

**REGULAR MEETING
MAYOR AND CITY COUNCIL
April 22, 2010**

Meeting called to order at 7:00 p.m. by President McGuigan. Salute to the flag was lead by Cub Scout Pack 87. Roll call was recorded as follows:

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

Also Present: Mayor Glasser, Administrator Swain & Atty. 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.

Communications

Cub Scout presentation

Cub Scout Pack 87 requested permission to adopt four trees on the bike path between Dawes and Meyran Avenues that are being damaged by lawn mower. They would mulch around the bottom of the trees at no cost to the City as a Community project. President McGuigan stated that he would be happy to coordinate this with the Public Works Department and the Recreation Commission, stating that the City is very grateful to the cub scouts for their efforts. Council approved unanimously.

Council President McGuigan stated that there will be a meeting at MRHS on May 10th at 6:00 p.m. to discuss their defeated budget. He also advised that he corresponded with the local school and they will be coming to our May 13th meeting to discuss their defeated budget.

Mayor's Report

Mayor Glasser gave the Police Report in full for the month of March. He also reported that opening day for the Somers Point Little League was very well attended.

City Administrator's Report

Administrator Swain advised that everyone has a copy of the RFP's for the historic preservation grant we have been awarded. He stated that we need to get out proposals as soon as possible.

Committee Reports

Councilman Smith reported that the Budget Committee is still diligently working at going over the budget – it is a work in progress.

Councilman Dill gave the Zoning Board report in full as liaison to the Zoning Board.

Approval of Minutes

There were no minutes presented for approval.

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ORDINANCES

Ordinance No. 4 – Final Reading – Approved by unanimous roll call vote

M/S – Triboletti/Dill

Public Portion:

Rick Pitman, Shore Memorial Hospital, came forward and addressed the governing body thanking them for their efforts with regard to this ordinance and recommending adoption.

Public portion closed.

ORDINANCE NO. 4, 2010 (As Amended)

AN ORDINANCE AMENDING SECTION 114-146 OF ARTICLE XXII, SITE PLAN REVIEW, OF THE DEVELOPMENT REGULATIONS OF THE CODE OF THE CITY OF SOMERS POINT and AUTHORIZING THE SOMERS POINT PLANNING BOARD AND SOMERS POINT ZONING BOARD TO UTILIZE TECHNICAL AND CONCEPTUAL REVIEW COMMITTEES; AND REPEALING ALL ORDINANCES HERETOFORE ADOPTED, THE PROVISIONS OF WHICH ARE INCONSISTENT HEREWITH.

***FIRST READING:* April 8, 2010**

***PUBLICATION:* April 14, 2010**

***FINAL PASSAGE:* April 22, 2010**

Ordinance No. 5 – Final Reading – Adopted by unanimous roll call vote.

M/S – Parker/Triboletti

Public Portion:

A resident of Harborview Condominiums came forward to request an explanation of this ordinance. Administrator Swain explained.

Public portion was then closed.

Ordinance 5 of 2010

CALENDAR YEAR 2010

**ORDINANCE TO EXCEED THE MUNICIPAL BUDGET APPROPRIATION LIMITS
AND TO ESTABLISH A CAP BANK
(N.J.S.A. 40A: 4-45.14)**

WHEREAS, the Local Government Cap Law, N.J.S. 40A: 4-45.1 et seq., provides that in the preparation of its annual budget, a municipality shall limit any increase in said budget to 2.5% unless authorized by ordinance to increase it to 3.5% over the previous year's final appropriations, subject to certain exceptions; and,

WHEREAS, N.J.S.A. 40A: 4-45.15a provides that a municipality may, when authorized by ordinance, appropriate the difference between the amount of its actual final appropriation and the 3.5% percentage rate as an exception to its final appropriations in either of the next two succeeding years; and,

WHEREAS, the City Council of the City of Somers Point in the County of Atlantic finds it advisable and necessary to increase its CY 2010 budget by up to 3.5% over the previous year's final appropriations, in the interest of promoting the health, safety and welfare of the citizens; and,

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Ordinance No. 5 (Continued)

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WHEREAS, the City Council hereby determines that a 3.5 % increase in the budget for said year, amounting to \$336,957.95 excess of the increase in final appropriations otherwise permitted by the Local Government Cap Law, is advisable and necessary; and,

WHEREAS the City Council hereby determines that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years.

NOW THEREFORE BE IT ORDAINED, by the City Council of the City of Somers Point, in the County of Atlantic, a majority of the full authorized membership of this governing body affirmatively concurring, that, in the CY 2010 budget year, the final appropriations of the City of Somers Point shall, in accordance with this ordinance and N.J.S.A. 40A: 4-45.14, be increased by 3.5%, amounting to \$336,957.95, and that the CY 2010 municipal budget for the City of Somers Point be approved and adopted in accordance with this ordinance; and,

BE IT FURTHER ORDAINED, that any amount authorized hereinabove that is not appropriated as part of the final budget shall be retained as an exception to final appropriation in either of the next two succeeding years; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance as introduced be filed with the Director of the Division of Local Government Services within 5 days of introduction; and,

BE IT FURTHER ORDAINED, that a certified copy of this ordinance upon adoption, with the recorded vote included thereon, be filed with said Director within 5 days after such adoption.

FIRST READING: 04/08/10

PUBLICATION: 04/14/10

FINAL READING: 04/22/10

Waiver of 48-Hour Rule

The 48-Hour Rule was waived unanimously in order to consider Resolution No. 78 supporting the preliminary concept for Route 9 and Bethel Road.

Public Portion (Resolutions)

Dan Gudauskas, 18 Gibbs Avenue, came forward and addressed the governing body asking about the appointment of a Police Officer. Council President McGuigan explained that it is a replacement for a retired officer.

Public portion was then closed.

RESOLUTIONS

Resolution No. 75

M/S – Dill/Parker – Approved unanimously

**RESOLUTION NO. 75 of 2010
AUTHORIZING EXECUTIVE SESSION**

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, 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 (1) topic which involves twenty – seven (27) pending matters permitted by N.J.S.A. 10:4-12(b) as an exception to public meetings is necessary to be discussed without the public in attendance during an Executive Session to be held on April 22, 2010 during a public meeting to be held commencing at 7:00 P.M, and

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WHEREAS, the nine (9) exceptions to public meetings set forth in N.J.S.A. 10:4-12(b) are listed below, and next to each exception is a box within which the **number of issues** to be privately discussed that fall within that exception shall be written, and after each exception is a space where additional information that will disclose as much information about the discussion as possible without undermining the purpose of the exception shall be written.

“(1) Any matter which, by express provision of Federal law, State statute or rule of court shall be rendered confidential or excluded from public discussion.” The legal citation to the provision(s) at issue is: _____ and the nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____;

“(2) Any matter in which the release of information would impair a right to receive funds from the federal government.” The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____;

“(3) Any material the disclosure of which constitutes an unwarranted invasion of individual privacy such as any records, data, reports, recommendations, or other personal material of any educational, training, social service, medical, health, custodial, child protection, rehabilitation, legal defense, welfare, housing, relocation, insurance and similar program or institution operated by a public body pertaining to any specific individual admitted to or served by such institution or program, including but not limited to information relative to the individual's personal and family circumstances, and any material pertaining to admission, discharge, treatment, progress or condition of any individual, unless the individual concerned (or, in the case of a minor or incompetent, his guardian) shall request in writing that the same be disclosed publicly.” The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____;

“(4) Any collective bargaining agreement, or the terms and conditions of which are proposed for inclusion in any collective bargaining agreement, including the negotiation of terms and conditions with employees or representatives of employees of the public body” The collective bargaining contract(s) discussed are between the City and _____;

“(5) Any matter involving the purchase lease or acquisition of real property with public funds, the setting of bank rates or investment of public funds where it could adversely affect the public interest if discussion of such matters were disclosed.” The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____;

“(6) Any tactics and techniques utilized in protecting the safety and property of the public provided that their disclosure could impair such protection. Any investigations of violations or possible violations of the law.” The nature of the matter, described as specifically as possible without undermining the need for confidentiality is _____;

“(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.”

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 Special Tax Counsel and the Somers Point Tax Assessor on the status of certain tax appeals filed or pending against the City of Somers Point, an analysis of the merits of such matters and the strategy to be utilized in the defense thereof including the use of experts for that purpose. The list of the twenty-seven (27) pending matters which may be discussed is:

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

1) Wachovia Bank 010046;

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2-4) Verizon NJ Inc 0005131-2007;
0032370-2008;004760-
2009;

5-6) L. Brahlin /CVS 002854-2008;003961-
2009;

7) Acme Markets 2009;

8-9) Related Somers Point
LLC
005764-2009;2010;

10) 519 Shore Road 012885-2009;

11) DiMaria 000369-2010;

12) Egi Fin Part, LP 000163-2009;

13) Harbor Cove Marina 000752-2010;

14-15) K-Mart 003959-2009;00415-
2010;

16) Kiejdan 017392-2009;

17) Free Man of SP c/co
McNaughtons - 2010

18-19) M&J At Somers Point,
LLC
013797-2009;2010;

20) Plantation Bay, LLC - 2010;

21-22) Rite Aid 005339-2009;001411-
2010;

23-24) Shore Health
Services
006081-2008; 2009;

25-26) Village Plaza LLC 008060-2009; 2010; and

27) West America LTD 2010

“(8) Any matter involving the employment, appointment, termination of employment, terms and conditions of employment, evaluation of the performance, promotion or disciplining of any specific prospective public officer or employee or current public officer or employee employed or appointed by the public body, unless all individual employees or appointees whose rights could be adversely affected request in writing that such matter or matters be discussed at a public meeting.” Subject to the balancing of the public’s interest and the employee’s privacy rights under South Jersey Publishing Co. v. New Jersey Expressway Authority, 124 N.J. 478, the employee(s) and nature of the discussion, described as specifically as possible without undermining the need for confidentiality is:

“(9) Any deliberation of a public body occurring after a public hearing that may result in the imposition of a specific civil penalty upon the responding party or the suspension or loss of a license or permit belonging to the responding party as a result of an act of omission for which the responding party bears responsibility.” The nature of the matter, described as specifically as possible without undermining the need for confidentiality is

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WHEREAS, the length of the Executive Session is estimated to be approximately 30 - 45 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 #7 above Attorney Client conference	Upon Completion of the pending matters	Final Court Order / Final Resolution of each such tax appeal matter.

Resolution No. 78

M/S – Parker/Smith – Approved by unanimous vote of those present.

Subject: Resolution of Support - Preliminary improvement concept for the Route 9 and Bethel Road intersection

Introduced By: Council President McGuigan

WHEREAS, on April 23, 2008 the City of Somers Point requested that the New Jersey Department of Transportation conduct an evaluation of the intersection of Route 9 and Bethel Road due to recurring issues with safety and traffic.

WHEREAS, the New Jersey Department of Transportation has determined that it may be possible to improve traffic flow through the intersection by restriping the Bethel Road eastbound approach to one (1) through lane and one (1) right turn lane. Left turns from Bethel Road eastbound onto Route 9 northbound would be eliminated.

WHEREAS, it is anticipated that left turns would be made at the Route 9 and Ocean Heights Avenue intersection.

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Resolution No. 78 (Continued)

WHEREAS, the New Jersey Department of Transportation must receive a resolution of support from the City to complete its preliminary improvement concept of restriping Bethel Road.

WHEREAS, the City Engineer's office and the Police Department have recommended that the City support the preliminary improvement concept for the Route 9 and Bethel Road intersection.

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NOW, THEREFORE, BE IT RESOLVED by the City of Somers Point that the City supports the New Jersey Department of Transportation's preliminary improvement concept for the Route 9 and Bethel Road intersection.

Consent Agenda Resolutions No. 76 & 77

M/S – Dill/Parker – Approved by a unanimous vote of those present.

No. 77 of 2010

Subject: Appointing Police Officer
Proposed By Mayor Glasser
Introduced By: Council President McGuigan

WHEREAS, Mayor John L. Glasser, Jr. and Chief Salvatore Armenia of the City of Somers Point Police Department express a need and desire to hire one Police Officer for the Police Department; and

WHEREAS, Mario Rivera has been selected from the existing Civil Service list; and

WHEREAS, the Mayor and Chief of Police are desirous to have said officer's appointment affirmed and approved by the City Council, effective April 16, 2010.

NOW, THEREFORE, BE IT RESOLVED that for the protection of and in the best interest of the public safety, health and welfare of the citizens of the City of Somers Point, the City Council of the City of Somers Point hereby affirms and authorizes the appointment of the above candidate, effective April 16, 2010.

BE IT FURTHER RESOLVED that the City Clerk is hereby authorized to process the necessary documents with the New Jersey Department of Personnel, as may be required to certify said appointment.

No. 76 of 2010

Subject: Approving proposals – Goods and Services 2010
Introduced By: Council President McGuigan

WHEREAS, the City of Somers Point received proposals for various goods and services in accordance with the Fair and Open procedure of the New Jersey Pay-to-Play law.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the following proposal is approved, and that the City Administrator is hereby authorized to issue contracts to the following vendor for goods and services during the period of January 1, 2010 through December 31, 2010:

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Resolution No. 76 (Continued)

- a) Excavation and Pipe Installation/Replacement

F.W. Shawl & Sons, Inc.
Seashore Associated Mechanical, Inc.

- b) Vactor Parts and Labor

Jet-Vac, Inc.

- c) Leaf Machine Parts & Supplies

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Tag's Auto Supply, Inc.

Old Business

Mayor Glasser invited everyone to attend the Bayfest on Saturday, stating that the volunteers work all year toward this event.

New Business

Council President McGuigan advised that both school budgets have been defeated, the local and regional and that the local board of education will be coming to our next meeting. Regarding the regional budget, he stated that he would like to have a special meeting next week, April 29th at 6:15 p.m. to have them make a presentation about their budget.

A raffle license application for the Somers Point Education Foundation, Inc. was approved with Councilman Smith abstaining as he is a member.

Discussion of Bills

Bills were presented for discussion in the amount of \$1,827,483.12. First page there was a correction, the bill for Enzo's in the amount of \$7,350.00 should be for Enforces. The vendor was listed incorrectly as Enzo's.

Public Portion

Jeff Campbell, 4 Haverford Road, came forward and addressed the governing body with regard to the budget and the rental ordinance that is being worked on.

Daniel Gudauskas, 18 Gibbs Avenue, came forward and addressed the governing body asking why we don't have department heads come to the meeting to answer questions about their budgets. Councilman Dill explained that we used to do this, but it is handled differently now that we have an Administrator. . Mr. Gudauskas also spoke about the school budgets and the rental ordinance that is being worked on.

A resident from Harborview Condominiums came forward and addressed the governing body asking that they take the budget very seriously. Council President McGuigan assured him that they do take the budget very seriously.

Payment of Bills

A motion was made and seconded to approve the bills, with the change regarding Enzo's. Motion carried. A complete list of bills is on file in the Office of the City Clerk.

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Adjournment

There being no further business, Council moved to reconvene in Executive Session, reconvening in open session to adjourn at 9:15 p.m.

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Carol L. Degrassi, RMC/MMC
Municipal Clerk

Approved: 08/26/10