

REGULAR MEETING MAYOR AND CITY COUNCIL March 10, 2011

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

Present: D'Adamo, Dill, Kern, Smith, Triboletti & McGuigan

Also Present: Mayor Glasser, Administrator Swain, Atty. Lafferty & City Clerk Degrassi

Absent: Tapp

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

Communications

Mayor Glasser read a letter from the VFW inviting the Mayor and Council to participate in the Memorial Day Parade.

Councilman Smith reminded everyone that the Education Foundation Dinner is on April 2nd.

Council President McGuigan read a letter from Atty. John Daniels requesting the Quit Claim Deed regarding the Kazmarck property be placed on the agenda for the March 24th meeting.

Administrator's Report

No report given.

Committee Reports

Councilman Triboletti requested a Special Budget Work Session to be held on March 17th to discuss the 2011 proposed budget. Meeting was so scheduled at 6:00 p.m.

Councilwoman Kern advised that the local school budget has been submitted to the County with a zero percent tax increase and the public hearing is on the 28th. She also advised that there are five people running for the three seats on the local Board of Education. She also thanked the Economic Development Advisory Commission for their minutes and asked that they put together a budget and present it to the Council.

Minutes

Minutes of the Special Meeting dated August 11, 2011 were approved unanimously by those present.

ORDINANCES

Ordinance No. 1 – First Reading

M/S – RT/HD – Approved by a unanimous vote of those present.

Atty. Franklin explained the history and the litigation challenge because of the denial by the Board of a Billboard application. He stated that the Council subcommittee has made a thorough review of our sign ordinance.

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Ordinance No. 1 (Continued)

ORDINANCE No. 1 of 2011

AN ORDINANCE SUPPLEMENTING AND AMENDING CHAPTER 114, ARTICLE I, GENERAL PROVISIONS OF THE CITY OF SOMERS POINT DEVELOPMENT ORDINANCE OF THE MUNICIPAL CODE OF THE CITY OF SOMERS POINT, ATLANTIC COUNTY, NEW JERSEY, ADOPTING A NEW CHAPTER 114, ARTICLE I A “SIGNS”; REPEALING THE CURRENT PROVISIONS OF CHAPTER 114 INCONSISTENT HERewith AND REAFFIRMING ALL SECTIONS OF THE DEVELOPMENT ORDINANCE NOT INCOSISTENT HERewith REGULATING SIGNS WITHIN THE ZONING DISTRICTS OF THE CITY OF SOMERS POINT; REAFFIRMING THE PURPOSE AND INTENT OF THE SEVERABILITY CLAUSES OF CHAPTER 1, SECTIONS 1-10 AND 1-11; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Somers Point in Atlantic County finds and determines that the City’s Development Ordinance and its signage regulations were intended to maintain and improve the quality of life for all citizens of this City;

WHEREAS, the City Council has determined the need to update and revise its Development Ordinance relative to signs;

WHEREAS, the City Council finds that billboards detract from the natural and manmade beauty of the City, and are not allowed as a sign type or an allowed business use within the City;

WHEREAS, the City Council agrees that the aesthetic impact of billboards is an economic fact and is a relevant zoning consideration, that reasonable men and women can conclude that the addition of off-premise signs would disserve the general welfare, and that such a policy question is appropriately committed to the judgment of a local legislative body, such as the City Council;

WHEREAS, the City Council finds and determines that the United States Supreme Court had consistently determined that aesthetics is a valid basis for zoning, and the regulation of the size of signs and the prohibition of certain types of signs can be based upon aesthetic grounds alone as promoting the general welfare;

WHEREAS, the City Council finds and determines that the size, height, and other characteristics of signs can magnify their adverse impacts on both traffic safety and aesthetics;

WHEREAS, the City Council agrees with the New Jersey Supreme Court that a business sign (sometimes referred to as an on-site sign or on-premises sign) is in actuality a part of the business itself, just as the structure housing the business is a part of it, and the authority to conduct the business in a district carries with it a right to maintain a business sign on the premises subject to reasonable regulations, but that the placement of outdoor advertising signs, known as commercial billboards, is made pursuant to the conduct of the business of outdoor advertising itself, and further agrees with the New Jersey Supreme Court that it has long been settled that the unique nature of outdoor advertising and the nuisances fostered by billboards and similar outdoor structures located by persons in the business of outdoor advertising, justify the separate classification of such structures for purposes of governmental regulation and restriction [*see, United Advertising Corp. v. Borough of Raritan*, 11 N.J. 144, 93 A.2d 362 (N.J. 1952)];

WHEREAS, the City Council finds that local governments may separately classify off-site and on-site advertising signs in taking steps to minimize visual pollution;

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WHEREAS, the City Council finds and determines that the Development Ordinance of the City does not permit off-site or off-premises advertising signs;

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WHEREAS, the City Council agrees with the American Society of Landscape Architects' determination that billboards tend to deface nearby scenery, whether natural or built, rural or urban, and that this characteristic is inconsistent with all of the land use categories and actual land uses within the City;

WHEREAS, the City Council agrees with the courts that have recognized that outdoor advertising signs tend to interrupt what would otherwise be the natural landscape as seen from the highway, whether the view is untouched or ravished by man, and that it would be unreasonable and illogical to conclude that an area is too unattractive to justify aesthetic improvement;

WHEREAS, the City Council finds that billboards attract the attention of drivers passing by the billboards, thereby adversely affecting traffic safety and constituting a public nuisance and a noxious use of the land on which the billboards are erected;

WHEREAS, the City Council recognizes that billboards are a form of advertisement designed to be seen without the exercise of choice or volition on the part of the observer, unlike other forms of advertising that are ordinarily seen as a matter of choice on the part of the observer and the City Council acknowledges that the United States Supreme Court and many federal courts have accepted legislative judgments and determinations that the prohibition of billboards promotes traffic safety and the aesthetics of the surrounding area. [*see Metromedia, Inc. v. City of San Diego*, 453 U.S. 490, 509-510 (1981)];

WHEREAS, the City Council hereby finds and determines that anything beside the road which tends to distract the driver of a motor vehicle directly affects traffic safety, and that signs, which divert the attention of the driver and occupants of motor vehicles from the highway to objects away from it, may reasonably be found to increase the danger of accidents, and agrees with the courts that have reached the same determination;

WHEREAS, the City Council recognizes that on-site business signs are considered to be part of the business itself, as distinguished from off-site outdoor advertising signs, and finds and determines that it is well-recognized that the unique nature of outdoor advertising and the nuisances fostered by commercial billboard signs justify the separate classification of such structures for the purposes of governmental regulation and restrictions;

WHEREAS, the City Council finds and determines that billboards are a traffic hazard and impair the beauty of the surrounding area, and the prohibition of the construction of billboards will reduce these harms;

WHEREAS, the City Council finds and determines that the presence of billboards along the state highway systems, may prevent public property from being used for beautification purposes due to view zones established by the state, which would be detrimental to the land use policies of the City;

WHEREAS, Scenic America, Inc. recommends improvements in the scenic character of a community's landscape and appearance by prohibiting the construction of billboards, and by setting height, size and other standards for on-premise signs [*see Scenic America's Seven Principles for Scenic Conservation, Principle #5*];

WHEREAS, the City Council finds and determines that in order to preserve, protect and promote the safety and general welfare of the residents of the City, it is necessary to continue to regulate off-site advertising signs, commonly known as billboard signs or

Billboards or commercial billboards, so as to prohibit the construction of billboards in all zoning districts, and to provide that the foregoing provisions shall be severable;

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WHEREAS, the City Council finds and determines that commercial billboard signs are public nuisances given their adverse impact on both traffic safety and aesthetics;

WHEREAS, the City Council finds and determines that off-site signs, also known and commonly referred to as “billboards” or “commercial billboards,” are not compatible with adjacent areas and are not an approved land use within any of the City’s zoning districts;

WHEREAS, the City Council finds and determines that the business of outdoor advertising in the form of off-site signs, commonly known as billboards or commercial billboards, is not an approved use within the City or any of its zoning districts;

WHEREAS, the City Council finds and determines that a continued prohibition on the erection of off-site outdoor advertising signs commonly known as billboards or commercial billboards will limit the number of driver distractions and the number of aesthetic eyesores along the roadways and highways of the City;

WHEREAS, the City Council finds and determines that a continuing prohibition on billboard signs and structures is consistent with the Development Ordinance of the Code of the City of Somers Point, inasmuch as no zoning district in the City permits the business of outdoor advertising as a use permitted by right or conditional approval;

WHEREAS, the City Council finds and determines that this ordinance will enhance the attractiveness and economic well-being of the City as a place to live, visit, and conduct business;

WHEREAS, the City Council finds that the preservation of the City’s character promotes tourism by establishing a visual attractiveness for the City and promoting its general economic and cultural development consistent with the City’s interest in aesthetics and the unique character of the City as a community with historic, bay front with beaches, parks and open space integrated with a residential and commercial districts;

WHEREAS, the City Council finds and determines that the prohibition of billboards as set forth herein will preserve the beauty and charm of the City, maintain the aesthetic and visual appearance of the City, preserve and keep open areas for beautification on public property adjoining the public roadways, will keep such signage from interfering with the visibility, readability and/or effectiveness of on-site signs by reducing and/or diminishing the visual clutter of off-site signs, will enhance the City as an attractive place to live and/or work, reduce blighting influences, and will benefit traffic safety by reducing driver distractions;

WHEREAS, the City Council finds and determines that the City has allowed noncommercial speech to appear wherever commercial speech appears per Section 114-120, Development Ordinance; and the City Council desires to codify that practice through the specific inclusion of a substitution clause that expressly allows non-commercial messages to be substituted for commercial messages;

WHEREAS, the City Council finds and determines that by confirming in its ordinance that noncommercial messages are allowed wherever commercial messages are permitted, the City will continue to overcome any constitutional objection that its ordinance impermissibly favors commercial speech over noncommercial speech;

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WHEREAS, the City Council finds that in order to reconfirm that its regulations meet constitutional scrutiny, it is appropriate to amend the ordinance code to emphasize the fact that noncommercial messages may be placed wherever commercial messages appear, that commercial speech is not favored over noncommercial speech, and that any on-site or off-site sign permitted or allowed by law is allowed to contain noncommercial speech in lieu of commercial speech;

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WHEREAS, the City Council finds and determines that the City has consistently adopted and enacted severability provisions in connection with its ordinance code provisions [See Chapter 1, General Provisions, Sections 1-10 and 1-11], and that the City Council wishes to ensure that severability provisions apply to its land development regulations, including its sign regulations;

WHEREAS, various arguments have been advanced in recent years that the permitting of signs is subject to “prior restraint” scrutiny under the First Amendment;

WHEREAS, the City Council finds and determines that the City’s sign regulations are concerned with the secondary effects of speech, including but not limited to aesthetics and traffic safety, and are not intended to regulate viewpoints or censor speech, and for those and other reasons that the foregoing provisions are not subject to, or would not fail, a “prior restraint” analysis;

WHEREAS, the severability clause in the Code of the City of Somers Point, at Chapter 1, Sections 1-10 and 1-11 was adopted with the intent of upholding and sustaining as much of the City’s regulations, including its sign regulations, as possible in the event that any portion thereof (including any section, sentence, clause or phrase) be held invalid or unconstitutional by any court of competent jurisdiction;

WHEREAS, the City Council recognizes that frivolous challenges to its provisions regulating signage might be advanced under the pretext that the City is unconstitutionally restraining free speech, and the City Council desires to amend and modify the Development Ordinance to ensure that a prior restraint claim cannot be advanced in good faith against the City’s sign regulations;

WHEREAS, the City Council has determined that there have been several judicial decisions where courts have not given full effect to severability clauses that applied to sign regulations and where the courts have expressed uncertainty over whether the legislative body intended that severability would apply to certain factual situations despite the presumption that would ordinarily flow from the presence of a severability clause;

WHEREAS, the City Council is aware that the failure of some courts to uphold severability clauses has led to an increase in litigation by billboard developers seeking to strike down sign ordinances in their *entirety* so as to argue, even when there is no vested right under state law, that the developers’ applications to erect billboards must be granted;

WHEREAS, the City Council desires that there be an ample record of its intention that the presence of a severability clause in connection with the City’s sign regulations be applied to the maximum extent possible, even if less speech would result from a determination that any exceptions, limitations, variances or other provisions are invalid or unconstitutional for any reason whatsoever;

WHEREAS, the City Council desires that there be an ample record that it intends that each prohibited sign-type continue in effect regardless of the invalidity or unconstitutionality of any, or even all other, provisions of the City’s sign regulations, other ordinance code provisions, or other laws, for any reason(s) whatsoever;

WHEREAS, the City Council desires that the prohibition on billboards continue in effect regardless of the invalidity or unconstitutionality of any, or even all other, provisions of the City’s sign regulations, other ordinance code provisions, or other laws, for any reason(s) whatsoever;

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WHEREAS, the City Council desires that there be an ample record that it intends that the height, size (area), spacing, setback and number limitations on free-standing signs continue in effect regardless of the invalidity or unconstitutionality of any, or even all other, provisions of the City’s sign regulations, other ordinance code provisions, or other laws, for any reason(s) whatsoever;

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WHEREAS, the City Council is aware that billboard developers seeking to attack a sign ordinance, either in its entirety or as to some lesser portion, have often advanced an argument that the billboard developer has a so-called “vested” right to erect a billboard through the submission of one or more prior permit applications, so that in the event that the billboard developer is successful in obtaining a judicial decision that the entirety or some lesser portion of a sign ordinance or its permitting provisions are invalid or unconstitutional, the billboard developer may then seek to compel the local governmental unit to issue a permit to allow the billboard developers to erect a permanent billboard structure within the local government’s jurisdiction;

WHEREAS, the City Council desires to make it clear that billboards are not a compatible land use within the City and that there can be no good faith reliance by any prospective billboard developer under New Jersey “vested rights” law in connection with the prospective erection or construction of new or additional billboards within the jurisdictional limits of the City;

WHEREAS, the City Council has determined that the purpose and intent provisions of its signage regulations should be even more detailed than they are now so as to further describe the beneficial aesthetic and other effects of the City’s sign regulations, and to reaffirm that the sign regulations are concerned with the secondary effects of speech and are not designed to censor speech or regulate the viewpoint of the speaker;

WHEREAS, the City Council finds and determines that the dimensional criteria, including but not limited to size (area) and height, established for certain signs and sign-types as set forth in the Development Ordinance are not based upon any arbitrary determination but are based upon the function served by the sign and sign-type involved, are serve a legitimate governmental interest of balancing aesthetics and safety with the need for signage that serves a necessary purpose;

WHEREAS, the City Council wishes to continue the policy of prohibiting certain sign types within the City, including commercial billboards;

WHEREAS, the City Council finds that certain types of signs, particularly large signs, create a safety hazard by distracting motorists, pedestrians, and others;

WHEREAS, the City Council wishes to protect the safety of motorists, pedestrians, and others from distraction caused by signs;

WHEREAS, the City Council finds that some signs, particularly large signs, create aesthetic eyesores and detract from the aesthetic beauty of the landscape;

WHEREAS, the City Council wishes to preserve and enhance the City as a desirable community in which to live, work and visit in a pleasing, visually attractive environment; and

WHEREAS, the regulation of signs within the City is a highly contributive means by which to achieve this desired end; and

WHEREAS, the regulation of signage for purposes of aesthetics has long been recognized as advancing the public welfare;

WHEREAS, as far back as 1954, the United States Supreme Court recognized that “the concept of the public welfare is broad and inclusive,” that the values it represents are

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“spiritual as well as physical, aesthetic as well as monetary,” and that it is within the power of the legislature “to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled”

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WHEREAS, the regulation of signage for purposes of aesthetics directly serves the policy of this state;

WHEREAS, the City Council finds and determines that the City has adopted a Development Ordinance in order to implement its Comprehensive Master Plan, and comply with the requirements in the Municipal Land Use Law, including the regulation of sign structures in conjunction with the development of land;

WHEREAS, consistent with New Jersey's Municipal Land Use Law C.P.L. 1975, c. 291, City of Somers Point's Development Ordinance regulates land development so as to guide the appropriate use and development of land within the City and in a manner which will promote the public safety and general welfare, per Section 114-1 A, Development Ordinance;

WHEREAS, consistent with New Jersey's Municipal Land Use Law C.P.L. 1975, c. 291, City of Somers Point's Development Ordinance regulates land development so as to provide open space and the conservation of open space per Sections 114-1B (3) and 114-1B (10), Development Ordinance;

WHEREAS, consistent with New Jersey's Municipal Land Use Law C.P.L. 1975, c. 291, City of Somers Point's Development Ordinance regulates land development so as to promote a community land use pattern which recognizes the natural features of the City, the zoning district and the particular property, per Section 114-1B (11) , Development Ordinance;

WHEREAS, consistent with New Jersey's Municipal Land Use Law C.P.L. 1975, c. 291, City of Somers Point's Development Ordinance regulates land development so as to encourage the design of transportation routes in such a way as to discourage the routes that result in congestion or blight, per Section 114-1B (8), Development Ordinance;

WHEREAS, consistent with New Jersey's Municipal Land Use Law C.P.L. 1975, c. 291, City of Somers Point's Development Ordinance regulates land development so as to promote a visual environment by protecting historic features, including structures, sites and landscapes, with a special character or use and which affect or are affected by their environment;

WHEREAS, consistent with New Jersey's Municipal Land Use Law C.P.L. 1975, c. 291, City of Somers Point's Development Ordinance regulates land development so as to prevent urban sprawl and degradation of the environment through improper use of land by providing for the protection of critical natural resources, including topographic features, per Section 114-1B (11), Development Ordinance;

WHEREAS, consistent with New Jersey's Municipal Land Use Law C.P.L. 1975, c. 291, City of Somers Point's Development Ordinance regulates land development so as to assist orderly, efficient and integrated development of land, per Section 114- 1B (11) and 114- 1B (12), Development Ordinance;

WHEREAS, in order to carry out the purposes of New Jersey's Municipal Land Use Law and the purposes of the City's Development Ordinance, the City Council finds and determines that the City's Development Ordinance is required to regulate signage, including designating prohibited sign-types that are inconsistent with one or more of the purposes of the Development Ordinance and to prescribe the height, size (area), setback, spacing, location, and number of other sign-types that are not inconsistent with the

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Development Ordinance provided that they conform to appropriate dimensional and other content-neutral criteria for their placement on land within the City, taking into account the nature of the land use and the function served by the sign-type;

WHEREAS, the City Council wishes to ensure that the City's Development Ordinance as it relates to signs is in compliance with all constitutional and other legal requirements;

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WHEREAS, the City Council desires to delete sections, subsections, paragraphs, subparagraphs, divisions, subdivisions, clauses, sentences, phrases, words, and provisions of the existing ordinance which are obsolete or superfluous, and/or which have not been enforced, and/or which are not enforceable, and/or which would be severable by a court of competent jurisdiction;

WHEREAS, the City Council finds and determines that this ordinance will lessen hazardous situations, as well as confusion and visual clutter otherwise caused by the proliferation, improper placement, excessive height, excessive size, and distracting characteristics of signs which compete for the attention of pedestrian and vehicular traffic;

WHEREAS, the City Council finds and determines that the following amendments are consistent with all applicable policies of the City's adopted Comprehensive Master Plan;

WHEREAS, the City Council finds and determines that the following amendments are not in conflict with the public interest;

WHEREAS, the City Council finds and determines that the following amendments will not result in incompatible land uses;

WHEREAS, the City Council wishes to continue to restrict the height, size (area), spacing, setback, and number of free-standing signs, other than traffic control device signs as identified or described in the Manual on Uniform Traffic Control Devices;

WHEREAS, the City Council wishes to continue to assure that new billboards are effectively prohibited as a sign-type within the City, consistent with the District Regulations and Use Regulations set forth in the Development Ordinance;

WHEREAS, the City Council finds and determines that a prohibition on billboards accomplishes each of the following goals: (1) promotes the public safety and general welfare, (2) complements and assists in the preservation of open space, (3) continues to promote a community land use pattern which recognizes the natural features of the City which make it unique, (4) encourages the design of transportation routes in such a way as to discourage routes that result in congestion or blight, (5) promotes a visual environment that protects historic features, including structures, sites and landscapes, with a special character or use and which both affect and are affected by their environment, (6) complements as well as promotes the conservation of open space, (7) prevents urban sprawl and degradation of the environment through improper use of land by providing for the protection of topographic features, and (8) continues to assist in the orderly, efficient and integrated development of land, by limiting commercial signage to on-site commercial signage;

WHEREAS, the City Council finds and determines that the prohibition of portable signs reasonably advances the governmental goal of protecting the aesthetic environment of the City;

WHEREAS, the City Council wishes to continue to assure that animated signs and flashing signs are effectively prohibited as sign-types within the City, and finds and

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determines that this prohibition furthers the purposes set forth in the City of Somers Point's Development Ordinance;

WHEREAS, the City Council wishes to assure that portable signs are effectively prohibited as a sign-type within the City, and finds and determines that this prohibition furthers the purposes set forth in the City of Somers Point's Development Ordinance;

WHEREAS, the City Council wishes to continue to assure that wind (wind-activated) signs are effectively prohibited as a sign-type within the City, and finds and determines that this prohibition furthers the purposes set forth in the City of Somers Point's Development Ordinance;

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WHEREAS, the City Council wishes to continue to assure that flashing signs are effectively prohibited as a sign-type within the City, and finds and determines that this prohibition furthers the purposes set forth in the City of Somers Point's Development Ordinance;

WHEREAS, the City Council wishes to continue to assure that revolving and rotating signs are effectively prohibited as a sign-type within the City, and finds and determines that this prohibition furthers the purposes set forth in the City of Somers Point's Development Ordinance;

WHEREAS, the City Council wishes to continue to assure that oscillating signs are effectively prohibited as a sign-type within the City, and finds and determines that this prohibition furthers the purposes set forth in the City of Somers Point's Development Ordinance;

WHEREAS, the City Council wishes to continue to assure that signs that emit smoke, visible vapor or particles, sound or odor, are effectively prohibited as a sign-type within the City of Somers Point's Development Ordinance;

WHEREAS, each of the City's twenty-one (21) zoning districts, including the Single Family Residential (R-1) District, Multifamily Residential (R-MF) District, Residential Cluster (R-CL) District, General Business (GB) District, Highway Commercial – One (HC-1) District, Highway Commercial – Two (HC-2) District, Neighborhood Commercial (NC-2) District, Bay-Front (BF) District, Affordable Housing (AH1, AH2 and AH3) Districts, Transient Commercial (TC) District, Recreational Golf Course (RGC) District, Recreational Land (REC-A) District, Recreational Land – Marina (REC-B) District, Somers Point Historic District, Historic Village Commercial (HVC) District, Planned Industrial (I-PID) District, Flood (FD) District, Special Hospital (SHOS) District, and Professional Medical Commercial (PMC) District contain limitations upon the location, size, and type and number of signs permitted and the City Council finds and determines that the continued prohibition on billboards, animated signs, portable signs, wind-activated signs, flashing signs, revolving signs, rotating signs, and oscillating signs, as well as the dimensional and other content-neutral criteria for permissible freestanding signs are necessary to preserve and protect the environment of the City, as well as its scenic vistas, in the aforementioned districts;

WHEREAS, allowing exemptions or exceptions for certain signage based upon the function served by the sign (e.g., warning signs, directional signs, real estate signs, and other sign types described herein), is preferred to requiring permits for all such signs or alternatively, banning all such signs;

WHEREAS, under current jurisprudence on-site real estate signs, such as “for sale” signs, should be allowed given the important role and unique function that real estate signs, such as “for sale” signs, perform on the premises where they are located;

WHEREAS, under current jurisprudence that allow property owners, especially residential homeowners, to freely express a particular point of view on their own property

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should be reasonably accommodated and may be uniquely valuable, and the City Council wishes to continue the current Development Ordinance that has allowed residential property owners to free express their point of view on their own property consistent with current jurisprudence;

WHEREAS, under current jurisprudence, election signs are generally accorded a higher level of protection under the First Amendment than any other classification or type of speech;

WHEREAS, durational limitations on election signs, sometimes referred to as political signs, are frequently problematic when the limitations affect the posting of election signs *prior* to the election concerning the candidate or ballot issue to which they pertain, but durational limits requiring the removal of election signs following such election are generally permissible and are permitted by Section 114-120;

WHEREAS, free expression signs are sufficient to allow for political speech unrelated to particular candidates or ballot issues;

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WHEREAS, the exceptions and/or exemptions for real estate signs, free expression signs, political signs, and certain other sign types are not intended to diminish or lessen the City's interests in aesthetics or traffic safety, but the same are adopted in recognition of the useful functions and practical needs served by such signage in the City's commerce and/or in the political freedom that must be accorded its citizens to freely express their points of view and political desires;

WHEREAS, the City Council recognizes that under current jurisprudence its sign regulations may be under-inclusive in their reach to serve the City's interests in aesthetics and traffic safety, while at the same time balancing the interests protected by the First Amendment and the City Council may from time to time modify the sign regulations herein so as to provide additional limitations to further serve the City's interests in aesthetics and/or traffic safety;

WHEREAS, in the context of the Municipal Land Use Law, the City Council agrees that considerations of aesthetics and economics are intimately related in the context of conserving property values, and further agrees that an inability to prohibit off-site commercial billboards for the purpose of protecting and preserving the beauty of the environment would be "to succumb to a bleak materialism";

WHEREAS, the limitations on the height, size (area), number, location, spacing, and setback of signage, adopted or reinforced herein, is based upon the sign types and sign functions, and the City Council finds and determines that the dimensional criteria specified in the sign regulations for different sign-types are adequate and do not impair the free flow of protected speech;

WHEREAS, sign types described herein are related in other ways to the functions they serve and the properties to which they relate (*e.g.*, temporary subdivision entrance signs are allowed at subdivision entrances, real estate signs are directly related to the property on which they are posted or, in the case of directional signs, are limited to a certain distance from the property to which they relate and exceptions to temporary political signs, for sale signs, and the like are founded upon rational and reasonable bases clearly justifying the difference of treatment;

WHEREAS, limitations on various types of signs are also related to the zoning districts for the properties on which they are located;

WHEREAS, the City Council's predominant concern in establishing sign regulations for the development and use of land is with adverse secondary effects, and not with the content of speech;

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WHEREAS, various signs that serve and function as signage for particular land uses, in recognition of the differing or special functions served by those land uses, but not based upon any intent to favor any particular viewpoint or control the subject matter of public discourse; and

WHEREAS, the City Council finds that the sign regulations adopted or reaffirmed hereby still allow and leave open adequate alternative means of communications, such as newspaper advertising, internet advertising and communications, advertising in shoppers and pamphlets, advertising in telephone books, advertising on cable television, advertising on UHF and/or VHF television, advertising on AM and/or FM radio, advertising on satellite radio, advertising on internet radio, advertising via direct mail, and other avenues of communication available in the City of Somers Point ;

WHEREAS, the City Council finds and determines that the following amendments are consistent with all applicable policies of the City's adopted Master Plan;

NOW THEREFORE,

Be It Ordained by the City Council of the City of Somers Point, Atlantic County:

Section 1. The current Chapter 114 of the Development Regulations of the City of Somers Point is hereby amended to add an Article 1 A relating to Signs, in the form

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attached hereto as "Schedule A" and is hereby adopted as part of the Development Regulations.

Section 2. All provisions contained elsewhere within Chapter 114 pertaining to the regulation, placement, size or other sign requirements inconsistent herewith are hereby repealed to the extent of such inconsistency.

Section 3. All provisions contained elsewhere within Chapter 114 pertaining to the regulation, placement, size or other sign requirements not inconsistent herewith are hereby reaffirmed and shall continue in full force and effect except to the extent same may be inconsistent herewith.

Section 4. If any part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this ordinance is declared or held invalid or unconstitutional by the valid judgment or decree of any court of competent jurisdiction, such part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word shall be deemed a separate, distinct, and independent provision, and such declaration or holding shall not affect the validity or constitutionality of any other part, section, subsection, paragraph, subparagraph, sentence, phrase, clause, term, or word of this ordinance, , and this ordinance is declared severable.

Section 5. This Ordinance shall take effect after proper passage and publication in accordance with law.

**FIRST READING: 03/10/11
PUBLICATION: 03/16/11
FINAL READING: 03/31/11**

RESOLUTIONS

Public Portion on Resolutions

A resident from Ocean City came forward and addressed the governing body commending them for introducing Resolution No. 56 opposing the Purgen Project to bury CO2 waste off the coast of South Jersey and urged Council to adopt the resolution.

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Public portion on Resolutions (Continued)

Rick Pitman came forward and addressed the governing body speaking for the Somers Point Green Team in support of this resolution opposing the CO2 waste being buried off of the coast of South Jersey.

Another resident of Ocean City came forward and addressed the governing body in favor of Resolution No. 56 opposing CO2 waste being buried off of the coast of South Jersey and thanked the Council for this resolution.

Public portion closed.

Resolution No. 59 was removed from the consent agenda.

Resolution No. 55

M/S – HD/MK

Councilman Dill advised that this Senate Bill would fund the technology needed in our Police Department - not only Somers Point, but all municipalities
Adopted by a unanimous vote of those present.

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No. 55 of 2011 (Revised Copy)

Subject: **Resolution supporting Senate Bill 2512 which imposes surcharge on Motor vehicle offenses to fund upgraded electronic systems for Police vehicles**

Introduced by: **Councilman Dill & Councilman Triboletti**

WHEREAS, Senator Paul Sarlo has sponsored Senate Bill 2512 introduced December 9, 2010; and

WHEREAS, this bill would impose a \$5.00 surcharge on each fine or penalty for motor vehicle moving violations and a \$2.50 surcharge on each parking offense fine, the funds to be paid to the Chief Financial Officer of the City to be used exclusively for the purposes of obtaining law enforcement technology and electronic systems for the City's Police Department vehicles; and

WHEREAS, the funds generated through these surcharges would be utilized by municipalities exclusively to upgrade the electronic technology and electronic systems placed in their police vehicles; and

WHEREAS, the e-ticketing program requested by our Chief of Police would fall under this category and if this bill is passed, it would offset expenses associated with the program while increasing revenues.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Somers Point hereby supports Senate Bill 2512.

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to Governor Christie, Senator Paul Sarlo, Senator Van Drew and Assemblymen Albano and Milam.

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Resolutions (Continued)**

Resolution No. 56

M/S – HD/MK

Council President McGuigan thanked the guests who spoke regarding this resolution. Councilman Triboletti thanked Councilman Tapp, Council President McGuigan and the Green Team for bringing this forward. Resolution was adopted by a unanimous vote of those present.

No. 56 of 2011

RESOLUTION IN OPPOSITION TO SCS ENERGY COMPANY PURGEN PROJECT PROPOSAL TO BURY CO2 LIQUIFIED WASTE OFF THE COAST OF SOUTH JERSEY

Introduced By: Council President McGuigan and Councilman Tapp

WHEREAS, New Jersey is the most densely populated State in the nation with a very high share of toxic and hazardous plants and facilities, including the highest number of Superfund sites in the nation; and

WHEREAS, SCS Energy Company proposes to develop a coal gasification plant for Tremley Point in Linden, New Jersey; and

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WHEREAS, while the plant will generate electric energy, it will also generate CO2 waste which is proposed to be compressed and liquefied and sent through a 138 mile pipeline that crisscrosses the New Jersey coast to an unproven underground storage area off the South Jersey coast; and

WHEREAS, the liquefied carbon dioxide will be pushed into a geologic formation under the ocean floor, the creation of the pipeline, maintenance of the pipeline, and the potential for carbon dioxide leakage all pose threats to fisheries and marine life of the Atlantic; and

WHEREAS, the concept of sequestering concentrated liquid carbon dioxide in underwater caverns for eternity, is completely untested; and

WHEREAS, our oceans are presently under enormous assault from the presence of carbon dioxide in the atmosphere from the burning of fossil fuels which causes carbon to descend into our seas creating acidity at levels not presently seen in human history; and

WHEREAS, the affects have been to create dead zones, devastating microbial growth which is the base of the food chain for most sea life and the producer of much of our oxygen; and

WHEREAS, fishing and tourism are major contributing factors to the economy of the City of Somers Point as well as the entire Southern New Jersey Coastal Region, utilizing our coastline as a waste depository would not help the image of our ocean and associated waterways as clean, safe and suitable for fishing, bathing and other such activities, and any accidental release or other event caused by the unproven method of transporting and storing CO2 waste could be devastating to the environment, the economy and the communities in Southern New Jersey; and

WHEREAS, the communities of Southern New Jersey and the ocean beds adjacent thereto should not become a dumping ground for waste generated in Northern New Jersey; and

WHEREAS, Somers Point's Green Team, part of our city's Sustainable New Jersey Initiative, unanimously supports this resolution;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Somers Point opposes the construction of the PurGen coal gasification plant in Linden, and, should such a plant be constructed, vehemently opposes the construction of the proposed pipeline through shore communities as well as the storage of the liquefied carbon dioxide off the coast of South Jersey; and

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Resolution No. 56 (Continued)

BE IT FURTHER RESOLVED, that the City Council of the City of Somers Point urges all of our federal, state and local elected officials to join in this opposition; and

BE IT FURTHER RESOLVED, that copies of this Resolution be sent to Governor Christopher Christie, United States Senators Robert Menendez and Frank Lautenberg, United States Congressman Frank LoBiondo, State Senator Jeff Van Drew, State Assemblymen Nelson Albano and Matt Milam, United States Department of Energy Secretary Steven Chu, United States Environmental Protection Agency Administrator Lisa P. Jackson, New Jersey Department of Environmental Protection Commissioner Bob Martin, the Southern New Jersey Chamber of Commerce, the Greater Atlantic City Chamber of Commerce and the New Jersey State League of Municipalities.

Resolution No. 59

M/S – HD/MK

Greg Schneider from our Engineer's Office spoke stating that the bids were very competitive and were 20% lower than the estimate. Resolution was then adopted by a unanimous vote of those present.

No. 59 of 2011

**REGULAR MEETING
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Subject: Awarding Bid for the Fiscal Year 2009 Municipal Aid Bikepath Program to construct Phase I from New Jersey Avenue to Somers Avenue to Charles Marandino, LLC

WHEREAS, on March 8, 2011 the City of Somers Point received bids for the Fiscal Year 2009 Municipal Aid Bikepath Program to construct Phase I from New Jersey Avenue to Somers Avenue; and

WHEREAS, Charles Marandino, LLC, of Milmay, NJ was the lowest responsible bidder; and

WHEREAS, the City Engineer's office has recommended that the City award the contract to Charles Marandino, LLC, of Milmay, NJ in the amount of \$201,637.05

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

1. The City of Somers Point hereby recommends to the New Jersey Department of Transportation that the contract for the Fiscal Year 2009 Municipal Aid Bikepath Program to construct Phase I from New Jersey Avenue to Somers Avenue to Charles Marandino, LLC in the amount of \$201,637.05 subject to the approval of the Department.
2. The Mayor and City Clerk are hereby authorized and directed to enter into a formal contract with Charles Marandino, LLC signing on behalf of the City.

Consent Agenda

M/S – RT/MK

Consent Agenda was approved by a unanimous vote of those present.

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Consent Agenda (Continued)

Resolution No. 57

No. 57 of 2011

**Subject: Authorizing execution of 2011
Municipal Aerial Mosquito Control
Agreement**

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

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

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

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

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NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that Mayor John L. Glasser, Jr. is hereby authorized to execute the 2011 Municipal Aerial Mosquito Control Agreement, a copy of which is attached hereto and made a part hereof.

Resolution No. 58

No. 58 of 2011

Subject: Closing Bay Avenue for Bayfest
Introduced By: Council President McGuigan

WHEREAS, the Bayfest 2011 celebration is scheduled for April 30, 2011; and

WHEREAS, the Bayfest Committee has requested that a portion of Bay Avenue be closed for the Bayfest Celebration; and

WHEREAS, Bay Avenue is now a City Street.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that Bay Avenue be closed from Anna Avenue to Pleasant Avenue, from 6:00 a.m. until 7:00 p.m., in order to accommodate the Bayfest Celebration on April 30, 2011.

New Business

Application for Extension of Licensed Premises for 800 Bay Avenue for the Bayfest was approved by a unanimous vote of those present.

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New Business (Continued)

Atty. Franklin asked the Governing Body to consider a special meeting for the final reading of Ordinance No. 1. Council scheduled a Special Meeting for this purpose on March 31st at 6:00 p.m.

Old Business

No Old Business was presented.

Discussion of Bills

Bills in the amount of \$45,744.39 and \$11,660.36 were presented for discussion.

Public Portion

Meeting was opened to the public and duly closed.

Payment of Bills

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A motion was made and seconded to approve both lists of bills in the amount of \$45,744.39 and \$11,660.36. Motion carried. A complete list of bills is on file in the Office of the City Clerk.

Adjournment

There being no further business, meeting adjourned,

Carol L. Degrassi, RMC/MMC
Municipal Clerk

Approved: 02/09/12