

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR FEBRUARY 27, 2023**

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

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

Mayor Newman read the following Open Public meeting notice into the record:
“In compliance with the Open Public Meetings Law, I wish to state that on February 24, 2023, 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 video 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

Curtis Corson	Present
Kimberly Hayes	Present
Victor Nappen	Present
Mark Pancoast	Present
Jay Newman	Present

Also present were Municipal Clerk Joanne Herron, Chief Financial Officer Barbara Ludy, Municipal Engineer Paul Dietrich, Municipal Attorneys Anthony Monzo and Lyndsy Newcomb, and Township Administrator Gary DeMarzo. Registered Municipal Accountant Leon Costello was present for the budget introduction portion of the meeting.

APPROVAL OF MINUTES - February 13, 2023 Regular and Closed Session Minutes

Motion by Curtis Corson, second by Kimberly Hayes, to approve the February 13, 2023 Regular and Closed Session Minutes as submitted. During roll call vote all five Committee members voted in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

Kimberly Hayes, Committeewoman, reported that Township recreation programs are gearing up for the spring season. Registrations are available online until March 1st.

Victor Nappen, Committeeman, reported that the Township held a free rabies clinic on February 25th during which 103 dogs and 13 cats were vaccinated and 46 dog licenses were sold. He next welcomed Municipal Attorney Tony Monzo to the meeting.

ADMINISTRATOR OVERVIEW

Gary DeMarzo, Township Administrator, reported that there will be a budget presentation and introduction tonight and he will forego any further comments until then.

2023 BUDGET - CAP Ordinance and Budget Introduction

1. Introduction and first reading of Ordinance No. 004-2023 RE: CALENDAR YEAR 2023 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14). **Registered Municipal Accountant Costello stated that this Ordinance is more of a formality. The Township is not exceeding the Cap just establishing a bank. Motion by Kimberly Hayes, second by Mark Pancoast, to introduce Ordinance No. 004-2023 with the public hearing and final adoption scheduled for March 27, 2023 at 4:30 PM. During roll call vote all five Committee members voted in the affirmative.**

**TOWNSHIP OF UPPER
CALENDAR YEAR 2023
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET
APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)**

ORDINANCE NO. 004-2023

WHEREAS, the Local Government Cap Law, N.J.S.A. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to **2.5%** unless authorized by ordinance to increase it to **3.5%** over the previous year's final appropriations, subject to certain exceptions; and,

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

WHEREAS, the Township Committee of the Township of Upper in the County of Cape May finds it advisable and necessary to increase its CY 2023 budget by up to **3.5%** over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township Committee of the Township of Upper hereby determines that a **1.0 %** increase in the budget for said year, amounting to **\$124,025.93** in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

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

NOW THEREFORE BE IT ORDAINED, by the Township Committee of the Township of Upper, in the County of Cape May a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2023 budget year, the final appropriations of the Township of Upper shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by **3.5 %**, amounting to **\$434,090.76** and that the CY 2023 municipal budget for the Township of Upper be approved and adopted in accordance with this ordinance; and,

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

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

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

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 27TH DAY OF FEBRUARY, 2023 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 27TH DAY OF MARCH, 2023 AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY.

BY ORDER OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER.
JOANNE R. HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER

2. Introduction of 2023 Budget.

Township Administrator Gary DeMarzo presented a budget slideshow and stated that the 2023 budget will increase \$550,000 or 2.8 cents. Of that increase, \$250,000 will go towards debt service payments to enable the continuation of capital infrastructure projects, and \$300,000 will go towards health benefits and employee contractual obligations. He stated that for the average house assessed at \$300,000 the increase will equal to approximately \$80 in municipal taxes. He further stated that for every \$1,000 in total taxes collected, the Township receives \$120.00.

Registered Municipal Accountant Leon Costello stated that the 2023 Budget is within the spending and levy caps. The budget can be modified up until the budget adoption scheduled for March 27th. He further stated that the Governor will be delivering his budget address tomorrow and there may be some modifications relative to what the Governor says.

Motion by Curtis Corson, second by Mark Pancoast, to introduce the 2023 Budget with the public hearing and final adoption scheduled for March 27, 2023, at 4:30 PM. During roll call vote all five Committee members voted in the affirmative. The introduced budget is available for public inspection on the Upper Township website, a copy is available at the Upper Township Branch of the Cape May County Public Library, and copies are available at the Township Clerk's Office.

3. Authorizing the execution of a Group Affidavit Re: Governing Body Certification of Compliance with United States Equal Employment Opportunity Commission's "Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VIII of the Civil Rights Act 1964".

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 075-2023

**AUTHORIZING THE EXECUTION OF A GROUP AFFIDAVIT
RE: GOVERNING BODY CERTIFICATION OF COMPLIANCE WITH THE
UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY COMMISSION'S
"ENFORCEMENT GUIDANCE ON THE CONSIDERATION OF ARREST AND CONVICTION
RECORDS IN EMPLOYMENT DECISIONS UNDER TITLE VIII OF THE CIVIL RIGHTS ACT
1964"**

WHEREAS, N.J.S.A. 40A:4-5 as amended by P.L. 2017, c.183 requires the governing body of each municipality and county to certify that their local unit’s hiring practices comply with the United States Equal Employment Opportunity Commission’s “Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964,” *as amended*, 42 U.S.C. § 2000e *et seq.*, (April 25, 2012) before submitting its approved annual budget to the Division of Local Government Services in the New Jersey Department of Community Affairs; and

WHEREAS, the members of the governing body have familiarized themselves with the contents of the above-referenced enforcement guidance and with their local unit’s hiring practices as they pertain to the consideration of an individual’s criminal history, as evidenced by the group affidavit form of the governing body attached hereto as exhibit “A”; and

NOW, THEREFORE BE IT RESOLVED, that the Township Committee of the Township of Upper, hereby states that it has complied with N.J.S.A. 40A:4-5, as amended by P.L. 2017, c.183, by certifying that the local unit’s hiring practices comply with the above-referenced enforcement guidance and hereby directs the Clerk to cause to be maintained and available for inspection a certified copy of this resolution and the required affidavit to show evidence of said compliance.

BE IT FURTHER RESOLVED that this Resolution shall take effect pursuant to law.

Resolution No. 075-2023

Offered By: Corson

Seconded by: Hayes

Adopted: February 27, 2023

Roll Call:

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

Exhibit “A”

**TOWNSHIP OF UPPER
COUNTY OF CAPE MAY
STATE OF NEW JERSEY**

GROUP AFFIDAVIT

**GOVERNING BODY CERTIFICATION PURSUANT TO P.L. 2017, C.183
OF COMPLIANCE WITH THE UNITED STATES EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION’S “ENFORCEMENT GUIDANCE ON
THE CONSIDERATION OF ARREST AND CONVICTION RECORDS
IN EMPLOYMENT DECISIONS UNDER TITLE VII OF THE
CIVIL RIGHTS ACT OF 1964”**

We, members of the Township Committee of the Township of Upper, being duly sworn according to law, upon our oath depose and say:

1. We are duly elected members of the Township Committee of the Township of Upper, in the County of Cape May;
2. Pursuant to P.L. 2017, c.183, we have familiarized ourselves with the contents of the United States Equal Employment Opportunity Commission’s “Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions Under Title VII of the Civil Rights Act of 1964,” *as amended*, 42 U.S.C. § 2000e *et seq.*, (April 25, 2012);
3. We are familiar with the local unit’s hiring practices as they pertain to the consideration of an individual’s criminal history;
4. We certify that the local unit’s hiring practices comply with the above-referenced enforcement guidance.

CONSENT AGENDA

All Consent Agenda items listed below are routine in nature and will be enacted by one motion. If the Mayor or any Committee member wishes a particular agenda item to be considered separately, it will be removed from the consent agenda and acted on separately.

Mayor Newman requested that number 10, Appointing Thomas G. Smith as Special Legal Counsel, be removed from the consent agenda and discussed in closed session. Motion by Kimberly Hayes, second by Curtis Corson, to accept and adopt the following reports and Resolutions, except for number 10. During roll call vote all five Committee members voted in the affirmative.

FILING OF REPORTS BY CONSENT

4. Division of EMS
5. Tax Collector 2022 Annual Report

RESOLUTIONS TO BE APPROVED BY CONSENT

6. Authorizing a Financial Settlement Services Addendum with GovDeals, Inc.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 076-2023

**RE: AUTHORIZING A FINANCIAL SETTLEMENT SERVICES ADDENDUM
WITH GOVDEALS, INC.**

WHEREAS, the Township of Upper utilizes GovDeals, Inc., a contracted government on-line auction service, to sell surplus property pursuant to N.J.S.A. 40A:11-36; and

WHEREAS, GovDeals, Inc. has provided to the Township a Financial Settlement Services (FSS) Addendum to allow GovDeals, Inc. to collect all auction proceeds at no cost to the Township; and

WHEREAS, the FSS Addendum has been reviewed and approved by the Chief Financial Officer and will be attached hereto and made a part of this Resolution; 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 Financial Settlement Services Addendum between the Township and GovDeals, Inc. is hereby approved.
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. 076-2023

Offered by: Hayes

Seconded by: Corson

Adopted: February 27, 2023

Roll Call Vote:

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

7. Appointing J. P. Bainbridge & Associates, Inc. and J. Paul Bainbridge as an Appraiser for the Township of Upper.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 077-2023

**RE: APPOINTING J. P. BAINBRIDGE & ASSOCIATES, INC. AND
J. PAUL BAINBRIDGE AS AN APPRAISER FOR THE TOWNSHIP OF UPPER**

WHEREAS, the Township requires an appraiser to provide services to obtain the market value of real property in the Township with respect to tax appeals and other matters; and

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

WHEREAS, J.P. Bainbridge & Associates, Inc. and J. Paul Bainbridge have completed and submitted a Business Entity Disclosure Certification which certifies that J.P. Bainbridge & Associates, Inc. and J. Paul Bainbridge have not made any reportable contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit J.P. Bainbridge & Associates, Inc. and J. Paul Bainbridge from making any reportable contributions through the term of the contract; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. J.P. Bainbridge & Associates, Inc. and J. Paul Bainbridge with offices at 6 Woodland Road, Cape May Court House, New Jersey is hereby appointed appraiser for the Township of Upper to provide services relating to the appraisal of real property for tax appeals and other matters.
3. The contract shall have a term of one (1) year from date of full execution.
4. This Contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because J.P. Bainbridge & Associates, Inc. and J. Paul Bainbridge have professional knowledge as to appraisal issues which knowledge is particularly valuable to the Township Committee and this service is acquired as a non-fair and open contract pursuant to N.J.S.A. 19:44A-20.5.

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 J.P. Bainbridge & Associates, Inc. and J. Paul Bainbridge for appraisal services. This contract and the resolution authorizing same shall be available for public inspection in the office of the municipal clerk of the Township of Upper, State of New Jersey.

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

7. The contractor has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.

8. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with J.P. Bainbridge & Associates, Inc. and J. Paul Bainbridge in accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein. Upon execution of all parties thereto said contract shall become effective.

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

10. This Resolution shall be effective as of adoption.

Resolution No. 077-2023

Offered by: Hayes

Seconded by: Corson

Adopted: February 27, 2023

Roll Call Vote:

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

8. Authorizing the Township of Upper to enter into a contract with Danziger & Markhoff, LLP for Actuarial Services.

TOWNSHIP OF UPPER

**CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 078-2023

**RE: AUTHORIZING THE TOWNSHIP OF UPPER TO ENTER
INTO A CONTRACT WITH DANZIGER & MARKHOFF, LLP
FOR ACTUARIAL SERVICES**

WHEREAS, the Township of Upper has a need for an actuarial analysis of the Township's financial liability in compliance with GASB Statement No. 75 – Accounting and Financial Reporting by Employers for Post-employment Benefits Other than Pensions; and

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

WHEREAS, the Township has decided to acquire the services of Danziger & Markhoff, LLP as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

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

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Mayor and Township Clerk are hereby authorized directed and empowered to execute a contract with Danziger & Markhoff, LLP, of 123 Main Street 9th Floor, White Plains, New York 10601, for GASB Statement No. 75 related Actuarial Services.
3. The contract is awarded without competitive bidding in accordance with N.J.S.A. 40A:11-3 of the New Jersey Local Public Contract Law because the aggregate cost of the contract awarded to Danziger & Markhoff, LLP will not exceed the bid threshold during the term of said contract.
4. The contract shall have a term of one (1) year commencing upon full execution.

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

6. Danziger & Markhoff, LLP has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.

7. 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.

8. This Resolution shall be effective as of adoption.

Resolution No. 078-2023

Offered by: Hayes

Seconded by: Corson

Adopted: February 27, 2023

Roll Call Vote:

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

9. Appointing Frank L. Corrado, Esquire to act as Special Legal Counsel.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 079-2023

**RE: APPOINTING FRANK L. CORRADO, ESQUIRE TO ACT
AS SPECIAL LEGAL COUNSEL**

WHEREAS, the Township Committee of Upper Township desires special legal counsel in matters in which the regular legal counsel has a conflict and such other matters as the Township Committee may direct; and

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

WHEREAS, the Township has decided to acquire the services of Frank L. Corrado, Esquire as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, Frank L. Corrado, Esquire has completed and submitted a Business Entity Disclosure Certification which certifies that Frank L. Corrado, Esquire has not made any reportable contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit Frank L. Corrado from making any reportable contributions through the term of the contract; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. Frank L. Corrado, Esquire with offices at 2700 Pacific Avenue, Wildwood, New Jersey is hereby appointed Special Legal Counsel as directed by the Township Committee.
3. This contract shall have a term of one (1) year from date of full execution.
4. This Contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Frank L. Corrado, Esquire has professional knowledge as to legal matters which knowledge is particularly valuable to the Township Committee.

NOTICE OF CONTRACT AWARD

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 Frank L. Corrado, Esquire for legal services. This contract and the resolution authorizing same shall be available for public inspection in the office of the municipal clerk of the Township of Upper, State of New Jersey.

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

6. The contractor has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.

7. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Frank L. Corrado, Esquire 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.

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. 079-2023

Offered by: Hayes

Seconded by: Corson

Adopted: February 27, 2023

Roll Call Vote:

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

10. Appointing Thomas G. Smith, Esquire to act as Special Legal Counsel regarding Tax Court matters and matters in which the regular Township Solicitor may have a conflict of interest. **This resolution was removed from the consent agenda and was discussed during closed session.**

11. Appointing Keith A. Bonchi, Attorney at Law and the Law Offices of GMS Law as Special Legal Counsel to complete certain In Rem Foreclosure matters.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 080-2023

**RE: APPOINTING KEITH A. BONCHI, ATTORNEY AT LAW AND THE
LAW OFFICES OF GMS LAW AS SPECIAL LEGAL COUNSEL TO COMPLETE CERTAIN
IN REM FORECLOSURE MATTERS**

WHEREAS, the Township of Upper requires legal counsel to complete certain in rem foreclosure matters; and

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

WHEREAS, the Township has decided to acquire the services of Keith A. Bonchi, Esquire and the Law Offices of GMS Law as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-

20.5; and

WHEREAS, Keith A. Bonchi, Esquire and the Law Offices of GMS Law have completed and submitted a Business Entity Disclosure Certification which certifies that Keith A. Bonchi, Esquire and the Law Offices of GMS Law have not made any reportable contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit Keith A. Bonchi, Esquire and the Law Offices of GMS Law from making any reportable contributions through the term of the contract.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee in 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. Keith A. Bonchi, Esquire and the Law Offices of GMS Law with offices at 660 New Road, First Floor, Northfield, New Jersey 08225 are hereby appointed as Special Legal Counsel for the Township of Upper for the completion of in rem foreclosure matters.
3. The contract shall have a term of one (1) year from date of full execution.
4. This Contract is awarded without competitive bidding as a “professional service” in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Keith A. Bonchi, Esquire and the Law Offices of GMS Law have professional knowledge as to in rem foreclosure matters which knowledge is particularly valuable to the Township Committee and this service is acquired as a non-fair and open contract pursuant to N.J.S.A. 19:44A-20.5.

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 Keith A. Bonchi, Esquire and the Law Offices of GMS Law as Special Legal Counsel for in rem foreclosure matters. This contract and the resolution authorizing same shall be available for public inspection in the office of the municipal clerk of the Township of Upper, State of New Jersey.

6. A certificate from the Chief Financial Officer of Upper Township showing the availability of adequate funds for this contract and showing the line item appropriation of the official budget to which this

contract will be properly charged has been provided to the governing body and shall be attached to this Resolution and kept in the files of the municipal clerk.

7. The contractor has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.

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

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

Resolution No. 080-2023

Offered By: Hayes

Seconded by: Corson

Adopted: February 27, 2023

Roll Call Vote:

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

12. Appointing Parker McCay P.A. to act as Special Legal Counsel.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 081-2023

**RE: APPOINTING PARKER MCCAY P.A. TO
ACT AS SPECIAL LEGAL COUNSEL**

WHEREAS, the Township of Upper requires special legal counsel services with regard to bonding for capital improvement projects and other issues; and

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

WHEREAS, the Township has decided to acquire the services of Parker McCay P.A. as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, Parker McCay P.A. has completed and submitted a Business Entity Disclosure Certification which certifies that Parker McCay P.A. has not made any reportable contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit Parker McCay P.A. from making any reportable contributions through the term of the contract; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. Parker McCay P.A. with offices at 9000 Midlantic Drive, Suite 300, Mount Laurel, New Jersey 08054 is hereby appointed Special Legal Counsel to handle matters regarding capital improvement projects and other issues as directed by the Township Committee.
3. The contract shall have a term of one (1) year from date of full execution.
4. The Contract is awarded without competitive bidding as a professional service in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Parker McCay P.A. has professional knowledge as to legal matters which knowledge is particularly valuable to the Township Committee and this service is acquired as a non-fair and open contract pursuant to N.J.S.A. 19:44A-20.5.

NOTICE OF CONTRACT AWARD

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 Parker McCay P.A. for legal services. The 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.

5. A certificate from the Chief Financial Officer of Upper Township showing the availability of adequate funds for the contract and showing the line item appropriation of the official budget

to which the contract will be properly charged has been provided to the governing body and shall be attached to this Resolution and kept in the files of the municipal clerk.

6. The contractor has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.

7. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Parker McCay P.A. 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.

8. This contract shall have a term of one (1) year from date of full execution.

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

10. This Resolution shall be effective as of adoption.

Resolution No. 081-2023

Offered by: Hayes

Seconded by: Corson

Adopted: February 27, 2023

Roll Call Vote:

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

13. Canceling and refunding tax on exempt property Block 348, Lot 82.05.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 082-2023

**CANCELING AND REFUNDING TAX ON EXEMPT PROPERTY
BLOCK 348, LOT 82.05**

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

WHEREAS, certain properties became tax exempt in the year 2023; and

WHEREAS, Thomas J. Zyckowski is a 100% disabled American veteran residing at 9 Deerfield Trail, Block 348, Lot 82.05 on the municipal tax map of Upper Township, New Jersey; and

WHEREAS, the Department of Veterans Affairs has determined that Mr. Zyckowski's 100% permanent military service-connected disability was effective November 12, 2021; and

WHEREAS, Thomas J. Zyckowski made application February 3, 2023 and requested a refund for first quarter 2023; and

WHEREAS, Township of Upper Ordinance No. 009-2012 allows for the refund of property taxes paid for the calendar year in which claim is made.

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. 082-2023

Offered by: Hayes

Seconded by: Corson

Adopted: February 27, 2023

Roll Call Vote:

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

CANCEL TAX 2023

BLOCK/LOT

348/82.05

AMOUNT

\$ 4,262.13

NAME

Thomas J. Zyckowski
9 Deerfield Trail
Woodbine NJ 08270

REFUND TAX 2023

BLOCK/LOT

348/82.05

AMOUNT

\$ 2,131.07

NAME

Thomas J. Zyckowski
9 Deerfield Trail
Woodbine NJ 08270

100% Totally Disabled Veteran

14. Authorizing the Mayor to sign and submit a grant application for the Cape May County American Rescue Plan Act Infrastructure Grant.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 083-2023

RE: AUTHORIZING THE MAYOR TO SIGN AND SUBMIT A GRANT APPLICATION FOR THE CAPE MAY COUNTY AMERICAN RESCUE PLAN ACT INFRASTRUCTURE GRANT

WHEREAS, the County of Cape May is soliciting applications for the Cape May County American Rescue Plan Act (ARPA) Infrastructure Grant opportunity to support a broad range of drinking water, sanitary sewer, and stormwater infrastructure investments; and

WHEREAS, the County will grant up to \$400,000 to each municipality on a non-competitive basis as a sub-recipient and all project costs must comply with the US Treasury Final Rule for ARPA Fiscal Recovery Fund; and

WHEREAS, the Township Committee believes it is in the best interest of the Township to apply for said grant; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Mayor of the Township of Upper is hereby authorized, directed, and empowered to sign and submit an application for the Cape May County American Rescue Plan Act Infrastructure Grant.
3. All Township officials, officers and employees are empowered to take such action as may be necessary or advisable to carry out the intent and purpose of this Resolution.

Resolution No. 083-2023

Offered by: Haye

Seconded by: Corson

Adopted: February 27, 2023

Roll Call Vote:

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

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

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 084-2023

RE: AUTHORIZE PAYMENTS FROM THE

AFFORDABLE HOUSING TRUST FUND OF UPPER TOWNSHIP

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

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

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

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

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

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

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

Township’s Market to Affordable Program:

Triad Associates	
(Admin Agent Rentals Wait List)	\$ 200.00
(Wait List Maint. Sales)	\$ 200.00
(Affordability Assist-Income Qual)	<u>\$ 950.00</u>
	\$1,350.00

Resolution No. 084-2023

Offered By: Hayes Seconded By: Corson

Adopted: February 27, 2023

Roll Call Vote:

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

16. Approving the application of the Tuckahoe Volunteer Fire Company for highway coin drops.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 085-2023

**RE: APPROVING THE APPLICATION OF THE TUCKAHOE VOLUNTEER
FIRE COMPANY FOR HIGHWAY COIN DROPS**

WHEREAS, the Tuckahoe Volunteer Fire Co., a non-profit corporation providing firefighting services, has made application to the Township Committee to hold coin drop solicitations in the Township of Upper; and

WHEREAS, approval is required from the Township of Upper, the County of Cape May and the State of New Jersey; 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 application of the Tuckahoe Volunteer Fire Co. to hold a coin drop within the

Township of Upper is hereby approved for the following locations and dates:

Intersection of State Highway 49 & State Highway 50 on
Friday, July 28, 2023 from 5:00 p.m. to 9:00 p.m.
Saturday, July 29, 2023 from 9:00 a.m. to 3:00 p.m.

AND

Intersection of County Route 617 & State Highway 49 on
Sunday, July 30, 2023 from 3:00 p.m. to 8:00 p.m.

3. Attached to this Resolution is a certified copy of Ordinance No. 7-2001, authorizing coin drops within Upper Township enacted pursuant to N.J.S.A. 39:4-60.

4. A certified copy of this Resolution shall be provided to the State of New Jersey, Department of Transportation, and the Cape May County Board of Commissioners.

Resolution No. 085-2023

Offered by: Hayes

Seconded by: Corson

Adopted: February 27, 2023

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	x			
Hayes	X			
Nappen	X			
Pancoast	X			
Newman	X			

17. Appointing Mark Barham as a part-time employee to the Upper Township Construction Code Office to serve as Fire Protection Sub-Code Official.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 086-2023

**RE: APPOINTING MARK BARHAM AS A PART-TIME EMPLOYEE TO THE
UPPER TOWNSHIP CONSTRUCTION CODE OFFICE TO SERVE AS
FIRE PROTECTION SUB-CODE OFFICIAL**

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

WHEREAS, Mark Barham possesses the requisite license as required by the New Jersey Uniform Construction Code to serve as the part-time Fire Protection Sub-Code Official; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. Mark Barham is hereby provisionally appointed to the Upper Township Construction Code Office as Fire Protection Sub-Code Official, pending successful pre-employment testing, effective February 28, 2023 at an annual salary of \$15,000.00.
3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 086-2023

Offered by: Hayes

Seconded by: Corson

Adopted: February 27, 2023

Roll Call Vote:

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

18. Adopting revisions to the Upper Township Personnel Policies and Procedures Manual Division of Emergency Medical Services (EMS) Standard Operating Policies and Procedures.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 087-2023

**RE: ADOPTING REVISIONS TO THE UPPER TOWNSHIP PERSONNEL POLICIES AND
PROCEDURES MANUAL DIVISION OF EMERGENCY MEDICAL SERVICES (EMS)
STANDARD OPERATING POLICIES AND PROCEDURES**

WHEREAS, the Township Committee of the Township of Upper has determined there is a need to adopt revisions to the Township’s Personnel Policies and Procedures Manual (the “Manual”) to revise the section entitled “Division of Emergency Medical Services (EMS) Standard Operating Policies and Procedures” (the “Policy”); and

WHEREAS, the Township Committee of the Township of Upper has reviewed and approved such revisions attached hereto as Exhibit A; and

WHEREAS, the Township Committee has determined that these revisions should be adopted to revise the existing Township Personnel Policies and Procedures Manual Division of Emergency Medical Services (EMS) Standard Operating Policies and Procedures; 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 revisions to the Personnel Policies and Procedures Manual Division of Emergency Medical Services (EMS) Standard Operating Procedures set forth in the attached Exhibit A are hereby

adopted and approved and modify the existing personnel policies, procedures, manuals and handbooks of the Township. Said revisions shall replace in its entirety the Policy set forth in the Manual.

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. 087-2023

Offered by: Hayes

Seconded by: Corson

Adopted: February 27, 2023

Roll Call Vote:

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

ORDINANCES

19. Public hearing and final adoption of Ordinance No. 001-2023 RE: AN ORDINANCE ADOPTING AN AMENDMENT TO THE REDEVELOPMENT PLAN BEESLEY'S POINT REDEVELOPMENT AREA WITHIN THE TOWNSHIP OF UPPER, COUNTY OF CAPE MAY, STATE OF NEW JERSEY. **Special Legal Counsel James Maley and Planner Tiffany CuvIELLO were in attendance for the public hearing and adoption of Ordinance 001-2023. Mr. Maley offered a brief overview of the Ordinance. Municipal Attorney Monzo requested that the public limit their comments to the substance of this Ordinance , keep their comments to the five-minute limit, and be respectful and orderly. He further stated that this is not an interrogation of the Committee, so the Committee will not be answering questions.**

Mayor Newman then opened up the public hearing portion for Township residents first. During the public hearing portion there were the following speakers:

Nathalie Neiss, Petersburg, stated that there was no public comment portion during the Planning Board meeting when they reviewed this Ordinance. She also spoke about the total acreage of the BL England site.

Jeff Battersby, Marmora, spoke in support of this Ordinance.

Elaine Holsombach, Palermo, spoke about our Country's reliance on fossil fuels and the resulting issues.

Andrew Giordano, Upper Township, spoke in opposition to this Ordinance.

Steve Lotus, Marmora, spoke about the need for a substation.

Steve Fanelli, Upper Township, spoke in support of this Ordinance.

Joe Alietto, Petersburg, spoke in support of this Ordinance as long as the substation is far away from existing homes.

Greg Foretti, Seaville, spoke in support of this Ordinance.

Hobie Young, Greenfield, inquired if the owners of the property are aware of this redevelopment plan. It was stated that the developer is aware and requested the assistance of the Township for this matter.

Barbara Murphy Leary, Seaville, spoke in support of this Ordinance.

Mayor Newman then opened the public hearing to nonresidents.

Barbara McCall, Ocean City, attempted to read a statement regarding the Beesley's Point Development Group. The Township Administrator asked Ms. McCall to limit her comment to only this Ordinance, and stated that a general public comment portion will be held later in the meeting.

Mr. Maley again gave a description of the Ordinance and stated that this public hearing is for this Ordinance, not for the development of the former BL England site.

Patricia Covington, Pennsauken, continued the statement from the previous speaker. Ms. Covington was again advised that her comment is not relevant to the Ordinance and was requested to limit her comments to Ordinance 001-2023.

Mayor Newman then called for a five minute recess.

Mayor Newman reconvened the meeting to continue public comment for Ordinance 001-2023.

Roseanne Serwatka, Ocean City, spoke in opposition to the Ordinance.

Heidi Yaeg, Cherry Hill, spoke in support of the Ordinance.

Nancy Hollingsworth, Wildwood Crest, stated that the substation is being built for an offshore wind project.

Luanne Caldwell, Ocean City, spoke against the use of wind energy.

Tom Jones, Brigantine, inquired if the substation will be used by Orsted.

Marie, Seaville, spoke in opposition to the Ordinance.

Elaine Holsombach, Palermo, spoke in favor of wind energy.

Jamie Sty, Cape May Court House, inquired into Orsted's involvement with the substation.

Donna, Ventnor, spoke in opposition to the Ordinance.

Mike Dean, Middletown, spoke about the political fallout of supporting ocean wind projects.

Randy, Lumberton, spoke in support of the Committee and the tough decisions they make.

Rich Baerly, Northfield, spoke in opposition to the Ordinance.

Lisa, Atlantic City, spoke in opposition to wind turbines.

Sunny Vargas, Forked River, spoke in support of wind energy.

Darin Holland, Long Beach Township, stated that the Township Committee has the opportunity to protect the ocean.

Mayor Newman then closed the public hearing, and opened the discussion to the Committee for comments.

Committeeman Pancoast stated that if the Committee does not act on this Ordinance, the redevelopment of the site will suffer.

Committeeman Corson stated that it may be wise to table this Ordinance until after the congressional hearings.

Committeeman Nappen stated that when he became a Committeeman he vowed to keep Upper Township's interests first in the decisions he makes. He stated that he agrees with the call to pause acting on this ordinance to get more answers to all of the questions about the future of the area and the long term impact offshore wind will have on the community.

Committeewoman Hayes thanked everyone for coming out tonight. She stated that this is not a new process for the Committee. There have been many conversations with professionals and experts. She stated that she wishes to continue to engage in the process and have a say in the redevelopment of the site in order to protect the interests of the Township and its residents. She further stated that the overwhelming majority of Upper Township residents that spoke tonight spoke in favor of this Ordinance.

There was then a motion by Curtis Corson, seconded by Victor Nappen, to table Ordinance 001-2023 until after the congressional hearings. During roll call vote two Committee members voted in the affirmative. Committeewoman Hayes, Committeeman Pancoast, and Mayor Newman voted no. The motion was defeated.

There was then a motion by Kimberly Hayes, seconded by Mark Pancoast, to adopt Ordinance No. 001-2023. During roll call vote three Committee members voted in the affirmative. Committeeman Corson and Committeeman Nappen voted no. The motion was carried.

Mayor Newman then called for a five minute recess.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE**

ORDINANCE NO. 001-2023

**RE: AN ORDINANCE ADOPTING AN AMENDMENT TO THE
REDEVELOPMENT PLAN BEESLEY'S POINT REDEVELOPMENT AREA
WITHIN THE TOWNSHIP OF UPPER,
COUNTY OF CAPE MAY, STATE OF NEW JERSEY**

WHEREAS, in order to facilitate the development, redevelopment, and rehabilitation of the Township of Upper, County of Cape May, State of New Jersey (the "Township"), by way of Resolution No. 30-2021 adopted on January 11, 2021, the Mayor and Committee of the Township of Upper (the "Township Committee") declared Block 479, Lots 76, 76.01, 94.01, 106.02, 107, 107.01, 108, and 108.01 within the Township as a Condemnation Area in Need of Redevelopment (the "Redevelopment Area") pursuant to the Local Redevelopment and Housing Law, N.J.S.A. 40A:12A-1 et seq.; and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, a Governing Body may adopt, revise or amend a redevelopment plan for an "area in need of redevelopment"; and

WHEREAS, in order to facilitate the redevelopment and rehabilitation of the Township, on January 25, 2021, the Township adopted by way of Ordinance No. 001-2021, redevelopment plan entitled “Beesley’s Point Redevelopment Plan Block 479, Lot 76, 76.01, 94.01, 106.02, 107, 107.01, 108, and 108.01” (the “Redevelopment Plan”), dated January 2021, for the Redevelopment Area; and

WHEREAS, the Redevelopment Plan, as amended by the Plan Amendment provides a broad overview for the planning, development, redevelopment and rehabilitation of the Redevelopment Area for purposes of improving conditions within the Township; and

WHEREAS, the Township Committee has determined that it is in the best interest of the Township to amend the Redevelopment Plan to provide more detailed zoning requirements for electrical substation uses within the Redevelopment Area, and has prepared an amendment entitled “Redevelopment Plan Amendment Beesley’s Point Redevelopment Area,” dated January 2023, attached hereto (“Plan Amendment”); and

WHEREAS, pursuant to N.J.S.A. 40A:12A-7, the Township Committee adopted a Resolution referring the Plan Amendment to the Township of Upper Planning Board (the “Planning Board”) for review, comment and a finding of consistency with the Township Master Plan following introduction and first reading; and

WHEREAS, the Planning Board held a public hearing on February 16, 2023, and, finding the Plan Amendment to be consistent with and/or designed to effectuate the Township Master Plan, recommended that the Plan Amendment be adopted, via Resolution No. SP01-2023, which shall be considered the report of the Planning Board to the Township Committee as required by N.J.S.A. 40A:12A-7(e) (“Planning Board Report”); and

WHEREAS, the Plan Amendment meets the requirements of N.J.S.A. 40A:12A-1, et seq., and is consistent with and/or designed to effectuate the Township’s Master Plan for the reasons set forth in the Plan Amendment and the Planning Board Report; and

WHEREAS, the Township Committee has reviewed the recommendation of the Planning Board and the Plan Amendment and has determined that it is in the best interest of the Township to adopt the Plan Amendment, attached hereto, in order to effectuate the redevelopment and rehabilitation of the Redevelopment Area.

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 above-mentioned recitals are incorporated herein as though fully set forth at length.

SECTION 2. The Township hereby adopts the amendment entitled “Redevelopment Plan Amendment Beesley’s Point Redevelopment Area,” dated January 2023, attached hereto, and the findings contained therein.

SECTION 3. The Governing Body of the Township of Upper shall have, be entitled to, and is hereby vested all power and authority granted by the aforementioned statutory provisions to effectuate the Redevelopment Plan and the Plan Amendment.

SECTION 4. The Plan Amendment is an overlay zoning for which no zoning map amendment is necessary.

SECTION 5. The Township Committee declares and determines that the Redevelopment Plan, as amended by the Plan Amendment, provide realistic opportunities for redevelopment of the Amended

Redevelopment Area, and is otherwise in conformance with N.J.S.A. 40A:12A-1, et seq. and further declares and determines that Plan Amendment is consistent with and/or is designed to effectuate the Master Plan.

SECTION 6. All ordinances or parts of ordinances which are inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency.

SECTION 7. In the event any clause section or paragraph of this Ordinance is deemed invalid or unenforceable for any reason, it is the intent of the Township Committee that the balance of this Ordinance remains in full force and effect to the extent it allows the Township to meet the goals of the Ordinance.

SECTION 8. This Ordinance shall take effect after final adoption and publication according to 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 23RD DAY OF JANUARY, 2023 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 27TH DAY OF FEBRUARY, 2023 AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

JOANNE R. HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER

CORRESPONDENCE

NEW BUSINESS

20. Knights of Columbus request to hold a free throw competition at the Upper Township Community Center on March 11, 2023. **Motion by Curtis Corson, second by Kimberly Hayes, to approve the request. During roll call vote all five Committee members voted in the affirmative.**
21. Parish of Saint Maximillian Kolbe request use of the Strathmere Beach at 1305 Commonwealth Avenue for an Easter Sunrise Mass on April 9, 2023 at 5:30 a.m. **Motion by Curtis Corson, second by Kimberly Hayes, to approve the request. During roll call vote all five Committee members voted in the affirmative.**
22. Ocean City High School Boys Lacrosse Booster Club, Inc. request to hold Raffle RA #556 on April 22, 2023 at Levari's Seafood and American Grill. **Motion by Kimberly Hayes, second by Mark Pancoast, to approve the request. During roll call vote all five Committee members voted in the affirmative.**
23. Aaron Segin request to vacate a portion of Pennsylvania Avenue in Tuckahoe. **The Township Engineer stated that this is a request to vacate a portion of an unimproved street that has no public purpose, and would not affect any other property owners except the requestor. After a brief discussion there was a general consensus to move forward with the matter. An ordinance for formal action will be placed on the next agenda.**

UNFINISHED BUSINESS

PAYMENT OF BILLS

24. "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 Kimberly Hayes, second by Jay Newman. During roll call vote all five Committee members voted in the affirmative.**

Bills approved for payment: \$140,210.35

Payroll: \$178,549.19

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

Barbara Murphy Leary, Seaville, inquired as to any updates on the status of Exit 20. It was stated that the project is just waiting for funding on the state level. She next spoke about the recommendations for improvements to Cameron Park and stated that she would like to see the park hours extended.

Nathalie Neiss, Petersburg, spoke about the County Board of Agriculture hearing today regarding the Ocean City Winery.

Adrienne, Vineland, spoke against windmills and their threat to marine life.

John Verdi, Point Pleasant, spoke against wind turbines and their threat to marine life.

John Gardner, Gloucester County, spoke about the history of Orsted, the economic costs of wind turbines, and their threat to marine life.

Bob DiOrio, Seaville, spoke about taxes, Township operations, grants, Orsted, and the effects of offshore wind projects on marine life.

Barbara McCall, Ocean City, spoke about the Beesley's Point redevelopment and the Beesley's Point Development Group.

Unknown, Petersburg, requested that the Committee speak into the microphones.

CLOSED SESSION

25. 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. 088-2023
MOTION GOING INTO CLOSED SESSION
FEBRUARY 27, 2023**

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. Litigation - Ocean Wind BPU Petition
2. Contract negotiation - Redevelopment Agreements
3. Contract negotiation - Right to Know Inventory Services
4. Contract negotiation - Shared Services Agreement with Dennis Township for Construction Official services
5. Contract negotiation - Thomas G. Smith, Special Legal Counsel
6. Personnel

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

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

Moved by: Mark Pancoast

Motion seconded by: Curtis Corson

Roll Call Vote with all five Committee members voting in the affirmative.

RECONVENE PUBLIC PORTION OF MEETING

Motion by Curtis Corson, 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 8:10 P.M., with a motion by Curtis Corson, second by Kimberly Hayes, and all five Committee members voting in the affirmative. The next regular Committee meeting is scheduled for March 13, 2023 at 6:30 P.M.

Minutes prepared by,

Joanne R. Herron, RMC
Municipal Clerk

BILLS

81004 02/27/23 Alignment Check VOID
 81005 02/27/23 A0018 ACTION SUPPLY INC. 1,373.16 02/27/23 VOID 3281 (Reason: printer issue)
 81008 02/27/23 Alignment Check VOID
 81009 02/27/23 A0091 ATLANTIC CITY ELECTRIC 7,947.49 02/27/23 VOID 3282 (Reason: printer issue)
 81077 02/27/23 A0018 ACTION SUPPLY INC. 1,373.16 3284
 81078 02/27/23 A0091 ATLANTIC CITY ELECTRIC 7,947.49 3284
 81079 02/27/23 A0148 ALL HOME RESORT, INC 1,151.95 3284
 81080 02/27/23 A0193 ATLANTIC INVESTIGATIONS, LLC 101.00 3284
 81081 02/27/23 A0212 ANCERO, LLC 5,204.77 3284
 81082 02/27/23 A0239 AT&T MOBILITY NAT'L ACCTS LLC 241.38 3284
 81083 02/27/23 B0035 BELMONT & CRYSTAL SPRINGS 69.33 3284
 81084 02/27/23 B0092 BROKER, EUGENE JR. 150.00 3284
 81085 02/27/23 B0220 BERGEY'S TRUCK CENTERS 113.37 3284
 81086 02/27/23 B0232 BLUE FLAME GAS 617.08 3284
 81087 02/27/23 B0288 KINGBARNES LLC 2,075.40 3284
 81088 02/27/23 C0042 CAMPBELL SUPPLY COMPANY 2,062.07 3284
 81089 02/27/23 C0048 CAPE MAY COUNTY MUA 40,792.54 3284
 81090 02/27/23 C0068 COMCAST 662.81 3284
 81091 02/27/23 C0223 CASA PAYROLL SERVICE 229.50 3284
 81092 02/27/23 C0296 COMCAST BUSINESS COMMUNICATION 219.23 3284

81093 02/27/23 C0345 Corley, Nickolas 44.50 3284
81094 02/27/23 D0016 DALEYS PIT 935.00 3284
81095 02/27/23 D0040 DELTA DENTAL OF N.J. INC. 5,816.47 3284
81096 02/27/23 D0186 DOCUTREND, INC. 50.88 3284
81097 02/27/23 D0240 DEVLIN, EDMUND F. 1,048.85 3284
81098 02/27/23 E0012 EHRlich PEST CONTROL INC 116.64 3284
81099 02/27/23 F0016 FAZZIO, JOSEPH INC. 433.89 3284
81100 02/27/23 F0053 FORD, SCOTT & ASSOCIATES 11,000.00 3284
81101 02/27/23 G0012 GANN LAW BOOKS 521.00 3284
81102 02/27/23 G0016 GARDNER HARDWARE INC. 18.99 3284
81103 02/27/23 G0028 GENTILINI FORD, INC. 552.73 3284
81104 02/27/23 G0086 W.W. GRAINGER, INC. 2,406.17 3284
81105 02/27/23 G0120 PATRICK F. MARTIN 1,966.58 3284
81106 02/27/23 G0147 GREATAMERICA FINANCIAL SVCS. 191.00 3284
81107 02/27/23 H0073 HOME DEPOT CRC/GECF 601.21 3284
81108 02/27/23 H0195 HOHMAN, CHRISTOPHER 310.42 3284
81109 02/27/23 K0020 KENNEY, EDWARD 150.00 3284
81110 02/27/23 K0086 K D NATIONAL FORCE SECURITY 300.00 3284
81111 02/27/23 K0100 KEEN COMPRESSED GAS CO. 112.00 3284
81112 02/27/23 M0277 EQUITABLE FINANCIAL LIFE INS. 187.86 3284
81113 02/27/23 M0303 MALEY GIVENS, A PROF CORP 172.00 3284
81114 02/27/23 M0327 MONZO CATANESE HELLEGASS, P.C. 13,020.00 3284
81115 02/27/23 M0334 MUNICIPAL EQUIP ENTERPRISE LLC 348.53 3284
81116 02/27/23 N0043 NAPA AUTO PARTS 476.96 3284
81117 02/27/23 N0070 MARSH & MCLENNAN AGENCY, LLC 2,000.00 3284
81118 02/27/23 N0154 NEW HORIZON COMMUNICATIONS 830.70 3284
81119 02/27/23 P0032 PEDRONI FUEL CO. 2,420.56 3284
81120 02/27/23 P0136 POSTNET 43.38 3284
81121 02/27/23 P0170 PEACH COUNTRY MULCH 2,343.75 3284
81122 02/27/23 R0030 RIGGINS, INC. 6,269.17 3284
81123 02/27/23 R0100 ROBERTS OXYGEN COMPANY, INC. 119.55 3284
81124 02/27/23 R0145 RUDCO PRODUCTS, INC. 349.32 3284
81125 02/27/23 S0015 SMYTH, PATRICIA 15.00 3284
81126 02/27/23 S0018 SUBURBAN PROPANE, LP 483.33 3284
81127 02/27/23 S0020 THE HOME DEPOT PRO 1,554.15 3284
81128 02/27/23 S0021 COKER, MELLISSA 60.00 3284
81129 02/27/23 S0057 SERVICE TIRE TRUCK CENTERS 2,229.16 3284
81130 02/27/23 S0113 SMITH, THOMAS G. 1,104.01 3284
81131 02/27/23 S0134 SO. JERSEY GAS COMPANY 6,373.05 3284
81132 02/27/23 S0139 SOUTH JERSEY WATER COND SERV 340.50 3284
81133 02/27/23 S0193 STRYKER CORPORATION 215.89 3284
81134 02/27/23 S0196 STEWART BUSINESS SYSTEMS LLC 1,347.48 3284
81135 02/27/23 S0209 STAPLES ADVANTAGE 147.40 3284
81136 02/27/23 S0250 SOUTH JERSEY GLASS & DOOR - 380.00 3284
81137 02/27/23 T0032 THE PRESS OF ATLANTIC CITY 3,914.24 3284
81138 02/27/23 T0166 TREASURER, STATE OF NEW JERSEY 1,846.50 3284
81139 02/27/23 V0001 VCI EMERGENCY VEHICLE 1,046.50 3284
81140 02/27/23 V0013 VERIZON WIRELESS 649.62 3284
81141 02/27/23 V0026 VITAL COMMUNICATIONS, INC. 100.00 3284
81142 02/27/23 X0008 XEROX FINANCIAL SERVICES 234.33 3284
Total: \$140,210.35