

**TOWNSHIP OF UPPER  
2100 TUCKAHOE ROAD  
PETERSBURG, NJ 08270  
CAPE MAY COUNTY  
MINUTES FOR AUGUST 14, 2023**

**REGULAR MEETING OF THE TOWNSHIP COMMITTEE – 6:30 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 August 11, 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, Municipal Attorney Anthony Monzo, Chief Financial Officer Barbara Ludy, Engineer Zachary Jordan, and Township Administrator Gary DeMarzo.

**APPROVAL OF MINUTES** – July 24, 2023 Regular and Closed Session Minutes

Motion by Kimberly Hayes, second by Mark Pancoast, to approve the July 24, 2023 Regular and Closed Session Minutes as submitted. During roll call vote five Committee members voted in the affirmative.

**REPORT OF GOVERNING BODY MEMBERS**

**Mark Pancoast, Committeeman**, reported that the Township has bonded 1.3 million for road paving and the bidding for that project should begin in the fall. He next requested to add an item to New Business – Gypsy Moth Survey.

**Kimberly Hayes, Committeewoman**, reported that the flooring project at the Community Center is still ongoing as there have been some unforeseen issues which have delayed the completion of the project. She next stated that the lighting project at Caldwell Park is being finalized and should begin within the coming weeks. She next reported that the Township’s Octoberfest will be held on October 8<sup>th</sup> and the Township is accepting vendor applications for the event.

**Victor Nappen, Committeeman**, thanked the Upper Township Beach Patrol for attending tonight and stated that he is looking forward to the presentation honoring them. He next reported on a lost cat that was found 7 ½ miles away from its home, and thanked Shore Animal Control and employees at the

ACME for their efforts to help rescue the cat. He next reported that the Township will be holding a free rabies clinic on October 21, 2023 at Shore Veterinarians from 1:00 pm to 3:00 pm.

**Curtis Corson, Committeeman**, reported that the Township’s beaches have had over 39,000 visitors this season.

**Jay Newman, Mayor**, reported that Deputy Mayor Hayes and Committeeman Pancoast will be heading up the subcommittee to review regulations on short-term rentals and provide recommendations to the Committee. Additional members of the subcommittee will be Michelle Drewnowski, Bruce Riordan, Joseph Falls, and Maria Busz. He next reported that the Division of EMS will be working with the Upper Township Business Association to encourage businesses to obtain Automated External Defibrillators. He also read a portion of the letter that will be going out to area businesses highlighting the program. Lastly, he requested an item to be added to New Business to appoint a parking enforcement officer.

### **ADMINISTRATOR OVERVIEW**

**Gary DeMarzo, Township Administrator**, gave a brief overview of some upcoming projects and items on the agenda including the paving project, lighting at Caldwell Park, a green grant for air conditioning units, the lead grant assistance program, State Health Benefits, the speed humps on Randolph, and the emergency vehicle hybrid beacon agreement with the DOT.

**Zachary Jordan, Engineer**, reported that the State has gone out to bid for the beach renourishment project with the project expected to start in the fall. He next reported that he attended the preconstruction meeting for the Route 9 project from Wrights Lane to Harbor Road. Actual work on the project will begin after Labor Day. He next reported on the Safe Routes to Schools grant opportunity. After a brief discussion, the Committee directed the Engineer to work with the Township Administrator and Triad to apply for the grant. Committeeman Pancoast then requested the Engineer to request an update on the New Bridge Road project from the County.

### **PRESENTATION**

1. Honoring the rescue efforts of the Upper Township Beach Patrol.

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

### **RESOLUTION NO. 249-2023**

#### **HONORING THE RESCUE EFFORTS OF THE UPPER TOWNSHIP BEACH PATROL**

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**WHEREAS**, each season the members of the Upper Township Beach Patrol work diligently and with tireless dedication to ensure the safety and well-being of the residents and visitors that come to enjoy the Strathmere and Beesley’s Point beaches; and

**WHEREAS**, on August 5, 2023 a code red radio call came from Guard Ben Wilson at the 1400 lifeguard stand in Strathmere reporting that a gentleman had been in about hip deep water when he lost his footing from a wave and was swept out by a rip current; and

WHEREAS, after placing the call Guard Wilson went directly into the water and upon reaching the victim, who had been placed on a surfboard by a nearby surfer, gave the victim the rescue can and locked his arms underneath the victim’s arms to prevent the victim from falling underwater; and

WHEREAS, responding on the jet ski from the Williams Avenue stand, Guard Lorna Connell skillfully maneuvered around the large waves to put the PWC in a position to be able to place the victim onto the sled; and

WHEREAS, once the victim was on the sled, Guard Jack O’Hara secured himself on top of the victim and the PWC made its way to shore where Medic Wally Welliver, Captain Joseph O’Neill, and Lieutenant Grace Steele were waiting; and

WHEREAS, the victim was chair carried out of the water, due to his exhaustion and being unable to support his own weight, and was lowered to the ground and put on his side, where Medic Wally Welliver evaluated the victim and advised that an ambulance be dispatched to seek further medical assistance at the hospital due to the victim swallowing large amounts of ocean water; and

WHEREAS, it is just and fitting that we recognize and honor these members of the Upper Township Beach Patrol for their skillful actions and seamless teamwork to prevent what surely would have been a tragedy; and

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, that we express our sincere appreciation and commendation to Guard Ben Wilson, Guard Lorna Connell, Guard Jack O’Hara, Lieutenant Grace Steele, Captain Joseph O’Neill, and Medic Wally Welliver for their unrelenting commitment to the safety and security of our citizens in the performance of their daily duties and the great execution of the stand relay system, swim can rescue, and care of the victim during and after the rescue.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 14<sup>th</sup> day of August, 2023.

Resolution No. 249-2023

Offered by: Corson

Seconded by: Nappen

Adopted: August 14, 2023

Roll Call Vote:

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

**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.

Motion by Jay Newman, second by Kimberly Hayes, to approve the consent agenda items. During roll call vote all five Committee members voted in the affirmative.

**FILING OF REPORTS BY CONSENT**

2. Animal Control
3. Clerk’s Office
4. Construction Code
5. Division of EMS
6. Finance Office
7. MUA Report
8. Municipal Court
9. Public Works
10. Tax Collector
11. Tax Collector certification of mailing of 2023 Final / 2024 Preliminary tax bills and advice copies

**RESOLUTIONS TO BE APPROVED BY CONSENT**

12. Recognizing October 6<sup>th</sup> as “Knock Out Opioid Abuse Day” in Upper Township.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 250-2023**

**RECOGNIZING OCTOBER 6<sup>TH</sup> AS  
“KNOCK OUT OPIOID ABUSE DAY” IN UPPER TOWNSHIP**

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**WHEREAS**, New Jersey is in the midst of a life-threatening opioid abuse epidemic; and

**WHEREAS**, “Knock Out Opioid Abuse Day” is a project of the Partnership for a Drug-Free New Jersey, in cooperation with the Governor’s Council on Alcoholism and Drug Abuse, to educate residents and healthcare providers in preventing the tragedy of overdose deaths and addiction that has already affected many New Jersey families and communities; and

**WHEREAS**, the New Jersey State Senate and the General Assembly jointly resolved that October 6<sup>th</sup> be permanently recognized as “Knock Out Opioid Abuse Day” in New Jersey in order to raise awareness of the dangers of opioid abuse and to educate health care providers, community leaders, state lawmakers and members of the public about the opioid abuse epidemic and its effects throughout New Jersey and across the country; and

**WHEREAS**, there has been so far 13 suspected overdose deaths in Cape May County in this

current year 2023 according to the NJ Office of the Attorney General and the majority of the County’s treatment admissions were for heroin/other opiates in 2023 according to the NJ Department of Human Services Division of Mental Health and Addiction Services; and

**WHEREAS**, the Township of Upper supports initiatives designed to raise awareness of the potential for dependency on prescribed pain medicine and its link to heroin abuse in New Jersey.

**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 October 6<sup>th</sup> be recognized as “Knock Out Opioid Abuse Day” in Upper Township and encourage the citizens of Upper Township to increase their understanding and awareness of the risks of prescription opioids and their link to addiction and overdose.

**GIVEN UNDER OUR HANDS** and the seal of the Township of Upper this 14<sup>th</sup> day of August, 2023.

Resolution No. 250-2023

Offered by: Newman

Seconded by: Hayes

Adopted: August 14, 2023

Roll Call Vote:

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

13. Authorizing the Upper Township Fall Fest to be held on Sunday, October 8, 2023 at Amanda’s Field and setting the vendor fees.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 251-2023**

**RE: AUTHORIZING THE UPPER TOWNSHIP FALL FEST TO BE HELD  
ON SUNDAY, OCTOBER 8, 2023 AT AMANDA’S FIELD  
AND SETTING THE VENDOR FEES**

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**WHEREAS**, Section 26-2.3 of the Code of Upper Township authorizes the Township to hold and sponsor events at Township facilities and charge fees for vendors to participate in the event; and

**WHEREAS**, the Township of Upper desires to hold the Upper Township Fall Fest on Sunday, October 8, 2023, with operational hours being 11:00 am until 5:00 pm, at Amanda’s Field; and

**WHEREAS**, appropriate advice and approvals from the Township’s Risk Management Consultant, the New Jersey State Police, and the Division of EMS shall be obtained prior to the 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 authorize the Upper Township Fall Fest to be held on October 8, 2023, at Amanda’s Field.

3. The following fees will be charged for participation in the Upper Township Fall Fest Event:

- Food Vendor Fee - \$100.00, per 20 x 15 space
- A. Non-Food Vendor Fee - \$30.00, per 15 x 10 space
- B. Veteran Owned Business – No Fee

4. All Vendors will be assigned their spaces prior to arrival and will be required to provide their own canopy/tent, table, chairs, electricity, and any other equipment or supplies they may need for their space.

5. All Food Vendors must submit a Certificate of Insurance naming the Township of Upper, its officials, officers and employees as additional insureds. If a Non-Food Vendor currently has insurance in place, a Certificate of Insurance shall be requested naming the Township of Upper, its officials, officers, and employees as additional insureds.

6. All Food Vendors shall submit a Temporary Food Vendor Application to the Cape May County Department of Health and shall follow the “Guidelines for Compliance with Chapter 24, Subchapter 8 Temporary Retail Food Establishments” as established by the Cape May County Department of Health.

7. Applicable Food Vendors shall obtain a Temporary Cooking Vendor Permit through the New Jersey Department of Community Affairs, Division of Fire Safety.

8. The Township of Upper reserves the right to limit the size, amount, and type of Vendors that will participate during the event.

9. The Township Administrator shall have the authority to establish such additional rules, terms or conditions relating to the event as may be appropriate due to safety, cost or efficiency reasons, including any such terms or conditions recommended by the New Jersey State Police, the Township Department of EMS or the Township's Risk Management Consultant.

10. 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. 251-2023

Offered by: Newman

Seconded by: Hayes

Adopted: August 14, 2023

Roll Call Vote:

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

14. Adopting the Emergency Operations Plan for the Township of Upper.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 252-2023**

**RE: ADOPTING THE EMERGENCY OPERATIONS PLAN FOR THE TOWNSHIP OF UPPER**

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**WHEREAS**, the New Jersey Office of Emergency Management requires a review and recertification of the Township's Emergency Operations Plan every two years; 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. All appropriate and necessary Township officials are hereby authorized to execute the Township of Upper Emergency Operations Plan.
3. The Mayor's signature shall constitute acceptance and adoption of the Emergency Operations Plan on behalf of the Township of Upper.

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

Resolution No. 252-2023

Offered by: Newman

Seconded by: Hayes

Adopted: August 14, 2023

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

15. Canceling and refunding tax on exempt property Block 567, Lot 27, C019.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 253-2023**

**CANCELING AND REFUNDING TAX ON EXEMPT PROPERTY  
BLOCK 567, LOT 27, C019**

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

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

**WHEREAS**, James Joyce is a 100% disabled American veteran residing at 1731 Rt. US 9 SO, Unit 19, Block 567, Lot 27, Qualification C019 on the municipal tax map of Upper Township, New Jersey; and

**WHEREAS**, the Department of Veterans Affairs has determined that Mr. Joyce's 100% permanent military service-connected disability was effective February 16, 2022; and

**WHEREAS**, James Joyce made application June 19, 2023 and requested a refund for first and second quarters of 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; 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. 253-2023

Offered by: Newman

Seconded by: Hayes

Adopted: August 14, 2023

Roll Call Vote:

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

**CANCEL TAX 2023**

**BLOCK/LOT**

567/27/C019

**AMOUNT**

\$ 6,010.16

**NAME**

James Joyce  
1731 Rt US 9 SO, #19  
Seaville, NJ 08230

**REFUND TAX 2023**

**BLOCK/LOT**

567/27/C019

**AMOUNT**

\$ 2,900.37

**NAME**

James Joyce  
1731 Rt US 9 SO, #19  
Seaville, NJ 08230

100% Totally Disabled Veteran

- 16. Canceling tax on exempt properties Block 348, Lot 82.05; Block 450, Lot 13; Block 453, Lot 48; Block 453, Lot 189; Block 453, Lot 245.09; and Block 548, Lot 6.02.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 254-2023**

**CANCELING TAX ON EXEMPT PROPERTIES  
BLOCK 348, LOT 82.05; BLOCK 450, LOT 13; BLOCK 453, LOT 48;  
BLOCK 453, LOT 189; BLOCK 453, LOT 245.09; AND BLOCK 548, LOT 6.02**

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

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

**WHEREAS**, Thomas J. Zyckowski, Robert Bond, Robert R. Gregorich, Stanley L. Sudol, Robert Schulte, and Jonathan Baily all became 100% Disabled Veterans in the year 2023 and reside in Upper Township, New Jersey; and

**WHEREAS**, the Department of Veterans Affairs has determined that the above residents 100% permanent wartime service-connected disability was effective in the year 2023; and

**WHEREAS**, the taxes for the first half of 2023 were previously cancelled by resolution; and

**WHEREAS**, upon receipt of the certified tax rate, it is necessary to cancel the taxes for the second half of 2023; 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. 254-2023

Offered by: Newman

Seconded by: Hayes

Adopted: August 14, 2023

Roll Call Vote:

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

**CANCEL 2023 3<sup>rd</sup> & 4<sup>th</sup> QUARTER TAXES**

<u>BLOCK/LOT</u>	<u>AMOUNT</u>	<u>NAME</u>
348/82.05	\$4,532.68	Thomas J. Zyckowski 9 Deerfield Trail Petersburg NJ 08270
450/13	\$2,581.34	Robert Bond 1001 Rt. 50 Petersburg NJ 08270
453/48	\$3,219.46	Robert Gregorich 35 Mockingbird Lane Petersburg NJ 08270
453/189	\$2,057.84	Stanley Sudol 1 Peach Orchard Rd. Seaville NJ 08230
453/245.09	\$2,972.24	Robert Schulte 23 Luke Court Seaville NJ 08230
548/6.02	\$1,953.96	Jonathan Bailey 16 Tyler Road Seaville NJ 08230

100% Totally Disabled Veteran for 2023.

17. Authorizing an agreement with the New Jersey Department of Transportation Division of Traffic Engineering for an emergency vehicle hybrid beacon.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 255-2023**

**AUTHORIZING AN AGREEMENT WITH THE NEW JERSEY DEPARTMENT OF  
TRANSPORTATION DIVISION OF TRAFFIC ENGINEERING FOR AN  
EMERGENCY VEHICLE HYBRID BEACON**

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**WHEREAS**, the Township of Upper has requested the State of New Jersey to install an Emergency Vehicle Hybrid Beacon at Route 50, MP 6.57 (Tuckahoe Volunteer Fire Company Firehouse), in the Township of Upper, in the County of Cape May; and

**WHEREAS**, the State of New Jersey has indicated its willingness to install an Emergency Vehicle Hybrid Beacon at said location; and

**WHEREAS**, the State of New Jersey has proposed a form of Agreement pertaining to the cost of installation, maintenance and operation of said Emergency Vehicle Hybrid Beacon;

**NOW, THEREFORE, BE IT RESOLVED** that the Mayor and the Clerk of the Township of Upper, be and are hereby authorized to enter into an Agreement with the State of New Jersey, acting through its Commissioner of Transportation, for the purpose aforesaid, a copy of said Agreement being attached hereto and made a part hereof.

**BE IT FURTHER RESOLVED** that the Mayor and the Clerk of the Township of Upper, be and hereby are authorized to execute said Agreement.

Resolution No. 255-2023

Offered by: Newman

Seconded by: Hayes

Adopted: August 14, 2023

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

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

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY**

**RESOLUTION**

**RESOLUTION NO. 256-2023**

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

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**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	
(AA Rentals Wait List)	\$ 200.00
(AA/MTA Wait List Maint. Sales)	<u>\$ 200.00</u>
	\$ 400.00

Resolution No. 256-2023  
Offered By: Newman  
Adopted: August 14, 2023

Seconded By: Hayes

Roll Call Vote:

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

19. Chapter 159 Resolution for the insertion of a special item of revenue into the 2023 budget that was not determined at the time of the adoption of the budget—2023 New Jersey Department of Agriculture Spotted Lanternfly Grant program in the amount of \$15,000.00.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 257-2023**

**RE: CHAPTER 159 RESOLUTION FOR THE INSERTION OF A SPECIAL ITEM OF REVENUE  
INTO THE 2023 BUDGET THAT WAS NOT DETERMINED AT THE TIME OF THE  
ADOPTION OF THE BUDGET—2023 NEW JERSEY DEPARTMENT OF AGRICULTURE  
SPOTTED LANTERNFLY GRANT PROGRAM  
IN THE AMOUNT OF \$15,000.00**

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**WHEREAS**, N.J.S. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

**WHEREAS**, said Director may also approve the insertion of an item of appropriation for an equal amount; and

**WHEREAS**, the Township of Upper will receive an amount of \$15,000.00 from the New Jersey Department of Agriculture Spotted Lanternfly Grant Program and wishes to amend its 2023 budget to include this amount as a revenue.

**NOW, THEREFORE, BE IT RESOLVED** that the Township Committee of the Township of Upper hereby requests the Director of the Division of Local Government Services approve the insertion of an additional item of revenue in the budget of the year 2023 in the sum of \$15,000.00, which is now available as a revenue from:

REVENUE: STATE & FEDERAL REVENUE OFFSET WITH APPROPRIATIONS:  
2023 NEW JERSEY DEPARTMENT OF AGRICULTURE SPOTTED LANTERNFLY GRANT  
PROGRAM, AND

**BE IT FURTHER RESOLVED** that a like sum of \$15,000.00 be and the same is hereby appropriated under the caption of:

APPROPRIATION: STATE AND FEDERAL PROGRAMS OFFSET BY REVENUE:  
2023 NEW JERSEY DEPARTMENT OF AGRICULTURE SPOTTED LANTERNFLY GRANT  
PROGRAM, AND

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

Resolution No. 257-2023  
Offered By: Newman  
Adopted: August 14, 2023  
Roll Call Vote:

Seconded By: Hayes

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

20. Chapter 159 Resolution for the insertion of a special item of revenue into the 2023 budget that was not determined at the time of the adoption of the budget—New Jersey Lead Grant Assistance program in the amount of \$7,200.00.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 258-2023**

**RE: CHAPTER 159 RESOLUTION FOR THE INSERTION OF A SPECIAL ITEM OF REVENUE INTO THE 2023 BUDGET THAT WAS NOT DETERMINED AT THE TIME OF THE ADOPTION OF THE BUDGET—NEW JERSEY LEAD GRANT ASSISTANCE PROGRAM IN THE AMOUNT OF \$7,200.00**

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**WHEREAS**, N.J.S. 40A:4-87 provides that the Director of the Division of Local Government Services may approve the insertion of any special item of revenue in the budget of any County or Municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

**WHEREAS**, said Director may also approve the insertion of an item of appropriation for an equal amount; and

**WHEREAS**, the Township of Upper will receive an amount of \$7,200.00 from New Jersey Lead Grant Assistance Program and wishes to amend its 2023 budget to include this amount as a revenue.

**NOW, THEREFORE, BE IT RESOLVED** that the Township Committee of the Township of Upper hereby requests the Director of the Division of Local Government Services approve the insertion of an additional item of revenue in the budget of the year 2023 in the sum of \$7,200.00, which is now available as a revenue from:

REVENUE: STATE & FEDERAL REVENUE OFFSET WITH APPROPRIATIONS:  
NEW JERSEY LEAD GRANT ASSISTANCE PROGRAM, AND

**BE IT FURTHER RESOLVED** that a like sum of \$7,200.00 be and the same is hereby appropriated under the caption of:

APPROPRIATION: STATE AND FEDERAL PROGRAMS OFFSET BY REVENUE:  
NEW JERSEY LEAD GRANT ASSISTANCE PROGRAM, AND

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

Resolution No. 258-2023  
Offered By: Newman  
Adopted: August 14, 2023  
Roll Call Vote:

Seconded By: Hayes

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

21. Authorizing a Change Order for additional flooring work at the Upper Township Community Center resulting in an increase in the amount of \$63,347.00.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 259-2023**

**RE: AUTHORIZING A CHANGE ORDER FOR ADDITIONAL FLOORING WORK AT THE  
UPPER TOWNSHIP COMMUNITY CENTER RESULTING IN AN INCREASE IN THE  
AMOUNT OF \$63,347.00**

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**WHEREAS**, the Township of Upper awarded a contract to Dynamic Sports Construction, Inc. of Leander, Texas through the TIPS Contract No. 21090501 on May 8, 2023 pursuant to Resolution No. 162-2023; and

**WHEREAS**, when Dynamic Sports Construction, Inc. began removal of the existing Community Center flooring the existing concrete base underneath was found to be extremely uneven; and

**WHEREAS**, this Change Order comprises of supplying and installing 9,440 square feet of polyurethane at an average depth of 3/8 to 1/2 inch over existing concrete to level up the existing floor; and

**WHEREAS**, the Township Administrator has requested the change order and indicated it is unforeseen circumstances which renders execution of a new contract an unreasonable interference with the efficient completion of the work, such request is attached hereto as Exhibit A; and

**WHEREAS**, the Township has received a Change Order from Dynamic Sports Construction, Inc. explaining the circumstances which necessitate issuance of the change order attached hereto as Exhibit B; and

**WHEREAS,** the Township Committee, pursuant to N.J.A.C. 5:30-11.8, has determined that due to unforeseen problems a substantial amount of construction would be delayed resulting in substantial inconvenience to the public and the changes do not materially change the nature of the original project; and

**WHEREAS,** the Township wishes to approve a Change Order to the aforesaid Contract as hereinafter provided; and

**WHEREAS,** the Chief Financial Officer has issued a certification as to the availability of funds for this Change Order; and

**WHEREAS,** this Change Order is in the best interests of the Township.

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

1. The allegations of the preamble are incorporated herein by this reference.
2. Change Order No. 1 to the Upper Township Community Center Flooring contract

with Dynamic Sports Construction, Inc. is hereby authorized as follows:

Increases	\$63,347.00
Decreases	\$ 0.00
Extra Work	\$ 0.00
<b>TOTAL</b>	<b>\$63,347.00</b>

3. A copy of the Change Order detailing the nature and the extent of the work to be done are attached to this Resolution as Exhibit B.

4. The Chief Financial Officer is hereby authorized, directed and empowered to execute the Change Order on behalf of the Township of Upper.

4. All Township officials and officers are hereby authorized and directed to take all action necessary to carry out the intent and purpose of this Resolution.

Resolution No. 259-2023

Offered by: Newman

Seconded by: Hayes

Adopted: August 14, 2023

ROLL CALL VOTE:

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



## ORDINANCES

22. Public hearing and final adoption of Ordinance No. 011-2023 RE: AN ORDINANCE ESTABLISHING FEES FOR MUNICIPAL SERVICES. **During the public hearing portion there was the following speaker:**

**Blanche Adams, Steelmantown, Upper Township Business Association, inquired into the need for this Ordinance and when these types of services would be necessary. It was stated that this will allow the Township to provide services to private businesses for events that will have an impact on the public. It was also stated that this isn't a requirement to hold an event, this is just an option for businesses.**

**Mayor Newman then closed the public hearing portion. Motion by Kimberly Hayes, second by Victor Nappen, to adopt Ordinance No. 011-2023. During roll call vote all five Committee members voted in the affirmative.**

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

#### **ORDINANCE NO. 011-2023**

#### **RE: AN ORDINANCE ESTABLISHING FEES FOR MUNICIPAL SERVICES**

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**WHEREAS**, occasionally business owners in the Township of Upper (the "Township") have a need for additional municipal services in connection with special events and business operations in the Township in order to better serve the Township's residents and for promoting public health, safety and welfare; and

**WHEREAS**, the Township desires to establish an application process and a fee schedule which provides for the Township to be reimbursed in the event said services are provided.

**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.** A new Chapter 28 is hereby established in the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, titled "USE OF TOWNSHIP PERSONNEL, VEHICLES AND/OR EQUIPMENT" as hereinafter provided:

#### **§ 28.1 – PURPOSE**

The purpose of this chapter is to establish a process whereby business owners and the Township can utilize municipal personnel, vehicles and/or equipment for additional municipal services needed in connection with special events related to business operations in order to better serve the Townships residents and in connection with the promotion of public health safety and welfare.

#### **§ 28.2 – APPLICATION**

Upon application to the Township Committee and payment of the appropriate fee, as specified herein, an event support permit may be issued. Said permit shall allow for municipal services to be provided at private events which impact the public health, safety, or welfare of the Township residents. Application shall be made by letter to the Township Clerk no fewer than ten (10) days

from the date of the event, specifying the nature of the event, the municipal services needed, and the hours to be worked. It shall be solely within the discretion of the Townships Administrator to authorize the provision of municipal support based on the availability of personnel, vehicles and/or equipment, and the nature of the event. An application fee in the amount of \$75.00 shall be submitted with the request for additional municipal services.

**§ 28.3 – PERSONNEL, VEHICLE AND/OR EQUIPMENT FEES**

- a. The personnel labor fees pursuant to this chapter shall be set by Resolution of the Township Committee from time to time. The initial fees, unless otherwise modified by Resolution, shall be as follows:

<u>Personnel</u>	<u>Fee</u>
Public Works Supervisor	\$133.00/hour
Public Works Staff	\$101.00/hour
EMS Supervisor	\$122.00/hour
EMS Staff	\$ 91.00/hour
Beach Patrol Supervisor	\$ 66.00/hour
Beach Patrol Staff	\$ 43.00/hour
Parking & Code Enforcement Officer	\$ 39.00/hour

- b. The Township Committee shall also establish per hour fees for the use of Township vehicles and/or equipment for any such special events, which fees may be set from time to time by a resolution of the Township Committee. The initial fees, unless otherwise modified by Resolution, shall be as follows:

<u>Equipment</u>	<u>Fee</u>
Ford Explorer	\$ 18.75/hour

- c. The fees above or as otherwise established shall be on a per hour basis, including any portion of an hour as required by the business owner.
- d. Personnel labor fees set forth in section a., or as otherwise established, shall include an allocation for overhead and are in excess of the rates actually paid to employees.
- e. The Township shall determine, based on the availability, the number of personnel, vehicles and/or equipment to be provided for each special event request.

**§ 27.4 PERMITS REQUIRED; VIOLATION**

- a. This Section shall only apply to Township support of private events on private property. All events held on public property shall be subject to the terms and conditions of Chapter 26 of the Township Code.
- b. All special events held within the Township must be held in accordance with all applicable Township Ordinances as well as State and Federal law.
- c. The group, organization, and/or promoter for any special events shall indemnify and hold harmless the Township, its employees, agents, and/or officers from all claims, losses, liens, expenses, suits and attorney’s fees arising out of the event, and must execute indemnification forms provided by the Township upon application.
- d. The business owner or other person requesting the additional personnel, vehicle and/or equipment services shall also be required to provide a Certificate of Insurance which will

name the Township and its employees and agents as additional insured for all events in which the municipal services are provided hereunder.

**SECTION 2: EFFECTIVE DATE:** This ordinance shall take effect immediately upon the following publication as required by law.

**SECTION 3: REPEALER:** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency only.

**SECTION 4: 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 5: 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 10<sup>TH</sup> DAY OF JULY, 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 14<sup>TH</sup> DAY OF AUGUST, 2023 AT 6:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

JOANNE R. HERRON, TOWNSHIP CLERK  
TOWNSHIP OF UPPER

23. Public hearing and final adoption of Ordinance No. 012-2023 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER 7 (TRAFFIC) AND CHAPTER 7A (TRAFFIC SCHEDULES) OF THE CODE OF UPPER TOWNSHIP. **During the public hearing portion there were no speakers. Motion by Curtis Corson, second by Victor Nappen to adopt Ordinance No. 012-2023. During roll call vote all five Committee members voted in the affirmative.**

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

**ORDINANCE NO. 012-2023**

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE  
CHAPTER 7 (TRAFFIC) AND CHAPTER 7A (TRAFFIC SCHEDULES)  
OF THE CODE OF UPPER TOWNSHIP**

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**WHEREAS**, the Township of Upper (the “Township”) desires to establish parking standards for parking near crosswalks, intersections and stop signs in the City of Strathmere for the safety and wellbeing of its citizens; and

**WHEREAS**, the Township also desires to amend Chapter 7A, Schedule I (entitled “No Parking”) as contained herein.

**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.** A Chapter 7-17 is hereby established in the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, titled “PARKING NEAR CROSSWALKS, INTERSECTIONS AND STOP SIGNS IN STRATHMERE” as hereinafter provided:

**§ 7-17 – PARKING NEAR CROSSWALKS, INTERSECTIONS AND STOP SIGNS IN STRATHMERE**

Within the confines of Strathmere, except where necessary to avoid conflict with other traffic or in compliance with the directions of a traffic of police officer or traffic sign or signal and except in a school zone during hours when school is in session, no operator of a vehicle shall stand or park the vehicle in any of the following places:

- A. Within five (5) feet of the nearest crosswalk or side line of a street or intersecting highway, except at alleys;
- B. Within twenty-five (25) feet of a stop sign.

**SECTION 2.** Chapter 7A, Schedule I (entitled “No Parking”) of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be supplemented as hereinafter provided:

**SCHEDULE I – NO PARKING**

*Add to include the following:*

<b>Name of Street</b>	<b>Direction</b>
Commonwealth Avenue (CR 619)*	West side (south bound direction) Beginning at the southerly approach joint of the Corson’s Inlet Bridge and extending south for a distance of 108 LF.
	East Side (north bound direction) Beginning at the southerly approach joint of the Corson’s Inlet Bridge and extending south for a distance of 40 LF.

*\* No Parking designation was approved and authorized by the Cape May County Board of County Commissioners pursuant to Resolution No.493-23 and may be enforced by this Township ordinance.*

**SECTION 3: EFFECTIVE DATE:** This ordinance shall take effect immediately upon the following publication as required by law.

**SECTION 4: REPEALER:** All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistency 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: 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 10<sup>TH</sup> DAY OF JULY, 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 14<sup>TH</sup> DAY OF AUGUST, 2023 AT 6:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

JOANNE R. HERRON, TOWNSHIP CLERK  
TOWNSHIP OF UPPER

24. Introduction and first reading of Ordinance No. 014-2023 RE: AN ORDINANCE AUTHORIZING SALE OF LANDS, TO WIT BLOCK 595, LOT 13. **Motion by Kimberly Hayes, second by Mark Pancoast, to introduce Ordinance 014-2023 with a public hearing and final adoption scheduled for September 11, 2023. During roll call vote all five Committee Members voted in the affirmative.**

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

**ORDINANCE NO. 014-2023**

**RE: AN ORDINANCE AUTHORIZING SALE OF LANDS,  
TO WIT BLOCK 595, LOT 13**

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**WHEREAS**, the Township of Upper is the owner, in fee, of a certain parcel of vacant ground located within the Township of Upper, County of Cape May, and State of New Jersey, set forth on the municipal tax map as Block 595, Lot 13; and

**WHEREAS**, the Township has received an offer from Stephen & Aubrey Jankowski, the owners of real property contiguous with said parcel owned by the Township, to purchase said parcel; and

**WHEREAS**, after discussion and deliberation the Township Committee is of the opinion that the sale of said parcel will be in the best interest of the Township and will provide for the consolidation of said lot with an existing lot; and

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

**SECTION 1:** The Township of Upper is hereby authorized to sell the real property commonly known as Block 595, Lot 13 to the highest bidder from among all owners of real property contiguous thereto in accordance with N.J.S.A. 40A:12-13(b)(5). Such sale shall not be for less than the

fair market value of said real property and the minimum bid for such parcel sold is hereby established as follows:

Block 595, Lot 13

Minimum Bid: \$7,900.00

**SECTION 2:** Prior to said sale, the Township will obtain a title report from a title company or abstract company licensed to do business in the State of New Jersey. Said report shall be available to all prospective bidders.

**SECTION 3:** The list of property authorized to be sold together with the minimum price thereof shall be posted at Township Hall and advertisement of the sale shall be made in a newspaper circulating in the Township within 5 days following enactment of this ordinance. Offers for the property may thereafter be made to the Township Committee for 20 days following said advertisement. The Township Committee may reconsider this ordinance not later than 30 days after enactment and thereafter advertise the property for public sale pursuant to N.J.S.A. 40A:12-13(a). The Township Clerk shall file with the Director of the Division of Local Government Services in the Department of Community Affairs sworn affidavits verifying the publication of the foregoing advertisements.

**SECTION 4:** Stephen & Aubrey Jankowski shall pay \$1,500.00 to the Township Clerk prior to the adoption of this Ordinance. \$500.00 of this payment will be used by the Township to defray Township expenses involved in Authorizing the Sale and terms thereof; Engineer's review; Attorney's review; legal advertising, certified mail notices, closing costs and other expenses. \$1,000.00 of this payment will be used to cover title search costs, which if same are less than this sum the difference will be credited back to the ultimate payor. If the parcel is not sold, \$500.00 of this amount will be retained by the Township as **LIQUIDATED DAMAGES** and will be used to pay for the review of the title report and other documents. If the highest bidder at the auction sale is not the original applicant, the highest bidder will be required to pay, in addition to the purchase price and other expenses, an additional sum of \$1,500.00, representing pre-sale amounts paid by the original applicant requesting the sale and the original applicant (who is not the highest bidder) will then be entitled to a refund of all sums paid (\$1,500.00) except for the non-refundable application fee (\$50.00).

**SECTION 5:** The aforesaid parcel of real property shall be offered for sale at an auction to be conducted by the Township Clerk at a date and time to be set by the Township Clerk after the appropriate notice of sale has been sent to contiguous owners of the subject real property. Said notice shall be sent certified and regular mail to the owners of contiguous property at the address set forth on the tax assessor's records. Said notice shall be sent no greater than 30 days prior to the date of sale and no less than 14 days prior to the date of sale. At any time, the Township Clerk may adjourn said sale and renounce in accordance with the provisions of this Ordinance and N.J.S.A. 40A:12-13.

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

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

**SECTION 8:** All payments required to be made pursuant to said sale to the Township Clerk must be made by personal check, cash or certified check, or any combination of the foregoing. All payments required to be made hereunder to a title company or abstract company conducting the closing shall be made in collected funds, that is, by cash, certified check, cashier's check or wire transfer.

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

**IF THE BIDDER IS THE ORIGINAL APPLICANT:**

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

**IF THE BIDDER IS NOT THE ORIGINAL APPLICANT:**

- (B) The sum of \$1,500.00, payable to the Township of Upper, representing payment to the Township for expenses of \$1,500.00 to defray Township expenses, which amounts were required of the original applicant.
- (C) (i) The sum of \$100.00 for the preparation of the Deed.  
(ii) The sum of \$70.00 for recording the Deed.

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

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

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

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

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

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



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

**SECTION 14:** The title to be delivered by the Township shall be under and subject to all easements and rights of way, recorded and unrecorded, whether for utilities or for others, and shall also be subject to all conditions, reservations and restrictions of record, if any. If the title report discloses an unmarketable condition of title, except as specified herein, the remedy of the bidder shall be limited to the return of payments made to the Township of Upper on account of the purchase price and closing costs only. Any and all other amounts paid to the Township shall be non-refundable. This sale is under and subject to any riparian claim which may affect said property. If any such claim exists, it shall be the sole responsibility of the purchaser to meet and satisfy all requirements of the State of New Jersey with respect to said riparian claim and the payment of any compensation to the State of New Jersey on account thereof. Nothing herein shall be construed as obligating the Township of Upper to construct or maintain access roads to any portion of the property being sold. Such property may not qualify for a building permit due to lack of water supply, lack of sewer or septic facilities, lack of access, inadequate lot size, or other reasons, including those reasons set forth below. The purchaser is required to comply with all applicable zoning, building and health ordinances and codes and regulations. The property being sold may be situated in a Flood Hazard Zone. The Township of Upper makes no warranties or representations, expressed or implied, as to the property being offered for sale, the condition or marketability of the title or any other matter. The Township of Upper makes no warranties or representations, expressed or implied, as to whether or not the property being offered for sale contains wetlands anywhere on the property. The Township makes no warranties or representations as to any matter of an environmental nature, or otherwise, which may prevent or limit building or construction.

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

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

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

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

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

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 14<sup>th</sup> DAY OF AUGUST, 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 **11<sup>th</sup> DAY OF SEPTEMBER, 2023** AT **6:30 P.M.** AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY.

JOANNE R. HERRON, CLERK  
TOWNSHIP OF UPPER

### **CORRESPONDENCE**

### **NEW BUSINESS**

25. Marmora Volunteer Fire Company request to hold Raffle RA 563 on September 23, 2023 at 1375 US RT 9, Palermo, NJ. **Motion by Kimberly Hayes, second by Mark Pancoast, to approve the request. During roll call vote four Committee members voted in the affirmative. Mayor Newman abstained.**
  
26. Employee requests for conference/seminar attendance. **The CFO reported that John Brittin has requested paid time off for 8 hours per week to attend a 10-month class. There is no cost to the Township for the class except for the paid time off. Motion by John Newman, second by Kimberly Hayes, to approve the request. During roll call vote all five Committee members voted in the affirmative. The CFO next reported on a request from Larry Cole to attend a certified park and recreation professional class at a cost of \$550.00. Motion by Kimberly Hayes, second by Jay Newman, to approve the request. During roll call vote all five Committee members voted in the affirmative. The CFO next requested approval for herself to attend the Finance Officers annual conference for a cost of \$425.00. Motion by Curtis Corson, second by Mark Pancoast,**

**to approve the request. During roll call vote all five Committee members voted in the affirmative.**

27. **The Township Administrator then requested approval to hire Linwood Chatten as a seasonal parking/code enforcement officer. Motion by Jay Newman, second by Kimberly Hayes, to approve the request. During roll call vote all five Committee members voted in the affirmative. A Resolution for formal action will be placed on the next agenda.**
28. **Gypsy Moth Survey. Motion by Jay Newman, second by Kimberly Hayes, to authorize the Township Clerk to submit a request to the New Jersey Department of Agriculture to conduct a Gypsy moth egg mass survey. During roll call vote all five Committeemen voted in the affirmative.**

### **UNFINISHED BUSINESS**

### **PAYMENT OF BILLS**

29. **“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: **\$2,094,942.21**

Payroll for July 27, 2023: **\$247,281.15**

Payroll for August 10, 2023: **\$250,833.48**

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

**Elaine Holsomback, Palermo and Strathmere**, requested that hooks be installed in the ladies bathroom at Town Hall. She next spoke about short term rentals, global warming, and mobi mats.

**Lloyd Humphrey, Representative of the MS Society of Philadelphia and Greater Delaware Valley**, spoke about the Multiple Sclerosis City to Shore Ride which will be coming through the Township on September 30<sup>th</sup> and October 1<sup>st</sup>.

**Blanche Adams, Upper Township Business Association**, invited the Township Committee and the public to attend the Business Association’s annual Chat with a Trooper event at the Seaville McDonalds on August 31<sup>st</sup> at 10:00 am.

**Nathalie Neiss, Block 476, Lot 29**, requested an update on the air conditioning issue at the Senior Center. It was stated that a vendor has been located that is qualified to work on the computerized unit that is in the center. It was stated that local HVAC vendors have not been able to diagnose the problem.

### **CLOSED SESSION**

30. **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. 260-2023  
MOTION GOING INTO CLOSED SESSION  
AUGUST 14, 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. Personnel
2. Potential litigation - Affordable Housing
3. Attorney Client Privilege - Cell Tower
4. Contract negotiation - Prescott Avenue
5. Contract negotiation - Atlantic Investigations
6. Contract negotiation - Living Shoreline project
7. Contract negotiation - CME Associates

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 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.
- C. With respect to contract negotiations such matters will be made public when negotiations have ceased and there is no longer a reason for confidentiality.
- D. With respect to litigation matters such discussions will be made public when litigation is complete, and the applicable appeal period has expired.

Moved by: Mark Pancoast

Motion seconded by: Kimberly Hayes

Roll Call Vote with all five Committee members voting 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.

Motion by Jay Newman, second by Mark Pancoast, to appoint the following members to the Mt. Laurel Subcommittee: Mayor Jay Newman, Committeeman Curtis Corson, Planner Tiffany Morrisey, Special Legal Counsel Daniel Young, Township Administrator Gary DeMarzo, Engineers Greg Valesi or Zachary Jordan, and Special Legal Counsel Michael Edwards. 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 9:07 P.M., with a motion by Jay Newman, second by Kimberly Hayes, and all five Committee members voting in the affirmative. The next regular Committee meeting is scheduled for August 28, 2023 at 4:30 P.M.

Minutes prepared by,

Joanne R. Herron, RMC  
Township Clerk

Bill List  
81941 08/14/23 A0018 ACTION SUPPLY INC. 327.43 3314  
81942 08/14/23 A0025 ADVANTAGE RENTAL & SALES 177.77 3314  
81943 08/14/23 A0091 ATLANTIC CITY ELECTRIC 37,530.97 3314

81944 08/14/23 A0117 AT&T 160.92 3314  
81945 08/14/23 A0193 ATLANTIC INVESTIGATIONS, LLC 202.00 3314  
81946 08/14/23 A0212 ANCERO, LLC 9,611.94 3314  
81947 08/14/23 A0235 AMAZON CAPITAL SERVICES, INC. 1,195.70 3314  
81948 08/14/23 A0248 AIRESRING, INC. 1,251.02 3314  
81949 08/14/23 B0035 BELMONT & CRYSTAL SPRINGS 123.94 3314  
81950 08/14/23 B0076 BOND, LAURENCE E. 768.79 3314  
81951 08/14/23 B0220 BERGEY'S TRUCK CENTERS 185.46 3314  
81952 08/14/23 B0288 KINGBARNES LLC 1,517.21 3314  
81953 08/14/23 C0052 CAPE MAY COUNTY TREASURER 1,733,934.38 3314  
81954 08/14/23 C0077 CHERRY VALLEY TRACTOR SALES 1,157.95 3314  
81955 08/14/23 C0143 CODY'S POWER EQUIPMENT 173.55 3314  
81956 08/14/23 C0223 CASA PAYROLL SERVICE 647.25 3314  
81957 08/14/23 C0246 CRAFT OIL CORPORATION 3,449.25 3314  
81958 08/14/23 C0279 CASA REPORTING SERVICES LLC 235.20 3314  
81959 08/14/23 C0307 CNS ACQUISITION CORPORATION 875.00 3314  
81960 08/14/23 C0346 CME ASSOCIATES 19,958.50 3314  
81961 08/14/23 C0348 Chiarello, Eve 31.75 3314  
81962 08/14/23 C0350 Chetalo, Lisa 31.00 3314  
81963 08/14/23 D0237 DIETZ, KERRY 125.00 3314  
81964 08/14/23 D0240 DEVLIN, EDMUND F. 1,048.45 3314  
81965 08/14/23 E0012 EHRlich PEST CONTROL INC 348.78 3314  
81966 08/14/23 E0038 EMSAR 1,785.00 3314  
81967 08/14/23 G0028 GENTILINI FORD, INC. 6,170.13 3314  
81968 08/14/23 G0035 GENRON FIRE PROTECTION 101.60 3314  
81969 08/14/23 G0086 W.W. GRAINGER, INC. 908.65 3314  
81970 08/14/23 G0120 PATRICK F. MARTIN 1,966.58 3314  
81971 08/14/23 G0147 GREATAMERICA FINANCIAL SVCS. 191.00 3314  
81972 08/14/23 G0157 GRANTURK EQUIPMENT CO., INC. 214.97 3314  
81973 08/14/23 G0169 GROFF TRACTOR MID ATLANTIC LLC 2,174.78 3314  
81974 08/14/23 H0016 HANDLEY, WILLIAM 31.75 3314  
81975 08/14/23 H0073 HOME DEPOT CRC/GECF 762.65 3314  
81976 08/14/23 H0089 HERC RENTALS, INC 1,873.00 3314  
81977 08/14/23 J0079 JAMES WYERS LANDSCAPING, LLC 150.00 3314  
81978 08/14/23 J0089 JERSEY JAX PIZZA, LLC 41.50 3314  
81979 08/14/23 K0014 KEENAN, BRIAN 64.95 3314  
81980 08/14/23 K0019 KEL TEX IMPRINTS 2,808.97 3314  
81981 08/14/23 K0103 KYOCERA DOCUMENT SOLUTIONS 289.34 3314  
81982 08/14/23 L0043 LEE RAIN, INC. 201.57 3314  
81983 08/14/23 M0019 MAXIMUM MARINE, LLC 163.10 3314  
81984 08/14/23 M0188 MCCARTHY TIRE SERVICE OF PHILA 3,585.81 3314  
81985 08/14/23 M0290 MADDEN & MADDEN, PC 3,694.40 3314  
81986 08/14/23 M0303 MALEY GIVENS, A PROF CORP 571.50 3314  
81987 08/14/23 N0004 NJ-AMERICAN WATER CO. 397.54 3314  
81988 08/14/23 N0043 NAPA AUTO PARTS 0.00 08/14/23 VOID 0  
81989 08/14/23 N0043 NAPA AUTO PARTS 2,146.91 3314  
81990 08/14/23 N0143 NATIONAL TIME SYSTEMS 551.95 3314  
81991 08/14/23 N0154 NEW HORIZON COMMUNICATIONS 820.12 3314  
81992 08/14/23 O0025 OLD DOMINION BRUSH 4,820.00 3314  
81993 08/14/23 P00300 Painting by Pearce, Inc. 2,745.00 3314  
81994 08/14/23 P0032 PEDRONI FUEL CO. 1,834.37 3314  
81995 08/14/23 P0056 TURF EQUIPMENT AND SUPPLY CO 341.52 3314  
81996 08/14/23 P0140 PIONEER MANUFACTURING CO, INC 558.53 3314  
81997 08/14/23 P0166 PARKER MCCAY P.A. 1,358.86 3314  
81998 08/14/23 Q0014 QBE SPECIALTY INSURANCE CO. 10,055.20 3314  
81999 08/14/23 R0030 RIGGINS, INC. 7,242.21 3314  
82000 08/14/23 R0092 RUTGERS, THE STATE UNIVERSITY 944.00 3314  
82001 08/14/23 S0001 SAM'S CLUB 28.14 3314  
82002 08/14/23 S0020 THE HOME DEPOT PRO 446.24 3314  
82003 08/14/23 S0031 SCHULER SECURITY, INC. 360.00 3314  
82004 08/14/23 S0057 SERVICE TIRE TRUCK CENTERS 1,297.49 3314  
82005 08/14/23 S0113 SMITH, THOMAS G. 3,071.18 3314  
82006 08/14/23 S0134 SO. JERSEY GAS COMPANY 427.81 3314  
82007 08/14/23 S0161 SPICA STEEL, INC./J.D.L.GARAGE 13,969.16 3314  
82008 08/14/23 S0193 STRYKER SALES, LLC 19,938.62 3314  
82009 08/14/23 S0196 STEWART BUSINESS SYSTEMS LLC 632.84 3314  
82010 08/14/23 S0209 STAPLES ADVANTAGE 497.11 3314  
82011 08/14/23 S0239 SHORE VET. ANIMAL CONTROL LLC 2,350.00 3314  
82012 08/14/23 S0363 STARR GENERAL CONTRACTING CORP 4,587.25 3314  
82013 08/14/23 S0377 SHONE, JOSEPH 194.60 3314  
82014 08/14/23 T0028 TRACTOR SUPPLY COMPANY CREDIT 779.97 3314  
82015 08/14/23 T0032 THE PRESS OF ATLANTIC CITY 563.68 3314

82016 08/14/23 T0075 TREASURER, STATE OF NEW JERSEY 24.00 3314  
82017 08/14/23 T0086 TREASURER, STATE OF NEW JERSEY 500.00 3314  
82018 08/14/23 T0102 BOY SCOUT TROOP #79 300.00 3314  
82019 08/14/23 T0159 TRIAD ADVISORY SERVICES, INC. 612.50 3314  
82020 08/14/23 T0168 TOWNSHIP OF UPPER 129.61 3314  
82021 08/14/23 T0180 TRI-COUNTY PEST CONTROL, INC 25.00 3314  
82022 08/14/23 T0192 MARSH & McLENNAN AGENCY/TRION 247.00 3314  
82023 08/14/23 T0213 TREASURER, STATE OF NEW JERSEY 155,105.69 3314  
82024 08/14/23 T0220 TRINITY CODE INSPECTIONS, LLC 2,000.00 3314  
82025 08/14/23 U0067 UT HEALTH REIMB. ACCOUNT 3,413.44 3314  
82026 08/14/23 V0013 VERIZON WIRELESS 387.96 3314  
82027 08/14/23 V0022 VERIZON 612.31 3314  
82028 08/14/23 V0024 VAL-U AUTO PARTS L.L.C. 691.68 3314  
82029 08/14/23 V0025 V.E. RALPH & SON,INC. 803.12 3314  
82030 08/14/23 V0053 VERIZON CONNECT FLEET USA LLC 545.60 3314  
82031 08/14/23 W0030 WEST PUBLISHING CO. 784.32 3314  
82032 08/14/23 W0045 WILDWOOD CATHOLIC HIGH SCHOOL 250.00 3314  
82033 08/14/23 W0087 W.B. MASON EGG HARBOR 428.13 3314  
82034 08/14/23 W0123 WIRELESS ELECTRONICS, INC. 525.00 3314  
82035 08/14/23 W0131 WEX BANK 214.24 3314  
82036 08/14/23 X0008 XEROX FINANCIAL SERVICES 262.47 3314  
82037 08/14/23 Y0007 YEP COMPANY 720.00 3314  
82038 08/14/23 Z0017 ZOLL DATA SYSTEMS, INC. 579.38 3314  
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