

**TOWNSHIP OF UPPER  
2100 TUCKAHOE ROAD  
PETERSBURG, NJ 08270  
CAPE MAY COUNTY  
MINUTES FOR SEPTEMBER 11, 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 September 8, 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, Engineer Zachary Jordan, and Township Administrator Gary DeMarzo.

**APPROVAL OF MINUTES** – August 28, 2023 Regular and Closed Session Minutes

Motion by Kimberly Hayes, second by Mark Pancoast, to approve the August 28, 2023 Regular and Closed Session Minutes as submitted. During roll call vote four Committee members voted in the affirmative. Mayor Newman abstained.

**REPORT OF GOVERNING BODY MEMBERS**

**Kimberly Hayes, Committeewoman**, thanked the residents of Osprey Point for hosting the 9/11 memorial service. She next reported that the Historical Preservation Society will be holding the Transportation and Heritage Festival on September 23, 2023 at the Tuckahoe Train Station from 10:00 am to 4:00 pm . She next reported that the Upper Township Fall Fest will be held on October 8, 2023 from 11:00 am to 5:00 pm at Amanda’s Field. Vendor applications are still being accepted. She next reported that she recently attended the Upper Township Football Association meeting. Lastly, she thanked the Department of Public Works for constructing an ADA compliant ramp for the hockey rink.

**Victor Nappen, Committeeman**, thanked all of the parents, teachers, administration, and building personnel for a successful start to the school year. He next reported that a rabid racoon was found in Estell Manor and reminded everyone to make sure their pets are up to date on their rabies vaccinations. The Township will be holding a free rabies clinic on October 21, 2023 from 1:00 to 3:00 at Shore Veterinarians. Lastly, he reported on a complaint from a resident of Pine Hill and stated that he is looking into the issue.

**Mark Pancoast, Committeeman**, thanked Deputy Mayor Hayes and Mayor Newman for attending the 9/11 memorial service at Osprey Point. He next reported that for the month of August the Department of Public Works collected 394 tons of trash and 169 tons of recycling, and have been very busy with the cleaning and maintenance of storm drains and swales.

**Curtis Corson, Committeeman**, reported that next week is the last week for guarded beaches. He next commended the members of the Upper Township Beach Patrol, Strathmere Fire and Rescue, Division of EMS, Ocean City Beach Patrol, Sea Isle Beach Patrol, and Ocean City Fire for the way they handled and responded to the recent tragedy in Strathmere. He reminded everyone to swim at guarded beaches only. Lastly, he reported that on Saturday he welcomed his sixth grandchild.

**Jay Newman, Mayor**, also reported on the tragic incident that occurred in Strathmere over Labor Day weekend and stated that the emergency response was performed exactly as trained. He next reported on the 9/11 ceremony at Osprey Point and thanked the residents for continuing this tradition of remembering and commemorating 9/11, as well as Veterans Day and Memorial Day.

### **ADMINISTRATOR OVERVIEW**

**Gary DeMarzo, Township Administrator**, gave a brief report on several Township projects including beach replenishment, lighting at Caldwell Park, AC Electric Direct Install program, Safe Routes to School grant, the Community Center gym floor, and Senior Center HVAC.

**Zachary Jordan, Township Engineer**, gave an update on the NJDOT projects on Roosevelt Boulevard and Route 9. He next gave an update on the County Church Road project, the upcoming beach replenishment project bid opening, and the Safe Routes to School grant program.

### **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 Kimberly Hayes, second by Mark Pancoast, to approve the consent agenda items. During roll call vote all five Committee members voted in the affirmative.

### **FILING OF REPORTS BY CONSENT**

1. Animal Control
2. Clerk's Office
3. Construction Code
4. Division of EMS
5. Finance Office
6. MUA Report
7. Municipal Court
8. Public Works
9. Tax Collector

### **RESOLUTIONS TO BE APPROVED BY CONSENT**

10. Authorizing the Mayor and Township Clerk to sign a contract with Quality Asset Recovery, LLC for collection services for emergency medical service accounts.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 275-2023**

**RE: AUTHORIZING THE MAYOR AND TOWNSHIP CLERK TO SIGN A CONTRACT WITH QUALITY ASSET RECOVERY, LLC FOR COLLECTION SERVICES FOR EMERGENCY MEDICAL SERVICE ACCOUNTS**

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**WHEREAS**, the Township requires collection services for emergency medical service accounts; and

**WHEREAS**, Quality Asset Recovery, LLC possesses the requisite skill and knowledge to perform these services; and

**WHEREAS**, a Resolution is required authorizing the award of a contract for professional services to Quality Asset Recovery, LLC as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, the proposed contract has been reviewed and approved by the Municipal Attorney and will be on record in the office of the Township Clerk and available for public inspection; and

**WHEREAS**, Quality Asset Recovery, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that Quality Asset Recovery, LLC 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 Quality Asset Recovery, LLC 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 Quality Asset Recovery, LLC to provide collection services for emergency medical service accounts.
3. Quality Asset Recovery, LLC has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.
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

Quality Asset Recovery, LLC has professional knowledge which 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 Quality Asset Recovery, LLC for emergency medical service accounts collection 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 will provide proof of that registration to the Township of Upper.

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.

Resolution No. 275-2023

Offered by: Hayes

Seconded by: Pancoast

Adopted: September 11, 2023

Roll Call Vote:

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

11. Authorizing the Mayor and Township Clerk to sign a contract with Shore Animal Control Services, LLC for animal control services in Upper Township.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 276-2023**

**RE: AUTHORIZING THE MAYOR AND TOWNSHIP CLERK TO SIGN A  
CONTRACT WITH SHORE ANIMAL CONTROL SERVICES, LLC FOR**

## ANIMAL CONTROL SERVICES IN UPPER TOWNSHIP

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**WHEREAS**, Shore Animal Control Services, LLC has submitted a proposal to the Township for animal control services; and

**WHEREAS**, the Township wishes to accept said proposal and to authorize the execution of a contract with Shore Animal Control Services, LLC; and

**WHEREAS**, the proposed contract has been reviewed and approved by the Municipal Attorney and will be on record in the office of the Township Clerk and available for public inspection; and

**WHEREAS**, Shore Animal Control Services, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that Shore Animal Control Services, LLC 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 Shore Animal Control Services, LLC 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 Shore Animal Control Services, LLC to provide animal control services within the Township of Upper commencing September 15, 2023.
3. Shore Animal Control Services, LLC has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.
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 Shore Animal Control Services, LLC has professional knowledge as to animal control services 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 Shore Animal Control Services, LLC for animal control 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 Shore Animal Control Services, LLC in accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein. Upon execution of all parties thereto said contract shall become effective.

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.

10. This Resolution shall be effective as of adoption.

Resolution No. 276-2023

Offered by: Hayes

Seconded by: Pancoast

Adopted: September 11, 2023

Roll Call Vote:

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

12. Authorizing the Mayor and Township Clerk to sign a contract with K.D. National Force Security & Investigations, LLC for professional security services.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY**

**RESOLUTION**

**RESOLUTION NO. 277-2023**

**RE: AUTHORIZING THE MAYOR AND TOWNSHIP CLERK TO SIGN A CONTRACT  
WITH K.D. NATIONAL FORCE SECURITY & INVESTIGATIONS, LLC FOR  
PROFESSIONAL SECURITY SERVICES**

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**WHEREAS**, the Township of Upper has a need for security services during Municipal Court sessions and other occasions as may be required; and

**WHEREAS**, K.D. National Force Security & Investigations, LLC has submitted a proposal to the Township to provide said security services; and

**WHEREAS**, the Township wishes to accept said proposal and to authorize the execution of a contract with K.D. National Force Security & Investigations, LLC; and

**WHEREAS**, K.D. National Force Security & Investigations, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that K.D. National Force Security & Investigations, LLC 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 K.D. National Force Security & Investigations, LLC 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 K.D. National Force Security & Investigations, LLC with offices at 3122 Fire Road, Suite B210, Egg Harbor Township, New Jersey, 08234, to provide professional security services.
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 K.D. National Force Security & Investigations, LLC has professional knowledge which 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 K.D. National Force Security & Investigations, LLC for professional security 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 will provide proof of that registration to the Township of Upper.

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. 277-2023

Offered by: Hayes

Seconded by: Pancoast

Adopted: September 11, 2023

Roll Call Vote:

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

13. Appointing Judge Vincent J. Morrison to serve as substitute Municipal Judge on an as needed basis.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 278-2023**

**RE: APPOINTING JUDGE VINCENT J. MORRISON TO SERVE AS SUBSTITUTE  
MUNICIPAL JUDGE ON AN AS NEEDED BASIS**

**WHEREAS**, the Township has decided to acquire the services of Judge Vincent J. Morrison, to serve as a substitute municipal judge, as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

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

**WHEREAS**, Judge Vincent J. Morrison has completed and submitted a Business Entity Disclosure Certification which certifies that he has not made any contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit him from making any contributions through the term of his 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. Judge Vincent J. Morrison is hereby appointed as a substitute municipal judge to serve on an as needed basis.
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 Judge Vincent J. Morrison has professional knowledge as to legal and municipal court matters, which knowledge is particularly valuable to the Township Committee, and this service is acquired as 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 have awarded a contract without competitive bidding as a professional service pursuant to N.J.S.A. 40A:11-5(1)(a) to Judge Vincent J. Morrison for municipal judge 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 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. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Judge Vincent J. Morrison in accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein. Upon execution of all parties thereto said contract shall become effective.

7. A copy of this Resolution 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. 278-2023

Offered by: Hayes

Seconded by: Pancoast

Adopted: September 11, 2023

Roll Call Vote:

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

14. Appointing Louis A. Bonato as an appraiser for the Township of Upper.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 279-2023**

**RE: APPOINTING LOUIS A. BONATO AS AN APPRAISER  
FOR THE TOWNSHIP OF UPPER**

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**WHEREAS**, the Township periodically requires an appraiser to provide services to obtain the fair market value of lots owned by the Township with respect to the anticipated sale of said lots; and

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

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

**WHEREAS**, Louis A. Bonato has completed and submitted a Business Entity Disclosure Certification which certifies that Louis A. Bonato 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 Louis A. Bonato 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. Louis A. Bonato with offices at 22 Mockingbird Lane, Petersburg, New Jersey is hereby appointed appraiser for the Township of Upper for the appraisal of lots in connection with the Township's anticipated sale of said lots.
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 Louis A. Bonato has 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 Louis A. Bonato 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 Louis A. Bonato 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.

10. This Resolution shall be effective as of adoption.

Resolution No. 279-2023

Offered by: Hayes

Seconded by: Pancoast

Adopted: September 11, 2023

Roll Call Vote:

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

15. Authorizing the execution of a NJDEP TWA-1 application Statements of Consent form regarding 900 North Shore Road, Upper Township, Block 479, Lot 76.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 280-2023**

**RE: AUTHORIZING THE EXECUTION OF A NJDEP TWA-1 APPLICATION  
STATEMENTS OF CONSENT FORM REGARDING 900 NORTH SHORE ROAD,  
UPPER TOWNSHIP, BLOCK 479, LOT 76**

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**WHEREAS,** Beesley’s Point Development Group, LLC (hereinafter “BPDG”) has or is about to make application to the New Jersey Department of Environmental Protection (hereinafter “DEP”) for Treatment Works Approval for the utilization of a temporary water treatment system in conjunction with the dewatering of the B.L. England Generating Station former Coal Pile Area, and has requested that the Township complete a portion of DEP Form No. WQM-003, which merely consents to the submission of the application to the DEP and certifies that the project, as proposed, conforms with the requirements of all municipal Ordinances and does not otherwise impose any obligation or liability on the Township; and

**WHEREAS**, BPDG must apply to the DEP for Treatment Works Approval for the utilization of a temporary water treatment system to treat water generated via dewatering required in support of redevelopment of the B.L. England Generating Station former Coal Pile Area, located at 900 North Shore Road , Block 479, Lot 76 of the municipal tax map of Upper Township, New Jersey; and

**WHEREAS**, the Township’s Engineer has informed the Township Committee as to the general nature of the project and has indicated that the Township has no ordinance prohibiting the proposed project; and

**WHEREAS**, the matter has been considered by the Township Committee and it has been determined that the consent by the Governing Body should be granted to this application to permit the application process to go forward; and

**WHEREAS**, the Township Committee wishes to authorize the Township officials to execute said documentation; 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 is hereby authorized to execute on behalf of the Township of Upper a Statements of Consent, Section A, in the form attached hereto as Exhibit “A” and said consent shall be completed by inserting therein this Resolution number and the date of its adoption.
3. This Statements of Consent is submitted in conjunction with the application of BPDG for treatment works approval for the property at Block 479, Lot 76 on the municipal tax map.
4. A certified copy of this Resolution shall be provided to the applicant.

Resolution No. 280-2023

Offered by: Hayes

Seconded by: Pancoast

Adopted: September 11, 2023

Roll Call Vote:

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

16. A Resolution authorizing execution of a Third Amended Memorandum of Understanding for Block 479, Lots 76, 76.01 and 94.01.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 281-2023**

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

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

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

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

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

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

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

**WHEREAS**, pursuant to Resolution #269-2022, the Township and the Conditional Redeveloper entered into an Amended Memorandum of Understanding dated September 6, 2022, in order to extend the time for the Township to negotiate solely with Conditional Redeveloper in good faith for the redevelopment of the Property for an additional period of one hundred and eighty (180) days from the expiration of the Original MOU (the “Amended MOU”); and

**WHEREAS**, pursuant to Resolution #112-2023, the Township and the Conditional Redeveloper entered into an Amended Memorandum of Understanding dated March 29, 2023, in order to extend the time for the Township to negotiate solely with Conditional Redeveloper in good faith for the redevelopment of the Property for an additional period of one hundred and eighty (180) days from the expiration of the Amended MOU (the “Second Amended MOU”); and

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

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

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

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

1. The aforementioned recitals are incorporated herein as though fully set forth at length.
2. The time for exclusive negotiation between the Township of Upper and Beesley's Point Development Group, LLC for the redevelopment of the Property is hereby extended for an additional one hundred and eighty (180) days from the expiration of the Second Amended MOU.
3. The Township Committee does hereby authorize the Mayor and the Township Clerk to execute the Third Amended Memorandum of Understanding between the Township and Conditional Redeveloper evidencing the Parties' agreement to conduct exclusive negotiations toward the formulation of a Redevelopment Agreement for the rehabilitation and redevelopment of the Property.
4. This Resolution shall take effect immediately.

Resolution No. 281-2023

Offered by: Hayes

Seconded by: Pancoast

Adopted: September 11, 2023

Roll Call Vote:

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

17. Authorizing the payment of Upper Township's portion of the Construction of the Great Egg Harbor Inlet to Townsends Inlet, New Jersey Hurricane and Storm Damage Reduction Project and Groin Removal with funds from the 2011 and 2023 Capital Improvement Bond Ordinances in the amount of \$1,337,500.00.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 282-2023**

**RE: AUTHORIZING THE PAYMENT OF UPPER TOWNSHIP'S PORTION OF THE CONSTRUCTION OF THE GREAT EGG HARBOR INLET TO TOWNSENDS INLET, NEW JERSEY HURRICANE AND STORM DAMAGE REDUCTION PROJECT AND GROIN REMOVAL WITH FUNDS FROM THE 2011 AND 2023 CAPITAL IMPROVEMENT BOND ORDINANCES IN THE AMOUNT OF \$1,337,500.00**

**WHEREAS**, it is necessary for the Township of Upper to participate in a beach replenishment project; and

**WHEREAS**, the Township Committee adopted the 2011 Capital Improvement Bond

Ordinance 019-2011 on August 9, 2011; and

**WHEREAS**, the Township Committee also adopted the 2023 Capital Improvement Bond Ordinance 002-2023 on March 13, 2023; and

**WHEREAS**, the Township Committee adopted Resolution No. 229-2023 on June 26, 2023 to authorize the construction of the Great Egg Harbor Inlet to Townsends Inlet, New Jersey Hurricane and Storm Damage Reduction Project; and

**WHEREAS**, the Township of Upper also wishes to authorize the payment for the removal of an existing timber groin field located north of Winthrop Avenue; and

**WHEREAS**, the Chief Financial Officer of the Township has certified the availability of funds for these projects herein authorized and has certified that adequate funds have been appropriated for this purpose in the 2011 and 2023 Capital Improvement Bond Ordinances.

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee of the Township of Upper, County of Cape May, New Jersey hereby authorizes the payment of Upper Township’s portion of the construction of the Great Egg Harbor Inlet to Townsends Inlet, New Jersey Hurricane and Storm Damage Reduction Project **and** the removal of an existing timber groin field located north of Winthrop Avenue in the amount of

**\$1,337,500.00** with funds from the 2011 and 2023 Capital Improvement Bond Ordinances.

Resolution No. 282-2023

Offered By: Hayes

Seconded By: Pancoast

Adopted: September 11, 2023

Roll Call Vote:

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

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

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 283-2023**

**RE: AUTHORIZING 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 Technical Assistance)	\$ 112.50
(AA Rentals Wait List)	\$ 200.00
(AA/MTA Wait List Maint. Sales)	<u>\$ 200.00</u>
	\$ 512.50

Daniel J. Young, Esquire	
(Mt. Laurel Subcommittee)	\$ 810.00

Resolution No. 283-2023

Offered By: Hayes

Seconded By: Pancoast

Adopted: September 11, 2023

Roll Call Vote:

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

19. Approving the application for a Limited Off-Premises Event Permit from Jersey Coastal Breweries, LLC for the Upper Township Fall Fest event on October 8, 2023.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 284-2023**

**RE: APPROVING THE APPLICATION FOR A LIMITED OFF-PREMISES EVENT  
PERMIT FROM JERSEY COASTAL BREWERIES, LLC FOR THE UPPER TOWNSHIP  
FALL FEST EVENT ON OCTOBER 8, 2023**

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**WHEREAS**, in accordance with Chapter 6-7 of the Code of Upper Township, the Township Committee, by resolution, may permit the sale and consumption of alcoholic beverages on Township lands, including public parks, on a one-day permit basis as provided in N.J.S.A. 33:1-74 or on a catering permit basis as provided by regulation or rule of the New Jersey Division of Alcoholic Beverage Control; and

**WHEREAS**, the Township of Upper will be holding a Fall Fest event on October 8, 2023 at Amanda's Field; and

**WHEREAS**, the Township Committee deems it appropriate to approve the application of a one-day Limited Brewery Off-Premises Event permit from Jersey Coastal Breweries LLC for the sale of 16 oz. malt alcoholic beverages during said Fall Fest 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 hereby approves the application for a one-day Limited Brewery Off-Premises Event permit from Jersey Coastal Breweries LLC for the Upper Township Fall Fest event to be held on October 8, 2023 at Amanda's Field.

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. 284-2023

Offered by: Hayes

Seconded by: Pancoast

Adopted: September 11, 2023

Roll Call Vote:

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

20. Certification of costs for abatement of nuisance on Block 303, Lot 7; Block 549, Lot 85; Block 566, Lot 7; Block 653.01, Lot 4; and Block 715, Lot 8.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 285-2023**

**CERTIFICATION OF COSTS FOR ABATEMENT OF NUISANCE  
ON BLOCK 303, LOT 7; BLOCK 549, LOT 85; BLOCK 566, LOT 7; BLOCK 653.01, LOT 4;  
AND BLOCK 715, LOT 8**

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**WHEREAS**, pursuant to Township Code Section 11-1, the Code Enforcement Officer is empowered to enforce the Township's Property Maintenance Code; and

**WHEREAS**, in accordance with Township Code, the Code Enforcement Officer served a notice of violation of Section 11-1.9 (Grass, Weeds and Debris), to the property owners/agents of Block 303, Lot 7; Block 549, Lot 85; Block 566, Lot 7; Block 653.01, Lot 4; and Block 715, Lot 8; and

**WHEREAS**, 10 days passed from the date of such notice of violation with no response from the property owners/agents and the Township thereafter remedied the violation; and

**WHEREAS**, pursuant to Township Code Section 11-1.19(a) and N.J.S.A. 40:48-2.14, the Code Enforcement Officer has certified the costs of remedying the said violations as set forth on the attached list; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee hereby declares that the costs as set forth on the attached list shall

be certified to the Township Tax Collector as a lien against the properties in question which lien shall become and form a part of the taxes assessed and levied upon the properties pursuant to Township Code Section 11-1.19(b) and N.J.S.A. 40:48-2.14.

- 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. 285-2023

Offered by: Hayes                      Seconded by: Pancoast

Adopted: September 11, 2023

Roll Call Vote:

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

**ABATEMENT OF GRASS, WEEDS, AND DEBRIS**

<u>BLOCK/LOT</u>	<u>LOCATION</u>	<u>COST</u>	<u>ADMIN FEE</u>	<u>TOTAL</u>
303/7	129 Reading Ave	\$150.00	\$30.00	\$180.00
549/85	40 Linda Lane	\$150.00	\$30.00	\$180.00
566/7	6 Edward Terrace	\$150.00	\$30.00	\$180.00
653.01/4	10 Rt. US 9 So.	\$150.00	\$30.00	\$180.00
715/8	37 Seaview Ave			

- Authorizing a change order for additional electrical work at Caldwell Park resulting in an increase in the amount of \$33,426.82.

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 286-2023**

**RE: AUTHORIZING A CHANGE ORDER FOR ADDITIONAL ELECTRICAL WORK AT CALDWELL PARK RESULTING IN AN INCREASE IN THE AMOUNT OF \$33,426.82**

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**WHEREAS**, the Township of Upper awarded a contract to Qualite Sports Lighting, LLC of Hillsdale, Michigan through the TIPS Contract No. 21060101 on May 8, 2023 pursuant to Resolution No. 162-2023 to purchase a GameChanger Q-LED System and provide installation services for sports field lighting at Caldwell Park; and

**WHEREAS**, this Change Order includes removal of the existing deteriorated electrical poles, lights and service lines in addition to relocating the existing electrical panel to a secure nearby

maintenance building, both in the interests of public safety; 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 Qualite Sports Lighting, LLC 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 Caldwell Park Sports Field Lighting contract with Qualite Sports Lighting, LLC is hereby authorized as follows:

Sports Lighting, LLC is hereby authorized as follows:

Increases	\$33,426.82
Decreases	\$ 0.00
Extra Work	\$ 0.00
TOTAL	\$33,426.82

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. 286-2023

Offered by: Hayes

Seconded by: Pancoast

Adopted: September 11, 2023

ROLL CALL VOTE:

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

**RESOLUTIONS TO BE ACTED ON SEPARATELY**

22. 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—US Department of Treasury Coronavirus State and Local Fiscal Recovery Fund in the amount of \$33,581.00.

**Mayor Newman did not participate in this matter.**

**TOWNSHIP OF UPPER  
CAPE MAY COUNTY  
RESOLUTION**

**RESOLUTION NO. 287-2023**

**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—US DEPARTMENT OF TREASURY  
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUND  
IN THE AMOUNT OF \$33,581.00**

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**WHEREAS**, N.J.S.A. 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 \$33,581.00 from the US Department of Treasury Coronavirus State and Local Fiscal Recovery Fund 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 \$33,581.00, which is now available as a revenue from:

REVENUE: STATE & FEDERAL REVENUE OFFSET WITH APPROPRIATIONS:  
US DEPARTMENT OF TREASURY CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY  
FUND PROGRAM, AND

**BE IT FURTHER RESOLVED** that a like sum of \$33,581.00 be and the same is hereby

appropriated under the caption of:

APPROPRIATION: STATE AND FEDERAL PROGRAMS OFFSET BY REVENUE:  
US DEPARTMENT OF TREASURY CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY  
FUND PROGRAM, AND

**BE IT FURTHER RESOLVED**, that the Chief Financial Officer follow the electronic submission process for the insertion of special items of revenue and appropriation for approval with the Director of Local Government Services.

Resolution No. 287-2023

Offered By: Pancoast

Seconded By: Nappen

Adopted: September 11, 2023

Roll Call Vote:

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

**ORDINANCES**

23. Public hearing and final adoption of Ordinance No. 014-2023 RE: AN ORDINANCE AUTHORIZING SALE OF LANDS, TO WIT BLOCK 595, LOT 13. **During the public hearing portion there were no speakers. Motion by Kimberly Hayes, second by Victor Nappen to adopt Ordinance No. 014-2023. 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 renote 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 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 11<sup>TH</sup> DAY OF SEPTEMBER, 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

## **CORRESPONDENCE**

### **NEW BUSINESS**

24. Knights of Columbus #9113 Monsignor James J. Zegers/Resurrection Council request to hold a Raffle RA-562 at Immaculata Hall on February 11, 2024. **Motion by Kimberly Hayes, second by Victor Nappen, to approve the request. During roll call vote all five Committee members voted in the affirmative.**

25. Authorization to sign a Direct Install estimate. **Motion by Jay Newman, second by Kimberly Hayes, to approve the request. During roll call vote all five Committee members voted in the affirmative.**

## **UNFINISHED BUSINESS**

### **PAYMENT OF BILLS**

26. "I hereby move that all claims submitted for payment at this meeting be approved and then incorporated in full in the minutes of this meeting." **Motion by Kimberly Hayes, second by Mark Pancoast. During roll call vote all five Committee members voted in the affirmative.**

Bills approved for payment: **\$1,653,730.56**  
Payroll: **\$231,070.41**

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

**Elaine Holsomback, Strathmere & Palermo**, spoke on several subjects including mobi mats, wind turbines, whales, and climate change.

**Carl Yunghans, Tuckahoe Road**, inquired about the recent article in the Herald regarding the Township's tax rate. He also inquired about the Jeff Van Drew "Stop Windmills Save Our Shore" signs.

**Barbara Leary, Seaville**, inquired about the Mt. Laurel subcommittee and affordable housing in the Township.

**Nathalie Neiss, Block 476, Lot 29**, inquired about affordable housing in the Township, and the potential litigation - Cape May County Agriculture Development Board item on the closed session agenda.

### **CLOSED SESSION**

27. 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. 288-2023  
MOTION GOING INTO CLOSED SESSION  
SEPTEMBER 11, 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. Contract negotiation - Corbin City EMS
3. Contract negotiation - CME
4. Contract negotiation - Marsh & McLennan
5. Contract negotiation - Maley Givens
6. Contract negotiation - Prescott Avenue
7. Contract negotiation - Sale of Tax Sale Certificate
8. Potential litigation - Cape May County Agriculture Development Board

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 Kimberly Hayes, second by Jay Newman, 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 8:36 P.M., with a motion by Kimberly Hayes, second by Victor Nappen, and all five Committee members voting in the affirmative. The next regular Committee meeting is scheduled for September 25, 2023 at 4:30 P.M.

Minutes prepared by,

Joanne R. Herron, RMC  
Township Clerk

Bill List

82116 09/11/23 A0075 ADAMS, JOSHUA 158.00 3324  
 82117 09/11/23 A0091 ATLANTIC CITY ELECTRIC 23,124.91 3324  
 82184 09/11/23 Alignment Check VOID  
 82185 09/11/23 A0212 ANCERO, LLC 1,301.44 3324  
 82186 09/11/23 A0235 AMAZON CAPITAL SERVICES, INC. 59.18 3324  
 82187 09/11/23 B0035 BELMONT & CRYSTAL SPRINGS 91.91 3324  
 82188 09/11/23 B0076 BOND, LAURENCE E. 768.79 3324  
 82189 09/11/23 B0093 BARRY, CORRADO & GRASSI, PC 1,340.00 3324  
 82190 09/11/23 B0277 Borcky, Greg 26.00 3324  
 82191 09/11/23 B0284 BUTTERWOOD TREE SERVICE LLC 700.00 3324  
 82192 09/11/23 B0287 BIGLEAF NETWORKS, INC. 697.00 3324  
 82193 09/11/23 C0068 COMCAST 1,530.52 3324  
 82194 09/11/23 C0143 CODY'S POWER EQUIPMENT 977.68 3324  
 82195 09/11/23 C0182 CDW GOVERNMENT, INC 210.66 3324  
 82196 09/11/23 C0223 CASA PAYROLL SERVICE 307.00 3324  
 82197 09/11/23 C0247 CMRS-FP 2,000.00 3324  
 82198 09/11/23 C0307 CNS ACQUISITION CORPORATION 875.00 3324  
 82199 09/11/23 C0346 CME ASSOCIATES 25,430.75 3324  
 82200 09/11/23 D0237 DIETZ, KERRY 125.00 3324  
 82201 09/11/23 D0240 DEVLIN, EDMUND F. 1,048.45 3324  
 82202 09/11/23 F0016 FAZZIO, JOSEPH INC. 199.45 3324  
 82203 09/11/23 G0016 GARDNER HARDWARE INC. 361.97 3324  
 82204 09/11/23 G0030 GENERAL SPRING SERVICE 384.00 3324  
 82205 09/11/23 G0037 GOVT FINANCE OFFICER ASN OF NJ 425.00 3324  
 82206 09/11/23 G0120 PATRICK F. MARTIN 1,966.58 3324  
 82207 09/11/23 G0124 GRIFFIN AUTOMOTIVE INFO SVC 3,180.00 3324  
 82208 09/11/23 G0147 GREATAMERICA FINANCIAL SVCS. 165.00 3324

82209 09/11/23 G0185 Gentilini, Tom 20.00 3324  
82210 09/11/23 H0002 H.A. DEHART & SON CORP. 71.37 3324  
82211 09/11/23 H0073 HOME DEPOT CRC/GECF 89.41 3324  
82212 09/11/23 H0089 HERC RENTALS, INC 1,498.00 3324  
82213 09/11/23 J0079 JAMES WYERS LANDSCAPING, LLC 850.00 3324  
82214 09/11/23 J0088 JOHNSTON, APRIL 91.00 3324  
82215 09/11/23 K0103 KYOCERA DOCUMENT SOLUTIONS 144.67 3324  
82216 09/11/23 L0043 LEE RAIN, INC. 86.19 3324  
82217 09/11/23 L0157 LEXA CONCRETE, LLC 48,211.39 3324  
82218 09/11/23 M0046 MASON, DAVID 150.00 3324  
82219 09/11/23 M0076 MGL PRINTING SOLUTIONS 640.00 3324  
82220 09/11/23 M0193 MAYNE, MICHAEL 57.98 3324  
82221 09/11/23 M0305 McELWEE & QUINN LLC 1,000.00 3324  
82222 09/11/23 N0004 NJ-AMERICAN WATER CO. 539.37 3324  
82223 09/11/23 N0052 NATL YOUTH SPORTS COACHED ASSN 225.00 3324  
82224 09/11/23 N0143 NATIONAL TIME SYSTEMS 2,113.45 3324  
82225 09/11/23 N0154 NEW HORIZON COMMUNICATIONS 828.77 3324  
82226 09/11/23 O0071 OAKS, ELIZABETH 91.00 3324  
82227 09/11/23 P0032 PEDRONI FUEL CO. 2,810.08 3324  
82228 09/11/23 P0140 PIONEER MANUFACTURING CO, INC 3,913.70 3324  
82229 09/11/23 R0030 RIGGINS, INC. 6,338.81 3324  
82230 09/11/23 R0097 ROCK-N-RESCUE 305.88 3324  
82231 09/11/23 R0101 R.R. DONNELLEY 319.50 3324  
82232 09/11/23 S0020 THE HOME DEPOT PRO 340.93 3324  
82233 09/11/23 S0051 SEAL MASTER PRODUCTS & SERVICE 618.23 3324  
82234 09/11/23 S0057 SERVICE TIRE TRUCK CENTERS 398.60 3324  
82235 09/11/23 S0113 SMITH, THOMAS G. 473.00 3324  
82236 09/11/23 S0134 SO. JERSEY GAS COMPANY 403.90 3324  
82237 09/11/23 S0363 STARR GENERAL CONTRACTING CORP 3,469.75 3324  
82238 09/11/23 S0377 SHONE, JOSEPH 349.98 3324  
82239 09/11/23 T0159 TRIAD ADVISORY SERVICES, INC. 375.00 3324  
82240 09/11/23 T0168 TOWNSHIP OF UPPER 145.59 3324  
82241 09/11/23 T0180 TRI-COUNTY PEST CONTROL, INC 25.00 3324  
82242 09/11/23 T0213 TREASURER, STATE OF NEW JERSEY 160,366.24 3324  
82243 09/11/23 T0219 TREASURER STATE OF NEW JERSEY 1,337,500.00 3324  
82244 09/11/23 U0067 UT HEALTH REIMB. ACCOUNT 3,759.59 3324  
82245 09/11/23 V0013 VERIZON WIRELESS 387.84 3324  
82246 09/11/23 V0026 VITAL COMMUNICATIONS, INC. 100.00 3324  
82247 09/11/23 V0052 VIKING TERMITE & PEST CONTROL 64.15 3324  
82248 09/11/23 W0037 WALLACE REFRIGERATION 4,900.00 3324  
82249 09/11/23 W0087 W.B. MASON EGG HARBOR 219.87 3324  
82250 09/11/23 W0123 WIRELESS ELECTRONICS, INC. 1,803.03 3324  
82251 09/11/23 Y0008 YOUNG, DANIEL J. ESQUIRE PC 180.00 3324  
Total: \$1,653,730.56