

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR MARCH 25, 2024**

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 March 22, 2024, the notice of this meeting of the Upper Township Committee was posted on the official Township Bulletin Board, the Upper Township Website, and emailed to 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, Township Engineer Ryan MacNeill, and Township Administrator Gary DeMarzo. Registered Municipal Accountant Leon Costello was present for the Budget portion of the meeting.

APPROVAL OF MINUTES – March 11, 2024 Regular and Closed Session Minutes

Motion by Kimberly Hayes, second by Mark Pancoast, to approve the March 11, 2024 Regular and Closed Session Minutes as submitted. During roll call vote all five Committee members voted in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

Mark Pancoast, Committeeman, reported that the Public Works Department is currently installing no parking signs in Strathmere. He next reported that bulk collection will be held on April 2nd and the first of the year brush collection will be held in April. Brush needs to be out for collection no later than April 8th.

Kimberly Hayes, Committeewoman, thanked all that was involved with the egg hunt. Unfortunately due to the weather it had to be held indoors, but the event was very successful. She thanked employees Larry Cole and Barbara Grund, Cheryl Seidel for the facepainting, the Cape May County Library Upper Township Branch, volunteers from the Upper Township Middle School, and the Seaville and Marmora Fire Company Fire Police for their help with traffic.

Curtis Corson, Committeeman, reported that the Strathmere Fishing and Environmental Club would like to perform a beach planting on the secondary dunes in Strathmere and are looking for recommendations as to where to do the planting. The Township Engineer stated that the project will need DEP approval. After a brief discussion, there was a general consensus to support the project along with a recommendation that the SFEC send the request to the Administrator and Engineer to work with the DEP.

Victor Nappen, Committeeman, stated that the Easter Egg Hunt was a very nice event. He next commended employee Janet McBride for her work as the wellness coordinator for the Township.

Jay Newman, Mayor, spoke about the recent Code Red message Deputy Mayor Hayes sent regarding the cut in State Aid to the schools and the effect it will have on the school's budget. He asked that the residents review the information on the Township's page and take any action to help.

ADMINISTRATOR OVERVIEW

Gary DeMarzo, Township Administrator, gave a brief report on several issues and projects including the school budget, grants, road paving project, stormwater pumps, and proposed code amendments with regard to parking.

Anthony Monzo, Municipal Attorney, reported that the efforts to acquire the communications tower behind the Rescue Squad will be finalized tonight with the adoption of Ordinance 005-2024.

Ryan MacNeill, Township Engineer, gave a brief report on several projects including the paving project, Strathmere stormwater pumps, living shoreline, Open Space applications for the Skate Park and Beesley's Point Park Phase 2.

2024 BUDGET

1. Public hearing and final adoption of Ordinance No. 002-2024 RE: CALENDAR YEAR 2024 ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS AND TO ESTABLISH A CAP BANK (N.J.S.A. 40A: 4-45.14). **Mr. Costello stated that this is a standard Ordinance that is adopted every year. The Township is not exceeding the budget limits but are establishing a CAP Bank. During the public hearing portion there were no speakers. Motion by Kimberly Hayes, second by Mark Pancoast to adopt Ordinance No. 002-2024. During roll call vote all five Committee members voted in the affirmative.**

**TOWNSHIP OF UPPER
CALENDAR YEAR 2024
ORDINANCE TO EXCEED THE MUNICIPAL BUDGET
APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)**

ORDINANCE NO. 002-2024

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

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

WHEREAS, the Township Committee of the Township of Upper in the County of Cape May finds it advisable and necessary to increase its CY 2024 budget by up to **3.5%** over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

WHEREAS, the Township Committee of the Township of Upper hereby determines that a **1.0%** increase in the budget for said year, amounting to **\$129,318.46** in excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

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

NOW THEREFORE BE IT ORDAINED, by the Township Committee of the Township of Upper, in the County of Cape May a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2024 budget year, the final appropriations of the Township of Upper shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by **3.5%**, amounting to **\$452,614.61** and that the CY 2024 municipal budget for the Township of Upper be approved and adopted in accordance with this ordinance; and,

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

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

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

NOTICE IS HEREBY GIVEN THAT THE FOREGOING ORDINANCE WAS INTRODUCED FOR FIRST READING AT A MEETING OF THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF UPPER HELD ON THE 26TH DAY OF FEBRUARY, 2024 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 25TH DAY OF MARCH, 2024 AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

2. Authorizing the reading of the 2024 Annual Municipal Budget by title only.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 100-2024

**RE: AUTHORIZING THE READING OF THE 2024
ANNUAL MUNICIPAL BUDGET BY TITLE ONLY**

WHEREAS, N.J.S.A. 40:A4-8 authorizes the reading of the budget by title only at the public

hearing thereon, provided certain requirements are met; and

WHEREAS, the Township Committee of the Township of Upper is satisfied that such conditions have been satisfied.

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 majority of the full membership concurring, as follows:

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee of the Township of Upper finds and determines that:

A. At least one (1) week prior to the date of this hearing, a complete copy of the approved budget, as advertised, was posted on the Upper Township Website and in the Township Hall, the principal municipal building of the municipality, and was made available to each person requesting the same during the week immediately preceding the public hearing and is available to each person requesting a copy during the public hearing, as required by N.J.S.A. 40A:4-8.

B. The Township Committee of the Township of Upper hereby determines and declares that the conditions set forth in subsection 1.a and 1.b of N.J.S.A. 40A:4-8 have been met.

C. The Township Committee of the Township of Upper hereby determines that the 2024 Municipal Budget of the Township of Upper shall be read by its title only at the public hearing to be conducted thereon.

Resolution No. 100-2024

Offered by: Newman

Seconded by: Hayes

Adopted: March 25, 2024

Roll Call Vote:

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

3. 2024 Budget - Public Hearing.

Mr. Costello stated that there have been no changes to the budget since it was introduced. The tax rate increase is 1.4 cents. The budget is well under the spending and levy caps.

Committeeman Corson stated that this is a good solid budget and thanked everyone for their efforts in preparing it. Committeewoman Hayes stated that it is a solid budget and the

Department heads worked hard to ensure that it was as lean as it could be. She also stated that the work accomplished the past few years has allowed for this small stable increase. Mayor Newman also thanked the professionals, the Township Administrator, and the department heads for their work in preparing the budget.

Mayor Newman then opened the public hearing. During the public hearing there were no speakers. Mayor Newman then closed the public hearing.

The Clerk read the following resolution into the record:

Resolution No. 101-2024 - Be it Resolved by the Township Committee of the Township of Upper, County of Cape May, that the budget hereinbefore set forth is hereby adopted and shall constitute an appropriation for the purposes stated of the sums therein set forth as appropriations, and authorization of the amount of \$5,618,158.06 for municipal purposes.

Motion by Curtis Corson, second by Kimberly Hayes, to adopt the 2024 Budget. During roll call vote all five Committee members voted in the affirmative.

4. Local Unit Budget Examination.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 102-2024

LOCAL UNIT BUDGET EXAMINATION

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7 through 7.5 the Township of Upper has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial Officer has determined that the Township of Upper meets the necessary conditions to participate in the program for the 2024 budget year.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, County of Cape May, that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the

Chief Financial Officers' certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:

- a. Payment of interest and debt redemption charges
- b. Deferred charges and statutory expenditures
- c. Cash deficit of preceding year
- d. Reserve for uncollected taxes
- e. Other reserves and non-disbursement items
- f. Any inclusions of amount required for school purposes

2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at 40A:4-45.3 et seq. are fully met. (Complies with "CAP" law.)

3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.

4. That pursuant to the Local Budget Law:

- a. All estimates of revenue are reasonable, accurate, and correctly stated.
- b. Items of appropriation are properly set forth.
- c. In itemization, form, arrangement, and content the budget will permit the exercise of the comptroller function within the municipality.

5. The budget and associated amendments have been introduced, publicly advertised, and adopted in accordance with the relevant provision of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A 40A:4-5 shall not prevent such certification.

6. That all other applicable statutory requirements have been fulfilled.

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

Resolution No. 102-2024

Offered By: Hayes

Seconded By: Nappen

Adopted: March 25, 2024

Roll Call Vote:

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

CONSENT AGENDA

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

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

FILING OF REPORTS BY CONSENT

- 5. Animal Control
- 6. Zoning Board 2023 Annual Report

RESOLUTIONS TO BE APPROVED BY CONSENT

- 7. Congratulating the Upper Township Basketball Association’s 8th Grade Boys Team on winning the South Shore Basketball League Championship.

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

RESOLUTION NO. 103-2024

**RE: CONGRATULATING THE UPPER TOWNSHIP BASKETBALL ASSOCIATION’S
8TH GRADE BOYS TEAM ON WINNING
THE SOUTH SHORE BASKETBALL LEAGUE CHAMPIONSHIP**

WHEREAS, the Upper Township Basketball Association’s 8th Grade Boys Team had an outstanding 2024 season becoming the 8th Grade Boys 2024 South Shore Basketball League Champions; and

WHEREAS, the team averaged over 40 points per game, finishing the regular season with a league leading scoring total of 491 points, and had a strong defense all season with the least amount of points scored against them; and

WHEREAS, on March 9, 2024, the Upper Township Basketball Association participated in the 2024 South Shore Basketball League Championship games held at the Wildwood Crest Pier Recreation Center; and

WHEREAS, in the final championship game against Dennis Township the Upper Township 8th Grade Boys Team dominated for the win with a score of 44 to 35; and

WHEREAS, it is appropriate that on behalf of the citizens of Upper Township we recognize and congratulate the players listed as follows:

#1 Andrew Zintner	#13 Trent Ocello
#3 Bobby Drewnowski	#15 Liam Weber
#8 Jake Candeloro	#23 Anthony Libro
#9 Jeremy Kopiyo	#28 Columb Higgins
#10 Tommy Christopher	#30 Johnny Klebaur
#12 Christopher Wieand	#34 Alexander Christensen

WHEREAS, we also extend our recognition and appreciation to those that have generously given their personal time and service to coach this team, being Head Coach Bob Drewnowski, and Assistant Coaches Steve Alford and Joel Zintner.

NOW, THEREFORE, BE IT RESOLVED by the Township Committee on behalf of the citizens of the Township of Upper, that we extend to the Upper Township Basketball Association’s 8th Grade Boys Team congratulations on winning the South Shore Basketball League Championship, and to the coaches our heartfelt gratitude for the generous donation of their time and service to the young people of this community.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper this 25th day of March 2024.

Resolution No. 103-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: March 25, 2024

Roll Call Vote:

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

- Designating the 1st Thursday in May “A Day of Prayer in Upper Township”.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 104-2024

**RE: DESIGNATING THE 1ST THURSDAY IN MAY
“A DAY OF PRAYER IN UPPER TOWNSHIP”**

WHEREAS, Civic Prayers and National Days of Prayer have a long and revered history in our constitutional democracy, dating back to the First Continental Congress in 1775; and

WHEREAS, the Declaration of Independence, our first statement as Americans of national

purpose and identity, made “the Laws of Nature and Nature’s God” the foundation of our United States of America and asserted that people have inalienable rights that are God-given; and

WHEREAS, the Supreme Court has affirmed the right of state legislatures to open their sessions with prayer and the Supreme Court and the U.S. Congress themselves begin each day with prayer; and

WHEREAS, in 1988, legislation setting aside the first Thursday in May in each year as a National Day of Prayer was passed unanimously by both Houses of Congress and signed by President Ronald Reagan; and

WHEREAS, the National Day of Prayer is an opportunity for Americans of all faiths to join in united prayer to acknowledge our dependence on God, to give thanks for blessings received, to pray for peace, to request healing for wounds endured; and to ask God to guide our leaders and bring wholeness to the United States and her citizens; and

WHEREAS, it is fitting and proper to give thanks to God by observing a day of prayer in the Township of Upper when all may acknowledge our blessings and express gratitude for them, while recognizing the need for strengthening religious and moral values in our State and nation;

NOW, THEREFORE, BE IT RESOLVED by the Township Committee of the Township of Upper, that the first Thursday in May, 2024 is hereby designated as “A DAY OF PRAYER IN UPPER TOWNSHIP”, and all citizens of Upper Township are encouraged to observe the day in ways appropriate to its importance and significance.

Resolution No. 104-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: March 25, 2024

Roll Call Vote:

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

9. Congratulating employee Edward Carter of the Upper Township Public Works Department for his winning entry in the Upper Township Safety Award Program for the 1st quarter of 2024.

TOWNSHIP OF UPPER

**CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 105-2024

**RE: CONGRATULATING EMPLOYEE EDWARD CARTER OF THE UPPER TOWNSHIP
PUBLIC WORKS DEPARTMENT FOR HIS WINNING ENTRY IN THE UPPER
TOWNSHIP SAFETY AWARD PROGRAM
FOR THE 1ST QUARTER OF 2024**

WHEREAS, employee Edward Carter, is recognized for his efforts to promote safety for his fellow employees and residents of the Township through his participation in the Upper Township Safety Award Program with the submission of a safety suggestion; and

WHEREAS, Ed’s safety suggestion was chosen by the Upper Township Safety Committee from the entries submitted in the first quarter for the promotion of safety for employees and the community; and

WHEREAS, Ed should be publicly recognized for reporting a safety concern of the locked doors between the Community Center gymnasium and front room preventing emergency evacuation through a marked exit door; 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. That the Committee extends its appreciation and publicly recognizes Edward Carter on his commitment to safety by identifying a potential safety hazard and offering a suggestion through participation in the program.
2. That the Committee, on behalf of our employees and the citizens of the Township of Upper, extend to Ed our congratulations and present him with the “Safety Day Award” of one day off with pay.

GIVEN UNDER OUR HANDS and the seal of the Township of Upper the 25th day of March 2024.

Resolution No. 105-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: March 25, 2024

Roll Call Vote:

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

10. Accepting a donation in the amount of \$15,850.00 for the purchase of a Van Duyne lifeguard boat in memory of Rita A. McIlhenny.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 106-2024

**RE: ACCEPTING A DONATION IN THE AMOUNT OF \$15,850.00 FOR THE
PURCHASE OF A VAN DUYNE LIFEGUARD BOAT
IN MEMORY OF RITA A. MCILHENNY**

WHEREAS, N.J.S.A. 40A:5-29 authorizes a municipality to accept bequests, legacies and gifts made to a local municipal unit; and

WHEREAS, the Township of Upper has received a donation from Brian & Carol McIlhenny in the amount of \$15,850.00, in memory of Rita A. McIlhenny, for the specified purpose of purchasing a Van Duyne lifeguard boat for use by the Upper Township Beach Patrol in Strathmere; and

WHEREAS, the Township Committee has determined that the Township will best be served by the acceptance and use of the donation for its intended purpose; 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 of Upper hereby gratefully accepts a donation in the amount of \$15,850.00 for the purchase of a Van Duyne lifeguard boat.
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. 106-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: March 25, 2024

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

Newman	X			
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11. Authorizing the Upper Township Fourth of July celebration event to be held on July 4, 2024 at Amanda’s Field and setting the vendor fees.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 107-2024

**RE: AUTHORIZING THE UPPER TOWNSHIP FOURTH OF JULY
CELEBRATION EVENT TO BE HELD ON JULY 4, 2024 AT AMANDA’S FIELD
AND SETTING THE VENDOR FEES**

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

WHEREAS, the Township of Upper desires to hold a Fourth of July Celebration Event on July 4, 2024, (rain date July 5, 2024), at Amanda’s Field; and

WHEREAS, appropriate advice and approvals from the Township’s Risk Management Consultant, the New Jersey State Police, and the Division of EMS shall be obtained prior to the event; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee does hereby authorize the Upper Township Fourth of July Celebration Event to be held on July 4, 2024, with a rain date scheduled for July 5, 2024, at Amanda’s Field.
3. The following fees will be charged for participation in the Upper Township Fourth of July Event:

Food Vendor Fee - \$100.00, per 20 x 15 space

A. Non-Food Vendor Fee - \$30.00, per 10 x 15 space

B. Veteran Owned Business – No Fee

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

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

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

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

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

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

10. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 107-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: March 25, 2024

Roll Call Vote:

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

12. Declaration of Emergency pursuant to Township Code Section 7-3.2 in order to provide temporary no parking restrictions during the Upper Township Fourth of July celebration event on July 4, 2024 (Rain Date July 5, 2024).

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 108-2024

**RE: DECLARATION OF EMERGENCY PURSUANT TO TOWNSHIP CODE SECTION
7-3.2 IN ORDER TO PROVIDE TEMPORARY NO PARKING RESTRICTIONS DURING
THE UPPER TOWNSHIP FOURTH OF JULY CELEBRATION EVENT ON
JULY 4, 2024 (RAIN DATE JULY 5, 2024)**

WHEREAS, The Upper Township Code Section 7-3.2 provides that upon the declaration of an emergency temporary no parking restrictions may be instituted; and

WHEREAS, the Township of Upper Fourth of July Celebration event scheduled for Thursday, July 4, 2024 (rain date July 5, 2024) requires temporary parking restrictions for this public event consistent with the provisions of said Code Section 7-3.2; and

WHEREAS, the Township Committee deems it appropriate to declare an emergency so as to institute temporary no parking restrictions along the following roads in Upper Township:

**Route 50 between Sunset Road and Perry Road
Sunset Road
California Road
Jonathan Drive**

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 an emergency pursuant to Township Code Section 7-3.2 and directs the posting of “EMERGENCY-NO PARKING” signs on Route 50 between Sunset Road and Perry Road, Sunset Road, California Road, and Jonathan Drive.
3. Said no parking restrictions shall be effective on Thursday July 4, 2024, or in the event of inclement weather, July 5, 2024.
4. A copy of this resolution shall be provided to the New Jersey State Police and the Cape May County Sheriff’s Office.

5. 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. 108-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: March 25, 2024

Roll Call Vote:

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

13. Authorizing the annual Fourth of July fireworks display.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 109-2024

RE: AUTHORIZING THE ANNUAL FOURTH OF JULY FIREWORKS DISPLAY

WHEREAS, for many years, the Township of Upper has provided a fireworks display for the residents of Upper Township and others; and

WHEREAS, the Township wishes to continue to provide a display of fireworks in celebration of the 4th of July; and

WHEREAS, the Township has solicited proposals from several Firework Companies and has selected Serpico Pyrotechnics, LLC/Starfire Corporation, Joint Venture of 113 Orchid Court, Toms River, NJ 08753; and

WHEREAS, the State of New Jersey, Department of Community Affairs, requires that the Township provide a Resolution approving same; and

WHEREAS, the site for the fireworks display will be determined in conjunction with a State of New Jersey Fire Inspector; and

WHEREAS, FAA Clearance will be applied for; and

WHEREAS, a plot/site plan for site display, showing the distances from the public and structures to the fireworks discharge area, has been provided by the Township Engineer; and

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

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

1. The allegations of the preamble are incorporated in full herein by this reference.
2. Upon meeting all requirements of the State of New Jersey, Department of Community Affairs as well as any and all recommendations or requirements of the Township’s Risk Management Consultant and the Joint Insurance Fund, the Township Clerk is hereby directed and authorized to provide a certified copy of this Resolution, with all attachments, to the Department of Community Affairs for their review and issuance of a Fireworks Permit.
3. The contractor shall comply with all terms and provisions of the Municipal Excess Liability Joint Insurance Fund Bulletin MEL 24-05, dated January 1, 2024.
4. 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.
5. 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, including but not limited to the entering into and execution of a Display Contract with Serpico Pyrotechnics, LLC/Starfire Corporation, Joint Venture for the sum of \$16,120.00.

Resolution No. 109-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: March 25, 2024

Roll Call Vote:

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

14. Authorizing the award of a professional services contract with the Coastal Research Center at Stockton University for shoreline monitoring and consulting services for beach related issues.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 110-2024

**RE: AUTHORIZING THE AWARD OF A PROFESSIONAL SERVICES CONTRACT
WITH THE COASTAL RESEARCH CENTER AT STOCKTON UNIVERSITY
FOR SHORELINE MONITORING AND CONSULTING SERVICES
FOR BEACH RELATED ISSUES**

WHEREAS, the Township of Upper has received a proposal from the Coastal Research Center at Stockton University, which outlines shoreline monitoring services to be performed on behalf of the Township during the calendar year 2024 and provides a rate schedule for the services to be provided; and

WHEREAS, the Township Committee has considered this matter and has determined that it is in the best interest of the Township to authorize a Professional Services Contract as hereinafter provided; and

WHEREAS, the Township Solicitor has determined that the services to be provided are professional services and that a contract may be awarded without competitive bid; and

WHEREAS, the Chief Financial Officer has certified the availability of funds to permit the Township to enter into a Professional Services Contract; and

WHEREAS, a Business Entity Disclosure Certification is not required since this contract is with an agency of the state government; and

WHEREAS, the Township has decided to acquire the services of the Coastal Research Center at Stockton University as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; 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 proposal of the Coastal Research Center at Stockton University (hereinafter referred to as “Contractor”), is hereby accepted, subject to the provisions of this Resolution.
3. The Mayor and Township Clerk are hereby authorized, directed and empowered to enter into a Professional Services Contract with the Contractor aforesaid for a one (1) year term

commencing January 1, 2024. The Township Clerk is further authorized, directed and empowered to seal said Contract with the seal of the Township of Upper.

4. The Township Clerk shall cause a Notice of Award of this Contract to be published in the official newspaper of the Township as required by N.J.S.A. 40A:11-5.

5. This Contract is a Professional Services Contract and has been awarded without competitive bidding for the following reasons:

(A) The services required are highly specialized or technical in nature;

(B) The services require peculiar ability or skill, and demand a high degree of specialized knowledge or expertise;

(C) The services required are professional services and/or unspecified extraordinary services within the meaning of N.J.S.A. 40A:11-5(a);

(D) The individual who will provide these services has demonstrated his competence and particular expertise in the services required; and

(E) The services to be provided are such that their nature, scope and duration are not capable of precise measurement, but rather require a flexibility and discretion that render competitive bidding impractical and inefficient.

6. A certified copy of this Resolution shall be provided to the Contractor.

7. This Resolution shall take effect immediately provided, however, that the Contract awarded herein shall be effective as of January 1, 2024.

Resolution No. 110-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: March 25, 2024

Roll Call Vote:

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

15. Appointing Thomas G. Smith, Esquire to act as Special Legal Counsel regarding tax court matters and matters in which the regular Township Solicitor may have a conflict of interest.

TOWNSHIP OF UPPER

**CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 111-2024

**RE: APPOINTING THOMAS G. SMITH, ESQUIRE TO ACT AS SPECIAL LEGAL
COUNSEL REGARDING TAX COURT MATTERS AND MATTERS IN WHICH THE
REGULAR TOWNSHIP SOLICITOR MAY HAVE A CONFLICT OF INTEREST**

WHEREAS, the Township requires legal counsel to provide legal services for Tax Court matters and in the event a conflict of interest arises in regard to the services provided by the regular Township Solicitor; and

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

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

WHEREAS, Thomas G. Smith, Esquire has completed and submitted a Business Entity Disclosure Certification which certifies that Thomas G. Smith, Esquire has not made any reportable contributions to a political or candidate committee in the Township that would bar the award of this contract and that the contract will prohibit Thomas G. Smith, Esquire 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. Thomas G. Smith, Esquire with offices at 2312 New Road, Suite 201, Northfield, New Jersey is hereby appointed Special Legal Counsel to handle Tax Court matters and matters in which the regular Township Solicitor has a conflict of interest as well as other matters directed by the Township Committee.
3. This contract shall have a term of one (1) year from date of full execution.
4. This Contract is awarded without competitive bidding as a professional service in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because

Thomas G. Smith, Esquire has professional knowledge as to legal matters which knowledge is particularly valuable to the Township Committee and this service is acquired as a non-fair and open contract pursuant to N.J.S.A. 19:44A-20.5. **NOTICE OF CONTRACT AWARD**

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

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

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

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

8. 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. 111-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: March 25, 2024

Roll Call Vote:

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

16. Authorizing a contract with Trinity Code Inspections, LLC for interim building, electric, plumbing, and fire protection inspections and plan review services.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 112-2024

**RE: AUTHORIZING A CONTRACT WITH TRINITY CODE INSPECTIONS, LLC
FOR INTERIM BUILDING, ELECTRIC, PLUMBING, AND FIRE PROTECTION
INSPECTIONS AND PLAN REVIEW SERVICES**

WHEREAS, from time to time the Township requires interim building, electric, plumbing, and fire protection inspections and plan review services; and

WHEREAS, Trinity Code Inspections, 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 Trinity Code Inspections, LLC as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, Trinity Code Inspections, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that Trinity Code Inspections, 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 Trinity Code Inspections, 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. Trinity Code Inspections, LLC with offices at 735 Shunpike Road, Cape May, New Jersey 08204, is hereby appointed to provide interim building, electric, plumbing, and fire protection inspections and plan review services.
3. This contract shall have a term of one (1) year commencing upon 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 Trinity Code Inspections, LLC has professional knowledge as building, electric, plumbing, and fire protection inspections and plan review which knowledge is particularly valuable to the Township Committee.

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 Trinity Code Inspections, LLC. This contract and the resolution authorizing same shall be available for public inspection in the office of the Municipal Clerk of the Township of Upper, State of New Jersey.

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

7. The Mayor and the Township Clerk are hereby authorized and directed to execute, on behalf of the Township of Upper, a Professional Contract with Trinity Code Inspections, 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.

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. 112-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: March 25, 2024

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			

Pancoast	X			
Newman	X			

17. Authorizing a progress payment for engineering services for the 2023 Paving Project with funds from the 2023 Capital Improvement Bond Ordinance in the amount of \$28,275.50.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 113-2024

RE: AUTHORIZING A PROGRESS PAYMENT FOR ENGINEERING SERVICES FOR THE 2023 PAVING PROJECT WITH FUNDS FROM THE 2023 CAPITAL IMPROVEMENT BOND ORDINANCE IN THE AMOUNT OF \$28,275.50

WHEREAS, it is necessary for the Township of Upper to make certain capital purchases; and

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

WHEREAS, the Township’s Engineer, CME Associates of Howell, New Jersey, submitted a fee estimate for professional engineering services for the 2023 Paving Project dated August 18, 2023; and

WHEREAS, the Chief Financial Officer of the Township has certified that adequate funds have been appropriated for this purpose in the 2023 Capital Improvement Bond Ordinance; and

WHEREAS, CME Associates recently submitted invoices for progress work done to date for design phase and bid document services for the 2023 Paving Project in the amount of \$28,275.50; and

WHEREAS, pursuant to the Township of Upper’s Purchasing Policy, the full Township Committee shall authorize the expenditure of projects, goods or services that are part of a capital bond ordinance; and

WHEREAS, the Township Committee has reviewed the requested progress payment by CME Associates and has determined it is in the best interest of the Township to authorize same.

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 Chief Financial Officer is hereby authorized to make a payment to CME

Associates of Howell, New Jersey in the amount of **\$28,275.50** with funds from Capital Improvement Bond Ordinance No. 002-2023.

Resolution No. 113-2024

Offered By: Hayes

Seconded By: Pancoast

Adopted: March 25, 2024

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			
Pancoast	X			
Newman	<u>X</u>			

18. Resolution of the Township of Upper, County of Cape May, State of New Jersey, authorizing the Township of Upper to submit an eligibility determination and funding application to the United States of America acting through Rural Utilities Service, Department of Agriculture for a Predevelopment Planning Grant (PPG).

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 114-2024

RESOLUTION OF THE TOWNSHIP OF UPPER, COUNTY OF CAPE MAY, STATE OF NEW JERSEY, AUTHORIZING THE TOWNSHIP OF UPPER TO SUBMIT AN ELIGIBILITY DETERMINATION AND FUNDING APPLICATION TO THE UNITED STATES OF AMERICA ACTING THROUGH RURAL UTILITIES SERVICE, DEPARTMENT OF AGRICULTURE FOR A PREDEVELOPMENT PLANNING GRANT (PPG)

WHEREAS, the Township of Upper (hereinafter the “Township”) plans to submit to the United States Department of Agriculture, Rural Utilities Service (hereinafter “Rural Utilities Service”) a request for eligibility determination concerning the Township’s entitlement to participate in Rural Utilities Service’s Water and Environmental Programs (hereinafter the “Program”); and

WHEREAS, the Township wishes to pursue through the Program, funding for a Predevelopment Planning Grant; and

WHEREAS, it is in the best interest of the Township to actively and diligently pursue this project, for reasons associated with the health, safety, and welfare of the community serviced by the Township; and moreover, pursue funding with and through Rural Utilities Service, based upon Rural Utilities Service’s determination that the Township is eligible to participate in Rural Utilities Service’s Program.

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

1. All necessary action, including the filing of formal applications, be taken to pursue with Rural Utilities Service actual funding for the proposed Predevelopment Planning Grant in the Township of Upper, County of Cape May.
2. The Township is authorized to accept any and all funding through the United States of America, Acting Through Rural Utilities Service Water and Waste Disposal Program
3. The Township’s Municipal Clerk shall publish an appropriate notice of intention to file an application with Rural Utilities Service for funding for the proposed project in the Township’s official newspaper within sixty (60) days of the Township’s submission of an application for funding to Rural Utilities Service.
4. The duly authorized representative of the Township, including the Township’s Engineer, Solicitor, and Auditor, be and are hereby authorized to execute any and all documentation in furtherance of the preparation of the necessary documents to be submitted to USDA/Rural Utilities Service. Further the Mayor of the Township is hereby authorized to execute the necessary documents in order to receive an eligibility determination and funding from the USDA/Rural Utilities Service.

Resolution No. 114-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: March 25, 2024

Roll Call Vote:

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

19. Appointing Bruckner Chase as a part-time employee to the Upper Township Division of Emergency Medical Services.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 115-2024

**RE: APPOINTING BRUCKNER CHASE AS A PART-TIME EMPLOYEE TO THE
UPPER TOWNSHIP DIVISION OF EMERGENCY MEDICAL SERVICES**

WHEREAS, a need exists to appoint qualified personnel as part-time employee to the Upper Township Division of Emergency Medical Services to ensure optimal operation; and

WHEREAS, Bruckner Chase possesses all the requisite qualifications for appointment to said position; 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. Bruckner Chase is hereby appointed to the Division of Emergency Medical Services as a part-time Emergency Medical Technician effective March 26, 2024 at a rate of \$22.00 per hour, in accordance with the Salary Ordinance.
3. All Township officials and officers are hereby authorized and empowered to take all action deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 115-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: March 25, 2024

Roll Call Vote:

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

ORDINANCES

20. Public hearing and final adoption of Ordinance No. 003-2024 RE: AN ORDINANCE VACATING VALLEY AVENUE, WITHIN THE TOWNSHIP OF UPPER, COUNTY OF CAPE MAY AND STATE OF NEW JERSEY. **During the public hearing portion there were no speakers. Motion by Kimberly Hayes, second by Jay Newman to adopt Ordinance No. 003-2024. 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. 003-2024

**AN ORDINANCE VACATING VALLEY AVENUE, WITHIN THE TOWNSHIP OF UPPER,
COUNTY OF CAPE MAY AND STATE OF NEW JERSEY**

WHEREAS, N.J.S.A. 40:67-1 authorizes the Governing Body of a municipality to adopt an Ordinance, among other things, to vacate any street, highway, lane, alley, square, place or park, or any part thereof, dedicated to public use but not accepted by the municipality, whether or not the same, or any portion, has been actually opened or improved; and

WHEREAS, John D. Mayberry, the owner of Block 305, Lot 1 (the “Property”), has requested that the Township vacate Valley Avenue as described in this Ordinance and has agreed to pay the costs incurred by the Township to vacate said street including the costs of the revisions to the tax map; and

WHEREAS, the Township Committee has duly considered the matter and it appears reasonable to agree to the request since there is no present or foreseeable need or intention to utilize said roadway; and

WHEREAS, it is deemed to be in the public interest to vacate Valley Avenue within the Township of Upper, as hereinafter provided.

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

SECTION 1: The public right in, along, upon and over the following described land is hereby vacated, surrendered and extinguished:

Description

Vacation of Valley Avenue,
as shown on Current Municipal Tax Map Sheet No. 11.4
Tuckahoe Section of Township of Upper

Beginning at the point of intersection of the Northeasterly corner of Valley Avenue (33 feet R.O.W.) and the Westerly line of Mackey Avenue (40 feet R.O.W.), and

- Thence #1: Extending in a Westerly direction along the Northerly line of Valley Avenue a distance of 295 feet to a point, and;
- Thence #2: Extending in a Southerly direction across the Westerly line of Valley Avenue a distance of 33 feet to a point, and;
- Thence #3: Extending in an Easterly direction along the Southerly line of Valley Avenue a distance of 295 feet to a point of intersection of Southeasterly corner of Valley Avenue and the Westerly line of Mackey Avenue, and;
- Thence #4: Extending in a Northerly direction across Valley Avenue a distance of 33.0 feet to the point and place of beginning.

SECTION 2: This Ordinance vacates no portion of the street except that portion set forth and described in **SECTION 1** above.

SECTION 3: EXCEPTION: This Ordinance expressly reserves and excepts from vacation all rights and privileges now possessed by public utilities, as defined in R.S. 48:2-13, and by any cable television company, as defined in the "Cable Television Act", P.L. 1972, c. 186, (C.48:5A-1, et seq.), to maintain, repair and replace their existing facilities in, adjacent to, over or under the street, highway, lane, alley, square, place or park, or any part thereof, to be vacated, as hereinabove described.

SECTION 4: REPEALER: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency only.

SECTION 5: EFFECTIVE DATE: This Ordinance shall take effect immediately upon final adoption and publication as required by law.

SECTION 6: John D. Mayberry, owner of the Property, shall reimburse the Township of Upper for all expenses related to said vacation, including attorney's fees, costs and any recording fees.

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 26TH DAY OF FEBRUARY, 2024 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 25TH DAY OF MARCH, 2024 AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

21. Public hearing and final adoption of Ordinance No. 004-2024 RE: AN ORDINANCE ADDING CHAPTER 10, SECTION 2 (LEAD-BASED PAINT INSPECTION IN RESIDENTIAL DWELLINGS) TO THE CODE OF UPPER TOWNSHIP. **During the public hearing portion there were no speakers. Motion by Kimberly Hayes, second by Mark Pancoast to adopt Ordinance No. 004-2024. 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. 004-2024

**AN ORDINANCE ADDING CHAPTER 10, SECTION 2
(LEAD-BASED PAINT INSPECTION IN RESIDENTIAL DWELLINGS)
TO THE CODE OF UPPER TOWNSHIP**

WHEREAS, pursuant to P.L. 2021, c. 182, the Township Committee of the Township of Upper desires to adopt an ordinance adding Chapter 10, Section 2, to the Revised General Ordinances of the

Township of Upper, also known as the Code of Upper Township, with respect to the requirements and regulations for inspections of lead-based paint in rented residential dwellings.

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

SECTION 1. Chapter 10 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:

Add Section 2: LEAD-BASED PAINT INSPECTION IN RESIDENTIAL DWELLINGS as follows:

§10-2.1 Definitions.

Rental Dwelling Units

Shall mean any residential property, regardless of the number of Units, which is not occupied by the owner.

§10-2.2 Lead-Based Paint Inspection. The owner, landlord and/or agent of every Rental Dwelling Unit shall be required to obtain an inspection of the Rental Dwelling Unit for lead-based paint hazards every three years, or at tenant turnover, whichever is earlier.

§10-2.3 Rental Dwelling Units Required to be Inspected. Inspections for lead-based paint in Rental Dwelling Units shall be governed by the standards set forth in N.J.S.A. 52:27D-437.1 et seq. Any Rental Dwelling Unit in the Township of Upper shall be subject to a Lead-Based Paint Inspection as set forth in this Section, unless said Rental Dwelling Unit meets one of the following conditions:

- (i) has been certified to be free of lead-based paint;
- (ii) was constructed during or after 1978;
- (iii) is in a multiple dwelling that has been registered with the Department of Community Affairs as a multiple dwelling for at least 10 years, either under the current or a previous owner, and has no outstanding lead violations from the most recent cyclical inspection performed on the multiple dwelling building under the "Hotel and Multiple Dwelling Law," P.L. 1967, c.76 (C.55:13A-1 et seq.);
- (iv) is a single-family or two-family seasonal rental dwelling which is rented for less than six months duration each year by tenants that do not have consecutive lease renewals; or
- (v) has a valid lead-safe certification.

§10-2.4 Fee for Inspection. A fee in the amount of \$320.00 shall be paid for each lead-based paint inspection. Said fee shall be dedicated to meeting the costs of implementing and enforcing this subsection and shall not be used any other purpose. Alternatively, a dwelling owner or landlord may directly hire a private lead evaluation contractor who is certified to provide lead paint inspection services by the Department of Community Affairs to satisfy the requirements of this Section, in which case the fee for the processing of each lead-based paint inspection shall be \$20.00.

SECTION 2: REPEALER: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency only.

SECTION 3: EFFECTIVE DATE: This Ordinance shall take effect immediately upon final adoption and publication as required by law.

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 11TH DAY OF MARCH, 2024 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 25TH DAY OF MARCH, 2024 AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

22. Public hearing and final adoption of Ordinance No. 005-2024 RE: AN ORDINANCE AUTHORIZING THE TOWNSHIP OF UPPER TO ACQUIRE THE TOWER ON PROPERTY KNOWN AS BLOCK 477, LOT 6 ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF UPPER. **During the public hearing portion there were no speakers. Motion by Curtis Corson, second by Kimberly Hayes to adopt Ordinance No. 005-2024. 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. 005-2024

**AN ORDINANCE AUTHORIZING THE TOWNSHIP OF UPPER TO
ACQUIRE THE TOWER ON PROPERTY KNOWN AS BLOCK 477, LOT 6
ON THE OFFICIAL TAX MAP OF THE TOWNSHIP OF UPPER**

WHEREAS, pursuant to N.J.S.A. 40A:12-1 et. seq., a municipality may acquire any capital improvements for public use; and

WHEREAS, the Township of Upper is the owner, in fee, of certain real property located at Block 477, Lot 6 on the official Tax Map of the Township of Upper, County of Cape May, State of New Jersey, commonly referred to as 2028 Tuckahoe Road, Tuckahoe, New Jersey 08250 (“Property”); and

WHEREAS, T-Mobile Northeast, LLC, (“T-Mobile”) owns a 149-foot monopole (“Tower”) which is located on the Property; and

WHEREAS, T-Mobile is the holder of a license from the Federal Communications Commission (“FCC”) permitting it to operate a wireless communications facility in the State of New Jersey; and

WHEREAS, the Township of Upper desires to acquire the Tower from T-Mobile and use same for public purposes in lieu of construction of a new monopole on the Property in consideration of a rent credit of \$1,000.00 per month for 60 months which the Township has determined is less than the value of the Tower; and

WHEREAS, the Township of Upper’s acquisition of the Tower is contingent upon a satisfactory structural inspection of the Tower performed by a licensed engineer; and

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

SECTION 1: ACQUISITION OF THE TOWER ON BLOCK 477, LOT 6: The Township of Upper is hereby authorized to acquire from T-Mobile the Tower located on the Property known as Block 477, Lot 6 on the official tax map of the Township of Upper.

SECTION 2: AUTHORITY OF TOWNSHIP OFFICIALS: All Township officers, officials, and employees are hereby authorized, empowered, and directed to take any and all action necessary or required in order to carry out the intent and purpose of this Ordinance with respect to the Township of Upper’s acquisition of the Tower located on Block 477, Lot 6. Without in any way intending to limit the generality of the foregoing, the Mayor and the Township Clerk are expressly authorized, empowered, and directed to sign any and all documents required to be executed in

connection with the acquisition.

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

SECTION 4: EFFECTIVE DATE: 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 11TH DAY OF MARCH, 2024 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 25TH DAY OF MARCH, 2024 AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

23. Introduction and first reading of Ordinance No. 006-2024 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER 20 (ZONING) OF THE CODE OF UPPER TOWNSHIP. **Motion by Kimberly Hayes, second by Mark Pancoast, to introduce Ordinance 006-2024 with a public hearing and final adoption scheduled for April 22, 2024. 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. 006-2024

**RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER XX
(ZONING) OF THE CODE OF UPPER TOWNSHIP**

WHEREAS, the Township Committee of the Township of Upper desires to adopt an ordinance amending Chapter 20 of the Revised General Ordinances of the Township of Upper, also known as the Code of Upper Township, with respect to the definition of “Hotels and Motels”.

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 20 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:

Revise **SECTION 20-2.1 -DEFINITIONS** – as follows:

HOTELS AND MOTELS

Shall mean a building or group of buildings consisting of individual sleeping units designed for transient travelers. Hotels and Motels shall require: (i) services to be offered to the general public; (ii) temporary lodging rented to the general public on a daily or weekly basis but not for a period to exceed 30 days and not intended to be occupied or used for any primary residential purpose, either temporary or permanent; (iii) a front desk area with full time, on site staff, maintained to serve guests and the public; (iv) maid service offered no less than weekly and other room amenities, including linens and towel service, in a quality manner; (v) a manager and/or desk staff meeting the requirements of State lodging laws and swimming pool regulations; (vi) a restaurant or café with indoor and outdoor dining and wait service for use by guests and the general public; (vii) a fitness and business center for use by guests; (viii) adequate parking for hotel guests and the public in accordance with parking requirements set forth in the Code of the Township of Upper; (ix) advertisement for motel-like services promoting to the general public; and (x) collection and payment of sales and use tax, tourism tax and tourism fees on revenue generated.

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 **25th DAY OF MARCH, 2024** 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 **22nd DAY OF APRIL, 2024** at 4:30 PM AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY.

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

CORRESPONDENCE

NEW BUSINESS

24. Bid results for Towing, Storage & Lockout services. **It was stated that no bids were received. Local Public Contracts Law requires that the services must be bid twice before a contract can be negotiated and awarded. After a brief discussion, there was a general consensus to go out to bid again.**

25. Donation of beach wheelchair from the DeSatnick Foundation. **Motion by Jay Newman, second by Kimberly Hayes, to accept the donation. During roll call vote all five Committee members voted in the affirmative. A Resolution for formal action will be placed on the next agenda.**

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: **\$260,935.76**
Payroll: **\$182,185.42**

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

There was no public comment.

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. 116-2024
MOTION GOING INTO CLOSED SESSION
MARCH 25, 2024**

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 - Louis A. Bonato Appraisal services
3. Contract negotiation – Beacon Animal Rescue
4. Contract negotiation – CME Engineering services
5. Contract negotiation – MUA Host Community Benefit Agreement
6. Litigation – Hemby v. Township of Upper

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 Victor Nappen, 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 5.49 P.M., with a motion by Kimberly Hayes, second by Jay Newman, and all five Committee members voting in the affirmative. The next regular Committee meeting is scheduled for April 8, 2024 at 6:30 P.M.

Minutes prepared by,

Joanne R. Herron, RMC
 Township Clerk

- Bills
- 83184 03/25/24 A0091 ATLANTIC CITY ELECTRIC 5,924.35 3348
 - 83185 03/25/24 A0117 AT&T 160.92 3348
 - 83186 03/25/24 A0191 ACTION UNIFORM CO. LLC 149.00 3348
 - 83187 03/25/24 A0235 AMAZON CAPITAL SERVICES, INC. 134.66 3348
 - 83188 03/25/24 A0250 ARCHIVESOCIAL LLC 3,767.40 3348
 - 83189 03/25/24 B0035 BELMONT & CRYSTAL SPRINGS 97.96 3348
 - 83190 03/25/24 B0220 BERGEY'S TRUCK CENTERS 881.62 3348
 - 83191 03/25/24 B0232 BLUE FLAME GAS 678.47 3348
 - 83192 03/25/24 B0288 KINGBARNES LLC 3,022.50 3348
 - 83193 03/25/24 C0019 CITY OF OCEAN CITY 67,215.75 3348
 - 83194 03/25/24 C0021 CIVIL SOLUTION A DIVISION 1,000.00 3348
 - 83195 03/25/24 C0042 CAMPBELL SUPPLY COMPANY 1,427.78 3348
 - 83196 03/25/24 C0048 CAPE MAY COUNTY MUA 37,782.19 3348
 - 83197 03/25/24 C0068 COMCAST 1,043.42 3348
 - 83198 03/25/24 C0124 CMC MUNICIPAL CLERK'S ASSOC. 80.00 3348
 - 83199 03/25/24 C0143 CODY'S POWER EQUIPMENT 2,683.14 3348
 - 83200 03/25/24 C0246 CRAFT OIL CORPORATION 826.90 3348
 - 83201 03/25/24 C0305 CM3 BUILDING SOLUTIONS, INC. 8,345.00 3348
 - 83202 03/25/24 C0346 CME ASSOCIATES 65,493.66 3348
 - 83203 03/25/24 D0040 DELTA DENTAL OF N.J. INC. 5,369.56 3348
 - 83204 03/25/24 D0149 DANZIGER & MARKOFF, LLP 900.00 3348
 - 83205 03/25/24 D0172 DANCE DYNAMICS BOOSTER CLUB 300.00 3348
 - 83206 03/25/24 D0186 DOCUTREND, INC. 49.53 3348
 - 83207 03/25/24 D0237 DIETZ, KERRY 125.00 3348
 - 83208 03/25/24 D0240 DEVLIN, EDMUND F. 1,048.95 3348
 - 83209 03/25/24 E0092 ESSEX MANAGEMENT SERVICES 145.00 3348
 - 83210 03/25/24 F0053 FORD, SCOTT & ASSOCIATES 7,000.00 3348
 - 83211 03/25/24 G0012 GANN LAW BOOKS 191.00 3348
 - 83212 03/25/24 G0016 GARDNER HARDWARE INC. 34.99 3348

83213 03/25/24 G0028 GENTILINI FORD, INC. 169.97 3348
83214 03/25/24 G0092 GRUND, BARBARA J. 233.33 3348
83215 03/25/24 G0120 PATRICK F. MARTIN 2,291.67 3348
83216 03/25/24 G0182 GOLDENBERG, MACKLER & SAYEGH 722.55 3348
83217 03/25/24 G0207 GORMAN D'ANELLA & MORLOCK LLC 1,470.00 3348
83218 03/25/24 H0002 H.A. DEHART & SON CORP. 343.94 3348
83219 03/25/24 J0024 JERSEY CAPE DIAGNOSTIC 2,850.00 3348
83220 03/25/24 K0030 KNIGHTS OF COLUMBUS 300.00 3348
83221 03/25/24 K0086 K D NATIONAL FORCE SECURITY 300.00 3348
83222 03/25/24 L0007 LC EQUIPMENT, INC. 100.00 3348
83223 03/25/24 M0081 MID-ATLANTIC WASTE SYSTEMS 379.47 3348
83224 03/25/24 M0277 EQUITABLE FINANCIAL LIFE INS. 8.61 3348
83225 03/25/24 M0313 MAVIS TIRE SUPPLY, LLC 408.00 3348
83226 03/25/24 M0327 MONZO CATANESE DeLOLLIS, P.C. 8,321.50 3348
83227 03/25/24 N0070 MARSH & MCLENNAN AGENCY, LLC 2,000.00 3348
83228 03/25/24 O0004 O.C. SENTINEL LEDGER INC. 22.00 3348
83229 03/25/24 P0032 PEDRONI FUEL CO. 1,005.76 3348
83230 03/25/24 P0056 TURF EQUIPMENT AND SUPPLY CO 843.50 3348
83231 03/25/24 Q0014 QBE SPECIALTY INSURANCE CO. 368.00 3348
83232 03/25/24 R0030 RIGGINS, INC. 3,911.85 3348
83233 03/25/24 R0092 RUTGERS, THE STATE UNIVERSITY 833.00 3348
83234 03/25/24 R0148 RBH USA INC 250.00 3348
83235 03/25/24 S0001 SAM'S CLUB 10.68 3348
83236 03/25/24 S0018 SUBURBAN PROPANE, LP 769.88 3348
83237 03/25/24 S0034 SCHULER, DANIEL 119.00 3348
83238 03/25/24 S0057 SERVICE TIRE TRUCK CENTERS 1,494.35 3348
83239 03/25/24 S0113 SMITH, THOMAS G. 1,414.18 3348
83240 03/25/24 S0134 SO. JERSEY GAS COMPANY 4,263.86 3348
83241 03/25/24 S0239 SHORE VET. ANIMAL CONTROL LLC 2,250.00 3348
83242 03/25/24 S0254 SHOPRITE 117.85 3348
83243 03/25/24 T0159 TRIAD ADVISORY SERVICES, INC. 4,550.00 3348
83244 03/25/24 U0010 UPPER TOWNSHIP CHEERLEADING 1,500.00 3348
83245 03/25/24 V0013 VERIZON WIRELESS 596.74 3348
83246 03/25/24 V0022 VERIZON 604.56 3348
83247 03/25/24 X0008 XEROX FINANCIAL SERVICES 232.76 3348
Total: \$260,935.76