

**MINUTES OF THE TOWN BOARD**  
**October 20, 2015**

Minutes of a Meeting of the Town Board of the Town of Eastchester held on October 20, 2015 at 8:00 p.m., at the Town Hall, Eastchester, New York.

**I. CALL TO ORDER**

**II. PLEDGE OF ALLEGIANCE – FLAG**

**III. ROLL CALL**

Present: Supervisor Anthony Colavita  
Councilman Glenn Bellitto  
Councilman Joseph Dooley  
Councilwoman Theresa Nicholson  
Councilman Luigi Marcoccia

Town Clerk Linda Laird  
Town Attorney Louis Reda  
Comptroller Dawn Donovan

**IV. OPPORTUNITY TO ADDRESS THE BOARD ON AGENDA ITEMS -none**

**V. APPOINTMENTS**

Councilman Marcoccia offered a motion that was seconded by Councilman Dooley to approve the re-appointment to the Lake Isle Advisory Board of Nick Saviano (golf seat), Christin Moretti (pool seat) and Mark Woodward (tennis seat) for the term October 1, 2015 – September 30, 2017.

**On the roll call, all voted "AYE." Motion carried.**

**VI. APPROVAL OF MINUTES**

Supervisor Colavita offered a motion that was seconded by Councilwoman Nicholson to approve the Minutes of the October 6, 2015 Town Board Meeting as prepared by Town Clerk Linda Laird.

**On the roll call, all voted "AYE." Motion carried.**

**VII. REPORTS OF DEPARTMENTS, BOARDS AND COMMISSIONS**

**A) POLICE DEPARTMENT REPORT**

The Town Board received for filing the following reports for September 2015; Report of Parking Summonses, Citation Activity Report, Patrol Activity Report, Statement of Accounts and the Traffic Accident Report.

Chief Bonci commended the members of the Police Department and the Auxiliary Police for the work they did during the Columbus Day Festival. No problems were reported during the course of the event, Friday evening through Monday.

The Chief reported eight members of the Department had attended a 'active shooter' training course conducted by a nationally recognized expert on the subject. The information obtained will be shared with each of the school districts.

**LATE FLYING ITEM – LAW DEPARTMENT REPORT**

Supervisor Colavita explained in December 2014, the non-profit organization Sustainable Westchester submitted a petition to the NYS Public Service Commission (PSC) on behalf of its member municipalities to implement a Community Choice Aggregation Program (CCA) demonstration program in Westchester County. The PSC authorized Sustainable Westchester to put out an RFP and award contracts for both electric and natural gas supply for residents and small businesses. The Supervisor explained, in order to qualify, municipalities must pass a resolution to join the CCA.

Supervisor Colavita offered a motion that was seconded by Councilman Bellitto to approve the Introduction of Local Law 8-2015 to establish a Community Choice Aggregation Program in the Town of Eastchester and to set a Public Hearing for November 4, 2015 at 7:00 p.m.

**LOCAL LAW NO. 8 OF 2015**  
**A LOCAL LAW TO ESTABLISH A COMMUNITY CHOICE**  
**AGGREGATION (ENERGY) PROGRAM IN THE**  
**TOWN OF EASTCHESTER**

**SECTION ONE: LEGISLATIVE INTENT**

A. It is the policy of both the Town of Eastchester 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 Eastchester 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 Eastchester 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 Eastchester 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 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 Eastchester 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 Eastchester".

**SECTION TWO: DEFINITIONS**

For the purposes of this Chapter, and unless otherwise expressly stated or unless the context otherwise requires, the terms of 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 Eastchester.

**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.

### **SECTION THREE: ESTABLISHMENT OF A COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM**

- A. A COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM is hereby established by the Town of Eastchester, whereby the Town of Eastchester 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 Eastchester'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 Eastchester'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 Eastchester 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 of Eastchester 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.

### **SECTION FOUR: PROCEDURES FOR ELIGIBILITY; CUSTOMER DATA SHARING**

- A. As permitted by the Order, the Town of Eastchester 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 Eastchester, 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 Eastchester if the Town 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 Eastchester if the Town 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, Consolidated Edison Company of New York, Inc. 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 Eastchester not currently enrolled with an ESCO.
- F. Sustainable Westchester and the Town of Eastchester, will protect customer information as required by law, subject to the Order and the limitations of the New York State Freedom of Information Law.

## **SECTION FIVE: CHOICE OF ENERGY SUPPLIER; OPT-OUT NOTICE AND PROCEDURE**

- A. The Town of Eastchester or in conjunction with the ESCO will notify its residential and Small Commercial customers, by letter notice, of the Town of Eastchester'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 opt out 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.

## **SECTION SIX: 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 SEVEN: SEVERABILITY**

If any word, clause, sentence, paragraph, subdivision or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be limited in its application to the word, clause, sentence, paragraph, subdivision or part hereof directly involved in the controversy in which such judgment shall have been rendered.

## **SECTION EIGHT: SUPERSEDING OTHER LAWS**

All ordinances or parts of ordinances or local laws or parts of local laws, or State laws which conflict with the provisions of this local law are hereby superseded and rendered temporarily null and void to the extent necessary to give this local law full force and effect, pursuant to Article 2, Section 10 of the New York State Municipal Home Rule Law.

## **SECTION NINE: EFFECTIVE DATE.**

This Local Law shall take effect immediately upon filing in the Office of the Secretary of State in accordance with section twenty-seven of the Municipal Home Rule Law.

**On the roll call, all voted "AYE." Motion carried.**

- B) HIGHWAY DEPARTMENT REPORT** for September 2015 was received for filing.
- C) BUILDING DEPARTMENT REPORT** for August 2015 was received for filing.
- D) RECEIVER OF TAXES REPORT** for September 2015 was received for filing.
- E) TOWN CLERK'S REPORT** for September 2015 was received for filing.

**VIII. CORRESPONDENCE**

**A) MEMORANDUM FROM COMPTROLLER RE: BUDGET TRANSFERS/REVISIONS**

Councilman Dooley offered a motion that was seconded by Councilman Bellitto to approve the following Budget Transfers and Revisions:

		<u>Transfers</u>	
<b>Emergency Control</b>			
From:	Materials & Supplies	A3640.401	\$ 40.00
	Uniform & Accessories	A3640.434	\$ 2,500.00
To:	Maintenance & Repairs	A3640.414	\$ 2,540.00
		<u>Revisions</u>	
<b>Police</b>			
Increase:	Programing Material	B2989.422	\$ 1,000.00
Increase:	Donation DARE	B02704	\$ 1,000.00

**On the roll call, all voted "AYE." Motion carried.**

**B) MEMORANDUM FROM COMPTROLLER RE: SEASONAL APPOINTMENT**

Councilman Bellitto offered a motion that was seconded by Supervisor Colavita to approve the Seasonal Appointment of Michael Nadar as Laborer at the rate of \$12.00 per hour effective October 21, 2015.

**On the roll call, all voted "AYE." Motion carried.**

**IX. MISCELLANEOUS BUSINESS**

Councilman Marcoccia offered a motion that was seconded by Supervisor Colavita to approve the change of the Tuesday, November 3, 2015 Town Board Meeting to Wednesday, November 4, 2015 due to the fact that Election Day falls on November 3<sup>rd</sup>.

**X. COUNCIL MEMBER REPORTS**

Councilman Marcoccia reported the progress of the Parkway Oval Renovation Project and the completion of the walkway viewing area, new bleachers, fencing and an on-deck circle.

Councilman Bellitto reported the Library roof replacement project is 'coming along nicely,' and with the scaffolding to be removed in the coming weeks, the project remains on schedule. The renovations will not hamper the Annual Friends of the Library Tag Sale scheduled for November 13<sup>th</sup> – 16<sup>th</sup>. In closing, Mr. Bellitto announced a limited edition 'Snoopy Library Card' is available while supplies last.

Councilman Dooley announced the upcoming event: "Hutchinson River – Past, Present and Future," sponsored by the Eastchester Historical Society will be presented by curator, Lissa Halen on October 29<sup>th</sup> at 7:30 p.m. in the Eastchester Town Hall auditorium.

Mr. Dooley announced the Rag-A-Muffin Parade will step off at 2:00 pm sharp on Sunday, October 25<sup>th</sup> from the Eastchester Middle School. He thanked Comizio Orthodontics for sponsoring this annual event.

Councilman Dooley reported on three basketball clinics available to the youth of town: the EIBL instructional league is for boys and girls in grades 4-8, the 3<sup>rd</sup> Grade Basketball Clinic provides an introduction to the game and combines fun and fundamentals, and the Bronco Hoops Saturday Morning Clinic is run by the Varsity Boys and Girls Basketball Coaches from Bronxville High School and their players. Additional information for each of the programs is available on the Recreation Department page of [www.eastchester.org](http://www.eastchester.org).

Councilwoman Nicholson challenged residents to get involved in their community by joining their local neighborhood association at [LOCALmember@yahoo.com](mailto:LOCALmember@yahoo.com) or by joining the committee tasked with organizing the 7<sup>th</sup> Annual Relay for Life event [http://main.acsevents.org/site/TR/RelayForLife/RFLCY16EA?pg=entry&fr\\_id=73425](http://main.acsevents.org/site/TR/RelayForLife/RFLCY16EA?pg=entry&fr_id=73425).

Supervisor Colavita echoed Chief Bonci comments and thanked the members of the Police Department and the Auxiliary Police for the work they did during the Columbus Day Festival. He commended and thanked the scores of volunteers for their efforts in making the Festival a great success.

The Supervisor relayed information from the NYS DOT regarding the repaving of White Plains Road. The DOT has scheduled the ongoing work to be done during the overnight (8pm – 6am) period to provide a safer working condition for their workers and to impose less stress to daytime traffic. The project is scheduled to be completed by November 15<sup>th</sup>.

In closing, Supervisor Colavita encourage the public to take advantage of the free flu shots being offered at the Eastchester Library on October 27<sup>th</sup> between 9am – 2pm and the Bronxville Reform Church on November 5<sup>th</sup> between 10 am and 1 pm. This public service program is sponsored by The Community Fund and Lawrence Hospital.

**XI. SECOND OPPORTUNITY TO ADDRESS THE BOARD**

Jerry Frusciante, President of the Eastchester – Tuckahoe Senior Council reported the seniors are “elated to be returning to Lake Isle” in early November. Supervisor Colavita explained the delay in relocating the dishwasher and warming ovens back to Lake Isle was caused by the need to install an additional gas line. Now that the installation is complete, the schedule for returning the Senior Nutrition Center to Lake Isle from its temporary location of the Tuckahoe Community Center has been set for November 4<sup>th</sup>. The Supervisor reported the caterer, at their cost, is overseeing the transfer of the equipment. Further, Supervisor Colavita reported architectural drawings of a new Senior Nutrition Center will be available for public review once they have been finalized and submitted to the Town.

There being no further public business, the meeting was adjourned at 8:35 p.m.

Minutes prepared by:

Linda Laird  
Town Clerk