

**REGULAR MEETING  
MAYOR AND CITY COUNCIL  
February 23, 2017**

**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, McGuigan, Smith, Toto, Tapp & McGuigan

**Also Present:** Administrator Swain, Attorney Franklin & Clerk Samuelson

**Absent:** Gerety, Mayor Glasser  
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**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

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**Proclamations:**

**No. 4 of 2017**

**WHEREAS**, food is the substance by which life is sustained; and

**WHEREAS**, the type, quality, and amount of food that individuals consume each day plays a vital role in their overall health and physical fitness; and

**WHEREAS**, there is a need for continuing nutrition education and a wide-scale effort to enhance healthy eating practices;

**NOW, THEREFORE**, I, John L. Glasser, Jr., Mayor of the City of Somers Point, New Jersey do hereby proclaim the month of March as

**NATIONAL NUTRITION MONTH**

in the City of Somers Point, New Jersey and I encourage all citizens to join the campaign and become concerned about their nutrition and the nutrition of others in the hope of achieving optimum health for both today and tomorrow.

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Jesse Tannehill, Registered Dietitian, of Shop Rite shared a large tray of fresh fruit with the Governing Body and public. He presented a brief overview of the free services offered by Shop Rite to improve the publics' overall health by calling Shop Rite at 609-653-4830 and making an appointment. The Governing Body thanked him for his presentation and the fruit tray.

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**Special Presentation:** Greg Schneider, P.E, P.P., C.M.E., City Engineer  
Mr. Schneider reported that the City received a grant in the amount of \$755,000.00 from the New Jersey Department of Transportation for the Bike Path Widening Project, which requires a public meeting to gather input from the public. He briefly explained the scope of work that included the widening of the bike path from 10' to 14' along New Jersey Avenue, replacing the lighting, landscaping and signage. Councilman Tapp recommended installing mile markers for the runners. Council President McGuigan mentioned the theme and the moving of the lighting fixtures. City Council and Administrator Swain thoroughly discussed the project and the timeline with the City Engineer.

**The meeting was duly opened to the public.**

Mr. Gundolfo of Shore Road expressed his concern regarding the intersection of Ocean Heights Avenue and areas of the bike path that has stone.

**With no further comments, the public hearing was duly closed.**

Council President McGuigan stated that the project is being handled by the Steering Committee.

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**Communications:**  
None

**Mayor's Report:**  
None

**Administrator's Report:**  
None

**Committee Reports:**  
None

**Approval of Minutes:**  
None

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**ORDINANCES:**

**Ordinance No. 1 - *Final Reading***

M/S –Toto/Dill

The meeting was opened to the public and hearing no comments, duly closed. Ordinance No. 1 was then adopted on final reading by a unanimous vote of those present.

**ORDINANCE NO. 1 of 2017**

**BOND ORDINANCE PROVIDING FOR VARIOUS IMPROVEMENTS AND ACQUISITIONS IN AND BY THE CITY OF SOMERS POINT, IN THE COUNTY OF ATLANTIC, NEW JERSEY APPROPRIATING \$600,000 THEREFOR AND AUTHORIZING THE ISSUANCE \$570,000 OF BONDS OR NOTES OF THE CITY TO FINANCE PART OF THE COST THEREOF.**

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**Ordinance No. - *Final Reading***

M/S – Toto/Tapp

The meeting was opened to the public and hearing no comments, duly closed. Ordinance No. 2 was then adopted on final reading by a unanimous vote of those present.

**Ordinance No. 2 of 2017**

**An Ordinance Amending and Supplementing the Somers Point Municipal Code Chapter 250 Vehicles and Traffic, Article VIII: Stop Intersections, Section 250-32; and Repealing All Ordinances Heretofore Adopted, The Provisions of Which Are Inconsistent Herewith.**

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**Ordinance No. 3 - *Final Reading***

M/S – Toto/Dill

The meeting was opened to the public and hearing no comments, duly closed. Ordinance No. 3 was then adopted on final reading by a unanimous vote of those present.

**Ordinance No. 3 of 2017**

**An Ordinance Amending and Supplementing Somers Point Municipal Code Section 250-36 Schedule XII: Bus Stops and Repealing all Ordinances Inconsistent Therewith.**

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**Public Portion on Resolutions:**

Meeting was opened to the public with regard to the Resolutions on the agenda, and hearing no comments, duly closed.

There were no items on the consent agenda.

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**RESOLUTIONS:**

**Resolution No. 64**

M/S – Toto/Dill

The resolution was adopted by a unanimous vote of those present. City Councilman Smith reported that the assessments agreed upon relative to the settlement are already placed on the books for 2017.

**No. 64 of 2017**

**AUTHORIZING THE SOMERS POINT TAX ASSESSOR IN CONJUNCTION WITH  
SOMERS POINT SPECIAL TAX COUNSEL TO SETTLE AND COMPROMISE  
CERTAIN REAL PROPERTY TAX APPEALS PENDING BEFORE THE NEW JERSEY  
TAX COURT**

**Introduced By: COUNCILMAN SMITH**

**WHEREAS**, from time to time the Tax Assessor is presented with an opportunity to compromise, settle or otherwise dispose of certain tax appeals pending before the Atlantic County Board of Taxation or the New Jersey Tax Court; and

**WHEREAS**, for reasons of efficiency this Governing Body has determined that the Tax Assessor should not be required to present each such settlement to this body for approval; and

**WHEREAS**, this Governing Body has directed that whenever a settlement of a pending matter would result in an assessed tax revenue reduction in excess of Ten Thousand Dollars (\$10,000.00) for any such property within a single tax year no such settlement shall be entered into without a presentation to the City Council explain the proposed settlement, the reason for the settlement recommendation, and the impact upon the current and prior tax years; and

**WHEREAS**, A) Special Tax Counsel and the Somers Point Tax Assessor have identified the following series of pending tax appeals and have discussed the implications and

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recommendations during an Executive Session held on February 9, 2017 relative to the following pending Tax Appeals which exceed the approval threshold:

<u>Docket No.:</u> <u>Year:</u>	<u>Caption:</u>			<u>Tax</u>
003959-2009	KMART v. City of Somers Point	Block - 499	Lot – 15.03	2009
000415-2010	KMART v. City of Somers Point	Block - 499	Lot – 15.03	2010
001558-2011	KMART v. City of Somers Point	Block - 499	Lot – 15.03	2011
000446-2012	KMART v. City of Somers Point	Block - 499	Lot – 15.03	2012
000321-2013	KMART v. City of Somers Point	Block - 499	Lot – 15.03	2013
006252-2014	KMART v. City of Somers Point	Block - 499	Lot – 15.03	2014
001911-2015	KMART v. City of Somers Point	Block - 499	Lot – 15.03	2015
000964-2016	KMART v. City of Somers Point	Block - 499	Lot – 15.03	2016
013455-2014	TIMOTHY WALLACE v. City of Somers Point	Block – 1941.01	Lot – 1	2014
011521-2015	TIMOTHY WALLACE v. City of Somers Point	Block – 1941.01	Lot – 1	2015
21-1600069L	TIMOTHY WALLACE v. City of Somers Point	Block – 1941.01	Lot – 1	2016

**WHEREAS**, after giving due and careful consideration to the recommendations made by Special Tax Counsel and the Somers Point Tax Assessor

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Taxing District of Somers Point that the Tax Assessor, in consultation with the Somers Point Special

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Tax Counsel is hereby authorized to settle or otherwise dispose of the following matters pending before the Tax Court of the State of New Jersey in the following manner:

<u>Docket No.:</u>	<u>Caption:</u>			<u>Tax Year:</u>
003959-2009	KMART v. City of Somers Point	Block - 499	Lot - 15.03	2009
000415-2010	KMART v. City of Somers Point	Block - 499	Lot - 15.03	2010
001558-2011	KMART v. City of Somers Point	Block - 499	Lot - 15.03	2011
000446-2012	KMART v. City of Somers Point	Block - 499	Lot - 15.03	2012
000321-2013	KMART v. City of Somers Point	Block - 499	Lot - 15.03	2013
006252-2014	KMART v. City of Somers Point	Block - 499	Lot - 15.03	2014
001911-2015	KMART v. City of Somers Point	Block - 499	Lot - 15.03	2015
000964-2016	KMART v. City of Somers Point	Block - 499	Lot - 15.03	2016

Through a stipulation for the assessed value of the subject property in the amounts shown for the tax years designated below:

<u>Block / Lot #:</u>	<u>Tax Year:</u>	<u>Stipulated Assessed Value:</u>
Block 499 / Lot 15.03 WITH	2009	APPEAL TO BE WITHDRAWN PREJUDICE
Block 499 / Lot 15.03 WITH	2010	APPEAL TO BE WITHDRAWN PREJUDICE
Block 499 / Lot 15.03	2011	\$ 6,583,200.00
Block 499 / Lot 15.03	2012	\$ 6,562,400.00
Block 499 / Lot 15.03	2013	\$ 6,581,000.00
Block 499 / Lot 15.03	2014	\$ 12,211,200.00

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Block 499 / Lot 15.03	2015	\$ 12,007,700.00
Block 499 / Lot 15.03	2016	\$ 11,702,400.00

It shall be further stipulated to the Tax Court by the parties that the Assessment on Land and Improvements shall be set at \$11,397,100 during 2017 and no Appeal shall be filed by the owner of the property for that tax year.

Interest and penalties shall be waived, the reduction shall be credited against future taxes, and all other taxes and other charges which may be due and owing shall be paid in full; and

**WHEREAS, B)** Special Tax Counsel and the Somers Point Tax Assessor have identified the following series of pending tax appeals and have discussed the implications and recommendations during Executive Sessions held on December 8, 2016 relative to the following pending Tax Appeals which exceed the approval threshold: and

**WHEREAS,** after giving due and careful consideration to the recommendations made by Special Tax Counsel and the Somers Point Tax Assessor

<u>Docket No.:</u>	<u>Caption:</u>			<u>Tax</u>
<u>Year:</u>				
013455-2014	TIMOTHY WALLACE v. City of Somers Point	Block – 1941.01	Lot – 1	2014
011521-2015	TIMOTHY WALLACE v. City of Somers Point	Block – 1941.01	Lot – 1	2015
21-1600069L	TIMOTHY WALLACE v. City of Somers Point	Block – 1941.01	Lot – 1	2016

**NOW, THEREFORE, BE IT RESOLVED** by the Governing Body of the Taxing District of Somers Point that the Tax Assessor, in consultation with the Somers Point Special Tax Counsel is hereby authorized to settle or otherwise dispose of the following matters pending before the Tax Court of the State of New Jersey in the following manner:

<u>Block / Lot #:</u>	<u>Tax Year:</u>	<u>Stipulated Assessed Value:</u>
1941.01 / Lot 1	2014	\$ 50,000.00
1941.01 / Lot 1	2015	\$ 75,000.00
1941.01 / Lot 1	2016	\$100,000.00

It shall be further stipulated to the Tax Court by the parties that the Assessment on Land and Improvements shall be set at \$100,000 during 2017 and 2018 and no Appeal shall be filed by the owner of the property for those tax years; and it shall be further stipulated that the reduction in the assessed value is as a result of environmental contamination present on the property for which a good faith cleanup effort is being undertaken. In the event at any time during 2017 or

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2018 the New Jersey Department of Environmental Protection shall declare the property environmentally clean with a No Further Action Notice issued, the freeze act shall be of no further effect and the City shall have the right to reassess the property and the property owner shall have the right to file a tax appeal as a result of such assessment.

**IT IS FURTHER RESOLVED** that the Mayor, the City Administrator, the Somers Point Tax Assessor and Special Tax Counsel are hereby authorized to execute and deliver any and all such documents as may be determined by the Tax Assessor and Special Tax Counsel to be necessary or desirable to effectuate these approved settlements.

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**Resolution No. 65**

M/S – Dill/Toto

The resolution was adopted by a unanimous vote of those present.

**No. 65 of 2017**

**A RESOLUTION IN SUPPORT OF ATLANTIC COUNTY  
PLEDGING NON-ACCEPTANCE OF LESS THAN ITS FAIR  
PERCENTAGE OF PILOT PROGRAM REVENUES**

Introduced by: Council President McGuigan and Councilman Dill

**WHEREAS**, the State of New Jersey passed into law a PILOT program to benefit Atlantic City wherein, under expected circumstances, the City will receive not less than \$120 million per year in lieu of property taxes for the next budget year and a number of years thereafter from casinos operating in Atlantic City; and

**WHEREAS**, a portion of those funds are payable by the City to Atlantic County, as has always been the case for property taxes, to sustain the County budget and fund the services the County provides to its citizens, including Atlantic City citizens; and

**WHEREAS**, the PILOT program legislation notably and significantly fails to provide direction and guidance concerning the actual portion of the funds that are to be paid by the City to Atlantic County for the County budget and the services the County provides, arguably a major flaw in the PILOT program legislation inasmuch as the legislation fails to take into account Atlantic County's reliance on the City's payments and did not protect the County's financial integrity with regard to same; and

**WHEREAS**, State officials and agencies having oversight and responsibilities for fair administration of the PILOT program legislation instead have suggested the City and County negotiate their positions on the subject; and

**WHEREAS**, in performing its due diligence in calculating a fair and reasonable sum, the Atlantic County Board of Taxation reviewed and analyzed tax receipts from the City over the years and determined the City historically paid the County approximately 13.5%, net of any refunds, the actual



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figure being higher, of its tax revenues, and the County secured the verbal consent of both Assemblymen of the County, and the Mayor of Atlantic City at a meeting of Atlantic County Mayors, Freeholders and Legislators to that figure, and in addition thereto the Mayor of Atlantic City signed an agreement with the County to that same effect; and

**WHEREAS**, Atlantic County did not cause or create the City’s financial losses in its tax revenues brought on by the sharp decline of the City’s casino industry and was not allowed to participate with the City in its defense of multiple casino tax appeals that led to huge losses in tax revenues by the City and an obligation on the City’s part to refund millions of dollars to the casinos that successfully appealed their taxes; and

**WHEREAS**, it would be patently unfair and unjust to allow and force large losses to the County’s budget process by serious shortfalls in the payments by the City to the County, which in turn would require the County to significantly curtail its services to the City and County, or force a big increase in County taxes to its taxpaying citizens Countywide; and

**WHEREAS**, Atlantic County deems the current circumstances to be very unfair to the County, will cause serious distortion, disruption and stress to the County budget needs and process, and will cause a drastic reduction in services and/or a large and unnecessary tax increase Countywide.

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Somers Point in the County of Atlantic that it supports the position taken by the Atlantic County Board of Chosen Freeholders that it cannot justify to its taxpayer citizens Countywide acceptance of less than 13.5%, net of refunds, of the City’s PILOT program funds that were promised, and cannot accept an agreement for less.

**BE IT FURTHER RESOLVED**, that the City Council of the City of Somers Point in the County of Atlantic supports the position that the County Executive and Administration of the County withhold payment that may be claimed to be due to Atlantic City from the County resulting from any tax appeals until such time as an agreement is entered into between Atlantic City and the County of Atlantic assuring that the County of Atlantic will timely receive from the City as its fair share 13.5%, net of refunds, on all PILOT program funds paid to the City by casinos.

**BE IT FURTHER RESOLVED**, that a certified copy of this Resolution be directed to the Atlantic County Board of Chosen Freeholders, the City Clerk of each Atlantic County municipality, the Mayor’s Association of Atlantic County, the Governor, Senate and Assembly and legislative teams representing any portion of Atlantic County.

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**Resolution No. 66**

M/S – Toto/Tapp

City Councilman D’Adamo motioned to table the resolution, seconded by Councilman Smith and carried.

City Councilman Smith stated that last year the company did not fulfill their contractual obligations by not providing a report to City Council. Councilman Smith is concerned with the

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services being received for the amount of \$17,000.00. Council President McGuigan reported he had a discussion with last year's vendor regarding ad reports and press releases. Councilman Dill concurred that he has a concern regarding the contract amount and the services provided. Additionally, the Budget Committee has not yet received the Economic Development Advisory Commission's budget request.

**No. 66 of 2017 (TABLED)**

**Subject: Appointment of Public Relations Services**

**Introduced By: Councilmen Tapp, Smith and Gerety**

**WHEREAS**, the City of Somers Point has identified a need for Public Relations Services for the period of March, 2017 through February, 2018: and

**WHEREAS**, requests for proposals for Public Relations Services were published on February 2, 2017 and two proposals were received by the City on February 17, 2017; and

**WHEREAS**, the existing contract for these services expires on February 28, 2017 and the Economic Development Advisory Commission does not meet until February 27, 2017; and

**WHEREAS**, City Council believes it is important to maintain uninterrupted services in this effort, if possible.

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

1. Conditioned upon the Economic Development Advisory Commission reviewing the proposals and making a recommendation at their meeting of February 27, 2017 to award a contract for Public Relations Services for the City of Somers Point for the period of March 1, 2017 through February 28, 2018, inclusive, a contract may be entered into with the provider recommended by the Economic Development Advisory Commission.
2. This appointment is awarded through a fair and open process pursuant to N.L.S.19:44A-20.4 et seq.
3. The Mayor is hereby authorized to execute an agreement with the services provider in connection with these services, in the amount not to exceed \$ 17,000.00, in a form approved by the City Solicitor and, upon execution, the agreement will be attached to this resolution and become a part hereof.
4. As indicated in the Division of Local Government Services Local Finance Notice 2006-7, because this is awarded through a Fair and Open process, further public notice per N.J.S.A. 40A:11.5(6) is not required.

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**Resolution No. 67**

M/S – Dill/Toto

The resolution was adopted by a unanimous vote of those present.

**No. 67 of 2017**

**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, and 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 there are **TWO** (2) topics which require the advice and counsel of the City Solicitor / Special COAH Counsel which 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 February 23, 2017 during a public meeting to be held commencing at 7:00 P.M, and

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

2

**“(7) Any pending or anticipated litigation or contract negotiation in which the public body is or may become a party. Any matters falling within the attorney-client privilege, to the extent that confidentiality is required in order for the attorney to exercise his ethical duties as a lawyer.”**

**Advice of Counsel and attorney client communication and a report by the Somers Point Special COAH Counsel and / or the Somers Point City Solicitor regarding the two below described matters:**

1) BAY AVENUE REDEVELOPERS, L.L.C., BASS HARBOR, L.L.C., HARBOR COVE MARINA, L.L.C., and S.P. #2, Plaintiffs, v. CITY OF SOMERS POINT, the CITY OF SOMERS POINT PLANNING BOARD and the CITY OF SOMERS POINT ZONING BOARD, Defendants, Docket No: L-3204-05 P.W.

And

2) IN THE MATTER OF THE APPLICATION OF THE CITY OF SOMERS POINT, A Municipal Corporation of the State of New Jersey, Docket No.: ATL-L-1538-15; and

**WHEREAS**, the length of the Executive Session is estimated to be approximately 20 – 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

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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 Exception 7 Above	Unknown at this time	City Council and / or Court Approval by Ordinance and / or Court Order.

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**Old Business:**

None

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**New Business:**

Councilman Dill motioned, seconded by Councilman Toto and carried to approve the following:

- A Calendar Raffle License for Rotary Club of Somers Point
- An On-Premise 50/50 and On-Premise Prize Wall for Red Hawk Family School Assoc.
- A Bingo License for Faces 4 Autism

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Councilmen Dill motioned, seconded by Councilman Toto and carried to waive the 48 hour rule to approve two Fireman Applications.

On the motion of Councilman Tapp, seconded by Councilman Toto and carried to approve two Fireman Applications for Steven Silk and Tim Welsch.

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**Discussion of Bills:**

Administrator Swain reported a bill list dated 2/21/17 in the amount of \$2,527,823.57.

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**Public Portion**

Public portion was duly opened and hearing nothing from the public, accordingly it was closed.

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**Payment of Bills**

M/S – Dill/Toto

The bills were approved by a unanimous vote of those present. A complete list of bills is on file in the Office of the Municipal Clerk.

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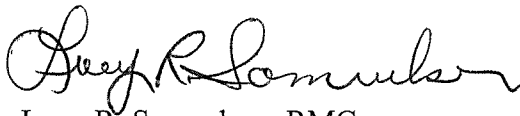
City Council President scheduled a Budget Meeting for March 9, 2017, at 6:00 p.m.

**Adjournment**

There being no further business to come before Council, the meeting was adjourned at 7:45 p.m.

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Respectfully submitted,



Lucy R. Samuelson, RMC  
Municipal Clerk

Approved: 5/25/17