

**REGULAR MEETING
MAYOR AND CITY COUNCIL
May 27, 2021**

Meeting called to order via ZOOM and in-person at 7:00 p.m. by President Johnston with a salute to the flag.

Roll call was recorded as follows:

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

Also Present: Mayor Glasser, City Administrator Frost, City Clerk Samuelsen, Deputy City Clerk Heath and City Solicitor Thomas Smith

Absent: None

Open Public Meetings Act:

Pursuant to the Open Public Meetings Act, adequate notice of this meeting has been provided. Agenda for this meeting has been provided to two local newspapers and posted in the City Clerk's Office and on the City's website, somerspointgov.org. The meeting was held via ZOOM platform and limited in person due to the pandemic of COVID-19. Council President Johnston announced the instructions for joining the meeting electronically.

Communications:

None

Mayor's Report:

Mayor Glasser reported the sidewalk project on Rt. 9 is nearly completed. He also mentioned the Memorial Day ceremony will take place on Monday, 5/31/21 at 10:00 A.M. at Patriot's Park.

Administrator's Report:

Administrator Frost thanked the budget committee for working with him, the CFO and Auditor. He reported the Budget adoption is listed on tonight's agenda and does not include the COVID19 relief money. He mentioned the City should be receiving that money this year; however, at this time, there is no guidance from the State of N.J. on how it can be used. He also indicted the resolutions on the agenda regarding the hiring in the Construction Department are temporary. He anticipates them becoming permanent once the Shared Service Agreement with Galloway Township is approved by the Department of Community Affairs.

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Solicitors Report:

Solicitor Smith reported that anything motorized is not permitted on the bike path.

Committee Reports:

- **School Board-** Council Member Bruno reported the population of students have dropped significantly due to homes being bought as summer homes, as well as, many students transferring to St. Joseph's during the COVID19 pandemic as they remained open. She reported the drop in population will affect grant money that can be received. She also reported the Board went into executive session to discuss the requirement of students wearing masks while outdoors at summer camp.

Old Business:

Miller Lane- Solicitor Smith noted this is an open public discussion and will not be voted on tonight. He briefly summarized the chronological order on the previous request regarding the proposed partial vacation of Miller Lane and land swap with Josie Kelly's. He reported a 200 ft notice was forwarded prematurely by Josie Kelly's. The City will contact the Police, Fire and Public Works Department for their input.

Attorney Keith Davis appeared on behalf of the owners of Josie Kelly's including Mr. Jay Sciullo, Engineer, who provided a rough draft of the proposal.

City Council, Attorney Smith and Mr. Davis Esq., with Engineer Sciullo discussed the proposal.

Public Portion on Miller Lane:

Council President Johnston opened the meeting to the public.

Ann Carver of 37 Somers Avenue asked the Council to think of the residents before making any changes and mentioned possible solutions such as a crosswalk, speed bump or stop sign be added to Miller Lane to alert pedestrians of the street. She opposes this proposal.

Theresita Doblely of 2 Somers Avenue voiced her concern of the possible traffic in front of her home as a result of this proposal. She opposes this proposal.

Mr. Becotte of 7 Miller Lane stated his opposition to the proposal especially making it a one-way street.

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A resident of Shore Road stated his concerns regarding parking on Somers Avenue as well as, the changes being made to the parking lot at Josie Kelly's.

Ted Martin of 25 Somers Avenue stated his opposition to the proposal, especially making the street one-way.

Valerie Furlong of 20 Somers Avenue stated her strong opposition to the land swap.

Patty Crean of 17 George Street stated her opposition to the proposal.

Patricia Pierson of Marks Road agreed that Miller Lane, as it is now, is a safety concern.

Tara Garry of Gibbs Avenue stated her opposition to the proposal and mentioned a fence, stop sign or painted crosswalk may be a solution to any safety concerns.

Lisa Bender asked what Josie Kelly's plans to do with the new right-of-way if the proposal is approved.

Carolyn Revercomb of 24 Miller Lane is concerned with the environmental impact of possible road construction and concurred with the suggestions of a crosswalk to alleviate any safety concerns.

Patty Cianci of Higbee Avenue concurred that this proposal would have a negative impact on the Historic District.

John Helbig of 67 Bayview Drive believes that the current traffic plan is a safety concern.

Charlie Falkenstein agreed that Miller Lane is a safety concern.

Jon Jam of 20 Somers Avenue agreed with those who stated opposition to the proposed land swap and mentioned there are other ways to achieve a safer design that are not as costly or disruptive to the neighbors.

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

The Committee for this matter will meet and address concerns with professionals, and the matter will be brought back to City Council at a later date.

City Council took a brief recess at 9:03 PM and reconvened at 9:11 PM

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Approval of Minutes:

On the motion of Council Member Ferreri, seconded of Council Member Dill and carried to approve the Regular Meeting Minutes of 5/13/2021.

Proclamations:

Mayor Glasser stated Mr. Slusher has a long history of involvement with Planning Boards and sits on the Atlantic County Economic Alliance.

No. 5 of 2021

Subject: Appointing Planning Board Member

WHEREAS, a vacancy exists in the Class IV due to the resignation of Robert Green of the Somers Point Planning Board and Mayor John L. Glasser, Jr., hereby appoints Gerald “Max” Slusher with a term expiring December 31, 2022; and

BE IT PROCLAIMED THAT the Planning Board as of this date consists of the following members with the expiration of terms noted:

CLASS I	EXPIRATION OF TERM
Mayor John L. Glasser, Jr.	Term of Office
 CLASS II	
Michael R. Sweeney	One (1) Year Term 12/31/21
 CLASS III	
Howard Dill	One (1) Year Term 12/31/21
 CLASS IV	
Gerald “Max” Slusher	December 31, 2023
Brian Cotton	December 31, 2024
David Sharp	December 31, 2021
Paul Striefsky	December 31, 2023
Jack Shields (Alt. No. 1)	December 31, 2022
Frank Ferreri (Alt. No. 2)	December 31, 2022

Ordinances:

Ordinance No. 8 of 2021

(First Reading/Introduction)

M/S- McGuigan/Ferreri

The ordinance was adopted by a unanimous roll call vote of those present.

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Solicitor Smith informed the legislation that was passed in February gives local governments six months to pass an ordinance restricting the sale of cannabis. If there is no action taken, the Council cannot pass any ordinance for five years. Solicitor Smith recommends the City Council pass this Ordinance and send it to the Planning Board for review; at that time Council can review and discuss with the Planning Board the position of the City.

Council President Johnston informed the public that a committee will do research to find what residents want and will come back to City Council with a report.

ORDINANCE NO. 8 of 2021

**AN ORDINANCE REPEALING AND REPLACING §114-119(A)16 OF
CHAPTER 114, ARTICLE XX OF THE CITY CODE ENTITLED
“PROHIBITED USES” SO AS TO PROHIBIT THE OPERATION OF
ANY CLASS OF CANNABIS BUSINESSES WITHIN THE
MUNICIPAL BOUNDARIES OF SOMERS POINT**

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

WHEREAS, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;

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- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

WHEREAS, section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis

distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location manner and times operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

WHEREAS, section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021);and

WHEREAS, pursuant to section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

WHEREAS, the City Council of the City of Somers Point has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on the City of Somers Point in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the City of Somers Point’s residents and members of the public who visit, travel, or conduct business in the City of Somers Point, to amend the City of Somers Point’s zoning

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regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the City of Somers Point; and

WHEREAS, officials from two prominent non-profit organizations that have been established for the purpose of advising New Jersey municipalities on legal matters such as have been presented by the Act (those organizations being the New Jersey State League of Municipalities and the New Jersey Institute of Local Government Attorneys) have strongly urged that due to the complexity and novelty of the Act; the many areas of municipal law that are or may be implicated in decisions as to whether or to what extent cannabis or medical cannabis should be permitted for land use purposes or otherwise regulated in any particular municipality; and the relatively short duration in which the Act would allow such decisions to be made before imposing an automatic authorization of such uses in specified zoning districts subject to unspecified conditions, the most prudent course of action for all municipalities, whether or not generally in favor of cannabis or medical cannabis land development and uses, would be to prohibit all such uses within the Act's 180-day period in order to ensure sufficient time to carefully review all aspects of the Act and its impacts;

WHEREAS, pursuant to N.J.S.A. 40:55D-89 the Somers Point Planning Board undertook reexamination of its Master Plan commencing in August of 2014 through March of 2015, to determine the major problems and objectives relating to land development within the City; and

WHEREAS, the Planning Board's Master Plan Reexamination identified the need to provide and create the appropriate land use controls relative to the development of Somers Point as a vibrant, waterfront community, the preservation of its historic district and neighborhoods, as well as developing better access throughout the City to its businesses within the community; and

WHEREAS, pursuant to N.J.S.A. 40:55D-64 and N.J.S.A. 40:55D-26, this ordinance was referred by the City Council to the Somers Point Planning Board to determine the consistency of this ordinance with the Master Plan; and

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

1. Pursuant to section 31b of the New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act (P.L. 2021, c. 16), all cannabis establishments, cannabis distributors or cannabis delivery services are hereby prohibited from operating anywhere in the City of Somers Point, except for the delivery of cannabis items and related supplies by a delivery service.

2. Section 114-119(A)16 of Chapter 114 of Article XX, entitled "Prohibited Uses" of the City of Somers Point Code is hereby amended by repealing this current section in its entirety and replacing said section on prohibited uses, the following: "All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of

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P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a delivery service, or the sale of paraphernalia associated with the use of recreational cannabis.”

3. Any article, section, paragraph, subsection, clause, or other provision of the City of Somers Point Code inconsistent with the provisions of this ordinance is hereby repealed to the extent of such inconsistency.

4. If any section, paragraph, subsection, clause, or provision of this ordinance shall be adjudged by a court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause, or provision so adjudged, and the remainder of this ordinance shall be deemed valid and effective.

5. This ordinance shall take effect upon its final passage and publication as required by law.

Resolutions:

Clerk Samuelsen read by title only the list of resolutions.

Public Portion Resolutions

Council President Johnston opened the meeting to the public.

Patricia Pierson of Marks Road asked Council how long the reverter clause will be valid regarding Resolution 105 of 2021. She also had questions regarding Resolution 114 of 2021; such as the amount of licenses allowed and the locations.

Lisa Bender of 1304 Atkinson Avenue asked if it is possible to hold a meeting regarding Resolution 110 of 2021 at a location other than Council Chambers.

Dan Myers mentioned the benefit of a cannabis dispensary in the City would be a 2% tax on sales for the City. He also opined deaths from overdose of lethal drugs such as heroin went down an average of 1 per month in Colorado after recreational cannabis was legalized.

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

Resolution No. 104 of 2021

M/S- Dill/Owen

This resolution was adopted by unanimous vote of those present.

No. 104 of 2021

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Subject: Liquor License Renewals

Introduced by: Council President Johnston

WHEREAS, the applications of the following enumerated liquor licenses for renewal in the City of Somers Point were found to be in good order.

NOW, THEREFORE, BE IT RESOLVED that the below named and numbered applications are hereby renewed through June 30, 2022:

0121-33-014-009	Josie Kelly's, LLC
0121-33-010-002	Gregory Hotel, Inc
0121-33-001-013	Applebee's
0121-33-007-004	Crab Tap, Ltd
0121-33-013-003	Joe's Circle Café (DiOrio's)
0121-31-022-001	Roberts Johnson Post 2189 VFW
0121-33-009-004	AMT Plenary, LLC (pocket)
0121-33-08-004	The Doc's Place
0121-31-020-001	American Legion

Resolution No. 105 of 2021

M/S- Owen/Ferreri

This resolution was adopted by unanimous vote of those present.

No. 105 of 2021

Subject: Modifying and Extending a Reverter Clause Contained in a Modified Quit Claim Deed Between the City of Somers Point and Alexander Kazmarck, Jr., Dated April 21, 2011

Introduced by: Council President Janice Johnston

WHEREAS, on May 11, 2006, City Council of the City of Somers Point (hereinafter, "City") passed Resolution No. 70 of 2006, awarding a bid to sell that property identified as Block 2018, Lot 1.08 to Alexander Kazmarck, Jr. (hereinafter, "Kazmarck"); and

WHEREAS, said Resolution called for certain conditions to be met in a certain time period relative the development of said property by Kazmarck, which if such conditions were not met in the specified time period, the aforesaid property would revert back to the City; and

WHEREAS, on May 22, 2006, a Quitclaim Deed, which included the aforesaid conditions imposed by Resolution No. 70 of 2006 ("Reverter Clause"), was executed on behalf of the City transferring said property to Kazmarck; and

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WHEREAS, on April 14, 2011, City Council passed Resolution No. 69 of 2011, which extended the time period condition in the reverter clause, as well as authorized a Modified Quitclaim Deed to be executed by the City Administrator relative to the aforesaid property; and

WHEREAS, on April 21, 2011, a Modified Quitclaim Deed was executed on behalf of the City which incorporated all of the prior conditions of Resolution No. 70 of 2006, the Quitclaim Deed of May 22, 2006, as well as imposed certain conditions relative to development of the property, and extended the time period condition of the reverter clause to May 21, 2016; and

WHEREAS, on May 24, 2018, City Council passed Resolution No. 113 of 2018, which retroactively incorporated all of the prior conditions of Resolution No. 70 of 2006, the Quitclaim Deed of May 22, 2006, imposed certain conditions relative to development of the property, and extended the time period condition of the reverter clause to May 21, 2021; and

WHEREAS, the aforesaid Resolution also called for the preparation, execution and filing of a Second Modified Quitclaim Deed, which Deed was never prepared; and

WHEREAS, in anticipation of a prospective sale of both the adjacent properties and Block 2018, Lot 1.08, Kazmarck has now requested a further extension of the reverter clause of the Modified Quitclaim Deed of April 21, 2011; and

WHEREAS, this governing body, in recognizing the underutilization of both the subject property, as well as the adjacent parcels, wishes to assist in the development of these properties by again extending the time period contained in the reverter clause.

NOW, THEREFORE, BE IT RESOLVED BY THE City Council of Somers Point that the aforesaid reverter clause contained in the Modified Quitclaim Deed of April 21, 2011, may be amended as follows:

The time period condition shall be extended for an additional THREE (3) year period from the date of May 21, 2021 to May 21, 2024.

BE IT FURTHER RESOLVED that the City Administrator is hereby authorized to execute and deliver a Second Modified Quit Claim Deed on behalf of the City to Kazmarck with the aforesaid amendment; and

BE IT FURTHER RESOLVED that all costs related to the preparation of the Second Modified Quit Claim Deed and all other related costs relative the filing of same are to be borne by Kazmarck; and

BE IT FURTHER RESOLVED that all other terms and conditions of the Quit Claim Deeds dated May 22, 2006 and April 21, 2011, shall remain the same.

Resolution No. 106 of 2021

M/S- Owen/Ferreri

This resolution was adopted by unanimous vote of those present.

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No. 106 of 2021

Subject: Providing for a Billing Adjustment Regarding Account Nos. 3315-1 and 3315-2

Introduced by: Council President Johnston and Council Member McGuigan

WHEREAS, the City of Somers Point provides sewer utility services to the property known as Harbour Cove Marina-Boat Docks which service is provided under Account Nos. 33515-1 and 3315-2; and

WHEREAS, this account has been assessed with charges based upon commercial units; and

WHEREAS, the Boat Dock Manager, has indicated that these meters are set up for irrigation only and whereas,

WHEREAS, it has been confirmed by the Tax and Sewer Collection Department and the Public Works Sewer Department that the property should, in fact, not be billed;

WHEREAS, the City and the taxpayer have agreed that, the records of the Sewer Department will be corrected and the accounts be made inactive.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Somers Point that Account Nos. 33515-1 and 3315-2 shall receive a future credit of \$4979.00 on each account for meters that are set up for irrigation only and cannot be billed as a commercial unit; and

BE IT FURTHER RESOLVED, that this credit shall be applied by the Tax and Sewer Collection Department in the most appropriate manner as it sees fit to future obligations on this account.

Resolution No. 107 of 2021

M/S- Owen/Ferreri

This resolution was adopted by unanimous vote of those present.

No. 107 of 2021

Subject: Providing for a Billing Adjustment Regarding Account No. 4054-0

Introduced by: Council President Johnston and Council Member McGuigan

WHEREAS, the City of Somers Point provides sewer utility services to the property known as Block 114 Lot 1-C0100, Somers Point, NJ, which service is provided under Account No. 4054-0; and

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WHEREAS, this account has been assessed with charges based upon four residential units; and

WHEREAS, George and Brenda Thomas, the property owners, have indicated that the property has four sewer accounts that should be billed for one unit. One unit was inadvertently charged four times; and

WHEREAS, it has been confirmed by the Tax and Sewer Collection Department that this account should, in fact, only be assessed 1 unit;

WHEREAS, the City and the taxpayer agreed that, in addition to the records of the Sewer Department being corrected that the taxpayer should receive a credit.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Somers Point that Account No. 4054-0 shall receive a future credit of \$1,532.00; and

BE IT FURTHER RESOLVED, that this credit shall be applied by the Tax and Sewer Collection Department in the most appropriate manner as it sees fit to future obligations on this account.

Resolution No. 108 of 2021

M/S- Owen/Ferreri

This resolution was adopted by unanimous vote of those present.

No. 108 of 2021

Subject: Providing for a Billing Adjustment Regarding Account No. 459-0

Introduced by: Council President Johnston and Council Member McGuigan

WHEREAS, the City of Somers Point provides sewer utility services to the property known as, 593 Shore Road Somers Point, NJ, which service is provided under Account No. 459-0; and

WHEREAS, this account has been assessed with charges for six units worth; and

WHEREAS, William and Catherine Powers, the property owners, have indicated and provided documentation that the property did in fact have a leak and should be credited for five units; and

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WHEREAS, it has been confirmed by the Tax and Sewer Collection Department that the property should, in fact, be credited for five units;

WHEREAS, the City and the taxpayer agreed that, in addition to the records of the Sewer Department being corrected that the taxpayer should a credit for erroneous billings made.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Somers Point that Account No. 459-0 shall be adjusted to charge the amount of \$378.00 for 2020. Since the minimum payment was never made, there will be interest charged on the unpaid 2020 amounts.

BE IT FURTHER RESOLVED, that this adjustment shall be applied by the Tax and Sewer Collection Department in the most appropriate manner as it sees fit to future obligations on this account.

Resolution No. 109 of 2021

M/S- Owen/Ferreri

This resolution was adopted by unanimous vote of those present.

No. 109 of 2021

Subject: Authorizing Termination Agreement with James R. McBrien
Introduced By: Council President Johnston and Council Members
McGuigan and McCarrie

WHEREAS, Whereas, after a long and dedicated service to the City of Somers Point, James R. McBrien intends to retire from his position as Construction and Code Enforcement Official effective May 31st, 2021; and

WHEREAS, the City of Somers Point and Construction and Code Enforcement Official James R. McBrien have mutually agreed to enter into this termination agreement and release for good and valuable consideration the adequacy of which is hereby acknowledged.

NOW, THEREFORE, BE IT RESOLVED that the City of Somers Point hereby authorizes the City Administrator to enter into an agreement with James R. McBrien in connection with said termination in the form that is attached hereto.

BE IT FURTHER RESOLVED THAT, upon execution, the original agreement shall be attached hereto and be made a part of this Resolution.

Resolution No. 110 of 2021

M/S- McCarrie/Owen

This resolution was adopted by unanimous vote of those present.

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No. 110 of 2021

Subject: Requesting that the Planning Board Review a Proposed Ordinance Prohibiting All Classes of Cannabis Establishments or Distributors or Delivery Services in the City

Introduced By: Council President Janice Johnston

WHEREAS, the Governing Body of the City of Somers Point seeks to encourage responsible and smart development within the City; and

WHEREAS, in 2020 New Jersey voters approved Public Question No. 1, which amended the New Jersey Constitution to allow for the legalization of a controlled form of marijuana called “cannabis” for adults at least 21 years of age; and

WHEREAS, on February 22, 2021, Governor Murphy signed into law P.L. 2021, c. 16, known as the “New Jersey Cannabis Regulatory, Enforcement Assistance, and Marketplace Modernization Act” (the “Act”), which legalizes the recreational use of marijuana by adults 21 years of age or older, and establishes a comprehensive regulatory and licensing scheme for commercial recreational (adult use) cannabis operations, use and possession; and

WHEREAS, the Act establishes six marketplace classes of licensed businesses, including:

- Class 1 Cannabis Cultivator license, for facilities involved in growing and cultivating cannabis;
- Class 2 Cannabis Manufacturer license, for facilities involved in the manufacturing, preparation, and packaging of cannabis items;
- Class 3 Cannabis Wholesaler license, for facilities involved in obtaining and selling cannabis items for later resale by other licensees;
- Class 4 Cannabis Distributer license, for businesses involved in transporting cannabis plants in bulk from on licensed cultivator to another licensed cultivator, or cannabis items in bulk from any type of licensed cannabis business to another;
- Class 5 Cannabis Retailer license for locations at which cannabis items and related supplies are sold to consumers; and
- Class 6 Cannabis Delivery license, for businesses providing courier services for consumer purchases that are fulfilled by a licensed cannabis retailer in order to make deliveries of the purchased items to a consumer, and which service would include the ability of a consumer to make a purchase directly through the cannabis delivery service which would be presented by the delivery service for fulfillment by a retailer and then delivered to a consumer.

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WHEREAS, section 31a of the Act authorizes municipalities by ordinance to adopt regulations governing the number of cannabis establishments (defined in section 3 of the Act as “a cannabis cultivator, a cannabis manufacturer, a cannabis wholesaler, or a cannabis retailer”), cannabis distributors or cannabis delivery services allowed to operate within their boundaries, as well as the location manner and times operation of such establishments, distributors or delivery services, and establishing civil penalties for the violation of any such regulations; and

WHEREAS, section 31b of the Act authorizes municipalities by ordinance to prohibit the operation of any one or more classes of cannabis establishments, distributors, or delivery services anywhere in the municipality; and

WHEREAS, section 31b of the Act also stipulates, however, that any municipal regulation or prohibition must be adopted within 180 days of the effective date of the Act (*i.e.*, by August 22, 2021; and

WHEREAS, pursuant to section 31b of the Act, the failure to do so shall mean that for a period of five years thereafter, the growing, cultivating, manufacturing, selling and reselling of cannabis and cannabis items shall be permitted uses in all industrial zones, and the retail selling of cannabis items to consumers shall be a conditional use in all commercial and retail zones; and

WHEREAS, at the conclusion of the initial and any subsequent five-year period following a failure to enact local regulations or prohibitions, the municipality shall again have 180 days to adopt an ordinance regulating or prohibiting cannabis businesses, but any such ordinance would be prospective only and would not apply to any cannabis business already operating within the municipality; and

WHEREAS, the City Council of the City of Somers Point has determined that, due to present uncertainties regarding the potential future impacts that allowing one or more classes of cannabis business might have on New Jersey municipalities in general, and on the City of Somers Point in particular, it is at this time necessary and appropriate, and in the best interest of the health, safety and welfare of the City of Somers Point’s residents and members of the public who visit, travel, or conduct business in the City of Somers Point, to amend the City of Somers Point’s zoning regulations to prohibit all manner of marijuana-related land use and development within the geographic boundaries of the City of Somers Point; and

WHEREAS, pursuant to N.J.S.A. 40:55D-89 the Somers Point Planning Board undertook reexamination of its Master Plan commencing in August of 2014 through March of 2015, to determine the major problems and objectives relating to land development within the City; and

WHEREAS, the Planning Board’s Master Plan Reexamination identified the need to provide and create the appropriate land use controls relative to the development of Somers Point as a vibrant, waterfront community, the preservation of its historic district and neighborhoods, as well as developing better access throughout the City to its businesses within the community; and

WHEREAS, an ordinance has been prepared on behalf of the City Council of Somers Point which repeals current Section 114-119(A)16 of Chapter 114 of Article XX, entitled “Prohibited Uses,” of the City of Somers Point Code and hereby amends same by replacing it with the following language: “All classes of cannabis establishments or cannabis distributors or cannabis delivery services as said terms are defined in section 3 of P.L. 2021, c. 16, but not the delivery of cannabis items and related supplies by a

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delivery service or the sale of paraphernalia associated with the use of recreational cannabis,” a copy of which is hereby attached to this resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the Common Council, pursuant to N.J.S.A. 40:55D-64 and N.J.S.A. 40:55D-26, hereby requests the Somers Point Planning Board review the attached, proposed ordinance to determine the consistency of this ordinance with the Master Plan.

Resolution No. 111 of 2021

M/S- Owen/Dill

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

No. 111 of 2021

Subject: Amending Personnel Policies and Procedures Manual

Introduced by: Council President Janice Johnston and Council Members McGuigan and McCarrie

WHEREAS, it is the policy of City of Somers Point (“City”) to treat employees and prospective employees in a manner consistent with all applicable employment laws and regulations including, but not limited to Title VII of the Civil Rights Act of 1964, as amended by the Equal Opportunity Act of 1972, the Age Discrimination in Employment Act, the Equal Pay for Equal Work Act, the Fair Labor Standards Act, the New Jersey Law Against Discrimination, the Americans with Disabilities Act, the Family and Medical Leave Act, the Conscientious Employee Protection Act, the Public Employee Occupational Safety and Health Act, (the New Jersey Civil Service Act,) (the New Jersey Attorney General's guidelines with respect to Police Department personnel matters,) the New Jersey Workers Compensation Act, the Federal Consolidated Omnibus Budget Reconciliation Act (COBRA) and the Open Public Meeting Act; and

WHEREAS, the City is a member of the Municipal Joint Insurance Fund, as well as the Municipal Excess Liability Fund, both of which routinely provide recommendations and guidance to the City of Somers Point relative to the handling of employment issues; and

WHEREAS, the Municipal Excess Liability Fund has made certain recommendations to the City relative to updating and amending its Personnel Policies and Procedures Manual (“PPPM”); and

WHEREAS, based upon these recommendations, City Council has determined that there is a need to amend the personnel policies and procedures to ensure that employees and prospective employees are treated in a manner consistent with the above referenced laws and regulations.

NOW, THEREFORE, BE IT RESOLVED BY THE City Council of Somers Point that the Personnel Policies and Procedures Manual is hereby amended to include the policies, procedures and forms attached hereto and made a part hereof and to replace the existing policies and

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procedures that may have previously been adopted as the referenced page number, if applicable, as follows:

<u>Item</u>	<u>PPPM Page Number</u>
Purpose of Manual	I-2
Anti-Discrimination Policy	I-15
Confidentiality of Personnel Files	VIII-8
Drugs and Alcohol Policy	VIII-12 to 12g
Drug Educational Information/Abuse Professionals	VIII-13 to 13d
Acknowledgement Receipt & Refusal Forms	VIII-14 to 14b
Employee Discipline	VIII-17 to 18a
Use of City Property and Vehicles	VIII-48 to 49a
Performance Evaluation	VIII-26
Political Activity Policy	VIII-30
Contagious or Life-Threatening Illness Policy	VIII-51, 52
General and Sexual Anti-Harassment Policy	VIII-60 to 60k
Workplace Violence Policy/Procedure	VIII-61 to 61b
Americans with Disabilities Act Policy/Procedure	VIII-62
Employment References	VIII-75

Resolution No. 112 of 2021

M/S- Owen/Ferreri

This resolution was adopted by a roll call vote of those present with Council Members Dill and McCarrie voting no.

City Council and Administrator Frost discussed the salary of \$80.00 an hour.

No. 112 of 2021

Subject: Hiring a Temporary Zoning Officer
Introduced by: Council President Johnston and Council Members McGuigan and McCarrie

Whereas, due to the impending retirement of James R. McBrien, there is a need for a Zoning Officer in the City of Somers Point; and

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Whereas, Roger McLarnon currently holds the necessary certifications and continuing education requirements.

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

1. Roger McLarnon is hereby appointed to the position of Temporary Zoning Officer.
2. This appointment shall be effective June 1, 2021.
3. The compensation has been established for Mr. McLarnon at \$80.00/ Hour.

Resolution No. 113 of 2021

M/S- Owen/Ferreri

This resolution was adopted by unanimous vote of those present.

No. 113 of 2021

Subject: Hiring a Temporary Construction Official
Introduced by: Council President Johnston and Council Members McGuigan and McCarrie

Whereas, due to the impending retirement of James R. McBrien, there is a need for Construction Official in the City of Somers Point; and

Whereas, per resolution 82 of 2021 the City has entered into a Share Services Agreement for Galloway Township to provide Building Sub-Code services per N.J.S.A. 40A:65-1; and

Whereas, Mark V. McCrane will serve as the Building Sub-Code Official provided by Galloway Township and will provide certain ancillary and support services in the Construction Office; and

Whereas, Mark V. McCrane shall serve in the position of Temporary Construction Official in the City of Somers Point which shall include the duties of Construction Official, Housing Inspector, and Floodplain Manager.

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

1. Mark McCrane is hereby appointed to the position of Temporary Construction Official.
2. This appointment shall be effective June 1, 2021.

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3. The annual salary established for Mr. McCrane shall be \$15,000.00.

Resolution No. 114 of 2021

M/S- Ferreri/Owen

This resolution was defeated by a roll call vote of those present with Council Member McGuigan voting yes.

There was a discussion among City Council and Solicitor Smith regarding the legality of the resolution.

No. 114 of 2021

DEFEATED

Subject: Resolution Authorizing Limited Temporary Farmers' Markets
Introduced by: Councilman Sean T. McGuigan

WHEREAS, securing the health, safety and welfare of the residents, businesses, and visitors to the City of Somers Point is the City Council's priority; and

WHEREAS, the COVID-19 pandemic has gripped the world, the country, the state, and the City of Somers Point in an unprecedented public health crisis that has resulted in illness, quarantines, school closures, temporary closures of businesses, lost wages, and financial hardship for many of the citizens of Somers Point; and

WHEREAS, due to this crisis, many people are suffering from increased anxiety and other mental health issues; and

WHEREAS, as we begin to emerge from the pandemic the City Council of the City of Somers Point is desirous of promoting outdoor activities, increasing limited social interactions, and encouraging people to embrace the coming warm weather of the spring and summer seasons in the belief that all of that will help ease the increase in mental health issues; and

WHEREAS, Farmers' markets would promote the outdoor interactions as well as provide additional economic activities, drawing visitors to the City who will discover the robust inventory of established business that the City is so well known for; and

WHEREAS, the State of New Jersey recognizes Farmers' Markets as essential businesses; and

WHEREAS, the Governing Body of the City of Somers Point finds that it is a benefit to the community and the citizens to allow temporary operations of Farmers' Markets within the boundaries.

NOW, THEREFORE, BE IT RESOLVED BY THE City Council of Somers Point that the City Engineer of the City of Somers Point, in consultation with the City's Zoning and Code Enforcement Official, is hereby granted the temporary authority and discretion to approve site plan applications pertaining to temporary Farmers' Markets, in order to permit the seasonal operation of said Farmers'

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Markets. All such applications shall also be subject to the approval of the Chief of Police, and all such operations shall adhere to all regulations, directives and proclamations from the Department of Health, and those conditions and requirements set forth herein.

BE IT FURTHER RESOLVED that the Farmers Markets will be conducted in the accordance with the following:

1. Farmers' Markets are limited, in that no Farmers' Market can be within 1 mile of another Farmers' Market operating in the City or within a half mile of any business whose primary business is the sale of produce
2. Farmers' Market are authorized to be conducted from May 1, 2021 to November 1, 2021
3. Farmers' Markets are not permitted to operate after dusk
4. All Farmers' Markets will adhere to all COVID-19 protocols and regulations as mandated by the City, County, and State Governments, including, but not limited to, social distancing, face masks, gloves, etc.
5. The Farmers' Markets shall be allowed to sell agricultural products that are produced and sold on farms, including vegetables, fruits, eggs, pork, honey, wheat flour, and baked goods and the sale of field-grown and cut field flowers as well as arts and crafts, beverages, and skin care products.
6. No sale or consumption of any alcohol beverages is permitted at the Farmers' Markets
7. The Farmers' Markets must be contained on a single parcel of private property
8. Farmers' Markets may not operate on any public property or within any City Right-of-Way
9. The operators of any Farmers' Market must have a written agreement with the property owner
10. Individual seeking to operate a temporary Farmers' Market must submit to the City Clerk a site plan application, and site drawing depicting the proposed layout of said Farmers' Market which shall also include but not be limited to, confirmation of the number booths, stands, tables/seats, a depiction of all aisles, routes of ingress and egress, clearances/distances between tables and between the seating area and the curb line, the location of all food preparation and service areas, an illustration, rendering, and/or photograph of all proposed furniture, umbrellas, and trash receptacles. All proposed tables, chairs, furniture, umbrellas, trash receptacles, etc. on site must be of similar nature and appearance. Applicants shall also submit a brief written narrative describing the proposed method of serving food and beverages in the proposed areas.
11. Applicants must submit a Litter Control Plan, which shall include a description of the number and location of trash receptacles proposed to service the Farmers' Market, the frequency with which the Farmers' Market will be policed for litter in order to control the accumulation of trash/recycling, and method for which the trash will be removed from the site.
12. In the event the City Engineer or Chief of Police determines that an applicant is in violation of the conditions of any temporary site plan approved in relation to this Resolution, the City Engineer or the Chief of Police is hereby authorized to immediately revoke the temporary site plan approval received in relation to this Resolution.
13. The City Engineer and the Chief of Police are hereby authorized and empowered to enforce this Resolution and the several provisions thereof. The City Engineer and Chief of Police are hereby further empowered to enforce the discretionary powers which are considered necessary in order to make the provisions hereof properly effective and useful for the benefit of applicants. In order to avoid injustice, the possible abuse of discretion and to

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correct the possibility of error in judgment, any applicant whose temporary site plan application is denied by the City Engineer or Chief of Police has the right to appeal to the governing body by filing a notice of appeal with the City Clerk within seven (7) days of the denial of said application. Upon receipt of any such notice of appeal, the governing body will hear the appeal at its regular meeting, at which time the owner and any other persons appearing in the matter will be heard or afforded the opportunity to be heard. At the conclusion of said hearing, the governing body will consider the matter, determine whether to uphold or overturn the decision of the City Engineer or Chief of Police, and thereafter notify the owner of its decision.

14. The City of Somers Point reserves the right to amend, terminate, or repeal this resolution, and accordingly no property rights are granted to any person(s) or entities by virtue of this resolution. All person(s) and/or entities electing to pursue temporary relief in accordance with the provisions of this resolution are hereby given notice that the expenditure of any funds, or the incurrence of any costs, in reliance upon the provisions of this resolution shall be at their sole and exclusive expense. All persons and/or entities are hereby given notice that the risk of loss for any expenditure and/or costs incurred shall be their sole and exclusive responsibility.
15. To the extent that any of the temporary rights granted herein are in direct contravention to certain provisions of ordinances of the City of Somers Point, including but not limited to those contained in Ordinance No. 114-1, et seq, it is the intent that said ordinances are hereby relaxed so as to allow for the limited and temporary operation of Farmers' Markets as set forth herein. With the exception of this temporary relief set forth herein, applicants must comply with any and all other federal, state, county, and local laws and regulations, including any and all other existing zoning and/or general ordinances governing of business operations.

BE IT FURTHER RESOLVED that the within resolution shall be effective immediately.

Resolution No. 115 of 2021

M/S- Owen/Ferreri

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

The Resolution is attached at the end of this document.

Mayor Glasser reported for the first time since he has been on the Governing Body, the Budget has come in at a zero base. He commended the CFO, Administration, City Council and Auditor Costello for their hard work on the Budget.

Adoption of the 2021 Municipal Budget

M/S- Dill/Ferreri

The 2021 Municipal Budget was adopted by unanimous roll call vote of those present.

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Auditor Costello reported there is no decision from the State on how stimulus money can be spent. He gave commendations on the zero increase.

Council Member Dill thanked Council President Johnston and Council Member McGuigan along with Administration and the Budget Committee for their hard work on the Budget.

Council President Johnston thanked everyone for their help with the Budget.

Old Business:

Council Member Dill reported South Jersey Gas will begin repairing and repaving streets next week.

New Business:

- The Social Affair Permit Application for Theater Collaborative of South Jersey D/B/A Gateway Playhouse for an event on 6/18/2021 from 6:30-10:00 PM was approved contingent on the submission of the proper insurance.
- Gregory Gregory's Request for Road Closure of Delaware Avenue was approved contingent on the submission of the proper insurance.
- Recreation Director Doug Shallcross reported approval is pending from the Recreation Commission for the beach concerts to run from July 2 through September 17. It should be heard at their meeting on 6/3/21. He also mentioned he is working on setting up an Instagram and Twitter to help get more news out about the City. He is also sending information to the local newspapers. Mr. Shallcross reported he received approval from EDAC to update the event boards near the beach and Somers Mansion. Lastly, he indicated the beach will be open with lifeguards from 10AM-5PM on 5/29/21 through 6/3/2021. The schedule for the rest of the season will follow.

Discussion of Bills:

Administrator Frost reported a Bill List dated 5/25/2021 in the amount of \$99,627.12, and a Record of Payments dated 5/25/2021 in the amount of \$8,000.00.

Public Portion:

The meeting was duly opened to the public.

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Patricia Pierson of Marks Road is happy there is no tax increase and would like to see that in the newspaper. She concurred with Council Member Dill on his remarks regarding Resolution Numbers 112 and 144.

Natalie Bailey of 825 Bay Avenue questioned the dates for the road closure of Delaware Avenue for Gregory's. She also questioned the legal time requirement for the posting of City Council agendas and minutes.

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

Payment of Bills:

M/S – Ferreri/Dill

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

Adjournment:

There being no further business to come before City Council, Council Member Dill moved, Council Member Ferreri seconded and carried to adjourn the meeting at 10:27 p.m.

Submitted by:

Lucy R. Samuelson, RMC
Municipal Clerk
Approved: 6/10/2021