

**REGULAR MEETING
SOUTH NYACK BOARD OF TRUSTEES
TUESDAY, MAY 14, 2019
VILLAGE HALL**

PRESENT: Mayor Bonnie Christian
Deputy Mayor Alain Leinbach
Trustee Andrew Goodwillie
Trustee Catherine McCue
Trustee Nancy Willen

ALSO PRESENT: Village Clerk Jill Schwarz
Village Attorney James Birnbaum
Police Chief Daniel Wilson
DPW Superintendent James Johnson

Members of the Public

Mayor Christian called the open session of the regular meeting to order at 7:50pm.

Susanna Styron expressed her concern about the increased noise and pollution from the New York State Thruway. Vicki Schwaid supported Ms. Styron's concerns in addition to inquiring about the Comprehensive Plan. Noreen Cordaro, Vicki Schwaid and Mimi Hoffman commented about the Hudson Link buses. There was a discussion about the new entrance to the bridge and access to the Shared Use Path. Noreen Cordaro expressed concern about drivers not stopping at the stop signs within our Village.

Mayor Christian reported that there will be a Rockland County Legislature's Special Committee on Transit meeting on May 29, 2019 to discuss the LHTL project.

Mayor Christian closed the open session at 8:03pm.

MINUTES:

Upon a motion by Mayor Christian, seconded by Trustee Goodwillie, the minutes of the regular Board of Trustees meeting of April 23, 2019 were unanimously adopted.

REPORTS:

- **POLICE:** Police Chief Wilson presented the April report including \$15.00 in fees which were collected.
- **DPW:** DPW Superintendent Johnson presented the April report.
- **BLDG/CODE/FIRE INSPECTOR:** April report was reviewed. \$4,225.00 in fees were collected.
- **VILLAGE JUSTICE:** \$11,097.50 in fees were collected in April.
 - Of the \$11,035 in March, 2019 fines collected, \$7,470 remained in the Village and \$3,565 went to the State.
 - Of the \$11,097.50 in April, 2019 fines collected, \$6,030 remained in the Village and \$5,067.50 went to the State.

OLD BUSINESS:

COMMUNITY CHOICE AGGREGATION PROGRAM (CCA) (Electricity Supply):

Trustee Goodwillie moved as follows:

#35 RESOLVED, that the Board of Trustees adopt a local Community Choice Aggregation law that allows an administrator to collect the automated records of account holders.

Be it enacted by the VILLAGE OF SOUTH NYACK of the County of ROCKLAND as follows:

Section 1. The Code of the Municipality is hereby amended by adding a new Chapter entitled "COMMUNITY CHOICE AGGREGATION PROGRAM," to read as follows:

ARTICLE I

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

- A. The Municipality supports the policy of the State of New York to reduce costs and provide price certainty for the purpose of consumer protection and economic development, to expand access and opportunities for consumers in retail energy markets, as well as to promote the sustainability and resilience of energy systems through the proliferation of renewable energy, energy efficiency, and Distributed Energy Resources (“DER”). Among the initiatives that may advance these objectives in is Community Choice Aggregation (“CCA”), a policy that empowers local governments to select the source of electricity and/or natural gas supply on behalf of its residents and small businesses, reflecting local resources, priorities, and challenges. Energy delivery shall remain the responsibility of the Distribution Utility.
- B. This Chapter establishes the authority for the Municipality, in connection with the implementation of a CCA Program, to acquire utility data; to select, through competitive solicitation, one or more energy Supplier(s) on behalf of Participating Customers within the Municipality; and to maximize value for Participating Customers through enhanced services related to Distributed Energy Resources. The Municipality may choose to collaborate with other local governments to form an intermunicipal CCA Program. By establishing a CCA Program, Participating Customers may have the opportunity to lower and stabilize their energy costs, to spur local clean energy innovation and investment, and to reduce their environmental impact; thereby, fulfilling the purposes of this Chapter and fulfilling a public purpose.
- C. The Municipality is authorized to implement this COMMUNITY CHOICE AGGREGATION PROGRAM pursuant to Section 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law; and consistent with 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 April 21, 2016) as may be amended, including subsequent orders of the Public Service Commission issued in connection with or related to Case No. 14-M-0224.
- D. This Chapter shall be known and may be cited as the “COMMUNITY CHOICE AGGREGATION PROGRAM Law of the Village of South Nyack”.

§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 herein:

- A. AGGREGATED DATA means aggregated and anonymized information relating to electricity and/or gas consumption including, but not limited to, the number of consumers by service and rate class, the aggregated peak demand (kW) (for electricity) by month for the past 12 months by service and rate class, and the aggregated energy (kWh) for electricity or volumetric consumption for gas by month for the past 12 months by service and rate class.
- B. COMMUNITY CHOICE AGGREGATION PROGRAM or CCA Program means the Community Choice Aggregation Program enabled by this Local Law.
- C. CCA ADMINISTRATOR means the Village of South Nyack or third-party CCA administrator duly authorized to administer the CCA Program including without limitation to request Aggregated Data and Customer Specific Data; to competitively solicit Suppliers for the aggregated demand for electricity and/or natural gas on behalf of Default Consumers; and to offer Participating Customers additional opportunities to participate or enroll in programs or projects related to DER. The CCA Administrator shall be responsible for program organization, administration, procurement, communications, and for meeting all requirements for program implementation specified in the PSC CCA Order, unless otherwise specified.
- D. CUSTOMER-SPECIFIC DATA means customer-specific information, personal data and utility data for Default Customers including customer of record’s name, mailing address, telephone number, account number, and primary language, if available, and any customer-specific alternate billing name, address, and phone number.

- E. **DEFAULT CUSTOMER** means a consumer of electricity and/or natural gas services within opt-out eligible service classes (as delineated in the PSC CCA Order), who receives supply service from the Distribution Utility as of the date that the Supply Contract goes into effect, or a consumer within these service classes who subsequently becomes eligible to become a Participating Customer in the CCA Program including a consumer who has terminated a supply contract with an ESCO; a consumer who has removed a freeze or block on consumer's account; a consumer who has voluntarily suspended service pursuant to a special rate; or a consumer who becomes a new resident of the Municipality after the Supply Contract goes into effect. None of the following are considered a Default Customer and will not be enrolled on an opt-out basis: a consumer within opt-out eligible service classes who receives supply service from an ESCO as of the date that the Supply Contract goes into effect; a consumer who has placed a freeze or block on consumer's account; and a consumer for whom enrollment in the CCA Program would interfere with a choice consumer had already made to take service pursuant to a special rate. For the avoidance of doubt, a Default Customer must reside or be otherwise located at one or more locations within the geographic boundaries of the Municipality, as such boundaries exist as of the date the Supply Contract goes into effect.
- F. **DISTRIBUTED ENERGY RESOURCES** or **DER** means local renewable energy projects, community distributed generation (e.g. shared solar), peak demand management, energy efficiency, demand response, energy storage, community resilience micro-grid projects, and other innovative Reforming the Energy Vision ("REV") initiatives of the State of New York that further engage and/or reduce cost of service for Participating Customers, optimize system benefits, and/or address infrastructure and demand challenges within the geography of the CCA Program.
- G. **DISTRIBUTION UTILITY** means the owner or controller of the means of distribution of the natural gas or electricity in the Municipality. The Distribution Utility also serves as the default supplier of electricity and natural gas preceding the establishment of a CCA Program.
- H. **ESCO** or **ENERGY SERVICES COMPANY** means an entity duly authorized to conduct business in the State of New York as an ESCO.
- I. **MUNICIPALITY** means the **VILLAGE** of **SOUTH NYACK**.
- J. **PARTICIPATING CUSTOMERS** means Default Customers of the CCA Program who have not opted out, and non-Default Customers of any service class who have voluntarily enrolled in the CCA Program.
- K. **PSC CCA ORDER** means the PSC's Order Authorizing Framework for Community Choice Aggregation Opt-Out Program, issued on April 21, 2016 in Case 14-M-0224, "Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs."
- L. **PUBLIC SERVICE COMMISSION** or **PSC** means the New York State Public Service Commission.
- M. **SUPPLIER** means an ESCO that procures electric power and/or natural gas for Participating Customers in connection with this Chapter or, alternatively, a generator of electricity and/or natural gas or other entity that procures and resells electricity or natural gas.
- N. **SUPPLY CONTRACT** means a contract for the supply of electric power and/or natural gas entered into between a Supplier and the Municipality.
- O. **SUPPLY CONTRACT DATE** means the date when electric power and/or natural gas is first delivered to Participating Customers in connection with the CCA Program.

§3. Authorization of a Community Choice Aggregation Program.

- A. A Community Choice Aggregation Program is hereby authorized by the Municipality, which the Municipality may implement to the full extent permitted by the PSC CCA Order, as set forth more fully herein.
- B. The Municipality may enter into contracts with one or more Suppliers and other providers of services on behalf of Participating Customers.
- C. The Municipality may enter into agreements and contracts with other municipalities, non-profits, consultants, and/or other third parties to i) develop and implement the CCA Program, ii) act as CCA Administrator, and/or iii) develop offers of opt-in DER products and services to Participating Customers.
- D. The operation and ownership of the utility service shall remain with the Distribution Utility. The Municipality's participation in the CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The Municipality shall not take over any part of the electric or gas transmission or distribution system and shall not furnish any type of utility service, but will instead negotiate with Suppliers on behalf of Participating Customers.
- E. 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. Eligibility.

- A. All Default Customers shall be enrolled on an opt-out basis. Default Customers will have the right to opt out before the Supply Contract goes into effect, or dis-enroll any time thereafter with no penalty. Default Customers who do not opt out before the Supply Contract goes into effect will be enrolled automatically.
- B. All non-Default Customers within the Municipality, regardless of service class, shall be eligible to participate in the CCA Program on an opt-in basis.
- C. The CCA Administrator 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, this Local Law, and the PSC CCA Order.

§5. Opt-Out Process.

- A. The CCA Administrator shall cause the mailing of a program notification letter, printed on municipal letterhead, to Default Customers at least 30 days prior to customer enrollment. The letter shall include information on the CCA Program and the Supply Contract signed with the selected Supplier(s) including specific details on rates, services, contract term, and methods for opting out of the CCA Program. The letter shall explain that Default Customers who do not opt out will be enrolled in the CCA Program under the Supply Contract terms and that information on those customers, including energy usage data, will be provided to the ESCO.
- B. After the initial 30 day opt-out period, all Participating Customers shall have the option to dis-enroll from the CCA Program at any time without penalty.

§6. Data Protection Requirements.

- A. CCA Administrator may request Aggregated Data and Customer Specific Data from the Distribution Utility.
- B. Customer-Specific Data shall be protected in a manner compliant with, collectively, (i) all national, state and local laws, regulations and other government standards relating to the protection of information that identifies or can be used to identify an individual Default Customer or Participating Customer that apply with respect to the Municipality or its representative's processing of confidential utility information; (ii) the Distribution Utility's internal requirements and procedures relating to the protection of information that identifies or can be used to identify an individual Default Customer or Participating

Customer that apply with respect to the Municipality or its representative's processing of confidential utility information; and (iii) the PSC CCA Order and PSC rules, regulations and guidelines relating to confidential data. The CCA Administrator shall enter into an agreement with the Distribution Utility that obligates each party to meet the above provisions of this paragraph.

§7. Administration Fee.

The CCA Administrator may collect, or cause to be collected, funds from Participating Customer payments to pay for administrative costs associated with operating the CCA Program.

§8. Reporting.

- A. The CCA Administrator shall prepare and file with the VILLAGE BOARD of the Municipality an annual report by March 31 of each year concerning the operations of the CCA Program for the previous calendar year.
- B. Each annual report shall include, at a minimum, the following: number of Participating Customers served; number of Participating Customers cancelling; number of complaints received; commodity prices paid; value-added services provided (e.g. installation of DER or other clean energy services); and administrative costs collected. The first annual report shall also include the number of customers who opted-out in response to the initial opt-out letter or letters.
- C. If a Supply Contract will expire less than one year following the filing of an annual report, the report shall describe current plans for soliciting a new Supply Contract, negotiating an extension, or terminating the CCA Program.

§9. Effective Date.

This Local Law shall be effective immediately upon being filed with the New York State Secretary of State.

§10. Severability.

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

This resolution was seconded by Deputy Mayor Leinbach and unanimously adopted.

NEW BUSINESS:

REVISED VILLAGE CODE – Public Hearing Date: Village Attorney Birnbaum discussed the procedure of adopting the revised Village Code.

Mayor Christian moved as follows:

WHEREAS the Board of Trustees of the Village of South Nyack has entered into a project for the codification of local laws, ordinances and certain resolutions of the Village of South Nyack for the purposes of increasing the effectiveness of village governmental administration, providing for greater public awareness of and access to village legislation and protecting the health, safety and welfare of village inhabitants; and

WHEREAS the proposed codification has been published in loose-leaf form and the Board of Trustees now desires to formally effect the adoption of said codification by enactment of a local law;

#36 NOW, THEREFORE, BE IT RESOLVED, that a public hearing be held by the Board of Trustees with respect to enactment of the following local law, such public hearing to be held on the 25th day of June, 2019, at 7:30 p.m., at Village Hall, 282 S. Broadway, Village of South Nyack, New York. The proposed local law to be considered is as follows:

LOCAL LAW NO. 3 OF 2019

A LOCAL LAW TO PROVIDE FOR THE CODIFICATION OF THE LOCAL LAWS, ORDINANCES AND CERTAIN RESOLUTIONS OF THE VILLAGE OF SOUTH NYACK

INTO A MUNICIPAL CODE TO BE DESIGNATED THE “CODE OF THE VILLAGE OF SOUTH NYACK”

Copies of the text of the above-named local law shall be filed in the office of the Village Clerk.

AND BE IT FURTHER RESOLVED that the Village Clerk is hereby directed and authorized to cause public notice of said hearing to be given in accordance with the Municipal Home Rule Law, the Open Meetings Law and the Village Law of the State of New York.

This resolution was seconded by Trustee McCue and unanimously adopted.

Mayor Christian noted that the public parking workshop will be held on Thursday, May 16th at 7:00pm at the Fire House, 2nd floor.

DPW Superintendent Johnson reported that the refurbishment of the Franklin Street tennis court is expected to begin in approximately two weeks.

VILLAGE STREET USE: HOPEFEST: Mayor Christian moved as follows:

#37 RESOLVED, to approve the request of the Iglesia la Mision to hold **Hope Fest 2019** in the Franklin Street Park on Saturday, August 31, 2019, 10:00am – 4:00pm (with set up 6:00-10:00am) pending the receipt of required insurance documents and with the conditions of no trucks can be parked in the park, the park must be thoroughly cleaned up after the event, no tape on the tennis courts, amplifiers may be used for a maximum of two hours and Franklin Street Park and the Esposito Trail are open to the public during this event.

This resolution was seconded by Trustee McCue and unanimously adopted.

BLOCK PARTY – Clinton Avenue: Deputy Mayor Leinbach moved as follows:

#38 RESOLVED, to approve the request of Kristy Leader to close Clinton Avenue (west of Franklin Street) for a block party on September 1, 2019 from 10:00am – 10:00pm and to suspend the Open Container Law at that location during that time.

This resolution was seconded by Trustee McCue and unanimously adopted.

COMMUNITY CHOICE AGGREGATION PROGRAM – Resolution Correction: Trustee Goodwillie moved as follows:

#39 RESOLVED, that the Board agreed that **Resolution #35 of 2019** should be amended to reflect that the new Local Law is to Establish A Community Choice Aggregation Program for the Village of South Nyack.

This resolution was seconded by Deputy Mayor Leinbach and unanimously adopted.

CLIMATE SMART COMMUNITIES (CSC): A discussion took place about CSC, a grant writer, and funding opportunities. Trustee Goodwillie moved as follows:

WHEREAS, the Village of South Nyack recognizes that the effects of a changing climate may have long-term impacts upon the ecological and physical environment, infrastructure, economy, public health and way of life; and

WHEREAS, sustained local actions may help to reduce the scale of those impacts,

#40 IT IS HEREBY RESOLVED that the Village of South Nyack adopts the New York State Climate Smart Communities pledge comprising the following ten elements:

- 1) Build a climate-smart community.
- 2) Inventory emissions, set goals, and plan for climate action.
- 3) Decrease energy use.

- 4) Shift to clean, renewable energy.
- 5) Use climate-smart materials management.
- 6) Implement climate-smart land use.
- 7) Enhance community resilience to climate change.
- 8) Support a green innovation economy.
- 9) Inform and inspire the public.
- 10) Engage in an evolving process of climate action.

This resolution was seconded by Trustee Willen and unanimously adopted.

Trustee Goodwillie moved as follows:

#41 RESOLVED, to hire Sylvia Welch, grant writer, to apply for grants to fund the Village's Comprehensive Plan update and possibly a Local Waterfront Revitalization Plan with an expenditure cap of \$3,000.00.

This resolution was seconded by Deputy Mayor Leinbach and unanimously adopted.

The Board stated that the request to relocate a driveway at 14 Cornelison Avenue must first go before the Planning Board. Upon Planning Board approval, approval will be needed from the Board of Trustees to allow a new curb cut.

Trustee Goodwillie discussed the need to choose a CCA Administrator. He also gave an update about the historical rail project.

There was a discussion about the format of the May 16th parking workshop.

Following a discussion about the appointments to be made at the December 10th Organizational Meeting, Deputy Mayor Leinbach moved as follows:

#42 RESOLVED, that appointments that were to expire on April 9, 2019 be extended to the next Organization Meeting to be held on December 10, 2019; to the extent that the law allows.

This resolution was seconded by Trustee Goodwillie.

Trustee McCue reported on the following:

- Update about plantings that the NYSTA plan to install.
- Viewing site planned near Salisbury Point Coops.
- Tree Committee funding possibilities.
- Tree Committee documents will soon be available on the Village website.

PAYMENT OF ABSTRACTS: Upon a motion made by Mayor Christian, seconded by Trustee Goodwillie and carried, the following abstracts of audited vouchers were approved for payment:

No. A 19-21– General Fund - \$159,849.26

No. B 19-21 – Police - \$35,822.89

At 9:18pm, upon motion made by Mayor Christian, seconded by Trustee Willen and carried, the meeting was adjourned.

Respectfully submitted,

Jill Schwarz
Village Clerk