

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

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

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

Also Present: Administrator Swain, Atty. Franklin & Clerk Degrassi

Absent: Mayor Glasser

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

The following Proclamation was read in full by the City Clerk.

Supporting the "Drive Sober or Get Pulled Over" 2012 Year End Statewide Crackdown"

WHEREAS, impaired drivers on our nation's roads kill someone every 30 minutes, 50 people per day, and almost 18,000 people each year; and

WHEREAS, alcohol impairment is a factor in 25% of motor vehicle fatalities in New Jersey; and

WHEREAS, an enforcement crackdown is planned to combat impaired driving; and

WHEREAS, the season at the end of the year is traditionally a time of social gatherings which often include alcohol; and

WHEREAS, the State of New Jersey, Division of Highway Traffic Safety, has asked law enforcement agencies throughout the state to participate in the *Drive Sober or Get Pulled Over Year End Statewide Crackdown*; and

WHEREAS, the project will involve increased impaired driving enforcement from December 7, 2012 through January 2, 2013; and

WHEREAS, an increase in impaired driving enforcement and a reduction in impaired driving will save lives on our roadways;

NOW, THEREFORE, I, John L. Glasser, Jr., Mayor of the City of Somers Point do hereby proclaim the City of Somers Point's support for the

Drive Sober or Get Pulled Over 2012 Year End Statewide Crackdown

from December 7, 2012 through January 2, 2013 and pledges to increase awareness of the dangers of drinking and driving.

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

Page 2 (Continued)

President McGuigan advised that everyone received a request for a vacate of property on Chapman Blvd. He stated that it is very basic and if no one objects, he would ask that this be prepared for next year. Atty. Franklin advised that he would need the legal description.

Storm Water Presentation

Administrator Swain gave the annual storm water report explaining that this presentation is required to comply with State regulations. He also explained that storm water management is especially important to the City of Somers Point as we are surrounded on three sides by water and a cigarette butt or a candy wrapper thrown in the street will most likely end up in the Bay. He also reported that our Stormwater Management Plan was updated in 2010 when we adopted a Private Storm Drain Inlet Retrofitting Ordinance. He also reported that we have also adopted ordinances in conjunction with stormwater pollution management as follows: Pet waste disposal, littering, Improper Waste Disposal, Wildlife feeding, Yard Waste, Illicit connections to the stormwater systems and Dumpsters. He also reported that the City has adopted standard operating procedures that deal with fueling operations, vehicle maintenance and cleaning, road salt storage and annual employee training.

Committee Reports

Councilman D'Adamo gave the Economic Development Advisory Commission report in full advising that they are looking into using social media.

Administrator's Report

Administrator Swain reported that he will be meeting with our FEMA representative next week.

Minutes

The following minutes were approved as to content: 10/25/12 and 11/15/12. The following Executive Session minutes were released: 2/14/08, 2/28/08, 3/13/08, 3/27/08, 4/24/08, 6/12/08, 6/19/08, 7/24/08, 8/28/08, 9/11/08, 10/09/08, 11/17/08 and 12/22/08. The following Executive Session minutes were approved as to form and released: 5/1/08, 5/8/08 & 5/22/08.

ORDINANCES

There were no ordinances considered.

RESOLUTIONS

Waiver of 48-Hour Rule

The 48-Hour Rule was waived in order to consider Resolution No. 212 which would waive permit fees for the repairs of storm damage from Hurricane Sandy.

Public Portion on Resolutions

Meeting was opened to the public and duly closed.

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

**Page 3
Resolutions**

Resolution No. 203

M/S – Dill/Kern

Adopted by a unanimous vote of those present.

No. 203 Of 2012

A Resolution Authorizing the City Administrator of the City of Somers Point to Enter into an Agreement with the Owners of Ocean Heights Manor and Point Garden Apartments in the City of Somers Point to Arrange for a Pilot Program for the Pick up of Solid Waste Not More Than Twice per Week under the Terms and Conditions set forth Herein which Include Compliance by Owner and Tenants with the Recycling Ordinance of the City of Somers Point and all other Applicable Ordinances and Regulations, in Partial Settlement of a Disputed Claim and Further Authorizing Payment in the Amount of Sixty Seven Thousand Two Hundred Dollars (\$67,200) in full and Final Settlement of a claim captioned “Ocean Heights Manor, LLC., Somers Point Gardens Apartments and Kiejdan Family, L.L.C. vs. City of Somers Point” filed in the New Jersey Superior Court, Docket No. ATL-L-5473-12 seeking damages in the amount of One Hundred Eighteen Thousand Four Hundred Forty Dollars (\$118,440.00) together with legal interest and costs of suit, being an Amount in Dispute Since 2009 Without Prejudice to the Rights of the City of Somers Point in This or any Other Matter and In an Effort to Avoid the Costs of Litigation; and Authorizing the City Administrator and City Solicitor to Prepare and Execute any and All Documents Necessary to Effectuate this Settlement

**Sponsored by: Councilman Triboletti
Councilman Smith**

WHEREAS, a claim against the City of Somers Point captioned “Ocean Heights Manor, LLC., Somers Point Gardens Apartments and Kiejdan Family, L.L.C. vs. City of Somers Point” has been filed in the New Jersey Superior Court, Docket No. ATL-L-5473-12 seeking damages in the amount of One Hundred Eighteen Thousand Four Hundred Forty Dollars (\$118,440.00) together with legal interest and costs of suit by the owners of Ocean Heights Manor and Somers Point Gardens Apartments arising out of a Disputed Claim pertaining to the reimbursement for the cost of solid waste disposal which has been outstanding since 2009 and which includes calendar years 2009 through 2012; and

WHEREAS, the City of Somers Point has disputed the amount of and basis for the claim; and

WHEREAS, a settlement arrangement has been reached between the parties in order to avoid the expense and disruption of extended litigation; and

WHEREAS, as part of the Settlement the City of Somers Point will enter into an agreement with the owner of the property to collect the solid waste from each of the two (2) apartment complex properties not more than twice (2x) per week upon certain terms and conditions including:

- 1) Purchase and installation by Owner of ten (10) movable dumpsters of a size and type to be specified by the City of Somers Point Department of Public Works and placed in the existing on site locations within Ocean Heights Manor;
- 2) Purchase and installation by Owner of four (4) movable dumpsters of a size and type to be specified by the City of Somers Point Department of Public Works and placed in the existing on site locations within Somers Point Gardens Apartments;

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

Page 4

Resolution No. 203 (Continued)

- 3) Compliance at all times with all Recycling and other Solid Waste Management Ordinances of the City of Somers Point;
- 4) Acceptance by Owners of each property that this is a pilot program to be implemented by the City of Somers Point to determine the efficiency and economy associated with the collection of solid waste from the facilities and subject to ongoing review;
- 5) Execution of a Full and Complete Release in favor of the City of Somers Point in a form acceptable to the City Solicitor; and

WHEREAS, the City Administrator and the City's Chief Financial Officer have certified that sufficient funds are available for the intended purpose; and

WHEREAS, this is intended to be a settlement of a disputed claim based upon the special and unique circumstances applicable to this matter and is not intended to be either an admission of liability or responsibility on the part of the City of Somers Point, which liability and responsibility are disputed and denied; nor is this action intended to create a precedent or establish any responsibility on the part of the City of Somers Point except as applied to these specific matters and at these specific properties; and

WHEREAS, the Governing Body of the City of Somers Point has concluded that it is in the best interests of the City to enter into this settlement thereby concluding this dispute and avoiding any further expenses and other potential risks of litigation which would be incurred by the City of Somers Point;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point, County of Atlantic and State of New Jersey, that the City Solicitor and the City Administrator shall be and are hereby duly authorized, empowered and directed to enter into the proposed Settlement Agreement on behalf of the City of Somers Point in accordance with the terms set forth herein, and that the sum of Sixty Seven Thousand Two Hundred Dollars (\$67,200) is hereby authorized to be paid to Plaintiffs by the City Administrator upon execution and delivery of the specified documents.

Resolution No. 204

M/S – Dill/Kern

Administrator Swain explained that we need to issue a note this year so that this doesn't affect fund balance. Adopted by a unanimous vote of those present.

RESOLUTION NO. 204 of 2012

A RESOLUTION AUTHORIZING THE ISSUANCE OF AN AMOUNT NOT TO EXCEED \$1,300,000 IN AGGREGATE PRINCIPAL AMOUNT OF SPECIAL EMERGENCY NOTES OF THE CITY OF SOMERS POINT, IN THE COUNTY OF ATLANTIC, STATE OF NEW JERSEY FOR PUBLIC PROPERTY REPAIRS AND MAINTENANCE, DEBRIS REMOVAL AND OTHER EXPENSES RESULTING FROM HURRICANE SANDY; AND MAKING CERTAIN AUTHORIZATIONS, DETERMINATIONS AND COVENANTS IN CONNECTION WITH THE FOREGOING

Page 5

Resolution No. 204 (Continued)

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

WHEREAS, the Local Budget Law, constituting Chapter 4 of Title 40A of the New Jersey Statutes, as amended and supplemented (the “**Local Budget Law**”), provides that a municipality may adopt a resolution authorizing special emergency appropriations to cover the cost of extraordinary expenses for the repair, reconstruction of streets, roads or bridges, or other public property damaged by flood or hurricane where such expenses were not anticipated or foreseen at the time of adoption of the annual budget; and

WHEREAS, on November 15, 2012, the City Council of the City of Somers Point, County of Atlantic, New Jersey (the “**City**”) did adopt Resolution No. 197 of 2012 authorizing a special emergency appropriation in the amount of \$1,300,000 to cover the costs of repairs, maintenance, debris removal and other expenses incurred by the City resulting from Hurricane Sandy (“**Resolution No. 197**”); and

WHEREAS, in accordance with Section 55 of the Local Budget Law, the City is required to adopt a resolution setting forth the amount appropriated and other terms and conditions associated with the issuance of “Special Emergency Notes”.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SOMERS POINT, IN THE COUNTY OF ATLANTIC, NEW JERSEY (with the affirmative concurrence of not less than twothirds of all the members thereof), **AS FOLLOWS:**

Section 1. Authorization of Notes. The issuance and sale of negotiable “Special Emergency Notes” of the City in an aggregate principal amount not to exceed \$1,300,000.00, to be designated “City of Somers Point, Special Emergency Notes of 2012, Series B” (the “**Series B Notes**”), are hereby authorized and approved for the purpose of funding the cost of repairs, maintenance, debris removal and other expenses incurred by the City resulting from Hurricane Sandy in accordance with the terms of Resolution No. 197.

Section 2. Form and Terms of the Series B Notes. The following matters in connection with the Series B Notes are hereby determined:

(a) The Series B Notes shall be substantially in the form annexed hereto as **Exhibit “A”** and shall be executed on behalf of the City by the signatures of the Mayor or the City Administrator and the Chief Financial Officer, under the affixed, imprinted or reproduced seal of the City.

(b) The Series B Notes shall be dated the date of delivery thereof, may be renewed from time to time, but at least 1/5th of all such Notes, including renewals thereof, shall mature and be paid in each year such that all notes and renewals thereof shall have matured and be paid not later than the last day of the fifth year following the date of this Resolution.

(c) The Chief Financial Officer is hereby authorized to sell and award the Series B Notes at not less than par and accrued interest, if any, either by negotiated private sale or public sale as determined by the Chief Financial Officer. The Chief Financial Officer shall report in writing to the City Council, at the next meeting thereof, the amount, description, interest rate and maturities of the Series B Notes, the price obtained and the name of the purchaser, and such report shall be entered in full on the minutes of such meeting.

(d) The Mayor, City Administrator and the Chief Financial Officer of the City are hereby severally authorized and directed to determine all matters in connection with the Series B Notes not determined by this, a prior or a subsequent resolution and their signatures upon any document reflecting any such determination, including the Series B Notes, shall be conclusive as to such determinations.

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

Page 6

Resolution No. 204 (Continued)

Section 3. Tax Covenants. The City covenants that it will not take any action, or fail to take any action, if any such action or failure to take action would adversely affect the exclusion from gross income of the interest on any obligations issued hereunder under Section 103 of the Internal Revenue Code of 1986, as amended (“**Code**”). The City will not directly or indirectly use or permit the use of any proceeds of any obligations issued hereunder or any other funds of the City, or take or omit to take any action, that would cause such obligations issued hereunder to be “arbitrage bonds” within the meaning of Section 148(a) of the Code. To that end, the City will comply with all requirements of Section 148 of the Code to the extent applicable to any obligations issued hereunder. In the event that at any time the City is of the opinion that for purposes of this Section 3 it is necessary to restrict or limit the yield on the investment of any proceeds of any obligations issued hereunder held by or on behalf of the City, the City shall take such action as may be necessary to effect such restriction.

Without limiting the generality of the foregoing, the City shall pay or cause to be paid from time to time all amounts required to be rebated (“**Rebate Amount**”) to the United States pursuant to Section 148(f) of the Code and any temporary, proposed or final Treasury Regulations as may be applicable to any obligations issued hereunder and such notes from time

to time. This covenant shall survive payment in full or defeasance of any obligations issued hereunder.

Notwithstanding any provision of this Section 3, if the City obtains an opinion of nationally recognized bond counsel to the effect that any action required under this Section is no longer required, or to the effect that some further action is required, to maintain the exclusion from gross income of the interest on any obligations issued hereunder pursuant to Section 103 of the Code, the City may rely conclusively on such opinion in complying with the provision hereof, and the covenants hereunder shall be modified to the extent set forth in such opinion without further action by the City.

Section 4. General Obligation Pledge. The Series B Notes are direct, unlimited obligations of the City and full faith, credit and taxing power of the City are hereby irrevocably pledged for the payment of principal of and interest on the Series B Notes when due and payable. The City shall levy ad valorem taxes upon all the taxable property within the City for the payment of principal of and interest on the Series B Notes without limitation of rate or amount.

Section 5. Ratification of Prior Actions; Authorization to Effect Settlement. All actions heretofore taken and documents prepared or executed by or on behalf of the City by the Mayor, Members of City Council, the City Administrator, the Chief Financial Officer, the City Clerk or by the City’s professional advisors, in connection with the issuance and sale of the Series B Notes including, without limitation, solicitation from financial institutions of proposals to purchase the Series B Notes, are hereby ratified, confirmed, approved and adopted. The Mayor and Chief Financial Officer are hereby authorized and directed to determine all matters and execute all documents and instruments in connection with the Series B Notes not determined or otherwise directed to be executed by the Local Budget Law, or by this or any subsequent resolution, and the signatures of either the Mayor or the Chief Financial Officer on any such document or instrument shall be conclusive as to such determinations. Settlement of the sale of the Series B Notes shall be as soon as is practicable.

Section 6. Repeal. All resolutions or parts thereof to the extent inconsistent herewith are hereby repealed and rescinded.

Section 7. Effective Date. This Resolution shall take effect immediately upon adoption, this 29th day of November, 2012.

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

**Page 7
Resolution No. 204 (Continued)**

Recorded Vote

<u>AYE</u>	<u>NO</u>	<u>ABSTAIN</u>	<u>ABSENT</u>
D'Adamo	None	None	None
Dill			
Kern			
Smith			
Tapp			
Triboletti			
McGuigan			

The foregoing is a true copy of a Resolution adopted by the City Council of the City of Somers Point on this 29th day of November, 2012.

CITY OF SOMERS POINT

Carol Degrassi, RMC/MMC
City Clerk

CERTIFICATE

I, CAROL DEGRASSI, City Clerk of the City of Somers Point, in the County of Atlantic, New Jersey, HEREBY CERTIFY, that the foregoing copy of the Resolution of the City Council duly adopted on November 29, 2012, has been compared by me with the original Resolution as officially recorded in my office in the Minutes Book of the governing body and is a true, complete and correct copy thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City this 29th day of November, 2012.

Carol Degrassi, RMC/MMC, City Clerk

[SEAL]

Certified to be a true copy of a
Resolution adopted by City
Council on November 29, 2012

Carol Degrassi, RMC/MMC, City Clerk

**Page 8
Resolution No. 204 (Continued)**

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012
EXHIBIT "A"**

FORM OF SPECIAL EMERGENCY NOTE

SEN-2012-2

\$1,300,000.00

**UNITED STATES OF AMERICA
STATE OF NEW JERSEY
COUNTY OF ATLANTIC
CITY OF SOMERS POINT**

**SPECIAL EMERGENCY NOTE
SERIES B**

The City of Somers Point, a municipal corporation of the State of New Jersey, situate in the County of Atlantic (the "City"), for value received, promises to pay to the registered owner of this Note in then lawful money of the United States of America, on _____, 2013, the principal sum of One Million Three Hundred Thousand Dollars (\$1,300,000.00), together with interest thereon from the date hereof at the rate of _____ one hundredths per centum (____%) per annum, payable upon presentation and surrender of this Note at the office of the Chief Financial Officer of the City.

This Note is not transferable except to an authorized nominee of DTC. DTC shall be responsible for maintaining the book-entry system for recording the interests of its participants or transfers of the interests among its participants. The participants are responsible for maintaining records regarding the beneficial ownership interests in the Note on behalf of individual purchasers. Unless this Note is presented by an authorized representative of DTC to the City or its agent for registration or transfer, exchange, or payment, and any certificate issued is registered in the name of CEDE & Co. or in such other name as requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, CEDE & Co., has in interest herein.

This Note is issued in the principal amount of \$1,300,000.00, in accordance with the provisions of the New Jersey Local Budget Law, N.J.S.A. 40A:4-1, *et seq.*, as amended and supplemented, Resolution No. 197 of 2012, of the City, adopted on November 15, 2012, and Resolution No. 204 of 2012, of the City, adopted on November 29, 2012, in all respects duly approved as required by law (the aforereferenced Resolutions are hereinafter referred to as the "Local Proceedings").

This Note shall be subject to prepayment at any time prior to its maturity date without premium or penalty.

The power and obligation of the City to pay this Note shall be unlimited and the City has the power and is obligated to levy ad valorem taxes upon all taxable property within the City for the payment of this Note and the interest thereon, without limitation of rate or amount.

It is hereby certified and recited that all conditions, acts and things required by the constitution or the statutes of the State of New Jersey to exist, to have happened or to have been performed precedent to or in the issuance of this Note, exist, have happened and have been performed and that the amount and the terms of this Note do not exceed any limitation imposed thereon by such constitution or statutes.

No covenant or agreement contained in this Note or the Local Proceedings referred to above shall be deemed to be a covenant or agreement of any official, agent or employee of the City in his or her individual capacity, and no official executing this Note shall be liable personally on this Note or be subject to any personal liability by reason of the issuance of this Note.

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

IN WITNESS WHEREOF, THE CITY OF SOMERS POINT, IN THE COUNTY OF ATLANTIC, NEW JERSEY, has caused this Note to be signed by its Mayor and its Chief Financial Officer, its corporate seal to be hereunto affixed, this Note and the seal to be attested by its City Clerk and this Note to be dated the ___ day of _____, 2012.

[SEAL]

CITY OF SOMERS POINT

By: _____
John L. Glasser, Jr., Mayor

ATTEST:

By: _____ By: _____
Carol Degrassi, RMC/MMC, City Clerk John Hansen, Chief Financial Officer

Resolution No. 205

M/S – Triboletti/Kern

Adopted by a unanimous vote of those present.

No. 205 of 2012

Subject: Community Development Block Grant Program

WHEREAS, the City of Somers Point has opted to participate in the Atlantic County community Development Block Grant (CDBG) Program for FY 2012; and

WHEREAS, as a participant, the City of Somers Point expects to be allocated \$47,246.00 for Fiscal Year 2012 for the project known as Road Reconstruction – Ninth Street; and

WHEREAS, in order to be allocated CDBG funds, the City of Somers Point must enter into an interlocal service agreement with the Atlantic County Improvement Authority, the administrator of the Atlantic County CDBG Entitlement Program.

NOW, THEREFORE, BE IT RESOLVED, that the Agreement by and between the Atlantic County Improvement Authority and City of Somers Point which is attached hereto, is approved and the Mayor and Municipal Clerk are authorized to sign said agreement on behalf of the City.

Resolution No. 206

M/S – Kern/D’Adamo

Councilman Dill recused himself from voting/participating in this resolution. Administrator Swain explained that this refers to the Rice List hires. Resolution was then adopted by a 6-0 roll call vote with Councilman Dill recusing himself from voting/participating.

No. 206 of 2012

Subject: Approving an amended sidebar agreement with PBA Local No. 77

Introduced By: Council President McGuigan

Page 10

Resolution No. 206 (Continued)

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

WHEREAS, in accordance with Resolution 196 of 2012 the City of Somers Point approved a sidebar agreement with Mainland PBA, Local 77 concerning the pay step schedule for individuals hired by the City in 2011 and 2012 from the Rice List as permitted by the laws of the State of New Jersey; and

WHEREAS, subsequent to the passage of Resolution No. 196 of 2012 the City of Somers Point and the Mainland PBA, Local 77 further reviewed the agreement and mutually determined to amend and clarify the document; and

WHEREAS, the amended sidebar agreement is attached hereto and made a part hereof.

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

1. Resolution No. 196 of 2012, insofar as it approved an agreement which has subsequently been determined to be amended, is hereby rescinded.
2. Mayor John L. Glasser, Jr. is hereby authorized to sign the attached sidebar agreement on behalf of the City.

Resolution No. 207

M/S – Dill/Kern

Adopted by a unanimous vote of those present.

No. 207 of 2012

Subject: Appropriation Transfer
Introduced by: Council President McGuigan

Whereas N.J.S. 40A:4-1 et.seq. allows budget appropriation transfers after November 1st of the budget year.

Now, therefore, be it resolved that the City Council of the City of Somers Point hereby authorizes the Chief Financial Officer to make the following budget transfer as specified in this resolution.

Current Fund

From:

Police S&W	2-01-25-240-100	\$50,000
Gasoline	2-01-31-460-273	10,000
Street Lighting	2-01-31-435-276	20,000
General Liability Insurance	2-01-23-210-200	5,000
Parks & Recreation Programs S&W	2-01-28-370-100	7,000
Administration OE	2-01-20-100-200	<u>6,000</u>

Total \$98,000

To:

Public Works S&W	2-01-26-300-100	\$ 38,000
Sanitation S&W	2-01-26-305-100	20,000
Tax Collection S&W	2-01-20-145-100	2,000
Social Security System	2-01-36-472-111	20,000
Vehicle Maintenance	2-01-26-315-200	10,000
Diesel Fuel	2-01-31-447-274	<u>8,000</u>

Total \$98,000

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

Resolutions (Continued)

Resolution No. 211

M/S – Triboletti/Dill

Adopted by a unanimous vote of those present.

**RESOLUTION NO. 211 of 2012
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 involve a report and recommendations by Special COAH Counsel and the City Solicitor regarding a Motion filed in New Jersey Superior Court Docket # ATL-L-007302-06 captioned “Bay Avenue Redevelopment, LLC vs. City of Somers Point, et als.” developments and certain legal and practical implications which may arise therefrom regarding the City’s continued compliance with its First and Second Round Affordable Housing Obligations being a matter permitted by N.J.S.A. 10:4-12(b) as an exception to public meetings as necessary to be discussed without the public in attendance during an Executive Session to be held on November 29, 2012 during a public meeting to be held commencing at 7:00 P.M, and

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 N/A ;

“(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 N/A ;

“(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 N/A ;

“(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” N/A ;

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

Resolution No. 211 (Continued)

“(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 _____
_____ N/A _____;

“(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 _____
_____ N/A _____;

“(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.”
Advice and counsel to be received from the Special COAH Counsel to the City of Somers Point and / or the City Solicitor regarding a Motion filed by Plaintiffs in New Jersey Superior Court Docket # ATL-L-007302-06 captioned “Bay Avenue Redevelopment, LLC vs. City of Somers Point, et als.” seeking relief from the Phasing Requirements of Section 3.1 of the May 7, 2007 Settlement Agreement and discussion of certain developments, legal and practical implications which may arise therefrom regarding the City’s continued compliance with its First and Second Round Affordable Housing Obligations and strategy for response and compliance.

“(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: _____ N/A _____

“(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: _____
_____ N/A _____

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 reasons;

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)

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

Page 13
Resolution No. 211 (Continued)

Subject of Discussion	Estimated Date	Necessary Occurrence
See #7 above: Attorney Client conference	Upon Completion of Actions which may be taken in response to the Notice of Motion and any response thereto filed on behalf of the City of Somers Point	Completion of Actions which may be taken in response to the Notice of Motion and any response thereto filed on behalf of the City of Somers Point

**Resolution No. 212
M/S – Triboletti/Smith**

Atty. Franklin explained that this is limited to residential and not commercial. Councilman Tapp stated that this is the least that the City can do for their residents to try and help them after the Hurricane. Resolution adopted by a unanimous vote of those present.

No. 212 Of 2012

Subject: A Resolution Authorizing and Directing The Code Enforcement Officer of the City of Somers Point to Waive Payment of Permit and Inspection Fees for Owners of Residential Properties which Sustained Direct Damage from Hurricane Sandy Requiring Repair or Replacement.

Sponsored by: Mayor and City Council

WHEREAS, the Mayor, the members of City Council and the staff of the Code Enforcement Office are mindful that some of our residents sustained direct damage from the impact of Hurricane Sandy; and

WHEREAS, the owners of those residential properties which sustained such damage are required by law to obtain a permit from the Code Enforcement Office prior to undertaking repairs or replacements; and

WHEREAS, the Somers Point City Code contains a schedule of fees required to be paid for each such permit and inspection; and

WHEREAS, this Governing Body wishes to alleviate the economic burden upon those of our citizens who sustained such direct damage from Hurricane Sandy

NOW, THEREFORE, IT IS HEREBY RESOLVED that effective the date following the passage of Hurricane Sandy through close of business on December 20, 2012 all such permit and inspection fees shall be waived for those owners whose homes were located within an area adversely impacted by Hurricane Sandy and who can present proof to the satisfaction of the Code Enforcement Officer that the repair or replacement was made necessary as a result of direct damage from the Hurricane; and

IT IS FURTHER RESOLVED that all home owners who have paid such fees following the effective date and prior to the enactment of this Resolution shall be entitled to a refund upon presentation of the proof specified in the preceding paragraph; and

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

IT IS FURTHER RESOLVED that this is not to be construed as a waiver of the obligation to obtain any permit or have an inspection made, and failure to do so will render the violator subject to the penalties provided by law; and

Page 14

Resolution No. 112 (Continued)

IT IS FURTHER RESOLVED that Council will review this decision with the Code Enforcement Officer prior to December 20, 2012 to determine if this permit and inspection fee waiver should be extended beyond that date; and

IT IS FURTHER RESOLVED that the Code Enforcement Officer and his staff are hereby authorized and directed to act in accordance with the intent of this Resolution; and

IT IS FURTHER RESOLVED that a copy of this Resolution shall be posted in the Code Enforcement and Construction Bureau Office and on the City's Official Bulletin Board.

Consent Agenda

M/S – Kern/D'Adamo

Adopted by a unanimous vote of those present.

No. 208 of 2012

Subject: Chapter 159 Resolution
Introduced By: Council President McGuigan

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 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 \$4,400.00 and wishes to amend its 2012 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 2012 in the sum of \$4,400.00 which item is now available as 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:

Drive sober or get pulled over 2012 grant \$4,400.00

pursuant to the provision of Statute; and

BE IT FURTHER RESOLVED that a like sum of \$4,400.00 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:

Drive sober or get pulled over 2012 grant \$4,400.00

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

BE IT FURTHER RESOLVED that two (2) copies of this resolution be certified and submitted to the Director of Local Government Services for approval.

Page 15
Consent Agenda (Continued)

No. 209 of 2012 (Corrected Copy)

Subject: Chapter 159 Resolution
Introduced By: Council President McGuigan

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 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 \$4,000.00 and wishes to amend its 2012 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 2012 in the sum of \$4,000.00 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:

Click it or Ticket 2012 Grant \$4,000.00

pursuant to the provision of Statute; and

BE IT FURTHER RESOLVED that a like sum of \$4,000.00 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:

Click it or Ticket 2012 Grant \$4,000.00

BE IT FURTHER RESOLVED that two (2) copies of this resolution be certified and submitted to the Director of Local Government Services for approval.

No. 210 of 2012 (Corrected Copy)

Subject: Chapter 159 Resolution
Introduced By: Council President McGuigan

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 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

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

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

**Page 16
Consent Agenda (Continued)**

WHEREAS, the City of Somers Point has received a grant of \$2,951.64 from the New Jersey Division of Criminal Justice and wishes to amend its 2012 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 2012 in the sum of \$2,951.64 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:

2012 Body Armor Grant \$2,951.64

pursuant to the provision of Statute; and

BE IT FURTHER RESOLVED that a like sum of \$2,951.64 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:

2012 body Armor Grant \$2,951.64

BE IT FURTHER RESOLVED that two (2) copies of this resolution be certified and submitted to the Director of Local Government Services for approval.

Old Business

Councilman Dill asked the status of Kennedy Park and the municipal beach. Administrator Swain advised that Public Works has completed the work at Kennedy Park and that it probably can be re-opened. Council decided that the Engineer, JIF Commissioner, Councilman Dill and a representative of the Police Department should do a quick walk through and if there are no problems, the park could be reopened.

Councilman Smith spoke regarding the rental registration letter that was sent out to taxpayers who may own rental properties. Council agreed that the letter should be reworded to not offend our residents. Atty. Franklin advised that he will speak with the Construction Official and help make a few changes to the letter.

New Business

Council President McGuigan reminded everyone that there will be a Pearl Harbor Remembrance Ceremony on Sunday at the Beach at 1:00 p.m. and the Christmas Parade is tomorrow night beginning at 6:30 p.m. at Dawes Avenue School and ending at City Hall with the Tree Lighting Ceremony and Santa Claus. He encouraged everyone to attend both of these events.

Discussion of Bills

The bills in the amount of \$418,405.27 were presented for discussion.

**REGULAR MEETING
MAYOR AND CITY COUNCIL
November 29, 2012**

Public Portion

Meeting was opened to the public and duly closed.

Page 17

Payment of Bills

M/S – Triboletti/Tapp

The bills were approved in the amount of \$418,405.27. A complete copy of the bill list is on file in the Office of the Municipal Clerk.

Recess

Council recessed to go into an Executive Session.

Adjournment

Council reconvened in open session to adjourn at 8:30 p.m.

Carol L. Degrassi, RMC/MMC
Municipal Clerk

Approved: 12/20/2012