

**REGULAR MEETING
MAYOR AND CITY COUNCIL
February 22, 2018**

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

Present: Dill, Gerety, Meischker, D'Adamo, Tapp, McGuigan

Also Present: Mayor Glasser, Administrator Swain, City Clerk Samuelsen, Deputy Clerk Heath and Attorney Lafferty - Council President McGuigan also welcomed Fire Company.

Absent: Toto

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.

Guest Speakers: Nancy Mahoney, Shop Rite Manager, and Victoria Leach, RPN, Registered Dietitian Nutritionist graciously brought a bountiful fruit tray for everyone and spoke to the Governing Body and the public regarding health and wellness. Ms. Leach introduced herself and mentioned various services that they offer. She stressed that nutrition is important to prevent disease and mentioned the importance to eat everything in moderation. Council President McGuigan thanked them for the information and the treats.

Proclamations:

Proclamation No. 4

No. 4 of 2018

WHEREAS, food is the substance by which life is sustained; and

WHEREAS, the type, quality, and amount of food that individuals consume each day plays a vital role in their overall health and physical fitness; and

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WHEREAS, there is a need for continuing nutrition education and a wide-scale effort to enhance healthy eating practices;

NOW, THEREFORE, I, John L. Glasser, Jr., Mayor of the City of Somers Point, New Jersey do hereby proclaim the month of March as

NATIONAL NUTRITION MONTH

in the City of Somers Point, New Jersey and I encourage all citizens to join the campaign and become concerned about their nutrition and the nutrition of others in the hope of achieving optimum health for both today and tomorrow.

Public Portion on Resolution Numbers 53, 54 and 55 of 2018:

Meeting was opened to the public regarding the resolutions, and hearing no comments, duly closed.

Resolution No. 53

M/S – Dill/Tapp

The resolution was adopted by a unanimous vote of those present. Council President McGuigan stated that Mr. Ayers is an incredible asset to the City and to rise to this level is quite an achievement. Councilmen Dill and Tapp congratulated and thanked him for his service.

No. 53 of 2018

Congratulating Graeme Ayers - Somers Point Fire Company #1 - Firefighter of the Year

WHEREAS, the City of Somers Point is extremely fortunate to have been blessed with many men and women who volunteer to serve as members of our Fire Department and answer the call to protect our citizens and their property when needed; and

WHEREAS, the all-volunteer fire department alleviates a considerable financial burden on the taxpayers of this community and is a source of pride for the City; and

WHEREAS, Graeme Ayers is a long-time member of Fire Company #1; and

WHEREAS, Graeme also is employed full time as a member of the City's Department of Public Works; and

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WHEREAS, Graeme Ayers was selected as Firefighter of the Year for 2017 at Somers Point Fire Company #1.

Now therefore, it is hereby **RESOLVED** that the Mayor and City Council recognize and thank Graeme Ayers for this achievement and for his dedication to the Somers Point Volunteer Fire Department; and

It is further **RESOLVED** that the City Council of Somers Point conveys their gratitude to Graeme and their best wishes to him in all his future endeavors and services.

Resolution No. 54

M/S – Dill/Tapp

The resolution was adopted by a unanimous vote of those present. Council President McGuigan commended him for his efforts and being recognized by his company, which is a great, outstanding achievement.

No. 54 of 2018

Congratulating Gerald Michaels - Somers Point Fire Company #1 – Company Member of the Year

WHEREAS, the City of Somers Point is extremely fortunate to have been blessed with many men and women who volunteer to serve as members of our Fire Department and answer the call to protect our citizens and their property when needed; and

WHEREAS, the all-volunteer fire department alleviates a considerable financial burden on the taxpayers of this community and is a source of pride for the City; and

WHEREAS, Gerald Michaels is a member of Fire Company #1; and

WHEREAS, Gerald Michaels was selected as Company Member of the Year for 2017 at Somers Point Fire Company #1.

WHEREAS, Gerald earned this recognition because of his eagerness to do whatever needs doing around the fire house and is a great asset to the company; and

Now therefore, it is hereby **RESOLVED** that the Mayor and City Council recognize and thank Gerald Michaels for this achievement and for his dedication to the Somers Point Volunteer Fire Department; and

It is further **RESOLVED** that the City Council of Somers Point conveys their gratitude to Gerald and their best wishes to him in all his future endeavors and services.

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Resolution No. 55

M/S – RM/Tapp

The resolution was adopted by a unanimous vote of those present. Council President McGuigan stated that there are no words to thank you enough that reaches the level of that dedication. To serve your community in that capacity, is amazing. Councilman Tapp thanked him very much for his service. Mayor Glasser stated that the fire fighters are always there to protect us 24 hours a day, 7 days a week, and the whole City is indebted to you all. He thanked each one and mentioned the whole town appreciates the commitment and service. Mayor Glasser and Chief Sweeney proudly handed out the resolutions to the well-deserving firefighters that were acknowledged by everyone with a standing ovation

No. 55 of 2018

Saluting Mr. Andrew Cajaka. – 55 Years of Service with Somers Point Fire Company

WHEREAS, Andrew Cajaka is a lifelong resident of the City of Somers Point; and

WHEREAS, Andy has been an active member of the Somers Point Volunteer Fire Company for 55 years; and

WHEREAS, Andy has always been a strong and active member and has dedicated countless hours of time, energy, and commitment to the Fire Company; and

WHEREAS, he still is active; and

WHEREAS, the all-volunteer fire department is part of the fabric of the community and is a great source of pride for the City; and

Now therefore, it is hereby **RESOLVED** that the Mayor and City Council recognize and thank Mr. Andrew Cajaka for reaching this milestone of service with the Somers Volunteer Fire Department; and

It is further **RESOLVED** that the City Council of Somers Point conveys their gratitude to Andy for his life-long dedication to the citizens of Somers Point.

Ordinances:

Ordinance No. 1

M/S – Gerety/Dill

First Reading/Introduction

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The ordinance was adopted by a unanimous vote of those present. Rebecca Lafferty, Esq., explained the new requirements.

No. 1 of 2018

Ordinance Amending Ordinance No. 1 of 1985, Also Known As Chapter 114- Development Regulations, Article XXV- Guaranties; Improvement Costs, §114-185, §114-186 and §114-187, and Repealing All Ordinances Heretofore Adopted The Provisions Of Which Are Inconsistent Herewith

Whereas, the City of Somers Point adopted Chapter 114- Development Regulations, Article XXV- Guaranties; Improvement Costs, which provided for, *inter alia*, performance guaranties, inspections and tests; and

Whereas, in the judgment of the City Council for the City of Somers Point, it is in the public interest for the Guaranties; Improvement Costs article to be amended to conform with the existing New Jersey State law as amended on January 16, 2018.

Now, therefore, be it ordained by the City Council for the City of Somers Point, County of Atlantic and State of New Jersey, that:

Section 1: §114-185, Performance guaranties, is hereby amended to read as follows:

§114-185, Performance and other guaranties

A. Performance guaranties

- (1) No final application for development shall be approved by the Board until the satisfactory completion and performance of those improvements required by an approval or developer's agreement, ordinance, or regulation to be dedicated to a public entity, which improvements shall be certified to the Board by the City Engineer and unless the owner shall have filed with the municipality a performance guaranty assuring the installation of ~~said~~ those improvements that are to be dedicated to a public entity on or before an agreed date and as hereinafter provided.
- (2) Before the filing of final subdivision plats or recording of minor subdivision deeds or as a condition to the issuance of a zoning permit pursuant to subsection d. of section 52 of P.L.1975, c.291 (C.40:55D-65) the owner shall have filed with the City a performance guaranty assuring the installation of those improvements that are to be dedicated to a public entity on or before an agreed date and as hereinafter provided.
- (3) A developer or owner shall file with the City a performance guaranty for privately owned perimeter buffer landscaping as required by ordinance or imposed as a condition of approval within an approved phase or section of a development. At the developer or

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owner's option, a separate performance guaranty may be posted for the privately-owned perimeter buffer landscaping.

B. [There are no changes to existing § 114-185B]

C. A performance guaranty estimate shall be prepared by the applicant, setting forth all requirements for improvements to be dedicated to a public entity and any privately-owned perimeter buffer landscaping and their estimated cost. Said estimate shall be reviewed by the City Engineer, who shall either approve or adjust this performance guaranty. The performance guaranty shall be calculated pursuant to the requirements of Section 41 of P.L.1975, c.291 (C.40:55D-53a(1)(a)).

D. Other Guaranties

(1) Temporary Certificate of Occupancy Guaranty

(a) In the event a developer or owner seeks a temporary certificate of occupancy for a development, unit, lot, building, or phase of a development, the developer or owner shall furnish a separate guaranty to the City in an amount equal to 120% of the cost of installation of only those improvements or items which remain to be completed or installed under the terms of the temporary certificate of occupancy and which are required to be installed or completed as a condition precedent to the issuance of the

(b) permanent certificate of occupancy for the development, unit, lot, building or phase of development which are not covered by an existing performance guaranty. The scope of the Temporary Certificate of Occupancy Guaranty shall be determined by the City Engineer.

(2) Safety and Stabilization Guaranty

(a) A developer or owner shall furnish to the City a Safety and Stabilization Guaranty for the purpose of returning property that has been disturbed to a safe and stable condition or otherwise implementing measures to protect the public from access to an unsafe or unstable condition under the circumstances as set forth within N.J.S.A. 40:55D-53(d).

(b) The amount of the Safety and Stabilization is to be calculated pursuant to the requirements of N.J.S.A. 40:55D-53(d) and at the developer's option may be furnished either as a separate guaranty or as a line item of the performance guaranty.

E. Approval by City Attorney.

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- (1) The applicant shall present two copies of all performance guaranties, temporary certificate of occupancy guaranties, and safety and stabilization guaranties in ~~an~~ amounts
- (2) equal to 100% of the approved guaranty estimate for approval as to form and execution by the City Attorney.
- (2) [There are no changes to existing § 114-185E(2)]

Section 2: §114-186, Form of performance guaranty, is hereby amended to read as follows:

§114-186, Form of ~~performance~~ guaranty

The performance guaranty, temporary certificate of occupancy guaranty and safety and stabilization guaranty shall be made payable and deposited to the City of Somers Point and shall be in the form of cash or a certified check or an unlimited letter of credit from a bank or a performance bond in which the owner shall be principal, the bond to be provided by an acceptable surety company licensed to do business in the State of New Jersey. The city shall issue its receipt for such deposits and shall cause the same to be deposited in a bank named by the municipality in the name of the city to be retained as a security for completion of all required work or, in the event of default on the part of the owner, to be used by the city to pay the cost and expense of obtaining completion of all requirements. Every performance guaranty shall contain a clause to the effect that a determination by the City Engineer that the principal has defaulted in the performance of his obligation shall be binding and conclusive.

Section 3: §114-187, Inspections and tests, is hereby amended to read as follows:

- A. All improvements and utility installations shall be inspected during the time of their installation under the supervision of the City Engineer to ensure satisfactory completion. The cost of said inspection shall be the responsibility of the owner or developer, and he shall deposit with the City Treasurer, for placement in escrow, a sum not to exceed, except for extraordinary circumstances, the greater of \$500 or 5% of the amount of the cost of bonded improvements that are subject to a performance guaranty, and not to exceed 5% of the cost of private site improvements that are not subject to a performance guaranty. For subdivisions, the owner or developer shall deposit an amount not to exceed 5% of the amount of the cost of all improvements to be applied to inspection costs. If inspection costs exceed such fund, the owner or developer shall deposit with the City Treasurer additional sums upon written notice signed by the City Engineer which informs the owner or developer of the need for additional funds, details the items or undertakings that require inspection, estimates the time required for those inspections, and estimates the cost of performing those inspections. The City Treasurer shall return any balance of the inspection deposit to the owner upon expiration of the maintenance bond, together with the paid invoice for all expenses charged, except that the inspection fee shall in no case be less than \$100.

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B. [There are no changes to existing § 114-187B]

C. [There are no changes to existing § 114-187C]

D. [There are no changes to existing § 114-187D]

E. [There are no changes to existing § 114-187E]

F. [There are no changes to existing § 114-187F]

G. Release of guaranties.

(1) Release of performance guaranty. The governing body shall, by resolution, release or declare in default each performance guaranty. Prior to the governing body releasing a performance guaranty, the Construction Official must have reviewed the request for release and officially recommended such release. Such performance guaranty shall remain in effect until released by the governing body. The amount of the performance guaranty may be reduced by the governing body by resolution when portions of the required improvements have been installed and have been inspected, provided that 30% of the amount of the total performance guaranty and Safety and Stabilization Guaranty posted shall be retained to ensure completion and acceptability of improvements. Any amount of the performance guaranty attributable to bonded improvements for which a Temporary Certificate of Occupancy guaranty has been posted shall be released from the performance guaranty even if such release would reduce the amount held by the municipality below 30%. No reduction shall be approved until the City Engineer shall have certified the estimated cost of completing any remaining required improvements. If any improvements have not been installed in accordance with the performance guaranty, the obligor and surety shall be liable thereon to the city for reasonable cost on the improvements not installed and, upon receipt of the proceeds thereof, the city shall install such improvements. The city shall also have all other remedies as may be lawfully available.

(3) Release of Temporary Certificate of Occupancy guaranty. The City shall not hold more than one guaranty or bond of any type with respect to the same line item. Upon the posting of a Temporary Certificate of Occupancy Guaranty, all sums remaining under a performance guaranty which relate to the development, unit, lot, building, or phase of development for which the temporary certificate of occupancy is sought, shall be released. A Temporary Certificate of Occupancy Guaranty shall be released by the City Engineer upon the issuance of a permanent certificate of occupancy with regard to the development, unit, lot, building or phase as to which the temporary certificate of occupancy relates.

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(5) Release of Safety and Stabilization guaranty. The City shall release a safety and stabilization guaranty to a developer upon the developer's furnishing of a performance guaranty which includes a line item for safety and stabilization in the amount required within N.J.S.A. 40:55D-53(d), or upon the City Engineer's determination that the development of the project site has reached a point that the improvements installed are adequate to avoid any potential threat to public safety.

H. Conditions for acceptance of improvements.

[There are no changes to existing § 114-187H (first paragraph)]

(1) [There are no changes to existing § 114-187H(1)]

(2) [There are no changes to existing § 114-187H(2)]

(3) The owner shall have filed with the governing body a maintenance guaranty in an amount not to exceed 15% of the cost of installing the improvements which are being released. Upon the inspection and issuance of final approval of certain private site improvements by the City Engineer, the developer shall post a maintenance guaranty in an amount not to exceed 15% of the cost of the installation of the following private site improvements: stormwater management basins, in-flow and water quality structures within the basins, and the out-flow pipes and structures of the stormwater management system which shall be calculated pursuant to the Municipal Land Use Law. The maintenance guaranty shall run for a period of 2 years and shall automatically expire at the end of the established term. The procedures and requirements governing such maintenance guaranty shall be identical with the procedures and requirements for a performance guaranty set forth in this chapter. The requirements for a maintenance guaranty may be waived by the governing body only if the City Engineer has certified that the improvements have been in continuous use for not less than two years from the date the City Engineer certified completion of such improvements and that during this period the owner has maintained the improvements in a satisfactory manner.

Section 4: Severability and Effectiveness Clause.

A. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be unconstitutional, invalid, or unenforceable by a court of competent jurisdiction, such decision shall not affect the remaining portions of this Ordinance.

B. Any Ordinance inconsistent with the terms of this Ordinance is hereby repealed to the extent of such inconsistency.

Section 5: Effective Date.

This Ordinance shall take effect upon its final passage and publication as provided by law.

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Resolutions:

Public Portion:

Meeting was opened to the public regarding the remaining resolutions, and hearing no comments, duly closed. City Council concurred to the 48-hr. waiver to consider Proclamation No. 4 and Resolution No. 56.

Resolution No. 50

M/S – Dill/D’Adamo

The resolution was adopted by a unanimous vote of those present.

No. 50 of 2018

**Subject: Authorizing Execution of 2018 Municipal
Aerial Mosquito Control Agreement**

Sponsored by: Council President McGuigan

WHEREAS, from time to time it may become necessary to perform aerial application of pesticides for mosquito control over certain areas of Somers Point; and

WHEREAS, such application should be performed by the Atlantic County Department of Public Works, office of Mosquito Control; and

WHEREAS, all pesticides and aircraft utilized are approved for aerial application by State and Federal governments; and

WHEREAS, the Atlantic County Department of Public Works, Office of Mosquito Control shall notify the Somers Point Police Department, the City and local news media prior to any application.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that Mayor John L. Glasser, Jr. is hereby authorized to execute the 2017 Municipal Aerial Mosquito Control Agreement, a copy of which is attached hereto and made a part hereof.

Resolution No. 51

M/S – Gerety/Dill

The resolution was adopted by a unanimous vote of those present.

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No. 51 of 2018

Subject: Approval to Submit a Grant Application and Execute a Grant Agreement with the State of New Jersey

Introduced By: Councilmen Dill, D’Adamo and Meischker

WHEREAS, the Marine Trades Association of NJ is accepting applications for the New Jersey Clean Vessel Program; and

WHEREAS, this program is available to municipalities to provide funding for Pump Out Stations for marinas; and

WHEREAS, this program provides funds for the construction, renovation, operation, and maintenance of pump out stations and for educational programs that inform boaters of the importance of proper disposal of their sewage; and

WHEREAS, this grant program does not require a cost share; and

WHEREAS, the City of Somers Point is eligible to apply for this grant program; and

WHEREAS, the City of Somers Point carefully considers grant programs that assist the City in achieving projects and programs that are priorities for the community.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point as follows:

1. The City of Somers Point formally approves that grant application for the above referenced program.
2. The Mayor and Clerk are hereby authorized to submit a grant application to the Marine Trades Association of NJ on behalf of the City of Somers Point.
3. The Mayor and Clerk are hereby authorized to sign the grant agreement on behalf of the City of Somers Point and their signature constitutes acceptance of the terms and conditions of the grant agreement and approves the execution of the grant agreement.
4. The City agrees to comply with all applicable federal, State and municipal laws, rules and regulations in its performance pursuant to the grant requirements.

Resolution No. 52

M/S – Dill/D’Adamo

The resolution was adopted by a unanimous vote of those present.

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No. 52 of 2018

Subject: Resolution Referring a Proposed Amendment to Ordinance No. 1 of 1985, Also Known as Chapter 114- Development Regulations, Article XXV- Guaranties; Improvement Costs, §114-185, §114-186 and §114-187, to the City of Somers Point Planning Board For a Report Pursuant to N.J.S.A. 40:55D-26a

Introduced By: Councilman Howard Dill

Whereas, the Senate and General Assembly for the State of New Jersey amended Section 41 of P.L.1975, c.291 (C.40:55D-53) on January 16, 2018 regarding performance and maintenance guaranties; and

Whereas, the amendments took effect immediately; and

Whereas, the Mayor and City Council for the City of Somers Point have determined that amendments to Ordinance No. 1 of 1985, also known as Chapter 114- Development Regulations, Article XXV- Guaranties; Improvement Costs, §114-185, §114-186 and §114-187, are in order to bring the existing Ordinance into compliance with the changes made to N.J.S.A. 40:55D-53; and

Whereas, pursuant to N.J.S.A. 40:55D-26a, Mayor and City Council must refer the proposed amendments to the Planning Board for a report.

Now, Therefore, Be It Resolved by the Mayor and Council of the City of Somers Point, Atlantic County that:

1. The attached proposed Ordinance Amending Ordinance No. 1 of 1985, also known as Chapter 114- Development Regulations, Article XXV- Guaranties; Improvement Costs, §114-185, §114-186 and §114-187, is hereby referred to the Planning Board for its statutory review and report pursuant to N.J.S.A. 40:55D-26a.
2. The Planning Board shall provide its report within the statutory 35 day period.
3. This Resolution shall take effect immediately.

Resolution No. 56

M/S – Meischker/Tapp

The resolution was adopted by a unanimous vote of those present.

No. 56 of 2018

Subject: Authorizing the Somers Point Green Advisory Committee to make application for a Sustainable Jersey Grant funded by PSEG in the amount of \$2,000.

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Introduced By: Councilman Toto

WHEREAS, the Somers Point Green Advisory Committee was created by City Council to advise the City Council and the City administration on ways to improve municipal operations with green initiatives which are economically and environmentally sound through research and evaluation; and

WHEREAS, a sustainable community seeks to optimize quality of life for its residents by ensuring that its environmental, economic and social objectives are balanced and mutually supportive; and

WHEREAS, Somers Point strives to save tax dollars, assure clean land, air and water, and improve working and living environments; and

WHEREAS, Somers Point is participating in the Sustainable Jersey Program; and

WHEREAS, one of the purposes of the Sustainable Jersey Program is to provide resources to municipalities to make progress on sustainability issues, and they have created a grant program called the Sustainable Jersey Small Grants Program; and

WHEREAS, the Somers Point Green Advisory Committee feels that residents could take part in protecting our local natural resources if given the opportunity; and

WHEREAS, activities relating to reusing resources and reducing resource use through composting and native landscaping can lead to water conservation, increased habitat for wildlife, improved groundwater conditions, and reduced tipping fees; and

WHEREAS, the Somers Point Green Advisory Committee can promote these practices by educating residents about native landscaping, composting, and downspout diversion to reduce water runoff with the use of Grant funds.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the Somers Point Green Advisory Committee is hereby authorized to submit the aforementioned Sustainable Jersey Grant.

BE IT FURTHER RESOLVED that the Mayor and City Administrator are hereby authorized to execute any documents necessary on behalf of the City and the Green Advisory Committee in connection with this grant application including any grant agreement that may be forthcoming.

Communications:

None

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Mayor's Report:

Mayor Glasser encouraged everyone to support Somers Point loves the arts from 3:00 p.m. to 6:00 p.m. at Great Bay Country Club. Mayor Glasser sadly reported that Ms. Sue Marino is no longer with the Current and added that we will miss her for how she covered the town and highlighted City events.

Administrator's Report:

None

Solicitors Report:

None

Committee Reports:

Councilman Dill reported that the City received a Community Development Block Grant in the amount of \$392,000 to repave Bethel Road, which is not enough to do the whole road. City Engineer plans to recommend waiting for additional funding for next year to reconstruct the entire road.

Council President McGuigan reported the zoning matrix and impervious coverage were modified from the Planning Board's proposal from last year, which they added a column for building coverage and lot coverage. Previously, the Planning Board proposed 80% in many of the zones, but now the highest is 70% plus the additional column for the building coverage. Planning Board will formally request City Council to approve the updated proposal. Councilman Tapp conferred with the Construction Official who indicated that the way it is written doesn't break down the difference clearly enough regarding building coverage and lot coverage, and suggested there still may be some confusion. Councilman Meischker recommended to define whatever terms are being used. Council President McGuigan explained that this matrix allows a clear understanding of the codes across the different zones and changing of lot coverage. Councilman Meischker requested the City Engineer provide a current list and an updated list. Council President McGuigan mentioned there may be further consideration at the next scheduled City Council meeting.

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Council President McGuigan reported that the Budget and Finance Committee has set the budget schedule. He scheduled a budget workshop meeting for March 8th at 6:00 p.m. The introduction of the budget is scheduled for March 22nd.

Approval of Minutes:

M/S – Dill/Gerety

The Regular Meeting of 2/8/18 were approved by a unanimous vote of those present.

Consent Agenda:

None

Old Business:

None

New Business:

City Council approved a Social Affair permit for the Somers Point Business Association of Somers Point on 4/14/18.

Discussion of Bills:

Administrator Swain reported a record of payment of 2/22/18 in the amount of \$2,500.00 and a bill list dated 2/20/18 in the amount of \$ 955,827.19.

Public Portion

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

Payment of Bills

M/S – Tapp/Dill

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

Adjournment

There being no further business to come before Council, the meeting was adjourned at 7:50 p.m.

Respectfully submitted,

Lucy R. Samuelsen, RMC
Municipal Clerk
Approved: 3/8/18