



AGENDA
TOWN BOARD
TOWN OF OSSINING
BIRDSALL-FAGAN POLICE/COURT FACILITY
86-88 SPRING STREET
OSSINING, NEW YORK

JULY 14, 2015
7:30 P.M.

SUPERVISOR
Susanne Donnelly

COUNCILMEMBERS
Geoffrey Harter Eric P. Blaha
Kim L. Jeffrey Northern Wilcher

I. CALL TO ORDER – PLEDGE OF ALLEGIANCE – ROLL CALL

The Regular Meeting of the Town Board of the Town of Ossining was held on July 14, 2015 in the Police/Court Facility, 86-88 Spring Street in Ossining. The meeting was called to order at 7:30 p.m. by Supervisor Susanne Donnelly. Members of the Board present were: Councilmembers Eric Blaha, Northern Wilcher, Kim Jeffrey and Geoffrey Harter. Also present were Town Attorney Wayne Spector, Budget Officer Madeline Zachacz and Town Clerk Mary Ann Roberts.

II. Public Hearing

At 7:31 P.M., the Public Hearing was opened.

- **Public Hearing in the matter of Revisions to the 2002 Town of Ossining Comprehensive Plan**

Town Attorney Wayne Spector commented that this process has been reviewed over a year at various Work sessions. The 2002 Comprehensive document is stale in the vision portion which provides a basis for adoption of laws. There are also a number of local laws being reviewed as housekeeping and modernization.

At 7:36 P.M., Councilmember Jeffrey moved and it was seconded by Councilmember Wilcher that the Public Hearing be adjourned to September 1, 2015.

III. ANNOUNCEMENTS

The Town Hall Meeting will take place at the Ossining Public Library on July 21, 2015 at 7:30 p.m. At the Town Hall Meeting an update on the re-assessment will be discussed. Individuals will be available to assist with data mailers if they have not been returned. There is still time to call for an inspection with Saturday and evening appointments. The Friday night concert series which includes Marc Berger on July 17th, Ricardo Gautreau on July 24th, Teri Lamar & New Company on July 31st, KJ Denhart on August 14th and The Old Mill Singers on August 21st. All of the concerts will begin at 7 p.m. There will be no concert on August 7th as this is the night of the Ossining Fire Department Parade. The Wobble Café provides food for concert goers. At the last concert we had 2 bus loads of exchange students. The St. Augustine's Italian Festival begins on Tuesday, July 21 and runs until Sunday, July 26 with fireworks on Wednesday, July 22.

Councilmember Jeffrey reminded the community that wristbands are available for Tuesday, Thursday and Sunday for \$20; Wednesday for \$25 and Friday for \$30. On August 5th Senator David Carlucci will sponsor "Narcans Training" at the

Ossining Public Library from 6 – 8 p.m. This is a program designed for parents and the law.

IV. PUBLIC COMMENT ON AGENDA ITEMS

V. BOARD RESOLUTIONS

A. Approval of Minutes-Regular Meeting

Councilmember Jeffrey moved and it was seconded by Councilmember Harter that the following be approved:

Resolved, that the Town Board of the Town of Ossining hereby approves the June 23, 2015, Minutes of the Regular Meeting as presented.

Motion Carried: Unanimously

B. Approval of Minutes-Special Meeting

Councilmember Wilcher moved and it was seconded by Councilmember Jeffrey that the following be approved:

Resolved, that the Town Board of the Town of Ossining hereby approves the July 7, 2015, Minutes of the Special Meeting as presented.

Motion Carried: Unanimously

C. Approval of Voucher Detail Report

Councilmember Harter moved and it was seconded by Councilmember Wilcher that the following be approved:

Resolved, that the Town Board of the Town of Ossining hereby approves the Voucher Detail Report dated July 14, 2015 in the amount of \$653,693.83.

Motion Carried: Unanimously

D. Adoption of LOCAL LAW NO. 4 – 2015 To Establish a Community Choice Aggregation (Energy) Program In the Town Of Ossining

Councilmember Blaha moved and it was seconded by Councilmember Jeffrey that the following be approved:

Be it enacted by the Town of Ossining of the County of Westchester as follows:

Section 1. The Code of the Town of Ossining is hereby amended by adding a new Chapter 179, entitled “COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM,” to read as follows:

ARTICLE I

§1. Legislative Findings; Intent and Purpose; Authority.

- A. It is the policy of both the Town Of Ossining and the State of New York to reduce costs and provide cost certainty for the purpose of economic development, to promote deeper penetration of energy efficiency and renewable energy resources such as wind and solar, and wider deployment of distributed energy resources as well as to examine the retail energy markets and increase participation of and benefits for residential and Small Commercial customers in those markets. Among the policies and models that may offer benefits in New York is community choice aggregation, which allows local governments to determine the default supplier of electricity and natural gas on behalf of its residential and Small Commercial customers.

- B. The purpose of this CCA Program is to allow participating local governments including the Town of Ossining to procure energy supply service for their residential and Small Commercial customers, who will have the opportunity to opt out of the procurement, while maintaining transmission and distribution service from the existing Distribution Utility. This Chapter establishes a program that will allow the Town of Ossining to put out for bid the total amount of natural gas and/or electricity being purchased by local residential and Small Commercial customers. Bundled Customers will have the opportunity to have more control to lower their overall energy costs, to spur clean energy innovation and investment, to improve customer choice and value, and to protect the environment; thereby, fulfilling the purposes of this Chapter and fulfilling an important public purpose.
- C. The Town of Ossining is authorized to implement this COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM pursuant to Section 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law; and State of New York Public Service Commission Case No. 14-M-0564, Petition of Sustainable Westchester for Expedited Approval for the Implementation of a Pilot Community Choice Aggregation Program within the County of Westchester, Order Granting Petition in Part (issued February 26, 2015) as may be amended, including subsequent orders of the Public Service Commission issued in connection with or related to Case No. 14-M-0564 (collectively, the “Order”). Order shall also mean orders of the Public Service Commission related to State of New York Public Service Commission Case No. 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs (issued December 15, 2104) to the extent that orders related to Case No. 14-M-0224 enable actions by the Town of Ossining not otherwise permitted pursuant to orders related to Case 14-M-0564; provided, however, that in the event of any conflict between orders from Case No. 14-M-0564 and orders from Case No 14-M-0224, orders from Case No 14-M-0564 shall govern the CCA Program.
- D. This Chapter shall be known and may be cited as the “COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM Law of the Town of Ossining”.

§2. Definitions.

For purposes of this Chapter, and unless otherwise expressly stated or unless the context otherwise requires, the terms in this Chapter shall have the meanings employed in the State of New York Public Service Commission’s Uniform Business Practices or, if not so defined there, as indicated below:

Bundled Customers – Residential and Small Commercial customers of electricity or natural gas (“fuels”) who are purchasing the fuels from the Distribution Utility.

Small Commercial - Non-residential customers as permitted by the Order.

Community Choice Aggregation Program or CCA Program– A municipal energy procurement program, which replaces the incumbent utility as the default Supplier for all Bundled Customers within the Town of Ossining.

Distribution Utility – Owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commission.

Public Service Commission – New York State Public Service Commission.

Suppliers – Energy service companies (ESCOs) that procure electric power and natural gas for Bundled Customers in connection with this Chapter or, alternatively, generators of electricity and natural gas or other entities who procure and resell electricity or natural gas.

Sustainable Westchester– A not-for-profit organization comprised of member municipalities in Westchester County, New York.

§3. Establishment of a COMMUNITY CHOICE AGGREGATION (ENERGY) Program.

- A. A COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM is hereby established by the Town of Ossining, whereby the Town of Ossining shall work

together with Sustainable Westchester to implement the CCA Program to the full extent permitted by the Order, as set forth more fully herein. The Town of Ossining's role under the CCA Program involves the aggregating of the electric and/or natural gas supply of its residents and the entering into a contract with one or more Suppliers for supply and services. Under the CCA Program, the operation and ownership of the utility service shall remain with the Distribution Utility.

- B. The Town of Ossining's purchase of energy supply through a CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The Town of Ossining will not take over any part of the electric or gas transmission or distribution system and will not furnish any type of utility service, but will instead negotiate with Suppliers on behalf of participating residential and Small Commercial customers.**
- C. In order to implement the CCA Program, the Town will adopt one or more resolutions that outline the process of and conditions for participation in the CCA Program, including but not limited to signing a contract for a compliant bid with one or more Suppliers, all as consistent with the Local Law and the Order.**
- D. The Public Service Commission supervises retail markets and participants in these markets through legislative and regulatory authority and the Uniform Business Practices, which includes rules relating to the eligibility of participating ESCOs, the operation by which ESCOs provide energy services, and the terms on which customers may be enrolled with ESCOs.**

§4.Procedures for Eligibility; Customer Data Sharing.

- A. As permitted by the Order, the Town of Ossining may request from the Distribution Utilities aggregated customer information by fuel type and service classification on a rolling basis.**
- B. Sustainable Westchester, on behalf of the Town of Ossining, shall issue one or more requests for proposals to Suppliers to provide energy to participants and may then award a contract in accordance with the CCA Program.**
- C. Sustainable Westchester or the Town of Ossining if theTown of Ossining so chooses, will then request individual customer data from the Distribution Utility in accordance with the CCA Program.**
- D. Sustainable Westchester or the Town of Ossining if the Town of Ossining so chooses, and the selected Supplier will then notify Bundled Customers of the contract terms and their opportunity to opt out of the CCA Program.**
- E. In accordance with and for purposes of the Order, the existing Distribution Utility, Con Ed [Consolidated Edison Company of New York, Inc. and/or New York State Electric & Gas Corporation] will provide to Sustainable Westchester aggregate and customer-specific data (including usage data, capacity tag obligations, account numbers, and service addresses) of all Bundled Customers in the Town of Ossining not currently enrolled with an ESCO.**
- F. Sustainable Westchester and the Town of Ossining, will protect customer information as required by law, subject to the Order and the limitations of the New York State Freedom of Information Law.**

§5. Choice of Energy Supplier; Opt-Out Notice and Procedure.

- A. The Town of Ossining or in conjunction with the ESCO will notify its residential and Small Commercial customers, by letter notice, of the Town of Ossining's decision to establish the CCA Program, of the contract terms with an ESCO, and of the opportunity to opt out of the CCA Program.**
- B. The letter notice will be sent to each customer at the address provided by the Distribution Utility and explain the CCA Program and the material provisions of the ESCO contract, identify the methods by which the customer can optout of the CCA Program, and provide information on how the customer can access additional information about the CCA Program.**

- C. The opt-out period shall be twenty (20) days.
- D. CCA Program Bundled Customers, upon enrollment, will receive a welcome letter that will explain the customers' options for canceling the enrollment if they believe they were enrolled incorrectly or otherwise decide to withdraw from the CCA Program in favor of another Supplier. The welcome letter also will explain that residential customers are entitled to the added protection of the mandated Three (3) Day rescission period as detailed in Section 5(B)(3) of the Uniform Business Practices.

§6. Verification and Reporting.

- A. Sustainable Westchester shall be responsible for filing an annual report with the Public Service Commission, which identifies the number of customers enrolled in the CCA Program by municipality and customer class, the number of customers who returned to utility service or service with another Supplier during the reporting period, and the average cost of commodity supply by month for the reporting period.

Section 2. This local law shall take effect upon filing with the Secretary of State.

Motion Carried: Unanimously

E. Personnel- Parks Department- Seasonal Appointment

Councilmember Wilcher moved and it was seconded by Councilmember Blaha that the following be approved:

Resolved, that the Town Board of the Town of Ossining hereby appoints Klyde Bacalan, Ossining, to the seasonal position of Recreation Attendant in the Town Parks Department effective June 29th, 2015, at a rate of \$8.75 per hour.

Motion Carried: Unanimously

F. Personnel- Parks Department- Seasonal Appointment

Councilmember Harter moved and it was seconded by Councilmember Wilcher that the following be approved:

Resolved, that the Town Board of the Town of Ossining hereby appoints Marcus Gross, Ossining, to the seasonal position of Recreation Attendant in the Town Parks Department effective June 29th, 2015, at a rate of \$8.75 per hour.

Motion Carried: Unanimously

VI. CORRESPONDENCE TO BE RECEIVED AND FILED

Councilmember Jeffrey moved and it was seconded by Councilmember Wilcher that the following be approved:

Resolved, that the Town Board of the Town of Ossining hereby accepts the following:

- **Public Hearing Zoning Board of Appeals dated June 22, 2015**
- **Town Planning Board Meeting Minutes dated May 6, 2015**

Motion Carried: Unanimously

VII. MONTHLY REPORTS

Councilmember Wilcher moved and it was seconded by Councilmember Blaha that the following be approved:

Resolved, that the Town Board of the Town of Ossining hereby accepts the following monthly reports for the month of June 2015:

- **Town Clerk's Office**
- **Town Supervisor's Office**
- **Town Building Department**
- **Town Tax Receiver's Office**
- **Town Highway Department**

Motion Carried: Unanimously

VIII. VISITOR RECOGNITION

Donna Sharrett, Morningside Drive, discussed the wetland code amendment change in the law and keeping the half acre size restriction. This is the highest in size in Westchester. Ms. Sharrett is concerned about the wetlands and feels that half an acre is very large and wetlands are not protected. Ms. Sharrett also spoke about the wetlands report and how the wetlands behind her house have been altered over the years.

Supervisor Donnelly explained the wetlands report is before the Planning Board and they will be meeting on July 15, 2015.

Ms. Sharrett also spoke about the setback for the Memory Care Facility. She feels that there are not sufficient buffers to the project. This a 35,000 square foot structure that will be operating 24/7.

Supervisor Donnelly stated that Ms. Sharrett is welcome to speak at tonight's meeting but unfortunately the Town Board cannot interfere with the Planning Board.

Ms. Sharrett is requesting proper buffers and the area to be restored so that the stream is functional and would like to project to be smaller.

Sabrina Albrecht, North State Road, was present to follow-up on the purchase of their paper road where we have been living over 20 years. Ms. Albrecht gave history of the trees on their property and whether they are responsible for the maintenance of them.

Town Attorney Wayne Spector advised that they are not necessarily town roads. The Town may offer the road to both property owners that border the road. Town Attorney Spector stated that a Quick Claim Deed cannot be done without the Town offering the property owners abutting these properties. This is no history of a paper road. The Town Board will discuss this issue at the next work session.

Mr. Albrecht, North State Road, stated that this was originally the Roseboro Estate which was vacant for many years and turned into a favorite dumping ground. He has been maintaining the property for many years.

IX. ADJOURNMENT –EXECUTIVE SESSION –LEGAL ADVICE

At 08:17 P.M., Councilmember Harter moved and it was seconded by Councilmember Blaha that the Regular Meeting be adjourned.

Motion Carried: Unanimously

Approved:

Mary Ann Roberts Village Clerk