

**REGULAR MEETING
MAYOR AND CITY COUNCIL
April 27, 2023**

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, Owen, DePamphilis, McCarrie, McGuigan, Dill, Johnston

Also Present: Administrator Frost, City Clerk Samuelson, City Solicitor Smith, and City Engineer Schneider

Absent: Mayor Glasser

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.

Public Portion Resolutions (92 and 93 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. 92 of 2023

M/S- Dill/McCarrie

This resolution was adopted by unanimous vote of those present.

No. 92 of 2023

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

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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.

Resolution No. 93 of 2023

M/S- Dill/Bruno

This resolution was adopted by unanimous vote of those present.

No. 93 of 2023

Subject: Self-Examination of the 2023 Budget

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

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7.2 through 7.5, the City of Somers Point has been declared eligible to participate in the program by the Division of Local Government Services, and the Chief Financial officer has determined that the local government meets the necessary conditions to participate in the program for the 2023 budget year.

NOW THEREFORE BE IT RESOLVED by the governing body of the City of Somers Point that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officer's certification, the governing body has found the budget has met the following requirements:

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:
 - a. Payment of interest and debt redemption charges
 - b. Deferred charges and statutory expenditures
 - c. Cash deficit of preceding year
 - d. Reserve for uncollected taxes
 - e. Other reserves and non-disbursement items

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- f. Any inclusions of amounts required for school purposes.

- 2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met (complies with CAP law).

- 3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.

- 4. That pursuant to the Local Budget Law:
 - a. All estimates of revenue are reasonable, accurate and correctly stated,
 - b. Items of appropriation are properly set forth
 - c. In itemization, form, arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.

- 5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.

- 6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

**Resolution No. 73 of 2023 PUBLIC HEARING/ADOPTION OF THE 2023 MUNICIPAL BUDGET
M/S- Dill/McCarrie**

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

Auditor Costello explained that there have been no changes to the budget since its introduction on March 23rd. It still has the same 8.3 cent increase and made up of a handful of line items that total over one million dollars. He explained that once the public hearing on the budget is over, City Council can make a motion to adopt it by a roll call vote.

Public Portion Municipal Budget:

Council President Johnston duly opened the meeting to the public.

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John Helbig of 106 East Daws Avenue asked Auditor Costello if he thought that the increase in taxes would be recurring or a one-time occurrence. In addition, he inquired about the loss of the donation from the Shore Medical Center.

Dale Premish of 57 Village Drive queried about how the taxes relate to the Police Department.

Patricia Pierson of 587 Marks Road inquired about any reductions the City made to the Budget.

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

Communications:

None

Mayor's Report:

Council President Johnston conveyed the Mayor's congratulations to the Gateway Theater and Tony Marts for their Eddie and The Cruisers Anniversary event. Next, he reminded the public that Bayfest will be held this Saturday on April 29th from 10 a.m. to 5 p.m., rain or shine.

Administrator's Report:

None

Solicitors Report:

Solicitor Smith met with the Cannabis Committee, and they have several recommendations for City Council to consider. He explained the six classes of cannabis licenses that the State has approved and that the Committee has been focusing on the Class 5 License, Cannabis Retailer, for which the municipality can impose up to a 2% municipal tax. Whereas, with a Cannabis Wholesale and Distributer, the City is limited to a 1% tax. The Committee also advised that there should not be more than three retail operations in the City, and that if a facility were to be opened, they recommend opening a larger capacity facility. He then stated that regarding distribution centers, the Committee feels that there should be no more than two in the City. Moreover, the Committee looked at commercial districts for the location, which would be from Bethel Road, south on Route 9 and down to New Jersey Avenue, as well as MacArthur Boulevard.

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They believe that a good location for a distribution facility would be on Somers Point-Mays Landing Road and Chestnut Avenue, near the lumber yard. The Committee affirms that any facility needs to be at least 200 feet away from the property of a school. Additionally, Mr. Smith indicated that the Committee believes delivery service should be permitted with the Retail license, as well as having a drive-through. He also talked about certain things that can be imposed on the business, such as, the hours of operation, building capacity, issues with outdoor congregation, having two security guards on site, and waste disposal being picked up at least once a week. City Solicitor Smith advised about the need to create an application for potential vendors, and considering amending the Planning Master Plan to emphasize where such facilities are not permitted by ordinance. Additionally, he also outlined the potential vendor steps in acquiring a license. If they have questions, they should be meeting with the Cannabis Committee and not anyone outside of the Committee. Then they would submit a proposal to City Council and if City Council wishes to proceed, the application and interview process would take place followed by a meeting with Planning Board representatives. Lastly, Mr. Smith advised City Council to decide whether they would like the Committee to move forward on this matter and will discuss further at the next meeting on May 11th.

Engineers Report:

Engineer Schneider reminded City Council of the New Jersey Department of Environmental Protection's (NJDEP) requirement of municipalities to pass a new flood prevention ordinance, which was met with push back from municipalities all over southern New Jersey. As a result, the NJDEP has provided a revised draft ordinance, with the removal of several previous requirements. The requirements removed consisted of the following: new flood regulations automatically amending the City's ordinances without City approval; the requirement of new roadways and parking areas be elevated one foot above flood hazard design elevation; the requirement of municipalities to adopt preliminary flood maps, changing the location of flood zones without input from the City; and, the requirement of the City to track minor improvements done to homes in the flood zone. Having made those changes, the NJDEP is now asking municipalities to adopt the new ordinance to be in compliance with the flood zone regulations and FEMA. Engineer Schneider stated that because the NJDEP has made some reasonable changes, he recommends that City Council adopt the new ordinance.

Committee Reports:

- Economic Development Advisory Commission (EDAC)- Council Member Owen reported that EDAC has been working on marketing the City and choosing a marketing firm for a Request for Proposal (RFP) to go out this coming year. Council President Johnston added that they will be doing their quarterly presentation at the May 11th meeting to bring everybody up to date and to offer their suggestions for marketing.

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- Parking Committee- Council President Johnston stated that EDAC agrees with the proposed change in parking ratios and will provide a letter stating as such. In addition, the Somers Point Business Association also agrees with the proposed changes and has sent City Council a letter.

Approval of Minutes:

On the motion of Council Member Dill, seconded of Council Member Bruno and carried to approve the Regular Meeting Minutes of 4/13/2023.

Ordinances:

Ordinance No. 4 of 2023

(Second Reading/Public Hearing/Adoption)

M/S- Owen/Bruno

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. 4 of 2023

An Ordinance Amending and Supplementing the Somers Point Municipal Code Chapter 114 Development Regulations, and Enacting Article XXXII, Zoning Matrix Schedule, Section 114-233, Designated as “Schedule of Minimum Area, Yard and Building Requirements.”

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SOMERS POINT, IN THE COUNTY OF ATLANTIC, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

WHEREAS, the City of Somers Point has enacted certain developmental regulations as set forth in Chapter 114 of the City Code; and

WHEREAS, Section 114-5 of said Chapter, enumerates nineteen (19) different districts within the City; and

WHEREAS, each district is identified in a separate Article of said Chapter; and

WHEREAS, the requirements for minimum area, yard, and building for each of the districts can be different; and

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WHEREAS, City Council believes that setting forth a matrix format for the schedule of certain districts would simplify the general public’s use of Chapter 114, as well as its understanding of the development requirements of certain districts.

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

SECTION 1:

Chapter 114 of the Code of the City of Somers Point is hereby amended and supplemented to include Article XXXII, identified as “Zoning Matrix Schedule,” as well as creating Section 114-233, which is identified as “Schedule of Minimum Area, Yard and Building Requirements for Certain Districts.”

SECTION 2:

Section 114-233 shall read as follows:

The matrix below hereby sets forth a schedule for the minimum area, yard and building requirements which provisions are to be consistent with those requirements identified in Articles IV through XI, Articles XII and XIII, and Articles XV through XVII of Chapter 114 of the City Code, and the Districts identified therein. To the extent that they are not, said requirements in the aforesaid Articles shall govern.

(See Attached Matrix Form)

SECTION 3:

All other provisions of Chapter 114 shall remain in full force and effect and shall apply to this amendment upon the effective date of this Ordinance.

SECTION 4:

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

SECTION 5:

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

SECTION 6:

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

Resolutions:

Public Portion Resolutions:

Council President Johnston duly opened the meeting to the public.

John Helbig of 106 East Dawes Avenue asked Engineer Schneider for clarification regarding the improvements being done on Ocean Heights Avenue.

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

Resolution No. 94 of 2023

M/S- Dill/Bruno

This resolution was adopted by unanimous vote of those present.

No. 94 of 2023

Subject: Authorizing Agreement with Atlantic County Concerning Design, Construction and Jurisdictional Control of Proposed Improvements Along the Somers Point / Linwood Bike Path at the Crossing of Ocean Heights Ave (CR 559)

Introduced By: Council President Johnston

WHEREAS Atlantic County currently owns the right of way of Ocean Heights Avenue (CR 559) in the City of Somers Point and maintains said roadway for vehicular travel between the curb lines thereof; and

WHEREAS, City currently owns and operates the portions of the Somers Point Bike Path that is located within the municipal boundaries of Somers Point; and

WHEREAS, The City applied for and was awarded \$165,000 in FY 2022 Congestion Mitigation and Air Quality Improvement Program (CMAQ) grant funding for the installation of various amenities along the Somers Point Bike Path, including flashing beacons at crosswalks; pedestrian and bicycle counters; bicycle repair stands; wayfinding signs; bike racks and benches; and

WHEREAS, in support of the City's continued efforts to improve safety and foster bicycle and pedestrian travel throughout the City, the County has agreed to allow the City to design, construct and install the proposed Improvements within portions of the County right of way at the bike path crossing of Ocean Heights Avenue (CR 559), subject to the terms and conditions of a potential Agreement; and

WHEREAS, the parties desire to enter into this Agreement to define the various tasks that must be performed to facilitate construction and jurisdictional control of the Improvements

WHEREAS, The City shall be responsible for all costs associated with the design and construction of the proposed Improvements and upon final completion of the Work, the County and the City shall jointly maintain and shall apportion maintenance of the proposed improvements; and

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WHEREAS, the City of Somers Point is authorized to enter into an agreement with Atlantic County Concerning Design, Construction and Jurisdictional Control of Proposed Improvements Along the Somers Point / Linwood Bike Path at the Crossing of Ocean Heights Ave (CR 559)

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

1. The Mayor is hereby authorized and directed to execute the agreement between Atlantic County and the City of Somers Point in the form attached hereto.
2. Upon its execution, the executed copy of the agreement will be attached hereto and made a part hereof.

Resolution No. 95 of 2023

M/S- McCarrie/Dill

This resolution was adopted by unanimous vote of those present.

No. 95 of 2023

Subject: Change Order 1 – Contract No. 120 – 2022 Stormwater Improvements Phase II – Rebid

Introduced By: Councilman Dill

WHEREAS, in accordance with Resolution 215 of 2022, Landberg Construction, LLC of Dorothy, New Jersey, was awarded the contract for the 2022 Stormwater Repairs Phase II Rebid for the sum of \$130,867.25; and

WHEREAS, during the course of construction changes were made due to additional emergency stormwater repairs and to reflect as-built quantities; and

WHEREAS, the City Engineer has recommended approval of these changes; and

WHEREAS, those changes have resulted in a change of the contract amount as follows:

Contract Amount	\$130,867.25
Change order 1	\$13,686.05
Revised Contract Amount	\$144,553.30

Total Deduction: \$0 Total Additional: \$13,686.05 Net Change: 10.46%

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the above listed change to the contract for the 2022 Stormwater Improvements Phase II Rebid is hereby approved and that the Mayor is hereby authorized and directed to execute all documents in this regard on behalf of the City.

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Resolution No. 96 of 2023

M/S- Owen/McCarrie

This resolution was adopted by unanimous vote of those present.

No. 96 of 2023

Subject: Resolution of City of Somers Point Approving the Second Joinder Agreement Allowing the City of Egg Harbor City to Withdraw as a Participant and Including New Jersey–American Water Company, Inc. as a New Participant

Introduced by: Council President Johnston

WHEREAS, a Sewage Conveyance and Treatment Agreement dated as of September 1, 1973 (the “Original Agreement”) was executed among the Atlantic County Utilities Authority (as successor to the Atlantic County Sewerage Authority), and other municipal entities and authorities, including Absecon City, Brigantine City, Linwood, the Borough of Longport, Margate City; the City of Northfield, Pleasantville, Ventnor City, the Egg Harbor Township Municipal Utilities Authority, Galloway Township (as successor to the Galloway Township Municipal Utilities Authority), the City of Somers Point (as successor to the Somers Point City Sewerage Authority), and the Atlantic City Sewerage Company (collectively, the “Original Participants”);

WHEREAS, pursuant to the July 17, 1990 Joinder Agreement, Supplementing Sewage Conveyance and Treatment Agreement Dated as of September 1, 1973, by and between the Atlantic County Utilities Authority, the Original Participants, the Hamilton Township Municipal Utilities Authority, the Weymouth Township Municipal Utilities Authority, and the City of Egg Harbor City, the Hamilton Township Municipal Utilities Authority, the Weymouth Township Municipal Utilities Authority, and the City of Egg Harbor City were included as new participants under the Original Agreement;

WHEREAS, the City of Egg Harbor City has entered into an agreement with New Jersey-American Water Company, Inc. for the sale of its public water and public sewer infrastructure, real property and related improvements; and

WHEREAS, the conveyance of the City of Egg Harbor City’s sewer improvements necessitates the execution of a Second Joinder Agreement which will allow the City of Egg Harbor City to withdraw as a participant and permit New Jersey-American Water Company, Inc. to become a new participant under the Original Agreement, as amended; and

WHEREAS, by New Jersey-American Water Company, Inc. becoming a new participant pursuant to the Second Joinder Agreement, it will assume all of the rights and obligations and stand in place of the City of Egg Harbor City under the Original Agreement, as amended.

NOW, THEREFORE, be it resolved that the Somers Point City Council hereby approves of the Second Joinder Agreement Amending and Supplementing the Sewage Conveyance and

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Treatment Agreement dated as of September 1, 1973, as amended, a copy of which is annexed hereto as Exhibit “A”;

BE IT FURTHER RESOLVED that John L. Glasser, Jr, Mayor, is hereby authorized to execute the Second Joinder Agreement for and on behalf of the City of Somers Point.

Resolution No. 97 of 2023

M/S- Dill/Owen

This resolution was adopted by unanimous vote of those present.

No. 97 of 2023

Subject: Change Order 1 – Contract No. 122 – Bay Avenue Replacement Lights Rebid

Introduced By: Councilman Dill

WHEREAS, in accordance with Resolution 53 of 2023, Hughes Electric Company, LLC of Pleasantville, New Jersey, was awarded the contract for the Bay Avenue Replacement Lights Rebid for the sum of \$611,890.35; and

WHEREAS, emergency electrical repairs are required on the Rt.52 fishing pier decorative lights and the decorative lighting at the Rt.52 and Shore Road intersection due to a traffic accident involving the control panel for these lights; and

WHEREAS, the City Engineer has recommended approval of these changes; and

WHEREAS, those changes have resulted in a change of the contract amount as follows:

Contract Amount	\$611,890.35		
Change order 1	\$52,340.00		
Revised Contract Amount	\$664,230.35		
Total Deduction: \$0	Total Additional:	\$52,340.00	Net Change: 8.6%

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the above listed change to the contract for the Bay Avenue Replacement Lights Rebid is hereby approved subject to final approval regarding the scope of work and determined reimbursement from Atlantic City Electric AKA Exelon Corporation and that the Mayor is hereby authorized and directed to execute all documents in this regard on behalf of the City.

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Old Business:

None

New Business:

- Dan Myers of the Arts Commission and Chase Jackson of the Ocean City Arts Center requested approval to install a temporary public art piece in Kennedy Park during the months of August through October. They discussed the required Certificate of Insurance, that the size of the installation would be an eight-foot square, and it would be just north of the staircase, between the two benches. They would like to have the unveiling at the Good Old Days Festival on September 9th. In addition, the Arts Commission will be hosting two workshops where the community will be participating in what the orbs will look like and making their own smaller orbs for their gardens. Moreover, they stated that the largest size of orb would be 40 inches in diameter and the height would be 48 inches with the anchor. They explained that there would be signage to deter people from climbing on the orb and that the Certificate of Insurance would cover any accidents. Furthermore, they clarified that the art piece is a tool to communicate to the public about coastal flooding and climate resilience. They also assured City Council that the artist would be the one to maintain its installation, upkeep, and dismantlement.
- Approval of Social Affair Permit for American Legion Post 352 on May 7, 2023, from 1:00 p.m. to 5:00 p.m.

Discussion of Bills:

Administrator Frost reported a Bill List dated 4/25/2023 in the amount of \$384,430.72, a Record of Payment dated 4/20/2023 in the amount of \$93,767.07, and a Record of Payment dated 4/25/2023 in the amount of \$888.73.

Public Portion:

The meeting was duly opened to the public.

Bob Protesto of 108 Woodland Avenue opined potential negative social impacts by opening a cannabis dispensary and urged City Council to take consider his thoughts.

Linda Rihl of 18 Franklin Drive expressed her concern for the condition of the Senior Citizen Center as well as the lack of program offerings for senior citizens in the City.

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

Payment of Bills:

M/S: Dill/Bruno

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 Owen thanked John Helbig, director of the Green Team for the City-Wide Cleanup on April 15th, as they collected close to 800 pounds of trash. He also mentioned that the Police Athletic-Activities League had a fundraiser for community programs.

Adjournment:

There being no further business to come before City Council, Council Member McCarrie moved, Council Member Bruno seconded and carried to adjourn the meeting at 8:24 p.m.

Respectfully submitted,

Lucy R. Samuelsen, RMC
Municipal Clerk
Approved: 5/11/2023