

**REGULAR MEETING
MAYOR AND CITY COUNCIL
September 28, 2017**

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

Roll call was recorded as follows:

Present: Meischker, D’Adamo, Dill, Gerety, Toto, Tapp, McGuigan

Also Present: Mayor Glasser, Administrator Swain, City Clerk Samuelson, Deputy City Clerk Mollenkopf, and Attorney Franklin

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.

Proclamations:

No. 6 of 2017

Knock Out Opioid Abuse Day

October 6, 2017

WHEREAS, New Jersey is in the midst of a life-threatening opioid abuse epidemic; and

WHEREAS, the Partnership for a Drug-Free New Jersey has designated October 6, 2017 as Knock Out Opioid Abuse Day – an initiative with a dual purpose: to educate families of the addictive qualities of opioid pain medicines and their link to heroin abuse rates in New Jersey, and communicate to physicians information on safer prescribing messages found in the Centers for Disease Control and Prevention guidelines for prescribing opiates, which include considering other therapies, setting realistic treatment goals with patients and discussing with patients the pros and cons of opioids; and

WHEREAS, the State Senate and General Assembly jointly resolved that October 6 shall be permanently designated as “Knock Out Opioid Abuse Day” in New Jersey in order to raise

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awareness about the dangers of, and the link between, opioid abuse and heroin addiction and to educate health care providers, community leaders, State lawmakers and members of the public about the opioid abuse epidemic and its effects throughout the State of New Jersey and across the country; and

WHEREAS, Join Together Atlantic County (JTAC) supports initiatives designed to raise awareness about opiate abuse in New Jersey and take steps to prevent addiction.

THEREFORE BE IT RESOLVED, that October 6, 2017 be recognized as Knock Out Opioid Abuse Day in the City of Somers Point, New Jersey.

Resolutions:

Public Portion on Resolutions

Meeting was opened to the public and duly closed to considered Resolution Numbers 185, 184 and 183.

Resolution No. 185 of 2017

M/S – Gerety/Dill

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

Councilman Toto congratulated the team and acknowledged that the sport is a challenge to master. Councilman Dill congratulated the team for their success and acknowledged the team, their parents and coaches for all their efforts. He encouraged the youth to continue with their hard work and commitment like his grandson, who has received offers of scholarships. City Council President McGuigan offered his congratulations to the team. Mayor Glasser and Councilman Toto presented the team with the resolution with a standing ovation from everyone. Mayor Glasser extended his congratulations and continued success to the team and the coaches.

No. 185

Recognizing the Mainland Youth 7th and 8th Grade Boys' Lacrosse Team

WHEREAS, the mission of the Mainland Youth Lacrosse Club is to teach and promote the sport of lacrosse at the youth level for children who reside in Somers Point, Linwood, and Northfield, New Jersey; and

WHEREAS, 7th and 8th grade are critical years for players to fine-tune their skills and obtain maximum knowledge of the game in order to prepare for competitive high school programs; and

WHEREAS, the members of team are Justin Barretta, Nick Diez, Harrison Gillman, William Keiter, Anthony Medina, Luke Meister, Riley Mostecky, McKenzie Murphy, Colin Ogborn, Sam Phillips, Erik Ruane, Sebastian Tobias, Sam Walsh, Gavin Weis, and Zak Willuskihe; and

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WHEREAS, the team was coached, instructed, and molded into championship form by coaches Todd Phillips, Jerry Meister, Kevin Pendergast, and Dennis Walsh; and

WHEREAS, the team finished the season with unblemished record of 19–0 and went on to claim the 2017 Jersey Shore Youth Lacrosse League Champion title; and

WHEREAS, this accomplishment required a high degree of dedication and skill from these young men; and

WHEREAS, that the dedication of these players on this Championship team reflects the City and the Mainland community in a positive manner,

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of Somers Point, on behalf of themselves and our community, hereby congratulate players and coaches of the 7th and 8th grade 2017 Jersey Shore Youth Lacrosse League Championship team.

BE IT FURTHER RESOLVED that the Mayor and City Council wish these individuals continued success in all of their future endeavors, both athletic, academic, and otherwise.

Resolution No. 184 of 2017

M/S – Toto/Gerety

The resolution was adopted by a unanimous vote of those present. City Councilman Tapp acknowledged and thanked the diligent work and efforts from the committee. Councilman D’Adamo offered his appreciation for their successful shows. Councilman Gerety added that the concerts are phenomenal and the crowds are growing larger each year. Councilman Toto thanked the committee for their passion for the shows and the community. He thanked them exceedingly for allowing him and his wife to be married at one of the beach concerts. Council President McGuigan thanked the committee and mentioned it is part of the fabric of the community. He added that the committee should be very proud how the event has grown over the years, which is very special and a source of pride for the community. Mayor Glasser reminisced that music was part of what made Somers Point famous and special, and he thanked them for all their efforts.

Councilman Dill stated that the beach concerts put Somers Point on the map every year with exceptional entertainment. He continued to extend his appreciation to the volunteers of the committee. Mayor Glasser and Councilman Toto proudly presented the resolution with a hearty round of applause.

No. 184

Resolution Acknowledging and Thanking the Members of the Somers Point Beach Concert Committee

Introduced by: Mayor and Council

Whereas, for 25 wonderful years the Somers Point Beach Concerts have been a mainstay and a highlight of this City's summer season; and

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Whereas, the series of concerts provides entertainment for residents of and visitors to Somers Point from Atlantic County, the State of New Jersey, and surrounding states; and

Whereas, the Concert Series receives highest ratings on Facebook; and

Whereas, although the concerts appear to the public to be seamless and excellently produced, without the tremendous efforts of the Somers Point Beach Concert Committee which works tirelessly almost year round to ensure that there will be first rate performing artists appearing, that sponsors will provide support, that vendors will be lined up and ready, that accommodations for the artists will be secured, that the sound systems and electrical will be up and running, and that provisions are made for alternate venues in the event of rain or storms, there would be no beach concerts, or none which are so perfectly produced.

Now, therefore, to acknowledge those individuals whose efforts provide so much pleasurable entertainment, as well as excellent publicity and notoriety for our City it is hereby **RESOLVED** that the Mayor and City Council of the City of Somers Point on behalf of ourselves and on behalf of all those who come to enjoy this free concert series, wish to acknowledge and thank Somers Point Beach Concert Committee members Nancy McGrew Marotta, the Committee Chairwoman, Linda Bader Archambault, Carman Marotta, Andrew Malson, and Sydney Somers.

It is further **RESOLVED** that we extend our thanks to the members of the Somers Point Recreation Commission for their cooperation with the Beach Concert Committee for the use of Morrow Beach for this annual premier series of musical events.

Resolution No. 183 of 2017

M/S – Gerety/Meischker

The resolution was adopted by a unanimous vote of those present. Councilmen Meischker introduced Mr. Fred Acres from the Great Egg Harbor Watershed Association and Mr. Purdy from the Linwood Environmental Commission to the Governing Body and the public. Mr. Purdy indicated that the City of Linwood opposes the expansion of sewer service onto this lot due to environmental and flooding issues. Councilman Meischker mentioned that it is highly unusual for the County to force sewer service in an area that is contrary to the Master Plan. He continued that Somers Point shares the Creek with Linwood, and the tidal water flows south to Somers Point; therefore, if there were an issue, Somers Point would be effected. Mr. Acres stated there are two key issues. The first concern are environmental issues where protected wetlands will be encroached, and it's difficult for towns and the County to oppose the State. Secondly, there's a

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flood hazard issue. After experiencing Super Storm Sandy, Mr. Purdy opined that it's not a prudent idea to build next to a river that's subject to both rain and water flooding and storm surge and tidal flooding. Mr. Purdy spoke in regard to the Federal Emergency Management Agency's flood modeling and concurrent flooding. He explained that an example of concurrent flooding is if a river flood event and a storm surge event were to happen simultaneously, which would be very perilous; however, it was not taken in to consideration. City Council President McGuigan thanked Mr. Acres for his addressing the Governing Body with this very important information.

No. 183

Resolution opposing Atlantic County Ordinance 25-2017 Amending the Atlantic County Water Quality Management Plan and Future Waste Water and Future Sewer Service Map to include Block 82 Lot 7 in the City of Linwood into the Sewer Service Area.

Introduced by: Councilman Meischker

Whereas Patcong Creek is a precious natural resource forming much of the Western boundary of the City of Somers Point; and

Whereas Patcong Creek terminates at a dam forming Bargaintown Lake to the north with its tidal waters flowing southerly along the western edge of Somers Point to the Great Egg Harbor Bay; and

Whereas Patcong Creek is a key tributary of the Great Egg Harbor River, which is a National Scenic and Recreational River established by Congress in 1992, and this National Park Service unit is unusual in that local jurisdictions continue to administer the lands, reinforcing Linwood's policies to restrict development and sewer service;

Whereas Patcong Creek is a most significant natural resource in the County since it is the home of State threatened and endangered American Bald Eagles, cattle egrets, black-crowned night herons and yellow-crowned night herons and the City of Linwood has expressed concern that the proposed clearing and development of this site will significantly impact this important nesting and foraging habitat; and

Whereas the City of Linwood and the County have consistently denied sewer service in this area by endorsing the existing Sewer Service Area maps that were created in the 1970's and were recently re-adopted in 2013, and restricting sewer service in an area is the ultimate land use control. There are many properties throughout the Atlantic County that are zoned for development but cannot be developed because they are not included in a Sewer Service Area; and

Whereas Patcong Creek has been largely undeveloped without sewer service areas in Somers Point and neighboring communities of Egg Harbor Township and Linwood; and

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Whereas the City of Linwood has made significant efforts and purchases along Patcong Creek to ensure the waterway remains undisturbed habitat; and

Whereas the City of Linwood rejected an application for sewer service on Block 82 Lot 7 in their municipality; and

Whereas the City Council of the City of Linwood on July 12, 2017 adopted Resolution 133 of 2017 opposing the amendment to the Atlantic County Water Quality Management Plan to expand the sewer service area of the Atlantic County Utilities Authority for the construction of a single family home on Block 82, Lot 7 which was also opposed by the Linwood Environmental Commission; and

Whereas experts such as Fred Akers, the Administrator of the Great Egg Harbor Watershed Association (GEWHA), have voiced concerns about the appropriateness and environmental impacts of sewer service on Block 82 Lot 7; and

Now, Therefore be it Resolved that The City Council of Somers Point shares the concerns of the City of Linwood and GEWHA; and

It is further resolved that the City Council of the City of Somers Point registers its formal opposition of Atlantic County Ordinance 25-2017 for the reasons hereinabove set forth.

Communications:

None

Mayor's Report:

Mayor Glasser thanked everyone who attended the 9/18/17 drug awareness information meeting that was well-attended with a special thanks to Councilman Meischker for representing City Council. Mayor Glasser indicated that there is so much work that must be done to find a solution. Additionally, he reported the Great Egg Harbor River Council had a beautiful tour on the Duke of Fluke where they enjoyed sightings of wildlife.

City Administrator's Report:

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None

Committee Reports:

Councilman Toto and Meischker reported that honoring “the wounded warrior project”, for Sgt. First Class Angelique Courtney by taking her and family crabbing on the Duke of Fluke. She expressed her thanks at a dinner presentation.

Approval of Minutes:

M/S – Gerety/Toto

The Regular Meetings of 5/25/2017 amended the time of adjournment to 9:25 p.m. and Executive Session of 5/25/2017 as to content only were approved by a unanimous vote of those present with Councilman Meischker abstaining from both sets of minutes.

Ordinances:

Ordinance No. 17 of 2017

Introduction/First Reading

M/S – Toto/Dill

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

No. 17

An Ordinance Enacted Under Authority of N.J.S.A. 39: 4-197.6. and N.J.S.A. 39: 4-197.7, granting the Authority to establish a Restricted Parking Zone in Front of a Residence Occupied by a Handicapped Person Under Certain Conditions; Amending and Supplementing Section 250-50 of the Somers Point City Code; Repealing All Ordinances Heretofore Adopted, the Provisions of Which are Inconsistent Herewith

WHEREAS, N.J.S.A. 39:4-197.6. authorizes a Municipality, by Ordinance, to establish a restricted parking zone in front of a residence occupied by a handicapped person if a windshield placard or wheelchair symbol license plates have been issued by the Division of Motor Vehicles for a vehicle owned by the handicapped person, or by another occupant of the residence who is a member of the immediate family of the handicapped person; and

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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, Section 250-57 of the Somers Point Municipal Code “[Restricted parking zones authorized; conditions](#)” sets forth the requirements which are to be adhered to by the permit holder including payment of the Permit fee, and placement of the Permit within the vehicle; and .

WHEREAS, a request has been made by Ms. Dawn Kay on behalf of her father Maxwell Greenstein, who resides with her, stating the need for a Handicapped Parking Space for his benefit on and within Campbell Avenue, the City street which fronts her 100 Shore Road, Apartment F residence, Somers Point, NJ; and

WHEREAS, the request did include both the required verified Permanent Disability Parking Placard and Person With A Disability ID issued by the New Jersey Motor Vehicle Commission; and

WHEREAS, the Somers Point Chief of Police has reviewed the request and has determined that the application is in order; and

WHEREAS, the Somers Point City Engineer has reviewed the request and determined the proper placement of the Handicapped Parking space signage; and

WHEREAS, the request and the recommendation of the City Engineer have been reviewed by the Somers Point Police Department Traffic Officer and deemed appropriate and reasonable and will not interfere with the normal flow of traffic.

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. The Somers Point Municipal Code Chapter 250 Vehicles and Traffic, Article III Section 250-50 Designation of spaces is hereby amended to designate the following location as a Permit Only Handicapped Parking spaces and shall be so marked by sign indicating “Handicapped Parking by Permit Only”, in conformance with the Manual on Uniform Traffic Control Devices for Streets and Highways:

Name of Street

Location

Campbell Avenue

Directly in front of Apartment F-6
(Sign to be placed 109 feet north of northerly curb line of Ocean Avenue).

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SECTION 2. Further Conditions.

1) The Traffic Division of the Police Department in conjunction with the City Engineer shall designate an area of 25 feet in length in front of the residence of the handicapped persons, to be painted as a no-parking zone.

2)_A "Handicapped Parking by Permit Only" sign is to be placed alongside the designated area.

3) A permit 5 1/2 inches by 8 1/2 inches in size, bearing an appropriate certification of authenticity shall be issued and shall be placed in the vehicle as required by Code Section 250-57 G.

4) The holder of a City handicapped parking permit must notify the City Clerk immediately if the designated handicapped person changes his or her residence, changes his or her vehicle registration number, or if the special vehicle identification card and certificate issued by the Director of Motor Vehicles shall be modified, revoked or expired.

5) The permit shall be issued upon payment of the initial fee and shall be subject to payment of the annual renewal fee in compliance with Code Section 250-57 I.

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 3: All Ordinances or parts of Ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 4: 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 5: This Ordinance shall take effect upon its final passage, publication and adoption in the manner prescribed by law.

Ordinance No. 18 of 2017

Introduction/First Reading

M/S – Gerety/Toto

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

No. 18

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**AN ORDINANCE OF THE CITY OF SOMERS POINT AUTHORIZING THE GRANT
OF AN ACCESS EASEMENT OVER A LIMITED PORTION OF BLOCK 1815, LOT
1.02 LOCATED WITHIN THE CITY OF SOMERS POINT WHICH WAS ACQUIRED
BY THE CITY OF SOMERS POINT THROUGH THE EXERCISE OF EMINENT
DOMAIN NECESSARY FOR COMPLETION OF THE BIKE PATH**

Whereas, through exercise of its power of eminent domain in the New Jersey Superior Court in Docket No. L-672-16, the City of Somers Point ("City") did acquire a portion of block 1815, Lot 1.02 as shown on Sheet 22 of the Official tax Map of the City of Somers Point, New Jersey (the "Area of the Taking") which are was owned by Himmelstein Associates, LLC (Associates"); and

Whereas, a Declaration of Taking was filed with the Clerk of the Superior Court of New Jersey on May 23, 2016 and was recorded in the Office of the Clerk of Atlantic County on June 8, 2016 as Instrument 2016034375 in Volume 14079; and

Whereas, negotiations have taken place between the City and Associates regarding a grant of continued vehicular access over and across a portion of the Area of the Taking to accommodate continued truck ingress and egress; and

Whereas, it is in the best interest of the City and Associates to grant to Associates a vehicular access easement over, across an through a portion of the Area of the Taking comprising an area 25 feet by 30 feet as more specifically described below as prepared by Mott Associates, LLC dated 9.17.17 which is on file with the City Clerk, subject to certain terms and conditions which will authorize the City to terminate the easement under certain circumstances and facts; and

Whereas, the granting of easements requires approval by Ordinance of the City Council pursuant to N.J.S.A. 40A:12-5 and N.J.S.A. 40A:12- 13.

Now, therefore, it is hereby Ordained by the City Council of the City of Somers Point, County of Atlantic, State of New Jersey that:

1. The City Solicitor is authorized to prepare an access easement on behalf of the City ("Grantor") in favor of Himmelstein Associates, LLC ("Grantee") which shall contain the terms and conditions set forth below.

a) The legal description of the access area is:

All that certain tract or parcel of land located in the City of Somers Point, County of Atlantic, New Jersey bounded and described as follows:

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BEGINNING AT the intersection of the Southerly Line of Somers Avenue West (30 feet wide) and the Westerly line of an unnamed alley (12 feet wide); extending thence

1. South 32 degrees 14 minutes 9 seconds West, 30.0 feet along the Westerly line of an unnamed alley (12 feet wide) to a point; thence
2. North 57 degrees 0 minutes 0 seconds West, 25.0 feet to a point; thence
3. North 32 degrees 14 minutes 9 seconds East, 30.0 feet to a point; thence
4. South 57 degrees 00 minutes 00 seconds East, 25.0 feet along the Southerly line of Somers Avenue West (30 feet wide) and place of BEGINNING.

Being known as a former portion of Block 1815, Lot 1.02 on Sheet 22 of the Official Tax Map of Somers Point, New Jersey.

Containing a total area of 750 square feet (0.017Acres).

b) Grantee, its successors and assigns shall maintain a general commercial liability policy of insurance, including contractual liability coverage, with minimum coverage of \$2.0M single limit acceptable to the City and which shall at all times:

i) include an Additional Insured Endorsement to add the City of Somers Point as an additional insured for any incident arising or alleged to arise out of the use of the easement area by Grantee, its successors and assigns or their licensees, invitees, contractors and suppliers which shall be adjusted for inflation as required by the City and its Risk Manager,

ii) include a waiver of subrogation endorsement in favor of the City, and

iii) include a Primary and Non Contributory Endorsement in favor of the City;

c) Grantee, its successors and assigns, shall file annually with the City Clerk a Certificate of Insurance and policy endorsement confirming that the required insurance coverage remains in place and providing for not less than thirty (30) days notice to the City of termination or cancellation; and

d) Grantee, its successors and assigns, shall indemnify, defend and hold harmless the City from and against any claims arising out of the operation or use of the easement area by Himmelstein Associates, LLC its successors and assigns, or their licensees, invitees, contractors and suppliers, and shall be responsible to make payment to the City for the total cost to repair any portion of the easement area or adjacent bike path area caused by the operation of vehicles over and across the easement area.

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e) All of the benefits and burdens of the Easement shall be binding upon and inure to the benefit of the Grantee its successors and assigns. Should the Grantee or its successors and assigns fail to meet the burdens of the Easement, upon notice and the expiration of a ten (10) day cure period, the City shall unilaterally terminate the Easement and thereafter all rights conveyed under the Easement shall revert to the City, and the City shall file a Termination of Easement in the Office of the Atlantic County Clerk.

f) Consideration is for the sum of One Dollar and other good and valuable non-monetary compensation the adequacy and sufficiency of which is accepted by the Grantor.

2. This grant of Easement is further subject to compliance by Associates of the terms of settlement which include filling in of a sink hole and cleaning of a drainage access or swale to the satisfaction of the City Engineer and Code Enforcement Officer, permanent removal from Somers Avenue of all trailers and other personal property owned or used by Associates, and compliance with the terms and conditions of a Decision and Resolution adopted by the Somers Point Planning Board on February 15, 2017. Failure to do any of those compliance actions shall render the easement null and void and the City shall have the absolute right to terminate further right of access.

3. The City of Somers Point officials, its employees, professionals and agents are hereby authorized and directed to take any and all steps necessary to effectuate the purposes of this Ordinance, including the execution of the Easement by the Mayor and recordation by the City Solicitor of the executed Easement in the Office of the Atlantic County Clerk.

4. If any subsection, clause or phrase of this Ordinance is for any reason held to be unconstitutional or invalid in any Court of competent jurisdiction, such decision shall not affect the remaining portion of this Ordinance.

5. This Ordinance shall take effect following final passage and publication in accordance with law.

Ordinance No. 19 of 2017

Introduction/First Reading

M/S – Gerety/Toto

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

No. 19

**AN ORDINANCE VACATING A PORTION OF A 16.85 FT. WIDE PORTION OF
BRADDOCK AVENUE IN THE CITY OF SOMERS POINT, COUNTY OF ATLANTIC,
STATE OF NEW JERSEY**

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**WHICH REMAINED AFTER A TAKING BY THE STATE OF NEW JERSEY
DEPARTMENT OF TRANSPORTATION AND A PRIOR PARTIAL STREET
VACATION**

WHEREAS, by Ordinance 16 - 2008 adopted June 12, 2008, the Somers Point City Council did vacate a section of Braddock Avenue containing 2.376 square feet more or less, which was necessitated by the Route 52 Braddock Avenue East Intersection as constructed by the New Jersey Department of Transportation; and

WHEREAS, in order to accommodate improvements to be made by Himmelstein Associates, LLC, the owner of property situated on Block 1815, Lot 2 which were approved by the Somers Point Planning Board in a Decision and Resolution adopted on February 15, 2017 the owner has requested the City to vacate the remaining section of Braddock Avenue which was not included within the scope of Ordinance 16-2008; and

WHEREAS, N.J.S.A. 40:67-1(b) authorizes Municipalities to vacate public streets in the public interest; and

WHEREAS, it has been determined by the Somers Point City Council as follows:

1. The portion of a 16.85 foot wide street described below is a portion of Braddock Avenue which has not been previously vacated by the City Council and which remains following actions taken by the State of New Jersey Department of Transportation in the widening and improvement to Route 52 (MacArthur Boulevard) (the "Area to be Vacated"); and
2. It has been confirmed by the City Engineer that the City of Somers Point does not own in fee that portion of the Area to be Vacated.
3. The Area to be Vacated has does not now provide public access, and is no longer needed for public road purposes.
4. The said portion of the Area to be Vacated lends itself to higher and better use than for public road purposes and that it is in the best interest of the general public and the City of Somers Point that any public easements, rights and interests in and to same shall be vacated, released and extinguished.
5. The City Engineer has confirmed that the right - of - way proposed to be vacated is sixteen and eighty five one hundredth feet (16.85') in width and one hundred thirty and forty seven one hundredth feet (130.47') in length.
6. The portion of the property abutting the Area to be Vacated to which the title to the right - of - way will revert upon vacation is Block 1815, Lot 1.02 which is currently owned by a single entity. No other entity will take title to any portion of the Area to be Vacated.
7. The City Engineer has prepared a legal description of the Area to be Vacated and a marked up aerial showing the Area to be Vacated and the abutting property which is on file in the Office of the City Clerk.

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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. A PORTION OF PUBLIC RIGHT OF WAY IS TO BE VACATED SUBJECT TO STATUTORY PRESERVATION OF EASEMENTS:

All public easements, rights and interests to the portion of the Area to be Vacated described below, are hereby vacated, released and extinguished except for all rights and privileges now possessed by public utilities, as defined in N.J.S.A. 48:2-13, and by any cable television company, as defined in the "Cable Television Act," N.J.S.A. 48:5A-1 et seq., to maintain, repair and replace their existing facilities in, adjacent to, over and under the street, or any part thereof, to be vacated subject to the conditions described herein, all conditions herein, unless otherwise noted, shall be satisfied prior to said vacation being effective.

SECTION 2. DESCRIPTION OF THE PORTION OF THE AREA TO BE VACATED:

All that certain tract or parcel of land located in the City of Somers Point, County of Atlantic, New Jersey bounded and described as follows:

BEGINNING AT the intersection of the Northerly Line of Braddock Avenue (width varies) and the Easterly line of NJ Rt. 52 (width varies); extending thence

1. North 75 degrees 02 minutes 38 seconds East, 16.85 feet along the existing Northerly line of Braddock Avenue (width varies) to a point; thence

2. South 60 degrees 59 minutes 24 seconds East, 130.47 feet along the existing Northerly line of Braddock Avenue (width varies) to a point; thence

3. South 75 degrees 02 minutes 38 seconds West, 16.85 feet along the proposed Northerly line of Braddock Avenue (width varies) to a point; thence

4. North 60 degrees 59 minutes 24 seconds West, 130.47 feet along the Northerly line of Braddock Avenue (width varies) to a point and place of BEGINNING.

BEING KNOWN AS A PORTION of Braddock Avenue on Sheet 22 of the Official Tax Map of Somers Point, New Jersey.

CONTAINING a total area of 1,526.50 square feet (0.035Acres).

SECTION 3. STATUTORY PUBLICATION AND NOTICE:

A. The City Clerk is directed to publish notice of the introduction of this Ordinance pursuant to N.J.S.A. 40:49-2; provided, however, that notice as to such introduction and the time and place when and where the Ordinance will be further considered for public hearing and final passage, shall be made, pursuant to N.J.S.A. 40:49-6, at least ten (10) days prior to the public hearing and adoption hereof.

B. At least seven (7) days prior to the time affixed for the consideration of this Ordinance for final passage, a copy thereof, together with a notice of the introduction thereof at a time and place when and where the Ordinance will be further considered for final passage, shall be mailed to every person whose land may be effected by this Ordinance insofar as has been ascertained by the City engineer. Said notices shall be made by the City Clerk to the record owner of:

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Block 1815, Lot 1.02 [HIMMELSTEIN ASSOCIATES, LLC]

C. Within sixty (60) days after adoption of this ordinance, the City Clerk is authorized and directed to cause a certified copy of this ordinance to be filed with the office of the Atlantic County Register of Deeds and to the City Tax Assessor.

SECTION 4. FEES AND COSTS TO BE PAID BY BENEFICIAL OWNERS.

All fees and costs associated with preparation and publication of this ordinance shall be paid by the beneficial owners to which title will revert upon vacation. All such fees, costs, and expenses shall be payable from an escrow account deposited with the Somers Point Planning Board.

SECTION 5. REPEALER CLAUSE.

All Ordinances or parts of Ordinances inconsistent with this Ordinance are hereby repealed to the extent of such inconsistencies.

SECTION 6. EFFECTIVE DATE.

This Ordinance shall take effect upon final passage and publication in accordance with New Jersey law.

Resolutions:

Public Portion on Resolutions

Meeting was opened to the public and duly closed.

Resolution No. 169 of 2017

M/S – Toto/Dill

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

No. 169

Subject: Chapter 159 Resolution

Introduced By: Councilmen McGuigan, Gerety, and Dill

WHEREAS, N.J.S.A. 40A:4-87 provides that the Director of the Division of Local Government may approve the insertion of any special item of revenue in the budget of any

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municipality when such item shall have been made available by law and the amount thereof was not determined at the time of the adoption of the budget; and

WHEREAS, said Director may also approve the insertion of an item of appropriation for equal amount; and

WHEREAS, the City of Somers Point has received a grant of \$15,038.00 and wishes to amend its 2016 budget to include this amount as a revenue.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Somers Point hereby requests the Director of the Division of Local Government Services to approve the insertion of an item of revenue in the budget of the year 2017 in the sum of \$15,038.00 which item is now available as a revenue from:

Miscellaneous Revenue

Special Items of General Revenue Anticipated with Prior Written Consent of the Director of Local Government Services:

Public and Private Revenue Offset with Appropriations:
2017 Municipal Alliance on Alcoholism and Drug Abuse
Prevention Program \$15,038.00

pursuant to the provision of Statute; and

BE IT FURTHER RESOLVED that a like sum of \$15,038.00 be and the same is hereby appropriated under the caption of:

General Appropriations

(A) Operations - Excluded from "CAPS"

Public and Private Programs Offset by Revenues:
2017 Municipal Alliance on Alcoholism
and Drug Abuse \$15,038.00

BE IT FURTHER RESOLVED that this resolution be certified and submitted to the Director of Local Government Services for approval.

Resolution No. 170 of 2017

M/S – Gerety/Toto

The resolution was adopted by a unanimous vote of those present

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No. 170

Subject: Requesting Change in Title, Text or Amount of Appropriation

Introduced By: Councilmen McGuigan, Gerety, and Dill

WHEREAS, N.J.S. 40A: 4-85 provides that the Director of the Division of Local Government Services may, at the request of, or with the consent of, the governing body of any county or municipality, make such correction of the title, text, or amount of any appropriation appearing in the budget as may be necessary to make said item of appropriation available for the purpose or purposes required for the needs of any county or municipality.

NOW, THEREFORE, BE IT RESOLVED, that in accordance with the provisions of N.J.S. 40A:4-85, the City Council of the City of Somers Point hereby requests the Director of the Division of Local Government Services to make the following correction in the 2017 budget:

That the appropriation provided for in the approved budget entitled:

General Appropriations

(A) Operations - Excluded from "CAPS"

Public and Private Programs Offset by Revenues

Matching Funds

in the amount of \$5,000.00 be reduced by the sum of \$3,760.00 to \$1,240.00

and that an appropriation in the like amount of \$3,760.00 be added to the budget entitled:

General Appropriations

(A) Operations - Excluded from "CAPS"

Public and Private Programs Offset by Revenues

Municipal Alliance on Drug and Alcohol Abuse City Match

BE IT FURTHER RESOLVED that the foregoing correction is, in the opinion of the governing body, warranted and authorized by the statute referred to above, and is necessary for the orderly operation of the municipality for the reasons set forth:

The City provided for the possibility of receiving an additional grant that might require a cash match after the adoption of the 2017 budget by providing a line item "Matching Funds." The amount of the grant and the cash match required for the 2017 Municipal Alliance on Drug and Alcohol Abuse grant program are now known after the adoption of the budget. The City has received a grant of \$15,038.00 for the 2017 Municipal Alliance on Drug and Alcohol Abuse program, and a municipal cash match of 25%, in the amount of \$3,760.00 is required as a legal provision of the grant. The above correction of this budget appropriation will allow the City to make the necessary cash match.

BE IT FURTHER RESOLVED that this resolution be certified and submitted to the Director of Local Government Services for approval.

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Resolution No. 171 of 2017

M/S – Toto/Dill

The resolution was adopted by a unanimous vote of those present. Mr. Swain explained that the City scored a 96 out of a possible 100 regarding the Best Practices Survey; therefore, the City is entitled to State Aid.

No. 171

**Subject: Authorizing the City Clerk to File the 2017
Best Practices Public Meeting Certification Form**

Introduced By: Councilmen McGuigan, Gerety, and Dill

WHEREAS, the State of New Jersey Division of Local Government Services has developed a Best Practices Inventory to be completed by each municipality; and

WHEREAS, the completed form must be an agenda item for discussion at a municipal governing body meeting in order to ensure that local officials have been apprised of the response; and

WHEREAS, the City Clerk must certify that the governing body has reviewed the completed Best Practices Inventory at a public meeting; and

WHEREAS, the completed Best Practices Inventory and required certification are attached hereto and made a part hereof.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the City Clerk is hereby authorized to file the Best Practices Public Meeting Certification Form, as required, on behalf of the City.

Resolution No. 172 of 2017

M/S – Dill/Toto

The resolution was adopted by a unanimous vote of those present. Mr. Swain explained that the City received a Federal grant of \$750,000 and must follow a procedure known as the Brooks Act for design and inspection services. There are only a few engineering firms in the State of New

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Jersey who have the credentials. Mr. Swain thoroughly explained the bid process and the process of awarding. The Governing Body, Administrator Swain and Attorney Franklin reviewed all the deadlines and the funds available for the project.

On the recommendation of Attorney Franklin, Councilman Dill motioned, seconded of Councilman Meischker and carried to amend the resolution to incorporate "subject to negotiations with Michel Baker under the Brooks Act". Councilman Dill motioned, seconded of Councilman D'Adamo and carried.

No. 172

Subject: **Appointing an Engineering Firm for Engineering Design Services in Connection with the Somers Point Bikepath Widening Project, Federal Project No. TAP-1136(300)PE, NJDOT Project No. 5521308**

Introduced By: **Councilmen Dill and D'Adamo**

WHEREAS, the City of Somers Point has identified a need for an engineering and consulting firm to provide design services in connection with the Somers Point Bikepath Widening project; and

WHEREAS, as a result of a publication of Requests for Proposals for these services, one (1) proposal was received on September 26, 2017; and

WHEREAS, the proposal was reviewed by a committee selected by the City Council Steering Committee consisting of the City Administrator, the Assistant City Administrator, and the City Engineer; and

WHEREAS, the review committee ranked Michael Baker International, Inc. of Hamilton, New Jersey number one; and

WHEREAS, negotiation of costs and contract terms will be conducted with the number one ranked consultant.; and

WHEREAS, the Selection Committee has recommended that the contract for this work be awarded to Michael Baker International, Inc.; and

WHEREAS, this contract is awarded through a process allowed for Federal Highway Administration funded professional service contracts that provides for qualification based selections following the requirements defined by the Brooks Act, 40 USC.

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

1. The City of Somers Point hereby accepts the cost proposal of Michael Baker International, Inc. of Hamilton, New Jersey to provide engineering design services in connection with the Somers Point Bikepath Widening project subject, however, to negotiation of cost with Michael Baker International, Inc. as provided for under the Brooks Act.

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2. This appointment is awarded without competitive bidding as a “Professional Service” under the provisions of the Local Public contracts Law because public bidding is not required for said service.
3. Subject to satisfactory cost negotiation and expressly conditioned upon the concurrence of this award by NJDOT, and subject to verification of acceptable grant funding conditions, the City Administrator is hereby authorized to execute an agreement with Michael Baker International, Inc. for a cost not to exceed \$94,500.00 to undertake and perform such services as herein described and as described in the City’s Request for Proposals. The Request for Proposals, response, and the agreement will be attached to this resolution and become a part hereof.
4. Public notice of this award shall be made as per N.J.S.A. 40A:11.5(6).

Resolution No. 173 of 2017

M/S – Dill/Tapp

The resolution was adopted by a unanimous vote of those present

No. 173

Subject: Approving the Hiring of William Perry

Introduced By: Councilmen Tapp, Gerety and Toto

WHEREAS, the City Council of the City of Somers Point has determined to hire a Code Enforcement Officer Trainee; and

WHEREAS, it is the policy of the City of Somers Point to hire employees according to their individual merits and in accordance with the New Jersey Civil Service Policies and Procedures; and

WHEREAS, applications for the advertised position were closed on August 25, 2017; and

WHEREAS, a review of the applications was completed and interviews of job applicants were conducted by the Construction Official and the City Administrator; and

WHEREAS, the Construction Official recommends the hiring of William J. Perry and this recommendation is supported by the City Administrator; and

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WHEREAS, adequate funds are available within 2017 Budget for this hiring.

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

- 1.) The hiring of William J. Perry to the part time position of Code Enforcement Officer Trainee, New Jersey Civil Service Local Government Job Specification 07594 is hereby approved effective October 1, 2017 with an actual start date to be determined by the Construction Official as soon as practical thereafter.

- 2.) Effective October 1, 2017, the salary of William J. Perry is \$18.00 per hour.

Resolution No. 174 of 2017

M/S – Dill/Meischker

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

No. 174

Subject: Appointment of Tax Appeal Attorney
Introduced by: Council President McGuigan

WHEREAS, as a result of a vacancy created by the resignation of the prior Special Tax Counsel upon appointment to the Judiciary, the City of Somers Point has determined to appoint a replacement; and

WHEREAS, this contract is awarded through a fair and open process pursuant to N.J.S. 19:44A-20.4 et. seq.

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

1. Thomas G. Smith, Esq. of Law Offices of Thomas G. Smith, PC be and hereby is appointed as Special Tax Counsel for the City of Somers Point for the period September 29, 2017 through December 31, 2017, inclusive.
2. This appointment is awarded without competitive bidding as a “Professional Service” under the provisions of the Local Public Contracts Law because public bidding is not required for said service.

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3. This appointment is not exclusive during the term of this contract, and that the City Council reserves the right to award work of the exact or similar nature as the work described herein to any other qualified professional, at its sole discretion.
4. The Mayor is hereby authorized to execute an agreement with Law Offices of Thomas G. Smith, PC in connection with these services, and, upon execution, the contract will be attached to this resolution and become a part hereof.
5. As indicated in the Division of Local Government Services Local Finance Notice 2006-7, because this is awarded through a Fair and Open process, further public notice per N.J.S.A. 40A:11.5 (1)(a)(i) is not required.

Resolution No. 175 of 2017

M/S – Toto/Dill

The resolution was adopted by a unanimous vote of those present. Councilman Dill explained that this is Phase Two of the project.

No. 175

Subject: Advertising for Bids for the 2017 Stormwater Repairs

Sponsored by: Councilmen Howard Dill and James Toto

WHEREAS, the governing Body of the City of Somers Point has determined that it is the best interest of the City to repair miscellaneous Stormwater facilities ; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the City Engineer is hereby authorized to prepare plans and specifications for the 2017 Stormwater Repairs; and

BE IT FURTHER RESOLVED that the City Clerk is authorized to advertise for bids in conformance with N.J.S.A. 40A:11-1 et seq., said bids to be received in the City Clerk’s office at a time established thereafter in accordance with the specifications and in conformance with N.J.S.A. 40A:11-1 et seq.

Resolution No. 176 of 2017

M/S – Dill/Toto

The resolution was adopted by a unanimous vote of those present. Councilman Dill explained that this project is very important to address flooding.

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No. 176

Subject: Advertising for Bids for the Replacement of the Bulkhead on Decatur Avenue

Sponsored by: Councilmen Howard Dill and James Toto

WHEREAS, the governing Body of the City of Somers Point has determined that it is the best interest of the City to replace the deteriorating Bulkhead on Decatur Avenue; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the City Engineer is hereby authorized to prepare plans and specifications for the replacement of the Bulkhead of Decatur Avenue; and

BE IT FURTHER RESOLVED that the City Clerk is authorized to advertise for bids in conformance with N.J.S.A. 40A:11-1 et seq., said bids to be received in the City Clerk's office at a time established thereafter in accordance with the specifications and in conformance with N.J.S.A. 40A:11-1 et seq.

Resolution No. 177 of 2017

M/S – Toto/Dill

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

No. 177

Subject: Authorizing Contract with Court Administrator

Introduced By: Councilmen Tapp and Toto

WHEREAS, it is necessary for the City to approve and authorize the execution of personal services contracts on behalf of the City by an appropriate City Official; and

WHEREAS, the existing agreement between the City and the Court Administrator expired at midnight, December 31, 2016; and

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WHEREAS, the Court Administrator and representatives of the City have negotiated a successor agreement, a copy of which is attached hereto and made a part hereof.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Somers Point hereby authorizes and directs the Mayor to execute the successor agreement between the City of Somers Point and the Court Administrator and by that act the City does hereby approve said agreement effective January 1, 2017.

Resolution No. 178 of 2017

M/S – Toto/Gerety

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

On the motion of Councilman Dill, seconded of Councilman Gerety, and carried to amend the following: Move Paul Huber to Lynn Callahan’s seat with an expiring date of 12/2019 and approve Janice Johnston to end 12/2019. On the motion of Councilman Dill, seconded of Councilman Gerety and carried to approve the amended resolution.

No. 178

Subject: Zoning Board Appointments

Introduced by: Council President McGuigan

WHEREAS, Council wishes to re-appoint Shawn Rowan to full four-year term expiring December 31, 2021; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point, New Jersey that the Somers Point Zoning Board of Adjustment is constituted as follows:

MEMBER	EXPIRATION OF TERM
David Robbins	Dec. 31, 2020
Joseph Craddock	Dec. 31, 2020
Shawn Rowan	Dec. 31, 2021
Charles “Skip” Broomall	Dec. 31, 2018
Tracy Campbell	Dec. 31, 2019
Paul Huber	Dec. 31, 2019
Janice Johnston	Dec. 31, 2019
Alternates:	
Vacant – Alt. No. 1	Dec. 31, 2017
Vacant – Alt. No. 2	Dec. 31, 2018

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Resolution No. 179 of 2017

M/S – Dill/Tapp

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

Councilman D’Adamo noted a typo regarding the Morris Properties, which should read “2017, not 2019”.

No. 179

Introduced by: Council President McGuigan

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 **ONE** topic which involves the status of certain pending Tax Appeals filed on behalf of ten (10) commercial / residential property owners, and a recommendation for settlement of claims for reduction in assessed tax valuations or other resolution of claims for reduction in assessed tax valuations for tax years 2010 through 2017 which have been asserted against the City which require discussion of the advice and recommendations provided by the Tax Assessor and City Solicitor as Tax Counsel to the City of Somers Point and are matters permitted by N.J.S.A. 10:4-12(b) as an exception to public meetings and are necessary to be discussed without the public in attendance during an Executive Session to be held on September 28, 2017 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.

“(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 in order for the attorney to exercise his ethical duties as a lawyer.”

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The parties to and docket numbers of each item of litigation and/or the parties to each contract discussed are and the nature of the discussion, described as fully as possible without undermining the need for confidentiality is:

A report by the Somers Point City Solicitor as Tax Counsel and the Somers Point Tax Assessor on the status of certain tax appeals filed or pending against the City of Somers Point, and explanation of the basis for settlement or other recommendations made by the Tax Assessor and City Solicitor The list of the matters pending before the Tax Court of New Jersey for which such recommendation has been made and which may be discussed is:

CAPTION and TAX COURT DOCKET NO. WHERE KNOWN; OR BY TAX YEAR IF NO DOCKET NUMBER ASSIGNED:

<u>Docket No.:</u>	<u>Caption:</u>	BLOCK / LOT	<u>Tax Year:</u>
014228-2012	519 Shore Road, LLC v. City of Somers Point	Block - 1114 Lot – 5	2012
010553-2012	519 Shore Road, LLC v. City of Somers Point	Block - 1114 Lot – 5	2013
013372-2014	519 Shore Road, LLC		

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	v. City of Somers Point	Block - 1114	Lot – 5	2014
012083-2015	519 Shore Road, LLC v. City of Somers Point	Block - 1114	Lot – 5	2015
012084-2015	Morris Properties, Inc. v. City of Somers Point	Block - 1915	Lot – 5	2015
012085-2015	Morris Properties, Inc. v. City of Somers Point	Block - 2133	Lot – 1	2015
006028-2015	Morris Properties, Inc. v. City of Somers Point	Block - 1943	Lot – 5	2015
011887-2016	Morris Properties, Inc. v. City of Somers Point	Block -1915	Lot – 14.02	2016
011888-2016	Morris Properties, Inc. v. City of Somers Point	Block - 2133	Lot – 1	2017
006987-2016	Morris Properties, Inc. v. City of Somers Point	Block - 1943	Lot – 5	2016
005439-2014	GMH Restaurant Holdings v. City of Somers Point	Block - 1810	Lot – 3	2014
002887-2015	GMH Restaurant Holdings v. City of Somers Point	Block - 1810	Lot – 3	2015
001776-2016	GMH Restaurant Holdings v. City of Somers Point	Block - 1810	Lot – 3	2016
014049-2014	Sunset Bay Partners, LLC v. City of Somers Point	Block - 2043	Lot – 6	2014
011119-2015	Sunset Bay Partners, LLC v. City of Somers Point	Block - 2043	Lot – 6	2015
012146-2016	Sunset Bay Partners, LLC v. City of Somers Point	Block - 2043	Lot – 6	2016
011955-2016	Pier 4, LLC v. City of Somers Point	Block - 2012	Lot – 12	2016
003747-2016	Crab Trap v. City of Somers Point	Block - 2012	Lot – 11	2016
012311-2016	Owl Motel v. City of Somers Point	Block - 1423	Lot – 1	2016

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012090-2017	Owl Motel v. City of Somers Point	Block - 1423	Lot - 1	2017
008997-2010	Harbour Cove Marina, LLC v. City of Somers Point	Block- 1211	Lot - 2	2010
011651-2011	Harbour Cove Marina, LLC v. City of Somers Point	Block- 1211	Lot - 2	2011
006813-2012	Harbour Cove Marina, LLC v. City of Somers Point	Block- 1211	Lot - 2	2012
005012-2013	Harbour Cove Marina, LLC v. City of Somers Point	Block- 1211	Lot - 2	2013
005838-2017	Brian Holloway v. City of Somers Point	Block- 2012	Lot - 3	2017

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Various	Alexander Kazmarck v. Somers Point	Block -2018 Block - 2018 Block - 2018	Lots- 1.01- 1.05 Lot - 1.08 Lot - 2.02	2015-2017
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WHEREAS, the length of the Executive Session is estimated to be approximately 25–30 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 immediately after it passes and to distribute those photocopies to the public in attendance prior to the Executive Session commencing.

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 Above	On or after September 28, 2017.	City Council Approval by Resolution

Resolution No. 180 of 2017

M/S – Dill/Toto

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

No. 180

Authorizing the Somers Point Tax Assessor in Conjunction with Somers Point Special Tax Counsel to Settle and Compromise Certain Real Property Tax Appeals Pending before the New Jersey Tax Court

Introduced By: Council President Mcguigan

WHEREAS, from time to time the Tax Assessor is presented with an opportunity to compromise, settle or otherwise dispose of certain tax appeals pending before the Atlantic County Board of Taxation or the New Jersey Tax Court; and

REGULAR MEETING MAYOR AND CITY COUNCIL September 28, 2017

WHEREAS, for reasons of efficiency this Governing Body has determined that the Tax Assessor should not be required to present each such settlement to this body for approval; and

WHEREAS, this Governing Body has directed that whenever a settlement of a pending matter would result in an assessed tax revenue reduction in excess of Ten Thousand Dollars (\$10,000.00) for any such property within a single tax year no such settlement shall be entered into without a presentation to the City Council explain the proposed settlement, the reason for the settlement recommendation, and the impact upon the current and prior tax years; and

WHEREAS, A) Special Tax Counsel and the Somers Point Tax Assessor had identified the following series of pending tax appeals and have discussed the implications and recommendations during Executive Sessions held on December 8, 2016 relative to the following pending Tax Appeals which exceed the approval threshold:

<u>Docket No.:</u>	<u>Caption:</u>	<u>Tax Year:</u>		
013455-2014	TIMOTHY WALLACE v. City of Somers Point	Block – 1941.01	Lot – 1	2014
011521-2015	TIMOTHY WALLACE v. City of Somers Point	Block – 1941.01	Lot – 1	2015
21-1600069L	TIMOTHY WALLACE v. City of Somers Point	Block – 1941.01	Lot – 1	2016

And,

Whereas, City Council by Resolution No. 64 of 2017 did approve the following settlement terms:

<u>Block / Lot #:</u>	<u>Tax Year:</u>	<u>Stipulated Assessed Value:</u>
1941.01 / Lot 1	2014	\$ 50,000.00
1941.01 / Lot 1	2015	\$ 75,000.00
1941.01 / Lot 1	2016	\$100,000.00

And, Whereas, it was to be further stipulated to the Tax Court by the parties that the Assessment on Land and Improvements shall be set at \$100,000 during 2017 and 2018 and no Appeal shall be filed by the owner of the property for those tax years; and it shall be further stipulated that the reduction in the assessed value is as a result of environmental contamination present on the property for which a cleanup effort is being undertaken. In the event at any time during 2017 or 2018 the New Jersey Department of Environmental Protection shall declare the property environmentally clean with a No Further Action Notice issued, the freeze act shall be of no further effect and the City shall have the right to reassess the property and the property owner shall have the right to file a tax appeal as a result of such assessment; and

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Whereas, as a result of subsequent discussions among Special Tax Counsel, the Tax Assessor, and Counsel for the Plaintiff it was agreed that the settlement be further amended, subject to City Council approval, to provide that:

- 1) 50% of the refund shall be paid without interest within 60 days of the issuance of the judgments.
- 2) 25% of the refund will be paid without interest by February 15, 2018.
- 3) 25% of the refund will be issued as credits against future taxes beginning the first quarter after judgments are issued.
- 4) Plaintiff shall provide reports to the tax assessor every six (6) months to provide the status of the environmental cleanup undertaken by the Licensed Site Professional and whether such has been completed and/or the estimated time until the completion of the cleanup

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Taxing District of Somers Point that the Tax Assessor, in consultation with the Somers Point City Solicitor as Tax Counsel is hereby authorized to file a Stipulation of Settlement to incorporate the terms hereinabove set forth.

Resolution No. 181 of 2017

M/S – Meischker/Dill

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

No. 181

Authorizing the Somers Point Tax Assessor in Conjunction with Somers Point Special Tax Counsel to Settle and Compromise Certain Real Property Tax Appeals Pending before the New Jersey Tax Court

Introduced By: COUNCIL PRESIDENT MCGUIGAN

WHEREAS, from time to time the Tax Assessor is presented with an opportunity to compromise, settle or otherwise dispose of certain tax appeals pending before the Atlantic County Board of Taxation or the New Jersey Tax Court; and

WHEREAS, for reasons of efficiency this Governing Body has determined that the Tax Assessor should not be required to present each such settlement to this body for approval; and

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WHEREAS, this Governing Body has directed that whenever a settlement of a pending matter would result in an assessed tax revenue reduction in excess of Ten Thousand Dollars (\$10,000.00) for any such property within a single tax year no such settlement shall be entered into without a presentation to the City Council explain the proposed settlement, the reason for the settlement recommendation, and the impact upon the current and prior tax years; and

WHEREAS, the City Solicitor / Tax Counsel and the Somers Point Tax Assessor had identified the following series of pending tax appeals and recommendations were discussed during an Executive Session held on September 14, 2017 relative to the following pending Tax Appeal which exceeds the approval threshold:

<u>Docket No.:</u>	<u>Caption:</u> <u>Tax Years:</u>	<u>Block / Lot</u>
14922-2014 2014	Himmelstein Associates, LLC v. City of Somers Point	Block -1815 Lot – 1.02
7841-2015 2015	Himmelstein Associates, LLC v. City of Somers Point	Block -1815 Lot – 1.02
6023-2016 2016	Himmelstein Associates, LLC v. City of Somers Point	Block -1815 Lot – 1.02

WHEREAS, after giving due and careful consideration to the recommendations made by the City Solicitor / Tax Counsel and the Somers Point Tax Assessor

NOW, THEREFORE, BE IT RESOLVED by the Governing Body of the Taxing District of Somers Point that the Tax Assessor, in consultation with the Somers Point Special Tax Counsel is hereby authorized to settle or otherwise dispose of the following matters pending before the Tax Court of the State of New Jersey in the following manner:

<u>Docket No.:</u>	<u>Caption:</u> <u>Tax Years:</u>	<u>Block / Lot</u>
14922-2014 2014	Himmelstein Associates, LLC v. City of Somers Point	Block -1815 Lot – 1.02

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7841-2015 **Himmelstein Associates, LLC**
v. City of Somers Point **Block -1815** **Lot – 1.02**
2015

6023-2016 **Himmelstein Associates, LLC**
v. City of Somers Point **Block -1815** **Lot – 1.02**
2016

Through a stipulation for the assessed value of the subject property in the amounts shown for the tax years designated below:

Block / Lot #:	Tax Year:	Stipulated Assessed Value:
Block 1815, Lot 1.02	2014	\$1,500,000.00
Block 1815, Lot 1.02	2015	\$1,500,000.00
Block 1815, Lot 1.02	2016	\$1,500,000.00

The Assessment on Land and Improvements shall be set at \$1,800,000.00 for 2017 and no appeals shall be filed by the owner of the property for that tax year.

Interest and penalties shall be waived, the reduction shall be credited against future taxes, and all other taxes and other charges which may be due and owing shall be paid in full.

IT IS FURTHER RESOLVED that the Mayor, the City Administrator, the Somers Point Tax Assessor and the City Solicitor / Tax Counsel are hereby authorized to execute and deliver any and all such documents as may be determined by the Tax Assessor and Special Tax Counsel to be necessary or desirable to effectuate this approved settlement.

Resolution No. 182 of 2017

M/S – Gerety/Toto

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

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No. 182

**Resolution Appointing Members to the Economic Development Advisory Commission
to Fill Vacancies**

Introduced by: Council President McGuigan

WHEREAS, Ordinance No. 1 of 2006 authorized the establishment of an Economic Development Advisory Commission; and

WHEREAS, Ordinances No. 31 of 2007 and Ordinance 5 of 2014 amended said Ordinance; and

WHEREAS, vacancies exist due to the resignations of Regular Member Ron Meischker, and Advisory Ex Officio Member Nicol Hoff; and

WHEREAS, the City Council hereby appoints Brenda Klock as a Regular Member to fill the unexpired term of Ron Meischker, said term expiring December 31, 2019; and

WHEREAS, in accordance with Code Section 20-3 D the City Council **may**, at its option appoint up to two Ex Officio Members whose term shall expire on December 31 of the year of their appointment; and

WHEREAS, it is necessary to amend Resolutions 24, 101, and 111 of 2017 to set the term expiration date for Ex Officio Members as December 31, 2017; and

WHEREAS, the City Council hereby appoints Jann E. Mevoli, Vice President of Sturdy Bank, as an Advisory Ex Officio Member to fill the unexpired term of Nicol Hoff, said term expiring December 31, 2017;

NOW, THEREFORE, BE IT RESOLVED that the Economic Development Advisory Commission consists of the following members:

<u>Regular Members</u>	<u>Expiration of Term</u>
Maria Deaver	December 31, 2018
Glenn Monroe	December 31, 2017
Greg Sykora	December 31, 2017
Mario Swarez	December 31, 2017
Brenda Klock	December 31, 2019
Sue Seckinger	December 31, 2019
Ron Ralston	December 31, 2019
Tay Person	December 31, 2019

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<u>Advisory ExOfficio Member(s)</u>	<u>Expiration of Term</u>
Jann E. Mevoli	December 31, 2017
Pamela J. Chamberlain	December 31, 2017

Resolution No. 186 of 2017

M/S – Dill/Toto

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

No. 186

**A Resolution In Partial Opposition To S-1045 and S-1046 Which Propose Amendments to
The Open Public Meetings Act (OPMA) and The Open Public Records Act (OPRA)**

Sponsored by: Mayor and City Council

WHEREAS, S-1045 proposing certain amendments to the Open Public Meetings Act (OPMA) and S-1046 proposing certain amendments to the Open Public Records Act (OPMA) were considered by the Senate Budget and Appropriations Committee (the “Committee”) on July 27, 2017 without hearing testimony from interested third parties; and

WHEREAS, the Committee released the bills to the full Senate without recommendation; and

WHEREAS, the bills, as drafted, will impose further responsibilities upon municipal clerks, whom the Legislature has already loaded with responsibilities beyond the scope of their office, and who would be stretched even further than current law requires without a single dollar of additional resources provided to, or authorized to be collected by, municipalities; and

WHEREAS, those added burdens will be hardest felt by smaller municipalities, particularly those such as Somers Point which host a hospital for which the Office of the Municipal Clerk also serves as Registrar of births and deaths; and

WHEREAS, these bills, if enacted, will impose upon subcommittees, advisory committees and working groups which are designed by nature to digest and vet information informally to make recommendations to the governing bodies and which do not, themselves, have any power or authority to either make binding decision or expend public funds, the same obligations which apply to elected and appointed bodies; and

WHEREAS, many such advisory committees are comprised of volunteers which do not have the wherewithal to satisfy such requirements; and

WHEREAS, the amendments will allow for mandatory prevailing attorney fees to apply to any party, other than a public body, that prevails in an action brought in violation of OPMA; and

WHEREAS, Courts and the Government Records Council need the flexibility to award reasonable attorney’s fees based on the given circumstances of a particular case and imposing mandatory prevailing attorney fees for OPMA violations will lead to undue litigation and will

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divert tax dollars from municipal services to attorney fees which are far in excess of the hourly rates paid by municipalities for legal services; and

WHEREAS, these bills will impose a financial burden on municipalities that would not be offset by a revenue source other than the property tax, making the bills unfunded mandates prohibited by the New Jersey Constitution.

Now, therefore, for all of the above stated reasons it is hereby **RESOLVED**, that the Mayor and Council of the City of Somers Point, County of Atlantic, State of New Jersey, join with the New Jersey League of Municipalities, the New Jersey Municipal Clerks' Association, and other representative agencies of state and local government which oppose these amendments, and call upon the New Jersey Legislature to reject Senate Bill Nos. 1045 and 1046 and draft new legislation to modernize OPRA and OPMA which would provide municipalities and clerks with the resources to effectuate these changes for the benefit of the public; and

It is further **RESOLVED** that if the purported intent of the proposed legislation in to ensure transparency in government actions and deliberations, then whatever amendments may be enacted should apply equally to the State Legislature to which the public should be guaranteed that same transparency and that no ongoing exemption for the legislature should be perpetuated; one standard should apply to all equally; and

It is further **RESOLVED** that the Somers Point City Clerk is requested to send a certified copy of this Resolution to the legislative sponsors of Senate Bill Nos. 1045 and 1046 and Assembly Bill Nos. 2697 and 2699, the Speaker of the General Assembly, the President of the Senate, and the Governor, Senator-select Colin Bell, Assemblyman Chris Brown, Assemblyman Vincent Mazzeo, the New Jersey State League of Municipalities, the Municipal Clerks' Association of New Jersey, the Secretary of the Atlantic County Board of Chosen Freeholders, and to the Atlantic County Mayor's Association

Old Business:

None

New Business:

Council President McGuigan received a question from a Somers Point business owner requesting the use of the City's logo. Council President McGuigan referred the question to the Economic Development Advisory Commission. Council President McGuigan opined that businesses should be able to use the City logo.

Discussion of Bills:

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Administrator Swain reported a bill list dated 9/26/17 in the amount of \$ 1,479,186.91 along with records of payments for \$ 4,427.26 dated 9/15/17.

Public Portion

Public Portion was duly opened.

Ms. Cianci expressed her concern regarding the City's Boards' and Commissions' policies regarding posting agendas and minutes. Council President McGuigan indicated that the issue has been rectified. Councilman Dill mentioned that the Planning Board application that Ms. Cianci questioned, will be heard at the October 12th Planning Board Meeting. Hearing nothing further from the public, accordingly the Public Portion was duly closed.

Payment of Bills

M/S – Dill/Tapp

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

Recess:

City Council recessed at 9:00 p.m. prior to going into Executive Session.

Adjournment

There being no further business to come before Council, the meeting was adjourned at 9:15 p.m.

Respectfully submitted,

Lucy R. Samuelson, RMC
Municipal Clerk
Approved: