper entered into a Lease Agreement on September 3, 2004 with Beacon Animal Rescue, Inc. for the land and premises commonly known as the “former Animal Shelter” located on Butter Road, Palermo, New Jersey; and

**WHEREAS**, the Township of Upper and Beacon Animal Rescue, Inc. have extended said Agreement for additional terms in 2005, 2007, 2012, and 2017; and

**WHEREAS**, the Township of Upper and Beacon Animal Rescue, Inc. wish to extend the term of said lease for an additional five years as provided in the Lease Agreement; and

**WHEREAS**, the Township of Upper has received documentation from Beacon Animal Rescue as to their being a publicly supported organization therefore being exempt from federal income

tax under section 501(a) of the Internal Revenue Code as an organization described in section 501 (c)(3);  
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 extends the term of said lease for an additional five years, expiring on September 3, 2027.
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. 262-2022

Offered by: Newman

Seconded by: Hayes

Adopted: August 8, 2022

Roll Call Vote:

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

12. Authorizing a payment from the Affordable Housing Trust Fund of Upper Township pursuant to the Affordability Assistance Program.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 263-2022**

**RE: AUTHORIZING A PAYMENT FROM THE AFFORDABLE HOUSING TRUST FUND OF  
UPPER TOWNSHIP PURSUANT TO THE AFFORDABILITY ASSISTANCE PROGRAM**

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**WHEREAS**, Heather Taman is under contract to purchase property located at 15 Townsend Road, Block No. 612, Lot No. 3, which property is governed by the statutes, ordinances, rules and regulations restricting ownership and use of the property as an Affordable Housing unit which, among other restrictions, restricts the property owner in financing the property or otherwise encumbering the property by way of mortgage, home equity loan, or other form of financing; and

**WHEREAS**, the property owner has requested a Down payment Assistance Program loan from the Affordable Housing Trust Fund; and

**WHEREAS**, the Township is willing to extend a loan to the property owner toward the payment of Down payment Assistance Loan in the amount of \$10,000.00 in order to allow the owner to purchase a deed restricted affordable unit; and

**WHEREAS**, it is appropriate for the Township to enter into an Agreement with the property owner setting forth the terms of the agreement at this time;

**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 Township Committee of the Township of Upper, County of Cape May, New Jersey hereby authorizes the down payment assistance payment pursuant to the terms of the Affordability Assistance Policies and Procedures Manual.
3. The Chief Financial Officer is authorized to release \$10,000.00 to Trident Land Transfer for the Affordable Housing unit located at 15 Townsend Road, Block No. 612, Lot No. 3 pursuant to the Township's Affordability Assistance Program.
4. A copy of the fully executed Agreement shall be kept on file with the Clerk. The original shall be kept in the unit file by the Administrative Agent.

Resolution No. 263-2022

Offered By: Newman

Seconded By: Hayes

Adopted: August 8, 2022

Roll Call Vote:

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

13. Authorizing a payment from the Affordable Housing Trust Fund of Upper Township pursuant to the Market to Affordable Program.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY**



## RESOLUTION

### RESOLUTION NO. 264-2022

#### **RE: AUTHORIZING A PAYMENT FROM THE AFFORDABLE HOUSING TRUST FUND OF UPPER TOWNSHIP PURSUANT TO THE MARKET TO AFFORDABLE PROGRAM**

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**WHEREAS**, Heather Taman is under contract to purchase property located at 15 Townsend Road, Block No. 612, Lot No. 3, which property is governed by the statutes, ordinances, rules and regulations restricting ownership and use of the property as an Affordable Housing unit which, among other restrictions, restricts the property owner in financing the property or otherwise encumbering the property by way of mortgage, home equity loan, or other form of financing; and

**WHEREAS**, the property owner has requested to participate in the Market to Affordable Program; and

**WHEREAS**, the Township is willing to provide a subsidy payment to the property owner toward purchase of the subject property in the amount of \$124,425.00 in order to allow the owner to purchase a deed restricted affordable unit; and

**WHEREAS**, it is appropriate for the Township to enter into an Agreement with the property owner setting forth the terms of the agreement at this time; and

**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 Township Committee of the Township of Upper, County of Cape May, New Jersey hereby authorizes the down payment assistance payment pursuant to the terms of the Affordability Assistance Policies and Procedures Manual.
3. The Chief Financial Officer is authorized to release \$124,425.00 to Trident Land Transfer for the Affordable Housing unit located at 15 Townsend Road, Block No. 612, Lot No. 3 pursuant to the Township's Market to Affordable Program.

Resolution No. 264-2022

Offered By: Newman

Seconded By: Hayes

Adopted: August 8, 2022

Roll Call Vote:

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

14. Resolution and Certification with respect to the 2021 Annual Audit and in compliance with the Local Finance Board of the State of New Jersey.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 265-2022**

**RESOLUTION AND CERTIFICATION WITH RESPECT TO THE 2021 ANNUAL AUDIT AND  
IN COMPLIANCE WITH THE LOCAL FINANCE BOARD OF THE STATE OF NEW JERSEY**

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**WHEREAS**, N.J.S.A. 40A:5-4 required the governing body of every local unit to have made an annual audit of its books, accounts and financial transactions; and

**WHEREAS**, the Annual Report of Audit for the year **2021** has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and

**WHEREAS**, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34; and

**WHEREAS**, the Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled:

GENERAL COMMENTS

AND

RECOMMENDATIONS

**WHEREAS**, the members of the governing body have personally reviewed as a minimum the

Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

GENERAL COMMENTS

AND

RECOMMENDATIONS

as evidenced by the group affidavit form of the governing body; and

**WHEREAS**, such resolution of certification shall be adopted by the governing body no later than forty-five days after the receipt of the annual audit, as per the regulations of the Local Finance Board; and

**WHEREAS**, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

**WHEREAS**, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 - to wit:

R.S.52:27BB-52 -"A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the Director of Local Government Services, under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office."

**NOW, THEREFORE BE IT RESOLVED**, that the governing body of the Township of Upper, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Resolution No. 265-2022

Offered by: Newman

Seconded by: Hayes

Adopted: August 8, 2022

Roll Call Vote:

| NAME    | YES | NO | ABSTAIN | ABSENT |
|---------|-----|----|---------|--------|
| Coggins | X   |    |         |        |
| Hayes   | X   |    |         |        |
| Newman  | X   |    |         |        |

|          |   |  |  |  |
|----------|---|--|--|--|
| Pancoast | X |  |  |  |
| Corson   | X |  |  |  |

**ORDINANCES**

15. **Introduction and first reading of Ordinance No. 020-2022 RE: AN ORDINANCE AUTHORIZING THE SALE OF A 2005 STERLING 750 VACUUM/JETTER TRUCK.** Motion by Jay Newman, second by Mark Pancoast, to introduce Ordinance No. 020-2022 with the public hearing and final adoption scheduled for September 12, 2022. During roll call vote all five Committee members voted in the affirmative.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
ORDINANCE**

**ORDINANCE NO. 020-2022**

**RE: AN ORDINANCE AUTHORIZING THE SALE OF A  
2005 STERLING 750 VACUUM/JETTER TRUCK**

**WHEREAS**, the Township of Upper is the owner, in fee, of a 2005 Sterling 750 Vacuum/Jetter Truck; and

**WHEREAS**, the Township has received an offer from the Township of Dennis to purchase said property; and

**WHEREAS**, after discussion and deliberation the Township Committee is of the opinion that the sale of said property will be in the best interest of both Townships; 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 property commonly known as a 2005 Sterling 750 Vacuum/Jetter Truck - VIN # 2FZAATDC45AN60982 (hereinafter referred to as “Vehicle”), to the Township of Dennis for the price of Ten Thousand Dollars (\$10,000.00) in accordance with N.J.S.A. 40A:12-13(b)(1).

**SECTION 2:** The Vehicle authorized to be sold together with the 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 Vehicle 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 Vehicle 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 3:** The Vehicle shall be sold "AS IS" and "WHERE IS." The Vehicle is sold without warranty of any kind, including, but not limited to, any warranty of merchantability and/or fitness for a particular purpose. The Township of Upper promises that no one else has any legal rights in the Vehicle, and further warrants that there are no liens or encumbrances on the Vehicle, and the Township's title to the Vehicle is clear and merchantable.

**SECTION 4:** Upon receipt of payment, the Township of Upper shall provide a Bill of Sale and transfer the Vehicle title to the Township of Dennis. The Township of Dennis will be the owner thereof with complete responsibility to insure, register, and maintain the Vehicle.

**SECTION 5:** 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 **8<sup>TH</sup> DAY OF AUGUST, 2022** AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE **12<sup>TH</sup> DAY OF SEPTEMBER, 2022 AT 4:30 P.M.** AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY.

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

16. **Introduction and first reading of Ordinance No. 021-2022 RE: AN ORDINANCE AUTHORIZING THE EXCHANGE AND SALE OF CERTAIN PARCELS OF VACANT GROUND WITHIN THE TOWNSHIP OF UPPER TO THE TUCKAHOE VOLUNTEER FIRE COMPANY SUBJECT TO CERTAIN TERMS AND CONDITIONS.** Motion by Jay Newman, second by Mark Pancoast, to introduce Ordinance No. 021-2022 with the public hearing and final adoption scheduled for September 12, 2022. During roll call vote all five Committee members voted in the affirmative.

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

**ORDINANCE NO. 021-2022**

**AUTHORIZING THE EXCHANGE AND SALE OF CERTAIN PARCELS OF VACANT GROUND WITHIN THE TOWNSHIP OF UPPER TO THE TUCKAHOE VOLUNTEER FIRE COMPANY SUBJECT TO CERTAIN TERMS AND CONDITIONS**

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**WHEREAS**, the Township of Upper, (hereinafter “Township”), is the owner, in fee, of certain parcels of vacant ground (the “Township Land”) located within the Township of Upper, County of Cape May, and State of New Jersey; and

**WHEREAS**, the Township has received an offer from the Tuckahoe Volunteer Fire Company, (hereinafter “TVFC”), a duly incorporated volunteer fire company in the Township of Upper, to purchase the Township Land in exchange for a certain parcel of vacant ground owned by TVFC (the “TVFC Land”) within the Township of Upper, County of Cape May, and State of New Jersey; and

**WHEREAS**, after discussion and deliberation, the Township Committee has concluded that Township Land is not needed for Township purposes and the exchange and sale will be in the best interest of the Township; and

**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:** Subject to the provisions hereafter set forth, the Township is authorized to sell to the TVFC the Township Land in exchange for the TVFC Land, more particularly described as follows:

(A) The Township shall convey to the TVFC Block 296, Lots 1 & 2; Block 291, Lots 1 – 14; Block 292, Lots 1 – 20; and Block 295, Lots 1, 2, 5 – 14.

1) The parcels shall be deed restricted so as to provide that the property shall be used only for the purposes of the TVFC, and to render those services or to provide those facilities consistent with such purposes, and not any other purpose, including but not limited to a residential use or building, a commercial business, or a trade or manufacturing business, and that if the property is not used in accordance with that limitation, the property shall revert to the Township of Upper.

2) The TVFC shall maintain the property in compliance with Revised General Ordinance Chapter 11 of the Code of Upper Township.

(B) TVFC shall convey to the Township Block 348, Lot 55.

1) The deed restriction placed on Block 348, Lot 55 in accordance with Ordinance 11-2019, as recorded with the County of Cape May on October 23, 2019, Book D3882, Pages 273-277 shall be terminated upon transfer of the property to the Township.

(C) This transaction shall constitute a sale of the Township Land to the TVFC in accordance with the terms of N.J.S.A. 40A:12-21, where the consideration to be paid to the township shall consist of the TVFC Land.

**SECTION 2:** The exchange and sale of lands authorized in Section 1 hereof is expressly conditioned and contingent upon the following:

- (A) The Township makes no promise or warranty as to the physical condition or status of the title to the Township Land as it is transferred completely AS IS. In the event a defect in the title or physical condition of the land to be received by the TVFC is discovered prior to closing, the TVFC may cancel this exchange and sale whereupon there shall be no further obligations between the parties.
- (B) In the event a defect in the title or physical condition of the land to be received by the Township is discovered prior to closing, the Township may cancel this exchange whereupon there shall be no further obligations between the parties.
- (C) Title reports shall be prepared by a title abstracting company and title underwriter acceptable to the Township and the TVFC. The title reports must, at a minimum, provide evidence that the property to be exchanged is owned, in fee simple, by the parties who shall be conveying same, that title is marketable and insurable at regular rates, and that there are no liens, encumbrances or conditions, reservations or restrictions of record which would interfere with the intended use of the property by the Grantees.
- (D) Any property to be conveyed herein shall be conveyed by Bargain and Sale Deed. The Township shall pay for the cost of the title report and all title company settlement charges for the land to be received by the Township and the TVFC shall pay the cost of the title report and all title company settlement charges for the land to be received by the TVFC. Each party shall



bear the cost of preparation of the deed conveying the property to the other. Each party shall be solely responsible for the cost of title insurance covering the parcels received by such party as a result of the exchange of lands.

- (E) With respect to the property being conveyed by the Township, conveyance is under and subject to any riparian claim which may affect said property. In addition, the Township makes no representation as to the ability of the property to obtain a building permit or any other governmental approval. The property to be transferred by the Township may be situated in a flood hazard zone. The Township makes no warranties or representations, expressed or implied, as to the property being transferred, the condition or marketability of title or any other matter. The Township makes no warranties or representations, expressed or implied, as to whether or not the property being transferred contains wetlands anywhere on the property. The Township makes no warranties or representations, expressed or implied, as to any matter of an environmental nature, or otherwise, which may prevent or limit building or construction or use of the property.

**SECTION 3:** All other ordinances in conflict or inconsistent with this Ordinance are hereby repealed, to the extent of such conflict or inconsistency.

**SECTION 4:** Should any section, paragraph, sentence, clause, or phrase of this ordinance be declared unconstitutional or invalid for any reason, the remaining portions of this ordinance shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this ordinance are hereby declared to be severable.

**SECTION 5:** 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 **8<sup>TH</sup> DAY OF AUGUST, 2022** AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE **12<sup>TH</sup> DAY OF SEPTEMBER, 2022** AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY.

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

17. **Introduction and first reading of Ordinance No. 022-2022 RE: AN ORDINANCE AUTHORIZING THE TOWNSHIP OF UPPER TO PURCHASE THE PROPERTY KNOWN AS BLOCK 566, LOT 1 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF UPPER FOR A NOMINAL CONSIDERATION AND TO ENTER INTO A LEASE AGREEMENT WITH THE COUNTY OF CAPE MAY FOR THE PREMISES KNOWN AS THE “UPPER TOWNSHIP SENIOR CENTER”.** Motion by Jay Newman, second by Mark Pancoast, to introduce Ordinance No. 022-2022 with the public hearing and final adoption scheduled for September 12, 2022. During roll call vote all five Committee members voted in the affirmative.

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

**ORDINANCE NO. 022-2022**

**AN ORDINANCE AUTHORIZING THE TOWNSHIP OF UPPER TO PURCHASE THE PROPERTY KNOWN AS BLOCK 566, LOT 1 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF UPPER FOR A NOMINAL CONSIDERATION AND TO ENTER INTO A LEASE AGREEMENT WITH THE COUNTY OF CAPE MAY FOR THE PREMISES KNOWN AS THE “UPPER TOWNSHIP SENIOR CENTER”**

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**WHEREAS**, pursuant to N.J.S.A. 40A:12-1 et. seq., a municipality may acquire any real property for public use; and

**WHEREAS**, the County of Cape May owns certain real property at Block 566, Lot 1 on the official Tax Map of the Township of Upper, County of Cape May, State of New Jersey, comprised of approximately 10.14 acres, and commonly referred to as 1369 Old Stagecoach Road, Palermo, New Jersey 08230 (“Property”); and

**WHEREAS**, the Township of Upper, desires to purchase the Property from the County of Cape May and continue to use same for public purposes; specifically, the Township of Upper shall subdivide the Property into two properties of approximately 2 and 8.14 acres, with said parcel of 2 acres being leased to the County of Cape May for a nominal amount for the continued operation of a senior center, and the parcel of 8.14 acres being developed into affordable housing for senior citizens; and

**WHEREAS**, the sale of the Property is contingent upon and subject to the Township and County executing a Lease Agreement for the County to continue operating a senior center on the Property; and

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

**SECTION 1: PURCHASE OF BLOCK 566, LOT 1:** The Township of Upper is hereby authorized to purchase from the County of Cape May the property known as Block 566, Lot 1 on the official tax map of the Township of Upper for the nominal consideration of One Dollar (\$1.00) and is further authorized to sign the Contract for Sale of Real Estate which sets forth the terms of the sale and the intended uses of the property.

**SECTION 2: LEASE AGREEMENT FOR SENIOR CENTER:** The Township of Upper is hereby authorized to enter into a Lease Agreement with the County of Cape May for lease of the subdivided parcel of 2 acres, including the building known as the “Upper Township Senior Center” for the annual rent of One Dollar (\$1.00). Said Lease shall be for a term of fifty (50) years, commencing on the date of closing of the sale of Block 566, Lot 1, \_\_\_\_\_ 2022.

**SECTION 3: AUTHORITY OF TOWNSHIP OFFICIALS:** All Township officers, officials, and employees are hereby authorized, empowered, and directed to take any and all action necessary or required in order to carry out the intent and purpose of this Ordinance and for the purpose of carrying out the requirements of the contract between the Township of Upper and the County of Cape May with respect to the purchase and acquisition of Block 566, Lot 1. Without in any way intending to limit the generality of the foregoing, the Mayor and the Township Clerk are expressly authorized, empowered, and directed to sign any and all documents required to be executed in connection with the purchase and acquisition, including, but not limited to the Contract for Sale of Real Estate and the Lease Agreement.

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

**SECTION 5: EFFECTIVE DATE:** This Ordinance shall take effect immediately upon final adoption and publication as required by law.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE **8<sup>TH</sup> DAY OF AUGUST, 2022** AND WILL BE TAKEN UP FOR CONSIDERATION AS TO FINAL ADOPTION AT A PUBLIC HEARING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER TO BE HELD ON THE **12<sup>TH</sup> DAY OF SEPTEMBER, 2022 AT 4:30 P.M.** AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY.

BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.

BARBARA L. YOUNG, TOWNSHIP CLERK  
TOWNSHIP OF UPPER

## **CORRESPONDENCE**

## **NEW BUSINESS**

- 18. Historical Preservation Society of Upper Township request use of the Tuckahoe Train Station grounds for the Tuckahoe Transportation Heritage Festival on September 24, 2022.** Motion by Kimberly Hayes, second by Mark Pancoast, to approve the request. 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**

**PAYMENT OF BILLS**

- 19. **“I hereby move that all claims submitted for payment at this meeting be approved and then incorporated in full in the minutes of this meeting.”** Motion by Jay Newman, second by Mark Pancoast. During roll call vote four Committee members voted in the affirmative. John Coggins voted no.

**Bills approved for payment: \$2,084,807.51**

**Payroll: \$247,387.80**

**PUBLIC COMMENT – LIMITED TO FIVE (5) MINUTES PER PERSON**

**Barbara Leary, Seaville**, spoke about the Life Lock program, door to door solicitors, and electric vehicle charging stations.

**Ray Went, on behalf of Dr. Burger and Dr. Green of Strathmere**, spoke regarding the ongoing complaint his clients and others have with the operation of the Deauville Inn in Strathmere.

**Ted Kingston, Strathmere**, also spoke about the operation of the Deauville Inn.

**Blanch Adams, Steelmantown**, spoke about the Tuckahoe United Methodist Church and their partnership with the Community Food Bank of Southern New Jersey in which a mobile food bank provides food for local families in need. The next date will be on August 24<sup>th</sup> from 9:30 am to 11:30 am in the parking lot of the church. More information is available on the Township’s social media. She next reported on a new member of the Upper Township Business Association, Stratty Paddle Company, located in Whale Beach and offering paddle board fitness and yoga.

**Janice Connell, Strathmere Improvement Association**, thanked Mr. DeMarzo and Mayor Corson for the meeting earlier today and stated that she looks forward to working with the Township on future issues. She also stated that she hopes that the Township will appropriately address the concerns with the Deauville Inn and stated that the SIA is willing to help facilitate a resolution of the issues.

**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. 266-2022  
MOTION GOING INTO CLOSED SESSION  
AUGUST 8, 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. Potential Litigation - Deauville Inn alleged violations
- 3. Contract negotiation - Mark Shourds

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

### **ADJOURNMENT**

There being no further business this evening the meeting was adjourned at 6:09 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 August 22, 2022, at 6:30 P.M.

Minutes prepared by,

Barbara L. Young, RMC  
Municipal Clerk

### **Bill List**

79931 08/08/22 A0017 ATLANTIC CO. MUNICIPAL JIF 112,835.00 3253  
 79932 08/08/22 A0018 ACTION SUPPLY INC. 1,467.22 3253  
 79933 08/08/22 A0025 ADVANTAGE RENTAL & SALES 546.18 3253  
 79934 08/08/22 A0091 ATLANTIC CITY ELECTRIC 29,875.27 3253  
 79935 08/08/22 A0191 ACTION UNIFORM CO. LLC 3,163.00 3253  
 79936 08/08/22 A0212 ANCERO, LLC 9,648.72 3253  
 79937 08/08/22 A0222 ANZELONE ELECTRIC COMPANY, LLC 4,680.00 3253  
 79938 08/08/22 A0235 AMAZON CAPITAL SERVICES, INC. 68.88 3253  
 79939 08/08/22 A0246 A & K EQUIPMENT CO., INC. 3,092.28 3253  
 79940 08/08/22 B0035 BELMONT & CRYSTAL SPRINGS 131.76 3253  
 79941 08/08/22 B0076 BOND, LAURENCE E. 767.38 3253  
 79942 08/08/22 B0090 BROADLEY'S MDI 958.82 3253  
 79943 08/08/22 B0093 BARRY, CORRADO & GRASSI, PC 1,212.50 3253  
 79944 08/08/22 B0220 BERGEY'S TRUCK CENTERS 3,725.92 3253  
 79945 08/08/22 B0278 BUSINESS INFORMATION SYSTEMS 1,423.00 3253  
 79946 08/08/22 C0021 CIVIL SOLUTION A DIVISION 500.00 3253  
 79947 08/08/22 C0052 CAPE MAY COUNTY TREASURER 1,662,897.75 3253  
 79948 08/08/22 C0068 COMCAST 1,113.65 3253  
 79949 08/08/22 C0143 CODY'S POWER EQUIPMENT 116.43 3253  
 79950 08/08/22 C0223 CASA PAYROLL SERVICE 320.00 3253  
 79951 08/08/22 C0247 CMRS-FP 4,000.00 3253  
 79952 08/08/22 C0305 CM3 BUILDING SOLUTIONS, INC. 3,622.50 3253  
 79953 08/08/22 D0129 DINO'S DINER 216.00 3253  
 79954 08/08/22 D0160 DOOR JOCKEY, INC. 297.50 3253  
 79955 08/08/22 D0237 DIETZ, KERRY 125.00 3253  
 79956 08/08/22 D0238 Drewnowski, Bob 20.00 3253  
 79957 08/08/22 E0012 EHRlich PEST CONTROL INC 543.00 3253  
 79958 08/08/22 F0234 Foley, Michael 20.00 3253  
 79959 08/08/22 F0236 Freda, Sharyn 24.05 3253  
 79960 08/08/22 G0014 GARDEN STATE HWY PRODUCTS INC. 450.00 3253  
 79961 08/08/22 G0016 GARDNER HARDWARE INC. 154.19 3253  
 79962 08/08/22 G0147 GREATAMERICA FINANCIAL SVCS. 191.00 3253  
 79963 08/08/22 G0185 Gentilini, Tom 64.50 3253  
 79964 08/08/22 G0199 GLOBAL INTERACTIVE SOLUTIONS 179.88 3253

79965 08/08/22 G0204 GENERAL CODE 1,297.57 3253  
79966 08/08/22 H0002 H.A. DEHART & SON CORP. 100.45 3253  
79967 08/08/22 H0207 HOLLOWAY, NEIL 11,218.20 3253  
79968 08/08/22 J0079 JAMES WYERS LANDSCAPING, LLC 350.00 3253  
79969 08/08/22 J0086 JENKINS, BILL 596.80 3253  
79970 08/08/22 K0086 K D NATIONAL FORCE SECURITY 4,620.00 3253  
79971 08/08/22 K0103 KYOCERA DOCUMENT SOLUTIONS 144.67 3253  
79972 08/08/22 L0007 LC EQUIPMENT, INC. 180.00 3253  
79973 08/08/22 L0031 LORCO PETROLEUM SERVICES 42.00 3253  
79974 08/08/22 M0012 McCAULEY, RICHARD 172.00 3253  
79975 08/08/22 M0032 MARINE RESCUE PRODUCTS,INC. 46.50 3253  
79976 08/08/22 M0046 MASON, DAVID 150.00 3253  
79977 08/08/22 M0217 MUNICIPAL EMERGENCY SERVICES 7,880.00 3253  
79978 08/08/22 M0290 MADDEN & MADDEN, PC 4,127.80 3253  
79979 08/08/22 M0327 MONZO CATANESE HELLEGASS, P.C. 16,665.00 3253  
79980 08/08/22 N0004 NJ-AMERICAN WATER CO. 106.66 3253  
79981 08/08/22 N0043 NAPA AUTO PARTS 344.82 3253  
79982 08/08/22 N0143 NATIONAL TIME SYSTEMS 503.25 3253  
79983 08/08/22 N0154 NEW HORIZON COMMUNICATIONS 838.13 3253  
79984 08/08/22 P0032 PEDRONI FUEL CO. 4,175.89 3253  
79985 08/08/22 P0056 TURF EQUIPMENT AND SUPPLY CO 686.62 3253  
79986 08/08/22 Q0014 QBE SPECIALTY INSURANCE CO. 5,442.50 3253  
79987 08/08/22 R0030 RIGGINS, INC. 6,648.15 3253  
79988 08/08/22 R0100 ROBERTS OXYGEN COMPANY, INC. 302.80 3253  
79989 08/08/22 R0119 RUDERMAN ROTH LLC 8,056.00 3253  
79990 08/08/22 S0001 SAM'S CLUB 133.82 3253  
79991 08/08/22 S0020 THE HOME DEPOT PRO 252.42 3253  
79992 08/08/22 S0056 SEASHORE ASPHALT CORPORATION 1,150.20 3253  
79993 08/08/22 S0057 SERVICE TIRE TRUCK CENTERS 283.40 3253  
79994 08/08/22 S0109 SNAP-ON-INDUSTRIAL 140.35 3253  
79995 08/08/22 S0113 SMITH,THOMAS G. 908.09 3253  
79996 08/08/22 S0134 SO. JERSEY GAS COMPANY 351.10 3253  
79997 08/08/22 S0139 SOUTH JERSEY WATER COND SERV 135.00 3253  
79998 08/08/22 S0209 STAPLES ADVANTAGE 160.72 3253  
79999 08/08/22 S0254 SHOPRITE 117.09 3253  
80000 08/08/22 S0304 Steelman, Frank 35.00 3253  
80001 08/08/22 S0363 STARR GENERAL CONTRACTING CORP 3,688.00 3253  
80002 08/08/22 T0080 TREASURER STATE OF N.J. 1,386.00 3253  
80003 08/08/22 T0168 TOWNSHIP OF UPPER 235.65 3253  
80004 08/08/22 T0180 TRI-COUNTY PEST CONTROL, INC 25.00 3253  
80005 08/08/22 T0192 MARSH & McLENNAN AGENCY/TRION 256.50 3253  
80006 08/08/22 T0213 TREASURER, STATE OF NEW JERSEY 147,134.00 3253  
80007 08/08/22 U0067 UT HEALTH REIMB. ACCOUNT 2,409.92 3253  
80008 08/08/22 V0013 VERIZON WIRELESS 437.99 3253  
80009 08/08/22 V0024 VAL-U AUTO PARTS L.L.C. 705.67 3253  
80010 08/08/22 V0025 V.E. RALPH & SON,INC. 993.31 3253  
80011 08/08/22 V0052 VIKING TERMITE & PEST CONTROL 70.20 3253  
80012 08/08/22 W0087 W.B. MASON EGG HARBOR 61.36 3253  
80013 08/08/22 W0131 WEX BANK 139.53 3253  
80014 08/08/22 Y0008 YOUNG, DANIEL J. ESQUIRE PC 450.00 3253  
Total: 2,084,807.51