

**REGULAR MEETING
MAYOR AND CITY COUNCIL
February 24, 2011**

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

Present: Dill, Kern, Smith, Tapp, Triboletti & McGuigan

Also Present: Mayor Glasser, Atty. Franklin & Clerk Degrassi

Absent: D'Adamo

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 gave the Police Department report for the month of January in full. He also reported that there is discussion of combining communications throughout the county or making a county dispatch center. He further reported that he attended Career Day at Dawes Avenue School and spoke to the Third and Sixth Grades. He also reported that Rt. 52 will be closing down for a 24 hour period starting tonight to move some things around.

Administrator's Report

Administrator Swain advised that we recently received the order to do a Revaluation effective 2013.

Committee Reports

Council President McGuigan stated that we have received correspondence from the Department of Transportation regarding the Rt. 52 project, that they want to at some point in the future work shifts between 7 am and 12 midnight to try not to generate significant noise with the pile driving. Councilman Smith stated that he would like to hear more specific information from the contractor. He stated that they need to comply with our regulations and our noise ordinance and if they want a waiver, we can consider it. Council President McGuigan stated that he would begin to formulate an answer and have Atty. Franklin review it.

Councilman Smith stated that they have had a preliminary meeting with the auditor, Administrator Swain, Councilman Dill and Councilman Triboletti regarding the budget and will be meeting with the Department Heads.

Councilman Triboletti advised that the Vision Plan Committee met several weeks ago with the Planner and will have more information coming in the next few weeks regarding the public hearing. He feels they probably want to come to a Council meeting so that the Council is aware of the process.

Minutes

There were no minutes presented for approval.

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RESOLUTIONS

Public Portion on Resolutions

Meeting was opened to the public and duly closed.

Resolution No. 48

M/S – Dill/Kern

Adopted by a unanimous vote of those present.

No. 48 of 2011

**A RESOLUTION APPROVING THE APPLICATION FOR A PERSON TO PERSON
TRANSFER OF PLENARY RETAIL CONSUMPTION LICNESE NO 0121-33-011-005**

Whereas, an Application has been filed for a person – to – person transfer of Plenary Retail Consumption License Number 0121-33-011-005 (the “license”); and

Whereas, said License is in the name of 101 East Maryland Corp.; and

Whereas, is the duly appointed Receiver of 101 East Maryland Corp; and

Whereas, an Order was entered by Judge William E. Nugent on October 9, 2009 appointing Alan I. Gould Esquire as Custodial Receiver for 101 East Maryland Corp.; and

Whereas, the Custodial Receiver has executed and delivered the requisite Consent to Transfer dated December 9, 2010; and

Whereas, Judge James E. Isman entered an Order on January 7, 2011 authorizing the Custodial Receiver to enter into an agreement to sell the real estate and business assets of 101 East Maryland Corp.; and

Whereas, the Applicant Clancy’s by the Bay, Inc. has submitted an application which is complete in all respects, the Application and transfer fees have been paid, the license has been renewed for the current license term, an Application for Bulk Sale Permit has been filed, a Tax Clearance Certificate has been received; and

Whereas, the applicant is qualified to be licensed according to all standards established by Title 33 of the New Jersey Statutes, regulations promulgated thereunder, as well as pertinent local ordinances and conditions consistent with Title 33: and

Whereas, the applicant has disclosed, and the issuing authority has reviewed, the source of all funds used in the purchase of the license and the licensed business and all additional financing obtained in connection with the licensed business; and

Whereas, following a full and thorough investigation a recommendation has been made to this Governing Body to approve the application for the person-to-person transfer

NOW, THEREFORE, IT IS HERBY RESOLVED that the Somers Point Governing Body does hereby approve, effective February 24, 2011, the person-to-person transfer of Plenary Retail Consumption License Number 0121-33-011-005 from 101 East Maryland Corp. to Clancy’s by the Bay, Inc. to continue to be used on the premises situated at 101 East Maryland Avenue in the City of Somers Point; and

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Resolution No. 48 (Continued)

IT IS FURTHER RESOLVED that the Somers Point Governing Body does hereby direct the Somers Point City Clerk to endorse the license certificate to the new owner as follows: “This license, subject to all its terms and conditions, is hereby transferred to Clancy’s by the Bay, Inc. effective February 24, 2011.”

Resolution No. 49

M/S – Dill/Kern

Adopted by a unanimous vote of those present.

No. 49 of 2011

Resolution requesting a meeting with the Director of the New Jersey Division of Addiction Services to discuss the methadone treatment clinic on Cedar Avenue

Introduced By: Council President McGuigan and Councilman Smith

WHEREAS, Addiction Recovery Systems operates a methadone treatment clinic on Cedar Avenue in the City of Somers Point; and

WHEREAS, medication-assisted treatments as well as counseling and supportive programs are conducted at that location and many of the clients are long term patients; and

WHEREAS, the City Council of Somers Points believes that these services are critical to people who suffer from addiction problems assisting them to lead a more healthy and productive life style; and

WHEREAS, the clinic is located on a quiet residential street and has created several problems for the neighbors as well as both the clients and the operator of the clinic, all have which have been brought to the attention of the Somers Point City Council; and

WHEREAS, the clinic needs to open at an early hour in the morning to properly serve the clients; and

WHEREAS, it has been suggested that being situated in closer proximity to public transportation would be more accessible for current and future clients; and

WHEREAS, if the clinic were to relocated to a commercial setting that is more accessible the clients would be better served, the operator may be able to expand and enhance the services it provides, therefore helping more members of society and addressing the numerous issues which have been raised by residents in the neighborhood of the clinic; and

WHEREAS, our State Senator Jeff Van Drew has made numerous attempts to have the New Jersey Division of Addiction Services participate in a meeting with the operator of the clinic, a committee of elected officials, neighbors residing on Cedar Avenue and other affected residential neighborhoods, and any other party having an interest in the property or clinic; and

WHEREAS, Senator Van Drew’s requests have not been met with any response:

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Somers Point supports Senator Van Drew and hereby formally and respectfully requests that the Director of the New Jersey Division of Addiction Services agree to fix a meeting date within the next thirty (30) days to meet with the interested parties described herein, to discuss the operational practices of the clinic, the resolution of concerns expressed by neighbors, and the possible relocation of the methadone clinic located on Cedar Avenue in the City of Somers Point; and

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Resolution No. 49 (Continued)

BE IT FURTHER RESOLVED, that copies of this Resolution be sent to Governor Chris Christie, the Director of the New Jersey Division of Addiction Services Raquel Mazon Jeffers, State Senator Jeff Van Drew, State Assemblyman Nelson Albano, and State Assemblyman Matthew Milam.

Resolution No. 50

M/S – Kern/Tapp

Councilwoman Kern expressed the importance of supporting this. Councilman Dill agreed stating that it takes a lot of tax dollars to bring these dogs to full training, along with their handlers. Resolution was adopted by a unanimous vote of those present.

No. 50 of 2011

A Resolution Supporting enactment of S2541 which enhances the penalty for killing a police or search and rescue dog

Introduced by: Councilwoman Kern

WHEREAS, Senate Bill 2541, known as “Schultz’s Law” in memory of a Gloucester Township K-9 officer and in honor of all other K-9 officers who have lost their lives in the line of duty has been introduced and is sponsored by Senator Fred H. Madden. Jr. and co-sponsored by Senator Jeff Van Drew; and

WHEREAS, this bill enhances the penalty for a person convicted of killing a police dog or a dog engaged in search and rescue efforts by imposing a mandatory minimum term of imprisonment of five years, during which the offender would be ineligible for parole and subject to a \$15,000 fine; and

WHEREAS, the Common Council of the City of Somers Point recognizes the valuable service performed by our K-9 officers and the need to severely punish any perpetrator who callously and senselessly takes the life of one of these officers

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the Common Council of the City of Somers Point supports the adoption of S2541 and encourages the legislature to promptly enact the legislation, and the Governor to sign it into law; and

IT IS FURTHER, RESOLVED, that a copy of this Resolution be sent to Senators Fred H. Madden, Jr and Jeff Van Drew and Governor Chris Christie.

Resolution No, 51

M/S – Dill/Kern

Councilman Triboletti stated that this is important for the overall development of communities. Resolution adopted by a unanimous vote of those present.

No. 51 of 2011

A Resolution Supporting enactment of S2433 which extends the time frame within which a municipality is obligated to reexamine it Master Plan from six years to ten years

Introduced by: Councilman Triboletti

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Resolution No. 51 (Continued)

WHEREAS, Senate Bill 2433 sponsored by Senator Jeff Van Drew and its companion Assembly Bill 3272 modifies the Municipal Land Use Law by extending the time period within which a municipality is mandated to reexamine its Master Plan from the current six (6) year term to a more reasonable term of every ten (10) years and allows a municipality which is built out to waive the reexamination requirement; and

WHEREAS, the Master Plan reexamination process is time consuming and expensive; and

WHEREAS, the expansion of the term will not undermine or impede the purposes for which the Municipal Land Use Law was enacted

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the Common Council of the City of Somers Point supports the enactment of S2433; and

IT IS FURTHER, RESOLVED that a copy of this resolution be sent to Governor Chris Christie, State Senator Jeff Van Drew, State Assemblyman Nelson Albano, and State Assemblyman Matthew Milam.

Resolution No. 52

M/S – Kern/Smith

Adopted by a unanimous vote of those present.

No. 52 of 2011

A Resolution Supporting enactment of Assembly Bill No. 3094 which authorizes the Commissioner of Transportation to enter into a contract or agreement with a county or municipality for snow removal, grass mowing, tree pruning, landscaping, repair, or routine maintenance of State highways and adjacent shoulders, berms, right of ways, and other areas without advertisement for bids, if the scope of the work required does not contemplate the award of a contract by the county or municipality to an outside contractor, or if the work to be performed is immediately necessary for the prevention of a public hazard

Introduced by: Council President McGuigan

WHEREAS, Assembly Bill 3094 authorizes the Commissioner of Transportation to enter into a contract or agreement with a county or municipality for snow removal, grass mowing, tree pruning, landscaping, repair, or routine maintenance of State highways and adjacent shoulders, berms, right of ways, and other areas without advertisement for bids, if the scope of the work required does not contemplate the award of a contract by the county or municipality to an outside contractor, or if the work to be performed is immediately necessary for the prevention of a public hazard; and

WHEREAS, the current law permits the Commissioner of Transportation to enter into such contracts with a county or municipality for road maintenance, when the scope of the work required does not contemplate the award of a contract by the county or municipality to an outside contractor; and

WHEREAS, the Common Council of the City of Somers Point believes that the proposed expansion of the authority granted to the Commissioner of Transportation is in the best interest of the citizens of the State of New Jersey and of the municipalities and counties situated therein

NOW, THEREFORE, IT IS HEREBY RESOLVED, that the Common Council of the City of Somers Point supports the enactment of A3094; and

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Resolution No. 52 (Continued)**

IT IS FURTHER, RESOLVED that a copy of this resolution be sent to Governor Chris Christie, State Senator Jeff Van Drew, State Assemblyman Nelson Albano, and State Assemblyman Matthew Milam.

Resolution No. 53

M/S – Triboletti/Smith

Councilman Smith stated that this had come up last year with short notice and they weren't able to look into their concerns. He stated that this is simply to determine if there is any money available. Councilman Triboletti stated that it is important to try to preserve open space when they can through Green Acres, stating that this is not a commitment. Resolution was then adopted by a unanimous vote of those present.

RESOLUTION

No. 53 of 2011

Subject: Enabling Resolution Authorizing Appointment of a Subcommittee to Investigate the Feasibility of Petitioning The New Jersey Department of Environmental Protection (NJDEP) Green Acres Program for a Grant to Purchase an Outdoor Recreation Property, to Work With the City Engineer and the City Solicitor to Undertake Due Diligence and Investigation, to Meet with Appropriate Representatives of the NJDEP Open Space Land Coordinators Group, and to Render a Report and Recommendation to Council to Permit Proper Notice and Opportunity to be Heard in Compliance with NJDEP Procedures Prior to Filing of an Application.

Introduced By: Council President McGuigan

WHEREAS, Sunset Bay Partners, LLC, ("Owner) the owner of an outdoor recreation area situated within the City of Somers Point and known as Sunset Marina located off of the Somers Point Mays Landing Road has requested City Council to consider the acquisition of the property for use as open recreational space through the auspices of a grant from the New Jersey Department of Environmental Protection Green Acres Program; and

WHEREAS, the property is primarily used as a marina and boat slip facility; and

WHEREAS, the Owner proposes to sell to the City the above described Real Property and all improvements thereon and thereto (the "Property") at no cost to the City: and

WHEREAS, the Owner proposes to prepare on behalf of the City and with the approval of the City as to the application content, an application for a Grant to be submitted to the New Jersey Department of Environmental Protection, Green Acres Program ("State" or "Green Acres") which provides grants to municipal governments for assistance in the acquisition and development of lands for outdoor recreation and conservation purposes; and

WHEREAS, the Owner represents and warrants to the City that the Owner will bear all costs associated with the preparation, filing and processing of the Application and will pay all expenses which the City may incur as they are billed to owner; and

WHEREAS, a Public Hearing is to precede the filing of any Application with Green Acres; and

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Resolution No. 53 (Continued)

WHEREAS, the Owner further represents and warrants to the City that the purchase of the Property by the City, if the City elects to proceed with the acquisition, will be at no cost to the City and the Applicant will accept in payment the sum of One Million Dollars (\$1,000,000.00) which is the amount to be requested in the Grant Application; and

WHEREAS, Owner will pay for any and all improvements, remedial actions, and other costs and expenses associated with either the obtaining and award of the Grant from Green Acres, all costs of transfer of title to the property, and any and all other expense of any nature whatsoever, with the express understanding that the City shall have no out of pocket expense associated with the Application or the purchase of the Property; and

WHEREAS, the City has not had an opportunity to conduct any due diligence of the Property or of the desirability of purchasing said Property, even at no cost, or the ongoing economic impact to the City resulting from either loss of a ratable, cost of ongoing operation and maintenance, an examination of the books and records of the Property to determine if the Property is self – supporting and such other reasonable and necessary investigation the City deems appropriate to conduct; and

WHEREAS, Owner accepts these conditions and agrees to cooperate with the City to undertake any and all such investigation and inquiry at no cost to the City; and

WHEREAS, Owner accepts and agrees that the City may, at any time and for whatever reason elect to withdraw from the process or withdraw the Application from consideration by Green Acres at any time, and may further decline to close on the sale of the Property if an absolute grant in the full amount of One Million Dollars (\$1,000,000.00) is not obtained from Green Acres without any financial consequence to the City; and

WHEREAS, any purchase of property by the City must be made in compliance with the terms of the Local Public Lands and Buildings Law; and

WHEREAS, the Owner shall provide a copy of the Application prior to filing to the City Administrator, the City Solicitor and any subcommittee of the Governing Body which may now or hereafter be appointed to participate in the review and investigation of this proposal and Project

WHEREAS, the Governing Body of the City of Somers Point believes that the prospect of the acquisition of such open recreational space may be in the best interest of the City but requires sufficient examination in order to enable this Governing Body to make an informed judgment;

NOW, THEREFORE, It is HEREBY RESOLVED

The Governing Body of the City of Somers Point desires to investigate further the public interest of acquiring the Property and does hereby appoint a subcommittee comprised of Council President McGuigan, Councilman Triboletti and Councilwoman Kern to undertake an examination of the feasibility of the proposed project, to work with the City Engineer and City Solicitor to undertake appropriate due diligence and to meet with representatives of the Owner and designated representatives of the NJDEP Open Space Land Coordinators Group to determine the feasibility of filing a funding application, with a report and recommendation to be made to Council as soon as practicable so that all necessary public hearings may be advertised and held if the project is deemed feasible; and

IT IS FURTHER, RESOLVED that the authorization to proceed is contingent upon the written agreement of the Owner to each of the terms and conditions set forth in the preamble to this Resolution.

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Resolution No. 54

M/S – Dill/Tapp

Adopted by a unanimous vote of those present.

**RESOLUTION NO. 54 of 2011
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 a claim which has been asserted against the City which requires the advice and counsel of the City Solicitor and is a matter 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 February 24, 2011 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” The collective bargaining contract(s) discussed are between the City and _____ N/A;

“(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 _____;

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N/A

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Resolution No. 54 (Continued)

“(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.”

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 claim which has been asserted against the City of Somers Point for reimbursement of certain expenses incurred and which requires a legal and financial analysis of statutory construction.

“(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 45 - 60 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 such matter.

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Old Business

A special meeting was scheduled on Wednesday March 9th at 6:00 p.m. regarding parking issues throughout the City to receive input from the public.

New Business

Lisa Mell came forward to announce that Charlie's is sponsoring for the second year "The Plunge" to fund a scholarship award in memory of Arthur Elwell.

Raffle License for AMVets 911 was approved unanimously, as well as waiving the City's fee.

Discussion of Bills

Bills were presented for discussion in the amount of \$2,755,006.55.

Public Portion

Jackie Juliano, 219 W. Wilmont Avenue, came forward and addressed the governing body regarding a letter from the Fire Department with regard to parking in a fire zone. Council asked Atty. Franklin to look into this.

Rick Pitman, Shore Memorial Hospital, came forward and addressed the governing body to give them an update as to where they are with regard to veterans services. He stated that he did receive a response from the secretary of veteran's services stating that they may be able to provide service to veterans seeking dialysis, but for radiation they will make rooms available in Philadelphia.

Payment of Bills

A motion was made and seconded to approve the bills in the amount of \$2,755,006.55. A complete copy of the bill list is on file in the Office of the City Clerk.

Adjournment

Council recessed to go into Executive Session at 8:10 p.m. and reconvened, opening the meeting to the public, and adjourning at 8:37 p.m.

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Carol L. Degrassi, RMC/MMC
Municipal Clerk
Approved: 02/23/12