

**REGULAR MEETING  
MAYOR AND CITY COUNCIL  
October 14, 2021**

**Meeting called to order at 7:00 p.m. by President Johnston with a salute to the flag.**

**Roll call was recorded as follows:**

**Present:** Bruno, Dill, Ferreri, McCarrie, McGuigan, Johnston

**Absent:** Mayor Glasser, Owen,

**Also Present:** City Administrator Frost, City Clerk Samuelson, Solicitor James Franklin, II, City Engineer Greg Schneider

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**Open Public Meetings Act:**

Pursuant to the Open Public Meetings Act, adequate notice of this meeting has been provided. Agenda for this meeting has been provided to two local newspapers and posted in the City Clerk's Office and on the City's website, somerspointgov.org.

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**Presentation:** Mr. Scarborough Regarding Somers Point Paddle Club, LLC

Mr. Scarborough provided an update to the plans. He stated a survey was performed on the property, easements/other restrictions were researched, utilities were located, and the existing structures were located on the plan. The proposed plan was overlaid on an aerial map of the parcel.

Mr. Scarborough commented the architectural plans were currently being worked on. He anticipated an early 2022 planning board submission simultaneously with a CAFRA application to N.J. Department of Environmental Protection and the county planning board with a ground-breaking in summer of 2022.

Council Member Ferreri questioned the parking. Mr Scarborough commented that no parking was removed from the previous site, and the parking would be assigned.

Council Member McGuigan questioned the management of the club and affordable housing units. Mr Scarborough stated his firm would manage both.

Council Member McCarrie commented city residents would be afforded a first choice for membership. Mr Scarborough commented city residents would be afforded first choice for possibly three months.

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## **Public Information Meeting:**

The City of Somers Point has received a \$165,000 CMAQ grant for improvements along the Somers Point Bikeway. City engineer, Schneider provided a report. Improvements proposed included additional pedestrian flashing beacons at Ocean Heights Avenue, pedestrian and bicycle counter, bicycle repair stands, wayfinding signs, bike racks, and benches.

Council Member McGuigan questioned the bicycle repair stand and restocking. Engineer Schneider commented it would depend on the city's choice of type of bicycle repair stand.

Council Member Dill praised (with Council Member McCarrie and McGuigan affirming) the project, and the hard work the engineer and grant writers have put into this project as well as those in the past. Council Member Dill also praised the flashing lights on Ocean Heights Avenue.

Engineer Schneider commented on the bicycle counter. He stated it counts the number of bicycles and pedestrians using the paths which may contribute to additional grants in the future.

Council President Johnston called for a motion to open the floor to the public. All voted in favor to open the floor to the public.

Patricia Pierson, 587 Marks Road, commented on the notification.

Council President Johnston stated the public comment period would be readvertised for a future date.

Council President Johnston called for a motion to close the floor to the public. All voted in favor to close the floor to the public.

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## **Communications:**

Somers Point Police Department: Trunk or Treat event, Saturday, October 23<sup>rd</sup> from 4 pm to 6 pm at Harbor Lane and Bay Avenue, Somers Point. Attendance is free, costumes are encouraged and must be family friendly.

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**Mayor's Report:** No report.

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**Administrator's Report:** City Administrator Frost reported a meeting with Egg Harbor Township Ambulance. The current plan is to have an EMS unit stationed at the city's Office of Emergency Management (OEM) by the end of the year. Egg Harbor Township is hiring four full time staff and logistical issues at the OEM office need to be addressed.

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**Solicitors Report:** No report.

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## Committee Reports:

- Parking Committee (Council President Johnston): two separate requests were made for parking permits: 827 Bay Avenue for a land-locked home that does not have any on-site parking and 628 West Groveland for a disabled person for access in front of the house. The Committee recommended approval of both applications.

Council Member McGuigan questioned the location of the parking for 827 Bay Avenue. Council President Johnston stated the location would be in front of two dwellings that are in front of 827 Bay Avenue's dwelling. Permission was received from both owners of the two dwellings. Council President Johnston commented the City Solicitor will be drafting an ordinance for consideration.

- Steering Committee (Council President Johnston): praised Grant Manager Rutala and commented on the Safe Roads to Schools grant, which funds sidewalks where children utilize them to walk to school. The city is awaiting on a funding decision.
- Arts Commission (Council Member Bruno): requested appointment of Jacqueline Galbiati with a term expiring December 31, 2021.

## Approval of Minutes:

On the motion of Council Member Dill, seconded of Council Member Ferreri and carried to approve the Regular Meeting Minutes 9/23/2021.

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## Ordinances:

### Ordinance No. 12 of 2021

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**M/S-** Dill/McCarrie

The ordinance was adopted by a unanimous vote of those present.  
(*Second Reading/Public Hearing/Adoption*)

Council President Johnston duly opened the meeting to the public. Hearing nothing from the public, the public hearing was duly closed.

**ORDINANCE NO. 12 of 2021**

**An Ordinance**

**Granting Municipal Consent to Cross River Fiber, LLC for Permission to Non-Exclusive Use of Public Rights-Of-Way Within the City of Somers Point**

**WHEREAS** Cross River Fiber, LLC, (“Cross River”), is a provider of commercial mobile service subject to regulation by the Federal Communications Commission; and

**WHEREAS** Cross River has been approved by the New Jersey Board of Public Utilities to provide local exchange and interexchange telecommunications services throughout the State of New Jersey by Order of Approval in Docket No. TE11050320 on July 14, 2011, Docket No. TE12040297 on June 18, 2012, and Docket No. TM14080906 and intends to provide telecommunication services in accordance with that Order and the rules and regulations of the Federal Communications Commission and the New Jersey Board of Public Utilities; and

**WHEREAS** Cross River has entered into agreements with parties that have the lawful right to maintain poles in the public right-of-way pursuant to which Cross River may use such poles erected within the public right-of- way in the City of Somers Point (“City”); and

**WHEREAS**, Cross River has requested the consent of the City to place, service and maintain telecommunications facilities on jointly used poles located in the public rights-of-way managed and under the control of the City; and

**WHEREAS** N.J.S.A. 48:3-18 and N.J.S.A. 48: 3-19 authorize the City to grant municipal consent for the joint use of poles that have been lawfully erected within its rights-of-way; and

**WHEREAS** New Jersey law permits such use, provided that there is consent by the municipality; and

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**WHEREAS** the request for municipal consent has been reviewed by the City Engineer, the City Solicitor, the City Administrator, the Chief Financial Officer, and the City Risk Manager, and has been considered by this governing body; and

**WHEREAS** the City Council deems it to be in the best interests of the citizens of City to grant consent to Cross River to install telecommunications equipment in the public rights-of way subject to the conditions herein set forth.

Now therefore, be it **ORDAINED** by the City Council of the City of Somers Point in the County of Atlantic, State of New Jersey that:

SECTION 1. Permission and authority are hereby granted to Cross River and its successors a non-exclusive municipal consent to use existing utility poles and replacement poles which are of a size and type equal to the poles being replaced and erected by parties that have the lawful right through municipal consent and the approval of the New Jersey Board of Public Utilities to maintain poles within the public right- of-way in the City of Somers Point for the construction, installation, operation, repair, maintenance and replacement of a fiber optic telecommunications system subject to the following conditions:

- A. Cross River and its successors shall adhere to all applicable Federal, State, and Local laws regarding safety requirements related to the use of the public right-of-way.
  
- B. Cross River and its successors shall:
  - i) comply with all applicable Federal, State, and Local laws requiring permits prior to beginning construction, and shall obtain any applicable permits that may be required by the City of Somers Point, and by the City of Somers Point Development Ordinances.
  
  - ii) provide the City of Somers Point Construction Official / Code Enforcement Officer and City of Somers Point City Engineer with the location of each pole and / or conduit upon or in which fiber optic facilities are proposed to be placed together with the pole identification number, the identity of the owner of pole and Geographic Information System (GIS) map;
  
  - iii) not install on any pole or in any conduit any device other than a fiber optic attachment which is of the size and type described in Exhibit A;
  
- C. Cross River shall not install any new poles of replacement wood poles that are taller than the existing utility pole being replaced, nor install replacement utility poles made of steel or other non-wood material to replace an existing pole.

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D. This grant of municipal consent is not to be construed as authorizing the erection of any new pole within the right of way nor is it to be construed as authorizing Cross River to attach to any pole, structure, or other facility owned by or under the control of the City of Somers Point or any third party other than a New Jersey public utility from which consent to attach to such pole has been granted in writing.

E. Notwithstanding anything to the contrary contained herein, Cross River shall adhere to the terms and conditions of the underlying easement granted to the owner of the pole by the owner of the underlying soil, and Cross River shall not overburden any existing easement.

F. Nothing contained herein shall pre-empt or in any way preclude or constitute a waiver of the City's exercise of its planning or zoning powers under the New Jersey Municipal Land Use Law or other applicable law relative to the placement, regulation, zoning, or suitability of such structures within the City.

G. This grant of municipal consent is limited exclusively to Cross River for its own equipment to provide services to customers using the Cross River network. The consent from the municipality shall not be used by Cross River to construct infrastructure to be leased to others nor assigned by Cross River to any third party.

H. This municipal consent is hereby given upon the further condition and provision that Cross River, and its successors, shall to the fullest extent permitted by law, defend, pay on behalf of, indemnify, and hold harmless the City of Somers Point, its elected and appointed officials, its agents, employees and volunteers, the Atlantic County Joint Insurance Fund, and others working on behalf of the City of Somers Point from and against any and all claims, demands, suits, or loss, including all legal and professional fees, costs and any other expenses connected therewith, and for any damages which may be asserted, claimed or recovered against or from the City of Somers Point, its elected and appointed officials, its agents, employees, volunteers, the Atlantic County Joint Insurance Fund, or others working on behalf of the City of Somers Point by reason of personal injury, including bodily injury or death and/or property damage, including loss of use thereof, which arises out of or is in any way connected or associated with this consent, except to the extent resulting solely from the acts or omissions of the City of Somers Point. Cross River shall, at its own cost and expense, maintain commercial general liability insurance in the minimum amount of \$5,000,000 combined single limit per

occurrence, and automobile insurance with combined single limits of \$2,000,000 for bodily injury (including death) and property damage each occurrence, and Workers Compensation insurance in compliance with the statutory requirements of the State of New Jersey. The City of

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Somers Point, its elected and appointed officials, its agents, employees, volunteers, the Atlantic County Joint Insurance Fund, and others working on behalf of the City of Somers Point shall be included as an "Additional Insured" as their interests may appear under this municipal consent resolution on all general liability policies; and Cross River shall provide the City of Somers Point City Clerk with certificates of insurance (which shall be maintained and kept current at all times during the period of this municipal consent and which shall provide for not less than thirty (30) days' notice in the event of cancellation or termination; and shall also provide a copy of the Additional Insured Endorsement to such policies. Nothing in this section shall limit Cross River's liability in any way.

I. Cross River shall be responsible for the repair of any damage to paving, existing utility lines, or any surface or subsurface installations, arising from its construction, installation, or maintenance of its facilities.

J. Cross River shall pay to the City of Somers Point the sum of One Thousand Five Hundred Dollars (\$1,500.00) to cover the administrative expenses incurred by the City for legal, engineering and risk management expenses and cost of publication.

K. Cross River and its successors shall file with the Clerk of the City of Somers Point true and complete copies of all agreements between Cross River and the owner(s) of the poles to which Cross River proposes to attach.

L. The permission and authority hereby granted shall continue for a term of twenty-five (25) years and subject to continuation of a municipal consent by the City of Somers Point granted to those parties whose poles Cross River is using and, to the extent required, approval of such municipal consent by the New Jersey Board of Public Utilities (or its successor agency).

M. The Mayor and the City Clerk are authorized to execute and deliver such documents as necessary to effectuate this grant of municipal consent.

N. Upon final passage the City Clerk shall send a certified copy of this Ordinance to Cross River.

SECTION 2. Upon adoption this Ordinance shall be codified in the City of Somers Point Municipal Code as Appendix A-\_\_\_\_ "Cross River Municipal Consent".

SECTION 3. In the event any section, clause, sentence, phrase or provision or any item in this ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance.

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SECTION 4. All other ordinances inconsistent herewith are hereby repealed.

SECTION 5. This Ordinance shall take effect after final passage, approval, and publication as required by law.

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Council President Johnston received unanimous approval for a 48-hour waiver to add Resolution Number 179.

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**Resolutions:**

Clerk Samuelsen read by title only the list of resolutions.

**Public Portion Resolutions:**

Council President Johnston duly opened the meeting to the public.

Dan Myers, 429 Shore Road, praised the nomination to the Arts Commission.

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

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**Resolution No. 175 of 2021**

**M/S-McCarrie/Dill**

This resolution was adopted by a unanimous roll call vote of those present.

**Resolution No. 175 of 2021**

**Subject:                      Canceling Outstanding Checks & Bank Reconciliations Items**

**Introduced by:              Council President Johnston, Council Members McGuigan and Bruno**

**WHEREAS**, the CFO has determined that certain outstanding checks and bank reconciliation items should be cancelled.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Somers Point that the following outstanding checks and bank reconciliation items are hereby cancelled:



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General Account

Check Number	Amount
1641	\$100.00
2207	\$75.00

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**Resolution No. 176 of 2021**

**M/S-Dill/McCarrie**

This resolution was adopted by a unanimous roll call vote of those present.

**No. 176 of 2021**

**Subject: AUTHORIZING EXECUTIVE SESSION**

**Introduced By: Council President Johnston**

**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 Special COAH Counsel 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 August 26, 2021, 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.

**3 “(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.”**

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

**1. Advice of Counsel and attorney client communication regarding the legal and procedural issues pertaining to a proposal for redevelopment of Block 1815, Lots 3, 4, and 8, including the negotiation of the terms and conditions of a memorandum of understanding, a redevelopment agreement, and affordable housing obligations in compliance with Somers Point Municipal Code Chapter 69.**

**WHEREAS** the length of the Executive Session is estimated to be approximately 30 – 40 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)

<b>Subject of Discussion</b>	<b>Estimated Date</b>	<b>Necessary Occurrence</b>
<b>See Exception 7</b>	<b>Unknown at this time</b>	<b>Action by City Council.</b>

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**Resolution No. 177 of 2021**

M/S-Dill/McCarrie

Council President Johnston praised the study.

This resolution was adopted by unanimous vote of those present.

**No. 177 of 2021**

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**Subject: Supporting the U.S. Army Corps of Engineers  
New Jersey Back Bays Coastal Storm Risk Management Study**

**Introduced By: Council President Johnston**

**WHEREAS**, the U.S. Army Corps of Engineers has released the New Jersey Back Bays Coastal Storm Risk Management Study. The report outlines a ‘Tentatively Selected Plan’ framework, which includes three storm surge barriers, two cross-bay barriers, and the elevation of structures to reduce the risk of flood damages associated with storm surge. The Plan is subject to change and must be approved by higher authorities, including Congress, and has not been funded for implementation at the federal or state level; and

**WHEREAS**, the Army Corps, in partnership with New Jersey Department of Environmental Protection, conducted this feasibility study within the New Jersey Back Bay area. The objective of the study is to investigate problems and solutions to reduce damages from coastal storm-related flooding that affects population, critical infrastructure, property, and ecosystems. Engineering and economic analyses indicate the study area could experience \$1.8 billion in average annual flood damages if no action is taken; and

**WHEREAS**, the Army Corps has been meeting with the municipal leaders and have hosted public meetings to discuss the report; and

**WHEREAS**, the City of Somers Point is a bayfront community that has been subject to flooding and storm surges; and

**WHEREAS**, while the City of Somers Point had aggressively made flood mitigation improvements the City understands that this issue cannot be addressed without the involvement of the Army Corps and NJDEP; and

**WHEREAS**, the economic health of our region relies on flood and storm surge protection; and

**NOW, THEREFORE, BE IT RESOLVED** that the City Council of the City of Somers Point formally supports the U.S. Army Corps of Engineers New Jersey Back Bays Coastal Storm Risk Management Study.

**BE IT FURTHER RESOLVED** that the City Council of the City of Somers Point requests that the U.S. Army Corps of Engineers keep the City fully informed as the Plan moves forward, and the interim improvements be incorporated to protect our communities in the short term.

**BE IT FURTHER RESOLVED** that copies of this resolution be sent to the US Senators Menendez and Booker, Congressman Van Drew, Governor Murphy, District 2 State Senator and Assemblymen, County Executive Levinson, and the US Army Corps of Engineers.

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**Resolution No. 178 of 2021**

M/S-Ferreri/Dill

This resolution was adopted by unanimous vote of those present.

**No. 178 of 2021**

**Subject: Resolution Referring the Redevelopment Plan to the Somers Point Planning Board to Required by N.J.S.A 40a12a-7.E**

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**Introduced By: Council President Johnston, Council Members Dill and McGuigan**

**Whereas**, on November 20, 2014, the City Council of the City of Somers Point adopted Resolution No. 186 of 2014 declaring the entire area of the City of Somers Point to be an Area in Need of Rehabilitation pursuant to N.J.S.A. 40A:12A-14, accepting a recommendation from the Somers Point Planning Board based upon a City-Wide Rehabilitation Study and Report concluding the that the entire area of the City of Somers Point be determined to be an Area in Need of Rehabilitation; and

**Whereas**, pursuant to N.J.S.A. 40A:12A-7 of the “Local Redevelopment and Housing Law (“LRHL”), a municipality has the authority to adopt, by ordinance, a Redevelopment Plan for a property located in an area in need of rehabilitation; and

**Whereas**, by Resolution 149 of 2021 the City Council of the City of Somers Point approved a Memorandum of Understanding between the City of Somers Point and the Somers Point Paddle Club, LLC and designated Somers Point Paddle Club, LLC as the Interim Conditional Redeveloper for developing portions of Block 1211, Lot 2 located at Bay Avenue and Pleasant Avenue in the City of Somers Point comprised of approximately 6.20 acres (the "Subject Property"); and

**Whereas**, a draft Redevelopment Plan has been prepared, a copy of which is attached hereto, and a copy is on file in the Office of the City Clerk; and

**Whereas**, the draft Redevelopment Plan has been reviewed by the City Council members, the City Planner, and the City Engineer; and

**Whereas**, pursuant to N.J.S.A. 40A:12A-7e, prior to the adoption of a redevelopment plan, or revision or amendment thereto, the planning board shall transmit to the governing body, within 45 days after referral, a report containing its recommendation concerning the redevelopment plan, which report shall include an identification of any provisions in the proposed redevelopment plan which are inconsistent with the master plan and recommendations concerning these inconsistencies and any other matters as the board deems appropriate; and

**Now, therefore, it is hereby RESOLVED** by this governing body as follows:

1. The recitals set forth above are incorporated herein as if full set forth at length.
2. In order to comply with N.J.S.A. 40A:12A-7e, the City Council hereby refers the draft Redevelopment Plan to the Somers Point Planning Board with the request that the Planning Board hold a public hearing to consider and review the draft Redevelopment Plan and transmit to the governing body a report containing its recommendation concerning the Redevelopment Plan, including an identification of any provisions that are inconsistent with the overall intent of the City's Master Plan, as provided in N.J.S.A. 40A:12-7.e.

**It is further Resolved** that the City Clerk is directed to submit to the Somers Point Planning Board Secretary a certified copy of this Resolution including the attached draft Redevelopment Plan.

## **Resolution No. 179 of 2021**

**M/S-Dill/McCarrie**

Council Member McGuigan praised the resume of the candidate.

This resolution was adopted by unanimous vote of those present.

**No. 179 of 2021**

**Subject: Somers Point Arts Commission**

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**Introduced by:** Council President Johnston

**WHEREAS**, the Somers Point Arts Commission was established by Ordinance No. 13 of 2006; and

**WHEREAS**, vacancies exist on the Somers Point Arts Commission.

**NOW, THEREFORE, BE IT RESOLVED** that the following member is hereby appointed with their term expiring December 31, 2021:

- Jacqueline Galbiati

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**Old Business:** None

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**New Business:**

City Council approved the following items:

- Social Affair Permit Application for 11/11/21 at 6:00 p.m. to 11:00 p.m. for All Saints Council 6277 Knights of Columbus at Greate Bay Country Club. Clerk Samuelsen reported all paperwork is in order
- Approval of Waiver of Raffle License fee for V.F.W. Post 2189. Clerk Samuelsen reported all paperwork is in order
- Social Affair Permit Application for the Theater Collaborative of South Jersey for an Event at the Gateway Playhouse on 10/21//21 from 7:00-9:00 P.M. Clerk Samuelsen reported all paperwork is in order.

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**Discussion of Bills:**

Administrator Frost reported a Bill List dated 10/12/2021 in the amount of \$3,696,464.62 and a Record of Payment dated 10/5/2021 in the amount of \$1,658.00.

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**Public Portion:**

The meeting was duly opened to the public.

Patricia Pierson, 587 Marks Road, commented on the proposed Paddle Club Development.

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Council Member McGuigan commented on required public access and better bay views because of the project.

Mrs. Pierson praised the work on the circle. Council Member McGuigan agreed and praised the Garden Club.

Mrs. Pierson commented on publicity.

Lisa Bender, 1304 Atkinson Avenue, commented on the Paddle Club and back bay flooding.

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

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**Payment of Bills:**

M/S – Ferreri/Dill

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.

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**Recess:**

The Governing Body recessed briefly before going into Executive Session at 8:15 p.m.

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**Reconvene:**

Council President Johnston reconvened the Governing Body to Open Session at 8:29 p.m.

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**Adjournment:**

There being no further business to come before City Council, Council Member Dill moved, Council Member Ferreri seconded and carried to adjourn the meeting at 8:30 p.m.

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Submitted by:

Lucy R. Samuelson, RMC  
Municipal Clerk  
Approved: 10/28/2021