

**TOWNSHIP OF UPPER  
2100 TUCKAHOE ROAD  
PETERSBURG, NJ 08270  
CAPE MAY COUNTY  
MINUTES FOR AUGUST 22, 2022**

**REGULAR MEETING OF THE TOWNSHIP COMMITTEE – 6:30 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 19, 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** – August 8, 2022, Regular and Closed Session Minutes

Motion by Jay Newman, second by Kimberly Hayes, to approve the August 8, 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**

**John Coggins, Committeeman**, requested that residents be cautious and alert with the increase in activities at Township facilities and children riding their bikes back and forth. He also urged parents to ensure that their children are wearing reflective clothing when riding their bikes in the evening.

**Kimberly Hayes, Committeewoman**, reported that the Football Association has installed a new scoreboard at Caldwell Park. She thanked Eric Reich Asset Management, Action Supply, and Sturdy Savings bank for donating the funds for the scoreboard, and thanked JJ Klebar, Kevin Mitchell, Greg Borcky for their help with the installation. She spoke about a recent scrimmage held at Caldwell Park during which there was a group of unruly teenagers. She stated that the NJSP was able to have a presence at the next scrimmage on Saturday, and the bad behavior was successfully managed. She reported that she is looking into providing different types of youth programs for those children that are not involved with sports. She next reported that the Fall Fest will be held on October 9<sup>th</sup>. She

stated that Ludlam Brewery has applied to hold a beer garden at the event. She made a motion, second by Jay Newman, to authorize the event pending the adoption of Ordinance No. 019-2022. There was a brief discussion during which Mayor Corson expressed his concerns with having alcohol at Township events. During roll call vote three Committeemen voted in the affirmative. Mayor Corson and Committeeman Coggins voted no.

**Mark Pancoast, Committeeman**, reported that he would like to establish a program that recognizes employees. He suggested having an employee newsletter which will spotlight an employee doing exceptional work each month.

**Jay Newman, Committeeman**, spoke about the excellent EMS dispatch services this past weekend.

**Curtis Corson, Mayor**, reported that he and the Township Administrator recently met with the Strathmere Improvement Association and stated that the meeting was well attended and went very well.

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

**Gary DeMarzo, Administrator**, recognized the Seaville Tavern for the delicious meal he had there while attending a meeting. He next spoke about a recent incident with door-to-door solicitation and thanked Lt. Rocap, Trooper Steinhauer, Trooper Scott, and Trooper Varga for their assistance. He encouraged any resident that is having an issue with door-to-door solicitation to call the New Jersey State Police.

**Paul Dietrich, Township Engineer**, reported that the Geographic Information System provider has enabled the GIS viewer for public use.

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

1. **Animal Control**
2. **Finance Office**
3. **Municipal Court**
4. **Tax Collector**

### **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**

5. Accepting the Surety Bond from and transferring the 2022 Mining License to Mojave Materials, LLC for the mining operation located on Block 414, Lot 45 and Block 451, Lot 4.

## **TOWNSHIP OF UPPER CAPE MAY COUNTY RESOLUTION**

### **RESOLUTION NO. 267-2022**

**RE: ACCEPTING THE SURETY BOND FROM AND TRANSFERRING THE 2022 MINING LICENSE TO MOJAVE MATERIALS, LLC FOR THE MINING OPERATION LOCATED ON BLOCK 414, LOT 45 AND BLOCK 451, LOT 4**

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**WHEREAS**, Chapter XV of the Code of Upper Township sets forth the requirements to obtain a license for excavating, digging or mining of sand, soil, gravel or earth within the Township, including the requirement to submit a performance surety in accordance with Chapter XIX, Land Subdivision, prior to the issuance of a mining license; and

**WHEREAS**, said surety shall guarantee the performance of the requirements of N.J.A.C. 7:50-6.68 and 6.69, and shall be for an amount in accordance with the Municipal Engineer's certified estimate; and

**WHEREAS**, on June 14, 2022, the George Harms Construction Company, Inc. sold the property known as Block 414, Lot 45 and Block 451, Lot 41 on the official tax map of the Township of Upper, also known as Caldwell Pit, to Mojave Materials, LLC; and

**WHEREAS**, Mojave Materials, LLC has submitted to the Township a 2022 Mining Re-License Application, including Surety Bond No. 30157330 in the amount of \$25,304.95, for the mining operation located on Block 414, Lot 45, and Block 451, Lot 4; and

**WHEREAS**, the Municipal Attorney has reviewed said Re-License Application and said Surety Bond and has determined that the same complies with the New Jersey Statutes and the Township Ordinances applicable thereto and has recommended the acceptance of same by the Township 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 Mining License for the 2022 license year for Block 414, Lot 45 and Block 451, Lot 4 is hereby transferred to Mojave Materials, LLC.
3. Surety Bond No. 30157330 is hereby accepted and approved.
4. All Township officials and officers are hereby authorized and empowered to take all actions deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 267-2022

Offered by: Newman

Seconded by: Pancoast

Adopted: August 22, 2022

Roll Call Vote:

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

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

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 268-2022**

**RE: AUTHORIZE PAYMENTS FROM THE  
AFFORDABLE HOUSING TRUST FUND OF UPPER TOWNSHIP**

**WHEREAS**, the Township of Upper adopted an Affordable Housing Trust Fund Spending Plan (hereinafter “Spending Plan”) on April 30, 2012 pursuant to Resolution No. 105-2012; and

**WHEREAS**, the Township of Upper replaced this Spending Plan pursuant to Resolution No. 167-2020 adopted on May 26, 2020 and consistent with P.L. 2008, c.46 COAH regulations and the Fair Share Housing Center Settlement Agreement, which was subsequently approved by the Court on June 30, 2020 in connection with the Township’s Declaratory Judgment Action; and

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

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

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

**NOW, THEREFORE, BE IT RESOLVED**, by the Township Committee of the

Township of Upper, Cape May County, and State of New Jersey, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Chief Financial Officer is authorized to release the following funds pursuant to

the Township’s Market to Affordable Program:

Triad Associates	\$ 150.00
(Waitlist Maintenance)	
(AA Technical Assistance)	\$ 937.50
(Admin Agent Rentals Wait List)	<u>\$ 450.00</u>
	<u>\$1,537.50</u>

Resolution No. 268-2022

Offered By: Newman    Seconded By: Pancoast

Adopted: August 22, 2022

Roll Call Vote:

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

7. A Resolution authorizing execution of an amended Memorandum of Understanding for Block 479, Lots 76, 76.01 and 94.01.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 269-2022**

**RE: A RESOLUTION AUTHORIZING EXECUTION OF AN  
AMENDED MEMORANDUM OF UNDERSTANDING FOR  
BLOCK 479, LOTS 76, 76.01 AND 94.01**

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**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 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 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**, Beesley's Point Development Group, LLC (the “Conditional Redeveloper”) is the owner of property within the Redevelopment Area, known as Block 479, Lots 76.01, and 94.01; and a portion of Block 479, Lot 76 (the “Property”); and

**WHEREAS**, the Redevelopment Law, specifically N.J.S.A. 40A:12A-8(f), authorizes the Township to arrange or contract with a redeveloper for the planning, construction or undertaking of any project or redevelopment work in an area designated as an area in need of redevelopment; and

**WHEREAS**, pursuant to Resolution #083-2022, the Township and the Conditional Redeveloper entered into a Memorandum of Understanding dated Mach 28, 2022, in order to exclusively negotiate with Conditional Redeveloper for a period of one hundred and eighty (180) days in an effort to agree upon a Redevelopment Agreement for the rehabilitation and redevelopment of the Property (the “MOU”); and

**WHEREAS**, the Township continues to have discussions with the Conditional Redeveloper regarding the rehabilitation and redevelopment of the Property and the Township and Conditional Redeveloper have determined that additional time is necessary for negotiation of a Redevelopment Agreement; and

**WHEREAS**, the MOU provides that the period of time to negotiate can be extended by the Parties’ mutual written agreement; and

**WHEREAS**, the Township Committee has determined that it is in the best interest of the Township to enter into an Amended Memorandum of Understanding extending the time for exclusive negotiations under the MOU for an additional one hundred and eighty (180) days from the expiration of the MOU.

**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. The time for exclusive negotiation between the Township of Upper and Beesley's Point Development Group, LLC for the redevelopment of the Property is hereby extended for an additional one hundred and eighty (180) days from the expiration of the MOU.
3. The Township Committee does hereby authorize the Mayor and the Township Clerk to execute the Amended Memorandum of Understanding between the 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.
4. This Resolution shall take effect immediately.

Resolution No. 269-2022

Offered By: Newman    Seconded By: Pancoast

Adopted: August 22, 2022

Roll Call Vote:

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

8. Appointing Michael Linz as Temporary Supervising Emergency Medical Technician to the Upper Township Division of Emergency Medical Services.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 270-2022**

**RE: APPOINTING MICHAEL LINZ AS TEMPORARY SUPERVISING EMERGENCY  
MEDICAL TECHNICIAN TO THE  
UPPER TOWNSHIP DIVISION OF EMERGENCY MEDICAL SERVICES**

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**WHEREAS**, a need exists to appoint a Temporary Supervising Emergency Medical Technician to the Upper Township Division of Emergency Medical Services to ensure optimal operation; and

**WHEREAS**, resolution no. 127-2022 appointed Michael Linz as Temporary Deputy Chief Emergency Medical Technician; and

**WHEREAS**, a need no longer exists to fill the position of Temporary Deputy Chief Emergency Medical Technician; and

**WHEREAS**, the Township has duly considered the matter and has determined that Michael Linz possesses all the requisite qualifications, and is a competent, fit suitable person for the appointment of Temporary Supervising Emergency Medical Technician; 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. Michael Linz is hereby appointed to the Division of Emergency Medical Services as Temporary Supervising Emergency Medical Technician effective August 23, 2022 at an annual salary of \$69,678.00, in accordance with the Salary Ordinance.
3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 270-2022

Offered by: Newman

Seconded by: Pancoast

Adopted: August 22, 2022

Roll Call Vote:

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

9. Appointing Donald Polo as School Traffic Guard.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 271-2022**

**RE: APPOINTING DONALD POLO AS SCHOOL TRAFFIC GUARD**

**WHEREAS**, a need exists to appoint qualified part-time personnel as School Traffic Guard; and

**WHEREAS**, this resolution is intended to ratify the action heretofore taken; 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. Donald Polo is hereby appointed to the part-time position of School Traffic Guard effective September 7, 2022, on an as needed basis, at an hourly rate of \$17.00 per hour in accordance with the Salary Ordinance.
3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 271-2022

Offered by: Newman

Seconded by: Pancoast

Adopted: August 22, 2022

Roll Call Vote:

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

10. Authorizing a contract with Atlantic Investigations, LLC for an alcohol and controlled substances training and testing program.



**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 272-2022**

**RE: AUTHORIZING A CONTRACT WITH ATLANTIC INVESTIGATIONS, LLC FOR AN  
ALCOHOL AND CONTROLLED SUBSTANCES TRAINING  
AND TESTING PROGRAM**

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**WHEREAS**, the Omnibus Transportation Employee Testing Act of 1991 became applicable to the Township of Upper in 1996 in accordance with 49 C.F.R. §382.115(B) and mandates drug and alcohol testing for employees holding commercial driver’s licenses engaged in safety sensitive duties, and further requires each employer to maintain a testing policy as required by 49 C.F.R. §382.401(C)(6)(ib); and

**WHEREAS**, the Township has previously determined to extend that policy to all employees working in hazardous or safety sensitive areas and also to public safety employees including the Division of EMS and Township lifeguards; and

**WHEREAS**, to administer such a program in accordance with the Federal rules, regulations and guidelines, it is necessary to employ the services of a firm possessing such specialized skill and training; and

**WHEREAS**, Atlantic Investigations, LLC has the required expertise to provide such services; and

**WHEREAS**, the Township Committee intends to engage the services of Atlantic Investigations, LLC as a Professional Services Contract; and

**WHEREAS**, Atlantic Investigations, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that the contractor has not made any contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit the contractor from making any contributions through the term of the contract; and

**WHEREAS**, the Chief Financial Officer has certified the availability of funds to permit said Contract to be entered into;

**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. Atlantic Investigations, LLC, with offices at 583 13th Street, Suite 101 Hammonton, NJ 08037, is hereby appointed to administer an alcohol and controlled substances training and testing program in compliance with Federal rules, regulations and guidelines and Township policy and to provide other training and testing services as the Township may request.

3. This Contract has been awarded without competitive bidding for the following reason or reasons:

- (A) Professional services of the type herein sought are of such a nature as to require a high degree of trust or confidence in the individual providing the service and, in fact, may require the creation of a confidential or fiduciary relationship between that individual and the municipality;
- (B) The services required are highly specialized or technical in nature;
- (C) The services require peculiar ability or skill and demand a high degree of specialized knowledge or expertise;
- (D) The services are such that their relative work must be judged by subjective considerations that are not susceptible of valuation by competitive bidding; and
- (E) The individual who will provide these services has demonstrated his competence and particular expertise in the services required.

4. This contract shall have a term of one (1) year commencing upon full execution.

#### **NOTICE OF CONTRACT AWARD**

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

Upper, State of New Jersey.

6. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Atlantic Investigations, LLC in accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein. Upon execution of all parties thereto said contract shall become effective.

7. Atlantic Investigations, LLC has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township.

8. A notice of this contract award shall be published in the official newspaper of the Township of Upper within ten (10) days from the date of adoption.

9. This Resolution shall be effective as of adoption.

Resolution No. 272-2022

Offered by: Newman                      Seconded by: Pancoast

Adopted: August 22, 2022

Roll Call Vote:

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

11. Commemorating the 21<sup>st</sup> anniversary of September 11, 2001.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 273-2022**

**RE: COMMEMORATING THE 21<sup>ST</sup> ANNIVERSARY OF SEPTEMBER 11, 2001**

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**WHEREAS**, 21 years ago, on September 11, 2001, terrorists hijacked four civilian aircraft, crashing two into the World Trade Center in New York City, a third into the Pentagon outside of Washington, D.C., and a fourth into the countryside of Pennsylvania; and

**WHEREAS**, thousands of innocent people were killed and injured as a result of these reprehensible attacks; and

**WHEREAS**, countless fire departments, police departments, first responders, emergency medical personnel, and volunteers responded heroically to those horrific events: and

**WHEREAS**, 21 years later, the men and women in the United States Armed Forces continue to defend and protect the United States of America against those who seek to threaten her people; and

**WHEREAS**, on the 21<sup>st</sup> anniversary of this tragic day, the thoughts of the citizens of Upper Township are with all of the victims of the events of September 11, 2001 and their families.

**NOW, THEREFORE, BE IT RESOLVED** by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, that we do hereby observe the 21<sup>st</sup> anniversary of September 11 as “Always Remember Day”, to honor the innocent victims of September 11, 2001, the heroic actions of those who rushed to help their fellow citizens, and those who continue to fight for the freedom of this great Nation; and

**BE IT FURTHER RESOLVED**, that all persons within this municipality are urged to commemorate the 21<sup>st</sup> anniversary of September 11, 2001.

**GIVEN UNDER OUR HANDS** and the seal of the Township of Upper this 22<sup>nd</sup> day of August 2022.

Resolution No. 273-2022

Offered by: Newman                      Seconded by: Pancoast

Adopted: August 22, 2022

Roll Call Vote:

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

12. Authorizing the Historical Preservation Society of Upper Township Tuckahoe Transportation Heritage Festival to be held at the Tuckahoe Train Station, in Tuckahoe, New Jersey on Saturday, September 24, 2022.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 274-2022**

**RE: AUTHORIZING THE HISTORICAL PRESERVATION SOCIETY OF UPPER  
TOWNSHIP TUCKAHOE TRANSPORTATION HERITAGE FESTIVAL**

**TO BE HELD AT THE TUCKAHOE TRAIN STATION, IN TUCKAHOE,  
NEW JERSEY ON SATURDAY, SEPTEMBER 24, 2022**

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**WHEREAS**, the Historical Preservation Society of Upper Township, Inc., of P.O. Box 658 Tuckahoe, NJ 08250, has submitted a proposal to the Upper Township Committee requesting authority to hold a Transportation Heritage Festival at the Tuckahoe Train Station on September 24, 2022, with the event beginning at 8:00 a.m., and the event continuing until 5:00 p.m., as more particularly specified in their Application for Use of Facilities and event description attached hereto as Exhibit A; and

**WHEREAS**, the Historical Preservation Society of Upper Township will utilize the Upper Township Tuckahoe Train Station and surrounding area described on Use of Facilities Agreement hereto as Exhibit “B”; and

**WHEREAS**, the proposed event is sanctioned and insured by the Historical Preservation Society of Upper Township, Inc. as well as Cape May Seashore Lines, Inc, copies of insurance certificates are attached as Exhibit “C”; and

**WHEREAS**, the event organizers have represented that approvals have been or will be obtained from the New Jersey State Police, and any or all other governmental agencies or entities having any jurisdiction or interest in the Transportation Heritage Festival event; 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 extent that it has jurisdiction to do so, to the Historical Preservation Society of Upper Township, Inc. for the Transportation Heritage Festival event to be held on September 24, 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 Historical Preservation Society of Upper Township, Inc. These

sponsors have no connection, direct or indirect, with the Township of Upper or any of its officials or employees. These sponsors shall not, in any way, directly or indirectly, represent that the Transportation Heritage 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 these event sponsors 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) Historical Preservation Society of Upper Township, Inc., has provided general comprehensive liability insurance in form and substance satisfactory to the Township of Upper's Risk Management Consultant. Said insurance includes a medical expense limit. A Certificate of Insurance has been provided to the Township Sports and Recreation Office, which the Risk Management Consultant of the Township of Upper has approved Certificate of Insurance. Said Certificate of Insurance names the Township of Upper, its officials, officers and employees, as an additional insured.
- (C) Historical Preservation Society of Upper Township, Inc., the event sponsor, has obtained or will obtain written approval from and comply with all conditions imposed by the following entities:
  - (i) the Risk Management Consultant of the Township of Upper.

- (ii) the New Jersey State Police.
- (iii) the Upper Township Division of Emergency Medical Services.

The event sponsors must provide written authorization from the above entities, including any conditions required of said entities, to the Sports and Recreation Office at least seven days prior to the event.

- (D) Historical Preservation Society of Upper Township, Inc., has provided a Use of Facilities Agreement and Indemnification and Hold Harmless Agreement in favor of the Township of Upper, its officials, officers and employees in the form attached hereto as Exhibit “D”.
- (E) Setup for the event will take place at 8:00 a.m. the morning of the event.
- (F) The approval granted herein is subject to all conditions and stipulations as may be recommended or imposed by the Township’s Risk Management Consultant or Insurance Representatives. The Township may revoke this approval if the Event Sponsors fail 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. 274-2022  
 Offered by: Newman  
 Adopted: August 22, 2022  
 Roll Call Vote:

Seconded by: Pancoast

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

Corson	X			
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13. Credit Card Tax Refund for Block 735 Lot 14.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 275-2022**

**CREDIT CARD TAX REFUND  
BLOCK 735 LOT 14**

**WHEREAS**, certain corrections have been recommended by the Upper Township Tax Collector in order to refund credit card payment made, in error, using Upper Township Online Tax Payment Portal, known as Edmunds WIPP; and

**WHEREAS**, the Homeowner paid the 2022 3<sup>rd</sup> quarter taxes on the above property via Edmunds WIPP program by credit card, in error ; and

**WHEREAS**, the Homeowners has requested a refund of this credit card payment in the amount of \$ 3570.29 via the Edmunds WIPP program; 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. 275-2022

Offered by: Newman

Seconded by: Pancoast

Adopted: August 22, 2022

Roll Call Vote:

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

**REFUND BLOCK/LOT**  
735/14

**AMOUNT**  
\$3,570.29

**NAME**  
Patricia Canton  
129 Harbor Road  
Beesleys Point NJ 08223

**ORDINANCES**

**14. Public hearing and final adoption of Ordinance No. 019-2022 RE: ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER III (POLICE**



**REGULATIONS), CHAPTER VI (ALCOHOLIC BEVERAGE CONTROL), AND CHAPTER XXVI (USE OF TOWNSHIP FACILITIES) OF THE CODE OF UPPER TOWNSHIP.** The Municipal Attorney gave a summary of the Ordinance. During the public hearing portion there were the following speakers:

**Barbara Leary, Seaville**, inquired if Amanda Field was killed by a drunk driver. It was stated that no, it was just a terrible accident that killed the young woman.

**Mayor Corson then closed the public hearing. Motion by Kimberly Hayes, second by Jay Newman to adopt Ordinance No. 019-2022. During roll call vote three Committee members voted in the affirmative. John Coggins and Curtis Corson voted no.**

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

**ORDINANCE NO. 019-2022**

**AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER III (POLICE REGULATIONS), CHAPTER VI (ALCOHOLIC BEVERAGE CONTROL), AND CHAPTER XXVI (USE OF TOWNSHIP FACILITIES) OF THE CODE OF UPPER TOWNSHIP**

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

**SECTION 1:** Chapter 3, Section 13.2, of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended as follows:

3-13 **PUBLIC DISPLAY AND CONSUMPTION OF ALCOHOLIC BEVERAGES PROHIBITED.**

*Add the following to Section 3-13.2:*

3-13.2 Exceptions.

In addition, nothing contained in this section shall apply to any person or persons attending an event in which the sale and consumption of alcoholic beverages is authorized by resolution of the Township Committee pursuant to Chapter 6, Section 6-7 of this Code.

**SECTION 2:** Chapter 6, Section 6-7 is hereby added to the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township:

**6 ALCOHOLIC BEVERAGE CONTROL.**

*Add the following to Chapter 6:*

6-7 Temporary Permits.

The Township Committee, by resolution, may permit the sale and consumption of alcoholic beverages on Township lands, including public parks, on a one-day permit basis as provided in N.J.S.A. 33:1-74 or on a catering permit basis as provided by regulation or rule of the New Jersey Division of Alcoholic Beverage Control.

**SECTION 3:** Chapter 26, Section 3.7, of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended as follows:

**26-3 REQUIREMENT FOR USE OF FACILITIES.**

*Add the following to Section 26-3.7:*

26-3.7 Use Restrictions.

The prohibition on the use of alcohol shall not apply to any person or persons attending a special event in which the sale and consumption of alcoholic beverages is authorized by resolution of the Township Committee pursuant to Chapter 6, Section 6-7 of this Code.

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

**SECTION 5. SEVERABILITY:** If any section, paragraph, subdivision, subsection, clause, or provision of this Ordinance shall be adjudged invalid, such adjudication shall apply only to the section, paragraph, subdivision, subsection, clause or provision declared invalid and the remainder of this Ordinance shall remain in full force and effect and shall be enforceable.

**SECTION 6. EFFECTIVE DATE:** This Ordinance shall take effect upon final adoption and publication as required by law.

**SECTION 7. CODIFICATION:** This Ordinance shall be codified in the Upper Township Code at the sections referred to above.

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 25<sup>TH</sup> DAY OF JULY, 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 22<sup>ND</sup> DAY OF AUGUST, 2022 AT 6:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

**CORRESPONDENCE**

**NEW BUSINESS**

15. **Motorized ATV use.** The Township Administrator reported that he has been working with Mayor Corson and Committeewoman Hayes to curb the illegal trespassing on Township property to access Gandy's Pit for ATV usage. The use of signage and barricades has been proposed, however recent attempts at using barricades have failed. The plan is to keep the area natural for recreational use and find a way to restrict access for mopeds and ATVs. The municipal attorney was directed to look into the deed restriction on the property. The administrator was directed to post signage.
16. **Atlantic City Electric – Temporary Helipad.** Committeeman Pancoast reported that Atlantic City Electric is in the process of updating the power grid and as part of the project they will be utilizing helicopters to transport metal towers into environmentally sensitive areas. The Shaw farm on Tuckahoe Road and Pastime Place will be used for the staging of the project and helicopter landing zones.
17. **Monthly Newsletter.** This matter was discussed during the Report of Governing Body Members.
18. **Route 50 Sidewalks.** Committeewoman Hayes reported that a few residents have requested sidewalks along Route 50. The proposed project is for the installation of sidewalks near the business areas of the Custard Hut, Oasis, and Action Supply. Since it is a State Highway she made a motion, seconded by Jay Newman, to request the NJDOT to conduct a feasibility study for the installation of sidewalks along Route 50 in the area of the Custard Hut, Oasis, and Action Supply. During roll call vote all five Committee members voted in the affirmative. A resolution for formal action will be listed on the next agenda.

**UNFINISHED BUSINESS**

19. **Hawking or Peddling Merchandise.** The Township Administrator gave a brief report on the status of the proposed Ordinance regulating door-to-door solicitation. He stated that until this Ordinance is adopted, there is a zero tolerance for solicitation.
20. **Emergency Vehicle Hybrid Beacon - Tuckahoe Volunteer Fire Company.** The Township Administrator reported that the State has indicated that the cost increase for the installation of the beacon is because the road reconstruction has been completed resulting in increased costs in now installing the beacon. It was stated that the Township is responsible for 25% of the cost, or \$25,000.00. After a brief discussion, there was a motion by Jay Newman, second by Kimberly Hayes, to send a letter strongly objecting to the price increase and cost share responsibility and sending a copy of the letter to our State representatives. During roll call vote all five Committee members voted in the affirmative.

**PAYMENT OF BILLS**

21. **"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 Kimberly Hayes. During roll call vote all five Committee members voted in the affirmative.

**Bills approved for payment:** \$1,095,191.36  
**Payroll:** \$251,654.33

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

**John, Strathmere**, thanked the Committee for making the Township a good place to live and spoke in favor of the Deauville Inn.

**Janet McMahon, Marmora**, spoke about the reported 15% tax increase, the 2022 Budget Ordinance and salaries of Township Employees.

**Barbara Leary, Seaville**, requested that the electric car charging station be metered so that the cost isn't passed on to taxpayers. It was stated that the outlet was upgraded and can now be used to charge an electric vehicle. Although available for emergency use, the outlet is locked and would require Township approval before being used by the public. During this discussion, there was a motion by John Coggins to authorize the Engineer to solicit bids for an outlet metered energy station at Town Hall. The motion was not seconded, and the motion failed. It was stated that the Township is in the process of finding grant opportunities to fund charging stations.

**Joe Falls, Beesley's Point**, spoke about Airbnb, short term rentals, and concerns of the traffic signals at Roosevelt Boulevard.

Prior to the closed session, Committeeman Coggins again made a motion to direct the Engineer to solicit bids from providers of electric charging stations to hook into the outlet at Town Hall. He also requested that the Township Engineer report back the progress of the bids at the September 26<sup>th</sup> meeting. It was stated that the outlet cannot perform as a quick charging station. It was also stated that it would be a shame to pay for a charging station when the Township is in the process of finding grant money. The motion was not seconded, and the motion failed. Committeeman Coggins then requested that the outlet be locked out permanently for all users. It was stated that the outlet was upgraded for emergency use and is there for a purpose. It was further stated that a policy will be developed to allow access by the public for emergency use.

**CLOSED SESSION**

- 22. 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. 276-2022  
MOTION GOING INTO CLOSED SESSION  
AUGUST 22, 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 - Special Legal Counsel
- 4. Contract negotiation - EMS Building
- 5. Contract negotiation - OEM

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: Jay Newman

Motion seconded by: Kimberly Hayes

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

### **RECONVENE PUBLIC PORTION OF MEETING**

Motion by Jay Newman, 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 9:12 P.M., with a motion by Jay Newman, second by Kimberly Hayes, and all five Committee members voting in the affirmative. The next regular meeting is scheduled for September 12, 2022, at 4:30 P.M.

Minutes prepared by,

Barbara L. Young, RMC  
Municipal Clerk

#### BILLS

80019 08/22/22 A0018 ACTION SUPPLY INC. 22.80 3257  
80020 08/22/22 A0091 ATLANTIC CITY ELECTRIC 107.40 3257  
80021 08/22/22 A0191 ACTION UNIFORM CO. LLC 264.00 3257  
80022 08/22/22 A0212 ANCERO, LLC 75.00 3257  
80023 08/22/22 A0225 AUTOZONE NORTHEAST LLC 134.40 3257  
80024 08/22/22 A0235 AMAZON CAPITAL SERVICES, INC. 226.45 3257  
80025 08/22/22 A0238 AMABC 190.00 3257  
80026 08/22/22 A0239 AT&T MOBILITY NAT'L ACCTS LLC 160.92 3257  
80027 08/22/22 B0035 BELMONT & CRYSTAL SPRINGS 140.52 3257  
80028 08/22/22 B0182 BRIGGS LAW OFFICE, P.C. 175.00 3257  
80029 08/22/22 B0220 BERGEY'S TRUCK CENTERS 25.68 3257  
80030 08/22/22 B0277 Borcky, Greg 45.00 3257  
80031 08/22/22 B0287 BIGLEAF NETWORKS, INC. 299.00 3257  
80032 08/22/22 C0002 C.M.C. CHAMBER OF COMMERCE, INC 730.00 3257  
80033 08/22/22 C0019 CITY OF OCEAN CITY 63,978.50 3257  
80034 08/22/22 C0042 CAMPBELL SUPPLY COMPANY 738.94 3257  
80035 08/22/22 C0068 COMCAST 468.52 3257  
80036 08/22/22 C0077 CHERRY VALLEY TRACTOR SALES 3,099.00 3257  
80037 08/22/22 C0182 CDW GOVERNMENT, INC 669.92 3257  
80038 08/22/22 C0223 CASA PAYROLL SERVICE 305.50 3257  
80039 08/22/22 C0279 CASA REPORTING SERVICES LLC 201.00 3257  
80040 08/22/22 C0296 COMCAST BUSINESS COMMUNICATION 1,407.97 3257  
80041 08/22/22 C0307 CNS ACQUISITION CORPORATION 835.00 3257  
80042 08/22/22 D0016 DALEYS PIT 50.00 3257

80043 08/22/22 D0040 DELTA DENTAL OF N.J. INC. 5,677.63 3257  
80044 08/22/22 D0186 DOCUTREND, INC. 59.59 3257  
80045 08/22/22 D0237 DIETZ, KERRY 125.00 3257  
80046 08/22/22 F0048 LESLIE G. FOGG INC 926.33 3257  
80047 08/22/22 F0053 FORD, SCOTT & ASSOCIATES 2,000.00 3257  
80048 08/22/22 F0219 FORTUNE TITLE AGENCY, INC. 539.50 3257  
80049 08/22/22 G0028 GENTILINI FORD, INC. 269.14 3257  
80050 08/22/22 G0037 GOVT FINANCE OFFICER ASN OF NJ 425.00 3257  
80051 08/22/22 G0086 W.W. GRAINGER, INC. 553.36 3257  
80052 08/22/22 H0002 H.A. DEHART & SON CORP. 143.08 3257  
80053 08/22/22 H0209 HADLEY, ANSON 31.75 3257  
80054 08/22/22 J0028 JESCO, INC. 280.48 3257  
80055 08/22/22 K0114 KIMBALL MIDWEST 112.53 3257  
80056 08/22/22 M0035 MARMORA FIRE CO. DISTRICT #3 336,594.00 3257  
80057 08/22/22 M0290 MADDEN & MADDEN, PC 547.20 3257  
80058 08/22/22 M0327 MONZO CATANESE HELLEGASS, P.C. 13,600.00 3257  
80059 08/22/22 N0070 MARSH & MCLENNAN AGENCY, LLC 22,000.00 3257  
80060 08/22/22 O0006 SJSHORE MARKETING,LLC 1,030.00 3257  
80061 08/22/22 O0055 OCEAN COUNTY UTILITIES AUTHORI 4,134.42 3257  
80062 08/22/22 O0063 OTT HYDROMET CORP 4,599.92 3257  
80063 08/22/22 O0066 OCHS Girls Soccer 150.00 3257  
80064 08/22/22 O0067 OCHS Boys Soccer 150.00 3257  
80065 08/22/22 P0032 PEDRONI FUEL CO. 4,171.00 3257  
80066 08/22/22 P0056 TURF EQUIPMENT AND SUPPLY CO 225.18 3257  
80067 08/22/22 P0140 PIONEER MANUFACTURING CO, INC 132.00 3257  
80068 08/22/22 P0166 PARKER MCCAY P.A. 12,110.20 3257  
80069 08/22/22 P0170 PEACH COUNTRY MULCH 1,875.00 3257  
80070 08/22/22 R0030 RIGGINS, INC. 10,726.79 3257  
80071 08/22/22 R0059 RUTGERS, THE STATE UNIVERSITY 2,211.00 3257  
80072 08/22/22 R0100 ROBERTS OXYGEN COMPANY, INC. 119.55 3257  
80073 08/22/22 R0119 RUDERMAN ROTH LLC 760.00 3257  
80074 08/22/22 S0031 SCHULER SECURITY, INC. 336.00 3257  
80075 08/22/22 S0057 SERVICE TIRE TRUCK CENTERS 2,948.06 3257  
80076 08/22/22 S0065 SEAVILLE FIRE CO. DISTRICT #4 299,671.50 3257  
80077 08/22/22 S0113 SMITH,THOMAS G. 2,175.29 3257  
80078 08/22/22 S0139 SOUTH JERSEY WATER COND SERV 135.00 3257  
80079 08/22/22 S0239 SHORE VET. ANIMAL CONTROL LLC 2,350.00 3257  
80080 08/22/22 S0292 SURENIAN EDWARDS & NOLAN LLC 255.00 3257  
80081 08/22/22 S0303 SITEONE LANDSCAPE SUPPLY, LLC 1,404.75 3257  
80082 08/22/22 S0358 SUPERHERO MEDIA LLC 500.00 3257  
80083 08/22/22 S0363 STARR GENERAL CONTRACTING CORP 600.00 3257  
80084 08/22/22 T0028 TRACTOR SUPPLY COMPANY CREDIT 719.97 3257  
80085 08/22/22 T0032 THE PRESS OF ATLANTIC CITY 357.60 3257  
80086 08/22/22 T0047 W.E. TIMMERMAN CO., INC. 2,231.48 3257  
80087 08/22/22 T0102 BOY SCOUT TROOP #79 150.00 3257  
80088 08/22/22 T0117 TUCKAHOE FIRE DISTRICT #2 269,650.00 3257  
80089 08/22/22 T0211 TRELEASE, BRIAN P., ESQUIRE 6,080.00 3257  
80090 08/22/22 T0215 Tartal, Jacob 44.50 3257  
80091 08/22/22 T0217 Tartal, Marissa 44.50 3257  
80092 08/22/22 U0003 U.S. MUNICIPAL SUPPLY, INC. 987.05 3257  
80093 08/22/22 V0001 VCI EMERGENCY VEHICLE 409.00 3257  
80094 08/22/22 V0013 VERIZON WIRELESS 650.97 3257  
80095 08/22/22 V0022 VERIZON 604.56 3257  
80096 08/22/22 V0025 V.E. RALPH & SON,INC. 586.15 3257  
80097 08/22/22 V0053 VERIZON CONNECT FLEET USA LLC 545.60 3257  
80098 08/22/22 W0087 W.B. MASON EGG HARBOR 94.95 3257  
80099 08/22/22 X0008 XEROX FINANCIAL SERVICES 270.26 3257  
80100 08/22/22 Y0007 YEP COMPANY 759.00 3257  
Total: \$1,095,191.36