

REGULAR MEETING MAYOR AND CITY COUNCIL January 23, 2025

Meeting called to order at 7:00 p.m. by President Haberkorn with a salute to the flag. Roll call was recorded as follows:

Present: Gerety, Haberkorn, Owen, DePamphilis, McGuigan, Dill, Johnston

Also Present: Mayor Tapp, Administrator Frost, City Clerk Heath, City Solicitor Smith, and City Engineer Schneider

Open Public Meetings Act:

Pursuant to the Open Public Meetings Act, adequate notice of this meeting has been provided to two local newspapers. The agenda has been posted at City Hall and on the City's website, somerspointgov.org.

Council President Haberkorn requested a 48-hour waiver to add Resolutions No. 61 and 62 of 2025 to the agenda due to a Grant Application being due on the 5th of February, which is prior to the next Council Meeting. On the motion of Council Member McGuigan and seconded by Council Member Owen and carried to approve the 48-hour waiver.

Special Presentation:

- **Unveiling of Previous Mayor John L. Glasser Jr's Mayoral Portrait**

Mayor Tapp and City Council expressed their gratitude to Previous Mayor John L. Glasser Jr. for his service to the City and unveiled his newly hung portrait with his family looking on. He received a standing ovation from the audience.

- **City Engineer Greg Schneider- Green Acres Grant Application**

City Engineer Schneider gave a summary of two Grant Applications through Green Acres, one for playground equipment at JFK park, and the other for improvements to the bike path on Groveland Avenue North. City Engineer Schneider went into detail about the environmental aspects of the proposed projects.

Council Members and Engineer Schneider discussed fencing, potential additional parking on Atlantic Avenue, types of trees being planted or removed, and grant timelines.

- **Public Hearing (on Green Acres Only)**

Council President Haberkorn duly opened the meeting to the public.

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Rob Hopkins mentioned a need for parking on Atlantic Avenue and thanked City Engineer Schneider for his work and effort on these projects.

John Helbig voiced his support for both Grant Applications discussed.

Hearing nothing further from the public, the public portion was duly closed.

Communications:

None

Mayor's Report:

Mayor Tapp gave an update on the DOT Traffic Advisory on Route 9 between Laurel Drive and Mays Landing Road.

He mentioned another Traffic Advisory on the bridge coming into Somers Point from Ocean City, contracted by Delta Line, to replace the accent lighting under the bridge.

Administrator's Report:

Administrator Frost made a comment on the possible need to amend Ordinance No. 3 of 2025 in between the first and second reading.

Solicitor's Report:

None

Engineer's Report:

City Engineer Schneider reported on his discussion with the County Engineer regarding the potholes between Route 52 and Somers Avenue.

Committee Reports:

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Council Member Dill gave an update on the Planning Board's Reorganization Meeting, including the appointments for 2025. He mentioned the approval of a Decision & Resolution for Bay and Maryland Avenue. He also reported that the DeFeo Plaza project was rescheduled for February along with the Salt House and Paddle Club hearings.

Council Member Dill also gave an update on the Veterans Advisory Board regarding their appointments for 2025 as well as establishing May 26th as the date for the Memorial Day Parade.

Council Member Johnston reported her attendance at the School Board meeting.

Council Member Gerety reported on the Economic Development Advisory Commission Meeting. He noted concerns about appointed members and whether the appointments coincide with the written requirements of the Ordinance. He also mentioned the need to review the Ordinance to make corrections.

Council Member Owen reported the Arts Commission meeting at 6 p.m. on Monday, January 27.

Approval of Minutes:

On the motion of Council Member Dill, seconded of Council Member Johnston, and carried to approve the Reorganization Meeting Minutes of 1/3/2025, Regular Meeting Minutes of 1/9/2025 and Executive Session Meeting Minutes of 1/9/2025, approved as to content only.

Ordinances:

Ordinance No. 1 of 2025

(Second Reading/Public Hearing/Adoption)

M/S- Dill/Owen

This ordinance was adopted by a unanimous vote of those present.

Council President Haberkorn duly opened the meeting to the public. Hearing nothing from the public, the public portion was duly closed.

No. 1 of 2025

**AN ORDINANCE AMENDING ORDINANCE NO. 1 OF 2024,
AN ORDINANCE OF THE CITY OF SOMERS POINT,
COUNTY OF ATLANTIC, NEW JERSEY, ESTABLISHING
THE RATES, FEES, RENTS AND OTHER CHARGES OF
THE CITY OF SOMERS POINT SEWER UTILITY**

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BE IT ORDAINED by the City Council of the City of Somers Point, that, in accordance with the Municipal and County Sewerage Act, N.J.S.A. 40A:26-A-1 et seq., Section 1 of Ordinance No. 1 of 2019 is hereby amended, and the following schedule of rates, fees, rents and other charges is hereby implemented:

Rates and Charges of the City of Somers Point Sewer Utility

SECTION 1.

1. The minimum charge per equivalent domestic unit shall be \$387.00 annually.
2. The annual unit sewer charge based on the type of property served shall be as follows:
 - (a) Private dwellings, condominium units and cooperative units basic charge \$387.00
 - (b) Structures with apartments - each apartment \$387.00
 - (c) Hotels, rooming houses and private dwellings with rented rooms –
basic charge \$387.00
plus each rented room \$285.00
 - (d) Motels - each standard rental unit \$285.00
- each efficiency rental unit..... \$387.00
 - (e) Small Businesses/Professional Office/Professional Condo Office –
Minimum one charge for each office \$387.00
Additional charges based on water consumption \$387.00
 - (f) Trailer parks - each trailer \$387.00
 - (g) Service stations and garages \$387.00
 - (h) Service stations and garages with washing
facilities \$770.00
 - (i) Pumpout facilities for marinas \$387.00
 - (j) Churches \$387.00

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- (k) Public buildings\$760.00
- (l) The service charge for the use of services of the sewerage system for the persons who are hereinafter designated, shall be and the same is hereby fixed and determined as follows: The calculation of the said service charge shall be based and computed on the consumption of water on or in connection with the real property of such persons, which water consumption shall be determined by the reading of the water use meter used in connection with the real property of such person during the highest three (3) month period of such water used during any given billing year; such water use thus determined shall then be divided by a factor of twenty-seven thousand (27,000) and the quotient shall then be rounded upwards to the next highest whole number; the said quotient shall then be multiplied by a factor of \$387.00, and the resulting product, which shall be expressed in terms of dollars, shall be the annual sewerage charge for such persons.

The persons referred to in this section are the following: self service laundries, schools, restaurants, diners, bars, taverns, nursing homes, hospitals, bowling alleys, theatres, shopping centers, barber shops and beauty parlors. Large business establishments or industrial plants and other commercial establishments not herein specifically mentioned.

- (m) Any building, institution, commercial or industrial establishment discharging wastes other than domestic sewage will pay a premium charge for the waste. If the waste discharged into the sewer system by industrial users is stronger than allowed by the rules and regulations, the user shall pay a premium charge for the extra strength waste applied as a factor against the annual charge in category. The premium charge shall be based on the following formula for determination of the multiplication factor.

Factor= $53.0\% + 19\%(\text{BOD in ppm}^*) + 22\%(\text{ss in ppm}^*) + 6\%(\text{chlorine demand in ppm}^*)$

300 350 5

*Where these figures are less than 300 ppm in BOD or 350 ppm in suspended solids or 5ppm in chlorine demand, the value in the parentheses () shall be equal to "1".

The industrial user will be required to submit a report at least once monthly indicating the strength of sewage entering the Utility's system.

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The report shall be from an independent laboratory approved by the Utility. For billing purposes during any one year, the Utility will take the average of the samples submitted for use in determining the strength factor. If no reports are submitted to the Utility then the Utility reserves the right to obtain representative samples and use the results obtained from the samples to determine the factor for billing purposes. The cost of any tests required to be performed by the Utility will be added to the user's charges.

All other provisions relating to industrial wastes will be found in the Rules and Regulations of the Utility.

- (n) Notwithstanding anything to the contrary in this section, the minimum service charge to be paid with respect to any type of property shall be\$387.00

SECTION 2:

All ordinances, or parts of ordinances, inconsistent herewith are hereby repealed to the extent of any such inconsistency.

SECTION 3:

This Ordinance shall take effect after final passage, adoption and publication according to law.

Ordinance No. 2 of 2025

(Second Reading/Public Hearing/Adoption)

M/S- McGuigan/Johnston

This ordinance was adopted by a unanimous vote of those present.

Council President Haberkorn duly opened the meeting to the public. Hearing nothing from the public, the public portion was duly closed.

No. 2 of 2025

**An Ordinance Repealing Article II of Chapter 34 of Code of the City of
Somers Point**

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WHEREAS, the City Council of the City of Somers Point previously enacted Article II of Chapter 34, which created the position of Community Education/Recreation Director (CER Director), and set forth the responsibilities and duties of said position; and

WHEREAS, the intent of creating the aforesaid position was that it was to be a position shared with the Somers Point School System; and

WHEREAS, the Somers Point Board of Education elected to no longer participate in connection with said shared position; and

WHEREAS, City Council previously reviewed the aforesaid section of the City's Code, and determined that the duties and responsibilities of said position had changed as the result of the separation of the position from the Somers Point School System; and

WHEREAS, City Council, on December 14, 2023, passed Ordinance No. 29 of 2023, repealing the then Article II of Chapter 34 and creating a new Article II of said Chapter; and

WHEREAS, City Council has had the opportunity to review the workings of position created by Ordinance 29 and no longer believes that the duties and responsibilities should be performed by one person, since many of the duties for said position are actually performed by other employees and volunteers of the City, and that said position can be eliminated from the City Code.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Somers Point, County of Atlantic, and State of New Jersey as follows:

SECTION 1:

Article II of Chapter 34 of the Code of the City of Somers Point, identified as "Community Program and Recreation Director", is hereby repealed in its entirety.

SECTION 2:

It is the intention of City Council with the passage of this ordinance to replace any references to "the Community Education/Recreation Director" or "the Community Program and Recreation Director," with the following language: "the individual(s) assigned by the City Administrator."

SECTION 3:

All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 4:

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Should any section, clause, sentence, phrase or provision or any item in any schedule of this ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

SECTION 5:

This ordinance shall take effect after final passage, publication and adoption in the manner prescribed by law.

Ordinance No. 3 of 2025
(First Reading/Introduction)

M/S- McGuigan/Johnston

This ordinance was adopted by a unanimous vote of those present.

No. 3 of 2025

**An Ordinance Amending Chapter 100 – Construction Codes,
Uniform, Article I – General Provisions, Section 100-3 - Fees, of
the Code of the City of Somers Point**

WHEREAS, Section 100-3 of Article I of Chapter 100 of the Code of the City of Somers Point includes the setting of certain fees associated for permits issued by the City's Construction Office in connection with construction projects undertaken in the City; and

WHEREAS, these fees, as referenced in Section 100-3B, were routinely set by City Council by way of Resolution; and

WHEREAS, from time-to-time City Council, predicated upon advice from the Construction Official, reviews the fees which have been set forth by way of resolution; and

WHEREAS, City Council has now reviewed certain existing fees required under Section 100-3, and believes that certain changes in the fee amounts would be appropriate; and

WHEREAS, City Council also believes that these changes should be incorporated into Section 100-3 of the Code by way of ordinance as opposed to being set resolution, so that same are more readily accessible to the general public.

NOW, THEREFORE, BE IT ORDAINED by the Common Council of the City of Somers Point, County of Atlantic, and State of New Jersey as follows:

SECTION 1. Chapter 100 – Construction Codes, Uniform, Article I – General Provisions, Section 100-3 – Fees of the Somers Point Municipal Code is hereby amended as follows:

- Subsection B is hereby deleted and is hereby replaced with the following language:
B. For the following permits issued in connection with Subsection A above, the associated fees are hereby identified:

ELECTRIC PERMIT FEE SCHEDULE	
Minimum Inspection Fee	\$ 65.00
Range	\$ 15.00

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Oven	\$	15.00
Surface Unit	\$	15.00
Dishwasher	\$	15.00
Garbage Disposal	\$	15.00
Dryer	\$	15.00
Air Conditioner	\$	15.00
Intercom Panels	\$	35.00
Storable Pool/SPA/Hot Tub	\$	15.00
Swimming Pool Annual Inspection	\$	75.00
Pool Permit w/ UW Lights	\$	75.00
Water Heater	\$	35.00
Central Air/Oil/Gas Electric	\$	35.00
Baseboard Heat / Furnace Reconnect	\$	15.00
Thermostat	\$	15.00
Heat Pump	\$	15.00
Pump - Over 1 HP	\$	35.00
Light Standards/Luminaires >8"	\$	15.00
Burglar/Fire Alarms - In New Homes	\$	15.00
Burglar/Fire Alarms - Add-ons to Existing	\$	15.00
Switches, Light, Receptacles, Detectors, and Motors less than 1 HP		
1 to 50	\$	55.00
Each Additional 25 Units	\$	15.00
Motors		
1 to 50 HP	\$	65.00
51 to 100 HP	\$	100.00
Over 100 HP	\$	600.00
Transformers/Generators/Inverters		
1 to 50 Kilowatts	\$	150.00
51 to 100 Kilowatts	\$	200.00
Over 100 Kilowatts	\$	600.00
Service Panels/Subpanels/Entry Cables		
1 to 225 amperes	\$	65.00
226 to 1,000 amperes	\$	129.00
Equipment Service/Panel Board/Motor Control Disconnect		
1 to 225 amperes	\$	65.00
226 to 1,000 amperes	\$	125.00
Greater than 1,000 amperes	\$	129.00
Temporary Pole	\$	65.00

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Photovoltaic Systems (Residential & Commercial)	
1 to 50 Kilowatts	\$ 250.00
51 to 100 Kilowatts	\$ 300.00
Over 100 Kilowatts	\$ 900.00
PLUMBING PERMIT FEE SCHEDULE	
Fixture/Equipment	\$ 65.00 Minimum
Water Closet	\$ 20.00
Urinal/Bidet	\$ 20.00
Bathtub	\$ 20.00
Lavatory	\$ 20.00
Shower	\$ 20.00
Floor Drain (Including: In-Ground Pool/ Spa/ Hot Tub)	\$ 20.00
Condensate Drain	\$ 20.00
HVAC Drain Connection	\$ 20.00
Sink	\$ 20.00
Dishwasher	\$ 20.00
Drinking Fountain	\$ 20.00
Hose Bib	\$ 20.00
Water Heater	\$ 90.00
Hot Water Boiler (including backflow)	\$ 90.00
Steam Boiler	\$ 90.00
Sewer Pump	\$ 90.00
Interceptor Separator	\$ 90.00
Backflow Preventer	\$ Testable - \$90 / Non-Testable - \$20
Grease Trap	\$ 90.00
Water Cooled Air Conditioning/Refrigeration	\$ 90.00
Sewer Connection	\$ 90.00
Water Connection	\$ 90.00
Water Lines	\$ 90.00
Gas Service Connection	\$ 90.00
Gas Piping	\$ 20.00
Fuel Oil Piping	\$ 90.00
Annual Inspection/Backflow/Cross Connection	\$ 90.00
Vent Stacks	\$ 25.00
Pool Heaters	\$ 90.00
MECHANICAL PERMIT FEE SCHEDULE	
Minimum Inspection Fee	\$ 65.00

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Replacement of like mechanical equipment in residential R3, R4, R5 Use Groups – Cost of first Device	\$ 90.00
Cost per each additional Device	\$ 20.00
FIRE PROTECTION PERMIT FEE SCHEDULE	
Minimum Inspection Fee	\$ 65.00
Gas and Oil-fired Appliance not connected to plumbing	\$ 65.00
Woodstoves, Fire Places, Space Heater, Metal Chimney	\$ 65.00
Remanufactured Fireplace/Gas Piping to Appliances	\$ 65.00
Independent Pre-engineered System	\$ 65.00
Kitchen Exhaust System	\$ 65.00
Standpipes	\$ 125.00
Sprinkler Heads	
1 to 20 Heads	\$ 90.00
21 to 100 Heads	\$ 160.00
101 to 200 Heads	\$ 300.00
201 to 400 Heads	\$ 800.00
401 to 1000 Heads	\$ 1,100.00
Over 1000 Heads	\$ 1,500.00
Detectors	
Single/Multi-station/Heat/Fire Alarm Systems - Residential	
1 to 12	\$ 75.00
Each Additional 25	\$ 20.00 per group of 25
Special Fire Detection Equipment	\$ 28.00 per \$1,000 of Cost
Manual Alarm Systems 1 to 4 Zones	\$ 65.00
Each Additional Zone	\$ 28.00 per \$1,000 of Cost
Tank Installation/Removal	Residential \$75 / Commercial \$180
BUILDING PERMIT FEE SCHEDULE	
Minimum Inspection Fee	\$ 65.00
New Construction or Addition Per Cubic Foot	*.038 X Cubic Foot of Structural Volume or \$300.00 ; the greater of the two
Renovation/Alteration/Repair per \$1,000 of Cost	\$ 34.00
Application for Certificate of Occupancy	\$ 50.00
Code Review	
Variations of Code	\$ 100.00
Asbestos Hazzard Abatement	\$ 200.00
Lead Hazzard Abatement	\$ 175.00
Reinstatement of Lapse Permit Fee	10% of original Permit Fee

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Demolition	
Demolition - 1 or 2 family	\$ 150.00 per building
Demolition of Accessory Structures	\$ 150.00
Demolition of Other Use Groups	
4 stories or less	\$ 300.00
5 to 8 stories	\$ 400.00
Over 8 Stories	\$ 500.00
Move a building	\$ 20 per \$1,000 of cost
Solar Panel Racking	\$ 34.00 per \$1000 of cost
Residential - minimum	\$ 200.00 Minimum
Commercial - minimum	\$ 300.00 Minimum
PLAN REVIEW	
Plan Review Fee	
Plan Review Only	20% (Twenty Percent) of Permit Amount
The fee for plan review for Statewide prototype plans released by the Department or for other prototype plans where the prototype did not include the foundation detail shall be five percent of the amount to be charged for a construction permit.	5% (Five Percent) of Permit Amount
ELEVATOR INSPECTION	
Elevator Inspection Fee	
***Elevator inspections in Somers Point, New Jersey are conducted by the New Jersey Department of Community Affairs (DCA) or an approved third-party contractor.	\$ 0.00
Sign	\$ 5 per square foot
Fences or Concrete	\$ 20 per \$1,000 of cost
Dumpsters (5 Day Maximum in Street)	\$ 20.00
State Training Surcharge Fee	\$0.037 per Cubic Feet or \$1.90 per \$1,000 of Cost
Fee to Reinstate Lapsed Permit	50% of Original Permit Fee
Bulkhead	\$30 per \$1,000 of cost
Pilings	\$30 per \$1,000 of cost
Pools	
Aboveground	\$ 150.00
In ground	\$ 250.00
Sheds	
Pre-Built	\$ 34 per \$1,000 of cost
Site-Built	\$ 0.038 per cubic foot

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>200 Sq Ft	\$ 100.00 Minimum
>300 Sq Ft	\$ 150.00 Minimum
Tents	
>900 square feet or 30' in diameter	\$ 250.00
RENTAL SCHEDULE	
Registration	\$ 50.00 Annually
Commercial Inspection Fee at Tenant Change	\$ 250.00
Residential or Apartment Inspection Fee at Tenant Change	\$ 250.00
Short Term Rental Inspection	\$ 250.00
Rental 3 or More Unit Building	\$ 75.00 / per each unit
RESALES	
Residential Resale Inspection	\$ 250.00
Commercial Resale Inspection	\$ 250.00
Lead Based Paint Inspection	\$ 50.00
FLOOD ITEMS	
Flood Plain Development Permit	\$ 25.00
Flood Damage Prevention Permit	\$ 25.00
Sewer Application Fee	
New Residential and Commercial Connection Application	\$ 100.00
Modification of Sewerage Facilities Application	\$ 50.00

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SECTION 2: All other provisions of Section 100-3 of Article I, Chapter 100, shall remain in full force and effect and shall apply to this amendment upon the effective date of this Ordinance.

SECTION 4: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 5: Should any section, clause, sentence, phrase or provision or any item in any schedule of this ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

SECTION 6: This Ordinance shall take effect upon its final passage, publication and adoption in the manner prescribed by law.

Resolutions:

Public Portion Resolutions:

Council President Haberkorn duly opened the meeting to the public.

Levi Fox expressed his concern regarding the tenants at 90 Broadway.

Hearing nothing further from the public, the public portion was duly closed.

Resolution No. 54 of 2025

M/S- Dill/Owen

This resolution was adopted by unanimous vote of those present.

Council Member Dill thanked the Board Members for their time and efforts.

Council President Haberkorn and Council Member McGuigan echoed Council Member Dill's praise and thanked City employee and newly elected School Board Member, Emerald Hornig, for serving.

Mayor Tapp gave his thanks to and congratulations to Emerald Hornig for her new position on the Board. Council President Haberkorn presented Emerald with a signed resolution.

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Recognizing the Somers Point Board of Education

WHEREAS, The direction of public education in New Jersey is charted locally by individual school boards, whose 5,000 members serve as advocates for public education as they work with administrators, teachers, parents and local residents; and

WHEREAS, Boards of education provide accountability to the public, they communicate the needs of the school district to the community, and they convey to school administrators the public's expectations for the school district; and

WHEREAS, the current members of the Somers Point Board of Education, listed below, receive no remuneration for their services; and

Staci Endicott - Board President

Kathleen Dolton

Judson Moore

Karen Tomasello

John Conover

Emerald Hornig

Alice Myers

Nicholas Wagner

WHEREAS, the Mayor and the City Council of the City of Somers Point are justly proud of the academic, athletic and social achievements of the students in our community.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and the City Council of the City of Somers Point does hereby commend the service of the Somers Point Board of Education and its members to our community and its children; and

BE IT FURTHER RESOLVED, That the Mayor and the City Council of the City of Somers Point proclaims January 2025 as School Board Recognition Month in Somers Point and urges all citizens to join in recognizing the dedication of the Somers Point Board of Education members, past and present, as we work together to advance educational opportunities for our children.

Resolution No. 55 of 2025

M/S- Dill/DePamphilis

This resolution was adopted by unanimous vote of those present.

**No. 55 of 2025
AUTHORIZING EXECUTIVE SESSION**

**Subject: Advice of Counsel and Attorney-Client Privileged Communication
Regarding the Status of, and Potential Litigation Arising from Affordable
Housing Obligations Imposed Upon the City by the Fair Share Housing
Center.**

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Introduced by: Council President Haberkorn

WHEREAS, while the Sen. Byron M. Baer Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.) requires all meetings of the Somers Point City Council to be held in public, and N.J.S.A. 10:4-12(b) sets forth nine (9) types of matters that may lawfully be discussed in “Executive Session,” i.e. without the public being permitted to attend; and

WHEREAS, the Somers Point City Council has determined that there is one (1) topic which requires the advice and counsel of the City Solicitor and is a matter permitted by N.J.S.A. 10:4-12(b) as an exception to open public meeting requirements; and is necessary to be discussed without the public in attendance during an Executive Session to be held on January 23, 2025, during a public meeting to be held commencing at 7:00 P.M; and

WHEREAS there are nine (9) exceptions to public meetings set forth in N.J.S.A. 10:4-12(b). Listed below, is the exception relied upon; and after the exception is a space within which the number of issues to be privately discussed that fall within that exception shall be written and within which additional information that will disclose as much information about the discussion as possible without undermining the purpose of the exception shall be written.

1 “(7) Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required for the attorney to exercise his ethical duties as a lawyer.”

The nature of the matters to be discussed, described as fully as possible without undermining the need for confidentiality:

Advice of Counsel and attorney-client privileged communication regarding the status of, and potential litigation arising from Affordable Housing Obligations imposed upon the City by the Fair Share Housing Center.

WHEREAS the length of the Executive Session is estimated to be approximately 15 minutes after which the public meeting of the City Council shall reconvene;

NOW, THEREFORE, BE IT RESOLVED that the City Council of Somers Point will go into Executive Session for **only** the above stated reason;

BE IT FURTHER RESOLVED that the City Council directs the City Clerk to make ten (10) photocopies of this resolution.

BE IT FURTHER RESOLVED that the blank spaces within this form of resolution are to be filled out in conformity with a Consent Judgment and Memorandum of Understanding dated June 8, 2009, that arose that the City Council hereby declares that its discussion of the

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aforementioned subject(s) will be made public at a time when the public's interest in disclosure is greater than any privacy or governmental interest being protected from disclosure. For each of the above items, the estimated date by which such disclosure can be made and/or the occurrence that needs to take place before disclosure can be made are listed below (attach separate sheet if necessary)

Subject of Discussion	Estimated Date	Necessary Occurrence
See Exception 7	Unknown at this time	Discussion by City Council relative to handling of potential litigation.

Resolution No. 56 of 2025

M/S- Owen/Dill

This resolution was adopted by unanimous vote of those present.

**No. 56 of 2025
AUTHORIZING EXECUTIVE SESSION**

Subject: Advice of Counsel and Attorney-Client Communication Regarding the Status of Litigation Involving the City and its Zoning Board Entitled, "Garden State Outdoor, LLC v. City of Somers Point, City of Somers Point Zoning Board," Having a Docket Number of ATL-L-143-23.

Introduced by: Council President Haberkorn

WHEREAS, while the Sen. Byron M. Baer Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.) requires all meetings of the Somers Point City Council to be held in public, and N.J.S.A. 10:4-12(b) sets forth nine (9) types of matters that may lawfully be discussed in "Executive Session," i.e. without the public being permitted to attend, and

WHEREAS, the Somers Point City Council has determined that there is one (1) topic which requires the advice and counsel of the City Solicitor and is a matter permitted by N.J.S.A. 10:4-12(b) as an exception to open public meeting requirements; and is necessary to be discussed without the public in attendance during an Executive Session to be held on January 23, 2025, during a public meeting to be held commencing at 7:00 P.M, and

WHEREAS there are nine (9) exceptions to public meetings set forth in N.J.S.A. 10:4-12(b). Listed below, is the exception relied upon; and after the exception is a space within which the number of issues to be privately discussed that fall within that exception shall be written and

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within which additional information that will disclose as much information about the discussion as possible without undermining the purpose of the exception shall be written.

1 “(7) Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required for the attorney to exercise his ethical duties as a lawyer.”

The nature of the matters to be discussed, described as fully as possible without undermining the need for confidentiality:

Advice of Counsel and attorney-client communication regarding the status of litigation involving the City and its Zoning Board entitled, “Garden State Outdoor, LLC v. City of Somers Point, City of Somers Point Zoning Board,” having a docket number of ATL-L-143-23.

WHEREAS the length of the Executive Session is estimated to be approximately 15 minutes after which the public meeting of the City Council shall reconvene;

NOW, THEREFORE, BE IT RESOLVED that the City Council of Somers Point will go into Executive Session for **only** the above stated reason;

BE IT FURTHER RESOLVED that the City Council directs the City Clerk to make ten (10) photocopies of this resolution.

BE IT FURTHER RESOLVED that the blank spaces within this form of resolution are to be filled out in conformity with a Consent Judgment and Memorandum of Understanding dated June 8, 2009, that arose that the City Council hereby declares that its discussion of the aforementioned subject(s) will be made public at a time when the public’s interest in disclosure is greater than any privacy or governmental interest being protected from disclosure. For each of the above items, the estimated date by which such disclosure can be made and/or the occurrence that needs to take place before disclosure can be made are listed below (attach separate sheet if necessary)

Subject of Discussion	Estimated Date	Necessary Occurrence
See Exception 7	Unknown at this time	Discussion by City Council relative to handling of litigation.

Resolution No. 57 of 2025
M/S- Owen/Dill

REGULAR MEETING MAYOR AND CITY COUNCIL January 23, 2025

This resolution was adopted by majority vote of those present with Council Member Gerety opposed.

Council Member Gerety requested clarification on the Escrow Agreement.

No. 57 of 2025 AUTHORIZING EXECUTIVE SESSION

**Subject: Advice of Counsel and Attorney-Client Privileged Communication
Regarding the Status of Potential Development Negotiations Involving
Contract Purchasers of 90 Broadway and the City of Somers Point.**

Introduced by: Council President Haberkorn

WHEREAS, while the Sen. Byron M. Baer Open Public Meetings Act (N.J.S.A. 10:4-6 et seq.) requires all meetings of the Somers Point City Council to be held in public, and N.J.S.A. 10:4-12(b) sets forth nine (9) types of matters that may lawfully be discussed in “Executive Session,” i.e. without the public being permitted to attend; and

WHEREAS, the Somers Point City Council has determined that there is one (1) topic which requires the advice and counsel of the City Solicitor and is a matter permitted by N.J.S.A. 10:4-12(b) as an exception to open public meeting requirements; and is necessary to be discussed without the public in attendance during an Executive Session to be held on 23rd day of January, 2025, during a public meeting to be held commencing at 7:00 P.M; and

WHEREAS there are nine (9) exceptions to public meetings set forth in N.J.S.A. 10:4-12(b). Listed below, is the exception relied upon; and after the exception is a space within which the number of issues to be privately discussed that fall within that exception shall be written and within which additional information that will disclose as much information about the discussion as possible without undermining the purpose of the exception shall be written.

1 “(7) Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required for the attorney to exercise his ethical duties as a lawyer.”

The nature of the matters to be discussed, described as fully as possible without undermining the need for confidentiality:

Advice of Counsel and attorney-client privileged communication regarding the status of potential development negotiations involving contract purchasers of 90 Broadway and the City of Somers Point.

WHEREAS the length of the Executive Session is estimated to be approximately 20 minutes after which the public meeting of the City Council shall reconvene;

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NOW, THEREFORE, BE IT RESOLVED that the City Council of Somers Point will go into Executive Session for **only** the above stated reason;

BE IT FURTHER RESOLVED that the City Council directs the City Clerk to make ten (10) photocopies of this resolution.

BE IT FURTHER RESOLVED that the blank spaces within this form of resolution are to be filled out in conformity with a Consent Judgment and Memorandum of Understanding dated June 8, 2009, that arose that the City Council hereby declares that its discussion of the aforementioned subject(s) will be made public at a time when the public's interest in disclosure is greater than any privacy or governmental interest being protected from disclosure. For each of the above items, the estimated date by which such disclosure can be made and/or the occurrence that needs to take place before disclosure can be made are listed below (attach separate sheet if necessary)

Subject of Discussion	Estimated Date	Necessary Occurrence
See Exception 7	Unknown at this time	Discussion by City Council relative to handling of potential development negotiations involving contract purchasers of 90 Broadway and the City.

Resolution No. 60 of 2025

M/S- Dill/Johnston

This resolution was adopted by unanimous vote of those present.

No. 60 of 2025

Subject: Resolution Authorizing the 2025 Invoice for Annual Service Charge to Somers Point Preservation L.P. and its Affiliates

Introduced by: Council President Haberkorn

WHEREAS, the Somers Point Preservation L.P. has applied for a long-term tax exemption pursuant to the New Jersey Housing and Mortgage Finance Agency Law of 1983, as amended and supplemented, N.J.S.A. 55:14K-1 tf. seq. (the "HMFA Law") for a project to preserve and significantly rehabilitate a two hundred and twenty-five (22S) unit HUD Section 8 housing complex (224 restricted rental units and 1 manager unit) on the Property; and

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WHEREAS, the City has adopted an ordinance (Ordinance 24 of 2022) approving a long-term tax exemption for the Project as authorized by N.J.S.A. 55:14K-37 and has entered into a Financial Agreement in order to memorialize the terms and conditions applicable to this long-term tax exemption; and

WHEREAS, Somers Point Preservation L.P. previously contributed the sum of Five-Hundred and One Thousand One Hundred and Fifty (\$501,150.00) Dollars plus an Administrative Fee of Ten Thousand and Twenty-Three (\$10,023.00) Dollars which were paid in 2024; and

WHEREAS, Somers Point Preservation L.P. is now required to contribute the sum of Five-Hundred and One Thousand One Hundred and Fifty (\$501,150.00) Dollars plus an Administrative Fee of Ten Thousand and Twenty-Three (\$10,023.00) Dollars to be paid into the general fund to be used for general expenses without any specific designation to be billed by the City quarterly in equal installments which shall be payable on February 1, May 1, August 1, and November 1 in the 2025 Calendar Year; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point, County of Atlantic, State of New Jersey, as follows:
The Tax Collector shall be and is hereby authorized to invoice Somers Point Preservation L.P for the 2025 Calendar Year to receive the aforementioned Annual Service Charge, subject to the Financial Agreement between the City of Somers Point and Somers Point Preservation L.P. required and authorized by the City Administrator and/or Solicitor.

Resolution No. 61 of 2025

M/S- Dill/Johnston

This resolution was adopted by unanimous vote of those present.

No. 61 of 2025

Subject: **Authorizing Green Acres Application for the Bike Path Improvements**

Introduced by: **Council President Haberkorn**

WHEREAS, the New Jersey Department of Environmental Protection, Green Acres Program (“State”), provides grants and/or loans to municipal and county governments and grants to nonprofit organizations for assistance in the acquisition, development, and stewardship of lands for outdoor recreation and conservation purposes; and

WHEREAS, the City of Somers Point desires to further the public interest by obtaining total funding in the amount of \$341,406.90, in the form of a \$85,351.73 matching grant and, if available, a

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\$256,055.17 loan, from the State to fund the following project(s): Somers Point Bike Path Improvements at a cost of \$341,406.90;

WHEREAS, the State shall determine if the application is complete and in conformance with the scope and intent of the Green Acres Program, and notify the applicant of the amount of the funding award; and

WHEREAS, the applicant is willing to use the State's funds in accordance with such rules, regulations, and applicable statutes, and is willing to enter into an agreement with the State for the above-named project;

NOW, THEREFORE, the governing body/board resolves that:

1. Mayor Dennis Tapp or the successor to the office of Mayor is hereby authorized to:
 - a. make application for such a loan and/or such a grant,
 - b. provide additional application information and furnish such documents as may be required, and
 - c. act as the authorized correspondent of the above-named applicant;
2. The applicant agrees to provide its matching share to the Green Acres funding request, if a match is required, in the amount of \$256,055.17;
3. In the event the State's funds are less than the total project cost specified above, the applicant has the balance of funding necessary to complete the project;
4. The applicant agrees to comply with all applicable federal, state, and local laws, rules, and regulations in its performance of the project; and
5. This resolution shall take effect immediately.

Resolution No. 62 of 2025

M/S- Owen/McGuigan

This resolution was adopted by unanimous vote of those present.

No. 62 of 2025

Subject: Authorizing Green Acres Application for the JFK Inclusive Playground

Introduced by: Council Member Johnston

WHEREAS, the New Jersey Department of Environmental Protection, Green Acres Program ("State"), provides grants and/or loans to municipal and county governments and grants to nonprofit organizations for assistance in the acquisition, development, and stewardship of lands for outdoor recreation and conservation purposes; and

WHEREAS, the City of Somers Point desires to further the public interest by obtaining total funding in the amount of \$422,648.25, in the form of a \$316,986.18 matching grant and, if available, a

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\$105,662.07 loan, from the State to fund the following project(s): John F. Kennedy (JFK) Park Completely Inclusive Playground at a cost of \$422,648.25;

WHEREAS, the State shall determine if the application is complete and in conformance with the scope and intent of the Green Acres Program, and notify the applicant of the amount of the funding award; and

WHEREAS, the applicant is willing to use the State's funds in accordance with such rules, regulations, and applicable statutes, and is willing to enter into an agreement with the State for the above-named project;

NOW, THEREFORE, the governing body/board resolves that:

6. Mayor Dennis Tapp or the successor to the office of Mayor is hereby authorized to:
 - a. make application for such a loan and/or such a grant,
 - b. provide additional application information and furnish such documents as may be required, and
 - c. act as the authorized correspondent of the above-named applicant;
7. The applicant agrees to provide its matching share to the Green Acres funding request, if a match is required, in the amount of \$105,662.07;
8. In the event the State's funds are less than the total project cost specified above, the applicant has the balance of funding necessary to complete the project;
9. The applicant agrees to comply with all applicable federal, state, and local laws, rules, and regulations in its performance of the project; and
10. This resolution shall take effect immediately.

Old Business:

Council Member Gerety proposed an amendment to the shopping cart ordinance and requested support from City Council.

New Business:

On the motion of Council Member Gerety, seconded by Council Member Owen and carried to approve two Social Affair Permit Applications for:

- Cornhole Craze for an event on February 1st and 2nd, 2025 from 11AM-9PM.
- Roberts Johnson Post 2189 VFW for an event on March 1st, 2025 from 11AM-7PM.

Discussion of Bills:

Administrator Frost reported a Bill List dated 1/17/2025 in the amount of \$2,801,545.17, a Record of Payment dated 01/16/2025 in the amount of \$65,991.15.

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Public Portion:

Council President Haberkorn duly opened the meeting to the public.

Patricia Pierson praised the addition of lighting outside of the Construction Office, City Hall, and Somers Mansion. She voiced concerns about the Beach Concerts and bullying in the school systems.

Gary Papouschek brought up safety concerns about the sidewalk path on Maryland and Groveland Avenue.

Hearing nothing further from the public, the public hearing was duly closed.

Payment of Bills:

M/S: Dill/Owen

The Bill List was approved by a unanimous vote of those present. A complete list of bills is on file in the Office of the Municipal Clerk.

Comments from Governing Body:

None

Recess:

The Governing Body recessed briefly at 8:05 p.m. before going into Executive Session at 8:10 p.m.

Reconvene:

Council President Haberkorn reconvened the Governing Body to Open Session at 9:04 p.m.

Resolution No. 58 of 2025

M/S- Dill/Johnston

This resolution was adopted by unanimous vote of those present.

No. 58 of 2025

**Subject: City of Somers Point's Commitment to Round 4 Present and Prospective
Need Affordable Housing Obligations**

REGULAR MEETING MAYOR AND CITY COUNCIL January 23, 2025

Introduced by: Council President Haberkorn and Councilmembers McGuigan and DePamphilis

WHEREAS, the City has a demonstrated history of voluntary compliance as evidenced by its Round 3 record; and

WHEREAS, pursuant to In re N.J.A.C. 5:96 and 5:97, 221 N.J. 1 (2015) (Mount Laurel IV), on July 7, 2015, the City of Somers Point (hereinafter “Somers Point” or the “City”) filed a Declaratory Judgment Complaint in Superior Court, Law Division seeking, among other things, a judicial declaration that its Housing Element and Fair Share Plan (hereinafter “Fair Share Plan”), to be amended as necessary, satisfies its “fair share” of the regional need for low and moderate income housing pursuant to the “Mount Laurel doctrine;” and

WHEREAS, that culminated in a Court-approved Housing Element and Fair Share Plan and a Final Judgment of Compliance and Repose, which precludes builder’s remedy lawsuits until July 1, 2025; and

WHEREAS, on March 20, 2024, Governor Murphy signed into law P.L. 2024, c.2 (hereinafter “A4” or “Amended FHA”; and

WHEREAS, A4 calculates the size of the regional affordable housing need as follows “projected household change for a 10-year round in a region shall be estimated by establishing the household change experienced in the region between the most recent federal decennial census, and the second-most recent federal decennial census. This household change, if positive, shall be divided by 2.5 to estimate the number of low- and moderate-income homes needed to address low- and moderate-income household change in the region, and to determine the regional prospective need for a 10-year round of low- and moderate-income housing obligations...”; and

WHEREAS, this means that the regional need equates to 40% of regional household growth; and

WHEREAS, the 1985 version of the Fair Housing Act and A4 both prohibit a result that would compel a municipality to spend its own money on compliance; and

WHEREAS, the theory which permits a municipality to meet its obligations without municipal subsidy is zoning for “inclusionary zoning;” and

WHEREAS, inclusionary zoning most typically requires a 15% or 20% set aside; and

WHEREAS, it is not clear how a regional need predicated upon 40% of anticipated growth can be met with 15-20% set asides and without municipal subsidy; and

WHEREAS, this is exacerbated by the fact that certain other municipalities in the region have an allocation of 0% of the prospective need (new construction obligation), irrespective of the growth in that particular municipality; and

WHEREAS, A4 yields a statewide new construction obligation of over 8,400 affordable units per year; and

WHEREAS, this is a substantially higher annual number than was imposed by COAH in the “Prior Round” or any iteration of its Round 3 regulations; and

WHEREAS, A4 determines the size of the regional need, but does not calculate allocation of the need to individual municipalities; and

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WHEREAS, instead, A4 required the Department of Community Affairs (“DCA”) to produce non-binding estimates of need on or before October 20, 2024, which it did provide on October 18, 2024 (“DCA Report”); and

WHEREAS, the DCA Report calculates the City’s Round 4 (2025-2035) obligations as follows: a Present Need or Rehabilitation Obligation of 27 units and a Prospective Need or New Construction Obligation of 31 units; and

WHEREAS, A4 further provides that, irrespective of the DCA’s calculation, municipalities are to determine “present and prospective fair share obligation(s)...by binding resolution no later than January 31, 2025”; and

WHEREAS, this resolution satisfies the requirements of A4 by accepting the DCA estimate of need as described in the DCA Report; and

WHEREAS, Section 3 of A4 provides that: “the municipality’s determination of its fair share obligation shall have a presumption of validity, if established in accordance with sections 6 and 7” of A4; and

WHEREAS, City’s calculation of need is entitled to a “presumption of validity” because it complies with Sections 6 and 7 of A4; and

WHEREAS, the City specifically reserves the right to adjust those numbers based on one or any of the foregoing adjustments: 1) a windshield survey or similar survey which accounts for a higher-resolution estimate of present need; 2) a Vacant Land Adjustment predicated upon a lack of vacant, developable and suitable land; 3) a Durational Adjustment (whether predicated upon lack of sewer or lack of water); and/or 4) an adjustment predicated upon regional planning entity formulas, inputs or considerations, including, but not limited to the Highlands Regional Master Plan and its build out, the Pinelands or Meadowlands regulations and planning document; and

WHEREAS, in addition to the foregoing, the City specifically reserves all rights to revoke or amend this resolution and commitment, as may be necessary, in the event of a successful challenge to A4 in the context of the Montvale case (MER-L-1778-24), any other such action challenging A4, or any legislation adopted and signed into law by the Governor of New Jersey that alters the deadlines and/or requirements of A4; and

WHEREAS, in addition to the foregoing, the City reserves the right to take a position that its Round 4 Present or Prospective Need Obligations are lower than described herein in the event that a third party challenges the calculations provided for in this Resolution (a reservation of all litigation rights and positions, without prejudice); and

WHEREAS, in light of the above, the Mayor and Council finds that it is in the best interest of City to declare its obligations in accordance with this binding resolution and in accordance with the Act; and

WHEREAS, in addition to the above, the Acting Administrative Director issued Directive #14-24, dated December 13, 2024, and made the directive available later in the week that followed; and

WHEREAS, pursuant to Directive #14-24, a municipality seeking a certification of compliance with the Act shall file an action in the form of a declaratory judgment complaint “. . . within 48 hours after adoption of the municipal resolution of fair share obligations, or by February 3, 2025, whichever is sooner”; and

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WHEREAS, nothing in this Resolution shall be interpreted as an acknowledgment of the legal validity of the AOC Directive and the City reserves any and all rights and remedies in relation to the AOC Directive; and

WHEREAS, the City seeks a certification of compliance with the Act and, therefore, directs its Affordable Housing Counsel to file a declaratory relief action within 48 hours of the adoption of this resolution; and

NOW, THEREFORE, BE IT RESOLVED on this 23rd day of January 2025, by the Common Council of the City of Somers Point, Atlantic County, State of New Jersey, as follows:

1. All of the WHEREAS Clauses are incorporated into the operative clauses of this resolution.
2. Council hereby commits to the DCA Round 4 Present Need Obligation of 27 units and the Round 4 Prospective Need Obligation of 31 units as described in this resolution subject to all reservations of rights, which specifically include:
 - a) The right to adjust the number based on a windshield survey, lack of land, sewer, water, regional planning inputs, or any combination thereof;
 - b) As described in the WHEREAS section, all rights to revoke or amend this resolution in the event of a successful legal challenge, or legislative change, to A4;
 - c) All rights to take any contrary position in the event of a third-party challenge to the obligations.
3. The City hereby directs its Affordable Housing Counsel to file a declaratory judgment complaint within 48 hours after adoption this resolution attaching this resolution.
4. The City hereby directs its Affordable Housing Counsel to file this Resolution with the “Program” pursuant to the requirements on A4.
5. This resolution shall take effect immediately, according to law.

Resolution No. 59 of 2025

The Resolution was introduced with on the motion of Council Member Johnston, seconded by Council Member Dill and carried to introduce the Resolution.

On the motion of Council Member Gerety, seconded by Council Member Johnston and carried to amend the Resolution by a roll call vote with Council Member Gerety opposed.

M/S: Dill/ DePamphilis

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This resolution was adopted by a roll call vote of those present with Council Member Gerety opposed.

No. 59 of 2025

Subject: A Resolution Authorizing the Execution and Delivery of an Escrow Agreement Between the City of Somers Point and Exceler Building Solutions, LLC Pertaining to the Proposed Development of Block 2018, Lots 1.01, 1.02, 1.03, 1.04, 1.05, 1.08, 2.02, 1.06 and 1.07

Introduced by: Council President Haberkorn

WHEREAS, on July 11, 2024, a presentation was made to the Somers Point Redevelopment / Finance sub-committee by John Wolfington and Dan Metzler on behalf of Exceler Building Solutions, LLC (the "Contract Purchaser") regarding the potential for redeveloping Block 2018, Lots 1.01, 1.02, 1.03, 1.04, 1.05, 1.08, 2.02, 1.06 and 1.07 located generally at 90 Broadway in the City of Somers Point, comprised of approximately 2.03 acres (the "Subject Property"); and

WHEREAS, the proposal presented by the Contract / Proposed Redeveloper contemplates the demolition of seventeen (17) existing occupied residential dwelling units in three (3) separate, detached buildings and the construction of twenty-one (21) attached townhome residential dwellings with accessory parking, a swimming pool, bulkhead and marina improvements and related site improvements (the "Proposed Project"); and

WHEREAS, the Somers Point City Council is willing to enter into discussions with the Contract Purchaser to explore the feasibility of the Proposed Project, the adoption of a mutually agreed upon Memorandum of Understanding, a potential Redevelopment Plan and the terms and conditions of an agreement or agreements to provide for the Redevelopment of the Subject Property; and

WHEREAS, the purpose of the Escrow Agreement is to permit the City to enter into and continue discussions with the Contract Purchaser to explore the feasibility of the Proposed Project, and the negotiation of a mutually agreed upon terms and conditions of an agreement or agreements to provide for the Redevelopment of the Subject Property, and to provide for deposit of funds into an escrow account to reimburse the City for fees, costs, and expenses incurred by the City and its professionals during the process which commenced on July 11, 2024.

NOW THEREFORE, BE IT RESOLVED by the Common Council of the City of Somers Point that the Mayor is hereby authorized to execute and deliver the Escrow Agreement between the City and the Contract Purchaser, substantially in the form attached hereto and on file in the Office of the Somers Point City Clerk, subject to such modifications as may be deemed necessary or desirable by the City Administrator, Chief Financial Officer, and City Solicitor.

IT IS FURTHER RESOLVED that the Mayor, Administrator, Clerk, Chief Financial Officer, Attorney, and other appropriate officers, employees, and professionals are hereby authorized and directed to prepare and execute any and all other documents regarding the Escrow Agreement herein approved and authorized, and to take any and all further acts necessary to accomplish the intended purpose, other than any action or agreement which shall require further action by this governing body.

Adjournment:

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There being no further business to come before City Council, Council Member Dill moved, Council Member Johnston seconded and carried to adjourn the meeting at 9:10 p.m.

Respectfully submitted,

Shelby Heath, RMC
Municipal Clerk
Approved: 2/13/2025