

**REGULAR MEETING
MAYOR AND CITY COUNCIL
April 25, 2024**

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: Haberkorn, Owen, DePamphilis, McCarrie, McGuigan, Dill, Johnston

Also Present: Mayor Tapp, Administrator Frost, City Clerk Samuelson, 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.

Resolution No. 110 of 2024

M/S- Dill/Owen

This resolution was adopted by unanimous vote of those present.

No. 110 of 2024

Subject: Read Budget by Title Only

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

WHEREAS, N.J.S 40A:4-8 provides that the budget be read by title only at the time of the public hearing if the resolution is passed by not less than a majority of the full governing body, providing that at least one week prior to the date of the hearing a complete copy of the approved budget as advertised has been posted in City Hall and copies have been made available by the City Clerk to persons requiring them; and

WHEREAS the City Clerk affirms hereto that these two conditions have been met; and

WHEREAS City Council hereby declares that at least one week prior to the date of the hearing a complete copy of the approved budget as advertised has been posted in City Hall and posted on the City's website. Also, copies have been made available by the City Clerk to people requiring them.

NOW THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the budget shall be read by title only.

Auditor Costello briefly detailed the 2024 budget, indicating that there have been no changes since its introduction on March 28th, with the 1.4 cent tax increase.

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Public Portion Resolutions (94 and 110 only):

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

**Resolution No. 94 of 2024 PUBLIC HEARING/ADOPTION OF THE 2024 MUNICIPAL BUDGET
M/S- Dill/Owen**

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

Council Member Dill thanked Auditor Costello, the Administrative staff, Department Heads, and everyone involved with constructing the budget.

Council Member McGuigan added his appreciation for the City Administrator and Chief Financial Officer.

Council President Johnston praised Administration and Auditor Costello for their guidance.

Mayor Tapp declared his full support of the budget.

Communications:

City Administrator Frost reported that the Atlantic County Utilities Authority will be decreasing their collections for commercial businesses at the start of next year.

Mayor's Report:

Mayor Tapp announced that Bayfest will be held on 4/27/24 from 10:00 a.m. to 5:00 p.m., and recognized Bayfest Committee Chairman, Steve Hornig.

Engineer's Report:

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City Engineer Schneider updated City Council on current projects, such as the Ocean Avenue Project, which will be closed out by resolution at the next meeting, and the final paving of Colwick, Exton, and Devon Road, which should begin the week of 4/29/24.

Committee Reports:

Chuck Westcot provided City Council with a detailed quarterly report for the Economic Development Advisory Commission. He stated that he is very enthusiastic about the City’s growth in their online presence, seeing an increase in followers, visits, click rate, and subscribers. He also mentioned that EDAC will be meeting on May 6, 2024, to discuss the City’s Master Plan.

Council President Johnston added that through the Economic Development Advisory Commission, the City joined the Atlantic County Economic Alliance, which has allowed the City to apply and be approved for a Neighborhood Preservation Tax Credit Program.

Approval of Minutes:

On the motion of Council Member Owen, seconded of Council Member Haberkorn, with Council Member Dill recusing, and carried to approve the Regular Meeting Minutes of 4/11/2024 and Executive Session Meeting minutes of 3/28/2024 approved as to content only.

Ordinances:

Ordinance No. 10 of 2024

(Second Reading/Public Hearing/Adoption)

M/S- McGuigan/Haberkorn

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

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

No. 10 of 2024

An Ordinance Enacted Under Authority of N.J.S.A. 39: 4-197, N.J.S.A. 39: 4-197.6, N.J.S.A. 40:48-2.46 all Which Grant the City the Authority to Regulate Handicapped Parking Within the City, Amending Chapter 250 – Vehicles and Traffic, Article

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III - Handicapped Parking, Section 250-50 – Designations of Spaces of the Somers Point Municipal Code

WHEREAS, N.J.S.A. 39:4-197 authorizes a Municipality, by ordinance, to regulate parking on its streets; and

WHEREAS, N.J.S.A. 39:4-197.6 authorizes a Municipality, by ordinance, to provide for restricted parking in front of a residence occupied by a person with a disability which has the appropriate permit from the Motor Vehicle Commission which identifies a specific motor vehicle coinciding the location wherein it is to be parked; and

WHEREAS, N.J.S.A. 40:48-2.46 authorizes a Municipality, by ordinance, to regulate parking in public parking lots of businesses; and

WHEREAS, Chapter 250 – Vehicles and Traffic; Article III - Handicapped Parking; Section 250-50 – Designations of Spaces; of the Somers Point Municipal Code sets forth areas which are to be designated and marked as handicapped parking spaces within the City of Somers Point; and

WHEREAS, from time to time, the City is made aware that the necessity of a handicapped parking at a certain location is no longer needed or that the property location is incorrect; and

WHEREAS, City Council recognizes that the necessity of removing such properties from the list of handicapped parking under Section 250-50 of the Somers Point Code, as well as ensuring that such properties are properly identified in said section.

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. That Chapter 250 – Vehicles and Traffic; Article III - Handicapped Parking; Section 250-50 – Designations of Spaces; of the Somers Point Municipal Code is hereby amended to reflect the following changes:

- The Location of “Directly in front of 55 Gibbs Avenue” for the handicapped parking space located on Delaware Avenue [Added 12-19-2005 by Ord. No. 23-2005] is hereby deleted as an incorrect location and replaced with the location of “Directly in front of 11 Delaware Avenue;” and
- The Location of “Directly in front of 11 Delaware Avenue” for the handicapped parking spot on East New Jersey Avenue is hereby deleted for being an incorrect location;
- The space on Gibbs Avenue [Added 11-17-2008 by Ord. No. 25-20008], North Side, is hereby repealed as it is no longer necessary for the property at 55 Gibbs Avenue; and
- The space on Groveland Avenue [Added 12-16-2021 by Ord. No. 15-2021], South Side, with a Location of “Directly in front of 658 Groveland Avenue,” is hereby repealed as it is no longer necessary for this property; and
- The spaces at Harbor Lights Restaurant, Bay Avenue, North Side of front entrance, Location of “First 3 parking spaces” is hereby deleted as no longer necessary for this property since there is no longer an improvement at such site.

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SECTION 2: All other provisions of Chapter 250 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.

Ordinance No. 11 of 2024

(Second Reading/Public Hearing/Adoption)

M/S- Haberkorn/Owen

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

Council President Johnston duly opened the meeting to the public.

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

No. 11 of 2024

**An Ordinance Enacted Under Authority of N.J.S.A. 39: 4-197,
N.J.S.A. 39: 4-197.6 and N.J.S.A. 39: 4-197.7, granting the City
the Authority to Establish Restricted Parking Zones in Front of
a Residence**

WHEREAS, N.J.S.A. 39:4-197 authorizes a Municipality, by ordinance, to regulate parking on its streets; and

WHEREAS, N.J.S.A. 39:4-197.6 authorizes a Municipality, by ordinance, to provide for restricted parking in front of a residence occupied by a person with a disability which has the appropriate permit from the Motor Vehicle Commission which identifies a specific motor vehicle coinciding the location wherein it is to be parked; and

WHEREAS, N.J.S.A. 39:4-197.7 authorizes a Municipality, by ordinance, to provide for the issuance of permits which identify a specific motor vehicle and the location wherein it is to be parked, such permits to be issued only to persons who can prove ownership and operation of the motor vehicle and residency at the location specified thereon; and

WHEREAS, Chapter 250 – Vehicles and Traffic; Article V- Residential Parking Permits; Section 250-54 – Designations of Locations; of the Somers Point Municipal Code sets forth areas which are to be designated and marked as permit parking only; and

WHEREAS, from time to time, the City is made aware that the necessity of permit parking for a handicapped parking space at a certain location is no longer needed; and

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WHEREAS, City Council recognizes that the necessity of removing such properties from the list of permit parking under Section 250-54 of the Somers Point Code.

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. The Somers Point Municipal Code Chapter 250 - Vehicles and Traffic, Article V – Residential Parking Permits, Section 250-54 – Designations of Locations to repeal and remove the following location;

- Name of Street – Groveland Avenue [Added 12-16-2021 by Ord. No. 15 of 2021]; Side – South; Designated Location – Directly in front of 658 Groveland Avenue.

SECTION 2: All other provisions of Chapter 250 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.

Ordinance No. 12 of 2024
(First Reading/Introduction)

M/S- Owen/Haberkorn

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

No. 12 of 2024

AN ORDINANCE AMENDING CHAPTER 242 – TREES AND SHRUBS, BY DELETING CURRENT ARTICLES I – PROTECTION, AND II – VISABILITY AT INTERSECTIONS, AND REPLACING SAME WITH ARTICLE I – TREE REMOVAL AND REPLACEMENT, AND ARTICLE II – MAINTENANCE REQUIREMENTS

WHEREAS, from time to time, the City of Somers Point (“City”) receives mandatory directives from the New Jersey Department of Environmental Protection (“DEP”); and

WHEREAS, the DEP has issued a mandatory directive for municipalities relative to the enactment of an ordinance relative to tree removal and replacement; and

WHEREAS, the City hereby wishes to come in compliance with such directive; and

WHEREAS, the City’s Code currently maintains a chapter on Trees and Shrubs which was enacted in 1925 and amended in 1970; and

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WHEREAS, this chapter, in addition to containing certain outdated provisions of law, makes reference to a City Shade Tree Commission, which the City no longer maintains; and

WHEREAS, City Council for the City believes that it is appropriate to amend the chapter on Trees and Shrubs to bring it up to date with the current Code, as well as incorporate the provisions of the DEP's mandatory ordinance on tree removal and replacement.

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. Article I – Protection, and Article II – Visibility at Intersection, of Chapter 242 – Trees and Shrubs, are hereby repealed in their entirety;

SECTION 2. A new Article I of Chapter 242-Trees and Shrubs, entitled “Tree Removal and Replacement,” with the following sections is hereby enacted:

§242-1. Purpose

In recognition that trees contribute significantly to the character of Somers Point aesthetically, promote the environmental integrity of the community by providing natural habitats, moderating temperatures, filtering stormwater, and reducing erosion, as well as protect and preserve the environment and promote public health, safety and welfare, the purpose of this Article is to establish requirements for tree removal and replacement within the City.

§242-2. Definitions

For purposes of Chapter 242 of the Code, the following terms, phrases, words, and their derivations shall have the meanings stated herein unless their use in the text of this ordinance clearly demonstrates a different meaning. When consistent with the context, words used in the present tense include the future, words used in the plural number include the singular number, and words used in the singular number include the plural number. The use of the word "shall" means the requirement is always mandatory and not merely directory.

- A. “Applicant” means any “person,” as defined below, who applies for approval to remove trees regulated under this ordinance.
- B. “Critical Root Radius (CRR)” – means the zone around the base of a tree where the majority of the root system is found. This zone is calculated by multiplying the diameter at breast height (DBH) of the tree by 1.5 feet. For example: a tree with a 6” Diameter at Breast Height (DBH) would have a CRR = 6”x1.5’ = 9”.
- C. “Diameter at Breast Height (DBH)” means the diameter of the trunk of a mature tree generally measured at a point four and a half feet above ground level from the uphill side of the tree. For species of trees where the main trunk divides below the 4 ½ foot height, the DBH shall be measured at the highest point before any division.
- D. “Hazard Tree” means a tree or limbs thereof that meet one or more of the criteria below. Trees that do not meet any of the criteria below and are proposed to be removed solely for development purposes are not hazard trees.
 - 1. Has an infectious disease or insect infestation;
 - 2. Is dead or dying; If this determination is not easily observable, a report documenting the specimen’s condition by a certified arborist or a Licensed Tree Expert (LTE) should be submitted by the Applicant to support this claim.
 - 3. Obstructs the view of traffic signs or the free passage of pedestrians, bicycles or vehicles, where pruning attempts have not been effective;

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4. Is causing obvious damage to structures (such as building foundations, sidewalks, etc.); or
5. Is determined to be a threat to public health, safety, and/or welfare by a certified arborist or Licensed Tree Expert (LTE).
- E. “Owner” means any person or group of persons, firm, corporation or officer thereof, partnership, limited liability company, association or trust who owns, operates, exercises control over, or is in charge of a property. The ownership records of the County of Atlantic Clerk's office used for property tax purposes shall be conclusive evidence of the ownership of property regulated pursuant to this article.
- F. “Planting strip” means the part of a street right-of-way between the public right-of-way and the portion of the street reserved for vehicular traffic or between the abutting property line and the curb or traveled portion of the street, exclusive of any sidewalk.
- G. “Resident” means an individual who resides on the residential property where a tree regulated by this ordinance is removed or proposed to be removed.
- H. “Shrub” means a woody plant which is smaller than a tree which has several main stems arising at or near the ground. This term also includes what is commonly referred to as bushes and/or hedges.
- I. “Street Tree” means a tree planted in the sidewalk, planting strip, and/or in the public right-of-way adjacent to the portion of the street reserved for vehicular traffic. This also includes trees planted in planting strips within the roadway right-of-way, i.e., islands, medians, etc.
- J. “Tree” means a woody perennial plant, typically having a single stem or trunk having a minimum DBH of 6” growing to a considerable height and bearing lateral branches at some distance from the ground.
- K. “Tree Caliper” means the diameter of the trunk of a young tree, measured six (6) inches from the soil line. For young trees whose caliper exceeds four (4) inches, the measurement is taken twelve (12) inches above the soil line.
- L. “Tree removal” means to kill or to cause irreparable damage that leads to the decline and/or death of a tree. This includes, but is not limited to, excessive pruning, application of substances that are toxic to the tree, over-mulching or improper mulching, and improper grading and/or soil compaction within the critical root radius around the base of the tree that leads to the decline and/or death of a tree. Removal does not include responsible pruning and maintenance of a tree, or the application of treatments intended to manage invasive species.

§242-3. Regulated Activities

A. Application Process:

1. Any owner or resident, or a contractor acting on their, or their agent’s behalf, planning to engage in the removal of a street tree, with DBH of 2.5” or more shall submit a construction application permit. No tree shall be removed until the application has been reviewed and approved by either the City’s Construction or Zoning Official, or Code Enforcement Officer.
2. Any owner, resident or developer, or a contractor acting on their, or their agent’s behalf, seeking approval from either the City’s Planning Board or Zoning Board of

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Adjustment for purposes of seeking to enhance, develop or redevelop property or properties involving tree removal, as that term is defined herein, shall complete and submit with the application the following:

- (a) An inventory as to the type, size (DBH) and location of trees proposed for removal that exceed 2.5” DBH within the public right-of-way and 6” DBH outside the public right-of-way is to be provided.
- (b) In addition, a report accompanied by a plan is to be provided clearly detailing how the trees and street trees, as defined herein, are to be replaced.

B. Tree Replacement Requirements:

- 1. Any owner, resident, developer, contractor, or agent of same, who engages in a tree removal one or more street tree(s) with a DBH of 2.5” or more, unless exempt under Section §242-4, shall be subject to the requirements of the Tree Replacement Requirements Table.
- 2. Any person or entity, other than the owner of the property or contractor authorized by the owner, who removes one or more tree(s), with a DBH of 6” or more, unless otherwise exempt under Section §242-4, shall be subject to the requirements of the Tree Replacement Requirements Table below.
- 3. The species type and diversity of replacement trees shall be in accordance with the list provided in Appendix A.

C. Replacement tree(s) shall:

- 1. Be replaced in kind with a tree that has an equal or greater DBH than tree removed or meet the Tree Replacement Criteria in the table below;
- 2. Be planted within twelve (12) months of the date of removal of the original tree(s) or at an alternative date specified by the municipality;
- 3. Be monitored by the Applicant for a period of two (2) years to ensure their survival and shall be replaced as needed within twelve (12) months; and
- 4. Shall not be planted in temporary containers or pots, as these do not count towards tree replacement requirements.

Tree Replacement Requirements Table:

Category	Tree Removed (DBH)	Tree Replacement Criteria (See Appendix A)
1	DBH of 2.5” (for street trees) or 6” (for non-street trees) to 12.99”	Replant 1 tree with a minimum tree caliper of 2.0” for each tree removed
2	DBH of 13” to 22.99”	Replant 2 trees with minimum tree calipers of 2.5” for each tree removed
3	DBH of 23” to 32.99”	Replant 3 trees with minimum tree calipers of 2.5” for each tree removed

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4	DBH of 33” or greater	Replant 4 trees with minimum tree calipers of 2.5” for each tree removed
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D. Replacement Alternatives:

1. If the reviewing board and/or zoning or construction official, or code enforcement officer determines that some or all required replacement trees cannot be planted on the property where the tree removal activity occurred, then the applicant shall do one of the following:
 - (a) Plant replacement trees in a separate area(s) approved by City Council for such purposes, or;
 - (b) Pay a fee in the amount of \$500 per replacement tree. The fee shall be placed by the City into a fund strictly dedicated to tree planting and continued maintenance of the trees planted on public lands throughout the City.

§242-4. Exemptions

All persons shall comply with the tree replacement standard outlined above, except in the cases detailed below. Proper justification, such as recent photographs and/or a report from a certified arborist or licensed tree expert, shall be provided, to the City by all persons claiming an exemption.

- A. Residents who remove less than two (2) trees on a single residential property that fall into Category 1 and 2 of the Tree Replacement Requirements Table within a five-year period; however, street trees not meeting the Hazard Tree criteria and non-street trees in Categories 3 and 4 being removed are to be replaced in accordance with the Replacement Table;
- B. Tree farms in active operation, nurseries, fruit orchards, and garden centers;
- C. Properties used for the practice of silviculture under an approved forest stewardship or woodland management plan that is active and on file with the municipality;
- D. Any trees removed as part of a municipal or state decommissioning plan. This exemption only includes trees planted as part of the construction and predetermined to be removed in the decommissioning plan.
- E. Any trees removed pursuant to a New Jersey Department of Environmental Protection (NJDEP) or U.S. Environmental Protection Agency (EPA) approved environmental clean-up, or NJDEP approved habitat enhancement plan;
- F. Approved game management practices, as recommended by the State of New Jersey Department of Environmental Protection, Division of Fish, Game and Wildlife;
- G. Hazard trees, unless designated as street trees, may be removed with no replacement. Street tree(s) meeting the definition of hazard trees must be replaced in accordance with §242-3, unless the construction official determines that the replacement tree(s) will cause a threat to public health, safety, and/or welfare of the public.

§242-5. Enforcement

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The provisions of this Article shall be enforced by either the City Engineer, City Construction or Zoning Official, Code Enforcement Officer, and/or City Construction/Zoning Officials during the course of standard construction review and enforcement duties.

§242-6. Violations and Penalties

Any person(s) who is found to be in violation of the provisions of this Article shall be subject to a fine not exceeding \$1,000, or to imprisonment for a term not exceeding 90 days, or to a period of community service not exceeding 90 days, or any combination of the foregoing. The improper removal of each tree or street tree shall count as a separate offense.

APPENDIX “A”

APPROVED LIST OF REPLACEMENT TREE SPECIES AND PLANTING STANDARDS FOR THE CITY OF SOMERS POINT

Proposed canopy and understory tree species proposed for replacement plantings on development and redevelopment sites in the City should be selected based on site conditions and their proposed function.

Perimeter buffer plantings on commercial sites especially in locations adjacent to existing residential uses should prioritize native evergreen species capable of providing an effective long term screen once mature. Street tree and ornamental canopy plantings should emphasize species adapted to Coastal plain soils and climatic conditions, and also selected to minimize conflicts with existing/proposed overhead and/or subgrade utilities.

Non-irrigated canopy species should initially incorporate slow release tree watering irrigation system to aid in successful establishment and incorporate mulching with organic and/or aggregate materials.

Specific species should be healthy, nursery-grown stock of required diameter breast height(dbh) and overall size at planting consistent with the latest edition of the American Standard for Nursery Stock published by the American Nursery and Landscape Association. Planting varieties should create diversity of species in order to minimize disease and insect damage. All invasive species noted by the New Jersey Native Plant Society should be avoided. Evergreens primarily for use in screening and ornamental applications can include the following species that need to be actively maintained through trimming and/or shearing:

- Eastern Red Cedar (*Juniperus virginiana*)
- American Holly (*Ilex opaca*)
- Eastern White Pine (*Pinus strobes*)
- Virginia Pine (*Pinus virginiana*)
- Leyland Cypress (*Cupressus X Leylandii*)

Deciduous Street Trees – should emphasize varieties such as the following native species:

Scientific Name

Quercus palustris

Quercus alba

Quercus rubra

Ulmus americana

Tilia americana

Platanus americana

Common Name

Pine Oak

White Oak

Northern Red Oak

American Elm

American Linden/Basswood

American Sycamore

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Quercus prinus

Chestnut Oak

Nyssa sylvatica

Black Gum

Liriodendron tulipifera

Tulip Tree

Acer rubrum

Red Maple

*Referenced from Street Trees for New Jersey-Outside the Pine Barrens

Commercial/Residential Replanting Applications

Deciduous and/or evergreen species proposed for replanting should be based on suitability for existing site conditions and, if possible, selected from the list provided for the Native Plant Society of New Jersey for Atlantic County.

All replacement plantings are to be warranted by the Applicant/Owner, and are subject to replanting if a specimen becomes diseased and dies within two (2) years of the original planting date.

SECTION 3. A new Article II of Chapter 242-Trees and Shrubs, entitled “Maintenance Requirements,” with the following sections is hereby enacted:

§242-6. Duties of Owners and Residents

The owners and residents of property within the City of Somers Point are required to:

- A. Keep all shrubs, brush, hedges, and other plant life growing within 10 feet of any roadway and within 25 feet of the intersection of two roadways cut to a height of not more than 2 1/2 feet where it shall be necessary and expedient for the preservation of the public safety.
- B. Ensure that all trees, street trees, shrubs, brush, hedges, or other plant life either in the planting strip or right of way alongside their property, or located on their property, are maintained so as to not intrude upon, obstruct or restrict the use of any public sidewalk or roadway.

§ 242-7. Notice to comply.

Any owner or resident in violation of §242-6, shall, upon 10 days’ notice provided by the Construction or Zoning Official, Code Enforcement Officer, or any police officer, provide for the trimming or cutting of the such trees, street trees, shrubs, brush, hedges and/or plant life so as remove the offensive growth.

§ 242-8. Failure to comply.

If said owner or resident shall refuse or neglect to trim or cut the aforementioned trees, street trees, shrubs, brush, hedges and/or other plant life in the manner and within the time provided in § 242-7 above, then any of the City Officials set forth in said section may file a complaint in the Municipal Court of the City of Somers Point against the owner and/or resident for violation of this Article. In addition, the City, by and through its Public Works Department may undertake such action as necessary to ensure that the offensive growth is either trimmed, cut or removed.

§ 242-9. Performance of work by city.

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Where trees, street trees, shrubs, brush, hedges and/or other plant life are cut from any lands within the City of Somers Point, under § 242-8 hereof, the Head of Public Works shall certify the cost thereof to the City Administrator, which shall examine the certificate and, if found correct, shall cause the cost as shown thereon to be charged against said property. The amount so charged shall forthwith become a lien upon such lands and shall be added to and become and form part of the taxes next to be assessed and levied upon such property, the same to bear interest at the same rate as other taxes and shall be collected and enforced by the same officers and in the same manner as taxes.

§ 242-10. Violations and penalties.

Anyone found guilty of violating this Article shall be subject to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding 90 days or to a period of community service not exceeding 90 days, or any combination of the foregoing.

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 Johnston duly opened the meeting to the public.
Hearing nothing further from the public, the public portion was duly closed.

Resolution No. 111 of 2024

M/S- Dill/Owen

This resolution was adopted by unanimous vote of those present.

No. 111 of 2024

Subject: Dedication by Rider – Credit Card Processing Fees

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

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Whereas, permission is required of the Director of the Division of Local Government Services for approval as a dedication by rider of revenues received by a municipality when the revenue is not subject to reasonably accurate estimates in advance; and

Whereas, NJAC 5:30-9 provides for receipt of funds for Credit Card Processing Fees by the municipality to provide for the operating costs to administer this act; and,

Whereas, N.J.S.A. 40A:4-39 provides the dedicated revenues anticipated from the Credit Card Processing Fees are hereby anticipated as revenue and are hereby appropriated for the purpose to which said revenue is dedicated by statute or other legal requirement:

NOW, THEREFORE, BE IT RESOLVED, by the Governing Body of the City of Somers Point, County of Atlantic, New Jersey as follows:

1. The Governing Body does hereby request permission of the Director of the Division of Local Government Services to pay expenditures of the Credit Card Processing Fees
2. A copy of the Resolution shall be submitted by the CFO to the Director of the Division of Local Government Services through the FAST system.

Resolution No. 112 of 2024

M/S- Dill/Owen

This resolution was adopted by unanimous vote of those present.

Council Member Dill shared his gratitude towards Council Member McGuigan for bringing forth this information to the public. He urged everyone to report any seen or suspected abuse.

Council Member McGuigan thanked Council Member Dill for his statement and called on everyone to protect the children.

Council Member Owen expressed his gratitude and agreed with Council Members Dill and McGuigan.

No. 112 of 2024

Subject: **Child Abuse Prevention and Awareness Month**

Introduced by: **Council Member McGuigan**

WHEREAS, the maltreatment, abuse and neglect of children is a significant social problem that damages children physically, mentally, and emotionally and inflicts immeasurable harm on society as a whole and all children deserve to be nurtured, protected and free from physical or emotional harm; and

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WHEREAS, Children who have been abused or neglected have a higher risk of developing various health problems as adults, including alcoholism, depression, drug abuse, eating disorders, obesity, suicide, and certain chronic diseases; and

WHEREAS, child maltreatment occurs when people find themselves in stressful situations, without community resources, and don't know how to cope; and

WHEREAS, all citizens should become involved in supporting families in raising their children in a safe and nurturing environment; and

WHEREAS, effective child abuse prevention programs succeed because of partnerships created among state and local government agencies, schools, faith communities, civic organizations, law enforcement agencies, and the business community; and

WHEREAS, Child abuse and neglect have long-term economic and societal costs; and

WHEREAS, providing community-based prevention services to families whose children may be at risk of child abuse or neglect is less costly than addressing the emotional and physical damage that can result from child abuse and neglect; and

WHEREAS,

April is nationally recognized as Child Abuse Prevention Month, a time for our community to come together to celebrate the small actions each of us can take that make a big impact on the well-being of our children; and

WHEREAS, all sectors of the community, including law enforcement, medical professionals, schools, courts, and media outlets, as well as numerous public and private agencies, have joined forces to promote public awareness and community involvement in strengthening families during the month of April and continuing throughout the year.

NOW, THEREFORE BE IT RESOLVED, that the City Council of the City of Somers Point supports the efforts to prevent child abuse and recognizes April as Child Abuse Prevention and Awareness Month in the City of Somers Point; and

BE IT FURTHER RESOLVED that the City Council of the City of Somers Point call upon all citizens, community agencies, faith groups, medical facilities, youth programs, and businesses to increase their efforts to support families, thereby preventing child abuse and strengthening the community in which we live.

Resolution No. 113 of 2024

M/S- Dill/Owen

This resolution was adopted by unanimous vote of those present.

Council Member Dill clarified this resolution and commended Galloway Township for their selection.

Council President Johnston agreed with Council Member Dill.

Council Member McGuigan acknowledged the City's previous Tax Assessor, Sean Gaskill.

No. 113 of 2024

**REGULAR MEETING
MAYOR AND CITY COUNCIL
April 25, 2024**

Subject: **Authorizing an Amendment to the Shared Services Agreement with the Township of Galloway for the Purposes of Sharing Tax Assessor Services**

Introduced by: **Council Members Dill, McGuigan and McCarrie**

Whereas, the City of Somers Point previously entered into a Shared Services agreement with the Township of Galloway for the purposes of Sharing Tax Assessor Services authorized by Resolution 63 of 2023; and

Whereas, as the Township of Galloway recently had a change in personnel due to the resignation of the previous Tax Assessor, Sean Gaskill, CTA from his position; and

Whereas, the City of Somers Point and Township of Galloway have agreed to amend their shared services agreement to reflect a change in personnel for Jennifer M. Dowe, CTA to serve in the position of Tax Assessor position to fill the current vacancy and

Whereas, the City Administrator has recommended that City Council adopt an amendment reflecting the change in personnel as of April 29th 2024.

Now, therefore, be it resolved by the City Council of the City of Somers Point as follows:

1. The amendment to the agreement by and between the Township of Galloway and the City of Somers Point which is attached hereto and made a part hereof is hereby approved.
2. The Mayor and the City Clerk are hereby authorized to sign the attached agreement amendment.
3. The Mayor and/or the City Administrator are hereby authorized to execute any further documents that may be necessary in connection with this shared services agreement on behalf of the City.

Resolution No. 114 of 2024

M/S- Owen/Haberkorn

This resolution was adopted by unanimous vote of those present.

No. 114 of 2024

AUTHORIZING EXECUTIVE SESSION

Subject: ADVICE OF COUNSEL REGARDING THE STATUS OF LITIGATION

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-

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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 April 25, 2024, 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 communication regarding the status of Tax Court litigation involving the City and entitled, “HPT-IHG Two Property Trust v. City of Somers Point,” having docket numbers of 010711-2018, 002101-2019, 003548-2020, and 003141-2021; and Sonesta es Suites v. City of Somers Point, having docket numbers of 004442-2022 and 002590-23.

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.

**REGULAR MEETING
MAYOR AND CITY COUNCIL
April 25, 2024**

Resolution No. 115 of 2024

M/S- Owen/Haberkorn

This resolution was adopted by unanimous vote of those present.

No. 115 of 2024

AUTHORIZING EXECUTIVE SESSION

Subject: ADVICE OF COUNSEL REGARDING THE STATUS OF LITIGATION

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 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 April 25, 2024 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 litigation involving the City’s Planning Board entitled, “GMH Restaurant Holdings, LLC v. the City of Somers Point and Powersports Holdings, LLC,” having a docket number of ATL-C-16-24.

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;

REGULAR MEETING MAYOR AND CITY COUNCIL April 25, 2024

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.

Old Business:

None

New Business:

- City Council approved a Social Affair Permit Application for American Legion Clark Eliason Post 352 for an event on 7/20/2024 from 5:00 P.M. to 9:00 P.M contingent on the approval from the Chief of Police.
- City Council approved an Extension of Premises Application for Charlie's Bar for an event on 6/2/2024 from 11:00 A.M. to 7:00 P.M. contingent on the approval from the Chief of Police.

Discussion of Bills:

Administrator Frost reported a Bill List dated 4/23/2024 in the amount of \$2,649,940.98, and a Record of Payment dated 4/23/2024 in the amount of \$59,598.95.

Public Portion:

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Council President Johnston duly opened the meeting to the public.

Ellen Hyatt asked City Council to reconsider her request for parking on Higbee Avenue while referring to the risks of crossing Shore Road.

Council Members Dill, McCarrie, McGuigan and Mayor Tapp suggested the Parking Committee take a second look at this request.

David Kissick expressed his concern about traffic safety on Maryland Avenue.

Council President Johnston explained that the Police Chief is currently investigating traffic safety on Maryland Avenue.

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

Payment of Bills:

M/S: Owen/Haberkorn

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:

Council Member Dill recognized the Economic Development Advisory Commission and Performance Marketing for their commitment.

Recess:

The Governing Body recessed briefly before going into Executive Session at 7:55 p.m.

Reconvene:

Council President Johnston reconvened the Governing Body to Open Session at 8:10 p.m.

Adjournment:

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There being no further business to come before City Council, Council Member Dill moved, Council Member Owen seconded and carried to adjourn the meeting at 8:10 p.m.

Respectfully submitted,

Lucy R. Samuelsen, RMC
Municipal Clerk
Approved: 5/9/2024