

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR OCTOBER 23, 2023**

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

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

Mayor Newman read the following Open Public meeting notice into the record:

“In compliance with the Open Public Meetings Law, I wish to state that on October 20, 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 – October 10, 2023 Regular and Closed Session Minutes

Motion by Kimberly Hayes, second by Curtis Corson, to approve the October 10, 2023 Regular and Closed Session Minutes as submitted. During roll call vote five Committee members voted in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

Victor Nappen, Committeeman, thanked the Upper Township Soccer Association for a wonderful recreational league. He also complimented the employees for the wonderful fall decorations at Town Hall. He next reported that he and Committeeman Corson recently attended a Strathmere Fishing and Environmental Club meeting regarding coastal resilience and stated that it was a wonderfully informative presentation.

Mark Pancoast, Committeeman, reported that Public Works is busy with preparations for the winter.

Curtis Corson, Committeeman, reported on the ongoing issue with illegal dumping on Bailey Road and proposed closing public access to the road. After a brief discussion the Municipal Attorney was directed to look into the matter.

Kimberly Hayes, Committeewoman, reported on the recent successful Health Fair and commended employee Janet McBride for organizing the event. She next reported that the drive-in movie night at Amanda’s Field was also very successful. She thanked Cape Assist for partnering with the Township and

plans are underway to host a Christmas drive-in movie night too. Next, she reported that the Community Center is open. Lastly, she reported that the Township will be holding the annual Tree Lighting ceremony on November 27th at 6:30 pm after the Committee meeting.

Jay Newman, Mayor, reported that the Upper Township EMS will be holding their annual Trunk or Treat event on October 24th at Amanda's Field. He next reported that Trick or Treat in Upper Township will be held on October 31st from 5:00 to 8:00. Lastly he reported on the recent Fire Prevention Open House at Amanda's Field and the event was very successful.

ADMINISTRATOR OVERVIEW

Gary DeMarzo, Township Administrator, reported that budget season is underway and he and the CFO have started preparations. He next reported that the Personnel office is continuing to work on wage contracts with Town Hall and stated that the pitch to the employee base to switch to a more affordable health insurance option was very successful.

Anthony Monzo, Municipal Attorney, reported that an Ordinance increasing illegal dumping fines to the maximum amount allowable under state law is on the agenda tonight for introduction. He next reported that there is also an Ordinance on tonight's agenda for introduction amending the property maintenance code to better define an inoperable vehicle.

Zachary Jordan, Township Engineer, gave a brief update on the beach replenishment project and the County's Church Road project. He next reported that a Flood Insurance Promotion Meeting will be held on October 28th at 9:00 am at the Strathmere Fire House. Residents that have questions regarding flood insurance are encouraged to attend. Mayor Newman requested the Engineer to make sure the County provides traffic detour updates for the Church Road project to the Township public safety personnel.

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. Municipal Court

RESOLUTIONS TO BE APPROVED BY CONSENT

3. Appointing Triad Advisory Services, Inc. to provide Administrative Services with regard to the Upper Township Affordable Housing Programs.

TOWNSHIP OF UPPER CAPE MAY COUNTY RESOLUTION

RESOLUTION NO. 312-2023

RE: APPOINTING TRIAD ADVISORY SERVICES, INC. TO PROVIDE ADMINISTRATIVE SERVICES WITH REGARD TO THE UPPER TOWNSHIP AFFORDABLE HOUSING PROGRAMS

WHEREAS, Township of Upper has developed an Operating Manual for the Administration of providing Affordability Assistance to Homeowners (Affordability Assistance Manual) in accordance with the Uniform Housing Affordability Controls and the New Jersey Fair Housing Act; and

WHEREAS, the Township of Upper requires administrative services for the Township's Affordability Assistance and Market to Affordable programs; and

WHEREAS, the Township has decided to acquire the services of Triad Advisory Services, Inc. (trading as Triad Associates) as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, Triad Advisory Services, Inc. has completed and submitted a Business Entity Disclosure Certification, which certifies that Triad Advisory Services, Inc. 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 Triad Advisory Services, Inc. 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. Triad Advisory Services, Inc. with offices at 1301 W. Forest Grove Road, Vineland, New Jersey 08360, is hereby appointed Administrative Agent for the Township of Upper for the purposes in as specified in this Resolution and the attached Professional Service Agreement.
3. The contract shall have a term of one (1) year from date of full execution.
4. This Contract is awarded without competitive bidding as a professional service in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Triad Advisory Services, Inc. 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. 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. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Service Agreement with Triad Advisory Services, Inc. in accordance with the terms and provisions of the Local Public Contracts Law, subject to and in accordance with the limitations imposed herein. Upon execution of all parties thereto-said contract shall become effective.

8. A 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.

9. This Resolution shall be effective as of adoption.

Resolution No. 312-2023

Offered by: Hayes

Seconded by: Pancoast

Adopted: October 23, 2023

Roll Call Vote:

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

4. Authorizing the Chief Financial Officer to sign a Spending Account Client Renewal Confirmation form with Trion Group, Inc. for an Employee Health Reimbursement Account.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 313-2023

**RE: AUTHORIZING THE CHIEF FINANCIAL OFFICER TO SIGN A SPENDING ACCOUNT
CLIENT RENEWAL CONFIRMATION FORM WITH TRION GROUP, INC. FOR AN
EMPLOYEE HEALTH REIMBURSEMENT ACCOUNT**

WHEREAS, the Township wishes to complete a Spending Account Client Renewal Confirmation form with Trion Group, Inc., attached hereto as Exhibit A, to renew the Health

Reimbursement Account (HRA) for eligible employees effective January 1, 2024; and

WHEREAS, said HRA will be for a period from January 1, 2024 to December 31, 2024.

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 Spending Account Client Renewal Confirmation form between the Township of Upper and Trion Group, Inc. is approved and the Chief Financial Officer is hereby authorized, directed and empowered to execute said agreement on behalf of the Township of Upper.

3. 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. 313-2023

Offered By: Hayes

Seconded By: Pancoast

Adopted: October 23, 2023

Roll Call Vote:

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

5. Authorizing the Mayor to sign a Historic Preservation Grant Agreement with the County of Cape May for the preservation of the Tuckahoe Train Station Roof.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 314-2023

**RE: AUTHORIZING THE MAYOR TO SIGN A HISTORIC PRESERVATION
GRANT AGREEMENT WITH THE COUNTY OF CAPE MAY FOR THE
PRESERVATION OF THE TUCKAHOE TRAIN STATION ROOF**

WHEREAS, the County of Cape May has established the Cape May County Open Space, Recreational, Farmland, and Historic Preservation Trust Fund to assist municipalities and qualified charitable conservancies in acquiring, preserving, and maintaining open space, recreation, farmland, and historic preservation properties; and

WHEREAS, in an effort to find assistance with preserving the Tuckahoe Train Station as a historic structure and continuing to make the facility open to the public to learn about the history of our

community, the Township of Upper applied for a Historic Preservation Trust Fund Grant for the preservation of the Tuckahoe Train Station roof; and

WHEREAS, the Township of Upper has been awarded a Historic Preservation Trust Fund grant in an amount not to exceed \$72,000.00; and

WHEREAS, the Township Committee gratefully accepts this grant award on behalf of the Township of Upper.

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 the Historic Preservation Grant Agreement with the County of Cape May.
3. 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. 314-2023

Offered by: Hayes

Seconded by: Pancoast

Adopted: October 23, 2023

Roll Call Vote:

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

6. Authorizing the Mayor to sign an application for temporary use of the Strathmere Volunteer Fire Company Hall.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 315-2023

RE: AUTHORIZING THE MAYOR TO SIGN AN APPLICATION FOR TEMPORARY USE OF THE STRATHMERE VOLUNTEER FIRE COMPANY HALL

WHEREAS, the Township of Upper wishes to use the Strathmere Volunteer Fire Company (SVFC) Hall for a Flood Insurance Promotion meeting on October 28, 2023; and

WHEREAS, the SVFC has requested the Township to execute an application for temporary use; 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, directed and empowered to execute the attached application for temporary use of the Strathmere Volunteer Fire Company Hall for a Flood Insurance Promotion meeting to be held on October 28, 2023.
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. 315-2023

Offered by: Hayes

Seconded by: Pancoast

Adopted: October 23, 2023

Roll Call Vote:

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

7. Authorizing adoption of amendments to the Township's "Personnel Policies and Procedures Manual" and "Personnel Policies and Procedures Manual Supervisory Supplement".

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 316-2023

**AUTHORIZING ADOPTION OF AMENDMENTS TO THE TOWNSHIP'S "PERSONNEL
POLICIES AND PROCEDURES MANUAL" AND "PERSONNEL POLICIES AND
PROCEDURES MANUAL SUPERVISORY SUPPLEMENT"**

WHEREAS, the Township determined that certain amendments and updates to the Personnel Policies and Procedures Manual and Personnel Policies and Procedures Manual Supervisory Supplement are required to incorporate changes in State and Federal law and based on recommendations from the Municipal Excess Liability Joint Insurance Fund; and

WHEREAS, the revised Personnel Policies and Procedures Manual and Personnel Policies and Procedures Manual Supervisory Supplement will be distributed to all Township employees, as applicable; and

WHEREAS, the Township employees will acknowledge receipt of the revised Personnel Policies and Procedures Manual and Personnel Policies and Procedures Manual Supervisory Supplement, as applicable; and

WHEREAS, the adoption of a revised Personnel Policies and Procedures Manual and a revised Personnel Policies and Procedures Manual Supervisory Supplement and distribution of same will protect the interests and rights of both the Township and its employees; and

NOW, THEREFORE, BE IT RESOLVED, by the Township Committee of the Township of Upper that the aforesaid amendments to the Personnel Policies and Procedures Manual and Personnel Policies and Procedures Manual Supervisory Supplement be and are hereby accepted and adopted.

BE IT FURTHER RESOLVED, that copies of the Personnel Policies and Procedures Manual and Personnel Policies and Procedures Manual Supervisory Supplement shall be distributed to all employees, as applicable.

BE IT FURTHER RESOLVED, that the Personnel Officer be and is hereby authorized to execute such documents and undertake such acts as are reasonable and necessary to accomplish the purposes of this Resolution.

Resolution No. 316-2023

Offered by: Hayes

Seconded by: Pancoast

Adopted: October 23, 2023

Roll Call Vote:

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

8. Adopting revisions to the Township of Upper purchasing policy.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 317-2023

**RE: ADOPTING REVISIONS TO THE TOWNSHIP OF UPPER
PURCHASING POLICY**

WHEREAS, on May 13, 2013 the Township of Upper adopted a Purchasing Policy to assist Township employees in the responsibilities of purchasing and as a guide to the Township's purchasing procedures; and

WHEREAS, on October 15, 2013 on March 24, 2014, and again on August 29, 2016, the Township of Upper revised the Purchasing Policy; and

WHEREAS, the Township Committee of the Township of Upper has determined there is a need to make further revisions to the Purchasing Policy; 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 revised Township of Upper Purchasing Policy attached hereto as Exhibit “A” is hereby approved and adopted.
3. The provisions of this policy may be amended and supplemented from time to time at the sole discretion of the Township Committee.
4. 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. 317-2023

Offered By: Hayes

Seconded By: Pancoast

Adopted: October 23, 2023

Roll Call Vote:

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

9. Approval of settlement of litigation case number: CPM-L-173-22.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 318-2023

**RE: APPROVAL OF SETTLEMENT OF LITIGATION
CASE NUMBER: CPM-L-173-22**

WHEREAS, Brian Bushong (“Bushong”) brought litigation against the Township of Upper, et al. (“Upper Township”) in the Superior Court of New Jersey, Cape May County under Docket Number Case Number: CPM-L-173-23 related to a dispute pertaining to his employment with Upper Township as a Truck Driver (the “Litigation”); and

WHEREAS, Upper Township has denied the claims of Bushong and has otherwise indicated an intention to assert various affirmative defenses to Bushong’s allegations; and

WHEREAS, Upper Township and Bushong (collectively, the “Parties”) have participated in settlement discussions related to the resolution of the Litigation, which discussions have led to a proposed settlement which is being recommended by the insurer of Upper Township; and

WHEREAS, that resolution will include the dismissal of all claims asserted against the parties to the Litigation as well as a full releases from Bushong; and

WHEREAS, Upper Township’s insurance carrier has agreed to fully fund the proposed settlement of the Litigation, subject solely to Upper Township’s deductible and coinsurance obligation; and

WHEREAS, both Bushong and Upper Township, without admission of liability or wrongdoing on the part of either party, and to avoid the uncertainties, expense, and delay inherent in litigation, have determined it to be mutually advantageous to conclusively resolve those claims as set forth in the Litigation, and to otherwise resolve all claims and issues currently existing between them.

NOW, THEREFORE, BE IT RESOLVED by the Committee of the Township of Upper, New Jersey, that the agreement resolving the Litigation be and hereby is APPROVED and that the same may and shall be signed by or on behalf of the Township of Upper by Mayor Jay Newman.

Resolution No. 318-2023

Offered by: Hayes

Seconded by: Pancoast

Adopted: October 23, 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

10. Authorizing Change Order No. 1 to the Install Stormwater Pump in Strathmere contract resulting in an increase in the amount of \$15,600.00.

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

RESOLUTION NO. 319-2023

**RE: AUTHORIZING CHANGE ORDER NO. 1 TO THE INSTALL STORMWATER PUMP IN
STRATHMERE CONTRACT RESULTING IN AN INCREASE
IN THE AMOUNT OF \$15,600.00**

WHEREAS, the Township of Upper awarded the Install Stormwater Pump in Strathmere contract to J.F. Kiely Construction Co. of Tinton Falls, New Jersey, in the original Contract amount of \$15,600.00; and

WHEREAS, a change order to the contract is needed in order to install a doghouse E-Inlet on Putnam Avenue in order to remediate flooding west of the Bayview Drive intersection; and

WHEREAS, the Chief Financial Officer has issued a certification as to the availability of funds for this Change Order No. 1; and

WHEREAS, the aggregate amount of Change Order No. 1, comprising of extra work in the amount of \$15,600.00, does not exceed twenty percent (20%) of the original Contract award; and

WHEREAS, the Township Engineer has requested this Change Order and has indicated that it is permitted under the applicable regulations and that, pursuant to N.J.A.C. 5:30-11.8, it is an unforeseeable problem, which is defined as conditions or circumstances that could not be foreseen at the time the specifications were written and the contract awarded; and that a substantial amount of the construction would be delayed, which would result in substantial increases in costs above the original contract amount or substantial inconvenience to the public if bidding were to be required; 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 Install Stormwater Pump in Strathmere contract with J.F. Kiely Construction Co. for extra work in the amount of \$15,600.00 is hereby authorized.
3. A copy of the Change Order detailing the nature and the extent of the work to be done, together with all other prior Change Orders, if any, are attached to this Resolution as Exhibit "A".
4. The Mayor and Chief Financial Officer are hereby authorized, directed and empowered to execute the Change Order on behalf of the Township of Upper.
5. 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. 319-2023

Offered by: Corson

Seconded by: Hayes

Adopted: October 23, 2023

Roll Call Vote:

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

ORDINANCES

11. Introduction and first reading of Ordinance No. 015-2023 RE: AN ORDINANCE AMENDING CHAPTER 19 (LAND SUBDIVISION, SITE PLAN AND LAND USE ADMINISTRATION) OF THE CODE OF UPPER TOWNSHIP REGARDING TELECOMMUNICATIONS FACILITIES. **Motion by Jay Newman, second by Kimberly Hayes, to introduce Ordinance 015-2023 with a public hearing and final adoption scheduled for November 13, 2023. During roll call vote all five Committee Members voted in the affirmative.**

12. Introduction and first reading of Ordinance No. 016-2023 RE: AN ORDINANCE AMENDING CHAPTER 24 (SOLID WASTE AND RECYCLABLES) OF THE CODE OF UPPER TOWNSHIP. **Motion by Curtis Corson, second by Kimberly Hayes, to introduce Ordinance 016-2023 with a public hearing and final adoption scheduled for November 13, 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. 016-2023

**RE: AN ORDINANCE AMENDING CHAPTER 24 (SOLID WASTE AND RECYCLABLES) OF
THE CODE OF UPPER TOWNSHIP**

WHEREAS, the Township Committee of the Township of Upper desires to adopt an ordinance amending Chapter 24 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, by amending Section 24-4.3 with respect to violations and penalties.

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

SECTION 1: Chapter 24, Section 24-4.3(a) and (c) of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended and supplemented as hereinafter provided:

Replace Section 24-4.3(a) and (c) in its entirety with the following:

SECTION 24-4 DUMPING AND LITTERING PROHIBITED

24-4.3 Penalty; Reward.

- a. For any violation of this Section, in accordance with N.J.S.A. 40:49-5, the maximum penalty upon conviction of a violation, shall be a fine not exceeding \$10,000.00, with a minimum of not less than \$2,500.00, plus the cost of clean-up and proper disposal in an approved landfill of the material illegally disposed of and/or imprisonment for a term not exceeding 90 days or by a period of community service not exceeding 90 days at the discretion of the Township Municipal Court Judge.

Every day upon which a violation of this section shall continue to exist shall be deemed a separate and distinct offense.

- c. Any person or persons assisting in the conviction of a violator of this section, either through the signing of a complaint, the giving of testimony in Court, or other significant assistance of the enforcement authorities thereof, resulting in conviction, shall receive a reward of \$1,000.00. The Township Committee is authorized to adopt rules and regulations for the payment of such rewards and to determine criteria and standards of eligibility by resolution.

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 **23RD DAY OF OCTOBER, 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 **13TH DAY OF NOVEMBER, 2023 AT 6:30 P.M.** AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY.

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

JOANNE R. HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER

13. Introduction and first reading of Ordinance No. 017-2023 RE: AN ORDINANCE AMENDING CHAPTER 11 (PROPERTY MAINTENANCE) OF THE CODE OF UPPER TOWNSHIP.
Motion by Kimberly Hayes, second by Mark Pancoast, to introduce Ordinance 017-2023 with a public hearing and final adoption scheduled for November 13, 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. 017-2023

**RE: AN ORDINANCE AMENDING CHAPTER 11 (PROPERTY MAINTENANCE)
OF THE CODE OF UPPER TOWNSHIP**

WHEREAS, the Township Committee of the Township of Upper desires to adopt an ordinance amending Chapter 11 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, by amending Section 11-1.2 with respect to the definition of an inoperable vehicle and Section 11-1.14(a).

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

SECTION 1: Chapter 11 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, shall be amended and supplemented as hereinafter provided:

Replace the following in Section 11-1.2:

SECTION 11-1.2 DEFINITIONS.

INOPERABLE VEHICLE Shall mean any vehicle on which one or more of the following conditions are present: the engine, wheels or other parts have been removed, altered or damaged with flat tires or allowed to deteriorate to the point where the vehicle cannot be driven, including growth of mold or vegetation on or in the vehicle, the vehicle is stationary for more than fifteen (15) consecutive days, is surrounded by tall grass, contains no license tags or has an expired inspection sticker. This presumption may be rebutted by evidence that refutes the vehicle's inoperability.

Replace Section 11-1.14 (a) in its entirety with the following:

SECTION 11-1.14 MOTOR VEHICLES, TRAILERS, BOATS, RV'S AND ATV'S.

- a. Except as provided for in other regulations, no unregistered or inoperable motor vehicle, trailer, boat, recreational vehicle, heavy equipment or ATV shall be parked, kept or stored on any exterior premises, and no vehicle or similar apparatus or equipment shall at any time be in a state of major disassembly, despair, or in the process of being stripped or dismantled. Notwithstanding the foregoing, an owner or occupant shall be permitted to keep up to three unregistered or inoperable motor vehicles, or parts thereof, in the exterior rear yard of a premises provided such motor vehicles are part of an ongoing restoration process, the activity and use complies with Chapters **19** and **20**, the motor vehicles are not located within the setback lines of the property, the motor vehicles are screened from view by neighboring properties and there exists no environmental or other hazard associated with such motor vehicles.

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 **23RD DAY OF OCTOBER, 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 **13TH DAY OF NOVEMBER, 2023 AT 6:30 P.M.** AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY.

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

CORRESPONDENCE

NEW BUSINESS

14. New Jersey Best Practices Worksheet CY2023/SFY2024. **CFO Barbara Ludy reported that the Township scored a 40 out of a possible 42 on the Best Practices questionnaire, resulting in no impact to the Township’s State aid. Motion by Curtis Corson, second by Victor Nappen, to authorize the Administrator, CFO, and Clerk to certify and submit the Worksheet to the state. During roll call vote all five Committee members voted in the affirmative.**

UNFINISHED BUSINESS

PAYMENT OF BILLS

14. “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: **\$357,189.40**
Payroll: **\$173,483.67**

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

Elaine Holsomback, Strathmere and Palermo, spoke about the trimming of dune flowers, parking issues near the Corson’s Inlet Bridge, and the lighting at night at the Senior Center.

CLOSED SESSION

15. 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. 320-2023
MOTION GOING INTO CLOSED SESSION
OCTOBER 23, 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 - Shared Services Agreement with Ocean City for Dispatch Services
3. Contract negotiation - Cape May County MUA Host Community Benefit Agreement
4. Contract negotiation - Living Shoreline project
5. Attorney/Client Privilege - Cell Tower
6. Attorney/Client Privilege - Dredge Material

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.

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 Curtis Corson, 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 5:24 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 November 13, 2023 at 6:30 P.M.

Minutes prepared by,

Joanne R. Herron, RMC
Township Clerk

Bills

82413 10/23/23 A0017 ATLANTIC CO. MUNICIPAL JIF 130,312.00 3328
82414 10/23/23 A0025 ADVANTAGE RENTAL & SALES 877.39 3328
82415 10/23/23 A0081 ARMSTRONG, RALON I. 463.71 3328
82416 10/23/23 A0091 ATLANTIC CITY ELECTRIC 2,341.12 3328
82417 10/23/23 A0117 AT&T 201.15 3328
82418 10/23/23 A0212 ANCERO, LLC 8,310.50 3328
82419 10/23/23 A0222 ANZELONE ELECTRIC COMPANY, LLC 4,431.00 3328
82420 10/23/23 A0235 AMAZON CAPITAL SERVICES, INC. 716.51 3328
82421 10/23/23 B0039 BEESLEY'S PT. SEA DOO, INC. 600.93 3328
82422 10/23/23 B0196 BRT TECHNOLOGIES LLC 4,601.52 3328
82423 10/23/23 B0220 BERGEY'S TRUCK CENTERS 867.70 3328
82424 10/23/23 B0240 BROOKS, PAULA 89.99 3328
82425 10/23/23 B0288 KINGBARNES LLC 1,324.02 3328

82426 10/23/23 C0048 CAPE MAY COUNTY MUA 44,498.43 3328
82427 10/23/23 C0068 COMCAST 1,295.66 3328
82428 10/23/23 C0143 CODY'S POWER EQUIPMENT 217.01 3328
82429 10/23/23 C0223 CASA PAYROLL SERVICE 243.50 3328
82430 10/23/23 C0247 CMRS-FP 2,000.00 3328
82431 10/23/23 C0307 CNS ACQUISITION CORPORATION 875.00 3328
82432 10/23/23 C0312 CARTER, JONATHAN 20.00 3328
82433 10/23/23 C0340 COLLIERS ENGINEERING & DESIGN 150.00 3328
82434 10/23/23 D0016 DALEYS PIT 75.00 3328
82435 10/23/23 D0031 DEGLER-WHITING, INC. 75,610.00 3328
82436 10/23/23 D0040 DELTA DENTAL OF N.J. INC. 5,710.57 3328
82437 10/23/23 D0186 DOCUTREND, INC. 28.89 3328
82438 10/23/23 D0237 DIETZ, KERRY 125.00 3328
82439 10/23/23 D0240 DEVLIN, EDMUND F. 1,048.45 3328
82440 10/23/23 D0244 DHY MOTORSPORTS 19,732.00 3328
82441 10/23/23 E0021 ENCHANTING FLORIST 65.00 3328
82442 10/23/23 E0079 EVANS III, WILLIAM 49.99 3328
82443 10/23/23 F0219 FORTUNE TITLE AGENCY, INC. 225.00 3328
82444 10/23/23 F0225 FIRE DEFENSE SYSTEMS LLC 402.00 3328
82445 10/23/23 F0232 FAMILY AUTO GLASS 1,300.00 3328
82446 10/23/23 G0028 GENTILINI FORD, INC. 248.16 3328
82447 10/23/23 G0120 PATRICK F. MARTIN 1,966.58 3328
82448 10/23/23 H0002 H.A. DEHART & SON CORP. 357.58 3328
82449 10/23/23 H0022 HR DIRECT 89.99 3328
82450 10/23/23 J0074 J.A. MONTGOMERY RISK CONTROL 4,101.00 3328
82451 10/23/23 K0103 KYOCERA DOCUMENT SOLUTIONS 144.67 3328
82452 10/23/23 L0007 LC EQUIPMENT, INC. 20.00 3328
82453 10/23/23 M0303 MALEY GIVENS, A PROF CORP 1,430.00 3328
82454 10/23/23 P0032 PEDRONI FUEL CO. 3,321.31 3328
82455 10/23/23 P0140 PIONEER MANUFACTURING CO, INC 2,025.98 3328
82456 10/23/23 P0166 PARKER MCCAY P.A. 16,701.19 3328
82457 10/23/23 Q0014 QBE SPECIALTY INSURANCE CO. 800.00 3328
82458 10/23/23 R0030 RIGGINS, INC. 5,705.05 3328
82459 10/23/23 R0146 Ritchey, Bill 26.00 3328
82460 10/23/23 S0056 SEASHORE ASPHALT CORPORATION 314.03 3328
82461 10/23/23 S0134 SO. JERSEY GAS COMPANY 263.09 3328
82462 10/23/23 S0196 STEWART BUSINESS SYSTEMS LLC 41.40 3328
82463 10/23/23 S0239 SHORE VET. ANIMAL CONTROL LLC 2,200.00 3328
82464 10/23/23 S0254 SHOPRITE 198.63 3328
82465 10/23/23 S0292 SURENIAN EDWARDS BUZAK & NOLAN 1,237.00 3328
82466 10/23/23 S0361 SOUTH JERSEY WATER TEST, LLC 692.00 3328
82467 10/23/23 S0363 STARR GENERAL CONTRACTING CORP 200.00 3328
82468 10/23/23 S0374 SEAVILLE FIRE & RESCUE CO. 190.00 3328
82469 10/23/23 S309 Sharp, Joseph 330.95 3328
82470 10/23/23 T0067 TOWNSHIP OF UPPER PETTY CASH 54.99 3328
82471 10/23/23 T0180 TRI-COUNTY PEST CONTROL, INC 25.00 3328
82472 10/23/23 V0001 VCI EMERGENCY VEHICLE 317.34 3328
82473 10/23/23 V0022 VERIZON 609.56 3328
82474 10/23/23 V0027 VANORDER, ROGER 157.86 3328
82475 10/23/23 V0053 VERIZON CONNECT FLEET USA LLC 545.60 3328
82476 10/23/23 W0100 WALKER, ESQUIRE DOUGLAS 300.00 3328
82477 10/23/23 W0124 WICKED PIZZA 2,670.00 3328
82478 10/23/23 W0132 WISCONSIN PARK & REC ASSN 575.00 3328
82479 10/23/23 X0008 XEROX FINANCIAL SERVICES 219.22 3328
82480 10/23/23 Z0017 ZOLL DATA SYSTEMS, INC. 301.18 3328
Total: \$357,189.40