

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR MAY 13, 2024**

REGULAR MEETING OF THE TOWNSHIP COMMITTEE – 6:30 P.M.

CALL TO ORDER

SUNSHINE ANNOUNCEMENT

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

“In compliance with the Open Public Meetings Law, I wish to state that on May 10, 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	Absent
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 22, 2024 Regular and Closed Session Minutes

Motion by Kimberly Hayes, second by Mark Pancoast, to approve the April 22, 2024 Regular and Closed Session Minutes as submitted. During roll call vote all four Committee members present voted in the affirmative.

REPORT OF GOVERNING BODY MEMBERS

Jay Newman, Mayor, spoke regarding the Board of Education’s budget issues due to cuts in state aid. He stated that Township and School officials recently met to discuss how the Township can support the schools, such as assistance with applying for grants and the utilization of existing recreation programs and staff services. Mr. DeMarzo then reported that today the Senate and Assembly signed a supplemental relief package for the schools which is awaiting the signature of the Governor. Next, Mayor Newman reported that he, Deputy Mayor Hayes, and Township staff will be working with a member of the Coast Guard to plan a fundraising event for a local family whose child recently had a serious accident. More details will be forthcoming.

Victor Nappen, Committeeman, reported that Beacon Animal Rescue recently received national attention when local teacher and Beacon Animal Rescue volunteer Jillian Shoffler wrote a letter to Dave Portnoy from Barstool Sports for help. Mr. Portnoy recorded a facetime call with Jillian, which went viral on social media, and informed her that he will be sending a donation for Beacon. Mr. Nappen thanked Jillian and Dave for all they have done to help Beacon.

Kimberly Hayes, Committeewoman, also spoke about the school budget issues and finding long term solutions for issues with courtesy bussing and recreation programs. She next spoke about the continuing issues with the HVAC system at the Senior Center. The Township has applied for a grant to purchase a new system, however unfortunately the grant award announcement has been delayed. In the meantime the temporary ac units have been installed and are up and running. Lastly, she thanked Craig Reeves for contacting the Mosquito Control Commission to have them spray for mosquitos in the Township.

Mark Pancoast, Committeeman, thanked the Mayor and Deputy Mayor for all of their hard work with the school district budget issues. He next reported that the crossovers at Seaview should be completed tomorrow, and the mobi-mats and trash cans will be installed this week in Strathmere. Lastly, he stated that any road conditions should be reported to the Township Administrator.

ADMINISTRATOR OVERVIEW

Gary DeMarzo, Township Administrator, thanked the staff for their work with the many issues, problems, and projects in the Township.

Anthony Monzo, Municipal Attorney, reported that the structural analysis of the cell tower at 2028 Tuckahoe Road should be completed next week which will clear the way to take ownership of the tower, and the license agreements with the carriers should be ready for adoption at the next meeting.

Ryan MacNeill, Township Engineer, gave a brief update on the paving program and the stormwater pumps in Strathmere. He stated that the stormwater pump project is substantially complete, however the contractor will need a few more weeks to coordinate with Atlantic City Electric to install the service connection. He recommended that the project deadline be extended. Motion by Mark Pancoast, second by Jay Newman, to extend the stormwater pump project deadline for JF Kiely. During roll call vote all four Committee members present voted in the affirmative.

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 four Committee members present voted in the affirmative.

FILING OF REPORTS BY CONSENT

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

RESOLUTIONS TO BE APPROVED BY CONSENT

9. Designating May 2024 as Mental Health Awareness Month and May 13 through May 19, 2024 as Mental Health Awareness Week.

**CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 150-2024

**DESIGNATING MAY 2024 AS MENTAL HEALTH AWARENESS MONTH
AND MAY 13 THROUGH MAY 19, 2024 AS MENTAL HEALTH AWARENESS WEEK**

WHEREAS, Mental Health Awareness Month has been observed in the U.S. since 1949; and

WHEREAS, mental health, as defined by the National Institutes of Health, includes our emotional, psychological and social well-being; affects how we think, feel and act as we cope with life; helps determine how we handle stress, relate to others and make choices and is important at every stage of life from childhood to adolescence, to adulthood and in aging; and

WHEREAS, mental health is essential to everyone's overall health and well-being; and

WHEREAS, one in five adults and children experiences a mental health condition in any given year; and

WHEREAS, the mental health of youth is worsening, and the suicide rate of adolescents has significantly increased, causing a public health crisis that requires a strong, multifaceted, and swift response; and

WHEREAS, people with mental illness are often: over represented in the criminal justice system; reside in substandard housing; or institutions; under-employed; lacking access to basic needs; experiencing severe socio-economic inequalities and disadvantage; and impacted by co-occurring substance use and comorbid physical health conditions; and

WHEREAS, with early and evidenced based treatment, those individuals with mental health conditions can recover and lead full, productive lives; and

WHEREAS, each business, school, government agency, healthcare provider, organization and citizen share the burden of mental health problems and has a responsibility to promote mental wellness and support prevention efforts; and

WHEREAS, the Township Committee of the Township of Upper supports initiatives designed to raise awareness about mental health issues in New Jersey and takes steps to promote mental health wellness through education advocacy, and community collaboration;

NOW, THEREFORE BE IT RESOLVED by the Township Committee of the Township of Upper, in the County of Cape May and State of New Jersey, that the month of **May 2024** be recognized as the official **Mental Health Awareness Month**, and **May 13, 2024 through May 19, 2024 as Mental Health Awareness Week** in Upper Township, and hereby encourage all residents to create communities that recognize and understand mental illness, support people living with mental illness and be a resource to those individuals and families in need.

Resolution No. 150-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: May 13, 2024

Roll Call Vote:

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

10. Appointing the 2024 Boat Ramp Attendants.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 151-2024

RE: APPOINTING THE 2024 BOAT RAMP ATTENDANTS

WHEREAS, the individuals hereinafter named have been determined to possess the requisite skills, training and are otherwise eligible for appointment to the position of Boat Ramp Attendants 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.

Boat Ramp attendants are hereby appointed as part-time seasonal attendants, effective May 25, 2024 at a salary stated below in accordance with the Salary Ordinance:

2. 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.

BOAT RAMP ATTENDANTS

Ronald Boomhower	\$17.00 per hour
James Laird	\$17.00 per hour
Bernd Palau	\$17.00 per hour
Don Polo	\$17.00 per hour

Resolution No. 151-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: May 13, 2024

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson				X

Hayes	X			
Nappen	X			
Pancoast	X			
Newman	X			

11. Appointing the 2024 Season Beach Patrol Personnel.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 152-2024

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.

2. The following individuals are appointed as lifeguards in the Township of Upper at a salary as stated below in accordance with the Salary Ordinance:

RETURNING GUARDS

Culmone, Emily	Senior	\$22.25
Robbins, Lindsay	Senior	\$22.25
Connell, Lorna	5+ yrs	\$19.00
Dooner, William	5+ yrs	\$19.00
Handley, Reghan	5+ yrs	\$19.00
MacMurray, Wayne	5+ yrs	\$19.00
Montgomery, Robert	5+ yrs	\$19.00
O’Hara, John	5+ yrs	\$19.00
VanGilder, Gregory	5+ yrs	\$19.00
Young, Nathaniel	5+ yrs	\$19.00
Culmone, Gabriella	5 th yr	\$19.00
Fisher, Aiden	5 th yr	\$19.00
Schwarz, Emma	5 th yr	\$19.00
Durst, Corson	5 th yr	\$19.00
Grimley, Kailey	5 th yr	\$19.00
Malcarney, Declan	5 th yr	\$19.00
Nilsen, James	5 th yr	\$19.00
Schlucter, William	5 th yr	\$19.00
Garoh, James	4 th yr	\$18.70
Connell, Cheryl	3 rd yr	\$18.70
Durst, Hayden	3 rd yr	\$18.70

Edwards, Robert	3 rd yr	\$18.70
Matthews, Ellie	3 rd yr	\$18.70
Miner, Owen	3 rd yr	\$18.70
Montgomery, Lauren	3 rd yr	\$18.70
Manning, Ryan	3 rd yr	\$18.70
Parsons, Michael	3 rd yr	\$18.70
Riess, Lewis	3 rd yr	\$18.70
Storz, Anderson	3 rd yr	\$18.70
Kohles, Taggart	2 nd yr	\$18.00
Malcarney, Grace	2 nd yr	\$18.00
Reiss, Maxwell	2 nd yr	\$18.00
Aristizabel, Caleb	2 nd yr	\$18.00
Brown, Chase M.	2 nd yr	\$18.00
Chase, Bruckner	EMT Lifeguard	\$22.00
Liepe, Gavin	EMT Lifeguard	\$22.00

Resolution No. 152-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: May 13, 2024

Roll Call Vote:

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

12. Appointing Jacob Spiegel to the Upper Township Construction Code Office to serve as Temporary Plumbing Sub-Code Official.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 153-2024

**RE: APPOINTING JACOB SPIEGEL TO THE
UPPER TOWNSHIP CONSTRUCTION CODE OFFICE TO SERVE AS
TEMPORARY PLUMBING SUB-CODE OFFICIAL**

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 license as required by the New Jersey Uniform Construction Code to serve as Temporary Plumbing Sub-Code Official; 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 26, 2024 to serve as Temporary Plumbing Sub-Code Official at an hourly rate of \$35.00
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. 153-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: May 13, 2024

Roll Call Vote:

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

13. Designating certain Strathmere beach areas in the Township of Upper as a surfing beach and a catamaran/sailboat beach for the 2024 summer season.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 154-2024

RE: DESIGNATING CERTAIN STRATHMERE BEACH AREAS IN THE TOWNSHIP OF UPPER AS A SURFING BEACH AND A CATAMARAN/SAILBOAT BEACH FOR THE 2024 SUMMER SEASON

WHEREAS, in accordance with Chapter 9, entitled Recreational Facilities, of the Revised General Ordinances it is necessary to designate certain beach areas along the Strathmere shore in the Township of Upper strictly for the use of surfboards, sailboats, catamarans and other similar devices for the 2024 summer season; 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. It has been determined by the Township Committee to designate the following for the

2024 summer season:

- **Surfing Beach: Between Vincent Avenue and Sherman Avenue**
- **Catamaran/Sailboat Beach: Between Hawthorne Avenue and Hamilton Avenue**

3. A map designating the Surfing Beach and Catamaran/Sailboat Beach areas has been provided by the Township Engineer and shall be attached hereto as Exhibit A.

4. During imminent storm all watercraft shall be removed from the designated beach areas.

Resolution No. 154-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: May 13, 2024

Roll Call Vote:

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

14. Refunding tax on exempt property Block 453.10, Lot 15.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 155-2024

**REFUNDING TAX ON EXEMPT PROPERTY
BLOCK 453.10, LOT 15**

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, Jeffrey Scott Setser is a 100% disabled American veteran residing at 18 Laurel Ridge Rd. Seaville, Block 453.10, Lot 15 on the municipal tax map of Upper Township, New Jersey; and

WHEREAS, the Mortgage Company paid 2024 2nd quarter taxes on the above tax exempt property. It is therefore necessary to refund Jeffrey Setser in the amount of \$ 2,156.36; and

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

Cape May County, that corrections to the Tax records are hereby authorized and the Tax Collector is hereby directed to correct said records or take such action as indicated on the attached sheet.

Resolution No. 155-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: May 13, 2024

Roll Call Vote:

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

REFUND TAX 2024

BLOCK/LOT

AMOUNT

NAME

453.10/15

\$ 2,156.36

Jeffrey Scott Setser
18 Laurel Ridge Rd.
Seaville NJ 08230

100% Totally Disabled Veteran

15. Accepting the surety bond from Tuckahoe Sand & Gravel Co., Inc. for the mining operation known as Tuckahoe Sand & Gravel, Block 247, Lots 4, 9 and 10; Block 248, Lots 1 to 8; Block 249, Lot 1; and Block 453, Lot 2, and authorizing the release of the existing surety.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 156-2024

RE: ACCEPTING THE SURETY BOND FROM TUCKAHOE SAND & GRAVEL CO., INC. FOR THE MINING OPERATION KNOWN AS TUCKAHOE SAND & GRAVEL, BLOCK 247, LOTS 4, 9 AND 10; BLOCK 248, LOTS 1 TO 8; BLOCK 249, LOT 1; AND BLOCK 453, LOT 2, AND AUTHORIZING THE RELEASE OF THE EXISTING SURETY

WHEREAS, Chapter XV of the Code of Upper Township requires all mining operations to submit a performance surety in accordance with the requirements of Chapter XIX, Land Subdivision, prior to the issuance of a 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, Tuckahoe Sand & Gravel Co., Inc. has presented to the Township Surety Bond No. 47-SUR-300280-01-0005 for the mining operation known as Tuckahoe Sand & Gravel, Block

247, Lots 4, 9 and 10; Block 248, Lots 1 to 8; Block 249, Lot 1; and Block 453, Lot 2, in the amount of \$238,800.00; and

WHEREAS, the Municipal Attorney has reviewed 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

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. Surety Bond No. 47-SUR-300280-01-0005 is hereby accepted and approved.
3. The existing Surety Bond No. 30020897 is hereby released.
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. 156-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: May 13, 2024

Roll Call Vote:

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

16. Authorizing the Mayor to sign a Coastal Program Landowner Agreement in support of the Strathmere Improvement Association’s pollinator garden committee back dune native planting project.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 157-2024

**RE: AUTHORIZING THE MAYOR TO SIGN A COASTAL PROGRAM LANDOWNER
AGREEMENT IN SUPPORT OF THE STRATHMERE IMPROVEMENT ASSOCIATION’S
POLLINATOR GARDEN COMMITTEE
BACK DUNE NATIVE PLANTING PROJECT**

WHEREAS, the Township of Upper wishes to support the Strathmere Improvement Association’s Pollinator Garden Committee back dune native planting project; and

WHEREAS, the U.S. Fish and Wildlife Service has requested the Township to enter into a Coastal Program Landowner Agreement; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Mayor is hereby authorized, directed and empowered to sign the attached Coastal Program Landowner Agreement on behalf of the Township of Upper.
3. All Township officials, officers and employees are empowered to take such action as may be necessary or advisable in order to carry out the intent and purpose of this Resolution.

Resolution No. 157-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: May 13, 2024

Roll Call Vote:

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

17. Authorizing Change Order No. 3 to Install Stormwater Pump in Strathmere contract resulting in an increase in the amount of \$22,308.00.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 158-2024

**RE: AUTHORIZING CHANGE ORDER NO. 3 TO INSTALL STORMWATER PUMP IN
STRATHMERE CONTRACT RESULTING IN AN INCREASE
IN THE AMOUNT OF \$22,308.00**

WHEREAS, the Township of Upper awarded the Install Stormwater Pump in Strathmere contract to J.F. Kiely Construction Co. of Tinton Falls, New Jersey, in the original Contract amount of \$379,067.00; and

WHEREAS, a change order to the contract is needed for additional work which includes concrete foundations for the control panel structures, additional concrete work at Webster Avenue, 24" DIP

fittings to complete the connection to system, watertight seals for the outfall pipe penetration through bulkhead, and labor escalation costs; and

WHEREAS, the Chief Financial Officer has issued a certification as to the availability of funds for this Change Order No. 3; and

WHEREAS, the aggregate amount of Change Order No. 3, comprising of extra work in the amount of \$33,680.00, and a credit in the amount of \$11,372.00, does not exceed twenty percent (20%) of the original Contract award; and

WHEREAS, the Township Engineer has requested this Change Order and has indicated that it is permitted under the applicable regulations and that, pursuant to N.J.A.C. 5:30-11.8, it is an unforeseeable problem, which is defined as conditions or circumstances that could not be foreseen at the time the specifications were written and the contract awarded; and that a substantial amount of the construction would be delayed, which would result in substantial increases in costs above the original contract amount or substantial inconvenience to the public if bidding were to be required; and

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

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

1. The allegations of the preamble are incorporated herein by this reference.
2. Change Order No. 3 to the Install Stormwater Pump in Strathmere contract with J.F. Kiely Construction Co. for extra work in the amount of \$22,308.00 is hereby authorized.
3. A copy of this Change Order detailing the nature and the extent of the work to be done, together with all other prior Change Orders, if any, are attached to this Resolution as Exhibit "A".
4. The Mayor and Chief Financial Officer are hereby authorized, directed and empowered to execute the Change Order on behalf of the Township of Upper.
5. All Township officials and officers are hereby authorized and directed to take all action necessary to carry out the intent and purpose of this Resolution.

Resolution No. 158-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: May 13, 2024

Roll Call Vote:

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

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

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 159-2024

**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:

Daniel J. Young, Esquire (Affordable Hsing Services)	\$ 810.00
Triad Associates (AA Technical Assistance)	\$1,312.50
(AA/MTA Wait List Maint.)	200.00
(AA Wait List Rentals)	<u>200.00</u>
	\$1,712.50

Resolution No. 159-2024

Offered By: Hayes

Seconded By: Pancoast

Adopted: May 13, 2024

Roll Call Vote:

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

19. 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 \$1,555.50.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 160-2024

**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 \$1,555.50**

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 construction phase services for the 2023 Paving Project in the amount of \$1,555.50; 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 **\$1,555.50** with funds from Capital Improvement Bond Ordinance No. 002-2023.

Resolution No. 160-2024

Offered By: Hayes

Seconded By: Pancoast

Adopted: May 13, 2024

Roll Call Vote:

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

20. Resolution and Certification with respect to the 2023 annual audit and in compliance with the Local Finance Board of the State of New Jersey.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 161-2024

**RESOLUTION AND CERTIFICATION WITH RESPECT TO THE 2023 ANNUAL AUDIT AND
IN COMPLIANCE WITH THE LOCAL FINANCE BOARD OF THE STATE OF NEW JERSEY**

WHEREAS, N.J.S.A. 40A:5-4 required the governing body of every local unit to have made an

annual audit of its books, accounts and financial transactions; and

WHEREAS, the Annual Report of Audit for the year **2023** has been filed by a Registered Municipal Accountant with the Municipal Clerk as per the requirements of N.J.S.A. 40A:5-6, and a copy has been received by each member of the governing body; and

WHEREAS, the Local Finance Board of the State of New Jersey is authorized to prescribe reports pertaining to the local fiscal affairs, as per R.S. 52:27BB-34; and

WHEREAS, the Local Finance Board has promulgated a regulation requiring that the governing body of each municipality shall by resolution certify to the Local Finance Board of the State of New Jersey that all members of the governing body have reviewed, as a minimum, the sections of the annual audit entitled:

GENERAL COMMENTS
AND
RECOMMENDATIONS

WHEREAS, the members of the governing body have personally reviewed as a minimum the Annual Report of Audit, and specifically the sections of the Annual Audit entitled:

GENERAL COMMENTS
AND
RECOMMENDATIONS

as evidenced by the group affidavit form of the governing body; and

WHEREAS, such resolution of certification shall be adopted by the governing body no later than forty-five days after the receipt of the annual audit, as per the regulations of the Local Finance Board; and

WHEREAS, all members of the governing body have received and have familiarized themselves with, at least, the minimum requirements of the Local Finance Board of the State of New Jersey, as stated aforesaid and have subscribed to the affidavit, as provided by the Local Finance Board; and

WHEREAS, failure to comply with the promulgations of the Local Finance Board of the State of New Jersey may subject the members of the local governing body to the penalty provisions of R.S. 52:27BB-52 - to wit:

R.S.52:27BB-52 -"A local officer or member of a local governing body who, after a date fixed for compliance, fails or refuses to obey an order of the Director of Local Government Services, under the provisions of this Article, shall be guilty of a misdemeanor and, upon conviction, may be fined not more

than one thousand dollars (\$1,000.00) or imprisoned for not more than one year, or both, in addition shall forfeit his office."

NOW, THEREFORE BE IT RESOLVED, that the governing body of the Township of Upper, hereby states that it has complied with the promulgation of the Local Finance Board of the State of New Jersey dated July 30, 1968 and does hereby submit a certified copy of this resolution and the required affidavit to said Board to show evidence of said compliance.

Resolution No. 161-2024

Offered by: Hayes

Seconded by: Pancoast

Adopted: May 13, 2024

Roll Call Vote:

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

21. Approving the Corrective Action Plan for 2023 audit.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 162-2024

RE: APPROVING THE CORRECTIVE ACTION PLAN FOR 2023 AUDIT

WHEREAS, the Township of Upper has received a report of audit for the year ending December 31, 2023; and

WHEREAS, the New Jersey Division of Local Government Services requires that the Chief Financial Officer submit a Corrective Action Plan for all findings in the audit within 60 days of receipt of the Report of Audit; and

WHEREAS, the Chief Financial Officer has completed a Corrective Action Plan relating to the findings of the 2023 Audit.

NOW, THEREFORE BE IT RESOLVED, by the Township Committee of the Township of Upper, Cape May County, State of New Jersey that it does hereby approve the Corrective Action Plan for the 2023 Report of Audit.

BE IT FURTHER RESOLVED, that the Municipal Clerk be directed to forward a copy of the Corrective Action Plan to the New Jersey Division of Local Government Services.

Resolution No. 162-2024

Offered By: Hayes

Seconded By: Pancoast

Adopted: May 13, 2024

Roll Call Vote:

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

CORRECTIVE ACTION PLAN

Township of Upper

County of Cape May

Audit Report Year: 2023

Upper Township Finance Office

Finding 2023-1:

That no contract be awarded, or purchase order be approved unless there is sufficient funding in the proper budget line.

Explanation and Corrective Action:

Several stormwater infrastructure projects were proposed with the use of multiple funding sources. Communication between the CFO and Engineer was misconstrued. When the funding sources were verified, the purchase order was revised before funds were expended. Better communication, along with checks and balances were immediately instituted between the CFO and Engineer's Office.

Implementation Date: Immediate

ORDINANCES

- 22. Public hearing and final adoption of Ordinance No. 007-2024 RE: AN ORDINANCE AUTHORIZING SALE OF LANDS, TO WIT BLOCK 329, LOTS 1, 2, 3, 4 AND 8 AND BLOCK 332, LOTS 26 AND 30. **During the public hearing portion there were no speakers. Motion by Kimberly Hayes, second by Mark Pancoast to adopt Ordinance No. 007-2024. During roll call vote all four Committee members present voted in the affirmative.**

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
ORDINANCE**

ORDINANCE NO. 007-2024

**RE: AN ORDINANCE AUTHORIZING SALE OF LANDS,
TO WIT BLOCK 329, LOTS 1, 2, 3, 4 AND 8 AND BLOCK 332, LOTS 26 AND 30**

WHEREAS, the Township of Upper is the owner, in fee, of certain parcels of vacant ground located within the Township of Upper, County of Cape May, and State of New Jersey, set forth on the municipal tax map as Block 329, Lots 1, 2, 3, 4 and 8 and Block 332, Lots 26 and 30; and

WHEREAS, the Township has received an offer from Aaron Segin and Olivia Greene, the owners of real property contiguous with said parcels owned by the Township, to purchase said parcels; and

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

WHEREAS, the Township Committee has determined that the fair market value of such lots is the sum of \$9,800.00 pursuant to the appraisal prepared by Louis A. Bonato on February 20, 2024; and

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

SECTION 1: The Township of Upper is hereby authorized to sell to Aaron Segin and Olivia Greene, (hereinafter referred to as “Purchaser”), the real property commonly known as follows:

Block 329, Lots 1, 2, 3, 4 and 8 and Block 332, Lots 26 and 30

since said persons are the owners of the only real property contiguous thereto in accordance with N.J.S.A. 40A:12-13(b)(5). Pursuant to said statute such sale shall not be for less than the fair market value of said real property and the fair market value of said parcels sold as well as the purchase price of same is hereby established as follows:

Block 329, Lots 1, 2, 3, 4 and 8 and Block 332, Lots 26 and 30

Fair Market Value: \$9,800.00

SECTION 2: Prior to said sale, the Township will obtain a title report from a title company or abstract company licensed to do business in the State of New Jersey. Said report shall be available to the purchaser prior to final adoption of this Ordinance.

SECTION 3: The list of property authorized to be sold together with the minimum price thereof shall be posted at Township Hall and advertisement of the sale shall be made in a newspaper

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

SECTION 4: Purchaser shall pay the following sum to the Township Clerk prior to the adoption of this Ordinance: \$1,500.00. \$500.00 of this payment will be used by the Township to defray Township expenses involved in Authorizing the Sale and terms thereof; Engineer's review; Attorney's review; legal advertising, certified mail notices, closing costs and other expenses. \$1,000.00 of this payment will be used to cover title search costs, which if same are less than this sum the difference will be credited back to Purchaser.

SECTION 5: In the event the Township Committee receives no offers for the property pursuant to the advertisement of same in accordance with N.J.S.A. 40A:12-13(b), the adjacent property owner requesting such sale, Purchaser, shall purchase same in accordance with this Ordinance and shall appear before the Township Clerk and execute the agreement to purchase same pursuant to this Ordinance. The Township Committee expressly reserves the right to revoke its authorization to sell the subject real property at any time prior to said sale. The Township Committee is authorized to confirm the sale by resolution to complete the transaction pursuant to this Ordinance and N.J.S.A. 40A:12-13.

SECTION 6: In the event the Township Committee revokes its authorization for the sale of the subject property in its sole judgment and discretion, then, all deposit monies made by Purchaser shall be refunded except for the \$50.00 application fee which shall be non-refundable.

SECTION 7: All payments required to be made pursuant to said sale to the Township Clerk must be made by personal check, cash or certified check, or any combination of the foregoing. All payments required to be made hereunder to a title company or abstract company conducting the closing shall be made in collected funds, that is, by cash, certified check, cashier's check or wire transfer.

SECTION 8: A sum equal to ten percent (10%) of the purchase price for said parcel or parcels shall be paid to the Township of Upper by Purchaser within 14 days of written notice requiring

same from the Township Clerk to Purchaser. Said notice shall be sent by the Township Clerk after the posting and advertisement required by SECTION 3 above has not resulted in an offer and the Township Committee has not reconsidered this Ordinance pursuant to N.J.S.A. 40A:12-13(b). The remaining balance of ninety percent (90%) of the highest bid for the parcel or parcels shall be paid to the Township of Upper, and must be received by the Township Clerk, not later than thirty (30) days after the date of said notice. In addition to the deposit of ten percent (10%), Purchaser shall also be required to pay or tender within 14 days of said written notice from the Township Clerk the following:

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

AT THE TIME OF CLOSING Purchaser shall be required to pay the following sums:

- (B) Any additional sum required for title search or title insurance.
- (C) The cost of any survey ordered by the purchaser. The purchaser shall place such order directly with the surveyor or with the title company conducting closing, but the survey must be prepared in time to permit the closing to take place as scheduled.
- (D) Title company settlement fees covering services to both the Seller and the Purchaser.
- (E) Any additional fees or costs chargeable by the title company.

SECTION 9: The closing of title shall take place as designated by the Township as follows:

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

SECTION 10: If the Purchaser fails to close or fails to comply with the provisions hereof, the purchaser shall be in default and all amounts paid to the Township by or on behalf of the Purchaser shall be retained by the Township as **LIQUIDATED DAMAGES AND NOT AS A PENALTY.**

SECTION 11: The Deed from the Township of Upper shall be what is commonly known as a Quitclaim Deed.

SECTION 12: The title to be delivered by the Township shall be free and clear of all taxes up to and including the date when the Deed is delivered and closing takes place. Purchaser shall be responsible for all taxes thereafter. Unless otherwise specified herein, the purchaser shall be liable for payment of all assessments, of any nature, against said land.

SECTION 13: The title to be delivered by the Township shall be under and subject to all easements and rights of way, recorded and unrecorded, whether for utilities or for others, and shall also be subject to all conditions, reservations and restrictions of record, if any. If the title report discloses an unmarketable condition of title, except as specified herein, the remedy of the purchaser shall be limited to the return of payments made to the Township of Upper on account of the purchase price and closing costs only. Any and all other amounts paid to the Township shall be non-refundable. This sale is under and subject to any riparian claim which may affect said property. If any such claim exists, it shall be the sole responsibility of the purchaser to meet and satisfy all requirements of the State of New Jersey with respect to said riparian claim and the payment of any compensation to the State of New Jersey on account thereof. Nothing herein shall be construed as obligating the Township of Upper to construct or maintain access roads to any portion of the property being sold. Such property may not qualify for a building permit due to lack of water supply, lack of sewer or septic facilities, lack of access, inadequate lot size, or other reasons, including those reasons set forth below. The purchaser is required to comply with all applicable zoning, building and health ordinances and codes and regulations. The property being sold may be situated in a Flood Hazard Zone. The Township of Upper makes no warranties or representations, expressed or implied, as to the property being offered for sale, the condition or marketability of the title or any other matter. The Township of Upper makes no warranties or representations, expressed or implied, as to whether or not the property being offered for sale contains wetlands anywhere on the property. The Township makes no warranties or representations as to any matter of an environmental nature, or otherwise, which may prevent or limit building or construction.

SECTION 14: All references to Lots and Blocks described herein are to the Lots and Blocks as shown on the Current Official Tax Map of the Township of Upper.

SECTION 15: The purchaser shall be required to execute a document acknowledging that the sale is governed by the provisions of this Ordinance as well as N.J.S.A. 40A:12-13.

SECTION 16: The provisions of this Ordinance pertaining to this sale shall survive the closing of title and shall not merge into the Deed.

SECTION 17: It is a requirement of this sale that the purchasers of the subject property be the only contiguous property owner. Said purchasers shall be required to take immediate action to cause a consolidation of the property being purchased with all of the purchaser's existing adjacent lots so as to constitute all such lots in Block 329 as a single parcel of ground, and all such lots in Block 332 as a single parcel of ground, which shall not be further subdivided into more than one lot. This restriction shall be included in the deed of conveyance and shall run with the land. The purchasers shall complete the consolidation as a condition of the sale. The provisions of this Section shall survive closing and shall not merge into the Deed.

SECTION 18: 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 8TH DAY OF APRIL, 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 13TH DAY OF MAY, 2024 AT 6:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

JOANNE R. HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER

23. Public hearing and final adoption of Ordinance No. 008-2024 RE: AN ORDINANCE ADDING CHAPTER 13, SECTION 5 (VACATION OF PUBLIC STREET, HIGHWAY, RIGHT-OF-WAY, OR OTHER PUBLIC PLACE) TO THE CODE OF UPPER TOWNSHIP. **During the public hearing portion there were no speakers. Motion by Kimberly Hayes, second by Victor Nappen to adopt Ordinance No. 008-2024. During roll call vote all four Committee members present voted in the affirmative.**

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

ORDINANCE NO. 008-2024

**AN ORDINANCE ADDING CHAPTER 13, SECTION 5 (VACATION OF PUBLIC STREET,
HIGHWAY, RIGHT-OF-WAY, OR OTHER PUBLIC PLACE)
TO THE CODE OF UPPER TOWNSHIP**

WHEREAS, the Township Committee of the Township of Upper has determined that there is a need to establish procedures to be followed for requests to vacate a public street, highway, right-of-way, or other public place within the Township; and

WHEREAS, the requirements of N.J.S.A. 40:67-19 set forth general rules governing the vacating of public streets, highways, rights-of-way, or other public places by municipalities within the State, but the Township Committee of the Township of Upper wishes to set forth more detailed requirements in accordance with N.J.S.A. 40:67-19 so as to insure that the process of vacating a public street, highway, right-of-way, or other public place is accomplished in an orderly manner and with appropriate public notice and participation in the process by all persons who are potentially affected by the vacation; 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. Chapter 13 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 13.5: VACATION OF PUBLIC STREET, HIGHWAY, RIGHT-OF-WAY, OR OTHER PUBLIC PLACE as follows:

13.5 VACATION OF PUBLIC STREET, HIGHWAY, RIGHT-OF-WAY, OR OTHER PUBLIC PLACE.

13.5.1 Application information and fee.

A. Any person who is desirous of applying to the Township of Upper for the vacation of any street, highway, right-of-way or other public place heretofore dedicated to the Township shall be required to complete a vacation application, on a form to be promulgated by the Township Clerk, and shall file the same with the Township Clerk, together with a fee in the amount of \$100, which shall be payable to the Township of Upper. The vacation application shall call for the following information:

- (1) The name, address, telephone number, and email address of the person applying for such vacation.
- (2) If such person is represented by an attorney, the name, address, telephone number, and email address of such attorney and/or the name, address and telephone number of any other person to be contacted on behalf of the applicant.
- (3) The name and a general description of the street, highway, right-of-way or other public place to be vacated.

(4) If the applicant is a corporation, partnership or other entity, the name and address of each person holding an interest of 10% or more on the ownership of such corporation, partnership or other entity.

(5) A list of the Block and Lot numbers of all property adjoining the area to be vacated, together with a list of the names and addresses of the assessed owners of such adjoining properties.

(6) A narrative description of the current use of the area to be vacated.

(7) A narrative description of the applicant's intended use of the area to be vacated.

(8) A description of any improvement on the area to be vacated, including but not limited to paving, gravel, utilities or structures.

B. The applicant shall furnish with the application a reproduction of the Tax Map, showing the area surrounding the area to be vacated, as well as all intersecting roads, adjoining parcels, the current zoning of all properties adjoining the area to be vacated, and, where application has been made for the vacation of any street, highway or other right-of-way, the reproduction shall show the entire length of such street, highway or right-of-way.

C. The applicant shall furnish with the application executed forms to be furnished by the Township, which shall indicate the consent of the owners of each property adjoining the area to be vacated. In the event consent cannot be obtained from any property owners, the applicant shall file a written statement indicating what efforts the applicant has undertaken to obtain consent. The applicant shall furthermore provide written proof of certified mailing of the application to all owners of property adjoining the area to be vacated who have not completed a consent form.

D. The application shall be executed by the applicant or the applicant's representative, indicating that the information set forth or attached to the application is true and accurate.

13.5.2 - Review of application.

Upon receipt of a completed application, the Township Clerk shall forward a copy of the same to the Planning Board. The Planning Board shall thereafter review such application and forward its written recommendation to the Township Committee.

13.5.3 - Committee determination; notification.

Upon receipt of the Planning Board's recommendation, the matter shall be submitted to the Township Committee for final approval. The Township Clerk shall notify the applicant, in writing, of the Township Committee's determination as to action on the application.

13.5.4 - Favorable determination; additional fees.

A. Where the applicant has been notified that the Township Committee has determined to act favorably on the application, the applicant shall forthwith provide the Township Clerk with a metes and bounds description of the area to be vacated, prepared and sealed by a surveyor, to be used for the preparation of the vacation Ordinance, together with such other information as may be requested by the Township Committee in its notification to the applicant.

B. Upon introduction of the vacation Ordinance, the Township clerk shall send by certified mail, return receipt requested, notice of the introduction and date and time of the public hearing of said Ordinance to all property owners within 200 feet of the proposed vacated area.

C. After passage of the Ordinance, a statement of the following costs shall be prepared by the Township Clerk and mailed certified to the applicant. The costs shall be due within 30 days after said mailing and shall be payable to the Township of Upper.

- (1) A sum equal to the legal and engineering costs associated with the application review by the Planning Board and the preparation of the Ordinance enacted by the Township Committee in connection with the proposed vacation; and
- (2) A sum equal to the costs of the certified mailing of the notice of the introduced Ordinance and date and time of public hearing to all property owners within 200 feet of the proposed vacation; and
- (3) A sum equal to the costs of advertising the introduction and notice of final adoption of such Ordinance; and
- (4) A sum equal to the recording costs of the ordinance enacted by the Township Committee; and
- (5) A sum in the amount of \$100.00 for the revision to the official tax map of the Township of Upper.

13.5.5 - Waiver of Requirements.

The Township Committee may, in its sole discretion, waive any requirement contained herein.

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 8TH DAY OF APRIL, 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 13TH DAY OF MAY, 2024 AT 6:30 P.M. AT THE TOWNSHIP HALL, PETERSBURG, NEW JERSEY, AT WHICH TIME SAID ORDINANCE WAS ADOPTED.

JOANNE R. HERRON, TOWNSHIP CLERK
TOWNSHIP OF UPPER

CORRESPONDENCE

NEW BUSINESS

- 24. Amendment to performance guarantee requirements. **The Township Engineer reported that an update to the Township’s Code is needed to be in compliance with the 2018 Municipal Land**

Use Law changes to performance guarantee requirements. An Ordinance will be prepared for introduction and will be placed on a future agenda.

25. Advertisement in Strathmere Volunteer Fire Company publication. **Motion by Jay Newman, second by Kimberly Hayes, to approve the placement of an ad at a cost of \$300.00 in the Strathmere Volunteer Fire Company publication of their 100th anniversary. During roll call vote all four Committee members present voted in the affirmative.**
26. Historical Preservation Society of Upper Township requests the use of the Gandy Farm for their annual Strawberry Festival on May 25, 2024, rain date May 26, 2024. **Motion by Kimberly Hayes, second by Victor Nappen, to approve the request. During roll call vote all four Committee members present 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 four Committee members present voted in the affirmative.**

Bills approved for payment: **\$778,257.47**

Payroll: **\$186,238.73**

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

Janice Connell, Strathmere Improvement Association, thanked Public Works for all of their work preparing Strathmere for the summer season. She next thanked the Committee for supporting the pollinator garden committee project, and stated that the SIA will be proposing future projects for playground upgrades and plans to support the lifeguards.

Sue Willard, Strathmere, stated that last week was nurse's week and requested a public acknowledgement for all that nurses do.

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.

**RESOLUTION NO. 163-2024
MOTION GOING INTO CLOSED SESSION
MAY 13, 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 – Triad Grant Consultant Services
2. Contract negotiation – Coastal EMTC
3. Contract negotiation – Shared Services Agreement for Municipal Court Services
4. Contract negotiation – Remington & Vernick Engineers
5. Potential Litigation – Affordable Housing
6. Litigation – Hemby v. Upper Township

7. Personnel
8. Contract negotiation – Delta Dental
9. Litigation – Henry v. Richards

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 four Committee members present 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 four Committee members present voted in the affirmative.

RESOLUTION TO BE ACTED ON AFTER CLOSED SESSION

28. Authorizing a contract with Remington & Vernick Engineers for professional grant preparation services.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 164-2024

**RE: AUTHORIZING A CONTRACT WITH REMINGTON & VERNICK ENGINEERS
FOR PROFESSIONAL GRANT PREPARATION SERVICES**

WHEREAS, the New Jersey Department of Transportation has announced that applications will now be accepted for Fiscal Year 2025 State Aid Programs; and

WHEREAS, Remington & Vernick Engineers has submitted a proposal to the Township to provide professional services for the preparation and submission of grant applications for the NJDOT Bikeways and Local Aid Infrastructure Fund programs; and

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

WHEREAS, Remington & Vernick Engineers has completed and submitted a Business Entity Disclosure Certification which certifies that Remington & Vernick Engineers 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 Remington & Vernick Engineers 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 Remington & Vernick Engineers with offices at 4907 New Jersey Avenue, Wildwood, New Jersey, to provide professional grant preparation services.
3. This contract shall have a term of one (1) year from date of full execution.
4. This Contract is awarded without competitive bidding as a professional service in accordance with N.J.S.A. 40A:11-5(1)(a) of the New Jersey Local Public Contract Law because Remington & Vernick Engineers has professional knowledge which is particularly valuable to the Township Committee and this service is acquired as a non-fair and open contract pursuant to N.J.S.A. 19:44A-20.5

NOTICE OF CONTRACT AWARD

5. The Township Committee of the Township of Upper, State of New Jersey has awarded the contract without competitive bidding as a professional service pursuant to N.J.S.A. 40A:11-5(1)(a) to Remington & Vernick Engineers for professional grant preparation 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. 164-2024

Offered by: Hayes

Seconded by: Newman

Adopted: May 13, 2024

Roll Call Vote:

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

ADJOURNMENT

There being no further business this evening the meeting was adjourned at 7:43 P.M., with a motion by Kimberly Hayes, second by Jay Newman, and all four Committee members present voting in the affirmative. The next regular Committee meeting is scheduled for Tuesday, May 28, 2024 at 4:30 P.M.

Minutes prepared by,

Joanne R. Herron, RMC
Township Clerk

Bills

83409 05/13/24 A0025 ADVANTAGE RENTAL & SALES 376.56 3357
 83410 05/13/24 A0075 ADAMS, JOSHUA 80.80 3357
 83411 05/13/24 A0091 ATLANTIC CITY ELECTRIC 32,528.92 3357
 83412 05/13/24 A0117 AT&T 149.76 3357
 83413 05/13/24 A0193 ATLANTIC INVESTIGATIONS, LLC 217.00 3357
 83414 05/13/24 A0212 ANCERO, LLC 1,015.06 3357
 83415 05/13/24 A0231 ALL UNIQUE GIFTS, INC. 10,160.30 3357
 83416 05/13/24 A0235 AMAZON CAPITAL SERVICES, INC. 457.44 3357
 83417 05/13/24 A0248 AIRESRING, INC. 1,221.15 3357
 83418 05/13/24 B0035 BELMONT & CRYSTAL SPRINGS 51.94 3357
 83419 05/13/24 B0060 BIANCHINO LOU & SONS 165.00 3357
 83420 05/13/24 B0076 BOND, LAURENCE E. 833.98 3357
 83421 05/13/24 B0092 BROKER, EUGENE JR. 150.00 3357
 83422 05/13/24 B0093 BARRY, CORRADO & GRASSI, PC 180.00 3357
 83423 05/13/24 B0287 BIGLEAF NETWORKS, INC. 697.00 3357
 83424 05/13/24 B0288 KINGBARNES LLC 2,985.00 3357
 83425 05/13/24 C0042 CAMPBELL SUPPLY COMPANY 815.23 3357
 83426 05/13/24 C0046 CAPE MAY COUNTY CLERK 39.00 3357

83427 05/13/24 C0068 COMCAST 2,510.85 3357
83428 05/13/24 C0122 CMC LEAGUE OF MUNICIPALITIES 700.00 3357
83429 05/13/24 C0223 CASA PAYROLL SERVICE 502.00 3357
83430 05/13/24 C0246 CRAFT OIL CORPORATION 406.73 3357
83431 05/13/24 C0279 CASA REPORTING SERVICES LLC 670.40 3357
83432 05/13/24 C0346 CME ASSOCIATES 9,888.83 3357
83433 05/13/24 C0352 COLUMN SOFTWARE, PBC 0.00 05/13/24 VOID 0
83434 05/13/24 C0352 COLUMN SOFTWARE, PBC 892.22 3357
83435 05/13/24 C0353 CG WELDING & MARINE SERV LLC 10,303.40 3357
83436 05/13/24 C0355 CONTINENTAL FIRE & SAFETY INC 1,859.00 3357
83437 05/13/24 D0016 DALEYS PIT 160.00 3357
83438 05/13/24 D0040 DELTA DENTAL OF N.J. INC. 5,197.78 3357
83439 05/13/24 D0240 DEVLIN, EDMUND F. 1,048.95 3357
83440 05/13/24 E0012 EHRLICH PEST CONTROL INC 127.14 3357
83441 05/13/24 E0092 ESSEX MANAGEMENT SERVICES 145.00 3357
83442 05/13/24 F0016 FAZZIO, JOSEPH INC. 703.69 3357
83443 05/13/24 F0053 FORD, SCOTT & ASSOCIATES 4,000.00 3357
83444 05/13/24 F0237 FRED HARZ AND SON INC. 2,999.88 3357
83445 05/13/24 G0016 GARDNER HARDWARE INC. 10.99 3357
83446 05/13/24 G0086 W.W. GRAINGER, INC. 3,570.29 3357
83447 05/13/24 G0092 GRUND, BARBARA J. 154.99 3357
83448 05/13/24 G0120 PATRICK F. MARTIN 2,291.67 3357
83449 05/13/24 G0124 GRIFFIN AUTOMOTIVE INFO SVC 2,399.00 3357
83450 05/13/24 G0147 GREATAMERICA FINANCIAL SVCS. 87.00 3357
83451 05/13/24 G0157 GRANTURK EQUIPMENT CO., INC. 78.92 3357
83452 05/13/24 G0182 GOLDENBERG, MACKLER & SAYEGH 2,616.67 3357
83453 05/13/24 G0207 GORMAN D'ANELLA & MORLOCK LLC 4,935.00 3357
83454 05/13/24 H0073 HOME DEPOT CRC/GECF 296.16 3357
83455 05/13/24 I0016 INSTITUTE FOR PROF DEVELOPMENT 50.00 3357
83456 05/13/24 J0028 JESCO, INC. 914.35 3357
83457 05/13/24 J0088 JOHNSTON, APRIL 25.00 3357
83458 05/13/24 K0019 KELTEX APPAREL 477.00 3357
83459 05/13/24 L0075 LEXISNEXIS 401.00 3357
83460 05/13/24 L0146 LAWSON PRODUCTS, INC. 994.68 3357
83461 05/13/24 M0035 MARMORA FIRE CO. DISTRICT #3 381,750.00 3357
83462 05/13/24 M0188 MCCARTHY TIRE SERVICE OF PHILA 2,085.36 3357
83463 05/13/24 M0235 MODERN GROUP, LTD 4,594.49 3357
83464 05/13/24 M0277 EQUITABLE FINANCIAL LIFE INS. 187.63 3357
83465 05/13/24 N0004 NJ-AMERICAN WATER CO. 302.91 3357
83466 05/13/24 N0070 MARSH & MCLENNAN AGENCY, LLC 2,000.00 3357
83467 05/13/24 N0143 NATIONAL TIME SYSTEMS 443.65 3357
83468 05/13/24 N0154 NEW HORIZON COMMUNICATIONS 1,009.58 3357
83469 05/13/24 O0006 SJSHORE MARKETING,LLC 240.00 3357
83470 05/13/24 P0032 PEDRONI FUEL CO. 2,661.13 3357
83471 05/13/24 P0056 TURF EQUIPMENT AND SUPPLY CO 2,458.47 3357
83472 05/13/24 P0136 POSTNET 35.00 3357
83473 05/13/24 R0030 RIGGINS, INC. 6,349.77 3357
83474 05/13/24 R0092 RUTGERS, THE STATE UNIVERSITY 575.00 3357
83475 05/13/24 R0100 ROBERTS OXYGEN COMPANY, INC. 561.83 3357
83476 05/13/24 S0021 COKER, MELLISSA 25.00 3357
83477 05/13/24 S0057 SERVICE TIRE TRUCK CENTERS 1,899.39 3357
83478 05/13/24 S0134 SO. JERSEY GAS COMPANY 6,496.13 3357
83479 05/13/24 S0191 STRATHMERE FIRE CO.DISTRICT #1 53,900.05 3357
83480 05/13/24 S0239 SHORE VET. ANIMAL CONTROL LLC 2,250.00 3357
83481 05/13/24 S0253 SAMPLE MEDIA, INC. 42.00 3357
83482 05/13/24 S0284 SOUTH JERSEY INTERPRETERS 562.50 3357
83483 05/13/24 S0292 SURENIAN EDWARDS BUZAK & NOLAN 3,845.49 3357
83484 05/13/24 S0363 STARR SEPTIC, LLC. 2,360.00 3357
83485 05/13/24 S0401 Steiner, Sarah J. 25.00 3357
83486 05/13/24 S0402 SERPICO PYROTECHNICS LLC 4,000.00 3357
83487 05/13/24 T0067 TOWNSHIP OF UPPER PETTY CASH 50.00 3357
83488 05/13/24 T0159 TRIAD ADVISORY SERVICES, INC. 6,312.50 3357
83489 05/13/24 T0168 TOWNSHIP OF UPPER 242.75 3357
83490 05/13/24 T0192 MARSH & MCLENNAN AGENCY/TRION 465.50 3357
83491 05/13/24 T0213 TREASURER, STATE OF NEW JERSEY 152,835.95 3357
83492 05/13/24 T0221 TEAM LIFE, INC. 8,030.00 3357
83493 05/13/24 U0067 UT HEALTH REIMB. ACCOUNT 9,051.34 3357
83494 05/13/24 V0013 VERIZON WIRELESS 2,353.27 3357
83495 05/13/24 V0025 V.E. RALPH & SON,INC. 751.89 3357
83496 05/13/24 V0053 VERIZON CONNECT FLEET USA LLC 545.60 3357
83497 05/13/24 W0087 W.B. MASON EGG HARBOR 87.14 3357

83498 05/13/24 X0008 XEROX FINANCIAL SERVICES 219.44 3357
83499 05/13/24 Y0003 Y-PERS INC 680.00 3357
83500 05/13/24 Y0008 YOUNG, DANIEL J. ESQUIRE PC 450.00 3357
83501 05/13/24 Z0016 ZERO WASTE USA 487.08 3357
83502 05/13/24 Z0017 ZOLL DATA SYSTEMS, INC. 1,491.90 3357
Total: \$778,257.47