

**REGULAR MEETING
MAYOR AND CITY COUNCIL
December 8, 2011**

Meeting called to order at 7:00 p.m. by President McGuigan with a salute to the flag.

Roll call was recorded as follows:

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

Also Present: Mayor Glasser, Administrator Swain, Attorney Franklin, City Clerk Degrassi & Deputy City Clerk Samuelsen & Police Captain Michael Boyd

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.

Public Portion on Resolutions Numbers 181, 182, 183

Meeting was opened to the public and duly closed.

Resolution No. 181

M/S – Tapp/Dill

Adopted by a unanimous vote of those present

Mayor Glasser shared that the late George Hyatt was not only his mentor, but a good friend who will be sadly missed. City Council President McGuigan mentioned that being a founding member of St. Joseph’s Church is a proud accomplishment, and he will miss him and his spirit of Christmas. Councilman Smith mentioned that George Hyatt was an outstanding politician who was extremely astute and was fortunate that Mr. Hyatt shared his special insights and ideals with him. City Councilman D’Adamo shared that he was a positive influence on him and was the reason he became involved in politics. Mayor Glasser and Council President McGuigan presented Mr. Hyatt’s children with the resolution.

No. 181 of 2011

**A RESOLUTION CELEBRATING THE LIFE AND LEGACY OF GEORGE R. HYATT,
SR. WHO DEPARTED THIS LIFE ON NOVEMBER 11, 2011**

Introduced By: The Mayor and Council of the City of Somers Point

WHEREAS, the City of Somers Point lost a valued citizen, civic leader, supporter, Coast Guard veteran, and friend on November 11, 2011 with the passing of George R. Hyatt, Sr.; and

WHEREAS, George R. Hyatt, Sr. was a proud lifelong resident of Somers point from his birth on December 9, 1919 until his death, a span of almost 92 years; and

WHEREAS, George R. Hyatt, Sr. honorably served his Country with distinction as a Coast Guard Petty Officer, FC1; and

WHEREAS, George R. Hyatt, Sr. during his life was active in the Somers Point business community, owning and operating a number of businesses including Hyatt’s News Dealer on

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Shore Road, a mainstay of and gathering place for members of our Community, which he and his beloved wife, Ellen, opened in 1946 and operated for more than twenty-five years; and

WHEREAS, George R. Hyatt, Sr. proudly served his County, working tirelessly for the Atlantic County Board of Elections for twenty years, retiring in 2006 at the age of 86; and

WHEREAS, George R. Hyatt, Sr. served his City honorably and with dedication and distinction as a member of the Common Council of our City over a span of 50 years from the 1950's through the 2000's; and

WHEREAS, During his years of public service to our City which was so important to George and his family, he was instrumental in securing open space for recreation, the preservation of our Historic City Hall and its conversion into a first class facility which now houses our local branch of the Atlantic County Library, many infrastructure improvements including the City's wastewater collection system and ultimate participation in the Atlantic County Municipal Utility Authority Treatment Plant; and

WHEREAS, George R. Hyatt, Sr. was, throughout his life, active in philanthropic and community service work including serving as a loyal member of the Knights of Columbus, being a founding member of St. Joseph's Church in which George and Ellen were the first couple to be married in that newly established parish in 1946, serving as Captain of the Fund Campaign to build a new Church in 1957, and in which Parish he also served as a Eucharistic Minister until his death; and

WHEREAS, George R. Hyatt, Sr. was an avid gardener with a truly "Green Thumb", perhaps because he religiously planted his peas on St. Patrick's Day, and he graciously shared his bounty by delivering vegetables to friends, neighbors, family, and those in need without any thought of recognition or reward; and

WHEREAS, George R. Hyatt, Sr. was a staunch supporter of all things Somers Point, whether it be Bay Fest, Good Ole' Days, Veteran's Day or Memorial Day Services, Richard Somers Day, and any other event, but he especially enjoyed the Christmas Parade with the arrival of Santa and the Lighting of the Tree, to which he always added the festive decoration of his family home where he and his family hosted the annual Christmas Parade Party to which all were welcome; and

WHEREAS, George R. Hyatt Sr. mentored many of the elected officials and employees who have served our City during his lifetime and served as a role model of exemplary public and community service giving freely of his time, his experience, and his support; and

WHEREAS, George R. Hyatt Sr. through his example, passed on his love for Somers Point and commitment to public service to his family including his three children, his four grandchildren and one great grandson; and

WHEREAS, we are certain that his second great grandson expected in February 2012 to be christened G. R. Hyatt will carry on in the fine tradition of his Great Grandfather; and

WHEREAS, although George R. Hyatt Sr. will be sadly missed by his loving family, by this Council, by the residents of this community, and by all beyond our City limits whom he touched with his leadership, generosity and enormity of spirit, his legacy will live on through his accomplishments and through his family.

NOW, THEREFORE, IT IS HEREBY RESOLVED by the Common Council of the City of Somers Point to on this day honor the memory of George R. Hyatt Sr. and to officially mourn the passing of the man whose exemplary dedication, leadership, and numerous contributions have made a positive and lasting effect upon our community; and

BE IT FURTHER RESOLVED that this resolution be recorded in the official minutes of this governing body; and

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BE IT FURTHER RESOLVED that certified copies of this resolution be presented on behalf of a grateful City to his three children George Hyatt, Jr., Anne Hyatt and Ellen Lefke.

Resolution No. 182

M/S – Kern/Tapp

Adopted by a unanimous vote of those present

Mayor Glasser explained that a crossing guard is a difficult job that calls for a smiling face that takes special care with children in various weather conditions. On behalf of the City, Mayor Glasser commended Mr. Blake for his service and caring ways as a crossing guard for 19 years. City Council President McGuigan thanked Mr. Blake exceedingly for his important and cheerful service to the children and the City. Police Captain Boyd commended Mr. Blake for his service and dedication to the police department. He added that Mr. Blake was a fantastic employee and a great gentleman. Mayor Glasser and Council President McGuigan presented Mr. Blake with the resolution.

No. 182 of 2011

WHEREAS, William Blake was appointed by Police Chief Orville F. Mathis and sworn into Office to serve the City as a School Crossing Guard effective September 8, 1992; and

WHEREAS, William has served in that capacity with dedication and dependability; and

WHEREAS, William has served our community in many ways, becoming a friendly face to our residents and school staff as well as a friend to the many, many children who have walked his route over the years; and

WHEREAS, after nineteen years of dedicated service William Blake has recently retired from his position as a School Crossing Guard.

NOW, THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of Somers Point, New Jersey, on behalf of themselves and the residents and schoolchildren of this community offer their sincere appreciation and best wishes to William Blake upon his retirement as a School Crossing Guard.

Resolution No. 183

M/S – Kern/Triboletti

Adopted by those present with Councilman Smith abstaining

Council President McGuigan indicated that Shore True Value Hardware is the first business in Somers Point to use clean energy sources and commended the company for completing a solar energy project during a challenging economy. Mayor Glasser and Council President McGuigan presented the owner with the resolution.

No. 183 of 2011

**RESOLUTION SALUTING SHORE TRUE VALUE HARDWARE FOR BEING THE
FIRST BUSINESS IN SOMERS POINT TO UTILIZE SOLAR ENERGY**

Introduced By: Council President McGuigan

WHEREAS, the City Council of the City of Somers Point wishes to promote the use of clean renewable sources of energy, the study and use of alternative technology, and the conservation of energy, in our community; and

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WHEREAS, energy generated from fossil fuels produces harmful air pollutants and accelerates global warming; and

WHEREAS, clean energy resources, such as wind and solar energy, are constantly replenishing themselves, do not cause the buildup of global warming gases and health damaging pollutants, and if properly managed, have the potential to perpetually serve our energy needs thus lessening our dependence on foreign oil; and

WHEREAS, Shore True Value Hardware has been an institution in the business community of Somers Point for many years, employing many of our citizens and supporting families and community organizations and events;

WHEREAS, Shore True Value Hardware underwent a complete renovation of their facility during a challenging economy;

WHEREAS, a major part of that renovation was a solar energy system, a first for businesses in Somers Point;

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

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Somers Point supports and recognizes the environmental, social, and economic benefits from Shore True Value Hardware's proactive approach in implementing a solar energy system;

BE IT FURTHER RESOLVED, the City Council encourages all business, institutions, and households in Somers Point to follow the example of Shore True Value Hardware and investigate the use of clean renewable energy sources for their properties.

ALSO BE IT RESOLVED, that The City Council conveys their congratulations to Shore True Value Hardware on successfully completing the project and their best wishes for continued success.

Communications

Council President McGuigan received a complaint regarding too many bus stops on Route 9 and referred that complaint to the Traffic and Parking Subcommittee. Mr. Swain explained that the City can request that bus stops are relocated.

Mayor's Report

Mayor Glasser was pleased with the recent Holiday Parade and the visit from Santa Claus. He thanked everyone involved that made it a successful event. Mayor Glasser proudly announced that the Pearl Harbor ceremony was held this past weekend, and he thanked the Veteran service organizations and everyone that attended honoring all those who served. Mayor Glasser announced that the initiative to bring back the remains of Richard Somers and his crew of the USS Intrepid has been thwarted. Senator Hellers will continue to support Somers Point regarding this project.

City Administrator's Report

Administrator Wes Swain indicated that as the year comes to an end, there will be a couple of resolutions cancelling unexpended balances that are required as general housekeeping of budget and finance.

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Committee Reports

None

Minutes

The minutes of the regular meetings of October 28, 2010, November 10, 2010, August 25, 2011, September 1, 2011, September 8, 2011 and November 17, 2011 were approved unanimously; however, City Councilman Tapp abstained from the minutes of October 28, 2010 and November 10, 2010.

ORDINANCES

Ordinance No. 18 – Final Reading

M/S – Dill/Smith

Adopted by unanimous vote by those present

Public Portion was opened to the public and duly closed.

ORDINANCE NO. 18 OF 2011

**AN ORDINANCE SUPPLEMENTING AND AMENDING
THE MUNICIPAL CODE OF THE CITY OF SOMERS POINT
AND MORE SPECIFICALLY ARTICLE III “DEFINITIONS” AND ARTICLE XXIII
“SUBDIVISION OF LAND” WITHIN CHAPTER 114
“DEVELOPMENT REGULATIONS”**

Ordinance No. 19 – Final Reading

M/S – Kern/Smith

Public Portion was opened to the public and duly closed.

Tabled by unanimous vote by those present

Greg Schneider, City Engineer, reported that the ordinance creates a four-way stop to increase to safety of pedestrians and bicyclists. The intersections meet all requirements and are a good candidate for four-way stops. Councilman Dill commended the police department and the traffic safety directly for their diligent efforts for the safety of the public.

Ordinance No. 19 of 2011

An Ordinance Enacted Under Authority Granted by N.J.S.A. 39:4-8, N.J.S.A. 39:4-197 and N.J.S.A. 39:4-140 Regulating traffic on Certain Streets and Portions Thereof; Amending and Supplementing the Somers Point Municipal Code Chapter 250 Vehicles and Traffic, Article I Section 250-11, Section 250-32, Schedule VIII: Stop Intersections Designating Four Way Stop Intersections at Bala Drive and Jordan Road and at Groveland Avenue and the Somers Point Bike Path; and Repealing All Ordinances Heretofore Adopted, The Provisions of Which Are Inconsistent Herewith.

Ordinance No. 20 – First Reading

M/S – Kern/Tapp

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City Councilman Smith questioned the corrected copy. Mr. Franklin explained there had been a provision in the original draft that there was an appeal process that was proposed to be included. It had no standard to be applied; therefore, the appeal process was removed. The next issue is a provision with regard to reimbursements. Additionally, should the background check only apply to groups sponsored by Somers Point or other groups not sponsored by Somers Point. Another correction was added to the ordinance that requires the Recreation Commission to maintain a list of those organizations that fall within the ordinance. Captain Boyd explained that the background check process is expedited and takes only a few days for the results. Another change recommended by Mr. Dill, requires the applicant to give notice within 30 days of any changes. Mayor, City Council, Administrator, Mr. Franklin and Captain Boyd thoroughly discussed the foregoing ordinance. This ordinance was tabled and referred back to the Recreation Commission.

Ordinance No. 20 of 2011 (Corrected Copy)

An Ordinance Supplementing and Amending Chapter 48 of the Somers Point Municipal Code “Board of Recreation Commissioners” to authorize the Somers Point Board of Recreation Commissioners to require each current and prospective employee or volunteer of a nonprofit youth organization, program or other recreational, cultural, charitable or social activity sponsored, financially supported or endorsed by the City of Somers Point and which provide recreational, cultural, charitable, social or other activities principally to minors under eighteen (18) years of age to provide written consent to undertake a criminal background check and to adopt Rules and Regulations providing for the processing of such criminal background checks; and Repealing All Ordinances Heretofore Adopted, The Provisions of Which Are Inconsistent Herewith.

WHEREAS, N.J.S.A. 15A:3A-1 et. seq. permits nonprofit youth serving organizations that provide recreational, cultural, charitable, social or other activities to request the State Police to perform a criminal background check on current and prospective employees or volunteers who have direct contact with minors under eighteen (18) years of age in order to eliminate or disqualify those with convictions of certain crimes as more specifically set forth within N.J.S.A. 15A:3A-3; and

WHEREAS, the Somers Point Board of Recreation Commissioners has requested the Governing Body of the City of Somers Point to enact an Ordinance which authorizes the Chairman of the Board of Recreation Commissioners (the “Board”) to designate the Board’s Director of CER (Community, Recreation and Education) as the person authorized to request each current and prospective employee or volunteer of a nonprofit youth organization, program or other recreational, cultural, charitable or social activity sponsored, financially supported or endorsed by the City of Somers Point and which provide recreational, cultural, charitable, social or other activities principally to minors under eighteen (18) years of age to provide written consent to undertake a criminal background check and to coordinate the criminal background checks, schedule the fingerprinting and photographing of each such employee and volunteer; and

WHEREAS, the Somers Point Board of Recreation Commissioners has further requested that the Governing Body of the City of Somers Point include within the Ordinance a requirement that all other nonprofit organizations, programs and activities which provide recreational, cultural, charitable, social or other activities principally to minors under eighteen (18) years of age which are not sponsored, financially supported or endorsed by the City of Somers Point or the Somers Point Board of Recreation Commissioner but which utilize City owned facilities or parks be required to certify by affidavit as an essential part of their Application to utilize those City owned facilities or parks that the organization, program or activity has subjected each of its employees and volunteers to a criminal background check in compliance with N.J.S.A 15A:3A-1 et. seq. which the Somers Point Board of Recreation Commissioners shall be entitled to rely upon and which certification by way of affidavit shall be maintained on file by the

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Commissioners; and that such a requirement shall be included within the Rules and Regulations established by the Somers Point Board of Recreation Commissioners; and

WHEREAS, the Governing Body of the City of Somers Point acknowledges that undertaking a criminal background check of all such employees and volunteers who provide recreational, cultural, social or other activities principally involving minors under the age of eighteen (18) years is in the best interest of the City, the Board of Recreation Commissioners, our citizens and for the protection of our children, and is authorized by the State Legislature as a proper exercise of the police power; and

WHEREAS, it is the intention of the Governing Body of the City of Somers Point that the Board of Recreation Commissioners of the City of Somers Point prepare and maintain on file at all times a true and complete list of all nonprofit youth organizations, programs or activities which are sponsored, financially supported or endorsed by the City of Somers Point or the Somers Point Board of Recreation Commissioners to which this Ordinance shall apply, which list shall be available for public inspection.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Somers Point, County of Atlantic, and State of New Jersey as follows:

SECTION 1: Somers Point Municipal Code Chapter 48: Board of Recreation Commissioners is hereby amended to add Section 48 – 7 Criminal History Background Checks as follows:

Section 48 – 7. Criminal History Background Checks.

Section 48 – 7.1. Definitions.

As used in this Section, the following terms shall have the meanings indicated:

CRIMINAL HISTORY RECORD BACKGROUND CHECK

A determination of whether a person has a criminal record by cross-referencing that person's name, fingerprints, social security number and date of birth with those on file with the Federal Bureau of Investigation, Identification (SI) Division, and/or the State Bureau of Identification of the New Jersey State Police.

CURRENT AND PROSPECTIVE EMPLOYEES OR VOLUNTEERS

A person who is or intends to be employed by and/or volunteers to participate on behalf of a nonprofit youth organization or program which provides recreational, cultural, charitable, social or other activities or services principally to minors under the age of 18 years.

NONPROFIT YOUTH ORGANIZATION PROGRAM OR ACTIVITY

A nonprofit youth organization, program or activity, excluding public and nonpublic schools, principally involving minors under 18 years of age that provides recreational, cultural, charitable, social or other activities or services that are endorsed, supported or sponsored by the City of Somers Point or the Somers Point Board of Recreation Commissioners, receives funding from the City of Somers Point or the Somers Point Board of Recreation and any such organization or program which is not endorsed, financially supported or sponsored by the City of Somers Point or the Somers Point Recreation Commission cut which requests permission to utilize City owned facilities or parks or facilities and parks which are under the jurisdiction or control of the Somers Point Board of Recreation.

The Somers Point Board of Recreation Commissioners shall prepare and maintain on file and available for public inspection a list of all nonprofit youth organizations, programs or activities endorsed, supported or sponsored by the City of Somers Point or the Somers Point Board of Recreation Commissioners and which are within the scope of this Ordinance.

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Section 48 – 7.2. Request for Criminal Background Checks and Consent as Condition of Participation in Nonprofit Organization, Program, Activity or Service

Sponsored, Financially Supported, or Endorsed by the City of Somers Point or the Somers Point Board of Recreation Commissioners.

Every current and prospective employee or volunteer of a nonprofit youth organization, program or activity principally involving minors under 18 years of age that provides recreational, cultural, charitable, social or other activities or services endorsed, supported or sponsored by the City of Somers Point or the Somers Point Board of Recreation

Commissioners shall submit to a criminal history background check prior to engaging in such activity.

Each current and prospective employee or volunteer shall provide his or her written consent to the criminal background check in order to be permitted to participate in nonprofit youth organization or activities as defined herein. Such written consent shall be submitted to the Director of CER (Community, Recreation and Education).

Section 48- 7.2.1 Renewal of Criminal Background Check.

Each criminal background check, upon receipt of qualification, shall be valid for a period of five (5) years after which each employee and volunteer shall submit a new application.

In each of the intervening years between criminal background checks, each employee and volunteer shall certify to the Director of CER in writing that there has been no change in circumstances which would result in a disqualification of that employee or volunteer.

In the event an employee or volunteer is convicted of any of the crimes or disorderly persons offenses specified in Section 48-7.5 of this Chapter, such employee or volunteer shall promptly inform the Director of CER within thirty (30) days of such conviction and shall thereupon be disqualified from continuing to serve as an employee or volunteer.

Section 48 – 7.3. Cost of Conducting Criminal Background Check.

The costs of the criminal history record background check are to be borne by the employee or volunteer seeking to participate on behalf of a nonprofit youth organization, program or activity. Upon successful completion of the criminal background check one-half of the fee for the criminal record background check will be refunded by the Board to the employee or volunteer of the nonprofit youth organization, program or activity endorsed, supported or sponsored by the City of Somers Point or the Somers Point Board of Recreation Commissioners. No refund shall be made if the criminal background check is not successfully approved and the applicant is disqualified; nor shall any refund be made to any employee or volunteer in a youth organization, program or activity which is not endorsed, supported or sponsored by the City of Somers Point or the Somers Point Board of Recreation Commissioners. The Somers Point Board of Recreation Commissioners shall prepare and maintain on file a list of all nonprofit youth organizations, programs or activities endorsed, supported or sponsored by the City of Somers Point or the Somers Point Board of Recreation Commissioners and which are within the scope of this Ordinance.

Section 48 – 7.4. Procedure for Processing Criminal Background Checks.

The Somers Point Board of Recreation Commissioners shall from time to time establish procedures for notifying employees and for processing all Criminal Background Checks which shall be consistent with the requirements of N.J.S.A. 15A:3A-1 et. seq. and which shall:

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Require that all youth organizations, programs or activities endorsed, sponsored, or supported by the City of Somers Point or the Somers Point Board of

A. Recreation Commission shall submit a list of names, addresses and a written consent form from all prospective and current employees and volunteers to the Director of CER (Community, Recreation and Education) of the City of Somers Point.

B. The Director of CER shall coordinate the criminal background checks and schedule the fingerprinting and photographing through the Somers Point Police Department to the extent necessary.

C. The Somers Point Board of Recreation Commission shall engage the services of a third-party independent agency approved by the State of New Jersey to conduct the criminal history record background checks authorized under this article to provide the following services:

(1) Provide on-site representative to photograph and fingerprint all volunteers and/or employees.

(2) Collect, review for accuracy, and deliver all fingerprint cards to the New Jersey State Police.

(3) Notify the Somers Point Board of Recreation of the qualification of each applicant based upon information received from the New Jersey State Police.

(4) Issue photograph identification cards for all volunteers and/or employees who have successfully passed the background record check to the Board of Recreation Commission which shall issue the identification card to the applicant.

(5) Issue and update rosters of all processed applicants to the Somers Point Board of Recreation Commissioners.

(6) Secure and maintain at all times during the term of the contract general public liability insurance with a minimum limit of liability of \$1,000,000, and statutory workers' compensation, with coverage in amounts as required by New Jersey statutes. The agency shall provide the Somers Point Board of Recreation Commissioners with a certificate of insurance naming the City of Somers Point and The Somers Point Board of Recreation Commissioners as Additional Insureds under the general liability policy and evidencing the above coverage and limits of liability with the obligation to provide a minimum of 30 days' advance written notice prior to any cancellation or alteration of any of the policies referred to in the certificate.

(7) At all times during the term of contract secure and maintain a policy of Professional Liability Insurance with a minimum coverage limit of \$1,000,000.

Section 48 – 7.5. Conditions of Disqualification.

A person may be disqualified from serving as an employee or volunteer of such a nonprofit organization, program or activity if that person's criminal history record background check reveals a record of conviction of any of the following crimes or disorderly persons offenses:

A. In New Jersey, any crime or disorderly persons offense:

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(1) Involving danger to the person, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C:11, Homicide, N.J.S.A. 2C:12, Assault; Endangering; Threats,

N.J.S.A. 2C:13, Kidnapping, N.J.S.A. 2C:14, Sexual Offenses, or N.J.S.A. 2C:15, Robbery;

(2) Against the family, children, or incompetents, meaning those crimes and disorderly persons offenses set forth in N.J.S.A. 2C: 24-1 et seq.;

(3) Involving theft as set forth in Chapter 20 of Title 2C of the New Jersey Statutes;

(4) Involving any controlled dangerous substance or controlled substance analog as set forth in Chapter 35 of Title 2C of the New Jersey Statutes except Paragraph (4) of Subsection a of N.J.S.A. 2C: 35-10, possession of 50 grams or less of marijuana.

B. In any other state of jurisdiction, conduct, which, if committed in New Jersey, would constitute any of the crimes or disorderly persons offenses described in Subsection A of this section.

C. Violation of any other statute which the New Jersey Legislature may from time to time add to the list of disqualification by amendment or supplement to N.J.S.A. 15A:3A-3.

Section 48 – 7.6. Notification of Disqualification.

If a person is determined to be disqualified from serving as an employee or volunteer of such an organization, program or activity because the criminal history record background check reveals a record of conviction as listed above:

A. A copy of the notification of disqualification will be sent directly from the State of New Jersey, Office of the Attorney General, Department of Law and Public Safety, Division of State Police, or the third-party agency, to the applicant, the third-party provider, and the Director of CER of the Somers Point Board of Recreation Commissioners.

B. No entity within the process will be privy to specific contents of the applicant's criminal background other than the applicant. The applicant may obtain a copy of the criminal history record directly from the New Jersey State Police.

C. Any applicant who receives a notice of disqualification shall have the right to pursue the matter with the third- party provider but any fees and costs shall be the sole responsibility of the applicant and shall not be subject to reimbursement or refund by the Somers Point Recreation Commission. If the disqualification is removed and the applicant is subsequently found to be qualified, one – half of the initial fee will be refunded to the applicant.

D. The rules and regulations concerning access to and dissemination of information obtained as a result of conducting a criminal history record background check have been established by the New Jersey attorney General pursuant to the Administrative Procedures Act which shall control.

Section 48 – 7.8. Certification by Affidavit by Other Responsible Person as an Essential Element of Application to Utilize Any Facility or Park owned by the City of Somers Point and as a Precondition for Such Use.

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- A. The President, Director, Sponsor, Leader, or other responsible person in charge of any nonprofit organization or program which provides recreational, cultural, charitable, social or other activities or services principally involving minors under the age of eighteen (18) years which is not sponsored, financially supported or endorsed by the City of Somers Point or the Somers Point Board of Recreation Commissioners, and which requests the use of any facility or park owned by the City of Somers Point or under the jurisdiction of the Somers Point Board of Recreation Commissioners, shall, as an essential part of each Application submitted to the Somers Point Board of Recreation Commissioners for such use submit a certification by Affidavit that the organization or program has subjected each of its employees and volunteers to a criminal background check in compliance with N.J.S.A 15A:3A-1 et. seq. and has disqualified any person which the Somers Point Board of Recreation Commissioners shall be entitled to rely upon and which shall be maintained on file by the Somers Point Board of Recreation Commissioners. Failure to submit the required Affidavit shall render the Application incomplete and shall make the organization or program ineligible to use any such facility or field until the condition shall have been satisfied.
- B. The requirement set forth in Subsection A shall not apply to any program, activity or service which is sponsored or engaged in by a public or nonpublic school.
- C. The Somers Point Board of Recreation Commissioners shall include the requirements of this Section of the Ordinance within its Rules and Procedures for use of City owned facilities and parks and shall make the Affidavit requirement a part of its Application Form.

SECTION 2: All other provisions of Chapter 48 shall remain in full force and effect and shall apply to this amendment upon the effective date of this Ordinance

SECTION 3: All ordinances or parts of ordinances inconsistent herewith are hereby repealed to the extent of such inconsistencies.

SECTION 4: Should any section, clause, sentence, phrase or provision or any item in any schedule of this ordinance be declared unconstitutional or invalid by a Court of competent jurisdiction, such decision shall not affect the remaining portions of this ordinance

SECTION 5: This ordinance shall take effect upon its final passage, publication and adoption in the manner prescribed by law.

**FIRST READING: December 8, 2011
PUBLICATION: December , 2011
FINAL PASSAGE: December 22, 2011**

Public Portion on Resolutions

Meeting was opened to the public and duly closed.

Resolution No. 184

M/S – Kern/Triboletti

Adopted by a unanimous vote of those present

No. 184 of 2011 (Corrected Copy)

**Subject: Rescinding Resolution 179 of 2011 and Correcting
Tax Overpayment Refund Payee**

Sponsor: Councilman Smith

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WHEREAS, on November 17, 2011 Resolution 179 of 2011 was adopted by this Governing Body; and

WHEREAS, the owner of the property and the entity to receive the overpayment were inadvertently incorrectly identified; and

WHEREAS, the Somers Point Tax Collector has requested that Resolution 179 Of 2011 be rescinded and that a Resolution identifying the correct entity be adopted; and

WHEREAS, the below listed overpayment for the year designated is held in reserve by the City of Somers Point; and

WHEREAS, there was a County Board judgment on the property, creating an overpayment on the fourth quarter of 2011; and

WHEREAS, the taxes were paid by the mortgage company,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that Resolution 179 of 2011 is hereby rescinded and of no effect; and

BE IT FURTHER RESOLVED the following overpayment be refunded to the mortgage company.

Block	Lot	Qual.	Mortgage Company	Amount	Year
2018	3.03	C0002	Hudson City Savings Bank	\$593.90	2011

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to the Somers Point Tax Collector and the Somers Point Finance Officer by the City Clerk.

Resolution No. 185

M/S – Kern/Triboletti

Adopted by a unanimous vote of those present

Mrs. Swain explained that by adopting this resolution, the amount of \$62,423.25 will be returned to surplus.

No. 185 of 2011

Subject: Authorizing the Chief Financial Officer to Cancel Grant Balances

Introduced By: Council President McGuigan

WHEREAS, the Chief Financial Officer and the City Administrator have completed a review of the Grant Fund; and

WHEREAS, as a result of the review ,the Chief Financial Officer and the City Administrator recommend that the following balances be canceled from The Grant Fund general ledger and transferred to Current Fund Balance, subject to whatever modifications may be necessary as a result of activity in those accounts occurring on or before December 31, 2011:

DESCRIPTION	CANCEL	CANCEL
<u>GRANTS RECEIVABLE</u>		
SAFE & SECURE	\$23,370.00	
LOCAL ARTS DEVELOPMENT:	1,100.00	
LOCAL ARTS DEVELOPMENT:	225.00	
DOT:AMBLER	7,896.64	
DOT:BAY AVENUE	12,129.40	
Over the Limit Under Arrest:2010	275.00	
DWI:2010		

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10,857.45

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MUN. ALLIANCE	33,228.73
ENVIROMENTAL SERVICES GRANT	268.00
SPECIAL LEGISLATIVE ACT:KERN FIELD	40,000.00
ATLANTIC COUNTY OPEN SPACE	24,885.50
COPS: Universal	550.06
US DEPT OF HOMELAND SECURITY Aid to Firefighters	7,100.00
<u>APPROPRIATED RESERVES:</u>	
LOCAL RIVER MGT PLAN	\$3,000.00
MUNICIPAL ALLIANCE:2010	4,472.91
MUNICIPAL ALLIANCE:2009	18,135.00
MUNICIPAL ALLIANCE:PRIOR	13,985.94
CLEAN COMMUNITIES:PRIOR	14,711.37
NJ Sustainable Small Grant	7,812.49
DOT:BAY AVENUE	41,481.67
DOT:AMBLER AVENUE	6,418.55
SEWER INFRASTRUCTURE ACT	7,488.95
DWI:2010	10,857.45
SAFE & SECURE	42,526.19
Atlantic County Open Space	34,006.00
SEWER INFRASTRUCTURE 2008	7,870.50
Sams Club Hero Fund	750.00
Municipal Stormwater Regulations	7,318.30
FEMA	931.71

<u>UNAPPROPRIATED RESERVES:</u>	
MUNICIPAL ALLIANCE	2,542.00
	<u>\$161,885.78 \$224,309.03</u>
<i>TO CURRENT FUND BALANCE</i>	<div style="border: 1px solid black; padding: 2px; display: inline-block;">\$62,423.25</div>

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the Chief Financial Officer is hereby authorized to cancel the aforementioned amounts and make adjustments to the appropriate accounts subject to whatever modifications may be necessary as a result of activity in those accounts occurring on or before December 31, 2011.

Resolution No. 186
M/S – Kern/Triboletti
Adopted by vote of those present with Councilman Dill recusing himself

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Subject: Authorizing agreement with Salvatore Armenia

Introduced By: Council President McGuigan, Councilmen Triboletti and Smith

WHEREAS, after long and dedicated service to the City of Somers Point, Police Chief Salvatore Armenia intends to retire from the Somers Point Police Department effective January 1, 2012; and

WHEREAS, upon retirement Salvatore Armenia is entitled to certain payments and benefits in accordance with the agreement effective September 1, 2007 between the City of Somers Point and Police Chief Salvatore Armenia; and

WHEREAS, the City of Somers Point has determined that Salvatore Armenia will have a maximum accumulated, reimbursable total of 84 days of unused sick leave as of the effective date of his retirement; and

WHEREAS, Police Chief Armenia's last regular day of work will be December 31, 2011 and he shall receive his last regular pay on December 30, 2011; and

WHEREAS, pursuant to the agreement between the City of Somers Point and Police Chief Salvatore Armenia, the City of Somers Point shall tender to Salvatore Armenia a lump-sum payment for unused sick leave; and

WHEREAS, pursuant to the agreement between the City of Somers Point and Police Chief Salvatore Armenia, the City agrees to provide health benefits to Salvatore Armenia in his retirement as defined in that agreement.

NOW, THEREFORE, the City of Somers Point hereby authorizes the City Administrator to enter into an agreement with Salvatore Armenia, which memorializes all rights and entitlements of the employment agreement attached hereto and made a part of this Resolution.

Resolution No. 187

M/S – Smith/Kern

Adopted by a unanimous vote of those present

**NO. 187 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** topic which involve a recommendation for settlement of claims for reduction in assessed tax valuations for tax years 2010 and 2011 which have been asserted against the City which require the advice and counsel of the Special Tax Counsel to the City of Somers Point and are matters permitted by N.J.S.A. 10:4-12(b) as an exception to public meetings and are necessary to be discussed without the public in attendance during an Executive Session to be held on December 8, 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.

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☐ **“(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 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.”**

The parties to and docket numbers of each item of litigation and/or the parties to each contract discussed are and the nature of the discussion, described as fully as possible without undermining the need for confidentiality is:

A report by the Somers Point Special Tax Counsel on the status of certain tax appeals filed or pending against the City of Somers Point, and explanation of the basis for settlement recommendations made by the Tax Assessor and Special Tax Counsel. The list of the matters pending before the Tax Court of New Jersey for which such recommendation has been made and which may be discussed is:

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

Garden State Yacht Marina	012828-2010
680 Bay LLC	010558-2011
JAV of Somers Point LLC	014175-2011

☐

“(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 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)

Subject of Discussion	Estimated Date	Necessary Occurrence
See #7 above Attorney Client conference	Upon Completion or Resolution of the pending matters	Final Court Order / Final Resolution, Settlement or other final disposition of such matter.

Consent Agenda

Resolution Numbers 190 through 192 of 2011

M/S – Tapp/Smith

The following resolutions in the consent agenda were approved unanimously.

No. 190 of 2011

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Subject: Sewer Overbilling

WHEREAS, the property listed as 6 Cliveden Ave., Block 2042 Lot 8, sewer account #3704-0 was an inactive account in 2006 due to the building being demolished; and

WHEREAS, in 2007 the sewer collector received information that the sewer had been reconnected and billed the property accordingly; and

WHEREAS, the property owner paid 2007 and a portion of 2008 sewer without question; and

WHEREAS, the property went delinquent for 2008 taxes and sewer and was subsequently sold on tax sale in 2009; and

WHEREAS, the lienholder continued to pay the sewer as a subsequent charge to the lien; and

WHEREAS, the property owner has since redeemed the lien paying both taxes through 2011 and sewer through the first quarter of 2011; and

WHEREAS, the property owner has since notified the sewer collector that there is no building on the property and requested sewer from 2007, 2008, 2009, 2010 and 2011 be canceled and sewer payments be refunded to him;

WHEREAS, it has been confirmed that there is currently no building on the property;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the sewer billing for 2007, 2008, 2009, 2010 and 2011 be canceled in the amount \$1,357.00 and the sewer payments in the amount \$1,132.00 be refunded to the property owner;

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to the Tax Collector and the Finance Officer by the City Clerk.

No.191 of 2011

Subject: Tax Overpayment Refund

WHEREAS, the below listed overpayment for the year designated is held in reserve by the City of Somers Point; and

WHEREAS, the property is exempt from taxes; and

WHEREAS, there was a homestead credit on the property, creating an overpayment on the second quarter of 2011; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the following overpayment be refunded to the property owner.

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to the Tax Collector and the Finance Officer by the City Clerk.

Block	Lot	Qual.	Property Owner	Amount	Year
517	11		Robert & Susan Weiler	\$166.83	2011

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No. 192 of 2011

Subject: Tax overpayment Refund

WHEREAS, the below listed overpayment for the year designated is held in reserve by the City of Somers Point; and

WHEREAS, the previous property owner had a successful appeal for the tax year 2010; and

WHEREAS, the previous property owner paid their taxes in full before the appeal was granted.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Somers Point that the following overpayment be refunded jointly to the previous property owner and their attorney.

BE IT FURTHER RESOLVED that certified copies of this resolution be forwarded to the Tax Collector and the Finance Officer by the City Clerk.

BLOCK	LOT	OWNER	AMOUNT	YEAR
910	1	Frank H. Wisniewski, Esq. Stumpo's Somers Point LLC	\$6,843.28	2010

New Business

Council President McGuigan indicated that he just received a petition relative to parking; however, he did not have time to review the documents. He referred the petition to the Parking Subcommittee.

An Application for a Raffle License for American Legion Post #352 was presented to City Council for approval. City Council approved the application and waived the City fee.

Additionally, an application for a Raffle License for Ocean City Crew Boosters was presented to City Council for approval. City Council approved the application.

Old Business

There was no Old Business presented for discussion.

Discussion of Bills

Bills were presented for approved in the amount of \$190,289.61 with an additional bill list of \$19,662.68. The total amount of bills is \$ 209,952.29.

Public Portion

Meeting was opened to the public and duly closed.

Resolution No. 188

M/S-Dill/Tapp

Council President McGuigan announced that there would be a brief recess followed by the Executive Session approved in Resolution No. 187. After adjournment of the Executive Session, the meeting will open again to the public. Following the recess, the Governing Body convened in

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Executive Session during which a report was presented by Special Tax Counsel and Diane Hesley, CTA, Tax Assessor, to discuss the items referenced in Resolution No. 187. When Executive Session adjourned, City Council opened to public portion.
Adopted by a unanimous vote of those present

No. 188 of 2011

Subject: Tax Appeal Settlement

Introduced By: Councilman Smith

WHEREAS, Garden State Yacht Sale Marina is located at 680 Bay Avenue in the City of Somers Point, County of Atlantic and State of New Jersey; and

WHEREAS, said property is identified as Lot 1 in Block 1408 on the tax map of the City of Somers Point; and

WHEREAS, Garden State Yacht Sale Marina filed tax appeals with the Tax Court of the State of New Jersey for the years 2010 and 2011; and

WHEREAS, the subject property, as well as certain other assets, were sold in January, 2011; and

WHEREAS, based upon said sales price and other indicators of value, the property owner is entitled to a reduction in the assessed value of the property; and

WHEREAS, the current assessed value for said property as recorded in the records of the City of Somers Point is as follows:

<u>Land</u>	<u>Improvements</u>
	<u>Total</u>
\$540,000	\$1,210,000
	\$1,750,000

WHEREAS, a settlement has been reached with the property owners whereby the assessed value for the years 2010 and 2011 will be reduced to the following amount:

<u>Land</u>	<u>Improvements</u>
	<u>Total</u>
\$540,000	\$710,000
	\$1,250,00; and

WHEREAS, the property owners have agreed to waive any and all interest which may be due based upon the reduction in assessment as set forth above; and

WHEREAS, the 2010 appeal was filed pursuant to Tax Court Docket No. 012828-2010; and

HEREAS, the 2011 appeal was filed pursuant to Tax Court Docket No. 010558-2011; and

WHEREAS, the Council of the City of Somers Point is desirous of resolving said tax appeals by authorizing an assessment in the above mentioned total amount of \$1,250,000; and

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WHEREAS, the owner of the property during the 2010 tax year was Garden State Yacht Sale Marina; and

WHEREAS, the owner of the property during the 2011 tax year was 680 Bay LLC; and

WHEREAS, certain settlements of tax appeal matters in the City of Somers Point must be authorized by Council approval.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Taxing District of Somers Point that:

1. The total assessed value for the subject property shall be reduced to the amount of \$1,250,000 for tax years 2010 and 2011.
2. Garden State Yacht Sale Marina shall be entitled to a refund for any amounts that are due and owing for the 2010 year due to the reduction in assessment.
3. 680 Bay LLC shall be entitled to a credit against future taxes for any amount which should be credited due to the reduction in assessed value as set forth herein.
4. The Assessor, Tax Attorney or any other official acting on behalf of the City of Somers Point is authorized to sign and take any other action to enter into the proposed stipulations of settlement which are attached hereto and incorporated herein by this reference for the purpose of memorializing the settlements as set forth in this Resolution.

Resolution No. 189

M/S-Dill/Kern

Adopted by a unanimous vote of those present

No. 189 of 2011

Subject: Tax Appeal Settlement
Introduced By: Councilman Smith

WHEREAS, JAV of Somers Point, LLC is the owner of certain property located at 101 East Maryland Avenue in the City of Somers Point, County of Atlantic and State of New Jersey; and

WHEREAS, said property is identified as Lot 1 in Block 910 on the tax map of the City of Somers Point; and

WHEREAS, JAV of Somers Point, LLC filed a tax appeal with the Tax Court of the State of New Jersey for the 2011 tax year; and

WHEREAS, the subject property was sold in 2011; and

WHEREAS, based upon the sales price and other indicators of value, the property owner is entitled to a reduction in the assessed value of the property; and

WHEREAS, the current assessed value for said property as recorded in the records of the City of Somers Point is as follows:

Land

Improvements
Total

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\$238,000

\$1,012,000

\$1,250,000

WHEREAS, a settlement has been reached with the property owners whereby the assessed value for the year 2011 will be reduced to the following amount:

Land

Improvements

Total

\$238,000

\$412,000

\$650,000; and

WHEREAS, the property owners have agreed to waive any and all interest which may be due based upon the reduction in assessment as set forth above; and

WHEREAS, the 2011 appeal was filed pursuant to Tax Court Docket No. 014175-2011; and

HEREAS, the Council of the City of Somers Point is desirous of resolving said tax appeal by authorizing an assessment in the above mentioned total amount of \$650,000; and

WHEREAS, certain settlements of tax appeal matters in the City of Somers Point must be authorized by Council approval.

NOW, THEREFORE, BE IT RESOLVED by the governing body of the Taxing District of Somers Point that:

1. The total assessed value for the subject property shall be reduced to the amount of \$650,000 for tax year 2011.
2. The property owner waives any interest which it may be entitled to and will receive a credit against future taxes for any amount which should be credited due to the reduction in assessed value as set forth herein.
3. The Assessor, Tax Attorney or any other official acting on behalf of the City of Somers Point is authorized to sign and take any other action to enter into the proposed stipulation of settlement which is attached hereto and incorporated herein by this reference for the purpose of memorializing the settlement as set forth in this Resolution.

Adjournment

There being no further business, meeting adjourned at 9:12 p.m.

Carol L. Degrassi, RMC/MMC
Municipal Clerk

Approved: 12/22/2011