

**REGULAR MEETING
MAYOR AND CITY COUNCIL
SPECIAL MEETING
May 20, 2010**

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

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

Also Present: Mayor Glasser, Administrator Swain, Atty. Franklin & Auditor Garcia

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.

Waiver of 48-Hour Rule

The 48-Hour Rule was waived unanimously in order to consider Resolutions No. 94 & 95.

Resolution No. 87 (Amending Budget)

Read in full by Auditor Garcia and adopted by unanimous roll call vote of those present. A complete copy of Resolution No. 87 is on file in the Office of the Municipal Clerk.

Resolution No. 94

M/S – Parker/Triboletti – Amended to correct third paragraph to read “2010” budget year. Adopted, as amended, by a unanimous roll call vote of those present.

City of Somers Point

RESOLUTION No. 94 of 2010 (As Amended)

WHEREAS, N.J.S.A. 40A:4-78b has authorized the Local Finance Board to adopt rules that permit municipalities in sound fiscal condition to assume the responsibility, normally granted to the Director of the Division of Local Government Services, of conducting the annual budget examination; and

WHEREAS, N.J.A.C. 5:30-7 was adopted by the Local Finance Board on February 11, 1997; and

WHEREAS, pursuant to N.J.A.C. 5:30-7.2 through 7.5, the City of Somers Point has been declared eligible to participate in the program by the Division of Local government Services, and the Chief Financial officer has determined that the local government meets the necessary conditions to participate in the program for the 2010 budget year.

NOW THEREFORE BE IT RESOLVED by the governing body of the City of Somers Point that in accordance with N.J.A.C. 5:30-7.6a & 7.6b and based upon the Chief Financial Officer's certification, the governing body has found the budget has met the following requirements:

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Resolution No. 94 (Continued)

1. That with reference to the following items, the amounts have been calculated pursuant to law and appropriated as such in the budget:

- a. Payment of interest and debt redemption charges
- b. Deferred charges and statutory expenditures
- c. Cash deficit of preceding year
- d. Reserve for uncollected taxes
- e. Other reserves and non-disbursement items
- f. Any inclusions of amounts required for school purposes.

2. That the provisions relating to limitation on increases of appropriations pursuant to N.J.S.A. 40A:4-45.2 and appropriations for exceptions to limits on appropriations found at N.J.S.A. 40A:4-45.3 et seq., are fully met.

3. That the budget is in such form, arrangement, and content as required by the Local Budget Law and N.J.A.C. 5:30-4 and 5:30-5.

4. That pursuant to the Local Budget Law:

- a. All estimates of revenue are reasonable, accurate and correctly stated,
- b. Items of appropriation are properly set forth
- c. In itemization, form, arrangement and content, the budget will permit the exercise of the comptroller function within the municipality.

5. The budget and associated amendments have been introduced and publicly advertised in accordance with the relevant provisions of the Local Budget Law, except that failure to meet the deadlines of N.J.S.A. 40A:4-5 shall not prevent such certification.

6. That all other applicable statutory requirements have been fulfilled.

BE IT FURTHER RESOLVED that a copy of this resolution will be forwarded to the Director of the Division of Local Government Services upon adoption.

Resolution No. 95

M/S – Parker/Triboletti

Adopted by a unanimous roll call vote of those present.

No. 95 of 2010

Subject: Read Budget by Title

WHEREAS, N.J.S 40A:4-8 provides that the budget be read by title only at the time of the public hearing if the resolution is passed by not less than a majority of the full governing body, providing that at least one week prior to the date of the hearing a complete copy of the approved budget as advertised has been posted in City Hall and copies have been made available by the City Clerk to persons requiring them; and

WHEREAS these two conditions have been met;

NOW THEREFORE, BE IT RESOLVED that the budget shall be read by title only.

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BUDGET – As Amended

M/S – Parker/D’Adamo – Amended to correct Page 42 to read the date of tonight’s meeting, 5/20/10. Budget then adopted by a unanimous roll call vote of those present.

BUDGET ADOPTION RESOLUTION

BE IT RESOLVED by the City Council of the City of Somers Point, County of Atlantic that the budget heretofore set forth is hereby adopted and shall constitute an appropriation for the purposes stated of the sums therein set forth as appropriations, and authorization of the amount of \$8,673,415.46 for municipal purposes;

	(D’Adamo	
	(Dill	Abstained (None
	(Kern	
RECORDED VOTE	Ayes (Parker	Nays (None
	(Smith	
	(Triboletti	Absent (None
	(McGuigan	

Public Portion regarding Resolutions

Meeting was opened to the public with regard to the Resolutions on the agenda, as follows:

John DiMaria, 1427 Atkinson Avenue, came forward and addressed the governing body stating that he understands the emergent need for this meeting because of the budget, but asked why the need to approve the contracts that are on the agenda. Administrator Swain advised that there was a change in the law that takes effect tomorrow which would cause these employees to have to pay 1.5% of their salary towards health benefits if their contracts were not ratified by May 21st.

Dan Gudauskas, 18 Gibbs Avenue, came forward and addressed the governing body stating that he too is concerned with the emergent nature of these contracts and felt that the public should be able to see them prior to the vote of Council.

Public portion was then closed.

Resolution No. 88

M/S – Smith/Kern

Resolution approved by a unanimous vote of those present.

**NO. 88 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) issue is permitted by N.J.S.A. 10:4-12(b) to be discussed without the public in attendance shall be discussed during an Executive Session to be held on May 20, 2010 at 6:00 p.m.; and

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Resolution No. 88 (Continued)

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
nature of the discussion, described as specifically as possible without undermining the need for confidentiality is _____
- “(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**

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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 are

- A) The consideration of terms and conditions of a contract of employment between the City of Somers Point and the Somers Point Chief of Police Salvatore Armenia from which Councilman Dill will recuse himself and will not participate in the discussions or deliberations.
- B) The consideration of terms and conditions of a contract of employment between the City of Somers Point and Mr. Wes Swain, City Administrator of the City of Somers Point;
- C) The consideration of terms and conditions of a contract of employment between the City of Somers Point and Ms. Georgiana Hutchinson, Planning and Zoning Board Administrative Officer and Construction and Code Enforcement Secretary of the City of Somers Point;
- D) The consideration of terms and conditions of a contract of employment between the City of Somers Point and Ruth Lynn MacEwan, Tax Collector, Municipal Tax Search Officer and Sewer Utility Collector of the City of Somers Point; and
- E) The consideration of terms and conditions of a contract of employment between the City of Somers Point and Diane R. Hesley, Tax Assessor of the City of Somers Point.

“(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

WHEREAS, the length of the Executive Session is estimated to be 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 [DATE] 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)

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Subject of Discussion	Estimated Date	Necessary Occurrence
See #8 Above	Confidential personnel matters to be released upon conclusion of review and discussion	Formal action taken by Council

Executive Session

Council then moved to go into executive session at 7:00 p.m. and reconvene after the conclusion of the execution session.

Reconvened

Council reconvened in open session at 8:15 p.m.

Council President McGuigan advised that they will be voting on the Resolutions and open to the public after that voting. He explained that they cannot comment until the resolutions are passed and the contracts would not be available until they are signed and executed.

Resolution No. 89

M/S – Triboletti/Smith

Adopted by a 6-1 vote with Councilman D’Adamo voting no.

No. 89 of 2010

Subject: Authorizing Mayor to sign contract with City Administrator
Introduced By: Council President McGuigan

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the Mayor be and is hereby authorized to execute the following agreement on behalf of the City of Somers Point:

- 1) William Swain, City Administrator, effective 1/1/10

Resolution No. 90

M/S – Parker/Triboletti

Adopted by a 6-0 vote with Councilman Dill abstaining.

No. 90 of 2010

Subject: Authorizing Mayor to sign contract with Police Chief
Introduced By: Council President McGuigan

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

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Resolution No. 90 (Continued)

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the Mayor be and is hereby authorized to execute the following agreements on behalf of the City of Somers Point:

- 1) Salvatore Armenia, Police Chief, effective 09/01/07

Resolution No. 91

M/S – Parker/Kern

Adopted by a unanimous roll call vote of those present.

No. 91 of 2010

Subject: Authorizing Mayor to sign contract (Tax Assessor)

Introduced By: Council President McGuigan

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the Mayor be and is hereby authorized to execute the following agreements on behalf of the City of Somers Point:

- 1) Diane Hesley, Tax Assessor, effective 1/1/08

Resolution No. 92

M/S – Dill/Triboletti

Adopted by a unanimous vote of those present.

No. 92 of 2010

Subject: Authorizing Mayor to sign contract (Tax Collector)

Introduced By: Council President McGuigan

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the Mayor be and is hereby authorized to execute the following agreements on behalf of the City of Somers Point:

- 1) Lynn MacEwan, Tax Collector, Municipal Tax Search Officer and Sewer Utility Collector, effective 1/1/08

Resolution No. 93

M/S – Dill/Triboletti

Adopted by a unanimous roll call vote of those present.

No. 93 of 2010

Subject: Authorizing Mayor to sign contract (Planning & Zoning Board Administrative Officer and Construction & Code Enforcement Secretary)

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Resolution No. 93 (Continued)

Introduced By: Council President McGuigan

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

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the Mayor be and is hereby authorized to execute the following agreements on behalf of the City of Somers Point:

1) Georgiana Hutchinson, Planning & Zoning Board Administrative Officer and Construction & Code Enforcement Secretary, effective 1/1/10.

Councilman Parker excused himself and left the meeting.

Public Portion

John DiMaria, 1427 Atkinson Avenue, came forward and addressed the governing body regarding the Administrator's contract, specifically the severance pay portion. Councilman Smith advised that there were no changes to that portion of the contract, however, the administrator has made other concessions. Mr. DiMaria asked for a copy of the contract. Atty. Franklin stated that Mr. DiMaria could ask questions tonight, however, would have to wait until the contract is executed in order to obtain a copy.

Public portion was then closed.

Adjournment

There being no further business, meeting adjourned at 8:37 p.m.

Carol L. Degrassi, RMC/MMC
Municipal Clerk

Approved: 10/28/10