

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR APRIL 22, 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 April 19, 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.

APPROVAL OF MINUTES – April 8, 2024 Regular and Closed Session Minutes

Motion by Kimberly Hayes, second by Mark Pancoast, to approve the April 8, 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

Kimberly Hayes, Committeewoman, reported that she recently attended an event honoring the Marmora ShopRite team members for their support of regional food banks and fighting hunger in the community, and stated that two of the members were pictured on special edition Cheerios boxes in honor of their work. She next congratulated the Upper Township baseball and softball programs for their successful opening days, and thanked the Softball Association for inviting her to throw out the first pitch.

Victor Nappen, Committeeman, reported that he recently visited Simply Sweet Candy Shop, a newly opened business located in the ShopRite shopping plaza, and welcomed them to Upper Township. He next wished his wife Danielle a very happy birthday.

Mark Pancoast, Committeeman, reported that Public Works is finishing up leaf collection throughout the Township and have been busy working on crossovers and road striping in Strathmere. He next highlighted the Upper Township Business Association’s Community Guide publication.

Curtis Corson, Committeeman, reported that some of the members of the beach patrol will be appointed tonight and preparations for the summer season will be underway.

Jay Newman, Mayor, invited everyone to attend the Day of Prayer ceremony at Town Hall on May 2nd at 10:00 am. He next welcomed the new Superintendent of Schools, Allison Pessolano, who was in attendance. Ms. Pessolano introduced herself and thanked the Committee for the great partnership between the school district and the Township. Mayor Newman then welcomed the new NJSP Woodbine Station Commander, Lt. Chris MacNeill who was also in attendance. Lt. MacNeill stated that he looks forward to working with everyone and encouraged the Committee to contact him with any issues.

ADMINISTRATOR OVERVIEW

Gary DeMarzo, Township Administrator, gave a brief report on several issues and projects including engineering project, grants, flooding due to the recent heavy rains, the Upper Township Historical Society, and roadway striping in Strathmere.

Joanne Herron, Township Clerk, reported that the deadline to register to vote in the Primary election is May 14th. Registration applications are available in the Clerk's Office of at www.capemaycountyvotes.com.

Ryan MacNeill, Township Engineer, gave a brief update on several projects including the Strathmere stormwater pump project, the Township's paving project, the County's reconstruction of Church Road, and the NJDOT emergency vehicle hybrid beacon on Route 50.

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

1. Municipal Court

RESOLUTIONS TO BE APPROVED BY CONSENT

2. Appointing the 2024 season Beach Patrol personnel.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 133-2024

RE: APPOINTING THE 2024 SEASON BEACH PATROL PERSONNEL

WHEREAS, the individuals hereinafter named have been determined to possess the requisite skills, training and are otherwise eligible for appointment to the position of lifeguard; 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. contingent upon successful pre-employment testing at a salary as stated below in accordance with the Salary Ordinance:

CHIEF

William Handley \$32.50 per hour

CAPTAIN

Joseph O’Neil \$31.50 per hour
Andrew Tobiasen \$31.50 per hour

SENIOR LIEUTENANT

James Dugan \$27.50 per hour

LIEUTENANT

Blake Boffa \$25.50 per hour
Grace Steele \$25.50 per hour
Meredith Steele \$25.50 per hour

Resolution No. 133-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

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

- 3. Appointing Ronald Reign as part-time seasonal Beach Sweeper for the Upper Township Public Works Department.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 134-2024

RE: APPOINTING RONALD REIGN AS PART-TIME SEASONAL BEACH SWEEPER FOR THE UPPER TOWNSHIP PUBLIC WORKS DEPARTMENT

WHEREAS, a need exists to appoint qualified personnel as part-time employees to the Upper Township Public Works Department to insure optimal operation; 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. Ronald Reign is hereby appointed as part-time seasonal beach sweeper, effective May 3, 2024, at a salary of \$18.00 per hour in accordance with the Salary Ordinance.
3. This Resolution shall be effective immediately and is further intended to ratify, confirm and approve any formal action taken by the Township Committee.

Resolution No. 134-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

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

4. Appointing Jacob Spiegel as a part-time employee to the Upper Township Construction Code Office to serve as Lead Inspector.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 135-2024

**RE: APPOINTING JACOB SPIEGEL AS A PART-TIME EMPLOYEE TO THE
UPPER TOWNSHIP CONSTRUCTION CODE OFFICE TO SERVE AS
LEAD INSPECTOR**

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

WHEREAS, Jacob Spiegel possesses the requisite requirements to serve as part-time Lead Inspector; 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. Jacob Spiegel is hereby appointed to the Upper Township Construction Code Office effective April 23, 2024, to serve as Lead Inspector at an hourly rate of \$50.00.

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

Resolution No. 135-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

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

5. Canceling and refunding tax on exempt property Block 453, Lot 245.08.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 136-2024

**CANCELING AND REFUNDING TAX ON EXEMPT PROPERTY
BLOCK 453, LOT 245.08**

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

WHEREAS, certain properties became tax exempt in the year 2024; and

WHEREAS, Matthew Mashura is a 100% disabled American veteran residing at 25 Luke Ct. Seaville, Block 453, Lot 245.08 on the municipal tax map of Upper Township, New Jersey; and

WHEREAS, the Department of Veterans Affairs has determined that Mr. Mashura's 100% permanent military service-connected disability was effective September 25, 2020; and

WHEREAS, Matthew Mashura made application February 9, 2024 and requested a refund for the first quarter of 2024; and

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

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of

Upper, Cape May County, that corrections to the Tax records are hereby authorized and the Tax Collector

Is hereby directed to correct said records or take such action as indicated below.

Resolution No. 136-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

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

CANCEL TAX 2024

BLOCK/LOT

453/245.08

AMOUNT

\$ 3507.57

NAME

Matthew Mashura
25 Luke Ct.
Seaville, NJ 08230

REFUND TAX 2024

BLOCK/LOT

453/245.08

AMOUNT

\$ 1753.78

NAME

Matthew Mashura
25 Luke Ct.
Seaville NJ 08230

100% Totally Disabled Veteran

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

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 137-2024

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

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

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

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

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

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

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

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

Township’s Spending Plan:

Maley Givens, P.C.
(Affordable Hsing Services) \$ 1,612.50

Monzo Catanese DeLollis, P.C. \$ 325.00

Resolution No. 137-2024

Offered By: Hayes

Seconded By: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

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

7. 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 \$3,077.00.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 138-2024

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 \$3,077.00

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 \$3,077.00; 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 **\$3,077.00** with funds from Capital Improvement Bond Ordinance No. 002-2023.

Resolution No. 138-2024

Offered By: Hayes

Seconded By: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			

Nappen	X			
Pancoast	X			
Newman	X			

8. Authorizing a payment for tree stump grinding for the 2023 paving project with funds from the 2013 Capital Improvement Bond Ordinance in the amount of \$800.00.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 139-2024

RE: AUTHORIZING A PAYMENT FOR TREE STUMP GRINDING FOR THE 2023 PAVING PROJECT WITH FUNDS FROM THE 2013 CAPITAL IMPROVEMENT BOND ORDINANCE IN THE AMOUNT OF \$800.00

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

WHEREAS, the Township Committee adopted the 2013 Capital Improvement Bond Ordinance 005-2013 on April 8, 2013 and subsequently amended on December 16, 2013 and again on April 14, 2014; and

WHEREAS, Butterwood Tree Service, LLC of Palermo, New Jersey, submitted a quote for grinding of five tree stumps along the curb strip on Diane Avenue in preparation for the 2023 Paving Project; and

WHEREAS, the Chief Financial Officer of the Township has certified that adequate funds have been appropriated for this purpose in the 2013 Capital Improvement Bond Ordinance; 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 quote by Butterwood Tree Service, LLC 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 Butterwood Tree Service, LLC of Palermo, New Jersey in the amount of **\$800.00** with funds from Capital Improvement Bond Ordinance No. 005-2013.

Resolution No. 139-2024

Offered By: Hayes

Seconded By: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

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

9. Cancelling grant balances.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 140-2024

RE: CANCELLING GRANT BALANCES

WHEREAS, there exists Grant Receivables and Grant Reserves on the Balance Sheet; and

WHEREAS, it is necessary to formally cancel the receivable balance and their offsetting appropriation balance from the balance sheet.

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 Township Committee hereby authorizes the following grant receivable and appropriation balances be cancelled:

Grant	Cancel Appropriation Amount	Cancel Receivable Amount
SLFRF-Premium Pay EMS	\$33,581.00	\$33,581.00
SLFRF-Marmora Sewer Study	4,238.00	

2. This Resolution shall take effect immediately.

Resolution No. 140-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

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

10. Chapter 159 Resolution for the insertion of a special item of revenue into the 2024 budget that was not determined at the time of the adoption of the budget— US Department of Treasury Coronavirus State and Local Fiscal Recovery Fund in the amount of \$4,237.99.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 141-2024

**RE: CHAPTER 159 RESOLUTION FOR THE INSERTION OF A SPECIAL ITEM OF
REVENUE INTO THE 2024 BUDGET THAT WAS NOT DETERMINED AT THE TIME OF
THE ADOPTION OF THE BUDGET— US DEPARTMENT OF TREASURY
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUND
IN THE AMOUNT OF \$4,237.99**

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

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

WHEREAS, the Township of Upper will receive an amount of \$4,237.99 from the US Department of Treasury Coronavirus State and Local Fiscal Recovery Fund Program and wishes to amend its 2024 budget to include this amount as a revenue.

NOW, THEREFORE, BE IT RESOLVED that the Township Committee of the Township of Upper hereby requests the Director of the Division of Local Government Services approve the insertion of an additional item of revenue in the budget of the year 2024 in the sum of \$4,237.99, which is now available as a revenue from:

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

BE IT FURTHER RESOLVED that a like sum of \$4,237.99 be and the same is hereby appropriated under the caption of:

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

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

Government Services.

Resolution No. 141-2024

Offered By: Hayes

Seconded By: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

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

11. Authorizing a contract with Ancero, LLC for information technology services.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 142-2024

**RE: AUTHORIZING A CONTRACT WITH ANCERO, LLC FOR
INFORMATION TECHNOLOGY SERVICES**

WHEREAS, the Township of Upper has a need for Information Technology services; and

WHEREAS, Ancero, LLC has submitted a proposal to the Township to provide said services; and

WHEREAS, the Township wishes to accept said proposal and to authorize the execution of a contract with Ancero, LLC as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, Ancero, LLC has completed and submitted a Business Entity Disclosure Certification which certifies that Ancero, 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 Ancero, LLC from making any reportable contributions through the term of the contract; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Mayor and Township Clerk are hereby authorized, directed and empowered to

execute a contract with Ancero, LLC with offices at 1001 Briggs Road, Suite 220, Mt. Laurel, New Jersey, to provide Information Technology services.

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

4. This Contract is awarded without competitive bidding as an Extraordinary Unspecifiable Services contract in accordance with N.J.S.A. 40A:11-5(1)(a)(ii) of the New Jersey Local Public Contract Law because the services provided by Ancero, LLC are specialized and qualitative in nature requiring expertise, extensive training and proven reputation in the field of endeavor, 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 an Extraordinary Unspecifiable Services contract pursuant to N.J.S.A. 40A:11-5(1)(a)(ii) to Ancero, LLC for Information Technology services. This contract and the resolution authorizing same shall be available for public inspection in the office of the Municipal Clerk of the Township of Upper, State of New Jersey.

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

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

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

9. This Resolution shall be effective as of adoption.

Resolution No. 142-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			

Nappen	X			
Pancoast	X			
Newman	X			

12. Authorizing a contract with CASA Payroll Services, LLC.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 143-2024

RE: AUTHORIZING A CONTRACT WITH CASA PAYROLL SERVICES, LLC

WHEREAS, CASA Payroll Services, LLC (“CASA”) has submitted a proposal to the Township for payroll services; and

WHEREAS, N.J.A.C. 5:30-17.3 et seq. provides for electronic disbursement controls for payroll purposes and applies to entities which execute disbursements from and/or take possession of municipal bank accounts or funds; and

WHEREAS, the proposal of CASA does not permit CASA to execute disbursements from the Township’s bank account or give CASA possession of Township funds and as such N.J.A.C. 5:30-17.3 et seq. does not apply; and

WHEREAS, the Township wishes to accept said proposal and to authorize a contract with CASA; and

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

WHEREAS, CASA has completed and submitted a Business Entity Disclosure Certification which certifies that CASA 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 CASA from making any reportable contributions through the term of the contract; and

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

1. The allegations of the preamble are incorporated herein by this reference.

2. The Mayor and Township Clerk are hereby authorized, directed and empowered to enter into a contract with CASA attached hereto as Exhibit “A”, to provide payroll service within the Township of Upper commencing immediately.

3. CASA 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.

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. 143-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

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

13. Authorizing a contract with CASA Reporting Services, LLC for Affordable Care Act reporting services.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 144-2024

**RE: AUTHORIZING A CONTRACT WITH CASA REPORTING SERVICES, LLC FOR
AFFORDABLE CARE ACT REPORTING SERVICES**

WHEREAS, the Affordable Care Act requires employers with 50 or more full-time employees to file annual information returns with the IRS and furnish statements to employees on healthcare plan coverage information; and

WHEREAS, CASA Reporting Services, LLC (“CRS”) has submitted a proposal to the Township for Affordable Care Act reporting services; and

WHEREAS, the Township wishes to accept said proposal and to authorize a contract with CRS; and

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

WHEREAS, CRS has completed and submitted a Business Entity Disclosure Certification which certifies that CRS 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 CRS from making any reportable contributions through the term of the contract; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Mayor and Township Clerk are hereby authorized, directed and empowered to enter into a contract with CRS attached hereto as Exhibit “A”, to provide Affordable Care Act reporting services within the Township of Upper.
3. CRS has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of Upper.
4. 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. 144-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

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

14. Authorizing a contract with Adams, Rehmann & Heggan Associates, Inc. for the maintenance of the official tax map.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 145-2024

RE: AUTHORIZING A CONTRACT WITH ADAMS, REHMANN & HEGGAN ASSOCIATES, INC. FOR THE MAINTENANCE OF THE OFFICIAL TAX MAP

WHEREAS, the Township requires a professional land surveyor for the maintenance of the official tax map; and

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

WHEREAS, the Township has decided to acquire the services of Adams, Rehmann & Heggan Associates, Inc. as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

WHEREAS, Adams, Rehmann & Heggan Associates, Inc. has completed and submitted a Business Entity Disclosure Certification which certifies that Adams, Rehmann & Heggan Associates, Inc. has not made any reportable contributions to a political or candidate committee in the Township that would bar the award of the contract and that the contract will prohibit Adams, Rehmann & Heggan Associates, 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. The Mayor and Township Clerk are hereby authorized directed and empowered to execute a contract with Adams, Rehmann & Heggan Associates, Inc., of 215 Bellevue Avenue, Hammonton, New Jersey 08037, for professional land surveying services for the maintenance of the official tax map of Upper Township.
3. The Contract is awarded 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 Adams, Rehmann & Heggan Associates, Inc., has professional knowledge as to land surveying issues which knowledge is particularly valuable to the Township Committee.
4. The contract shall have a term of one (1) year from full execution.
5. A certificate from the Chief Financial Officer of Upper Township showing the availability of adequate funds for this contract and showing the line item appropriation of the official budget to which the contract will be properly charged has been provided to the governing body and shall be attached to this Resolution and kept in the files of the Municipal Clerk.
6. Adams, Rehmann & Heggan Associates, Inc. has registered with the State of New Jersey pursuant to c.57, Laws of 2004 and has provided proof of that registration to the Township of

Upper.

7. A notice of the contract award shall be published in the official newspaper of the Township of Upper.

8. This Resolution shall be effective as of adoption.

Resolution No. 145-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

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

15. Accepting the surety bond from and transferring the 2024 mining license to Seashore Asphalt Corporation for the mining operation located at Block 453, Lot 3.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 146-2024

**RE: ACCEPTING THE SURETY BOND FROM AND TRANSFERRING THE
2024 MINING LICENSE TO SEASHORE ASPHALT CORPORATION FOR THE
MINING OPERATION LOCATED AT BLOCK 453, LOT 3**

WHEREAS, Chapter XV of the Code of Upper Township sets forth the requirements to obtain a license for excavating, digging or mining of sand, soil, gravel or earth within the Township, including the requirement to submit a performance surety in accordance with Chapter XIX, Land Subdivision, prior to the issuance of a mining license; and

WHEREAS, said surety shall guarantee the performance of the requirements of N.J.A.C. 7:50-6.68 and 6.69, and shall be for an amount in accordance with the Municipal Engineer’s certified estimate; and

WHEREAS, on April 3, 2024, Daley’s Pit Holding Company LLC sold the property known as Block 453, Lot 3 on the official tax map of the Township of Upper, also known as Daley’s Pit, to Seashore Asphalt Corporation; and

WHEREAS, Seashore Asphalt Corporation has submitted to the Township a 2024 Mining Re-License Application, including Surety Bond No. 107971957 in the amount of \$137,000.00, for the mining operation located on Block 453, Lot 3; and

WHEREAS, the Municipal Attorney has reviewed said Re-License Application and said Surety Bond and has determined that the same complies with the New Jersey Statutes and the Township Ordinances applicable thereto and has recommended the acceptance of same by the Township Committee; and

W, 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 Mining License for the 2024 license year for Block 453, Lot 3 is hereby transferred to Seashore Asphalt Corporation.
3. Surety Bond No. 107971957 is hereby accepted and approved.
4. All Township officials and officers are hereby authorized and empowered to take all actions deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 146-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

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

16. Releasing the performance bond of Daley's Pit Holding Company LLC for the mining operation located on Block 453, Lot 3.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 147-2024

**RE: RELEASING THE PERFORMANCE BOND OF DALEY'S PIT HOLDING COMPANY
LLC FOR THE MINING OPERATION LOCATED ON BLOCK 453, LOT 3**

WHEREAS, on April 3, 2024, the Daley’s Pit Holding Company LLC sold the property known as Block 453, Lot 3 on the official tax map of the Township of Upper, also known as Daley’s Pit, to Seashore Asphalt Corporation; and

WHEREAS, on April 22, 2024, the Township accepted Surety Bond No. 107971957 in the amount of \$137,000.00 from Seashore Asphalt Corporation for the mining operation located on Block 453, Lot 3; and

WHEREAS, in accordance with Chapter 19, Section 8.5 of the code of Upper Township, the cash Performance Bond from Daley’s Pit Holding Company, LLC shall be released; 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 cash Performance Bond in the amount of \$131,000.00 plus interest is hereby released.
3. All Township officials and officers are hereby authorized and empowered to take all actions deemed necessary or advisable to carry into effect the intent and purpose of this Resolution.

Resolution No. 147-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

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

17. Accepting the conveyance of real property known as Block 367, Lots 19, 20, and 21 on the municipal tax map of the Township of Upper, County of Cape May and State of New Jersey by gift.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 148-2024

**RE: ACCEPTING THE CONVEYANCE OF REAL PROPERTY KNOWN AS BLOCK 367,
LOTS 19, 20, AND 21 ON THE MUNICIPAL TAX MAP OF THE TOWNSHIP OF UPPER,
COUNTY OF CAPE MAY AND STATE OF NEW JERSEY BY GIFT**

WHEREAS, the Township of Upper has received an offer to convey property to the Township by gift from the Estate of William E. Walker, Jr.; and

WHEREAS, said property is commonly known as Block 367, Lots 19, 20, and 21 on the municipal tax map; and

WHEREAS, the Township has received evidence satisfactory to the Township that there are no liens or encumbrances affecting the property except for ad valorem real estate taxes; that the title is acceptable; that the property is not subject to any environmental hazards or conditions; and is not subject to any pending or threatened environmental enforcement action; and

WHEREAS, the Township Committee of the Township of Upper pursuant to Township Code Section 2-15 has determined to accept said real property by gift pursuant to its stated policy of acquiring certain properties.

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 is hereby authorized to accept the conveyance of the property, known as Block 367, Lots 19, 20, and 21 on the municipal tax map of the Township of Upper, by gift from the Estate of William E. Walker, Jr. so long as the title at the time of the gift remains as indicated above. In accepting the gift, the Township shall not require the payment of real estate taxes that are unpaid at the time of the gift.
3. The Municipal Attorney is hereby authorized to prepare a Deed of conveyance, or to approve a Deed prepared by the current owner, and to submit said Deed to the Office of the Clerk of Cape May County to be recorded.
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. 148-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: April 22, 2024

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			

Nappen	X			
Pancoast	X			
Newman	X			

ORDINANCES

18. Public hearing and final adoption of Ordinance No. 006-2024 RE: AN ORDINANCE AMENDING REVISED GENERAL ORDINANCE CHAPTER 20 (ZONING) OF THE CODE OF UPPER TOWNSHIP. **The Municipal Attorney stated that the purpose of this Ordinance is to create a clear and concise definition of what a hotel/motel use is in the Township’s zoning code. He stated that one of the requirements is adequate parking for hotel guests and the public in accordance with parking requirements set forth in the Code, and clarified that this requirement includes parking for accessory uses. He stated that this will be clarified in the final version, as it was the intent of the Ordinance and is not a substantive change. Committeeman Nappen then inquired if the 30 day occupancy limitation is standard. Mr. Monzo stated that it is the typical defining time for sales tax purposes. Committeeman Corson then inquired if this Ordinance will affect existing hotels. Mr. Monzo stated that any existing establishments are grandfathered under the previous ordinance. During the public hearing portion there were no speakers. Motion by Kimberly Hayes, second by Curtis Corson, to adopt Ordinance No. 006-2024. During roll call vote all five Committee members voted in the affirmative.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE**

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, which includes any parking required for accessory or incidental uses; (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** 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 **22ND DAY OF APRIL, 2024** AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

JOANNE R. HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER

19. Introduction and first reading of Ordinance No. 009-2024 RE: AN ORDINANCE AMENDING CHAPTER 19 (LAND SUBDIVISION, SITE PLAN AND LAND USE ADMINISTRATION), AND CHAPTER 20 (ZONING) OF THE CODE OF UPPER TOWNSHIP. **Motion by Kimberly Hayes, second by Victor Nappen, to introduce Ordinance 009-2024 with a public hearing and final adoption scheduled for June 24, 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. 009-2024

**AN ORDINANCE AMENDING CHAPTER 19 (LAND SUBDIVISION, SITE PLAN
AND LAND USE ADMINISTRATION), AND CHAPTER 20 (ZONING)
OF THE CODE OF UPPER TOWNSHIP**

WHEREAS, the Pinelands Protection Act (N.J.S.A. 13:18A-1) requires that the municipal master plan and local land use ordinances of the Township of Upper implement the objectives of the Pinelands Comprehensive Management Plan (N.J.A.C. 7:50) and conform with the minimum standards contained therein; and

WHEREAS, the Pinelands Comprehensive Management Plan incorporates by reference certain stormwater management regulations contained at N.J.A.C. 7:8; and

WHEREAS, the New Jersey Department of Environmental Protection adopted amendments to certain stormwater management regulations contained at N.J.A.C. 7:8, effective July 17, 2023.

WHEREAS, the Pinelands Commission adopted amendments to the Pinelands Comprehensive Management Plan, effective December 4, 2023.

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

SECTION 1: Chapter 19 Land Subdivision, Site Plan and Land Use Administration, Section 19-7.7, Stormwater Control, is hereby amended by revising subsection c4. as follows:

- 4. Tables 1, 2, and 3** below summarize the ability of stormwater best management practices identified and described in the New Jersey Stormwater BMP Manual to satisfy the green infrastructure, groundwater recharge, stormwater runoff quality and stormwater runoff quantity standards specified in **§19-7.7c14, 15, 16, and 17**. When designed in accordance with the most current version of the New Jersey Stormwater BMP Manual and this Section, the stormwater management measures found in **Tables 1, 2, and 3** are presumed to be capable of providing stormwater controls for the design and performance standards as outlined in the tables below. Upon amendments of the New Jersey Stormwater BMP Manual to reflect additions or deletions of BMPs meeting these standards, or changes in the presumed performance of BMPs designed in accordance with the New Jersey Stormwater BMP Manual, the NJDEP shall publish in the New Jersey Registers a notice of administrative change revising the applicable table. The most current version of the BMP Manual can be found on the NJDEP website at: <https://dep.nj.gov/stormwater/bmp-manual/>.

SECTION 2: Chapter 19 Land Subdivision, Site Plan and Land Use Administration, Section 19-7.7, Stormwater Control, is hereby amended by revising subsection c15. as follows:

15. Groundwater Recharge Standards

- (a) (No change.)
- (b) For all major development in the Pinelands Area, the total runoff volume generated from the net increase in impervious surfaces by the current 10-year, 24-hour storm, as defined and determined in §19-7.7d8, shall be retained and infiltrated onsite and outside the Pinelands area the total runoff volume generated from the net increase in impervious surfaces by the 1-year storm shall be retained and infiltrated onsite.
- (c) For minor development in the Pinelands Area that involves the construction of four or fewer dwelling units, the runoff generated from the total roof area of the dwelling(s) by the current 10-year, 24-hour storm, as defined and determined in §19-7.7d8, shall be retained and infiltrated through installation of one or more green infrastructure stormwater management measures designed in accordance with the New Jersey Stormwater BMP Manual. Appropriate green infrastructure stormwater management measures include, but are not limited to dry wells, pervious pavement systems, and small scale bioretention systems, including rain gardens.
- (d) -- (e) (No change.)

SECTION 3: Chapter 19 Land Subdivision, Site Plan and Land Use Administration, Section 19-7.7, Stormwater Control, is hereby amended by revising subsection c17. as follows:

17. Stormwater Runoff Quantity Standards

- (a) (No change.)
- (b) In order to control stormwater runoff quantity impacts, the design engineer shall, using the assumptions and factors for stormwater runoff calculations at §19-7.7d, complete one of the following:
 - (1) Demonstrate through hydrologic and hydraulic analysis that for stormwater leaving the site, post-construction runoff hydrographs for the current and projected 2-, 10-, and 100-year storm events, as defined and determined in §19-7.7d8 and 9, do not exceed, at any point in time, the pre-construction runoff hydrographs for the same storm events;
 - (2) Demonstrate through hydrologic and hydraulic analysis that there is no increase, as compared to the pre-construction condition, in the peak runoff rates of stormwater leaving the site for the current and projected 2-, 10- and 100-year storm events, as defined and determined in §19-7.7d8 and 9, and that the increased volume or change in timing of stormwater runoff will not increase flood damage at or downstream of the site. This analysis shall include the analysis of impacts of existing land uses and projected land uses assuming full development under existing zoning and land use ordinances in the drainage area;
 - (3) Design stormwater management measures so that the post-construction peak runoff rates for the current and projected 2-, 10- and 100-year storm events, as defined and determined in §19-7.7d8 and 9, are 50, 75 and 80 percent, respectively, of the pre-construction peak runoff rates. The percentages apply only to the post-construction stormwater runoff that is attributable to the portion of the site on which the proposed development or project is to be constructed; or
 - (4) (No change.)

(c) -- (e) (No change.)

SECTION 4: Chapter 19 Land Subdivision, Site Plan and Land Use Administration, Section 19-7.7, Stormwater Control, is hereby amended by revising subsection d. as follows:

d. Calculation of Stormwater Runoff and Groundwater Recharge

1. Stormwater runoff shall be calculated by the design engineer using the USDA Natural Resources Conservation Service (NRCS) methodology, including the NRCS Runoff Equation and Dimensionless Unit Hydrograph, as described in Chapters 7, 9, 10, 15 and 16 Part 630, Hydrology National Engineering Handbook, incorporated herein by reference as amended and supplemented, except that the Rational Method for peak flow and the Modified Rational Method for hydrograph computations shall not be used. This methodology is additionally described in Technical Release 55 - Urban Hydrology for Small Watersheds (TR-55), dated June 1986, incorporated herein by reference as amended and supplemented. Information regarding the methodology is available from the Natural Resources Conservation Service website at: <https://directives.sc.egov.usda.gov/viewerFS.aspx?hid=21422> or at United States Department of Agriculture Natural Resources Conservation Service, New Jersey.
2. (No change.)
3. For the purpose of calculating curve numbers and groundwater recharge, there is a presumption that the pre-construction condition of a site or portion thereof is a wooded land use with good hydrologic condition. The term “curve number” applies to the NRCS methodology at 1. above. A curve number or a groundwater recharge land cover for an existing condition may be used on all or a portion of the site if the design engineer verifies that the hydrologic condition has existed on the site or portion of the site for at least five years without interruption prior to the time of application. If more than one land cover has existed on the site during the five years immediately prior to the time of application, the land cover with the lowest runoff potential shall be used for the computations. In addition, there is the presumption that the site is in good hydrologic condition (if the land use type is pasture, lawn, or park), with good cover (if the land use type is woods), or with good hydrologic condition and conservation treatment (if the land use type is cultivation).
4. -- 7. (No change.)
8. The precipitation depths of the current two-, 10-, and 100-year storm events shall be determined by multiplying the values determined in accordance with items (a) and (b) below:
 - (a) The applicant shall utilize the National Oceanographic and Atmospheric Administration (NOAA), National Weather Service’s Atlas 14 Point Precipitation Frequency Estimates: NJ, in accordance with the location(s) of the drainage area(s) of the site. This data is available at:

https://hdsc.nws.noaa.gov/hdsc/pfds/pfds_map_cont.html?bkmrk=nj; and
 - (b) The applicant shall utilize **Table 5:** Current Precipitation Adjustment Factors below, which sets forth the applicable multiplier for the drainage area(s) of the site, in accordance with the county or counties where the drainage area(s) of the site is located. Where the major development lies in more than one county, the precipitation values shall be adjusted according to the percentage of the drainage area in each county. Alternately, separate rainfall totals can be developed for each county using the values in the table below.

Table 5: Current Precipitation Adjustment Factors

County	Current Precipitation Adjustment Factors		
	<u>2-year Design Storm</u>	<u>10-year Design Storm</u>	<u>100-year Design Storm</u>
<u>Atlantic</u>	<u>1.01</u>	<u>1.02</u>	<u>1.03</u>
<u>Cape May</u>	<u>1.03</u>	<u>1.03</u>	<u>1.04</u>
<u>Cumberland</u>	<u>1.03</u>	<u>1.03</u>	<u>1.01</u>

9. **Table 6:** Future Precipitation Change Factors provided below sets forth the change factors to be used in determining the projected two-, 10-, and 100-year storm events for use in this chapter, which are organized alphabetically by county. The precipitation depth of the projected two-, 10-, and 100-year storm events of a site shall be determined by multiplying the precipitation depth of the two-, 10-, and 100-year storm events determined from the National Weather Service’s Atlas 14 Point Precipitation Frequency Estimates pursuant to **8.(a)** above, by the change factor in the table below, in accordance with the county or counties where the drainage area(s) of the site is located. Where the major development and/or its drainage area lies in more than one county, the precipitation values shall be adjusted according to the percentage of the drainage area in each county. Alternately, separate rainfall totals can be developed for each county using the values in the table below.

Table 6: Future Precipitation Change Factors

County	Future Precipitation Change Factors		
	<u>2-year Design Storm</u>	<u>10-year Design Storm</u>	<u>100-year Design Storm</u>
<u>Atlantic</u>	<u>1.22</u>	<u>1.24</u>	<u>1.39</u>
<u>Cape May</u>	<u>1.21</u>	<u>1.24</u>	<u>1.32</u>
<u>Cumberland</u>	<u>1.20</u>	<u>1.21</u>	<u>1.39</u>

SECTION 5: Chapter 19 Land Subdivision, Site Plan and Land Use Administration, Section 19-

7.7, Stormwater Control, is hereby amended by revising subsection e. as follows:

e. Sources for Technical Guidance

1. Technical guidance for stormwater management measures can be found in the documents listed below, which are available to download from the NJDEP’s website at: <https://dep.nj.gov/stormwater/bmp-manual/>.
 - a. (No change.)
 - b. Additional maintenance guidance is available on the NJDEP’s website at: <https://dep.nj.gov/stormwater/maintenance-guidance/>.
2.
 - a. Submissions required for review by the NJDEP should be mailed to:

The Division of Watershed Protection and Restoration, New Jersey Department of Environmental Protection, Mail Code 501-02A, PO Box 420, Trenton, New Jersey 08625-0420.

b. (No change.)

SECTION 6: Chapter 19, Land Subdivision, Site Plan and Land Use Administration, Section 19-3, Definitions, is hereby amended by adding to subsection b. the following definition:

DIVERT or DIVERSION – Means the taking of water from a river, stream, lake, pond, aquifer, well, other underground source, or other waterbody, whether or not the water is returned thereto, consumed, made to flow into another stream or basin, or discharged elsewhere.

SECTION 7: Chapter 19, Land Subdivision, Site Plan and Land Use Administration, Section 19-7.15, Mining and Excavation Standards, is hereby amended by revising subsection b.1 as follows:

1. Any application filed for approval of resource extraction operations in the Pinelands shall include at least the following information:

(a) – (q) (No change.)

(r) If the application includes a proposed diversion from the Kirkwood-Cohansey aquifer, a hydrogeologic report that identifies the volume of the diversion, the volume of water to be returned to the source, a description of the route of return to the source, the methodology used to quantify the volume of water returned to the source and a description of any other existing or proposed water diversions or discharges on or from the parcel. The report shall also include a map that depicts the location of the diversion, the location of the return to source, the location of all existing or proposed resource extraction operations and the location of all wetlands on or within 300 feet of the parcel on which the diversion is proposed.

SECTION 8: Chapter 20, Zoning, Section 20-2.2, Pinelands Area Definitions, is hereby amended by adding the following definitions:

DIVERT or DIVERSION – Means the taking of water from a river, stream, lake, pond, aquifer, well, other underground source, or other waterbody, whether or not the water is returned thereto, consumed, made to flow into another stream or basin, or discharged elsewhere.

HYDROLOGIC UNIT CODE-11 or HUC-11 – Means an area within which water drains to a particular receiving surface water body, also known as a subwatershed, which is identified by an 11-digit hydrologic unit boundary designation, delineated within New Jersey by the United States Geological Survey.

NONCONSUMPTIVE USE – Means the use of water diverted from surface or ground waters in such a manner that at least 90 percent of the diverted water is returned to the source surface or ground water at or near the point from which it was taken.

SECTION 9: Chapter 20, Zoning, Section 20-5.14 Pinelands Area Development Standards, is hereby amended by repealing and replacing subsection h5. as follows:

5. Water Management

(a) Water shall not be exported from the Pinelands except as otherwise provided at N.J.S.A. 58:1A-7.1.

(b) A diversion within the Pinelands Area portion of Upper Township that involves the interbasin transfer of water from sources within the Pinelands Area between the Atlantic Basin and the Delaware Basin, as defined at **(1)** and **(2)** below, or outside of either basin, shall be prohibited.

(1) The Atlantic Basin is comprised of Watershed Management Areas 13, 14, 15, and 16, as identified by the New Jersey Department of Environmental Protection.

(2) The Delaware Basin is comprised of Watershed Management Areas 17, 18, 19, and 20 as identified by the New Jersey Department of Environmental Protection.

(c) A diversion within the Pinelands Area portion of Upper Township involving the intrabasin transfer of water between HUC-11 watersheds in the same basin, Atlantic Basin or Delaware Basin as defined at **(b)(1)** and **(2)** above, shall be permitted. If such an intrabasin transfer involves water sourced from the Kirkwood-Cohansey aquifer, the diversion shall meet the criteria and standards set forth at **(d)** below.

(d) Within the Pinelands Area portion of Upper Township a new diversion or an increase in allocation from either a single existing diversion source or from combined existing and new diversion sources in the same HUC-11 watershed and in the Kirkwood-Cohansey aquifer, that results in a total diversion of 50,000 gallons of water per day or more (hereafter referred to as "proposed diversion") shall meet the criteria and standards set forth at **(d)(3)** through **(6)** below and the water management standards of the Pinelands Comprehensive Management Plan at N.J.A.C. 7:50-6.86(d). "Allocation" shall mean a diversion permitted pursuant to a Water Allocation Permit or Water Use Registration Number issued by the New Jersey Department of Environmental Protection pursuant to N.J.A.C. 7:19.

(1) When evaluating whether the proposed diversion meets the criteria set forth at **(d)(3)** through **(6)** below, all of the applicant's allocations in an HUC-11 watershed, in addition to the proposed diversion, shall be included in the evaluation.

(2) The standards set forth at **(d)(3)** through **(6)** below shall not apply to:

(i) A new well that is to replace an existing well, provided the existing well is decommissioned in accordance with N.J.A.C. 7:9D-3 and the new replacement well will:

[1] Be approximately the same depth as the existing well;

[2] Divert from the same aquifer as the existing well;

[3] Have the same or lesser pump capacity as the existing well; and

[4] Be located within 100 feet of, and in the same HUC-11 watershed as, the existing well;

(ii) Any proposed diversion that is exclusively for agricultural or horticultural use; or

(iii) Any proposed diversion for a resource extraction operation that constitutes a nonconsumptive use, provided the water returned to the source is not discharged to a stream or waterbody or otherwise results in offsite flow, and the diversion and return are located on the same parcel.

- (3) A proposed diversion shall be permitted only in the following Pinelands Management Areas: Pinelands Town; Rural Development Area; and the Pinelands Villages of Petersburg and Tuckahoe.
- (4) A proposed diversion shall only be permitted if the applicant demonstrates that no alternative water supply source is available or viable. Alternative water supply sources include, but are not limited to, groundwater and surface water sources that are not part of the Kirkwood-Cohansey aquifer, and public water purveyors and suppliers, as defined at N.J.A.C. 7:19-1.3. A list of alternative water supply sources is available at the offices of the Pinelands Commission and at <https://www.nj.gov/pinelands/>.
- (5) A proposed diversion shall not have an adverse ecological impact on the Kirkwood-Cohansey aquifer. Adverse ecological impact means an adverse regional impact and/or an adverse local impact, as described at N.J.A.C. 7:50-6.86(d)6 and 7, respectively. A proposed diversion deemed to have an adverse local impact in the Pinelands Area is prohibited. A proposed diversion deemed to have an adverse regional impact shall only be permitted if an applicant permanently offsets the diversion in accordance with N.J.A.C. 7:50-6.86(d)6i.
- (6) An applicant for a proposed diversion shall provide written documentation of water conservation measures that have been implemented, or that are planned for implementation, for all areas to be served by the proposed diversion. Water conservation measures are measurable efforts by public and private water system operators and local agencies to reduce water demand by users and reduce losses in the water distribution system.

SECTION 10: REPEALER: All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistency only.

SECTION 11: EFFECTIVE DATE: This Ordinance shall take effect immediately upon final adoption and publication as required by law.

SECTION 12: 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 13: 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 **22ND DAY OF APRIL, 2024** AT THE TOWNSHIP HALL, 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 **24TH DAY OF**

JUNE, 2024 AT 4:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY.

JOANNE R. HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER

CORRESPONDENCE

NEW BUSINESS

20. Bid results for Towing, Storage & Lockout services. **The Chief Financial Officer reported that one bid was received, however there are some items that need to be clarified and requested that the matter be relisted on a future agenda for further discussion.**

21. Strathmere Pollinator Garden. **Mayor Newman reported that the Strathmere Improvement Association and the Strathmere Fishing and Environmental Club have presented an opportunity to partner with the US Fish & Wildlife Service for a native planting project in Strathmere at no cost to the Township. As part of the agreement the Township will need to approve the use of the dunes for the project and sign a landowner agreement. Linda Bateman of the Strathmere Improvement Association then gave a brief presentation of the SIA Pollinator Garden Committee's planting project. After a brief discussion, there was a motion by Kimberly Hayes, second by Curtis Corson, to approve the project and authorize the Mayor to sign the Landowner agreement pending the Municipal Attorney's review and approval of the agreement. During roll call vote all five Committee members voted in the affirmative.**

UNFINISHED BUSINESS

PAYMENT OF BILLS

22. "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: **\$2,765,645.78**

Payroll: **\$179,104.43**

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

There was no public comment.

CLOSED SESSION

22. 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. 149-2024
MOTION GOING INTO CLOSED SESSION
APRIL 22, 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. Contract negotiation - Redevelopment Agreement

2. Contract negotiation - Norman Briggs, Special Legal Counsel
3. Contract negotiation - Triad Grant Consultant Services
4. Contract negotiation - CME Engineering Services
5. Contract negotiation - Cell Tower
6. Litigation - Hemby v. Upper Township
7. Personnel

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

- A. It is anticipated that the matters discussed in closed session may be disclosed to the public upon the determination of the Township Committee that the public interest will no longer be served by such confidentiality.
- B. With respect to contract negotiations such matters will be made public when negotiations have ceased and there is no longer a reason for confidentiality.
- C. With respect to litigation matters such discussions will be made public when litigation is complete and the applicable appeal period has expired.
- D. 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.

Moved by: Mark Pancoast

Motion seconded by: Kimberly Hayes

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

RECONVENE PUBLIC PORTION OF MEETING

Motion by Kimberly Hayes, second by Jay Newman, to reconvene the public portion of the meeting. During roll call vote all five Committee members voted in the affirmative.

ADJOURNMENT

There being no further business this evening the meeting was adjourned at 6:08 P.M., with a motion by Jay Newman, second by Kimberly Hayes, and all five Committee members voting in the affirmative. The next regular Committee meeting is scheduled for May 13, 2024 at 6:30 P.M.

Minutes prepared by,

Joanne R. Herron, RMC
Township Clerk

Bills

83319 04/22/24 A0017 ATLANTIC CO. MUNICIPAL JIF 144,553.00 3353
 83320 04/22/24 A0025 ADVANTAGE RENTAL & SALES 626.31 3353
 83321 04/22/24 A0091 ATLANTIC CITY ELECTRIC 28,883.33 3353
 83322 04/22/24 A0117 AT&T 338.00 3353
 83323 04/22/24 A0212 ANCERO, LLC 8,422.50 3353
 83324 04/22/24 A0219 ALTERNATIVE MICROGRAPHICS, INC 1,894.00 3353
 83325 04/22/24 A0235 AMAZON CAPITAL SERVICES, INC. 1,481.14 3353
 83326 04/22/24 B0035 BELMONT & CRYSTAL SPRINGS 124.80 3353
 83327 04/22/24 B0139 BATELINI TRANSPORTATION 473.50 3353
 83328 04/22/24 B0160 BONNER, ROSEMARY 1,978.80 3353
 83329 04/22/24 B0284 BUTTERWOOD TREE SERVICE LLC 800.00 3353
 83330 04/22/24 B0287 BIGLEAF NETWORKS, INC. 697.00 3353
 83331 04/22/24 C0021 CIVIL SOLUTION A DIVISION 800.00 3353

83332 04/22/24 C0042 CAMPBELL SUPPLY COMPANY 327.06 3353
83333 04/22/24 C0048 CAPE MAY COUNTY MUA 40,991.00 3353
83334 04/22/24 C0052 CAPE MAY COUNTY TREASURER 1,641,643.13 3353
83335 04/22/24 C0068 COMCAST 805.23 3353
83336 04/22/24 C0182 CDW GOVERNMENT, INC 180.00 3353
83337 04/22/24 C0223 CASA PAYROLL SERVICE 243.00 3353
83338 04/22/24 C0247 CMRS-FP 2,000.00 3353
83339 04/22/24 C0279 CASA REPORTING SERVICES LLC 412.80 3353
83340 04/22/24 C0307 CNS ACQUISITION CORPORATION 875.00 3353
83341 04/22/24 C0346 CME ASSOCIATES 13,689.33 3353
83342 04/22/24 C0354 CLEAN MACHINE MAILING 97.95 3353
83343 04/22/24 D0040 DELTA DENTAL OF N.J. INC. 5,263.66 3353
83344 04/22/24 D0185 DIAMOND TOOL & FASTENERS, INC. 1,699.83 3353
83345 04/22/24 D0237 DIETZ, KERRY 125.00 3353
83346 04/22/24 D0240 DEVLIN, EDMUND F. 1,048.95 3353
83347 04/22/24 F0048 LESLIE G. FOGG INC 920.19 3353
83348 04/22/24 F0053 FORD, SCOTT & ASSOCIATES 7,000.00 3353
83349 04/22/24 F0225 FIRE DEFENSE SYSTEMS LLC 536.00 3353
83350 04/22/24 G0048 GIUSEPPE'S GOURMET 75.38 3353
83351 04/22/24 G0067 GLOBAL EQUIPMENT COMPANY INC 175.89 3353
83352 04/22/24 G0120 PATRICK F. MARTIN 2,291.67 3353
83353 04/22/24 H0002 H.A. DEHART & SON CORP. 174.15 3353
83354 04/22/24 H0073 HOME DEPOT CRC/GEFC 791.59 3353
83355 04/22/24 H0148 THOMAS H. HEIST INS AGENCY INC 1,813.60 3353
83356 04/22/24 H0180 HD SUPPLY FACILITIES MANT 315.75 3353
83357 04/22/24 K0086 K D NATIONAL FORCE SECURITY 1,800.00 3353
83358 04/22/24 K0100 KEEN COMPRESSED GAS CO. 268.00 3353
83359 04/22/24 K0118 J.F. KIELY CONSTRUCTION CO. 187,747.06 3353
83360 04/22/24 L0007 LC EQUIPMENT, INC. 80.00 3353
83361 04/22/24 L0027 LASHLEY HEATING & COOLING INC. 7,400.00 3353
83362 04/22/24 L0148 LUMBERMEN ASSOCIATES, INC. 3,755.00 3353
83363 04/22/24 M0217 MUNICIPAL EMERGENCY SERVICES 3,000.00 3353
83364 04/22/24 M0313 MAVIS TIRE SUPPLY, LLC 454.08 3353
83365 04/22/24 M0327 MONZO CATANESE DeLOLLIS, P.C. 12,511.95 3353
83366 04/22/24 N0043 NAPA AUTO PARTS 0.00 04/22/24 VOID 0
83367 04/22/24 N0043 NAPA AUTO PARTS 2,386.24 3353
83368 04/22/24 N0070 MARSH & MCLENNAN AGENCY, LLC 2,000.00 3353
83369 04/22/24 N0144 NJ E-ZPASS SERVICE CENTER 250.00 3353
83370 04/22/24 O0006 SJSHORE MARKETING,LLC 665.00 3353
83371 04/22/24 P0032 PEDRONI FUEL CO. 2,337.68 3353
83372 04/22/24 P0136 POSTNET 48.40 3353
83373 04/22/24 P0140 PIONEER MANUFACTURING CO, INC 1,999.50 3353
83374 04/22/24 P0170 PEACH COUNTRY MULCH 1,875.00 3353
83375 04/22/24 P0199 PRETTYMAN, ROBERT C., JR. 3,000.00 3353
83376 04/22/24 Q0009 QUALITE SPORTS LIGHTING INC. 1,169.00 3353
83377 04/22/24 Q0014 QBE SPECIALTY INSURANCE CO. 15,539.90 3353
83378 04/22/24 R0030 RIGGINS, INC. 6,881.56 3353
83379 04/22/24 R0101 R.R. DONNELLEY 213.00 3353
83380 04/22/24 S0018 SUBURBAN PROPANE, LP 171.09 3353
83381 04/22/24 S0056 SEASHORE ASPHALT CORPORATION 275.55 3353
83382 04/22/24 S0057 SERVICE TIRE TRUCK CENTERS 1,144.76 3353
83383 04/22/24 S0065 SEAVILLE FIRE CO. DISTRICT #4 312,253.00 3353
83384 04/22/24 S0072 SEGIN, STEWART S. 43.09 3353
83385 04/22/24 S0113 SMITH,THOMAS G. 542.50 3353
83386 04/22/24 S0134 SO. JERSEY GAS COMPANY 1,721.12 3353
83387 04/22/24 S0209 STAPLES ADVANTAGE 58.42 3353
83388 04/22/24 S0253 SAMPLE MEDIA, INC. 17.50 3353
83389 04/22/24 S0361 SOUTH JERSEY WATER TEST, LLC 209.00 3353
83390 04/22/24 S0410 SOCIETY OF PROF ASSESSORS INC 125.00 3353
83391 04/22/24 T0032 THE PRESS OF ATLANTIC CITY 278.89 3353
83392 04/22/24 T0089 TREASURER, STATE OF N.J. 309.00 3353
83393 04/22/24 T0117 TUCKAHOE FIRE DISTRICT #2 272,150.00 3353
83394 04/22/24 T0180 TRI-COUNTY PEST CONTROL, INC 25.00 3353
83395 04/22/24 T0194 TAG CONSULTING GROUP 2,000.00 3353
83396 04/22/24 V0022 VERIZON 604.56 3353
83397 04/22/24 V0025 V.E. RALPH & SON,INC. 413.23 3353
83398 04/22/24 V0052 VIKING TERMITTE & PEST CONTROL 138.56 3353
83399 04/22/24 W0087 W.B. MASON EGG HARBOR 947.12 3353
83400 04/22/24 W0131 WEX BANK 71.98 3353
83401 04/22/24 X0008 XEROX FINANCIAL SERVICES 217.70 3353
83402 04/22/24 Y0020 YOUNG, BARBARA L. 1,978.80 3353
Total: \$2,765,645.78