

**TOWNSHIP OF UPPER
2100 TUCKAHOE ROAD
PETERSBURG, NJ 08270
CAPE MAY COUNTY
MINUTES FOR OCTOBER 28, 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 October 25, 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	Absent
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 – October 15, 2024 Regular and Closed Session Minutes

Motion by Kimberly Hayes, second by Victor Nappen, to approve the October 15, 2024 Regular and Closed Session Minutes as submitted. During roll call vote all four Committee members present voted in the affirmative.

PRESENTATION

Before the presentation by the NJDEP Mayor Newman read a brief timeline of the Township’s involvement in the Bayaire Road private well contamination investigation, and also read the following statement that was disseminated to the public on October 25th :

“The DEP has been communicating directly with the property owners affected by the well testing results in the Beesley’s Point section of the Township. The Township Committee continues to share their latest information with the entire community. The following statement was issued by the DEP Friday October 25th @ 330PM.

“DEP conducted potable well sampling on October 17 at homes on Bayaire Road. The samples were analyzed by the New Jersey Department of Health’s laboratory and preliminary results show levels of mercury ranging from non-detect to 0.066 parts per billion (ppb); below the standard of 2 ppb. Residents have received the results of the sampling from DEP today via email. These results are considered preliminary because they have not undergone quality assurance/quality control checks yet.

These checks will be completed within 3 weeks and the final results will be shared at that time. DEP will continue to sample wells to ensure the quality of the drinking water.”

While the Township Committee is very pleased with these preliminary results, we will continue to advocate for a conclusion to the event. We will also support the DEP in finding the root cause of the original testing data.

The DEP is committed to attending the October 28th Township Committee meeting @ 430PM @ Township Hall - all are encouraged to attend. The community will be able to hear the most up to date information directly from the Lead Agency.”

Township Administrator DeMarzo then read the following statement:

“The management of this particular incident was a mass catastrophe incident. It involved eight agencies, dozens of people, and dozens of personalities. The public must be proud of this Committee. The public must remember that the Township and its employees as a whole must rely on facts, not hearsay rumors and fragments of information. Contrary to claims made on social media by the uninformed parties, the Township has remained consistent in its response and release of verifiable information. The Township must remain loyal to the privacy of the affected parties, the legalities of releasing information, and the integrity of the DEP and the County in their investigation into this matter. The Mayor provided a timeline as to the Township’s notification and actions. The Township was the frontline to the public, the advocate for our residents, and supported the lead agency which is the DEP. Each of the Committee members took countless calls from the most distressed people, the most frightened individuals, and each of the Committee members assisted, comforted, and only could release information that they knew and that was factual. I am proud and so should the Township be of these elected officials leading through strength, compassion and a relentless drive for answers.”

Mayor Newman then turned over the meeting to the officials from the NJDEP.

1. New Jersey Department of Environmental Protection – private well concerns.

NJDEP Commissioner Shawn LaTourette thanked the Mayor, the Township Committee, and all of those working behind the scenes to ensure the residents have safe drinking water and are receiving good information. He stated that he understands the information has been conflicting and hopes that the information shared tonight will help alleviate some confusion and hopefully lay some fears to rest. He reported that after the DEP was informed of the initial sample results on Bayaire Road, which showed unusual and dangerously high levels of mercury, the DEP launched its own sampling program of those wells. Those resampling results showed levels at either non-detect or levels that were well below the mercury standard. He stated that the DEP’s initial findings have revealed that some of the initial samples of the Bayaire wells were adulterated, meaning that someone with access to the initial samples is believed to have knowingly tampered with those samples resulting in the high mercury readings. The investigation is ongoing, and more information will be provided when it is known. The DEP is now working to ensure confirmatory sampling of any residential well affected by this tampering incident so that the affected residents can have confidence in the status and safety of their drinking water. He further stated that the individual(s) involved in this shameful incident will be held accountable for their actions. He then introduced Gwen Zervas, Director of Division of Remediation Management, who presented a power point presentation regarding the DEP’s well sampling results to date and next steps in the process. Said power point presentation will be attached to the end of these minutes.

Mayor Newman stated that he and the Committee are flabbergasted by this report of intentional tampering. He asked if the tampering was to the wells or the samples. Commissioner Tourette stated that the information available to date is that the samples were tampered with, which is consistent with the confirmatory sampling the DEP has of those wells. Mayor Newman then asked if the residents that have incurred costs as a result of this tampering will be reimbursed by the spill fund. It was stated that all incurred costs that can be covered by the spill fund, will be covered for reimbursement. For any costs not eligible for reimbursement from the spill fund, as the matter is referred for criminal enforcement, it will be requested that these costs be taken into account.

Committeewoman Hayes stated that she is rarely at a loss for words, but as this information is new to the Committee just as it is to the public, she thanked the DEP for sharing the information and being as forthright as they could, and she does not have any questions at the moment.

Committeeman Corson stated that he hopes the perpetrators will be prosecuted to the fullest extent of the law. The fear they've instilled in the public is criminal and they need to be held accountable. He thanked the DEP and the County Board of Health for their work.

Committeeman Nappen stated that he is in shock and at this time he doesn't have any questions but thanked the DEP for presenting this information to the residents and offering some peace of mind.

Mayor Newman then opened the meeting to the public to be able to ask questions to the DEP.

Brittany McCreesh, inquired if there were any plans to extend the water lines to Homestead Court. It was stated that neither the DEP nor the Township have any role in extending the water system as it is owned by New Jersey American Water. The DEP's role is limited to ensuring that where pollution is identified as affecting someone's private well from a known contamination issue, the DEP will provide support from the spill fund. It was further stated that the testing of private wells is the responsibility of the property owner. The DEP recommends that private wells be tested once a year using a certified lab.

Janet Younghans, thanked the DEP and the Committee. She next inquired as to why the first well that tested positive was tested. It was stated that when a property is sold a well test is required, but it is not known why this well was tested. She then asked which lab tested the wells. It was stated that in this instance the early test results were done through a certified local lab.

Jenny Shanker, inquired as to which expenses are covered under the spill fund. It was stated that questions regarding expenses can be referred to the DEP contacts provided during the power point presentation.

Craig Schenk, Upper Township Sentinel, inquired if the first original well test was tampered with. The DEP Commissioner referred the press to the DEP Public Information officer for questions regarding specific well test results.

Jessica Gurdgiel, inquired if the other well tests performed by the local lab can be trusted, and should the wells that were tested by the local lab be retested. It was stated that the wells that were affected are being retested by the DEP.

Trisha Grette, stated that her water test was cancelled because the DEP told the lab not to conduct any tests, which was confusing and caused a lot of concern. She questioned when and how information will be shared in the future. It was stated that after the confirmatory sampling is complete, information will be provided of what was found.

Trish Hartman, Channel 6 News, asked if the local lab was shut down and are they cooperating with the investigation. It was stated that the local lab is cooperating with the investigation, which has been referred to the Attorney General's office.

Unknown, asked if any other homes tested positive for PFOA/PFOS. It was stated that some homes did show positive results for PFOA/PFOS, and it is recommended that private wells be tested regularly by a certified lab.

Paul Mayne, asked if a copy of power point presentation will be provided to the public. It was stated that the presentation will be posted to the Township's website.

Mayor Newman again thanked Commissioner Tourette, Ms. Zervas, and the public for being here for this matter. He stated that there will be a ten minute break before the meeting reconvenes.

REPORT OF GOVERNING BODY MEMBERS

Victor Nappen, Committeeman, reported that a free rabies clinic was held this past Saturday and was a great success. He next stated that this well issue has been kind of like a fire drill and stated that he hopes all have learned the importance of having their wells tested regularly and that the Township will continue to work on ways to effectively communicate and distribute information to the residents.

Kimberly Hayes, Committeewoman, cautioned all to make sure they are sharing correct information. She stated that a lot of the hysteria over the past few weeks resulted from misinformation and rumors. She next thanked employee Janet McBride for organizing the Health Fair, which was a great success. She next thanked Cape Assist and Larry Cole for the successful drive in movie night, and also thanked the Sheriff's office for taking part in the event. Last, she reported that the Rotary Club of Ocean City-Upper Township will be hosting a community Thanksgiving dinner on November 28th from 1:00 pm to 2:30 pm at Trinity United Methodist Church.

Curtis Corson, Committeeman, reported that there will be a free paper shredding event on November 2nd from 9:00 am to noon at Reich Asset Management on Roosevelt Boulevard. He next reported that there has been severe beach erosion and thanked the Department of Public Works for doing a great job closing the beach entrances as they become unsafe. He next thanked the Administrator and the Clerk's office for their work with the well contamination issue. Lastly, he cautioned all to avoid fires during the extremely dry conditions.

Jay Newman, Mayor, also thanked the staff and his fellow committee members for their handling of the well contamination issue and thanked the DEP and the County for their work.

ADMINISTRATOR OVERVIEW

Gary DeMarzo, Township Administrator, reported on a recent Chat with a Trooper event held at the Seaville McDonalds and stated it was a success. He next requested approval for a leave of absence for EMS employee Joseph Maccarone while he attends school. Motion by Jay Newman, second by Kimberly Hayes, to approve the request. During roll call vote all four Committee members present voted in the affirmative. He then gave a brief report on agenda items 4, 5, and 10.

Joanne Herron, Township Clerk, thanked the Township Administrator for all of his work during the well contamination issue.

Anthony Monzo, Municipal Attorney, congratulated the Committee for the way they handled the well crisis. He then requested that everyone keep the nation in their prayers during this election season.

Barbara Ludy, Chief Financial Officer, requested approval for 18 employees to attend the New Jersey League of Municipalities conference in November. Motion by Curtis Corson, second by Kimberly Hayes to approve the request. During roll call vote all four Committee members voted in the affirmative. Ms. Ludy then requested approval for Gary DeMarzo to attend the required classes for his position as Municipal Housing Liaison. Motion by Jay Newman, second by Kimberly Hayes, to approve the request. During roll call vote all four Committee members present voted in the affirmative.

Ryan MacNeill, Township Engineer, reported that the Athletic Court Resurfacing and Reconstruction of Putnam Avenue projects are progressing in the design phase, and he has started gathering the initial survey information for the sewer feasibility study. He next reported that the Living Shoreline project will be presented at the next meeting on November 12th. Lastly, he reported that the annual Community Rating System recertification has been submitted for approval. Mayor Newman then thanked Ryan for coordinating the IT needs for the DEP presentation.

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

There was no public comment.

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 Jay Newman, to approve the consent agenda items listed below. During roll call vote all four Committee members present voted in the affirmative.

FILING OF REPORTS BY CONSENT

RESOLUTIONS TO BE APPROVED BY CONSENT

1. Appointing an official to bid at the Tax Sale scheduled for November 19, 2024.

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

RESOLUTION NO. 341-2024

**RE: APPOINTING AN OFFICIAL TO BID AT THE
TAX SALE SCHEDULED FOR NOVEMBER 19, 2024**

WHEREAS, a Tax Sale is scheduled to be conducted by the Tax Collector of the Township of Upper on November 19, 2024 at 10:00 A.M.; and

WHEREAS, the Township Committee has duly considered the matter and has determined to take the action hereinafter designated.

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 Municipal Finance Officer, Barbara Ludy and or the Municipal Clerk, Joanne Herron are hereby designated and appointed as the officials who may bid at said Tax Sale on behalf of the Township of Upper on the scheduled date, as well as on any other date to which the Tax Sale may be adjourned.
3. The Municipal Finance Officer, Barbara Ludy and or the Municipal Clerk, Joanne Herron are hereby authorized to expend on behalf of the Township, up to \$1,000.00 in order to purchase Tax Liens.

Resolution No. 341-2024
Offered by: Hayes
Adopted: October 28, 2024
Roll Call Vote:

Seconded by: Newman

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

2. Releasing the maintenance bond of John James Germanio for the Improvement of Whitman Lane.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 342-2024

**RE: RELEASING THE MAINTENANCE BOND OF JOHN JAMES GERMANIO
FOR THE IMPROVEMENT OF WHITMAN LANE**

WHEREAS, John James Germanio (hereinafter “Developer”), has requested the release of the Maintenance Bond for the project known as “Improvement of Whitman Lane”; and

WHEREAS, following final inspection, the Municipal Engineer has determined that all improvements have been installed and have been in service in excess of two years and are in satisfactory working condition; and

WHEREAS, in accordance with the municipal ordinances of the Township of Upper, the Municipal Engineer has recommended a release of the cash Maintenance Bond, attached hereto as Exhibit “A”, in the amount of \$7,255.35 plus interest; 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 above are incorporated herein by this reference.
2. The original Maintenance Bond posted by the Developer shall be released.
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. 342-2024
Offered by: Hayes
Adopted: October 28, 2024
Roll Call Vote:

Seconded by: Newman

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

3. Authorizing the purchase of certain items through the Sourcewell National Cooperative contract with funds from Capital Improvement Bond Ordinance No. 012-2024 in the amount of \$1,109,666.50.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 343-2024

**RE: AUTHORIZING THE PURCHASE OF CERTAIN ITEMS THROUGH THE
SOURCEWELL NATIONAL COOPERATIVE CONTRACT
WITH FUNDS FROM CAPITAL IMPROVEMENT BOND ORDINANCE NO. 012-2024
IN THE AMOUNT OF \$1,109,666.50**

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

WHEREAS, the Township Committee has determined that a purchase from a national cooperative contract will result in cost savings after all factors have been considered; and

WHEREAS, N.J.S.A. 52:34-6.2 allows the Township of Upper to utilize national cooperative contracts as a method of procurement; and

WHEREAS, the Township Committee adopted the 2024 Capital Improvement Bond Ordinance No. 012-2024 on July 8, 2024; and

WHEREAS, the Township of Upper intends to purchase a 2024 New Way 33 yard ASL automated refuse loader in the amount of \$424,880.00 from H.A. DeHart & Son of Thorofare, New Jersey through Sourcewell National Cooperative Contract No. 110223-NWY as herein indicated; and

WHEREAS, the Township of Upper also intends to purchase a 2024 Western Star 47x dump truck in the amount of \$257,990.00 from H.A. DeHart & Son of Thorofare, New Jersey through Sourcewell National Cooperative Contract No. 032824-TRK as herein indicated; and

WHEREAS, the Township of Upper further intends to purchase a 2024 Ford F-550 Gas 4X4 Horton 623 ambulance in the amount of \$426,796.50 from VCI Emergency Vehicle Specialists, LLC of Berlin, New Jersey through Sourcewell National Cooperative Contract No. 122123-RVG as herein

indicated; and

WHEREAS, H.A. DeHart & Son and VCI Emergency Vehicle Specialists, LLC have completed and submitted a Business Entity Disclosure Certifications which certify that H.A. DeHart & Son and VCI Emergency Vehicle Specialists, LLC have not made any reportable contributions to a political or candidate committee in the Township in the previous one year, and that their contracts will prohibit H.A. DeHart & Son and VCI Emergency Vehicle Specialists, LLC from making any reportable contributions through the term of their contracts; and

WHEREAS, the Chief Financial Officer of the Township has certified the availability of funds to allow the award of contract for the purchase herein authorized and has certified that adequate funds have been appropriated for this purpose from Capital Improvement Bond Ordinance No. 012-2024; and

WHEREAS, the Chief Financial Officer has confirmed that the Township has complied with N.J.S.A. 52:34-6.2 as well as all other legal requirements for this method of procurement.

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee of the Township of Upper, County of Cape May, New Jersey hereby authorizes the Qualified Purchasing Agent to enter into a contract with H.A. DeHart & Son for the purchase of a 2024 New Way 33 yard ASL automated refuse loader in the amount of \$424,880.00 from Capital Improvement Bond Ordinance No. 012-2024 through Sourcewell National Cooperative Contract No. 110223-NWY.
3. The Township Committee of the Township of Upper, County of Cape May, New Jersey hereby also authorizes the Qualified Purchasing Agent to enter into a contract with with H.A. DeHart & Son. for the purchase of a 2024 Western Star 47x dump truck in the amount of \$257,990.00 from Capital Improvement Bond Ordinance No. 012-2024 through Sourcewell National Cooperative Contract No. 031121-TTC.
4. The Township Committee of the Township of Upper, County of Cape May, New Jersey hereby further authorizes the Qualified Purchasing Agent to enter into a contract with VCI Emergency Vehicle Specialists, LLC for the purchase of a 2024 Ford F-550 Gas 4X4 Horton 623 ambulance in the

amount of \$426,796.50 from Capital Improvement Bond Ordinance No. 012-2024 through Sourcewell National Cooperative Contract No. 122123-RVG.

5. The Chief Financial Officer is hereby authorized, directed and empowered to execute any and all necessary documents in order to implement the intent of this Resolution.

Resolution No. 343-2024

Offered By: Hayes Seconded By: Newman

Adopted: October 28, 2024

Roll Call Vote:

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

4. Authorizing the purchase of P-25 compliant radios with funds from the FY2023 Assistance to Firefighters Grant in the amount of \$711,768.30.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 344-2024

**RE: AUTHORIZING THE PURCHASE OF P-25 COMPLIANT RADIOS WITH FUNDS FROM
THE FY2023 ASSISTANCE TO FIREFIGHTERS GRANT IN THE AMOUNT OF \$711,768.30**

WHEREAS, the Township of Upper, pursuant to NJSA 40A:11-12a and NJAC 5:34-7.23(c), may by Resolution and without advertising for bids, purchase any goods or services under the State of New Jersey Cooperative Purchasing Program for any State contracts entered into on behalf of the State by the Division of Purchase and Property in the Department of the Treasury; and

WHEREAS, the Township of Upper has a need to purchase P-25 compliant radios for use by the Marmora, Seaville, Strathmere, and Tuckahoe Volunteer Fire Companies utilizing funds from the FY2023 Assistance to Firefighters Grant; and

WHEREAS, pursuant to N.J.S.A. 40A:11-12a, the Township wishes to make this purchase from Motorola Solutions, Inc. of Woodcliff Lake, New Jersey through State Contract No. 83909 as indicated on Exhibit A; and

WHEREAS, Motorola Solutions, Inc. has completed and submitted a Business Entity

Disclosure Certification which certifies that Motorola Solutions, Inc. has not made any reportable contributions to a political or candidate committee in the Township in the previous one year, and that the contract will prohibit Motorola Solutions, Inc. from making any reportable contributions through the term of the contract; and

WHEREAS, the Chief Financial Officer of the Township has certified the availability of funds for the purchase herein authorized and has certified that adequate funds have been appropriated for this purpose; and

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee of the Township of Upper, County of Cape May, New Jersey hereby authorizes the purchase of the items listed on Exhibit A in the amount of \$711,768.30.
3. The Chief Financial Officer is hereby authorized, directed and empowered to execute any and all necessary documents in order to implement the intent of this Resolution.

Resolution No. 344-2024

Offered By: Hayes

Seconded By: Newman

Adopted: October 28, 2024

Roll Call Vote:

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

EXHIBIT A

(75) Portable Radios APX 8000, Accessories and Installation

Vendor: Motorola Solutions, Inc.

State Contract No. 83909

\$ 711,768.30

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

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 345-2024

**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:

Triad Associates	\$ 400.00
(AA Technical Assistance)	<u>\$ 562.50</u>
	\$ 962.50
Maley Givens, P.C.	
(Affordable Housing Services)	\$ 232.50
Monzo Catanese DeLollis, P.C.	
(Affordable Housing Services)	\$ 175.00

Resolution No. 345-2024

Offered By: Hayes

Seconded By: Newman

Adopted: October 28, 2024

Roll Call Vote:

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

6. Certification of costs for abatement of nuisance on Block 845, Lot 9; Block 653.01, Lot 4; and Block 348, Lot 94.15.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 346-2024

**CERTIFICATION OF COSTS FOR ABATEMENT OF NUISANCE
ON BLOCK 845, LOT 9; BLOCK 653.01, LOT 4; AND BLOCK 348, LOT 94.15**

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

WHEREAS, in accordance with Township Code, the Code Enforcement Officer served a notice of violation of Section 11-1.9 (Grass, Weeds and Debris), to the property owners/agents of Block 845, Lot 9; Block 653.01, Lot 4; and Block 348, Lot 94.15; and

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

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

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

1. The allegations of the preamble are incorporated herein by this reference.
2. The Township Committee hereby declares that the costs as set forth on the attached list shall be certified to the Township Tax Collector as a lien against the properties in question which lien shall become and form a part of the taxes assessed and levied upon the properties pursuant to Township Code Section 11-1.19(b) and N.J.S.A. 40:48-2.14.
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. 346-2024

Offered by: Hayes

Seconded by: Newman

Adopted: October 28, 2024

Roll Call Vote:

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

ABATEMENT OF GRASS, WEEDS, AND DEBRIS

<u>BLOCK/LOT</u>	<u>LOCATION</u>	<u>COSTADMIN</u>	<u>FEE</u>	<u>TOTAL</u>
845/9	22 E Whittier	\$250.00	\$50.00	\$300.00
653.01/4	10 Rt 9	\$250.00	\$50.00	\$300.00
653.01/4	10 Rt 9	\$250.00	\$50.00	\$300.00
348/94.15	1434 Rt 50	\$250.00	\$50.00	\$300.00

- 7. Authorizing a Shared Services Agreement with the City of Corbin City for Emergency Medical Services.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 347-2024

RE: AUTHORIZING A SHARED SERVICES AGREEMENT WITH THE CITY OF CORBIN CITY FOR EMERGENCY MEDICAL SERVICES

WHEREAS, the Uniform Shared Services Act, N.J.S.A. 40A:65-1, et seq., provides that any local governmental unit may enter into a contract with any other local governmental unit or units for the joint provision within their several jurisdictions of any service which any party to the agreement was empowered to render within its own jurisdiction; and

WHEREAS, the City of Corbin City has indicated a desire to enter into a Shared Services Agreement with the Township of Upper whereby the Township of Upper will provide EMS services to the City of Corbin City; and

WHEREAS, the Township Committee of the Township of Upper deems that a Shared Services Agreement with the City of Corbin City for the purposes expressed herein is in the mutual interest of all parties and also is in the public interest and will promote the public health, safety and welfare; and

NOW, THEREFORE, BE IT RESOLVED 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:

1. SHARED SERVICES AGREEMENT. Pursuant to the provisions of the Uniform Shared Services Act, N.J.S.A. 40A:65-1, et seq., the Township of Upper is hereby authorized and empowered to enter into a Shared Services Agreement with the City of Corbin City to provide emergency medical services.

2. SERVICES TO BE PROVIDED BY CONTRACT. The Shared Services Agreement authorized in paragraph 1 hereof shall cover those services, which are enumerated in said Agreement, a copy of which is attached hereto as Exhibit A.

3. AUTHORIZATION TO MUNICIPAL OFFICIALS. The appropriate Township officers and officials are hereby authorized to take any action necessary or advisable to carry out the intent and purpose of this Resolution. Specifically, the Mayor and Township Clerk are hereby authorized and directed to execute such Shared Services Agreement on behalf of the Township of Upper pursuant to the authority conferred by this Resolution. The Township Clerk is further authorized and directed to seal said Agreement with the official seal of the Township of Upper.

4. COMPLIANCE WITH STATUTORY REQUIREMENTS. The Shared Services Agreement between the City of Corbin City and the Township of Upper shall meet and satisfy the requirements of N.J.S.A. 40A:65-1, et seq., as may be amended and supplemented.

5. SEVERABILITY. If any action, subsection, paragraph, sentence or other part of this Resolution is adjudged to be unconstitutional or invalid, such judgment shall not affect, impair or invalidate the remainder of this Resolution, but shall be confined in its effect to the section, subsection, paragraph, sentence or other part of this Resolution directly involved in the controversy in which said judgment shall have been rendered and all other provisions of this Resolution shall remain in full force and effect.

6. REPEALER. All Resolutions or parts of Resolutions inconsistent herewith are hereby repealed to the extent of such inconsistency only.

7. EFFECTIVE DATE. This Resolution shall take effect immediately upon final adoption and publication in the manner provided by law.

Resolution No. 347-2024

Offered by: Hayes

Seconded by: Newman

Adopted: October 28, 2024

Roll Call Vote:

NAME	YES	NO	ABSTAIN	ABSENT
Corson	X			
Hayes	X			
Nappen	X			

Pancoast				X
Newman	X			

8. Authorizing the Township to execute a Deed Notice for an Affordable Housing Trust Fund payment obligation with Union Chapel by the Sea.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 348-2024

**AUTHORIZING THE TOWNSHIP TO EXECUTE A DEED NOTICE FOR AN
AFFORDABLE HOUSING TRUST FUND PAYMENT OBLIGATION WITH UNION
CHAPEL BY THE SEA**

WHEREAS, in or about May of 2023, Union Chapel by the Sea (“Union Chapel”) was granted variance and site plan approval by the Township Zoning Board of Adjustment for the construction of a house of worship with associated improvements, including the renovation of structures on the property to include three (3) creditworthy affordable housing units; and

WHEREAS, following the Zoning Board’s approval, Union Chapel approached the Township to notify them that the renovations and proposed affordable housing units were unable to be completed; and

WHEREAS, the Township and Union Chapel’s representatives began negotiations to resolve the issue; and

WHEREAS, the Township and Union Chapel negotiated for Union Chapel to provide a payment in lieu of the 3 affordable units to be deposited in the Township’s affordable housing trust fund; and

WHEREAS, the Township and Union Chapel have drafted a deed notice outlining the terms and conditions associated with the payment in lieu of construction; and

WHEREAS, the Township desires to authorize the execution of the deed notice.

NOW THEREFORE BE IT RESOLVED, the by the Governing Body of Upper Township, County of Cape May, State of New Jersey hereby approves and authorizes the Mayor and/or his designee to execute the Deed Notice that is attached hereto as **Exhibit A**; and

BE IT FURTHER RESOLVED, that the Township authorizes the Township Attorney or the Township Affordable Housing Counsel to take all necessary actions to record this deed notice with the Cape May County Clerk, if necessary.

Resolution No. 348-2024

Offered by: Hayes

Seconded by: Newman

Adopted: October 28, 2024

Roll Call Vote:

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

9. Authorizing the execution of a collective bargaining agreement between the Township of Upper and the AFSCME NJ Council 63 LOCAL 3779, American Federation of State, County and Municipal Employees, AFL-CIO Majority Representative, for the term January 1, 2024 to December 31, 2028.

**TOWNSHIP OF UPPER
CAPE MAY COUNTY
RESOLUTION**

RESOLUTION NO. 349-2024

**RE: AUTHORIZING THE EXECUTION OF A COLLECTIVE BARGAINING
AGREEMENT BETWEEN THE TOWNSHIP OF UPPER AND THE
AFSCME NJ COUNCIL 63 LOCAL 3779, AMERICAN FEDERATION OF STATE, COUNTY
AND MUNICIPAL EMPLOYEES, AFL-CIO MAJORITY REPRESENTATIVE, FOR THE
TERM JANUARY 1, 2024 TO DECEMBER 31, 2028**

WHEREAS, the Township Committee appointed a negotiating team to meet with a negotiating team appointed by the AFSCME NJ Council 63 Local 3779, American Federation of State, County and Municipal Employees, AFL-CIO Majority Representative (“Local 3779”), (hereinafter “Bargaining Unit”); and

WHEREAS, a memorandum of agreement has been reached by the respective negotiating teams with respect to the contract terms which terms have been ratified by the members of the Bargaining Unit and 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. The Township Committee of the Township of Upper hereby ratifies, confirms, and approves a contract between the Township of Upper and the Bargaining Unit for the term commencing January 1, 2024 until December 31, 2028, a copy of which is attached hereto as “Exhibit A” and is on file in the office of the Municipal Clerk and available for public inspection. This approval is subject to the ratification and approval of the contract by the members of the Bargaining Unit and AFSCME NJ Council

63 Local 3779, American Federation of State, County and Municipal Employees, AFL-CIO Majority Representative.

3. The Mayor and Township Clerk are hereby authorized, directed and empowered to sign said contract on behalf of the Township of Upper.

Resolution No. 349-2024

Offered by: Hayes

Seconded by: Newman

Adopted: October 28, 2024

Roll Call Vote:

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

ORDINANCES

CORRESPONDENCE

NEW BUSINESS

10. JIF 2024 Dividend Announcement. **The CFO reported on the options the Township has to receive the JIF dividend and recommended that the Committee received the dividend by check. There was then a motion by Curtis Corson, second by Kimberly Hayes, to receive the total dividend in the form of a check in the amount of \$32,296.00. During roll call vote all four Committee members present voted in the affirmative.**
11. Tuckahoe Volunteer Fire Company request to hold Raffle RA-585 at 2170 Route 50, Tuckahoe on December 12, 2024. **Motion by Jay Newman, second by Kimberly Hayes, to approve the request. During roll call vote all four Committee members present voted in the affirmative.**

UNFINISHED BUSINESS

PAYMENT OF BILLS

24. "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 Curtis Corson. During roll call vote all four Committee members present voted in the affirmative.**

Bills approved for payment: **\$1,961,089.33**
Payroll: **\$189,732.07**

CLOSED SESSION

12. Resolution to conduct a closed meeting pursuant to N.J.S.A. 10:4-12, from which the public shall be excluded.

**RESOLUTION NO. 350-2024
MOTION GOING INTO CLOSED SESSION
OCTOBER 28, 2024**

I hereby move that a resolution be incorporated into the minutes authorizing the Township Committee to enter into an executive session for the following matters pursuant to the Open Public Meetings Act:

MATTERS:

1. Personnel
2. Contract negotiation – Public Safety Building
3. Contract negotiation – Shared Services Agreement for Municipal Court Services
4. Potential Litigation – Prescott Avenue
5. Potential Litigation – Bayview Drive

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: Curtis Corson

Motion seconded by: Jay Newman

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.

ADJOURNMENT

There being no further business this evening the meeting was adjourned at 6:45 P.M., with a motion by Jay Newman, second by Kimberly Hayes, and all four Committee members present voting in the affirmative. The next regular Committee meeting is scheduled for Tuesday, November 12, 2024 at 6:30 P.M.

Minutes prepared by,

Joanne R. Herron, RMC
Township Clerk

Bills
84308 10/28/24 A0017 ATLANTIC CO. MUNICIPAL JIF 144,551.00 3384
84309 10/28/24 A0091 ATLANTIC CITY ELECTRIC 36,611.41 3384
84310 10/28/24 A0117 AT&T 305.48 3384
84311 10/28/24 A0212 ANCERO, LLC 4,700.00 3384
84312 10/28/24 B0035 BELMONT & CRYSTAL SPRINGS 148.05 3384
84313 10/28/24 B0093 BARRY,CORRADO & GRASSI,PC 350.00 3384
84314 10/28/24 C0019 CITY OF OCEAN CITY 97,574.65 3384
84315 10/28/24 C0048 CAPE MAY COUNTY MUA 44,252.14 3384

84316 10/28/24 C0052 CAPE MAY COUNTY TREASURER 1,566,909.17 3384
84317 10/28/24 C0068 COMCAST 1,167.03 3384
84318 10/28/24 C0223 CASA PAYROLL SERVICE 833.00 3384
84319 10/28/24 C0259 CAPE PHYSICIANS ASSOCIATES, PA 230.00 3384
84320 10/28/24 C0279 CASA REPORTING SERVICES LLC 243.10 3384
84321 10/28/24 C0346 CME ASSOCIATES 994.50 3384
84322 10/28/24 C0358 CASTAGNA, CHRISTOPHER 430.04 3384
84323 10/28/24 D0237 SCALFARO, KERRY 125.00 3384
84324 10/28/24 D0240 DEVLIN, EDMUND F. 1,048.95 3384
84325 10/28/24 E0034 ESRI, INC. 465.00 3384
84326 10/28/24 E0079 EVANS III, WILLIAM 140.21 3384
84327 10/28/24 F0222 FENTON, SEAN R 159.98 3384
84328 10/28/24 G0028 GENTILINI FORD, INC. 601.29 3384
84329 10/28/24 G0120 PATRICK F. MARTIN 2,291.67 3384
84330 10/28/24 G0147 GREATAMERICA FINANCIAL SVCS. 113.00 3384
84331 10/28/24 G0182 GOLDENBERG, MACKLER & SAYEGH 115.57 3384
84332 10/28/24 G0204 GENERAL CODE 3,834.00 3384
84333 10/28/24 H0002 H.A. DEHART & SON CORP. 1,891.45 3384
84334 10/28/24 H0022 HR DIRECT 94.99 3384
84335 10/28/24 H0212 Haddonfield United Methodist C 300.00 3384
84336 10/28/24 K0019 KELTEX APPAREL 252.00 3384
84337 10/28/24 K0086 K D NATIONAL FORCE SECURITY 900.00 3384
84338 10/28/24 K0100 KEEN COMPRESSED GAS CO. 499.98 3384
84339 10/28/24 K0091 KRISTEN MORGAN 736.33 3384
84340 10/28/24 M0238 MOTORS & DRIVES, INC 2,910.60 3384
84341 10/28/24 M0277 EQUITABLE FINANCIAL LIFE INS. 192.17 3384
84342 10/28/24 M0327 MONZO CATANESE DeLOLLIS, P.C. 8,337.50 3384
84343 10/28/24 M0328 McCauley, Richard 500.00 3384
84344 10/28/24 N0070 MARSH & MCLENNAN AGENCY, LLC 2,000.00 3384
84345 10/28/24 N0163 NJ COASTAL COALITION, INC. 750.00 3384
84346 10/28/24 N0173 NOREGON SYSTEMS LLC 7,459.61 3384
84347 10/28/24 P0032 PEDRONI FUEL CO. 2,862.60 3384
84348 10/28/24 P0056 TURF EQUIPMENT AND SUPPLY CO 448.44 3384
84349 10/28/24 P0162 Phillips Richard & Deborah 20.00 3384
84350 10/28/24 P0195 PHOENIX ADVISORS, LLC 1,800.00 3384
84351 10/28/24 R0030 RIGGINS, INC. 4,152.53 3384
84352 10/28/24 R0092 RUTGERS, THE STATE UNIVERSITY 821.00 3384
84353 10/28/24 R120 RAFFAELE, ZACHARY 74.96 3384
84354 10/28/24 S0056 SEASHORE ASPHALT CORPORATION 837.31 3384
84355 10/28/24 S0113 SMITH, THOMAS G. 2,450.00 3384
84356 10/28/24 S0134 SO. JERSEY GAS COMPANY 348.69 3384
84357 10/28/24 S0139 SOUTH JERSEY WATER COND SERV 165.00 3384
84358 10/28/24 S0185 STOCKTON UNIVERSITY 2,015.78 3384
84359 10/28/24 S0193 STRYKER SALES, LLC 5,341.65 3384
84360 10/28/24 S0196 STEWART BUSINESS SYSTEMS LLC 1,070.12 3384
84361 10/28/24 S0253 SAMPLE MEDIA, INC. 55.50 3384
84362 10/28/24 S0254 SHOPRITE 214.17 3384
84363 10/28/24 S0363 STARR SEPTIC, LLC. 1,025.00 3384
84364 10/28/24 T0067 TOWNSHIP OF UPPER PETTY CASH 30.00 3384
84365 10/28/24 T0159 TRIAD ADVISORY SERVICES, INC. 618.75 3384
84366 10/28/24 T0180 TRI-COUNTY PEST CONTROL, INC 25.00 3384
84367 10/28/24 T0211 TRELEASE, BRIAN P., ESQUIRE 252.00 3384
84368 10/28/24 U0038 UPPER TOWNSHIP RESCUE SQUAD 425.23 3384
84369 10/28/24 V0013 VERIZON WIRELESS 637.14 3384
84370 10/28/24 V0052 VIKING TERMITES & PEST CONTROL 69.28 3384
84371 10/28/24 Z0017 ZOLL DATA SYSTEMS, INC. 310.31 3384
Total: \$1,961,089.33

October 28, 2024



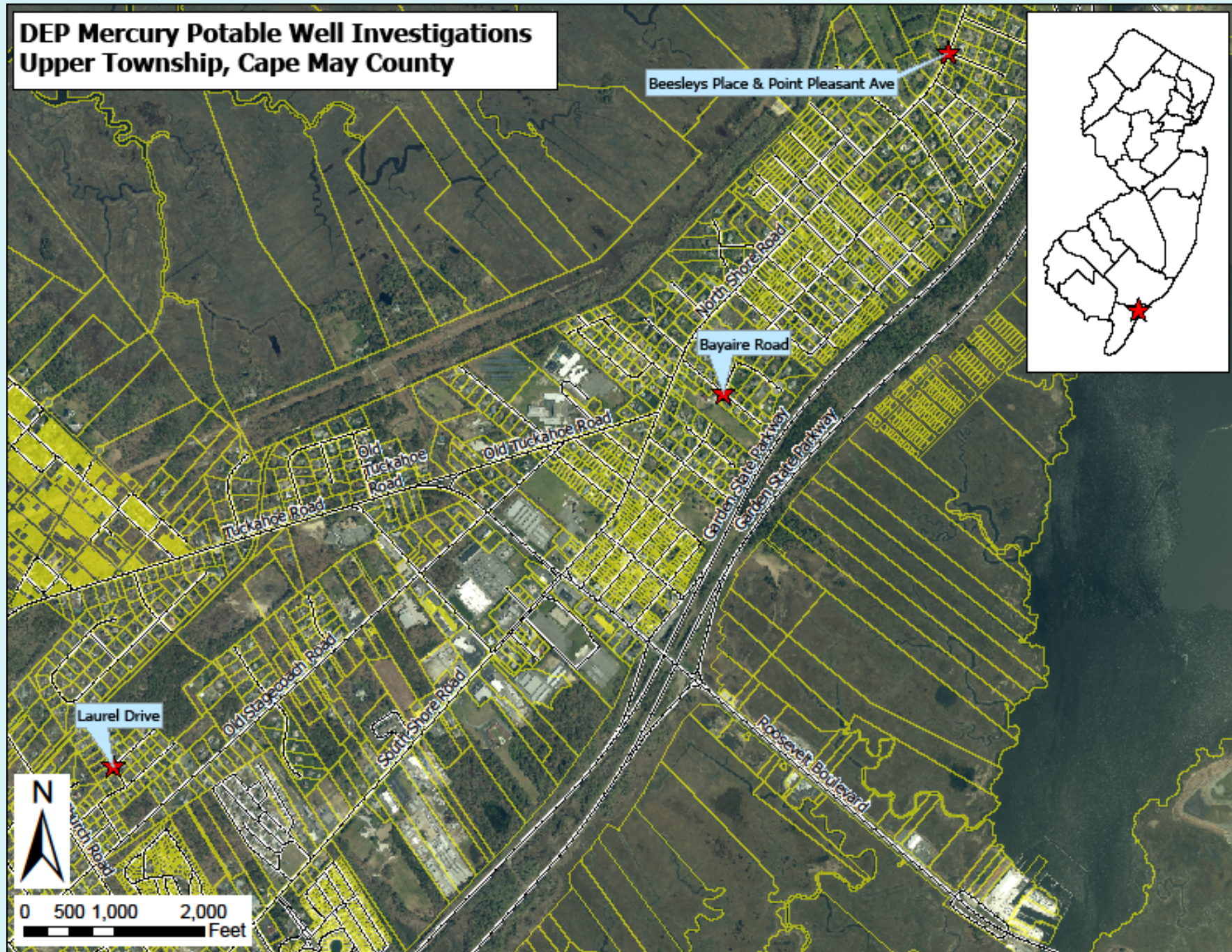
**Gwen Zervas, Director, Division of Remediation Management
Contaminated Site Remediation & Redevelopment**

Upper Township Well Sampling Update



- **Sampling results from Bayaire Road and Homestead Road**
- **Next steps for Bayaire Road/Homestead Road area**
- **Other areas of Upper Township**

DEP Mercury Potable Well Investigations Upper Township, Cape May County



Initial Sampling Results

Bayaire Road and Homestead Road



- **In August and September 2024, Cape May County Department of Health (CMCDOH) informed DEP that results from 14 private wells on Bayaire Road exceeded the mercury standard of 2 parts per billion (ppb) or micrograms/liter ($\mu\text{g}/\text{L}$)**
- **Sampling and analysis were conducted by a local laboratory**
- **The laboratory reported results on Bayaire Road ranging from non-detect to 14,000 ppb**
- **Results on Homestead Road were all below the standard**

Bayaire Road

DEP Action on Initial Sampling Exceedances



- **All homeowners with results exceeding the standard**
 - **Instructed to not use water for drinking or cooking**
 - **Provided information about filing a Spill Fund claim**
- **On October 9, the federal Agency for Toxic Substances and Disease Control informed the NJ Department of Health that water with mercury at concentrations over 1,000 ppb should not be used for any purpose**
- **DEP offered residents the option to temporarily relocate**

DEP Conducted Additional Mercury Sampling



- **Local laboratory results from wells on Bayaire Road ranged from non-detect to 14,000 ppb mercury**
- **DEP staff conducted additional sampling on October 17 of 12 private wells on Bayaire Road; samples analyzed by NJ Dept. of Health laboratory**
- **Preliminary results ranged from non-detect to 0.066 ppb
No wells exceeded the mercury standard of 2 ppb**
- **DEP notified residents of their preliminary results on 10/25**

Bayaire Road Mercury Sample Results



Initial Sample (ppb or $\mu\text{g/L}$)	DEP sample result (ppb or $\mu\text{g/L}$)
9,888	0.066
11,220	0.056
14,000	0.034
6,500	Not detected
8,200	Not detected
6,200	Not detected
12,600	0.061
11,700	Not detected
13,100	0.062
3,500	0.033
4,300	0.051
12,200	Not detected

DEP Next Steps – Bayaire Road



- **DEP is conducting Quality Assurance/Quality Control (QA/QC) validation of data collected on 10/17**
- **DEP's contractor and DEP staff conducted confirmatory sampling on 10/22 and 10/23; preliminary results will be shared with residents when received – should be within 7 days**
- **DEP will conduct QA/QC of all data – final results will be shared when QA/QC completed**

Next Steps Bayaire Road- continued



- **DEP is committed to providing 2 rounds of data confirming mercury levels for residents on Bayaire Road**
- **Residents who temporarily relocated – relocation costs will be covered until DEP is confident that the mercury levels are acceptable**
- **For residents who did not relocate, DEP will continue to pay for bottled water until DEP is confident that the mercury levels are acceptable**

Next Steps Bayaire Road- continued



- **Some wells showed results for PFOA and PFOS that exceeded standards – Spill Fund will pay for installation of Point of Entry Treatment systems to address these contaminants and will pay for bottled water until treatment is in place**

Next Steps continued



- **Local laboratory results showed no detections of mercury on Homestead Road**
- **To confirm those results, DEP or DEP contractors have or will be conducting sampling on Homestead Road and the vicinity of Homestead Road**
 - **DEP's contractors conducted sampling on Lake Corson Road on 10/22; we are awaiting results**
 - **DEP will be sampling wells on Homestead Rd in November**

DEP sampling in other areas of Upper Township



- **Residents in other parts of Upper Township had samples taken by the same local laboratory that conducted initial sampling on Bayaire Road showing results of mercury above the standard – Beesleys Place and Laurel Drive areas**
- **DEP staff has or will collect samples from those wells**
- **Wells that had reportedly exceeded the mercury standard will be sampled twice**

DEP Contacts



- **Questions about sampling results**
Nanina Bryan
Nanina.Bryan@dep.nj.gov
609-775-9025
- **Questions about Spill Fund**
srp_spillfund_gq@dep.nj.gov
609-984-2076



Questions?