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Town of Somers
WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

RICK MORRISSEY
SUPERVISOR



**SOMERS TOWN BOARD
REGULAR MEETING
THURSDAY, JANUARY 14, 2016 –
6:30pm Executive Session & 7:00pm Regular Meeting**
www.somersny.com

6:30pm – Executive Session – Personnel
7:00pm – Regular Meeting

I. PLEDGE OF ALLEGIANCE:

II. ROLL CALL:

III. PUBLIC HEARINGS: 1. Draft Comprehensive Plan Update 2015.

PUBLIC COMMENT

Please limit your comments to no more than 3 minutes.

IV. APPROVAL OF MINUTES: October 1, 2015 Work Session; October 8, 2015 Public Hearing re: Conservation Easement of the Angle fly Preserve; October 8, 2015 Public Hearing re: Proposed Stop Signs on the southeast corners of Eastern Way and Buena Way; October 8, 2015 Regular Meeting; November 5, 2015 Work Session; November 12, 2015 Public Hearing re: Proposed 2016 Water Rate Charges for the Amawalk Shenorock Water District, Windsor Farms Water District and the Amawalk Heights Water District; November 12, 2015 Public Hearing re: Proposed Local Law to amend Section 170-70.L entitled Accessory Apartments; November 12, 2015 Regular Meeting; December 3, 2015 Public Hearing re: 2016 Budget; December 3, 2015 Special Meeting/Work Session December 10, 2015 Public Hearing re: Minor Text Amendment to MFR-BP District; December 10, 2015 Public Hearing re: Propose Amendment to the Town of Somers Zoning Map; December 10, 2015 Public Hearing re: Draft Comprehensive Plan Update 2015; December 10, 2015 Regular Meeting and December 22, 2015 Special Meeting.

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- V. DEPARTMENT REPORTS:** The Town Clerk announces receipt of the following monthly reports: Town Clerk, Building Inspector, Zoning Board of Appeals, Plumbing, Bureau of Fire Prevention, Parks & Recreation, Planning & Engineering, Tax Receiver, Director of Finance and Department Heads
- VI. BUSINESS OF THE BOARD:**
- A. PARKS & RECREATION:** - No additional business.
- B. TOWN BOARD:**
1. Authorize Town Attorney to execute a Consent Judgment in the following matter: United States Postal Service vs. Town of Somers – Index #56810/11 et al.
 2. Homeland Towers – discussion re Wireless Facility Proposal.
 3. Consider authorization to the Supervisor to execute the MOA with Sustainable Westchester, Inc. and the ESA in due course, subject to further review and comment by the Town’s Attorney.
- C. FINANCIAL:** - No additional business.
- D. HIGHWAY:**
1. Authorize Attendance Bonus to Arnold Guyot in the amount of \$200.00 and Edward Gall in the amount of \$600.00, per CBA with the Teamsters and January 4, 2016 memo from Tom Chiaverini, Superintendent of Highways.
- E. PERSONNEL:**
1. Current Vacancies:
Somers Energy Environment Committee
Affordable Housing Board (3 – unexpired 2 year terms ending 7/11/2017)
Planning Board (1 - 7 year term ending 12/31/2022)
Zoning Board of Appeals (1 – 5 year term ending 12/31/2020)
 2. Upcoming Vacancies:
Parks & Recreation – (2 – 3 year terms) ending 3/9/2019

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E. PERSONNEL: (continued)

3. Reappoint Umberto Santaroni to the Zoning Board of Appeals to a 5 year term ending 12/31/2020.
4. Reappoint Fedora DeLucia to the Planning Board to a 7 year term ending 12/31/2022.
5. Acknowledge resignation of Barbara Brandt, Assessment-Tax Aide effective January 15, 2016 and authorize Supervisor Morrissey to canvass the Westchester County Civil Service list for Assessment Clerk with a salary range of \$41,010 – 43,813.
6. Acknowledge promotion of Paul Westhoff from Motor Equipment Operator to Road Maintenance Forman at an hourly rate of \$36.2768 per January 6, 2016 memo from Tom Chiaverini, Superintendent of Highways effective January 4, 2016.

F. PLANNING & ENGINEERING: - No additional business.

G. POLICE: - No additional business.

H. CONSENSUS AGENDA:

1. Authorize fee schedule for the 2016 programs and services for Parks and Recreation.
2. Authorize Supervisor to execute North East Special Recreation Inc. Interagency agreement for 2016.
3. Announce the hiring of Dennis Coffey, Road Maintainer, at an hourly rate of \$24.1847, effective January 4, 2016 per December 30, 2015 memo from Tom Chiaverini, Superintendent of Highways.
4. Acknowledge retirement of Police Office Robert Matuszewski effective December 12, 2015

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H. CONSENSUS AGENDA: (continued)

5. Authorize purchase of Trimble Ranger 3XE handheld Data Collector with necessary hardware, software and 3 year support at a price not to exceed \$13,075.00 per December 14, 2015 memo from Adam Smith, Water Superintendent.
6. Authorize approval of Eagle Scout Project to renovate the existing display sign at the Somers Police Barracks on Route 100 by Boy Scout William Walsh.
7. Authorize Supervisor to execute Survey Authorization for 4 Town Owned Parcels for the Access Northeast Project, which permits Algonquin to enter Town property for the purposes of making a civil, cultural resource and environmental survey.
8. Authorize Supervisor to execute Statutory Installment Bond for the purchase of Town equipment per memo from Robert Kehoe, Director of Finance.
9. Authorize return of \$73,590 Surety Bond (Performance Bond) to Somers Realty Corp per December 30, 2015 memo from Steven Woelfle, Principal Engineering Technician.

2016 CALENDAR

January 14, 2016	7:00pm	Town Board Regular Meeting
February 4, 2016	7:00pm	Town Board Work Session
February 11, 2016	7:00pm	Town Board Regular Meeting
March 3, 2016	7:00pm	Town Board Work Session
March 10, 2016	7:00pm	Town Board Regular Meeting

1/11/2016 4:11 PM

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OCTOBER 1, 2015 – WORK SESSION

Minutes of a work session of the Town Board of the Town of Somers held on Thursday evening October 1, 2015 at 6:05 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:	Supervisor	Rick Morrissey
	Councilman	Richard G. Clinchy
	Councilman	Thomas A. Garrity, Jr.
	Councilman	Anthony J. Ciriaco
	Councilman	William G. Faulkner

ABSENT:

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that it was in order for the Board to enter into an executive session with regard to personnel and real estate.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Ciriaco, the meeting was adjourned to an executive session at 6:05 PM to discuss personnel and real estate matters to return that evening.

7:05 PM – meeting reconvened

This being a work session no actions were taken.

Thereupon motion of Councilman Garrity, seconded by Councilman Faulkner, the meeting was adjourned at 8:30 PM.

Town Clerk

OCTOBER 8, 2015 – PUBLIC HEARING

Minutes of a public hearing of the Town Board of the Town of Somers held on Thursday evening October 8, 2015, at 7:10 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:	Supervisor	Rick Morrissey
	Councilman	Richard G. Clinchy
	Councilman	Thomas A. Garrity, Jr.
	Councilman	Anthony J. Ciriaco
	Councilman	William G. Faulkner

ABSENT:

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor explained that this was a public hearing with regard to a proposal to modify the Conservation Easement of the Angle Fly Preserve.

The Town Clerk presented affidavit of public notice of the public hearing that appeared in the Journal News on September 29, 2015 and posted on the Town Clerk's bulletin board the same day.

The Supervisor declared the hearing open and asked for comments from the public.

Mr. Michael Barnhardt, stated that he was present that evening on behalf of the Somers Land Trust and the Somers Open Space Committee and they were very glad that after several years of trying to pursue this it was finally happening. The Supervisor asked Mr. Barnhardt if he would explain what they were overall trying to accomplish. Mr. Barnhardt stated that the purpose of the easement was to find a suitable location for a possible ballfield construction. He said that was always part of the Angle Fly Purchase Agreement and originally the site for that was located in a meadow area to the west of the Somers Manor Property on top of a ridgeline. He said that this was written into the Conservation Easement although when the property was studied and a management plan was devised they decided it was a poor location for many different reasons. Mr. Barnhardt continued that they decided in consultation with Somers Parks and Recreation Department and the Somers Parks and Recreation Board on a better location for ballfields and that property was adjacent to Reis Park. He said that the site was far less sensitive from an Environmental point of view. He said that they approached the New York State Department of Conservation (DEC) and found out the process for actually changing a Conservation Easement was extremely laborious. Mr. Barnhardt said that the process began under a former Supervisor only to stall until a Somers Resident got involved and contacted the State until they were willing to assist the Town. He said that they finally came up with a strategy where they could avoid the function of the State Legislator to change the Conservation Easement and simply effect a change to the language in the Easement itself. He explained that it was almost as simple as changing two letter designations by swapping their locations. Mr. Barnhardt explained that what the Board was doing was almost the final step and they had every hope that this would resolve the issue.

The Supervisor thanked Mr. Barnhardt for his work on this and moving to the position where they were having a public hearing with regard to the matter.

There being no one else to be heard on motion of Supervisor Morrissey, seconded by Councilman Ciriaco, the public comment session was declared closed at 7:15 PM.

Town Clerk

OCTOBER 8, 2015 – PUBLIC HEARING

Minutes of a public hearing of the Town Board of the Town of Somers held on Thursday evening October 8, 2015 at 7:17 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:	Supervisor	Rick Morrissey
	Councilman	Richard G. Clinchy
	Councilman	Thomas A. Garrity, Jr.
	Councilman	Anthony J. Cirieco
	Councilman	William G. Faulkner

ABSENT:

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that this was a public hearing with regard to the proposed placement of stop signs at the southwest and the southeast corners of Eastern Way and Buenta Way.

The Town Clerk presented affidavit of public notice of the public hearing that appeared in the Somers Record on September 24, 2015 and posted on the Town Clerk's bulletin board the same day.

The Supervisor declared the hearing open and asked for comments from the public.

Mr. Arnold Folberth, Purdys Resident, said that several years ago there was a representative present at a meeting from the New York State Department of Highways or Public Safety. He said that they explained the statistics about stop signs and he stated that more accidents were caused at 4-way stop signs than at intersections without stop signs. He said that he agreed with the stop sign at Buenta Way but there were other stop signs in Lake Purdys and throughout Somers that needed to be removed.

Miss Megan Coughlin, Eastern Way, said that her friend and herself walk across the street without their parents and they always saw speeding on their street. She said that it was dangerous for little children. She said that the stop signs should be placed because there were elderly people and children walking, playing and jogging on the road.

Miss Ella MacSweeney, Buenta Way, said that that she bike rides on the road with her friends and they see people speeding on the road. She said that they should place a stop sign in that location so someone doesn't get hurt.

Ms. Nadine MacSweeney, Buenta Way, said that along with the other parents on Buenta Way she started the petition for stop signs. She said that there were 11 children that used that corner going to and from the bus stop. She said that they were looking for the stop signs to be placed at the intersection of Buenta Way and Eastern Way. Ms. MacSweeney stated that the speeding was the biggest issue in the neighborhood.

Miss Caitlyn Jonika, Eastern Way, said she always is bike riding with her friends and they see people speeding all of the time. She said that a stop sign was needed on Eastern Way.

Ms. Shine, Buenta Way, said that she and her husband live on the corner of Buenta Way and Eastern Way and they cared a lot about the children in their neighborhood. She said that they were against the stop signs being placed because that the most dangerous thing in the neighborhood was not the cars speeding but children and adults riding ATVs on the roads.

OCTOBER 8, 2015 – PUBLIC HEARING

Ms. Gina Arena, Buenta Way, said that this was a very dangerous corner with no visibility. She said that this was used as a short cut and a lot of cars speed though the area.

Mr. William MacSweeney, Alden Way, said that he had lived in that neighborhood for over 40 years and that street was always quiet. He said that the past year he had two incidents on Buenta Way.

Mr. Jason Warner, Buenta Way, said that he wrote a letter against the stop signs to the Board. He said that he did not have any objection to the stop sign although the main issue was visibility. He said that the children in the neighborhood needed to be educated on proper street safety and urged the children to walk on their grass when walking to the bus stop.

Mr. Folberth agreed with Mr. Warner about the visibility. He said that shrubbery was cut down on one side of the road but not the other.

The Supervisor said that the Town Board had received emails from residents objecting to the stop signs. He said that the Police, Highway Superintendent and Town Engineer only looked at this intersection. He said that what he was hearing was that there was a bigger issue. The Supervisor said that they should look at all of the intersections in Lake Purdys and place the stop signs where they were appropriate.

Ms. Sara Gordon, Entrance Way, said that there was not one good reason to not want a stop sign in this area.

Jennifer Coughlin, Eastern Way, said that she lived on the corner of Eastern Way and Buenta Way and she watches people speed around the corner often times with tires screeching.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Garrity, the public hearing was declared closed at 8:00 PM.

Town Clerk

OCTOBER 8, 2015 – REGULAR MEETING

Minutes of a regular meeting of the Town Board of the Town of Somers held on Thursday evening October 8, 2015 at 7:00 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:	Supervisor	Rick Morrissey
	Councilman	Richard G. Clinchy
	Councilman	Thomas A. Garrity, Jr.
	Councilman	Anthony J. Cirieco
	Councilman	William G. Faulkner

ABSENT:

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor asked retired Police Officer John FitzGerald to lead the Pledge of Allegiance.

Retirement
of PO J.
FitzGerald

The Supervisor said that they were going to begin that evening's meeting by recognizing the retirement of a well-respected Police Officer John FitzGerald. He asked Chief Michael Driscoll to say a few words before the Board presented the Proclamation.

Chief Driscoll stated that this was a happy and sad occasion. He said that he was happy to see Officer FitzGerald retire after 30 years of service have time with his family on weekends and holidays with his family. He said that any assignment that Officer FitzGerald was given he did in an outstanding manner and as a result of that the people of Somers were well served. Chief Driscoll thanked Officer FitzGerald on behalf of the Town of Somers and the Somers Police Department.

The Supervisor read and presented the Proclamation to Officer John FitzGerald for his 30 years of service to the Town. He declared October 9th as John R. FitzGerald Day in the Town of Somers.

Officer FitzGerald stated that it had been an honor to serve the Town of Somers.

Councilman Garrity said that the many people in Somers not only saw Officer FitzGerald in a Police car but as a Volunteer Fireman and in Boy Scout Troop 228. He said that Officer FitzGerald was an exemplary Police Officer but he was also an all-around good guy who had gave back to the Community in multiple ways.

Councilman Clinchy said that he had a personal story to share about Officer FitzGerald. He said that when his daughter was a child she had fallen down the stairs in his home and was unconscious. He said that Officer FitzGerald was the first person to respond and he kept everyone calm and handled the situation beautifully. Councilman Clinchy thanked Officer FitzGerald personally for his service.

The Supervisor said that it was in order for the Board to open a public hearing with regard to a proposal to modify the Conservation Easement of the Angle Fly Preserve.

7:10 PM – hearing open

7:15 PM – meeting reconvened

The Town Attorney said that there were two things that the Board could do with regard to the proposal to modify the Conservation Easement of the Angle Fly Preserve. He explained that first they could adopt the Negative Declaration and then they could consider a motion to authorize the Supervisor to execute the Easement Modification Agreement when it was

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presented. He said that the Easement Modification Agreement was not nearly in final form, the Town only had a draft. The Town Attorney said that it was his understanding from the County Attorney was now the Westchester County Board of Legislators will take this matter up, once they are informed that the Town Board had completed their proceedings.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Clinchy, it was unanimously,

RESOLVED, that the Town Board does hereby declare a Negative Declaration with regard to the proposal to modify the Conservation Easement of the Angle Fly Preserve.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Clinchy, it was unanimously,

RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the Conservation Modification Agreement, once the Agreement is presented to the Town of Somers.

ROLL CALL:	Supervisor Rick Morrissey	AYE
	Councilman Richard G. Clinchy	AYE
	Councilman Thomas A. Garrity, Jr.	AYE
	Councilman Anthony J. Ciricco	AYE
	Councilman William G. Faulkner	AYE

The Supervisor said that it was in order for the Board to open a public hearing with regard to proposed placement of stop signs at the southwest and the southeast corners of Eastern Way and Buenta Way.

7:17 PM – hearing open
8:00 PM – meeting reconvened

The Supervisor said that it was in order for the Board to adopt a Local Law for the placement of stop signs at the southwest and the southeast corners of Eastern Way and Buenta Way.

Thereupon motion of Councilman Garrity, seconded by Supervisor Morrissey, it was unanimously,

RESOLVED, that the Town Board does hereby adopt a Local Law for the placement of stop signs at the southwest and the southeast corners of Eastern Way and Buenta Way as follows:

A Local Law to amend Chapter 158 entitled Vehicles and Traffic of the Code of the Town of Somers.

Be It Enacted by the Town Board of the Town of Somers as follows:

1. Article V entitled Stop and Yield Intersections Section 158-19 Stop Intersections Designated is hereby amended to add the following:

PPP. Pursuant to Section 1660 Subdivision 1 of the Vehicle and Traffic Law, Stop Signs shall be installed at the following locations:

1. The Southwest corner of Eastern Way and Buenta Way.
2. The Southeast corner of Eastern Way and Buenta Way.

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2. Effective Date: this Local Law shall be effective immediately upon filing of same with the Secretary of State of the State of New York.

ROLL CALL:	Supervisor Rick Morrissey	AYE
	Councilman Richard G. Clinchy	AYE
	Councilman Thomas A. Garrity, Jr.	AYE
	Councilman Anthony J. Cirieco	AYE
	Councilman William G. Faulkner	AYE

8:00 PM – 5 minute break
8:05 PM – meeting reconvened

PUBLIC COMMENT:

Arnold Folberth, Purdys, said that he read an article in the Somers Record with regard to the paving in that Lake Purdys area. He said that the article was very critical of the Highway Superintendent and the Town being cheap and cutting corners. Councilman Clinchy said that was a letter to the Editor in the Newspaper not an article. Mr. Folberth said that the letter was disturbing to him, they had gone through the winter and all of the roads seemed to be in good shape.

Mr. David Sullivan, Anita Road, said that he had an issue with the parking on Old Tomahawk Street. He said that there was a lot of Commercial Space in that area and people were parking on both sides so that there was not even enough room for one car to drive through the middle. He said that the Town should put no parking signs on the sidewalk side on that road and he showed the Board a photo of the road when he had gotten home that evening. Mr. Sullivan said that once a month Traditions 118 held a Night Club in their Restaurant and the parking was terrible on those evenings. He said his second issue with that Night Club was the music from the establishment was so loud that the bass shakes his house. He said that he visited and called the business asking them to turn down the bass and he called the Police. Mr. Sullivan asked the Board to consider this when they were issuing their Dance and Entertainment permit for the upcoming year. He said that his last issue was with regard to the condition of his road. He said that the repair that the Highway Department did was better but the repair was already breaking down. Mr. Sullivan said that the road was unsafe and he wanted to make sure that it was going to be addressed.

Ms. Polly Kuhn, Heritage Hills, said that she believed that the Town Board was still the Lead Agency on Somers Crossing and asked if there was any report on the Final Environmental Impact Statement (FEIS). The Supervisor said that to the best of his knowledge the Draft Environmental Impact Statement (DEIS) was responded to by the DEP, DEC, Westchester County and Town of Somers. He said that there were hundreds of issues that needed to be addressed.

Approval
of the
minutes

The next item on the agenda was the approval of the minutes.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Clinchy, it was unanimously,

RESOLVED, that the Town Board does hereby approve the minutes of the August 20, 2015 Combined Work Session/Regular Meeting, the September 3, 2015 Work Session and the September 10, 2015 Regular Meeting.

Monthly
reports

The Town Clerk presented monthly reports from the Town Clerk, Building Inspector, Parks and Recreation, Tax Receiver, Planning and Engineering, Zoning, Plumbing, Bureau of Fire Prevention and the May and June reports from the Director of Finance.

Hire J.
O'Connell
and
Associates
Grant Writer

The Supervisor said that the next item was a discussion with regard to J. O'Connell and Associates Grant Writer. He said that the Board interviewed J. O'Connell and Associates

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with the intention of learning about what they could offer the Town as far as grant identification and grant writing for the Town. He said that he would like the Board to consider entering into contract with them. The Supervisor said that it was a \$36,000.00 Contract, payable in four installments. Councilman Cirieco said that the Board was in the budget process at that time and they were asking Departments to cut their budgets. He suggested that the Board wait until after the budget process was complete before they made this decision. Discussion ensued with regard to the benefits the Town could see with this contract and they were willing to give J. O'Connell and Associates the opportunity to work for the Town.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Garrity, it was,

RESOLVED, that the Town Board does hereby enter into an agreement with J. O'Connell & Associates, Inc., Grant Consultants beginning November 1, 2015 and,

DOES HEREBY, authorize the Supervisor to execute said agreement.

VOTE: AYES – Supervisor Morrissey, Councilmen Garrity, Clinchy, & Faulkner
NAYS – Councilman Cirieco

Place Town
employee on
an involuntary
leave of
absence for
medical
reasons

The next item on the agenda was for the Board to adopt a Resolution pursuant to Section 72.5 of the Civil Service Law, Town of Somers employee No. 098752 is placed on an involuntary leave of absence for medical reasons effective October 9, 2015 and directed to submit to an examination by a medical officer appointed by the Westchester County Department of Human Resources.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, it was unanimously,

RESOLVED, that pursuant to Section 72.5 of the Civil Service Law, Town of Somers employee No. 098752 is placed on an involuntary leave of absence for medical reasons effective October 9, 2015 and directed to submit to an examination by a medical officer appointed by the Westchester County Department of Human Resources.

Proposed road
names for the
Somers Realty
Planned
Hamlet Phase
3

The Supervisor said that the next item on the agenda was with regard to the proposed road names for the Somers Realty Planned Hamlet Phase 3 – Halstead Road, Hoyt Street, Columbus Street and Reynolds Road. He said that he proposed that they adopt Reynolds Road. He explained that John Reynolds was a Revolutionary War Soldier who lived in the Town of Somers. The Supervisor said that they recently put a plaque at his gravesite in Mt. Zion Cemetery.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Clinchy, it was unanimously,

RESOLVED, that the Town Board does hereby authorize the name of Reynolds Road for the Somers Realty Planned Hamlet Phase 3.

Somers
Pointe
Country
Club Site
Plan

The next item on the agenda was Somers Pointe Country Club Site Plan. The Supervisor invited the Applicant to the podium to give a presentation of what was being proposed. Mr. John Petricini, Project Engineer, said that the proposed development consisted of what was originally approved for this parcel as part of the Heritage Hills project. He explained that the original project included three proposed Tennis Courts and they were currently proposing two of those three. He continued that there was a Swimming Pool and Cabana and three parking lots and they were all similar to what they were proposing. Mr. Petricini pointed the areas out on the plan. Discussion ensued with regard to the number parking lots and the surface that was being proposed.

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Councilman Faulkner asked how large the proposed swimming pool was. Mr. Petricini stated that currently they were at 15,000 square feet. Councilman Faulkner asked if there was consideration to make that larger. Mr. Petricini said that had been discussed and explained based on New York State Health Code if they went any larger they would be required to put in a perimeter overflow system and that would exceed their expense. The Supervisor said that by limiting their pool size they were also limiting the number of people who could benefit from the pool. Mr. Petricini said that was correct. The Supervisor asked what the number of users was. Mr. Petricini said based on State Health Code they were allowed 106 people inside the fenced area. He said that they would be selling this as memberships, one swimmer would be on membership. He said that there would be 100 memberships.

Councilman Garrity said that the reason they were before the Board at this time was because what they were proposing went against the current DRD of Heritage Hills. The Supervisor said not the plan itself, their marketing plan. Mr. Petricini said that the current Code required this to be primarily for residents of Heritage Hills. He said that there was no clear definition of what primarily meant and the Planning Board recommended that they come to the Town Board for a change to the text of the Zoning to allow for them to have outside users. The Supervisor said that he did not see why they could not move ahead with the project without the DRD being amended and just using this for the primary use of the Heritage Hills members. Mr. Petricini stated that they did not see that as a financially viable option, Heritage Hills had their own pools. Discussion ensued with regard to the requested change to the DRD, opening the membership up to people who did not live in Heritage Hills and the definition of primarily. It was suggested that they reach out to the residents of Heritage Hills and/or current members of the Golf Club to see if there was interest in joining this club.

The Town Attorney explained the interpretation of the Town Zoning Code was the Zoning Board. He said that the Building Inspector could issue an opinion with regard to primarily and if the applicant was dissatisfied with that they could appeal to the Zoning Board.

The Supervisor said that the applicant had not been denied as of that time. He said that he was concerned sending this to the County when his office had received opposition to the project. The Town Attorney said that the Town Board could receive their request and hold on to it without commencing the process and give the applicant the opportunity to try to work collaboratively with the Heritage Hills Society and then come back to the Board with information.

The Supervisor said that the other option was for the applicant to study their proposal and remove the piece with regard to changing the membership. He said then they could go ahead with their plan. Mr. Richard Guino, Applicant, stated that the Planning Board said that they had to come before the Town Board before it could be built. The Town Attorney said that the Planning Board said that because they did not survey their membership and they did not have any idea of how many Heritage Hills residents would sign up for an increased membership. He said that the Planning Board was in the dark with regard to this and they did not want to approve something that could not meet the standards.

The Supervisor said that what they were hearing was a little resistance from the Town Board. Further discussion ensued with regard to the definition of primarily and ways they could move forward. The Town Attorney recommended that the Town Board did not begin the process because he was hearing a reluctance. He said that they needed to do some more studies and have conversations with Heritage Hills Society to determine something that they would support.

Councilman Garrity left the meeting at 9:05 PM

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Ms. Patricia Ploss, President of Heritage Hills Society, stated that they were strongly opposed to any change to the DRD Zone. She said that she agreed with the Board that the applicant still had some work and research to do.

The Town Attorney explained that if the Board was not going to make that Zoning Amendment in the foreseeable future the applicant needed to determine whether or not they wanted to proceed. He said that it was up to the applicant to convince the Planning Board if they wanted to move forward that they could meet the standard of primarily. He said that meant to do what everyone has suggested and that was doing a marketing survey of their existing membership and a survey of all of the residents of Heritage Hills.

Mr. Petricini said that they did that to begin with and he could not get an answer to what primarily was. The Town Attorney said that the Building Inspector was the person that interprets the Code and if the applicant was unhappy with that interpretation they would then have an opportunity to apply to the Zoning Board of Appeals.

PERSONNEL:

Current Vacancies:

Somers Energy Environmental Committee
Affordable Housing Board (5 – unexpired 2 year terms ending July 11, 2015)
Zoning Board of Appeals (1 – unexpired term ending December 31, 2017)

Upcoming Vacancies:

Assessment Board of Review (1 – 5 year term ending September 30, 2020)

Acknowledge the following effective October 5, 2015:

Resign	&
Hire of C.	
Bush	PT
Clerk in P&E	
& Finance	

The Supervisor said that it was in order to terminate Ms. Carolyn Brush as Intermediate Clerk Part-time in the Planning and Engineering Office and hire her as Senior Account Clerk Part-time in the Finance Office.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Clinchy, it was unanimously,

RESOLVED, that the Town Board does hereby terminate Carolyn Brush as Intermediate Clerk in the Planning & Engineering Office and,

DOES HEREBY hire her as Senior Account Clerk Part-time in the Finance office at an hourly salary of \$24.43 to work no more than 17 hours per week per memo dated September 28, 2015 from Robert Kehoe, Director of Finance.

Hire	V.
Agudelo as	
PT Clerk in	
P&E	

The Supervisor said that it was in order to hire Ms. Vanessa Agudelo as Intermediate Clerk Part-time in the Planning and Engineering.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Clinchy, it was unanimously,

RESOLVED, that the Town Board does hereby hire Vanessa Agudelo as Intermediate Clerk part-time in the Planning & Engineering office at an hourly salary of \$15.00 to work no more than 17 hours per week per email dated September 29, 2015 from Barbara Sherry, Confidential Secretary to the Supervisor.

The Supervisor said that it was in order to acknowledge the letters of retirement from Mr. Fyzool Baraichi, effective November 27, 2015, Mr. Robert J. Kramer, effective November 27, 2015, Mr. Frank Lieto, effective November 28, 2015 and Mr. Allan Vinberg, effective

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November 27, 2015. He pointed out the Mr. Baraichi was employed by the Town of Somers for 20 years, Mr. Kramer was employed by the Town of Somers for 26 years. Mr. Lieto was employed by the Town of Somers for 27 years and Mr. Vinberg was employed by the Town of Somers for 29 years. He said that these four (4) gentlemen had been part of the backbone of the Somers Highway Department. The Supervisor said that they will be sorely missed by all.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Clinchy, it was unanimously,

Retirement of
F. Baraichi
from the
Highway Dept.

RESOLVED, that the Town Board does hereby acknowledge the retirement of Fyzool Baraichi from the Highway Department effective November 27, 2015 per letter dated September 22, 2015 from Fyzool Baraichi.

Retirement of
R. Kramer
from the
Highway Dept.

RESOLVED, that the Town Board does hereby acknowledge the retirement of Robert J. Kramer from the Highway Department effective November 27, 2015 per letter dated September 24, 2015 from Robert J. Kramer.

Retirement of
F. Lieto from
the Highway
Dept.

RESOLVED, that the Town Board does hereby acknowledge the retirement of Frank Lieto from the Highway Department effective November 28, 2015 per letter dated September 25, 2015 from Frank Lieto.

Retirement of
A. Vinberg
from the
Highway Dept.

RESOLVED, that the Town Board does hereby acknowledge the retirement of Allan Vinberg from the Highway Department effective November 27, 2015 per letter dated September 28, 2015 from Allan Vinberg.

Salaries for
non-elected,
non-union
department
heads and
support staff

The Supervisor said that it was in order to authorize the increase in salaries for non-elected, non-union department heads and support staff in an effort to retain these valued employees and to bring their salaries up to a competitive level with neighboring municipalities. He said that this spoke to the in-house audit that was done. He said that the Town was in great shape because all of the individuals that were listed. The Supervisor said that he wanted to add to the Resolution that the increases be retroactive to July 1st. He said that there were salary savings to their 2015 Budget to absorb those retroactive payments. The Supervisor said that the Secretary to the Highway Department was not added to the list and should be added at that time.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Clinchy, it was unanimously.

RESOLVED, that the Town Board does hereby authorize the following increase in salaries for non-elected, non-union department heads and support staff in an effort to retain these valued employees and to bring their salaries up to a competitive level with neighboring municipalities retroactive to July 1, 2015:

Assessor – from \$70,349.00 to \$71,404.00
Confidential Secretary – from \$62,687.00 to \$63,627.00
Deputy Tax Receiver – from \$35,325.00 to \$35,855.00
Deputy Town Clerk – from \$47,241.00 to \$47,950.00
Director of Finance – from \$90,641.00 to \$95,173.00
Nutrition Director – from \$61,282.00 to \$62,181.00
Parks & Recreation Superintendent – from \$87,004.00 to \$88,309.00
Police Chief – from \$56,616.00 to \$57,465.00
Water & Sewer Superintendent – from \$89,115.00 to \$90,452.00
Secretary to Highway Superintendent – from \$37,555.00 to \$38,118.00

Review and
comment of
the Greenbriar-
Somers Corp.

The Supervisor said that the next item was a review and comment of the Greenbriar-Somers Corp. Sec. 6, Lots 35 & 36 – Wetland/Steep Slope/SMESC/Tree Application. He said that this item was being removed because the item was not ready to be reviewed.

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Consensus agenda

The next item was the consensus agenda. Councilman Clinchy asked with regard to item number 10 if the Recreation Fees were the same in 2002. The Supervisor answered that they were not. Councilman Clinchy asked if there was discussion with regard to making up the difference. The Town Attorney explained that there were the same number of proposed lots and the Town has had the money since 2002 and had gained interest on that money. The Town Attorney said with regard to item number 2 the Supervisor usually abstains from voting on that item and it should be removed from the consensus agenda and voted of separately.

Reappoint E. Morrissey to Assessment Board of Review

Councilman Ciriaco said that it was in order for the Board to authorize the reappointment of Mr. Eric Morrissey to the Assessment Board of Review.

Thereupon motion of Councilman Ciriaco, seconded by Councilman Faulkner, it was

RESOLVED, that the Town Board does hereby reappoint Eric Morrissey to the Assessment Board of Review to a five (5) year term ending September 30, 2020.

VOTE:	AYES	3	Councilmen Clinchy, Ciriaco, & Faulkner
	RECUSED	1	Supervisor Morrissey
	ABSENT	1	Councilman Garrity

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, it was unanimously,

Appoint R. Scorrano to ZBA

1. RESOLVED, that the Town Board does hereby appoint Robert G. Scorrano to the Zoning Board of Appeals to fill the unexpired term of Dennis M. McNamara ending December 31, 2017.

2. REMOVED – vote taken during meeting.

Resign of J. Mintez in Finance Office

3a. RESOLVED, that the Town Board does hereby acknowledge the resignation of Joye Mintzes, Senior Account Clerk in the Finance Office effective October 2, 2015 per letter dated September 21, 2015 from Joye Mintzes.

Resign of I. Ceriale in Town Clerk's Office

3b. RESOLVED, that the Town Board does hereby acknowledge the resignation of Irene Ceriale as Intermediate Clerk in the Town Clerk's office effective October 15, 2015 per letter dated September 29, 2015 from Irene Ceriale.

Public hearing for proposed 2016 Water Charges

4a. RESOLVED, that the Town Board does hereby schedule a Public Hearing for November 12, 2015 for the proposed 2016 Water Charges for the Amawalk-Shenorock Water District, Windsor Farms Water District, and Amawalk Heights Water District per memo dated September 24, 2015 from Adam Smith, Superintendent of Water & Sewer.

Public hearing for proposed Amendment to the Somers Town Code

4b. RESOLVED, that the Town Board does hereby schedule a Public Hearing for November 12, 2015 for the proposed Amendment to the Somers Town Code to delete Section 170-70 (L) regarding Accessory Apartments per memo dated August 27, 2015 from Syrette Dym, Director of Planning.

Budget modifications

5. RESOLVED, that the Town Board does hereby authorize the following budget modifications per memo dated September 25, 2015 and revised October 7, 2015 from Rick Morrissey:

RESOLVED, that the Town Board does hereby authorize a budget modification to cover the approved salary of the seasonal intern 2015 in the

OCTOBER 8, 2015 – REGULAR MEETING

Court Office per memo dated September 4, 2015 from Justice Denis J. Timone:

From: 001-1110.4 – Court Contractual
To: 001-1110.1 – Court Personal Services \$2,946.00

RESOLVED, that the Town Board does hereby authorize a budget modification to provide funds for unexpected expenses per undated memo received October 8, 2015:

From: 7520.44 – Tomahawk Chapel Restoration
To: 7520.43 – Reis House Restoration \$400.00

Accept
Erosion
Control
Bonds

6. RESOLVED, that the Town Board does hereby accept the following Erosion Control Bonds per memos from Wendy Getting, Senior Office Assistant:

- a. \$500.00 – Boniello Land & Realty Ltd. (Wooded Acres Development) – Stormwater Management & Erosion Sediment Control Permit – 48.13-1-49.
- b. \$500.00 – Portas Steep Slope, Stormwater Management & Erosion Control & Tree Preservation Permit – 16.09-2-10.

Return
Erosion
Control
Bonds

7. RESOLVED, that the Town Board does hereby authorize the return of Erosion Control Bond per memo dated September 29, 2015 from Steven Woelfle, Principal Engineering Technician:

- a. \$200.00 – Turner – Stormwater Management & Erosion Sediment Control – 5.18-1-68.

Declaring
October 2015
as “ American
Archives
Month”

8. RESOLVED, that the Town Board does hereby authorize resolution of support declaring October 2015 as “ American Archives Month” in the Town of Somers

WHEREAS, the historical records of the Town of Somers are crucial to the way we understand our past and plan for our future; and,

WHEREAS, these records have been professionally administered and made accessible by dedicated, yet often unheralded, archivists; and,

WHEREAS, the work of these archivists and the importance of these records programs seldom receive the recognition they deserve;

NOW THEREFORE, the Town Board declares the period of October 1, 2015 through October 31, 2015 to be “American Archives Month” throughout the Town of Somers and urges the fellow citizens of the Town to participate in the special activities and learn more about the importance of archives and historical records in our community.

Release
Street
Opening
Bond

9. RESOLVED, that the Town Board does hereby authorize the release of \$750.00 Street Opening Bond to Frebar Construction Corp. for street opening located on Lake Shore Drive, Lincolnale per memo dated September 23, 2015 from Thomas E. Chiaverini, Superintendent of Highways.

Waiving of
additional
Rec Fees for
Granite
Pointe Subd

10. RESOLVED, that the Town Board does hereby authorize the Planning Board to waive any additional recreation fees for the Granite Pointe Subdivision since they were paid in full in 2002 and are currently being held by the Town.

OCTOBER 8, 2015 – REGULAR MEETING

The Supervisor said that October 10th from 9:00 AM to 12:00 PM City Carting was hosting a Shred Day at their location on Route 100.

The Supervisor said that Bulk Refuse Drop Off Days were October 17th to November 14th also at City Carting.

The Supervisor said that October 17th there was going to be an E-Waste Recycling Day in the parking lot between the Somers Middle School and the Somers Intermediate School.

The Supervisor said that Somers Middle School was having a used clothing drop off on October 18, 2015 from 9:00 AM to 12:30 PM. He said that the drop off point was the lower parking lot near the auditorium.

The Supervisor said that the Town wide Roadside Clean-up was from October 24th through November 18th. He said that orange bags could be picked up at the Town House and he encouraged everyone to help out.

The Supervisor said that the Somers Lions Club Trail of Terror was going to be held on October 24th from 7:30 PM to 10:30 PM in Upper Reis Park.

The Supervisor said that the Somers Lions Club Fall Festival was going to be held on October 25th from 12:00 PM to 6:00 PM at Reis Park.

The Supervisor said that the YMCA 19th Annual Halloween Parade was on October 25th. He said that line up was at 12:30 PM and the parade started at 1:00 PM.

Councilman Faulkner said that Monday was Columbus Day and he wanted to wish all a happy Columbus Day.

Councilman Faulkner said that he wanted to announce that the Somers Girls Soccer Team was undefeated and currently Number 2 in the Country.

Councilman Cirieco urged all to drive slowly and be safe.

Claims for the payment of all Town Bills in the amount of \$683,619.79 were presented and allowed for payment as shown on the Abstract of Audited Claims on file in the office of the Town Clerk.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, the meeting was adjourned at 9:40 PM.

Town Clerk

NOVEMBER 5, 2015 – WORK SESSION

Minutes of a work session of the Town Board of the Town of Somers held on Thursday evening November 5, 2015 at 6:35 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT: Supervisor Rick Morrissey
Councilman Richard G. Clinchy
Councilman Thomas A. Garrity, Jr.
Councilman Anthony J. Cirieco
Councilman William G. Faulkner

ABSENT:

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that it was in order for the Board to enter into an executive session with regard to personnel.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Garrity, the meeting was adjourned to an executive session with regard to personnel at 6:35 PM to return that evening.

7:05 PM – meeting reconvened

Mr. William Walsh of Scout Troop 376, stated that he was present that evening as part of his Citizenship and Community Merit Badge that was required to earn his Eagle Scout. He said that he was beginning his Eagle Scout project working with the Somers Partners in Prevention and the New York State Troopers. He said that he was restoring the sign and area around the sign that was located at the Trooper Barracks in Somers.

This being a work session the following actions were taken:

Bid to replace the flat roof on the Recreation Center in Van Tassell Park

The Supervisor said that it was in order to authorize the Building Inspector to go out to bid to replace the flat roof on the Recreation Center in Van Tassell Park.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, it was unanimously,

RESOLVED, that the Town Board does hereby authorize the Building Inspector to go out to bid to replace the flat roof on the Recreation Center in Van Tassell Park per memo dated October 27, 2015 from Efreem Citarella, Building Inspector.

2016 Tentative Budget

The Town Clerk presented the 2016 Tentative Budget to the Town Board.

Thereupon motion of Supervisor Morrissey, seconded Councilman Faulkner, it was unanimously,

RESOLVED, that the Town Clerk presented the 2016 Tentative Budget to the Town Board at the Work Session Meeting held on November 5, 2015.

Pre-payment to Clove Excavators, Inc. for Blacktop

The Supervisor said that it was in order to authorize pre-payment to Clove Excavators, Inc. for Blacktop purchase to make application to NYSDOT for reimbursement of monies through the CHIPS funding.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Garrity, it was unanimously,

NOVEMBER 5, 2015 – WORK SESSION

RESOLVED, that the Town Board does hereby authorize pre-payment to Clove Excavators, Inc. in the amount of \$31,694.07 for Blacktop purchase to make application to NYSDOT for reimbursement of monies through the CHIPS funding per email dated October 28, 2015 from Cathy Disisto, Secretary to the Superintendent of Highways.

Lease/purchase of a 2015 Ford F-150 Truck

The Supervisor said that it was in order to authorize the Supervisor to execute the Ford Motor Credit Company, Municipal Finance Application Schedule #8646305, for the four (4) year lease/purchase of a 2015 Ford F-150 Truck for the Police Department.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Clinchy, it was unanimously,

RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the Ford Motor Credit Company, Municipal Finance Application Schedule #8646305, for the four (4) year lease/purchase of a 2015 Ford F-150 Truck in the amount of \$24,994.74 (annual fee is \$6,846.16 with a \$1.00 purchase fee at the end of the lease per email dated November 4, 2015 from Barbara J. Sherry, Confidential Secretary to the Supervisor.

This being a work session no further actions were taken.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Garrity, the meeting was adjourned at 8:05 PM.

Town Clerk

DRAFT

NOVEMBER 12, 2015 – PUBLIC HEARING

Minutes of a public hearing of the Town Board of the Town of Somers held on Thursday evening November 12, 2015 at 7:05 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:	Supervisor	Rick Morrissey
	Councilman	Richard G. Clinchy
	Councilman	Thomas A. Garrity, Jr.
	Councilman	Anthony J. Cirieco
	Councilman	William G. Faulkner

ABSENT:

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that this was a public hearing with regard to the proposed 2016 Water Rate Charges for the Amawalk Shenorock Water District, Windsor Farms Water District and the Amawalk Heights Water District.

The Town Clerk presented affidavit of public notice of the public hearing that appeared in the Somers Record on October 29, 2015 and posted on the Town Clerk's bulletin board the same day.

The Supervisor declared the hearing open and asked for comments from the public.

There being no one to be heard on motion of Supervisor Morrissey, seconded by Councilman Faulkner, the public comment session was declared closed at 7:06 PM.

Town Clerk

NOVEMBER 12, 2015 – PUBLIC HEARING

Minutes of a public hearing of the Town Board of the Town of Somers held on Thursday evening November 12, 2015 at 7:07 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:	Supervisor	Rick Morrissey
	Councilman	Richard G. Clinchy
	Councilman	Thomas A. Garrity, Jr.
	Councilman	Anthony J. Cirieco
	Councilman	William G. Faulkner

ABSENT:

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that this was a public hearing with regard to the proposed Local Law to amend Section 170-70.L entitled Accessory Apartments of the Code of the Town of Somers. He explained that this portion of the Town Code was no longer applicable. He said that it referred Accessory Apartments to Westchester County which they no longer reviewed.

The Town Clerk presented affidavit of public notice of the public hearing that appeared in the Somers Record on October 29, 2015 and posted on the Town Clerk's bulletin board the same day.

The Supervisor declared the hearing open and asked for comments from the public.

There being no one to be heard on motion of Supervisor Morrissey, seconded by Councilman Cirieco, the public comment session was declared closed at 7:08 PM.

Town Clerk

NOVEMBER 12, 2015 – REGULAR MEETING

Minutes of a regular meeting of the Town Board of the Town of Somers held on Thursday evening November 12, 2015 at 6:30 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT: Supervisor Rick Morrissey
Councilman Thomas A. Garrity, Jr.
Councilman Anthony J. Ciriaco
Councilman William G. Faulkner

ABSENT: Councilman Richard G. Clinchy

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that it was in order for the Board to enter into an executive session with regard to personnel and real estate.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, the meeting was adjourned to an executive session at 6:30 PM with regard to personnel and real estate to return that evening.

7:05 PM – meeting reconvened

Councilman Clinchy present at 7:05 PM.

The Supervisor said that it was in order for the Board to open a public hearing with regard to the proposed 2016 Water Rate Charges for the Amawalk Shenorock Water District, Windsor Farms Water District and the Amawalk Heights Water District.

7:05 PM – hearing open

7:05 PM – meeting reconvened

The Supervisor said that it was in order to adopt the proposed 2016 Water Rate Charges for the Amawalk Shenorock Water District, Windsor Farms Water District and the Amawalk Heights Water District.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, it was unanimously,

RESOLVED, that the Town Board does hereby adopt the increase of the 2016 Water Rate Charges for the Amawalk Shenorock Water District, Windsor Farms Water District and the Amawalk Heights Water District per memo dated September 24, 2015 from Adam Smith, Superintendent of Water and Sewer.

The Supervisor said that it was in order for the Board to open a public hearing with regard to a proposed Local Law to amend Section 170-70.L. entitled Accessory Apartments of the Code of the Town of Somers.

7:07 PM – hearing open

7:08 PM – meeting reconvened

The Supervisor said that it was in order for the Board to adopt a Local Law to amend Section 170-70.L. entitled Accessory Apartments of the Code of the Town of Somers.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Ciriaco it was unanimously,

NOVEMBER 12, 2015 – REGULAR MEETING

RESOLVED, that pursuant to Section 108 of Town Law, the Town Board does hereby specify the proposed salaries to be included in the Notice of Public Hearing on the Preliminary Budget for the year 2016 and does give an increase of 1.75%:

Superintendent of Highways \$103,313.00

The Supervisor said that it was in order to set the Salary for the Town Clerk.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Cirioco, it was unanimously,

RESOLVED, that pursuant to Section 108 of Town Law, the Town Board does hereby specify the proposed salaries to be included in the Notice of Public Hearing on the Preliminary Budget for the year 2016:

Town Clerk \$71,723.00

Supervisor's
2016 Salary

Councilman Cirioco said that Supervisor Morrissey did not give himself the 1.75% increase that others were getting and he suggested that the Supervisor be given that as well. The Supervisor said that he was recusing himself from voting on his salary.

Thereupon motion of Councilman Cirioco, seconded by Councilman Clinchy, it was,

RESOLVED, that pursuant to Section 108 of Town Law, the Town Board does hereby specify the proposed salary for the Supervisor to be included in the Notice of Public Hearing on the Preliminary Budget for the year 2016 and does give an increase of 1.75%.

Supervisor \$102,243.00

Supervisor Morrissey – Recused

The Supervisor said that it was in order for the Board to adopt the Tentative Budget with the proposed changes as discussed as the Preliminary Budget.

Adoption
of the 2016
Preliminary
Budget

Thereupon motion of Supervisor Morrissey, seconded by Councilman Garrity, it was unanimously,

RESOLVED, that the Town Board after review of the Tentative Budget, made changes, alterations and revisions as the Board deemed advisable, including modifications to personal services line, which result in changes to Social Security Tax and Medicare Tax, adopted the Tentative Budget with changes therein to date as the Preliminary Budget of the Town of Somers for the year commencing 2016.

Schedule
Public
Hearing for
the 2016
Preliminary
Budget

The Supervisor said that it was in order for the Board to schedule a public hearing with regard to the 2016 Preliminary Budget for December 3, 2015.

Thereupon motion of Supervisor Morrissey seconded by Councilman Clinchy, it was unanimously,

RESOLVED, that the Town Board does hereby schedule a public hearing to be held at the Town House, 335 Route 202, Somers, New York, on Thursday, December 3, 2015 at 7:00 P.M., to consider the year 2016 Preliminary Budget for the Town of Somers.

Series of items -
Minor text
amendment to
MFR-BP
District,
Section 170-13

The next item on the agenda was with regard to a minor text amendment to MFR-BP District, Section 170-13, Multifamily Residence MFR District needed due to change for Hidden Meadow.

NOVEMBER 12, 2015 – REGULAR MEETING

The Supervisor said that it was in order for the Board to declare their intent to be Lead Agency for this action.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, it was unanimously,

RESOLVED, that the Town Board does hereby declare their intent to be Lead Agency for the Minor text amendment to the MFR-BP District, Section 170-13, Multi-family Residence MFR District needed due to change for Hidden Meadow.

The Supervisor said that they also needed to authorize distribution of Lead Agency and Environmental Assessment Form.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Clinchy, it was unanimously,

RESOLVED, that the Town Board does hereby authorize distribution of Lead Agency and Environmental Assessment Form for the Minor text amendment to MFR-BP District, Section 170-13, Multifamily Resident MFR District needed due to change for Hidden Meadow.

The Supervisor said that it was in order to schedule Public Hearing for December 10, 2015.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Cirioco, it was unanimously,

RESOLVED, that the Town Board does hereby schedule Public Hearing for December 10, 2015 for minor text amendment to MFR-BP District, Section 170-13, Multifamily Residence MFR District needed due to change for Hidden Meadow.

Series of items -
adoption of
amended Town
of Somers
Zoning Map

The Supervisor said that the next item with regard to the adoption of amended Town of Somers Zoning Map.

The Supervisor said that it was in order for the Board to declare their intent to be Lead Agency for this action.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Cirioco, it was unanimously,

RESOLVED, that the Town Board does hereby declare their intent to be Lead Agency for the adoption of the Amended Town of Somers Zoning Map.

The Supervisor said that they also needed to authorize distribution of Lead Agency and Environmental Assessment Form.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, it was unanimously,

RESOLVED, that the Town Board does hereby authorize distribution of Lead Agency and Environmental Assessment Form for the adoption of the Amended Town of Somers Zoning Map.

The Supervisor said that it was in order to schedule Public Hearing for December 10, 2015.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, it was unanimously,

RESOLVED, that the Town Board does hereby schedule Public Hearing for December 10, 2015 for the adoption of the Amended Town of Somers Zoning Map.

NOVEMBER 12, 2015 – REGULAR MEETING

Series of items -
Draft
Comprehensive
Plan update
2015

The next item was with regard to the Draft Comprehensive Plan update 2015.

The Supervisor said that it was in order for the Board to declare their intent to be Lead Agency for this action.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, it was unanimously,

RESOLVED, that the Town Board does hereby declare their intent to be Lead Agency for the Comprehensive Draft Comprehensive Plan Update 2015.

The Supervisor said that they also needed to authorize distribution of Lead Agency and Environmental Assessment Form.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, it was unanimously,

RESOLVED, that the Town Board does hereby authorize distribution of Lead Agency and Environmental Assessment Form for the Comprehensive Draft Comprehensive Plan Update 2015.

The Supervisor said that it was in order to schedule Public Hearing for December 10, 2015.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Cirieco, it was unanimously,

RESOLVED, that the Town Board does hereby schedule Public Hearing for December 10, 2015 for the Comprehensive Draft Comprehensive Plan Update 2015.

Grant
application
for Solar
Panels

The Supervisor said that they needed to add an item under Town Board. He explained that there was a grant application they needed to authorize the Supervisor to execute for Solar Panels for the Highway Garage and the Library from Senator Murphy's Office.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Clinchy, it was unanimously,

RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the grant application for solar panels for the Highway garage and Library from Senator Murphy.

PERSONNEL:

Current Vacancies:

Somers Energy Environmental Committee
Affordable Housing Board (5 – unexpired 2 year terms ending July 11, 2015)

Upcoming Vacancies:

Assessment Board of Review (1 – 5 year term ending September 30, 2020)
Zoning Board of Appeals (1 – unexpired term ending December 31, 2020)

Appoint .M.
Zywotchenko
to SEEC

The Supervisor said that it was in order for the Board to authorize the appoint Ms. Marialisa Zywotchenko to the Somers Energy and Environment Committee.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Cirieco, it was unanimously,

RESOLVED, that the Town Board does hereby appoint Marialisa Zywotchenko to the Somers Energy & Environment Committee to serve at the pleasure of the Board.

NOVEMBER 12, 2015 – REGULAR MEETING

Councilman Clinchy pointed out the on Wednesday, November 18th at 7:00 PM at the Somers Library these was going to be a Solarize Informational Session and signup.

Reappoint E. Morrissey to the Assessment Board of Review

The Supervisor said that it was in order for the Board to authorize re-appointment of Mr. Eric Morrissey to the Assessment Board of Review for a 5 year term ending September 30, 2020. The Supervisor said that he would be recusing himself from this motion.

Thereupon motion of Councilman Garrity, seconded by Councilman Ciriaco, it was,

RESOLVED, that the Town Board does hereby reappoint Eric Morrissey to the Assessment Board of Review to a five (5) year term ending September 30, 2020.

VOTE: AYES 4 Councilmen Clinchy, Ciriaco, Faulkner & Garrity
 RECUSED 1 Supervisor Morrissey

Consensus agenda

The next item on the agenda was with regard to the consensus agenda. The Supervisor said with regard to item number 2, they received a notification from the DEC that they issued a notice of incompleteness and a permit will not be issued until the Notice of Incompliance was addressed.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Garrity, it was unanimously,

Health Care Resolution

1. RESOLVED, that all Town of Somers employees not within a collective bargaining unit represented by a union shall be entitled to health care coverage during active employment and in retirement as provided for by the terms of the CSEA contract then in effect. Any employee, who retires after the expiration date of a CSEA contract, and before the ratification of a successor contract, will be subject to the terms and conditions of the successor contract. This resolution supersedes all prior resolutions granting health coverage to employees not covered under any union collective bargaining agreement.

Review & Comment of the Greenbriar Somers Corp. – Wetland Activity Permit and Steep Slope Permit

2. RESOLVED, that the Town Board reviewed the Greenbriar Somers Corp. – Wetland Activity Permit and Steep Slope Permit for 6.11 -1-77 & 78 submitted by the Engineering Department and had not comment. However it was referenced that a Notice of Incomplete Application was received from the New York State Department of Environmental Conservation (DEP.)

Termination of probationary status of Annamaria Gizzo, Senior Office Assistant (Office Manager)

3. RESOLVED, that the Town Board does hereby authorize termination of probationary status of Annamaria Gizzo, Senior Office Assistant (Office Manager) and,

DOES HEREBY appoint her to the permanent status of Senior Assistant (Office Manager) effective October 1, 2015 per memo dated October 16, 2015 from Efram Citarella, Building Inspector.

Resignation of M. Henning from the Substance Abuse Council

4. RESOLVED, that the Town Board does hereby acknowledge the resignation of Michele Henning from the Substance Abuse Council/Somers Partners in Prevention effective October 1, 2015 per email dated October 18, 2015 from Michele Henning.

Resignation of Jean Reidy from the Library Board of Trustees

5. RESOLVED, that the Town Board does hereby acknowledge the resignation of Jean Reidy from the Library Board of Trustees effective September 9, 2015 after 50 years of dedicated service.

NOVEMBER 12, 2015 – REGULAR MEETING

Return Erosion Control Bond

6. RESOLVED, that the Town Board does hereby authorize the return of \$47,050.00 Erosion Control Bond to Somers Realty Corp. for Somers Realty Planned Hamlet Phase 2 per memo dated November 9, 2015 from Steven Woelfle, Principal Engineering Technician.

Accept Erosion Control Bond

7. RESOLVED, that the Town Board does hereby accept the following Erosion Control Bonds per memos from Wendy Getting, Senior Office Assistant:

a. \$500.00 Caracciolo and North County Homes - Erosion Control Bond: Wetland, Steep Slopes, Tree Preservation and Stormwater Management and Erosion and Sediment Control Permit – 36.20-1-59

b. \$1,000.00 Caracciolo and North County Homes - Wetland Mitigation Bond:Wetland, Steep Slopes, Tree Preservation and Stormwater Management and Erosion and Sediment Control Permit - 36.20-1-59

c. \$500.00 MJD Contracting Corp for the Christie Court, LLC/Ben Cozzi Stormwater Management and Erosion and Sediment Control Permit – 6.16-2-40.

Release Erosion Control Bond

8. RESOLVED, that the Town Board does hereby authorize the release of the following Erosion Control Bonds per memos from Steven Woelfle, Principal Engineering Technician:

a. \$200.00 Christiansen Stormwater Management and Erosion and Sediment Control Permit # ASMEC 2013-22 – Erosion Control Bond – 47.12-1-21

b. \$500.00 Barr Wetland Permit # AW2015-20 Erosion Control Bond – 48.05-1-14.

Announce new Liquor License

9. RESOLVED, that the Town Clerk announces that Nicholas Durante the new owner of Patsy's Pizza in Lincolndale is applying for a new liquor license for beer and wine only.

Authorize a temporary Town House Green Permit to the Somers Lions Club for the lighting of the Tree

10a. RESOLVED, that the Town Board does hereby authorize a temporary Town House Green Permit to the Somers Lions Club for the lighting of the Tree to be displayed on the front lawn of the Town House beginning December 5, 2015 ending January 16, 2016.

Authorize a temporary Town House Green Permit to the Knights of Columbus for an illuminated Creche

10b. RESOLVED, that the Town Board does hereby authorize a temporary Town House Green Permit to the Knights of Columbus for an illuminated Creche to be displayed on the front lawn of the Town House beginning December 13, 2015 ending January 11, 2016.

Authorize a temporary Town House Green Permit to Mitch Kaufman for the Menorah

10c. RESOLVED, that the Town Board does hereby authorize a temporary Town House Green Permit to Mitch Kaufman for the Menorah to be displayed on the front lawn of the Town House beginning December 6, 2015 ending January 9, 2016.

2015/2016 Community Services for the Elderly Act Contract for Transportation Services

10d. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the 2015/2016 Community Services for the Elderly Act Contract for Transportation Services in the amount of \$7,036.00 per email dated October 20, 2015 from Barbara Taberer, Nutrition Director.

Execute the Multi-year contract with O'Connor Davies for auditing services

10e. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the Multi-year contract with O'Connor Davies for auditing services with the Town of Somers for 2016-2018.

NOVEMBER 12, 2015 – REGULAR MEETING

Execute the MS4 Signatory Authorization

10f. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the MS4 Signatory Authorization, to allow Consulting Engineer Joseph Barbagallo to execute the MS4 completed Pollution Prevention Plans (SWPPP's.)

Refund of SEQA Professional Services Fee

11. RESOLVED, that the Town Board does hereby authorize the refund of SEQA Professional Services Fee in the amount of \$3,793.80 to Bechtel Infrastructure and Power Corp for the New Cingular Wireless submission per memo dated October 6, 2015 from Syrette Dym, AICP, Director of Planning.

Return of Bond

12. RESOLVED, that the Town Board does hereby authorize the return of \$3,000.00 Bond for Incomplete items for the Issuance of a Certificate of Occupancy to North County Homes per memo dated October 26, 2015 from Steven Woelfle, Principal Engineering Technician.

Request for a stop sign

13. RESOLVED, that the Town Board does hereby refer a request for stop sign to be installed on the corner of Juniper and Daisy in Lincolndale to the Superintendent of Highways, Principal Engineering Technician and Police Chief per e-mail dated September 11, 2015 from Kristie Evers.

Budget Modifications

14. RESOLVED, that the Town Board does hereby authorize the following Budget Modifications per November 6, 2015, Revised November 10, 2015 memo from Supervisor Rick Morrissey:

RESOLVED, that the Town Board does hereby authorize a budget modification for repairs of older vehicles per memo dated November 8, 2015 from Barbara Taber, Nutrition Director:

From: 6775.406 – Adult Transportation – Fuel
To: 6775.405 – Adult Transportation – Repairs \$5,000.00

RESOLVED, that the Town Board does hereby authorize a budget modification to cover extreme winter recovery per memo dated November 9, 2015 from Thomas E. Chiaverini, Superintendent of Highways:

From: 5130.2 – Highway Equipment
To: 5142.4 – Highway Snow Contractual \$95,000.00

RESOLVED, that the Town Board does hereby authorize a budget modification to cover overage per memo dated November 10, 2015 from Thomas E. Chiaverini, Superintendent of Highways:

From: 3501- Highway – Equipment
To: 511.0 – Highway CHIPS Program \$31,694.07

Return of Bonds

15. RESOLVED, that the Town Board does hereby authorize the return of the following Bonds to Somers Realty per memo dated November 5, 2015 from Steven Woelfle, Principal Engineering Technician:

- a. \$3,390.00 – Erosion Control Bond
- b. \$3,813.00 – Construction Bond

Execute the Stipulations and Consent Judgment

16. RESOLVED, that the Town Board does hereby authorize the Town Attorney to execute the Stipulations and Consent Judgment in the matter of Heritage Hills of Westchester, LP, Heritage Hills Water Works Corp. and

NOVEMBER 12, 2015 – REGULAR MEETING

Heritage Hills Sewage Works Corp. vs. Assessor of the Town of Somers, et al., Index No. 55956-11 et al.

The Supervisor said that the Town was amidst in the Annual Bulk Refuse Drop-off, Saturday November 14th was the last day from 7:00 AM to 12:00 PM.

The Supervisor said that November 18th at 7:00 PM at the Somers Library there was going to be a Solarize Informational Session and signup

The Supervisor said that November 20th was the second Annual Cookie Swap for a Cause. He said that was from 7:00 PM to 10:00 PM at the Somers Community Center.

The Supervisor said that the Saint Luke's Food Pantry was open on Fridays from 2:30 PM to 4:00 PM and food donations can be brought to the church and left in the donation box at other times.

The Supervisor said that the Annual Tree Lighting was being held on December 5th, the Menorah Lighting was December 6th and the Crèche was being lit on December 13th.

Councilman Garrity and the rest of the Town Board wished everyone a Happy and Healthy Thanksgiving.

Claims for the payment of all Town Bills in the amount of \$1,620,899.98 were presented and allowed for payment as shown on the Abstract of Audited Claims on file in the office of the Town Clerk.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, the meeting was adjourned at 7:45 PM.

Town Clerk

DECEMBER 3, 2015 – SPECIAL MEETING/WORK SESSION

Minutes of a work session/special meeting of the Town Board of the Town of Somers held on Thursday evening December 3, 2015 at 7:05 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:	Supervisor	Rick Morrissey
	Councilman	Richard G. Clinchy
	Councilman	Thomas A. Garrity, Jr.
	Councilman	Anthony J. Cirieco
	Councilman	William G. Faulkner

ABSENT:

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that it was in order for the Board to open a public hearing with regard to the 2016 Preliminary Budget.

7:05 PM – hearing opened
7:20 PM – meeting reconvened

This being a work session the following actions were taken:

The Supervisor said that it was in order for the Board to adopt a resolution regarding Operation and Maintenance (O&M) of Stormwater Retrofit Projects.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, it was unanimously,

RESOLUTION REGARDING O&M OF STORMWATER RETROFIT PROJECTS

WHEREAS, the Town of Somers is a member of the East of Hudson Watershed Corporation (“EOHWC”), a not-for-profit local development corporation formed to assist the member municipalities in complying with the stormwater retrofit requirements of the Municipal Separate Storm Sewer System Permit (MS4 Permit); and

WHEREAS, EOHWC has installed and will continue to install stormwater retrofit projects (SRPs) or has reimbursed member municipalities for installing SRPs in compliance with the first five-year Regional Stormwater Retrofit Plan and intends to do so for the second five-year plan to the extent funding is provided by New York City Department of Environmental Protection (DEP); and

WHEREAS, the MS4 Permit required member municipalities to maintain each SRP for its useful life to ensure that it continues to operate as it was designed; and

WHEREAS, the Board of Directors of EOHWC has adopted an O&M Policy providing for the equitable sharing of the costs and responsibilities of O&M by all member municipalities in a manner consistent with the MS4 Permit bubble compliance concept, conditioned on the legislative body of each member municipality agreeing to comply with the terms and conditions of the O&M Policy; and

WHEREAS, APPROVAL OF THE O&M Policy is a Type II action exempt from the State Environmental Quality Review Act (SEQRA) under 6 NYCRR 617.5 (c)(1) as it relates to the routine maintenance of the SRPs; and

DECEMBER 3, 2015 – SPECIAL MEETING/WORK SESSION

WHEREAS, approval of the O&M Policy is in the best interest of the Town of Somers as it assures continued compliance by the Town of Somers with the MS4 Permit;

NOW THEREFORE IT IS HEREBY RESOLVED by the Town Board of the Town of Somers that:

1. The Town of Somers accepts and agrees to the terms and condition of the EOHWC O&M Policy; and

2. Authorizes the Supervisor to take whatever other actions are required to implement this resolution.

The Supervisor said that it was in order for the Board to authorize the Building Inspector to solicit RFPs for the flat roof at the Recreation Center.

Thereupon motion of Supervisor Morrissey. Seconded by Councilman Clinchy, it was unanimously,

RESOLVED, that the Town Board does hereby rescind the resolution adopted at the November 5, 2015 Work Session meeting to go out to bid to replace the flat roof on the Recreation Center in Van Tassell Park and;

DOES HEREBY, authorize the Building Inspector to solicit Requests for Proposals (RFP) to replace the flat roof on the Recreation Center per memo dated November 20, 2015 from Efreem Citarella, Building Inspector.

The Supervisor said that it was in order for the Board to authorize the Superintendent of Highways to go to Bid for (1) One Rubber Tracked Excavator.

Thereupon motion of Supervisor Morrissey. Seconded by Councilman Clinchy, it was unanimously,

RESOLVED, that the Town Board does hereby authorize the Superintendent of Highways to go to Bid for (1) One Rubber Tracked Excavator per memo dated December 2, 2015 from Thomas E. Chiaverini, Superintendent of Highways.

This being a work session no further actions were taken.

Councilman Garrity said that he is unable to attend that regular meeting next week and he did not want to miss the opportunity to say how much he enjoyed working with Kathie Pacella. He said that Kathie had sworn him in to every position that he had ever had and he had sat next to her for the last 8 years. He said that she was always very helpful to him and a joy to work with over the years. Councilman Garrity said Kathie will be missed and he appreciated everything that she had done for the Town and wished her the best in retirement.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, the meeting was declared closed at 9:15 PM.

Town Clerk

DECEMBER 10, 2015 – PUBLIC HEARING

Minutes of a public hearing of the Town Board of the Town of Somers held on Thursday evening December 10, 2015 at 7:02 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:	Supervisor	Rick Morrissey
	Councilman	Richard G. Clinchy
	Councilman	Anthony J. Cirieco
	Councilman	William G. Faulkner

ABSENT:	Councilman	Thomas A. Garrity, Jr.
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Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that this was a public hearing with regard to a proposed Local Law for a minor text amendment to MFR-BP District, Section 170-13, Multifamily Residence MFR District, needed due to change for Hidden Meadow. He explained that they made this amendment in one location and failed to that for in another part of the Code.

The Town Clerk presented affidavit of public notice of the public hearing that appeared in the Somers Record on November 26, 2015 and posted on the Town Clerk's bulletin board the same day.

The Supervisor declared the hearing open and asked for comments from the public.

There being no one to be heard on motion of Supervisor Morrissey, seconded by Councilman Cirieco the hearing was declared closed at 7:05 PM.

Town Clerk

DECEMBER 10, 2015 – PUBLIC HEARING

Minutes of a public hearing of the Town Board of the Town of Somers held on Thursday evening December 10, 2015 at 7:06 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:	Supervisor	Rick Morrissey
	Councilman	Richard G. Clinchy
	Councilman	Anthony J. Cirieco
	Councilman	William G. Faulkner

ABSENT:	Councilman	Thomas A. Garrity, Jr.
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Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that this was a public hearing with regard to a proposed amendment to the Town of Somers Zoning Map.

The Town Clerk presented affidavit of public notice of the public hearing that appeared in the Somers Record on November 26, 2015 and posted on the Town Clerk's bulletin board the same day.

The Supervisor explained that the changes that the Town made to the M1R-BP District were going to be reflected in the Zoning Map Amendment and the Map had not been revised since 2005.

The Supervisor declared the hearing open and asked for comments from the public.

There being no one to be heard on motion of Supervisor Morrissey, seconded by Councilman Cirieco the hearing was declared closed at 7:08 PM.

Town Clerk

DECEMBER 10, 2015 – PUBLIC HEARING

Minutes of a public hearing of the Town Board of the Town of Somers held on Thursday evening December 10, 2015 at 7:10 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT: Supervisor Rick Morrissey
 Councilman Richard G. Clinchy
 Councilman Anthony J. Cirieco
 Councilman William G. Faulkner

ABSENT: Councilman Thomas A. Garrity, Jr.

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that this was a public hearing with regard to the Draft Comprehensive Plan Update 2015.

The Town Clerk presented affidavit of public notice of the public hearing that appeared in the Somers Record on November 26, 2015 and posted on the Town Clerk's bulletin board the same day.

The Supervisor declared the hearing open and asked for comments from the public.

Mr. Frank Fish, BFJ, Planning, Consultant for the Town, said that last fall the Town Board asked if a draft document could be put together for the end of 2015. He explained that a Comprehensive Plan was supposed to be a vision for the overall Town for the next 10 years. He said that New York State suggested about 12 sections for the Plan and they generally followed their suggestions. Mr. Fish said that there was a draft available on the Town website and when the Board was ready to adopt the Plan there would be hard copies available. He said that the Future Land Use Map was hard to read when it was printed out especially if a color copier was not used therefore he printed several copies for the Board and the public. He read the Acknowledgement page and recognizing all the people who had worked on the Comprehensive Plan.

Mr. Fish said that it was their goal to make the Plan as user friendly as possible and make it so that anyone who picked it up could read and interpret the information. He said that this evening's public hearing was to hear from the public and then the Town Board would get together again to go over all of the comments and decided what to address. He said once that was completed that the Town Board would be in a position to act on the Plan.

Mr. Fish said that they also prepared an Environmental Assessment Form (EAF) for that action. He said that in the EAF there were sections not filled in and that was before the Master Plan was a generic Plan and the sections that were sight specific were not addressed.

Ms. Maureen Devine, Susan Drive, read a prepared letter to the Board with regard to inaccuracies she found in the Draft Plan that the Town Board needed to address.

Mr. Frank Mazzotta, Raemont Road, said that he had some observations with regard to the Comprehensive Plan. He said that first off the Plan was very thorough and they should be congratulated on the amount of hard work that went into it. He said that under the Objectives it stated "to preserve the character of existing neighborhoods and support traditional neighbors" and it also stated "to minimize potential negative impacts, minimize changes to natural slopes, preserve drainage and setbacks, etc.". Mr. Mazzotta said that these were all very noble and very important especially when they consider what had been going on in Somers over the last several years. He said that the Plan appeared to increase the density of housing in Somers. He said that may be to makeup the short fall in Tax

Revenues or simply because people no longer like open spaces. Mr. Mazzotta said that Route 6 had been turned into the Scarsdale of Northern Westchester. He said that the traffic in that area was unbelievable during peak hours and weekends. He said that the Town was making a big mistake putting high density housing in that area. Mr. Mazzotta said that it had changed the character on Northern Somers. He said that the Town had approved some subdivisions that made no logical sense such as Granite Pointe. He said with regard to West Somers Park there were 4.1 acres of land that was deeded to the Town by the Boniello Family to be a passive space. Mr. Mazzotta said that a couple of years ago a Boy Scout petitioned the Board to improve the park area near the pond because many of the residents use the pond for fishing and ice skating in the winter. He said that Scout wanted to place park benches there and he was denied by the Town Board. He said that now this Comprehensive Plan discusses paving the area and putting in Basketball Courts and parking. Mr. Mazzotta said to do that to a neighborhood was a travesty and he pointed out all of the reasons that was so. He said that many of the residents had restrictive covenants on their deeds. He said that those covenants limit what could be done to their properties even though the Town had done little to enforce those covenants. Mr. Mazzotta asked the Town Board to respect those covenants just as they had. He said that he was also worried about the resale value of the homes in West Somers Park and placing a Basketball Court and parking in that area would have an effect on the values. He pointed out other locations within the Town where additional Basketball Courts could be placed. Mr. Mazzotta said that the health of the Pond also needed to be addressed, over the last few years it had become a marsh. He explained that there were dead trees in it and it was overgrown with silt. He said that it was no longer a viable pond, it was a mosquito trap.

The Supervisor said that this was a draft of a Master Plan and this was why they were having the public hearings. He said that he commended them all for coming out and speaking about their concerns. He said with regard to the pond which indeed was to be passive and a suggestion was made by the Parks and Recreation Department. The Supervisor said that it will not be reflected as a future park for Basketball Courts. He said that it was going to be reflected in the Comprehensive Plan as a Passive Park. He said that the concern had been brought to the Board's attention and they had looked into that and it was not a location that was going into the Master Plan.

Mr. William Maccreery, Granite Springs Road, said that he had been a lifetime resident of Somers and explained the history of West Somers Park. He said that he had his Restrictive Covenant that was in his Deed for his home. He said that he would like to see the pond cleaned up for the residents to continue to use for fishing and ice skating.

The Supervisor said to be clear, the reference of a parking lot and Basketball Court in West Somers Park was going to be stricken from the Master Plan. He said that the Board also hired a Grant Writing Consultant. He said that over the last couple of days the Consultant had met with Department Heads and toured the Town. He said that they were going to try to receive grants to do projects within the Town and cleaning up the pond in that area was one of the projects.

Ms. Lori Ensinger, Orchard Hill Road, member of the Westchester Land Trust, said that she wanted to commend the Master Plan Committee for their work on the Plan. She said that her comment was with regard to the Stuart Property. She said that as the Board was aware Westchester Land Trust was very close to submitting a grant application for the preservation of Stuart's Farm. Ms. Ensinger said that it was very important and she was very encouraged to see that in the Draft Comprehensive Plan there were specific references to that property which was different from the 1994 Plan. She said that it was important that those specific references remained in the document that was adopted. She explained that the reason for that was because funding partners look specifically for evidence of local support. Councilman Clinchy asked Ms. Ensinger to explain why they were after a grant to preserve Stuart's Farm. Ms. Ensinger explained the process and why it was important to Westchester Land Trust.

DECEMBER 10, 2015 – PUBLIC HEARING

Mr. Michael Blum, Chairman of Energy Environment Committee, said that he would like to thank both the Town Board and the people who worked on the Plan for the inclusion of Section 8, Environment and Sustainability. He said that two years ago they developed a Sustainability Plan for the Town of Somers and it addressed Sustainability for the Town. He said that also Section 11 was important because there would hopefully be instructions and Zoning requirements.

Dr. Henry Olsen, Heritage Hills, said that he moved to Peach Lake in 1973 and became the Water Commissioner in 1975 and they did everything they could to have Peach Lake redone and they ran into problems because it was in two Towns in two Counties. He suggested that they reach out to the other Towns to address the issue with the pond at West Somers Park.

Ms. Alice Molodec, Raemont Road, asked if any of the Board members had been over to look at the pond. She said that the Town took the property as a gift to be taken care of and they were not taking care of the property.

The Supervisor said with regard to the Future Land Use Map, the Somers Fire District had planned to purchase 12 acres of IBM property to build a Public Safety Complex. He said that part of the negotiations included a Developer who was looking at the other IBM parcel. He said the 1994 Master Plan had a road that ran from the end of a development to the Mill Pond area. The Town Planner explained that the 1994 Plan showed a conceptual connection between Route 202 to Route 100 and a portion of that was incorporated as part of the Chase Subdivision and ended as a stub road. She said that showed up on the current Future Land Use Map. The Supervisor said that the conceptual connection needed to be added back to the Future Land Use Map.

The Supervisor said that it was in order for the Board to close the public hearing at that time with a 10 day written comment period.

There being no one else to be heard on motion of Supervisor Morrissey, seconded by Councilman Faulkner, the public hearing was declared closed at 8:05 PM with a 10 day written comment period.

Town Clerk

DECEMBER 10, 2015 – REGULAR MEETING

Minutes of a regular meeting of the Town Board of the Town of Somers held on Thursday evening December 10, 2015 at 7:00 PM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT: Supervisor Rick Morrissey
Councilman Richard G. Clinchy
Councilman Anthony J. Ciriaco
Councilman William G. Faulkner

ABSENT: Councilman Thomas A. Garrity, Jr.

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The Supervisor said that it was in order for the Board to open a public hearing with regard to a proposed Local Law for a minor text amendment to MFR-BP District, Section 170-13, Multifamily Residence MFR District, needed due to change for Hidden Meadow.

7:02 PM – hearing open
7:05 PM – meeting reconvened

The Supervisor said that it was in order for the Board to adopt a Negative declaration with regard to the proposed Local Law for a minor text amendment to MFR-BP District, Section 170-13, Multifamily Residence MFR District, needed due to change for Hidden Meadow.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Ciriaco, it was unanimously,

RESOLVED, that the Town Board does hereby adopt a Negative declaration with regard to the proposed Local Law for a minor text amendment to MFR-BP District, Section 170-13, Multifamily Residence MFR District, needed due to change for Hidden Meadow.

The Supervisor said the it was in order for the Board to adopt Local Law for a minor text amendment to MFR-BP District, Section 170-13, Multifamily Residence MFR District, needed due to change for Hidden Meadow.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Clinchy, it was unanimously,

RESOLVED, that the Town Board does hereby to adopt Local Law for a minor text amendment to MFR-BP District, Section 170-13, Multifamily Residence MFR District, needed due to change for Hidden Meadow as follows:

A Local Law to amend the Code of the Town of Somers Chapter 170 entitled Zoning:

Be It Enacted by the Town Board of the Town of Somers as follows:

1. Section 170-13 Multifamily Residence MFR Districts is hereby amended as follows:

Multifamily residence districts are hereby established in order to provide suitable opportunities within the Town for the development of housing designed to satisfy the needs of households maintained by the young, the elderly and families earning less than 80% of the county's median income, and to permit a

broad array of housing types, dwelling unit sizes and forms of ownership/occupancy. These districts are intended to provide for the construction of multifamily housing on sites determined to be appropriate based upon criteria established in the Town Development Plan and in conformance with the standards recommended therein, which standards are designed to promote the public health, safety and general welfare and to require the development of housing which is responsive to the variety of special size, design, locational and affordability needs of present and future residents of the Town. To help assure the achievement of this goal with proper protection for existing and future neighboring development and infrastructure, all multifamily residence districts shall be established on a floating-zone basis, subject to approval by the Town Board and in accordance with any approved preliminary development concept plan, as described and defined herein.

A. Multi Family Residence Baldwin Place MFR-BP District. It is the specific purpose and intent of the multifamily Residence Baldwin Place MFR-BP District to provide the opportunity for the development of medium-density, as defined herein, multifamily housing in and adjacent to the Baldwin Place business center area on sites within an existing, expanded or new sanitary sewer district, capable of being served with a central water system, and with convenient access to major roads, regional shopping and community facilities and services. It is the Town's further objective that the Multifamily Residence Baldwin Place MFR-BP District include affordable housing. The following basic planning standards will be used as a general guide by the Town Board in determining and establishing the specific site and building development controls applicable within each individual Multifamily Residence Baldwin Place MFR-BP District established pursuant to this section.

- (1) Minimum site area. In order to receive consideration for designation within the Multifamily Residence Baldwin Place MFR-BP District, a tract shall have an area of not less than 10 acres. No minimum is required for each individual building lot within a development which is subdivided in accordance with a preliminary development concept plan approved by the Town Board and a final site development plan approved by the Planning Board pursuant to the planning standards of this section of this chapter as applied by the Town Board. Site location shall conform to the policies set forth in the Town Development Plan.
- (2) Underlying Zoning. In order to receive consideration for designation within the Multifamily Residence Baldwin Place MFR-BP District, a tract shall have an underlying zoning designation of R40 Residence District or R80 Residence District.
- (3) Adjacency to Baldwin Place Business Center Area. In order to receive consideration for designation of the Multifamily Residence Baldwin Place MFR-BP District floating zone, a tract shall have frontage on Route 6 and be located no further than 2,000 linear feet, measured along Route 6, from the centerline of the intersection of Route 6 and Mahopac Avenue as measured to its property line closest to that intersection.
- (4) Development density.

DECEMBER 10, 2015 – REGULAR MEETING

(a) The average gross density within a Multifamily Residence Baldwin Place MFR-BP District shall not exceed three density units, as defined in §170-12D(1)(a) of this chapter, per acre of net land area, except as provided in Subsection A(3) below. Net land area shall be calculated as set forth in Article XA. At least 15% of the basic permitted density shall consist of affordable dwelling units.

(b) In addition, the Town Board shall consider other planning and zoning policy considerations and criteria in making its determination of the appropriate number of basic density units and the suitability of the tract for multifamily development. These considerations and criteria include but are not limited to the following:

[1] Lot area.

[2] Compatibility with officially adopted town, county, regional and state plans.

[3] Availability and adequacy of sanitary sewer and water systems to be provided on a central basis.

[4] Adequacy of adjacent and nearby public roads to accommodate traffic

generated from the multifamily development or, if not presently adequate, that necessary improvements can and will be made prior to project occupancy.

[5] Availability and proximity of public transportation facilities.

[6] Availability and proximity of existing or planned employment facilities.

[7] Availability and proximity of shopping and other community services.

[8] The degree to which the proposed development is designed to achieve the planning and housing goals as set forth in this chapter and in the Town Development Plan.

(c) The Planning Board shall be responsible for determining the number of bedrooms in each dwelling unit in connection with its review of site development plans, taking into consideration the floor plans proposed by the applicant and such other information as said Board may determine appropriate.

(5) Incentive density. The permitted density on a multifamily development site in a Multifamily Residence Baldwin Place MFR-BP District may be increased by not more than 50% beyond the basic permitted density for the provision of dwelling units designated for low/moderate income families, specifically restricted as follows:

(a) Affordable dwelling units: one additional market-rate unit for each affordable unit in excess of the required 15% of the base permitted density, but not to exceed a maximum increase of 20% in the number of market-rate units.

(b) As a condition of the granting of any density increase for specifically restricted dwelling units as set forth in Subsection A(3)(a) above,

DECEMBER 10, 2015 – REGULAR MEETING

initial and continued eligibility priority shall be in accordance with Article XIA.

(6) Coverage.

- (a) The maximum permitted building coverage within a Multifamily Residence Baldwin Place MFR-BP District shall be 20%, and the maximum permitted combined coverage of buildings and paved surfaces (roads, driveways and parking areas) shall be 40%. These percentages shall relate to net land area as set forth in Article XA.
- (b) Underground or under-building parking shall be excluded from building coverage for the purpose of these calculations.

(7) Maximum building height. The maximum permitted height of buildings within a Multifamily Residence Baldwin Place MFR-BP District shall be 2 ½ stories or 30-feet, whichever requirement is more restrictive.

(8) Setbacks.

- (a) All buildings within a Multifamily Residence Baldwin Place MFR-BP District shall be set back at least 75 feet from any street line and 50 feet from any other lot line, except that the minimum setback from a common property line shared with land in an adjoining single-family residence district shall be at least 100 feet. Where the Planning Board determines that the objectives of such setbacks can be appropriately met with lesser distances, taking into consideration the nature of neighboring land uses, topographic conditions, existing vegetation, or other such similar factors, it may permit a reduction in such setback requirements.
- (b) Within such setbacks, a buffer area shall be required along all property lines of a multifamily development which abut or are directly across a local street from any property in a residence district. Such buffer area shall comply with at least the following minimum standards:

[1] It shall be at least 30 feet in width.

[2] It shall remain in its natural state with no construction, grade, alteration or clearing permitted except as approved by the Planning Board to meet site access, drainage, recreation and landscaping requirements.

[3] Evergreen planting shall be provided of such type, height, spacing and arrangement as, in the judgment of the Planning Board, will effectively screen the activity on the lot from the neighboring residential area. Non-evergreen planting may be included to supplement evergreen planting, but not to take its place.

[4] Where the existing topography and/or landscaping provides adequate screening, the Planning Board may modify the planting and/or buffer area requirements.

DECEMBER 10, 2015 – REGULAR MEETING

(9) Traffic access.

(a) Properties within a Multifamily Residence Baldwin Place MFR-BP District shall have either direct frontage on a major or collector road, as shown on the Town Development Plan, or safe and convenient access to such a road without passing through a single-family residence neighborhood. Traffic access to Multifamily Residence Baldwin Place MFR-BP District sites shall be adequate to accommodate the anticipated traffic generation resulting from the multifamily development proposed thereon, or, if not presently adequate, that necessary improvements can and will be made prior to project occupancy.

(b) No application for a multifamily development in a Multifamily Residence Baldwin Place MFR-BP District shall be granted until and unless the Town Board determines that the Town, county or state road upon which the site has frontage and/or access to is capable of accommodating the additional traffic generation or, if not, that the necessary improvements will be made prior to the occupancy of any dwelling units on the Multifamily Residence Baldwin Place MFR-BP District site.

(10) Water and sewerage facilities.

(a) Multifamily Residence Baldwin Place MFR-BP Districts intended to be established only on lands located within public water and sewer districts. If land being considered for inclusion in a Multifamily Residence Baldwin Place MFR-BP District is not presently within such utility district(s), the establishment of the zoning district shall be contingent upon the creation or expansion of such utility district(s) to include the entire area of the land so zoned, in accordance with the standards and subject to the approval of the Westchester County Department of Health and the New York State Department of Environmental Conservation.

(b) No certificate of occupancy shall be issued until all dwelling units are connected to approved and functioning central water and sewage treatment systems.

(c) Where future service by off-site water and/or sewerage systems are planned, all on-site water and sewer facilities shall be designed and located in such a way as to readily permit their connection and/or conversion to the off-site systems at such time as they are constructed.

(d) Where, in the opinion of the Town Board, the geology of an area is such that wells of large capacity may adversely impact existing wells on nearby properties, individual water meters for each dwelling unit shall be installed; the impact will be studied in any environmental impact statement. The applicant shall provide for a monitoring program, satisfactory to the Planning Board, to measure the impact on existing wells on nearby properties, and sufficient measures, as directed by the Town Board, shall be taken by the applicant to prevent and/or correct such adverse impact or to

DECEMBER 10, 2015 – REGULAR MEETING

indemnify the owner of such impacted wells; and/or, where feasible, an alternate source of water supply shall be developed.

- (11) **Drainage.** Stormwater drainage systems serving any multifamily development shall be designed so that the rate of runoff from the site during a one-hundred-year storm will not exceed that which would have occurred prior to its construction, unless another rate of runoff shall be approved by the Planning Board. The calculation of such runoff rate and the design of the drainage system shall be subject to the approval of the Town Engineer.
- (12) **Refuse collection, storage and disposal.** Plans for the collection, storage and disposal of refuse within any multifamily development shall be subject to Planning Board approval as part of its review of detailed site development plans. The outside storage of refuse, if permitted, shall be in rodentproof containers conveniently located and enclosed or otherwise screened from view. Such facilities shall comply with all setback requirements applicable to principal buildings.
- (13) **Underground utilities.** All utilities within any multifamily development, including electric, telephone and cable television service, shall be placed underground.
- (14) **Fire protection.** All site plans for multifamily development shall provide proper access for fire-fighting equipment and personnel and shall provide hydrants in such number and location and with such water supply and pressure as shall be determined adequate by the Bureau of Fire Prevention and approved by the Planning Board as part of its review of final site development plans. Interior fire separation is required. After review and recommendation of the Planning Board, the Town Board may designate a Multifamily Residence Baldwin Place MFR-BP Zone as within fire limits at the time of creation of such zone.
- (15) **Off-street parking.** Off-street parking spaces shall be provided in accordance with the requirements of § 170-12D(5). In addition, the following special standards shall apply in the Multifamily Residence MFR-BP District:
 - (a) At least 1/3 but no more than 2/3 of the minimum number of parking spaces required to serve residential dwelling units shall be enclosed within garages.
 - (b) At least 20% of the minimum number of required parking spaces shall be designed and reserved for the use of visitors and guests.
 - (c) The Planning Board may require, if deemed appropriate, the provision of suitably screened and located parking areas for the storage of recreational vehicles belonging to residents of the development.
 - (d) All maintenance vehicles or equipment shall be stored in enclosed structures only, which structures shall conform in architectural theme to the residential buildings of the development.
- (16) **Recreation area and open space.**

(a) Recreation area. Each multifamily development shall include a recreation area which is designed, improved and maintained for the use of the residents of the development and their guests on a not-for-profit basis. The recreation area shall contain at least 300 square feet of lot area per density unit and provide common active recreational facilities, such as swimming pools, playing courts (tennis, basketball, volleyball), playground equipment, etc. The plan for the recreation area shall be subject to Planning Board approval as to location, design and adequacy, taking into consideration the size of the development and the anticipated occupancy of the units. Where special recreational considerations must be met, such as for senior citizens or handicapped persons, the site plan shall contain elements encompassing and satisfying these needs.

(b) Open space. All portions of any multifamily development, including required setback areas, which are not used for one or more of the purposes permitted above shall be designed and maintained as permanent open space, free of buildings and parking areas, and shall be landscaped or preserved in a natural state in accordance with plans approved by the Planning Board.

(c) Preservation of common areas.

[1] Permanent preservation of such recreation areas and open space shall be legally assured, to the satisfaction of the Planning Board and the Town Attorney, by the filing of appropriate covenants, deed restrictions, easements or other forms of agreements. It shall be the property owner's responsibility to maintain all open space and recreation areas and such other common areas within the owner's control, including but not limited to streets, driveways, curbs, sidewalks, landscaping, lighting and public highways, in a safe, clean and orderly condition. Such maintenance shall include removal of snow from internal streets, driveways and walks. In the event that the maintenance, preservation and/or use of the conserved land areas and common facilities ceases to be in compliance with any of the requirements of this section or any other requirements specified by the Planning Board when approving the site plan, the Town shall be granted the right to take all necessary action to assure such compliance and to assess against the property owner all costs incurred by the Town for such purposes.

[2] It is the intent of this section that the responsibilities and obligations of the property owner which continue after any multifamily development has been constructed will be assumed in their entirety by a property owners' association if Planning Board approval of the final site development plan allows for the ownership of all common areas to be divided proportionately among all property owners within the development. In such an event, membership in the property owner's association shall be mandatory for all property owners in the development. Such association shall be incorporated, shall be responsible for maintenance, liability insurance and local taxes and shall be empowered to levy

DECEMBER 10, 2015 – REGULAR MEETING

assessments against property owners to defray the cost of maintenance and to acquire liens, where necessary, against property owners for unpaid charges or assessments. In the event that the property owners' association fails to perform the necessary maintenance operations, the Town of Somers shall be authorized to enter upon such premises for the purpose of performing such operations and to assess the cost of so doing against the association and/or each individual property owner equally.

(17) Other requirements.

(a) Individual unit access. In general, each individual dwelling unit within any multifamily development shall have its own separate entrance/exit leading directly to the outside. The Planning Board may waive this requirement as a part of final site development plan approval where said Board determines that the basic intent in terms of safety and the avoidance of common hallway areas can be met, through other elements of the building design.

(b) Central antenna system. If cable television service is not available to serve a proposed multifamily development, a central radio/television antenna system shall be provided for each such development or for each grouping of attached dwelling units within it. Separate exterior antennas for individual multifamily dwelling units shall not be permitted.

(c) Minimum floor area. Minimum gross floor area per dwelling unit shall not be less than the following:

Type of Unit	Minimum Gross Floor Area (Square Feet)
Efficiency	300
One-Bedroom	500
Two-Bedroom	700
Three-Bedroom	900, including at least 2 full baths
Four-Bedroom	1,100, including at least 2 full baths

(d) Exterior lighting shall be provided according to a lighting plan approved by the Planning Board.

(18) Affordable dwelling units.

(a) Quantity. Not less than 15% of the permitted basic density in each approved multifamily development shall be affordable dwelling units as defined in § 170-3 of this chapter.

(b) All other standards as discussed in Article XIA, Affordable Housing, shall apply.

DECEMBER 10, 2015 – REGULAR MEETING

2. Effective Date: This Local Law shall be effective immediately upon filing of same with the Secretary of State of the State of New York.

The Supervisor said that it was in order for the Board to open a public hearing with regard to a proposed amendment to the Town of Somers Zoning Map.

7:06 PM – hearing open
7:08 PM – meeting reconvened

The Supervisor said that it was in order for the Board to adopt a Negative Declaration with regard to the proposed amended Town of Somers Zoning Map.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Cirieco, it was unanimously,

RESOLVED, that the Town Board does hereby adopt Negative Declaration with regard to the proposed amended Town of Somers Zoning Map.

The Supervisor said that it was in order for the Board to adopt the amended Town of Somers Zoning Map as it was presented.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Cirieco, it was unanimously,

RESOLVED, that the Town Board does hereby adopt amended Town of Somers Zoning Map as it was presented.

The Supervisor said that it was in order for the Board to open a public hearing with regard to the Draft Comprehensive Plan Update 2015.

7:10 PM – hearing open
8:05 PM – meeting reconvened

PUBLIC COMMENT:

Ms. Eileen Pagkos, Richard Somers Road, said that she was a resident of West Somers Park for over 30 years and she wanted to point out that everyone in the neighborhood had their own recreational equipment in their yards. She said that there was no need for the Town to build something in that area.

There being no one else to be heard on motion of Supervisor Morrissey, seconded by Councilman Cirieco, public comment session was declared closed.

Monthly reports

The Town Clerk presented monthly reports from the Town Clerk, Building Inspector, Parks and Recreation, Tax Receiver, Planning and Engineering, Zoning, Plumbing, Bureau of Fire Prevention and Director of Finance.

Adoption of 2016 Budget

The next item on the agenda was with regard to the adoption of the 2016 Budget. The Supervisor pointed out there were some changes to the Library Budget and there had been zero change to the bottom line of the budget. He said that this kept the Town under the Tax Cap. He said that he wanted to thank the Director of Finance for all of his hard work on the budget.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, it was unanimously,

RESOLVED, that the Town Board does hereby adopt the Preliminary Budget as presented on December 10, 2015 as the 2016 Budget.

DECEMBER 10, 2015 – REGULAR MEETING

The Supervisor said that the next item on the agenda was to authorize the Supervisor to execute a letter of support for Stuarts Farm for the Westchester Land Trust Grant application to New York State.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, it was unanimously,

RESOLVED, that the Town Board does hereby authorize the Supervisor to execute a letter of support for Stuarts Farm for the Westchester Land Trust Grant application to New York State.

PERSONNEL:

Current Vacancies:

Somers Energy Environmental Committee
Affordable Housing Board (3 – unexpired 2 year terms ending July 11, 2017)

Upcoming Vacancies:

Planning Board (1 – 7 year term ending December 31, 2022)
Zoning Board of Appeals (1 – unexpired term ending December 31, 2020)

The Supervisor said that it was in order to announce the hiring of Mr. Joseph Miira as Road Maintainer for the Somers Highway Department.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Cirieco, it was unanimously,

RESOLVED, that the Town Board does hereby announce the hiring of Joseph Mirra Full-time as Road Maintainer for the Somers Highway Department effective Monday, November 23, 2015 at an annual salary of \$49,439.00 which he will receive 90% of it for the first six months at an hourly rate of (\$21.3919.) Then after the 26 week 95%, upon completion of one year of service the employee shall receive the full salary rate of pay, per memo dated November 20, 2015 from Thomas E. Chiaverini, Superintendent of Highways.

The Supervisor said that it was in order to announce the promotion of two Highway employees.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Cirieco, it was unanimously,

RESOLVED, that the Town Board does hereby announce that Craig Dufner is promoted to Heavy Motor Equipment Operator effective December 2, 2015 at the hourly pay rate of \$33.276, per memo dated December 2, 2015 from Thomas E. Chiaverini, Superintendent of Highways..

Thereupon motion of Supervisor Morrissey, seconded by Councilman Cirieco, it was unanimously,

RESOLVED, that the Town Board does hereby announce that Matthew Pfaffenbach is promoted to Motor Equipment Operator effective December 2, 2015 at the hourly pay rate of \$32.2197, per memo dated December 2, 2015 from Thomas E. Chiaverini, Superintendent of Highways.

The Supervisor said that it was in order to announce the hiring of Mr. Charles Huber, III as Road Maintainer for the Somers Highway Department.

Execute a letter of support for Stuarts Farm for the Westchester Land Trust Grant application

Hiring of Mr. J. Miira as Road Maintainer - Highway Dept

Promotion of C. Dufner- Highway Dept

Promotion of M. Pfaffenbach- Highway Dept

DECEMBER 10, 2015 – REGULAR MEETING

Thereupon motion of Supervisor Morrissey, seconded by Councilman Cirioco, it was unanimously,

RESOLVED, that the Town Board does hereby announce the hiring of Charles Huber, III as Road Maintainer effective December 8, 2015 at an annual salary of \$49,439.00 which he will receive 90% of it for the first six months at an hourly rate of (\$21.3919). Then after the 26th week 95%, upon completion of one year of service the employee shall receive the full salary rate of pay, per memo dated December 8, 2015 from Thomas E. Chiaverini, Superintendent of Highways.

The Supervisor said that it was in order to announce the hiring of Ms. Regina C. Murdock, Intermediate Clerk, Part-time in the Town Clerk's Office.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Cirioco, it was unanimously,

RESOLVED, that the Town Board does hereby announce the hiring of Regina C. Murdock, as Intermediate Clerk-Part time in the Town Clerk's office effective December 7, 2015 at the hourly pay rate of \$17.00 , per memo from Kathleen R. Pacella, Town Clerk.

The next item was the consensus agenda.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, it was unanimously,

1. RESOLVED, that the Town Board does hereby authorize the release of \$63,272.00 Maintenance Bond for the Wooded Acres Subdivision, per memo dated November 19, 2015 from Steven Woelfle, Principal Engineering Technician.

2. RESOLVED, that the Town Clerk announces Alfant Corporation aka/LeFontane Restaurant is renewing their liquor license for liquor, wine and beer, per memo dated November 20, 2015 from Kathleen R. Pacella, Town Clerk.

3. RESOLVED, that the Town Board does hereby authorize the following budget modification per memo dated November 23, 2015 from Rick Morrissey, Supervisor:

RESOLVED, that the Town Board does hereby authorize a budget modification for Repairs and Replacement of Transmission & Distribution System expenses that were higher than anticipated per memo dated November 18, 2015 from Adam Smith, Sewer & Water Superintendent:

From:	<u>050 – Amawalk Heights Water District</u>	
	8310.0410 – Water Administration -	\$4,000.00
	8310.0400 – Water Administration -	\$1,200.00
	8340.0410 – Transmission Distribution	
	Interfund	\$1,000.00
To:	<u>050 – Amawalk Heights Water District</u>	
	340.0400 – Transmission & Distribution	
	Contractual	\$62,000.00

4. RESOLVED, that the Town Board does hereby authorize \$6,000.00 Bad Weather Adjustment payment to Louis Noto, Deputy Highway Superintendent per memo dated November 24, 2015 from Thomas E. Chiaverini, Superintendent of Highways.

Hiring C.
Huber, III
Road
Maintainer -
Highway Dept

Hire R.
Murdock -
PT Clerk in
Town
Clerk's
Office

Release
Maintenance
Bond

Alfant
Corporation
renewing
their liquor
license

Budget
modifications

Bad Weather
Adjustment
payment to Louis
Noto, Deputy
Highway
Superintendent

DECEMBER 10, 2015 – REGULAR MEETING

MOA with Local 456, International Brotherhood of Teamsters

5. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the Memorandum of Agreement (MOA) with Local 456, International Brotherhood of Teamsters.

Accept Erosion Control Bond

6. RESOLVED, that the Town Board does hereby accept the following Erosion Control Bond per memo dated December 1, 2015 from Wendy Getting:

- a. \$500.00 – Capone – Stormwater Management & Erosion & Sediment Control Permit 27.11-1-16.

SEQRA Refund

7. RESOLVED, that the Town Board does hereby authorize \$274.01 SEQRA refund to John Zadjelovitch for the Gerlach/Zadjelovich (Stuarts Farm) Subdivision per memo dated December 4, 2015 from Syrette Dym, AICP, Director of Planning.

RFP's for gutter cleaning and window washing of the Town House and Annex Buildings

8. RESOLVED, that the Town Board does hereby authorize Request for Proposals (RFP's) for gutter cleaning and window washing of the Town House and Annex Buildings per memo dated December 7, 2015 from Efram Citarella, Building Inspector.

Execute Application for Vision Insurance with Shelter Point

9. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute Application for Vision Insurance with Shelter Point (formerly First Rehabilitation Life Insurance Company of America) effective January 1, 2016.

The Supervisor pointed out the special meeting was going to be held on December 22, 2015 at 10:00 AM. He said that the special meeting was to award a bid for the Highway Department and to review and adopt the Community Choice Aggregation Resolution.

The Supervisor said that the Food Pantry at St. Luke's was open on Fridays from 2:00 PM to 6:00 PM to serve the community.

The Supervisor said that Saturday, December 12th from 1:00 PM to 4:00 PM was Holidays at the Homestead and Gingerbread Festival at the Wright Reis Homestead.

The Supervisor said that Sunday December 13th, the Knights of Columbus would be lighting the Nativity at the Town House at 3:00 PM.

The Supervisor said that he wanted to thank Kathleen R. Pacella, Town Clerk for her years of service and dedication to the Town. He said that she had been the angel on his shoulder and had always kept him on track during the meetings. He said on behalf of himself and the Town Board they had appreciated all that she had done.

Kathleen R. Pacella, Town Clerk said that she also wanted to thank the Town Board it was a pleasure to work with them. She said that she had worked under 4 Supervisors, 3 Building Inspectors, 2 Fire Inspectors and 2 Town Attorneys and it had been a pleasure. She said that she was going to miss everyone and she enjoyed working for the Town.

The Supervisor wished everyone a Merry Christmas and Seasons Greetings.

Claims for the payment of all Town Bills in the amount of \$571,937.08 were presented and allowed for payment as shown on the Abstract of Audited Claims on file in the office of the Town Clerk.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, the meeting was adjourned at 8:25 PM.

Town Clerk

DRAFT

DECEMBER 22, 2015 – SPECIAL MEETING

Minutes of a special meeting of the Town Board of the Town of Somers held on Tuesday morning December 22, 2015 at 10:05 AM at the Town House, 335 Route 202, Somers, New York.

ROLL CALL:

PRESENT:	Supervisor	Rick Morrissey
	Councilman	Richard G. Clinchy
	Councilman	Thomas A. Garrity, Jr.
	Councilman	Anthony J. Ciriaco
	Councilman	William G. Faulkner

ABSENT:

Also present were Kathleen R. Pacella, Town Clerk, Patricia Kalba, Deputy Town Clerk and Roland A. Baroni, Jr., Town Attorney.

The first item on the agenda was to award a bid for a Rubber Tracked Excavator. The Superintendent of Highways explained that three different bids were received and he recommended that the bid be awarded to Durante Rentals, LLC. He stated that they were lowest bidder within the specifications. He also explained the departments need for the Rubber Tracked Excavator and the benefits of the machine.

Thereupon motion of Supervisor Morrissey, seconded Councilman Faulkner, it was unanimously,

RESOLVED, that the Town Board does hereby award bid for the Rubber Tracked Excavator, Takeuchi Model TB290 to Durante Rentals, LLC, 717 Hutchinson River Parkway, Bronx, NY 10465 being the lowest bidder who met the specifications in the amount of \$95,856.00. The bids received were as follows:

Durante Rentals, LLC
717 Hutchinson River Parkway
Bronx, NY 10465

\$ 95,856.00

Westchester Tractor, Inc.
60 International Blvd.
Brewster, NY 10509

\$ 97,468.43 w/Kubotu Attachments
\$102,074.00 w/WainRoy

Attachments

A. Montano Company
571 Route 212
Saugerties, NY 12477

\$ 93,794.83

The Supervisor said that the next item on the agenda was with regard to the Community Choice Aggregation Resolution. The Town Attorney said that he participated in an hour and a half conference call with a representative for Community Choice Aggregation and other Town Attorneys. He said that a lot of issues were raised during the call and some in writing afterwards. He said that they were supposed to have a new draft before the Holidays but no Town would be acting on the Resolution until sometime in January. Discussion ensued with regard to some of the issues and concerns that were brought up and the Board agreed to hold off on this Resolution until some of the concerns were addressed and the Resolution was ready to be adopted.

The next item was for the Town Board to declare themselves as Lead Agency under SEQRA on the Town of Somers Comprehensive Plan Update.

DECEMBER 22, 2015 – SPECIAL MEETING

Thereupon motion of Supervisor Morrissey, seconded by Councilman Cirieco, it was unanimously,

RESOLVED, that the Town Board does hereby declare the Town Board as Lead agency under SEQR on the Town of Somers Comprehensive Plan Update.

The Supervisor said that the next item was to set a second public hearing on the Town of Somers Comprehensive Plan Update for January 14, 2016.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Faulkner, it was unanimously,

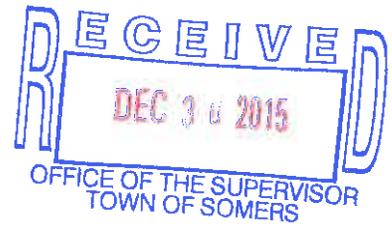
RESOLVED, that the Town Board does hereby set January 14, 2016 as the date for the second public hearing on the Town of Somers Comprehensive Plan Update.

The next item on the agenda was to award the proposal for the replacement of the flat roof at Van Tassell Recreation Center. The Supervisor said that the Board received an email from the Building Inspector stating that there was only one Request for Proposal (RFP) submitted and it was over the monetary threshold. He continued that the Building Inspector wanted to discuss the proposal with the person who submitted although they were not available until after the New Year. The Town Attorney said that there seemed to be some confusion with the Building Department with regard to the need for bonding when submitting a RFP. He said that the bonding requirements for a RFP can only be waived by the Town Board. He said that going back to the person who submitted the proposal and asking to lower the price was not a good way to go because that cost was likely to be higher when the bonding component was added. The Supervisor said that it would be beneficial for all Departments if the Town Attorney would prepare a summary of the Request for Proposal and Bidding processes.

Thereupon motion of Supervisor Morrissey, seconded by Councilman Garrity, the meeting was adjourned at 10:40 PM.

Town Clerk

Jan 14, 2016
Agenda -
SC - TBTC TA
S. Ralston
1/8/16 ksp



December 29, 2015

Supervisor Rick Morrissey
Town of Somers
335 Route 202
Somers, NY 10589

Via UPS

Re: Wireless Facility Proposal (NY577 Reis Park) – 82 Primrose Street, Katonah, NY - *Reis Park*

Dear Supervisor Morrissey,

Homeland Towers would like to discuss with you the opportunity to develop a site on municipal property that will allow your area to benefit from the increasing need for wireless infrastructure. Homeland Towers develops and owns wireless infrastructure that is utilized by the cell phone and wireless industry. We have identified the property at 82 Primrose Street, Katonah as a potential wireless siting solution that will create a revenue stream for the Town.

The principals of Homeland Towers have a combined 40 years of experience providing wireless solutions utilized by AT&T/Cingular, Verizon, Sprint/Nextel and T-Mobile throughout the Northeast. Homeland Towers maintains a proven track record of partnering with Municipalities, Private Landlords, and Organizations to maximize the value of their property. Our expertise in real estate, zoning administration, construction and site management provides a fluid process that will benefit the Town.

Homeland Towers is proposing to lease approximately 5,625 square feet of ground space (75' x 75') at 82 Primrose Street, Katonah with the intent of establishing a communication facility. Our standard lease term is for ten (10) years with six (6) consecutive five (5) year option periods. You will receive the greater of \$1,800.00 per month with 3% annual increases or 35% of all gross rents collected by Homeland Towers, whichever is greater. Enclosed please find a rent matrix that illustrates the potential revenue you may receive.

All project costs associated with our proposal, including municipal approvals and construction costs are at the sole expense of Homeland Towers. Once construction is complete, we take full responsibility for managing the site and coordinating its use by telecommunications providers.

Please contact us at your earliest convenience to discuss the above proposal.
I look forward to speaking with you.

Sincerely,

Vincent Xavier
Site Development Manager
914-879-9172 - cell
vlx@homelandtowers.us

Enclosure

Year of Lease	Monthly Amount	Yearly Total	Cumulative 5 Year Total
1	\$ 1,800.00	\$ 21,600.00	
2 (2 Carriers)	\$ 2,131.50	\$ 25,578.00	
3 (3 Carriers)	\$ 3,245.45	\$ 38,945.40	
4 (4 Carriers)	\$ 4,392.81	\$ 52,713.72	
5	\$ 4,524.59	\$ 54,295.13	\$ 193,132.25
6	\$ 4,660.33	\$ 55,923.99	
7	\$ 4,800.14	\$ 57,601.71	
8	\$ 4,944.15	\$ 59,329.76	
9	\$ 5,092.47	\$ 61,109.65	
10	\$ 5,245.24	\$ 62,942.94	\$ 490,040.29
11	\$ 5,402.60	\$ 64,831.23	
12	\$ 5,564.68	\$ 66,776.16	
13	\$ 5,731.62	\$ 68,779.45	
14	\$ 5,903.57	\$ 70,842.83	
15	\$ 6,080.68	\$ 72,968.12	\$ 834,238.07
16	\$ 6,263.10	\$ 75,157.16	
17	\$ 6,450.99	\$ 77,411.87	
18	\$ 6,644.52	\$ 79,734.23	
19	\$ 6,843.85	\$ 82,126.26	
20	\$ 7,049.17	\$ 84,590.05	\$ 1,233,257.64
21	\$ 7,260.65	\$ 87,127.75	
22	\$ 7,478.46	\$ 89,741.58	
23	\$ 7,702.82	\$ 92,433.83	
24	\$ 7,933.90	\$ 95,206.84	
25	\$ 8,171.92	\$ 98,063.05	\$ 1,695,830.69
26	\$ 8,417.08	\$ 101,004.94	
27	\$ 8,669.59	\$ 104,035.09	
28	\$ 8,929.68	\$ 107,156.14	
29	\$ 9,197.57	\$ 110,370.82	
30	\$ 9,473.50	\$ 113,681.95	\$ 2,232,079.62
31	\$ 9,757.70	\$ 117,092.41	
32	\$ 10,050.43	\$ 120,605.18	
33	\$ 10,351.94	\$ 124,223.33	
34	\$ 10,662.50	\$ 127,950.03	
35	\$ 10,982.38	\$ 131,788.54	\$ 2,853,739.11
36	\$ 11,311.85	\$ 135,742.19	
37	\$ 11,651.20	\$ 139,814.46	
38	\$ 12,000.74	\$ 144,008.89	
39	\$ 12,360.76	\$ 148,329.16	
40	\$ 12,731.59	\$ 152,779.03	\$ 3,574,412.84
	Total Amount	\$ 3,574,412.84	
Assumptions:			
4 carriers by year 4 @ \$3000 per month w/ 3% annual increase			

Existing Cell Tower/Antenna Locations Throughout The
Town of Somers

LINCOLN HALL

TM: 16.15-1-1.1
87 Route 202
95-foot high (at 107-feet AGL - includes whip antenna)
Nexel, Omnipoint, AT&T

c/o Crown Atlantic Company
PMB 353
4017 Washington Road
McMurry, PA 15317

LINCOLN HALL

TM: 16.15-1-1
115 Route 202
Smokestack
100-foot = Nexel
90-foot level on existing pole = AT&T Wireless
79-foot level on existing pole = Omnipoint

HERITAGE HILLS

TM: 17.05-20-2
250 West Hill Drive
75-foot high
AT&T (Cellular One)

PEPSI BUILDING

TM: 38.18-1-1
1 Pepsi Way
Antennas on Top Floor of Building
Nexel, Omnipoint, Verizon

IBM

TM: 17.19-1-1
294 Route 100
100-foot high
Bell Atlantic Mobile
c/o Crown Atlantic Company
PMB 353
4017 Washington Road
McMurry, PA 15317

SAMAJ INVESTORS (Majestic Property "Flagpole")

TM: 28.10-1-6.1
243 Route 100
105-foot high
AT&T ~ New Cingular Wireless

OMNIPPOINT COMMUNICATIONS @ TOWNE CENTRE

TM: 17.15-1-13
325 Route 100
103-foot high
T-Mobile Northeast (FKA Omnipoint Communications)

OMNIPPOINT COMMUNICATIONS @ SOMERS COMMONS

TM: 4.20-1-11
80 Route 6
120-foot high
Omnipoint/New Cingular Wireless

HOMELAND TOWERS

AMATO
TM: 38.17-1-5
121 Route 100
140-foot high
New Cingular Wireless (AT&T)

HOMELAND TOWERS

SANTARONI
TM: 37.13-2-3
2580 Route 35
135-foot high
New Cingular Wireless (AT&T)

Community Choice Aggregation Memorandum of Understanding

This Memorandum of Understanding is entered into by and between:

 Sustainable Westchester, Inc, a New York not-for-profit corporation, and
 City/Town/Village of _____, a local government member of Sustainable Westchester,
Inc.

1. Background:

- a. In February 2015, the New York Public Service Commission issued an Order for Case 14-M-0564 as follows: “The Petition of Sustainable Westchester is granted to the extent that its municipal members are authorized to undertake a Community Choice Aggregation demonstration project consistent with the discussion in the body of this Order...” (attached as Exhibit A).
- a. The **City/Town/Village of _____** has adopted local legislation to enable Community Choice Aggregation and a local resolution expressing the intent to participate in Community Choice Aggregation (“Intent-to-Participate Resolution”).
- b. As a member of Sustainable Westchester in good standing, the **City/Town/Village of _____** wishes to engage the services of Sustainable Westchester as the Program Manager for Community Choice Aggregation for the Operation and Maintenance of the Program.
- c. Sustainable Westchester will serve as Program Manager under the terms of the Electric Service Agreement (attached as Exhibit B) on behalf of any member municipality that executes the Electric Service Agreement and otherwise qualifies for the Program, thereby creating a new shared service among the participating cities, towns and villages of Westchester County.

2. Definitions:

- a. **Bundled Customers** – Residential and Small Commercial customers of electricity or natural gas (“fuels”) who are purchasing the fuels from the Distribution Utility.
- b. **Community Choice Aggregation Program or CCA Program or Program**– A municipal energy procurement program, which replaces the incumbent utility as the default Supplier for all Bundled Customers within the Participating Municipality, as defined in the February Order.
- c. **Competitive Supplier:** An entity duly authorized to conduct business in the State of New York as an energy service company (ESCO) that procures electric power and natural gas for Bundled Customers in connection with this CCA Program.
- d. **Compliant Bid:** Electric power supply bid from a Competitive Supplier that meets the requirements specified in the Intent-to-Participate Resolution and ESA. Compliant bids meet one of the following criteria:
 - i. the default price is guaranteed to be consistently less than the Distribution Utility price for the same period; or
 - ii. the default price is fixed at a level that is less than the average utility price for the same commodity, for the same customer class, over the Preceding Twelve Month Period (as defined below); or
 - iii. the default price is at first set at a level that is less than the average utility price for electricity, for the same customer class, over the Preceding Twelve Month Period, and only floats upward by less than twenty-five percent (25%) of the price increases implemented by the utilities

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- e. **Electric Service Agreement (ESA):** The Electric Service Agreement that contains all the terms and condition appertaining the energy procurement request published by the Program Manager on behalf of the Participating Municipalities. (Attached as Exhibit B.)
 - f. **February Order:** February 26, 2015 “Order Granting Petition in Part” issued by PSC in Case 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.” (Attached as Exhibit A.)
 - g. **Independent Review:** An assessment of each Competitive Supplier's response by an independent accountant or other qualified consultant that is selected by the Program Manager (as defined below), to be undertaken on behalf of and paid for by the Program Manager. For each Competitive Supplier's response, such assessment will include a determination of (i) the creditworthiness of the Competitive Supplier or adequate documentation of alternative credit arrangement that is at least as secure as a credit-worthy Competitive Supplier, and (ii) compliance with respect to pricing, as outlined in these definitions and in each Intent-to-Participate Resolution (as defined below).
 - h. **Intent-to-Participate Resolution:** Local resolution adopted by Municipality authorizing their participation in the Program and defining the conditions of that participation (e.g. pricing compliance).
 - i. **Distribution Utility:** Owner or controller of the means of distribution of the natural gas or electricity that is regulated by the Public Service Commission in the Participating Municipality.
 - j. **Participating Municipality:** A dues-paying municipal member of Sustainable Westchester Inc, which has adopted the applicable local legislation and Intent-to-Participate Resolution for the Community Choice Aggregation Program.
 - k. **Preceding Twelve Month Period:** For purposes of evaluating a Compliant Bid, the most recent twelve month period for which the applicable information is available.
 - l. **Program Manager:** Sustainable Westchester, Inc, a non-profit corporation of which the Participating Municipality is a member, is authorized by the Public Service Commission per Order for Case 14-M-0564 “to undertake a Community Choice Aggregation demonstration project.”
 - m. **Public Service Commission:** The New York State Public Service Commission or the New York State Department of Public Service acting as staff on behalf of the Public Service Commission (PSC).
3. **Purpose:** The purpose of the Memorandum of Understanding is as follows:
- a. To establish participation by **City/Town/Village of _____ (hereafter, the “Participating Municipality”)** in a Community Choice (Energy) Aggregation Program (hereafter, the “Program”) that will be managed on its behalf by **Sustainable Westchester, Inc (hereafter, the “Program Manager”)**, under the terms outlined in the attached Electric Service Agreement (Exhibit B);
 - b. To affirm that the Participating Municipality and Program Manager agree to adhere to the terms and conditions of the attached Electric Service Agreement in the event they execute the agreement as outlined in 3(c), below

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- c. To affirm that the Participating Municipality and Program Manager agree to execute the Electric Service Agreement, subject to the conditions of review and approval outlined in 4(c)(i), 4(c)(ii), 4(c)(iii), 5(a)(i), and 5(a)(ii), outlined below.
- 4. Roles and responsibilities of the Program Manager:** As Program Manager, Sustainable Westchester Inc agrees to perform all duties outlined in the Electric Service Agreement and, prior to execution of that agreement, Program Manager agrees to:
- a. Provide the involved agencies and parties to the February Order, such as but not limited to the Public Service Commission or Local Distribution Utility, requested information about and documentation of the actions undertaken by the Participating Municipality in furtherance of enabling participation in the Program;
 - b. Manage the energy procurement bidding process including:
 - i. the identification and notification of potential firms seeking to be the Competitive Supplier,
 - ii. the Request for Proposals process from preparation of the content to the publication of the Request and management of firms responding to the Request,
 - iii. the preparation of the Electric Service Agreement that will be included in the Request,
 - iv. the acceptance and secure opening of the responses to the Request, and
 - v. the organizing and procuring of the Independent Review,all in a manner that is transparent to the Participating Municipality and firms seeking to be the Competitive Supplier;
 - c. Sign the Electric Service Agreement in a timely fashion subject to the conditions that:
 - i. the Competitive Supplier is deemed creditworthy for the duration of the Electric Service Agreement by the Independent Review, or
 - ii. the Competitive Supplier arranges alternative credit terms that are, at a minimum, as secure as those achieved with a creditworthy Supplier as deemed by the Independent Review, and
 - iii. the Competitive Supplier's response to the Energy Procurement Request for Proposals is deemed a Compliant Bid as defined in Section 2, above, by an Independent Review; and
 - d. Fulfill any other responsibilities as may reasonably adhere to facilitating the implementation of the Program, subject to the Program Manager's inherent and original role as an organization driven by the deliberated priorities of its constituent member municipalities.
- 5. Roles and responsibilities of the Participating Municipality:** As a Participating Municipality, the **City/Town/Village of _____** agrees to:
- a. Sign the Electric Service Agreement in a timely fashion subject to the conditions that:
 - i. the Competitive Supplier is deemed creditworthy for the duration of the Electric Service Agreement by the Independent Review, or
 - ii. the Competitive Supplier arranges alternative credit terms that are, at a minimum, as secure as those achieved with a creditworthy Competitive Supplier as deemed by the Independent Review, and such Competitive Supplier's response to the Energy Procurement Request for Proposals is deemed a Compliant Bid by the Independent Review.

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6. **Term:** Memorandum of Understanding shall expire on the earlier of April 30, 2017 or the date on which the ESA is signed by all three counterparties to the ESA.
7. **IN WITNESSETH WHEREOF**, the parties hereto have signed this MEMORANDUM OF UNDERSTANDING on the day and year appearing below their respective signatures.

City/Town/Village of _____

Authorized Official: _____

Signature Printed Name and Title:

Address: _____

Telephone(s): _____

E-Mail Address: _____

Address for Notices:

Sustainable Westchester Inc

Authorized Official: _____

Signature Printed Name and Title:

Address: _____

Telephone(s): _____

E-Mail Address: _____

Address for Notices:

Attachments:

Exhibit A Public Service Commission Order for Case 14-M-0564 (February 2015)

Exhibit B Electric Service Agreement (1/04/2016)

EXHIBIT A

Public Service Commission Order for Case 14-M-0564

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public
Service Commission held in the
City of Albany on February 26,
2015

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Gregg C. Sayre

COMMISSIONER EXCUSED:

Diane X. Burman

CASE 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 and Effective February 26, 2015)

BY THE COMMISSION:

BACKGROUND

In a Petition filed on December 23, 2014, Sustainable
Westchester, Inc. (SW or Petitioner) requested approval to
implement a demonstration community choice aggregation (CCA)
program within the County of Westchester. The Petitioner asked

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that Consolidated Edison Company of New York, Inc. and New York State Electric & Gas Corporation (the Utilities) be required to provide certain customer information to Petitioner and that it be relieved from compliance with certain provisions of the Uniform Business Practices (UBP). In order for it to expeditiously implement the demonstration CCA program and take advantage of historic low electricity and natural gas prices, the Petitioner concluded, action on the Petition should be expedited.

PUBLIC NOTICE AND COMMENTS

In conformance with State Administrative Procedure Act (SAPA) §202(1), notice of the Petition was published in the State Register on January 7, 2015 (SAPA No. 14-M-0546SP1). The SAPA §202(1)(a) period for submitting comments in response to the notice expired on February 23, 2015. A comment was received from the Joint Utilities.¹ No other comments were received.

THE PETITION

Sustainable Westchester is a New York State not-for-profit corporation whose members include several municipalities in Westchester County.² According to SW, it has been working

¹ Consolidated Edison Company of New York, Inc. (Con Edison), Orange and Rockland Utilities, Inc. (O&R), Central Hudson Gas & Electric Corporation (Central Hudson), National Fuel Gas Distribution Corporation (National Fuel), The Brooklyn Union Gas Company d/b/a National Grid NY (KEDNY), KeySpan Gas East Corporation d/b/a National Grid (KEDLI), Niagara Mohawk Power Corporation d/b/a National Grid (Niagara Mohawk), New York State Electric & Gas Corporation (NYSEG), and Rochester Gas and Electric Corporation (RG&E).

² Sustainable Westchester was organized in 2010 as Northern Westchester Energy Action Consortium, Inc. (NWEAC). In 2014, NWEAC merged with the Southern Westchester Energy Action

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toward achieving CCA for its members for more than two years, and several of its member municipalities have already adopted resolutions in support of CCA, including County of Westchester, the Cities of Peekskill and Yonkers, the Towns of Bedford, Lewisboro, North Castle, North Salem, Ossining, and Somers, and the Village of Pleasantville. These resolutions support implementation of a CCA program 1) whereby individual consumers are free to opt-out of CCA offerings and 2) whereby municipalities may execute a CCA contract under which residential and small commercial customers who are not currently served by an Energy Services Company (ESCO) are enrolled with an ESCO for the provision of gas and/or electricity at a rate which either saves them money, is a fixed rate contract, or is a contract for a green product.

According to SW, its CCA Program is intended to include both residential and commercial customers and to permit aggregation of both electric and natural gas purchases. As municipalities agree to participate in the CCA pilot, SW proposes that they be permitted to request on a rolling basis aggregated customer information, by fuel type, service classification, and capacity tag, from the distribution utilities.³ The relevant utility would be required to provide such information to SW within ten days of receiving SW's written request, free of charge, or at most for a nominal fee.

SW expects to issue an RFP to energy suppliers and/or

Consortium (SWEAC), and the combined entity was named Sustainable Westchester, Inc.; members include forty towns, villages and cities in Westchester County.

³ Westchester County is served in part by Con Edison and in part by NYSEG.

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independent power producers on or about 90 days after the date of the Commission Order in this proceeding, with a response to the RFP due within ten days later. Within 20 days of issuance of the RFP, SW expects to issue an award to one or more suppliers and notify them of any surcharge required to support administration, legal support, communications needs, and the build-up of a fund intended to support energy efficiency and control retrofits, distributed generation, enhanced renewable generation, and other permissible measures that SW reasonably deems appropriate.

SW proposes that once the award is issued, it will notify the appropriate utility, and the utility will then provide notifications to "bundled customers" of the contract terms and of their opportunity to opt-out within ten days. The utility notification would include the most recent updated price information and the contract period, terms for making prospective price changes, exit costs (if any), name of supplier, and any other permitted terms or features that SW deems are appropriate. Within five days following the ten day opt-out deadline, SW maintains, the utility should provide precise usage data and capacity tag obligations, account numbers, and service addresses of all customers who have not opted out of the CCA to the selected ESCOs.

SW anticipates that it will request of the utilities permission to insert communication material into utility-issued bills. SW indicates that it prefers free movement of customers out of the awarded contract, unless an upgrade has been financed on-bill. SW also proposes that an "Open Underwriting Resource Service" fund (OURS) be created to support upgrades over-and above those supported by state programs, as well as other energy efficiency investments, distributed generation, distributed or merchant renewable generation, control systems, microgrid

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technology or marketing measurement technology, or other innovative technologies or business strategies.

SW affirmed that it will abide by strict policies for protection of the confidentiality of personally identifiable information, intended to approach, mimic, or surpass standards applicable to utilities and ESCOs. SW also indicated that it intends to offer on-bill financing in the future but did not provide details. SW proposes a four year duration for its CCA Program, a time frame it believes is sufficient to incorporate into the Program newly-developed renewable resources.

SW supported its request for expedited Commission action by stating that it was involved in an extensive and open consultation process with many stakeholders throughout a more than two-year process in which the group had sought and gained New York State Assembly and Senate passage of enabling legislation for a Westchester County demonstration CCA project.⁴ SW's view is that the legislative process it participated in, which included multiple public hearings in more than ten municipalities, discussions with utility staff, continuing consultation with ESCOs and with environmental action groups, and consistent engagement with consumer advocates, academic experts, and Community Choice Aggregators throughout the United States, obviates the need for a further comment period.

COMMENTS

Although the Petition would only affect Con Edison and NYSEG, the Joint Utilities submitted comments because authorization of a pilot could have an impact on the development

⁴ The Legislation was subsequently vetoed by Governor Andrew Cuomo.

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of other CCA programs throughout New York. The Joint Utilities believe that the development of CCA programs requires careful consideration and analysis. The Joint Utilities explain that CCA programs should be implemented in a way that preserves existing retail access processes, including Electronic Data Interchange (EDI), and is consistent with the Staff White Paper and the Joint Utilities' comments in the Generic CCA Proceeding,⁵ which envision the municipality as the entity to inform, educate, and administer a CCA program.

The Joint Utilities express a preference for customer opt-in CCA programs and stress that, if the Commission does determine that opt-out is acceptable practice for CCA programs, the Commission should also ensure that adequate customer protections are in place to avoid unintended switches of commodity suppliers. The Joint Utilities also argue that a detailed CCA program plan should be filed by the municipality and approved by the Commission prior to implementation. The Joint Utilities recommend that the CCA demonstration be limited to one municipality and to residential customers only so that municipalities, customers, and the utilities all can understand the impacts associated with the changes to existing business models and to inform statewide implementation of CCA programs.

The Joint Utilities state that the SW proposal would require utility ratepayers to shoulder significant costs for the implementation of the proposed CCA program without any payment for such service. For instance, the Joint Utilities explain, the Petition requests that the utilities notify residents of the municipality's decision to establish a CCA program, to inform

⁵ See Case 14-M-0224, Community Choice Aggregation Programs, Order Instituting Proceeding and Soliciting Comments (issued December 15, 2014) (CCA Initiation Order).

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them of the municipality's contract terms with an ESCO, and to inform them of the opportunity to opt-out of the CCA program. The Petition also requests that utilities include SW communication materials in utility bills. According to the Joint Utilities, these provisions are contrary to the process envisioned in the Staff White Paper and the processes used in other jurisdictions with established CCA programs, where the municipality that has chosen to implement CCA is also responsible for informing and educating customers and administering the CCA. The Joint Utilities further maintain that these provisions are also inconsistent with the existing utility-ESCO relationship and the Commission-approved Uniform Business Practices, and that the provisions fail to recognize that the utilities do not have access to ESCO/customer contracts and thus cannot and should not notify residents of their terms.

Pointing specifically to Section 9 of the Petition, which seeks to impose obligations on the utility for provision of data and notification of customers at no, or minimal cost, and within ten days of a request from SW, the Joint Utilities express the concern that SW fails to recognize that any data or information, whether aggregated or customer-specific, must be carefully developed by the utilities and reviewed for accuracy. Additionally, the Joint Utilities explain that utilities' customer data generally contains the customer's address, ZIP code, municipality, and tax district. Due to the way municipality boundary lines are drawn, however, a customer may live in one town or village while the ZIP code is identified with another municipality, and may be served by a separate tax district.

Consequently, the Joint Utilities contend, while the utility can provide data, SW or the municipality must review that data and determine which customers would be eligible for the

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demonstration project. Additionally, the Joint Utilities state, SW or the municipality must reconcile any differences between municipal records and the utilities' customer data. For example, a customer may place their electric and/or gas service under the name of their spouse, who may or may not have a different surname, while the tax records show the name of the other spouse as the property owner. In these situations, the Joint Utilities explain, SW must consider the data and contact the customer to resolve any data discrepancies, because the utility is obliged to place the service in the name of the appropriate applicant.

SW also requests that the utility provide via EDI the customers' consumption, capacity tag obligation, account numbers, and service addresses for all customers who have not opted out. The Joint Utilities believe that the municipality given access to personally-identifiable information should be required to obtain cyber-insurance and be held to such data security riders as may be necessary in order to protect the customers and indemnify the utility.

Finally, the Joint Utilities state, the Petition lacks the detail necessary to fully evaluate the proposed CCA program. For instance, the Joint Utilities note, SW seeks to establish an "energy efficiency tariff" and "demand response and micro-grid development/financing" but provides little to no detail on these proposals. If the Commission approves the development of a CCA demonstration project, consistent with the Joint Utilities' comments in the Generic CCA Proceeding, the Joint Utilities urge the Commission to require SW to develop and file a detailed CCA plan with the Commission for approval. This would allow Staff and interested parties to review the plan in detail.

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DISCUSSION AND CONCLUSION

The Commission recently commenced, in the CCA Initiation Order, a proceeding to examine implementation of CCA in New York, and sought comments on a number of issues related to CCA, in advance of a determination regarding whether action should be taken to enable CCA programs in New York. At the same time, in a Memorandum and Resolution on Demonstration Projects, issued on December 12, 2014 in Case 14-M-0101, the Commission expressed interest in utilities and third parties working together to develop potential demonstration projects. Although the Commission is not prepared to act on the Generic CCA Proceeding at this time, in light of the Memorandum and Resolution on Demonstration Projects, it is appropriate to consider a demonstration or pilot CCA program.

CCA programs can serve as an opportunity to introduce larger numbers of customers to retail competition with the safeguards, credibility, and accountability that an energy procurement program administered by a local government can provide. For the reasons provided in the CCA Initiation Order, and consistent with the Memorandum and Resolution on Demonstration Projects, it is appropriate to approve a CCA demonstration project, in order to gain experience with CCA programs and explore their potential benefits for consumers, municipalities, and the utility system. However, the SW Petition lacks the detail necessary to fully evaluate some of the proposed provisions of its CCA program. For now, a determination will not be made on issues related to the establishment of an energy efficiency tariff, demand response and micro-grid development and financing, the insertion by municipalities of communication material into utility-issued bills, or the Open Underwriting Resource Service fund.

To initiate this demonstration CCA project, the

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utilities must provide aggregated customer data for residential and small commercial customers who are not currently taking service from an ESCO to the municipalities that have been properly authorized to implement the CCA pilot. Rather than the review and approval process the Joint Utilities propose, a municipality that chooses to join the CCA pilot shall furnish a letter to Department of Public Service Staff (DPS Staff) certifying that a public outreach campaign has been conducted by the municipality or its designee. The municipal representative shall also certify that the municipality has the requisite authority to implement CCA. To assist in restricting the availability of the data to circumstances where it is warranted, the utility will only provide data to the municipality or its consultant after DPS Staff notifies the utility that an appropriate letter has been received. The aggregated customer data, which should include aggregated usage and capacity tag, shall be provided within twenty days of the notification from DPS Staff.

The utilities maintain they will incur costs in aggregating and providing the data, but have not quantified those costs. Consequently, Con Edison and NYSEG shall make a filing within ten days of the date of this Order that identifies the costs the utility will incur and justifying any charges it intends to impose for providing the data.

Once an ESCO supplier has been selected, municipalities will also require information in order to notify customers. Upon selection of an ESCO the municipality or its consultant should request from the utilities the information necessary to send the opt-out letter, including, at a minimum, customer names, addresses, and account numbers. Discrepancies between the customer information provided by the utility and

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similar information retained by the municipality should be resolved by the municipality.

Notwithstanding the Joint Utilities' assertion that cyber insurance is necessary for this CCA pilot proposal, it will not be required at this time. The municipalities currently possess much of the information that the utility will be providing, and should be expected to protect personally identifiable customer information that is confidential.

Moreover, SW, its municipal members, and any municipal contractors shall agree to take all reasonable steps to protect that information, employing methods at least as protective as those used for other personally identifiable information possessed by the municipality. In addition, SW, its municipal members, and any municipal contractors shall agree that they will not permit the use of personally identifiable information received under this Order for any purpose other than the administration of the programs authorized here. Furthermore, they shall agree not to share that personally identifiable information received under this Order except as necessary for the administration of the program and only with other entities that agree to appropriately protect the data and use it only for the administration of programs authorized here.

It is the municipality's responsibility, however, to notify its residents and small commercial customers of its decision to establish a CCA Program, to inform them of the contract terms with an ESCO, and to inform them of the opportunity to opt-out of the CCA program. The municipality could send the opt-out letter itself or provide a co-branded opt-out letter from the municipality and the ESCO that will be providing the services. The letter should, at a minimum: explain community choice aggregation and the ESCO contract in detail; identify the methods by which the customer can opt-out of the CCA

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Program; and provide information on how the customer can access additional information about CCA on the municipality's website. A draft standard form letter shall be submitted to DPS Staff for review before it is mailed.

Further, the ten day opt-out period SW proposes is inadequate. The CCA Initiation Order asked if twenty days was an adequate opt-out period. In response, two ESCOs, Energy Next and Constellation New Energy, recommended a fourteen day period based on programs in other states. A number of other parties recommended longer opt-out periods. Therefore, for this pilot project, the opt-out period shall be at least twenty days.

Finally, as with all customers enrolled in retail access programs by ESCOs, CCA participants, upon enrollment, will receive a welcome letter from the distribution utility that will explain the customers' options for canceling the enrollment if they believe they were enrolled incorrectly. Residential customers are entitled to the added protection of the mandated three-day rescission period, as detailed in Section 5(B)(3) of the Uniform Business Practices.

The Commission has had a longstanding policy, underlying the Uniform Business Practices and implementation of retail choice programs, that affirmative customer consent is required in order for a customer to change suppliers. However, the economies of scale and bargaining power that large-scale opt-out aggregation programs create are expected to translate into tangible benefits for customers. In order to help ensure costs savings or rate stability for CCA participants, the Uniform Business Practices are waived to the extent necessary to allow for the enrollment of customers and transmittal of customer information by the utility to the ESCO without express customer consent only for this specific CCA demonstration program.

As to the details of the agreement between the ESCO

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and the municipality, the municipalities are in the best position to choose a product for their citizens. In turn, their citizens can opt out of the program or leave at a later time, ensuring that customers are protected.

SW, however, will not be authorized at this time to implement its "Open Underwriting Resource Service" (OURS) fund, which would be intended for the support of various distributed energy resources. CCA participants will continue to contribute to the state-mandated energy efficiency and clean energy funds through distribution charges. Therefore, at this time, SW is prohibited from collecting the surcharges identified in its Petition for the OURS fund or other programs.

However, the administrative costs of operating the program, including legal and communications expenses, may be recovered as part of the energy charges billed to customers. To the extent that any order issued in the Generic CCA Proceeding will permit the creation of an OURS fund or similar program, this Order does not restrict SW from implementing such a program. Alternately, SW may submit a further petition providing additional detail and justification on proposed programs for consideration.

SW proposes that the pilot be approved for a period of four years. While the Commission will not interfere with the terms of the agreement between the municipality and the ESCO, it would be premature to commit to a four year pilot at this time. Instead, SW is directed to file an annual report, which identifies: the number of customers enrolled in CCA by municipality and customer class; the number of customers who returned to utility service or service with another ESCO during the reporting period; and, the average cost of commodity supply by month for the reporting period. The first report should be filed thirteen months after the CCA program is implemented

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through commencement of service of customers by the selected ESCO. In addition, any Order issued by the Commission in the Generic CCA Proceeding will govern the CCA pilot program authorized here except as otherwise noted in that Order.

The Commission orders:

1. The Petition of Sustainable Westchester is granted to the extent that its municipal members are authorized to undertake a Community Choice Aggregation demonstration project consistent with the discussion in the body of this Order, and is otherwise denied.

2. To facilitate the Community Choice Aggregation demonstration project authorized in Ordering Clause No. 1, Uniform Business Practices Sections 4(B)(1)-(3), 5(B)(1), 5(D)(1) and (4), and 5(K) are suspended for municipalities participating in the demonstration project and ESCOs and utilities engaging with those municipalities, to permit: (a) transfers of aggregated and customer-specific information from utilities to Sustainable Westchester, Inc., its municipal members, and municipal contractors under the terms and timeframes described in the body of this Order; and, (b) the switching of customers currently receiving supply service from the utility to ESCO supply service without affirmative consent consistent with the discussion in the body of this Order.

3. Consolidated Edison Company of New York, Inc. and New York State Electric & Gas Corporation are directed to provide aggregated and customer-specific data to Sustainable Westchester, Inc. its municipal members, and municipal contractors under the terms and timeframes described in the body of this Order.

4. Consolidated Edison Company of New York, Inc. and New York State Electric & Gas Corporation are directed to make a filing within ten days of the issuance of this order identifying

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and justifying their charges to Sustainable Westchester, Inc. for providing aggregated customer data.

5. Sustainable Westchester, Inc., its municipal members, and any other municipal contractors receiving the personally identifiable information of utility customers shall agree to protect that information consistent with the discussion in the body of this Order, and shall submit their agreement to Department of Public Service Staff at the time the letter certifying authorization discussed in the body of this Order is submitted.

6. Sustainable Westchester, Inc. will file any Requests for Proposals, or Requests for Information, and similar documents, as well as any contracts entered into for energy supply, at the time they are issued.

7. Sustainable Westchester, Inc. will file an annual report as described in the body of this Order, with the first report due thirteen months after the commencement of service to customers.

8. The Secretary in her sole discretion may extend the deadlines set forth in this Order. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to any affected deadline.

9. This proceeding is continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary

Exhibit B

Electric Service Agreement (last revised 1/04/2016)

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RECITALS

WHEREAS, Sustainable Westchester, Inc. sought approval of a demonstration community choice energy aggregation (“Community Choice”) program in Westchester County in 2014, which would allow local governments to participate in a Sustainable Westchester program to procure energy supply from an Energy Services Company for the residents of the municipalities;

WHEREAS, on February 26, 2015, the Public Service Commission of the State of New York approved implementation of the first Community Choice pilot program in New York State;

WHEREAS, the Westchester pilot program is intended to include residential and small non-residential customers, and to permit the aggregation of electric purchases by the communities which elect to participate;

WHEREAS, the City/Town/Village of _____ (“Municipality”) has adopted a Local Law to participate in the Sustainable Westchester Community Choice Program (“Program”) to aggregate consumers located within the Municipality and to negotiate competitive rates for the supply of electricity for such consumers;

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WHEREAS, the program allows Municipality to solicit competitive bids for the supply of electricity individually or as part of a buying group with other municipal aggregators;

WHEREAS, Sustainable Westchester, Inc. has been authorized by the Municipality to act as Program Manager for a Community Choice Program, pursuant to Local Law and Memorandum of Understanding, issue a request for proposals to suppliers to provide energy to Participating Customers, and to award supply contracts;

WHEREAS, [Supplier], a _____ corporation duly authorized to conduct business in the State of New York ("Competitive Supplier"), desires to provide Full-Requirements Power Supply to consumers located within the Municipality, pursuant to the terms and conditions of the Municipality's Program and this Electric Service Agreement ("ESA");

WHEREAS, the Municipality desires that the Competitive Supplier provide Full-Requirements Power Supply and Consolidated Billing as an alternative to Default Service for consumers within the Municipality;

WHEREAS, Competitive Supplier agrees to submit two distinct electric supply products and two corresponding pricing levels, (1) a Default Product and price, and (2) a 100% Renewable Clean Power Product and price;

WHEREAS, Competitive Supplier agrees to pay a fee to Program Manager;

WHEREAS, Municipality prefers for Competitive Supplier to collect and remit the fees due the Program Manager;

WHEREAS, the local governments that participate in the Sustainable Westchester Community Choice Program, including this Municipality, intend that this Agreement be uniform in form and substance in each instance throughout the Program; and

NOW THEREFORE, IT IS AGREED THAT, Municipality, Program Manager, and the Competitive Supplier hereby enter into this ESA subject to the terms and conditions below.

ELECTRIC SERVICE AGREEMENT

ARTICLE 1 DEFINITIONS

Capitalized terms that are used but not defined in the body of this ESA, including the Exhibits hereto, shall be defined as set forth in this Article 1. Words defined in this Article 1 which are capitalized shall be given their common and ordinary meanings when they appear without capitalization in the text. Words not defined herein shall be given their common and ordinary meanings.

1.0 Associated Entities – Any and all of the employees, officers, agents, representatives, and independent contractors and subcontractors of the Competitive Supplier or of any of its corporate

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parents or subsidiaries, which provide goods or services to, or in any way assist, the Competitive Supplier in meeting its obligations under the ESA, but specifically excluding the Local Distribution Utility.

1.1 Bankruptcy - With respect to a Party, such Party (i) ceases doing business as a going concern, generally does not pay its debts as they become due or admits in writing its inability to pay its debts as they become due, files a voluntary petition in bankruptcy or is adjudicated bankrupt or insolvent, or files any petition or answer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other present or future applicable federal, state or other Governmental Rule, or seeks or consents to or acquiesces in the appointment of any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties, or makes an assignment for the benefit of creditors, or said Party takes any corporate action to authorize or that is in contemplation of the actions set forth in this clause (i); or (ii) a proceeding is initiated against the Party seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future federal bankruptcy code or any other Governmental Rule and, such proceeding is not dismissed within ninety (90) days after the commencement, or any trustee, receiver, custodian or liquidator of said Party or of all or any substantial part of its properties is appointed without the consent or acquiescence of said Party, and such appointment is not vacated or stayed on appeal or otherwise within ninety (90) days after the appointment, or, within ninety (90) days after the expiration of any such stay, has not been vacated, provided that, notwithstanding the foregoing, the exercise of rights to take over operation of a Party's assets, or to foreclose on any of a Party's assets, by a secured creditor of such Party (including the appointment of a receiver or other representative in connection with the exercise of such rights) shall not constitute a Bankruptcy.

1.2 February Order – February 26, 2015 “Order Granting Petition in Part” issued by PSC in Case 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.”

1.3 Clean Power Product – 100% Renewable power supply product offered to Participating Customers on an opt-in basis.

1.4 Commercially Reasonable - Any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known, or which in the exercise of due diligence, should have been known, at the time the decision was made, would have been expected in the industry to accomplish the desired result consistent with reliability, safety, expedition, project economics and applicable law and regulations, as defined in the Uniform Business Practices or without limitation in additional applicable law and regulations, provided that in no event shall increased costs or economic hardship be an excuse for not performing a Party's obligations under this ESA.

1.5 Community Choice – Municipal electricity procurement program, purchasing supply for the aggregated demand for all Eligible Customers within the Municipality.

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1.6 Competitive Supplier - _____, a _____ corporation duly authorized to conduct business in the State of New York.

1.7 Consolidated Billing - A billing option that provides Participating Customers with a single bill issued by the Local Distribution Utility combining delivery and supply charges from the Local Distribution Utility and Competitive Supplier respectively.

1.8 Default Product – Traditional generation mix, meeting the minimum Renewable Portfolio Standards for electric power established by New York State.

1.9 Default Service – Supply service provided by the Local Distribution Utility to customers who are not currently receiving service from a Competitive Supplier. Residential and small commercial consumers within the Municipality that receive Default Service, and have not opted out, will be enrolled in the Program as of the Effective Date.

1.10 Delivery Term - The period for which prices for Full-Requirements Power Supply have been established, as set forth in Exhibit A.

1.11 EDI - Electronic Data Interchange: The exchange of business data in a standardized format between business computer systems.

1.12 Effective Date - The date on which this ESA is executed by the Parties (to be determined by the later date, if the Parties execute on different dates).

1.13 Eligible Consumers - Residential, commercial, industrial, municipal, or other consumers of electricity who receive Default Service from the Local Distribution Utility as of the Effective Date, or “New Consumers” that subsequently become eligible to participate in the Program, at one or more locations within the geographic boundaries of the Municipality, except those consumers who receive Default Service and have requested not to have their account information shared by the Local Distribution Utility. For the avoidance of doubt, all Eligible Consumers must reside or be otherwise located at one or more locations within the geographic boundaries of the Municipality; as such boundaries exist on the Effective Date of this ESA.

1.14 ESA - This Electric Service Agreement.

1.15 Environmental Disclosure Label – Competitive Suppliers selling electricity are required to provide customers with periodic Environmental Disclosure Labels in plain language. It provides information on the types of fuels used to generate electricity, air emissions resulting from generating electricity, and a comparison of those emissions to a statewide average.

1.16 Force Majeure - Any cause not within the reasonable control of the affected Party which precludes that party from carrying out, in whole or in part, its obligations under this ESA, including, but not limited to, Acts of God; winds; hurricanes; tornadoes; fires; epidemics; landslides; earthquakes; floods; other natural catastrophes; strikes, lock-outs or other industrial disturbances; acts of public enemies; acts, failures to act or orders of any kind of any

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governmental authorities acting in their regulatory or judicial capacity, provided, however, that any such discretionary acts, failures to act or orders of any kind by the Municipality may not be asserted as an event of Force Majeure by the Municipality; insurrections; military action; war, whether or not it is declared; sabotage; riots; civil or industrial disturbances or explosions. Nothing in this provision is intended to excuse any Party from performing due to any governmental act, failure to act, or order, where it was reasonably within such Party's power to prevent such act, failure to act, or order. Economic hardship of any Party shall not constitute an event of Force Majeure.

1.17 Full-Requirements Power Supply - The service under which the Competitive Supplier provides all of the electrical energy, capacity, reserves, and ancillary services, transmission services, transmission and distribution losses, congestion management, and other such services or products necessary to provide firm power supply at a fixed contract price including all those components regardless of changes in kWh usage or customer grouping during the contract term to Participating Consumers at the Point of Sale.

1.18 General Communications - The type of communications described and defined in Article 5.7 herein.

1.19 Governmental Authority - Any national, state or local government, independent system operator, regional transmission owner or operator, any political subdivision thereof or any other governmental, judicial, regulatory, public or statutory instrumentality, authority, body, agency, department, bureau, or entity, excluding the Municipality.

1.20 Governmental Rule - Any law, rule, regulation, ordinance, order, code, permit, interpretation, judgment, decree, or similar form of decision of any Governmental Authority having the effect and force of law.

1.21 kWh, kW - Kilowatt-hour and kilowatts, respectively.

1.22 Local Distribution Utility - A regulated electric corporation, or any regulated successor company(ies) or entity(ies) owning, operating or managing electric facilities for the purpose of distributing electricity to end users, or providing electricity distribution services in the Municipality.

1.23 Local Law – A local law or ordinance, adopted by Municipality according to General Municipal Law, which authorizes Municipality to join the Sustainable Westchester Community Choice pilot program.

1.24 Memorandum of Understanding – Binding agreement between Municipality and Program Manager authorizing Sustainable Westchester to administer the Program.

1.25 New Consumers - Residential, commercial, industrial, municipal, or other consumers of electricity that become Eligible Consumers after the Effective Date, including those that opt in or move into Municipality.

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1.26 **New Taxes** - Any taxes not in effect as of the Effective Date enacted by a Governmental Authority or the Municipality, to be effective after the Effective Date with respect to Full-Requirements Power Supply, or any Governmental Rule enacted and effective after the Effective Date resulting in application of any existing tax for the first time to Participating Consumers.

1.27 **NYISO** - The New York Independent System Operator, or such successor or other entity which oversees the integrated dispatch of power plants in New York and the bulk transmission of electricity throughout the New York power grid.

1.28 **Participating Consumers** - Eligible Consumers enrolled in the Program, either because they are consumers who receive Default Service from the Local Distribution Utility as of the Effective Date and have not opted out, or are New Consumers.

1.29 **Parties** - The Municipality, the Program Manager, and the Competitive Supplier, as the context requires. In the singular, "Party" shall refer to any one of the preceding.

1.30 **Point of Delivery** - The boundary of the utility's electricity franchise, or the point at which the Competitive Supplier delivers the power to the Local Distribution Utility.

1.31 **Point of Sale** - The electric meter for each Participating Consumer's account, as designated by the Local Distribution Utility, such that all line loss costs are included in Competitive Supplier price to bring power to the meter.

1.32 **Program** - Sustainable Westchester Community Choice Aggregation Program.

1.33 **Program Manager** – Sustainable Westchester, Inc., a not-for-profit organization comprised of multiple municipalities in Westchester County of which the Municipality is a member, authorized by PSC to put out for bid the total amount of electricity being purchased by Participating Consumers. Program Manager is responsible for Program organization, administration, procurement, and communications, unless otherwise specified.

1.34 **PSC or DPS** - The New York State Public Service Commission or the New York State Department of Public Service acting as Staff on behalf of the PSC, or any successor state agency.

1.35 **Regulatory Event** – Implementation of a new, or changes to an existing, Governmental Rule by a Governmental Authority, including without limitation the Local Distribution Utility's tariffs, market rules, operating protocols and definitions, which have a material effect on the services and transactions contemplated by this ESA. A "change" as used herein includes without limitation any amendment, modification, nullification, suspension, repeal, finding of unconstitutionality or unlawfulness, or any change in construction or interpretation.

1.36 **Retail Price** - As set forth in Exhibit A.

1.37 **Service Commencement Date** - The date of the Participating Consumers' first meter read date after _____, or as soon as necessary arrangements can be made with the Local Distribution Utility thereafter.

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1.38 Term - As defined in Article 4.1.

1.39 Uniform Business Practices – Regulations governing the business practices of utilities and Energy Services Companies with regards to service, billing, marketing, data, and customer rights. Issued by the New York State Public Service Commission (Case 98-M-1343), December 2015.

ARTICLE 2 RIGHTS GRANTED

2.1 GENERAL DESCRIPTION AND LIMITATIONS

Competitive Supplier is hereby granted the exclusive right to be the default provider of Full-Requirements Power Supply to Participating Consumers pursuant to the terms of the Program and this ESA. For the avoidance of doubt, Competitive Supplier shall be authorized to supply Full-Requirements Power Supply only to Participating Consumers enrolled in the plan or plans managed by the Program Manager, and the Local Distribution Utility will continue to have the right and obligation to supply electricity to Eligible Consumers who opt-out of the Program and remain on, or return to, Default Service, until changes in law, regulation or policy may allow otherwise. Competitive Supplier further recognizes that this ESA does not guarantee that any individual Eligible Consumer will be served by the Competitive Supplier.

In accordance with Article 3 below, all Eligible Consumers shall be automatically enrolled in the Program unless they choose to opt-out. In the event the geographic boundaries of the Municipality change during the term of this ESA, Competitive Supplier shall only be obligated to supply Full-Requirements Service to those Participating Consumers located within the Municipality as such boundaries existed on the Effective Date of this ESA. As between the Parties, the Competitive Supplier has the sole obligation of making appropriate arrangements with the Local Distribution Utility, and any arrangements which may be necessary with the NYISO so that Participating Consumers receive the electricity supplies to be delivered pursuant to this ESA.

The Municipality shall specifically authorize the Local Distribution Utility to provide, and Competitive Supplier the right to obtain and utilize as required, all billing and energy consumption information for Participating Consumers as is reasonably available from the Local Distribution Utility. Competitive Supplier shall request consumption data for individual Participating Consumers from the Local Distribution Utility via EDI. If further action is required by the Local Distribution Utility to authorize Competitive Supplier to receive such consumption and billing data, the Municipality agrees to use Commercially Reasonable efforts, at Competitive Supplier's cost, to assist Competitive Supplier, if so requested by it, in obtaining such information for Participating Consumers, including, without limitation, assisting Competitive Supplier in obtaining permission from such Eligible Consumers and/or the PSC, where necessary as a prerequisite to the provision of such information. Competitive Supplier shall not be responsible for any errors that Competitive Supplier or any of its Associated Entities makes in the provision of Full-Requirements Power Supply only to the extent both that: 1) such errors are

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caused by errors or omissions in the information provided to it by the Local Distribution Utility; and 2) it was reasonable for the Competitive Supplier to rely upon that provided information. The Municipality shall not be responsible for any such errors by the Competitive Supplier in any event.

2.2 NO THIRD PARTY BENEFICIARIES

Except as specifically provided in Section 18.11, this ESA does not and is not intended to confer any rights or remedies upon any person other than the Parties. This ESA facilitates rights under the February Order and Local Law for Eligible Consumers to purchase electricity from the Competitive Supplier in accordance with this ESA. The Municipality, or Program Manager in support of the Municipality, has the right, but not the obligation, to advocate on behalf of the Eligible Consumers interested in contracting for electric supply and on behalf of all Participating Consumers, unless otherwise prevented by law.

2.3 COMPLIANCE WITH LAWS

Municipality specifically represents that it has exercised due diligence to review and have fully complied with all relevant regulations of the Attorney General of the State of New York and the New York Department of State in order to fulfill the requirements to enter into a Local Law.

Competitive Supplier specifically represents that it has exercised due diligence to review and has fully complied with all relevant regulations, requirements, and orders of the Federal Energy Regulatory Commission ("FERC"), NYISO, and PSC.

2.4 CONDITIONS PRECEDENT

The Municipality's obligations under this ESA shall be conditioned upon the Competitive Supplier, fulfilling the following requirements:

- a) maintain Competitive Supplier's license from PSC (as such term is defined in the Local Distribution Utility's Terms and Conditions for Competitive Suppliers);
- b) execute any appropriate NYISO applications and agreements;
- c) obtain authorization from the FERC to sell power at market-based rates;
- d) complete EDI testing with Local Distribution Utility; and
- e) provide all other documentation required by the Local Distribution Utility

If Competitive Supplier has not fulfilled all such requirements by the Service Commencement Date, then the Municipality may terminate this ESA without any liability from Municipality to the Competitive Supplier.

2.5 OWNERSHIP AND USE OF ELIGIBLE CONSUMER DATA

Competitive Supplier acknowledges that: 1) all Eligible Consumer data (including addresses, telephone numbers or other identifying information) made available to Competitive Supplier as an agent of Municipality for such data must be protected by the Competitive Supplier and its

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Associated Entities to the fullest extent possible under the law; 2) the Competitive Supplier does not hold any permanent right, title or interest in this data; and 3) this data is to be obtained, retained and used by the Competitive Supplier and its Associated Entities solely to provide Full-Requirements Power Supply to Participating Consumers and to render other services expressly required or permitted under this ESA. Any other use of Eligible Consumer data without the prior written consent of the Municipality is strictly prohibited. Pursuant to such authorized use, Competitive Supplier may share such Eligible Consumer data with third-party vendors as reasonably necessary to accommodate Competitive Supplier's provision of Full-Requirements Power Supply or other performance pursuant to this ESA (including, without limitation, collection of receivables), provided that Competitive Supplier will take reasonable measures to inform any such vendor of the confidential nature of such data and the restrictions set forth in this Article 2.5 and elsewhere in this ESA, and that any vendor or subcontractor is also bound by the terms and conditions of this ESA, especially those regarding data confidentiality and prohibition on non-permitted uses of data. Except as expressly provided in this ESA, and as otherwise permitted by law, Competitive Supplier and its Associated Entities shall not disclose any Eligible Consumer data to any third-party and Competitive Supplier and its Associated Entities shall take all Commercially Reasonable measures to protect Eligible Consumer data from access by, or beneficial use for, any third-party. To the extent that the provision of Full-Requirements Power Supply or other services under this ESA requires that Competitive Supplier and its Associated Entities have access to or make use of any Eligible Consumer data, Competitive Supplier and its Associated Entities shall treat such Eligible Consumer data as confidential information. Competitive Supplier may use Eligible Consumer data to engage in direct marketing only during the term of this ESA and subject to the terms set forth in Article 18.2. A violation of this Article 2.5 shall be grounds for termination under Article 4.2(a). Competitive Supplier agrees violation of this Article 2.5 shall constitute irreparable harm.

ARTICLE 3 CONSUMER CHOICE, NOTIFICATION OF RIGHTS, ENROLLMENT

3.1 CONSUMER CHOICE

The Parties acknowledge and agree that all Participating Consumers have the right, pursuant to February Order, Local Law, and the Program, to change their source of electricity supply, as set forth in Article 2.1. The Parties represent and warrant to each other that they shall not unreasonably interfere with the right of Participating Consumers to opt-out of the Program, and shall comply with any rules, regulations or policies of PSC, the Local Distribution Utility and/or other lawful Governmental Authority regarding the procedures for opting out or of switching from one source of electric supply to another. Notwithstanding the foregoing, however, the Parties may take Commercially Reasonable measures to encourage Participating Consumers to affirmatively agree to remain in the Program, consistent with any Governmental Rules.

3.2 NOTIFICATION TO NEW CONSUMERS OF OPT-OUT RIGHTS

Consistent with the requirements of any applicable Governmental Rules, and within a reasonable time after the Local Distribution Utility notifies Competitive Supplier of the existence of a New Consumer and has provided to Competitive Supplier such New Consumer's account number,

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service and billing address, and other pertinent contact information, Competitive Supplier shall notify such New Consumer (i) of the date on which such New Consumer will be automatically enrolled in the Program, and (ii) that the Competitive Supplier will be providing Full-Requirements Power Supply to such New Consumer as of the same date, subject to the opt-out provisions of the February Order, Local Law, and the Program ("Opt-Out Notice"). The Opt-Out Notice shall be mailed to each such New Consumer prior to the date of automatic enrollment and shall: (i) prominently state all charges to be assessed by the Competitive Supplier; (ii) at a minimum, provide a summary of the prices and terms included in Exhibit A as well as fully disclose the prices and terms then being offered for Default Service by the Local Distribution Utility; (iii) state how such New Consumer may opt-out of the Program prior to enrollment and remain on Default Service from the Local Distribution Utility; and (iv) state how all Participating Consumers, subsequent to enrollment, will also have the right to opt-out at any time and return to Default Service or choose a new Competitive Supplier without paying a fee or penalty to Competitive Supplier. All such notices must be approved in advance by the Municipality.

In providing the notifications set forth in this Article 3.2, and in otherwise conducting the activities in Article 3.4 below, the Competitive Supplier must rely upon information provided to it by the Local Distribution Utility for the purpose of performing its obligations. Competitive Supplier will not be responsible for any errors in connection with notification of Eligible Consumers only to the extent both that: 1) such errors are caused by errors or omissions in the information provided to it by the Local Distribution Utility; and 2) it was reasonable for the Competitive Supplier to rely upon that provided information. The Municipality shall not be responsible for any such errors by the Competitive Supplier in any event.

3.3 CONSUMER AWARENESS

Upon mutual agreement concerning the content and method, either the Competitive Supplier, Municipality, or Program Manager may conduct consumer awareness efforts at its sole expense.

3.4 ENROLLMENT

3.4.1 Participating Consumers – While Participating Consumers may disenroll from the Program at any time with no fee or penalty, all Eligible Consumers as of the Effective Date will be enrolled in the Program under the terms of this ESA unless they opt-out during the 20-day period specified in the Local Law. The Municipality shall authorize the Local Distribution Utility to provide to Competitive Supplier or to an alternative designee of the Program Manager, a list of Participating Consumers as of the Effective Date, as well as such Participating Consumer's service and billing addresses, and any other information necessary for Competitive Supplier to commence Full-Requirements Power Supply to such Participating Consumers as of the Service Commencement Date.

3.4.2 New Consumers - If New Consumers elect not to opt-out of the Program as provided in Article 3.2, such New Consumers will be automatically enrolled by Competitive Supplier in the Program. Residential and small commercial New Customers shall be enrolled in the Program at the rates reflected in Exhibit A. All other New Consumers shall be enrolled at a fixed price determined by then-prevailing market conditions, as defined in Exhibit A. Competitive Supplier

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shall enroll such New Consumers in accordance with applicable PSC and Local Distribution Utility rules.

3.4.3 Eligible Consumers Opting Out - At any time during this ESA, Eligible Consumers who have previously opted out of the Program may request that they be enrolled or re-enrolled in the Program. Competitive Supplier shall provide Full-Requirements Power Supply to such Eligible Consumers at a price determined by the then-prevailing market conditions, as defined in Exhibit A. Following mutually agreed upon procedures, the Competitive Supplier is responsible for accurately and promptly transmitting information regarding Eligible Consumers, to the Local Distribution Utility. The Competitive Supplier shall be responsible for enrolling all Eligible Customers through EDI transactions submitted to the Local Distribution Utility for initial enrollment in the aggregation and all enrollments thereafter.

3.4.4 Consumers Served by Third-Parties - Consumers being served under other competitive supply programs offered by third-parties will not be automatically enrolled as Participating Consumers under this ESA when such program terminates or is otherwise completed. Competitive Supplier agrees that Consumers under such third-party competitive supply programs may affirmatively opt-in and receive Full-Requirements Power Supply. Residential and small commercial Consumers which opt-in shall be enrolled in the Program at the rates reflected in Exhibit A. All other Consumers that opt-in shall be enrolled at a price determined by the then-prevailing market conditions, as defined in Exhibit A.

3.4.5 Termination Fees. There shall be no termination fees for any residential, small commercial, or municipal Participating Consumers to disenroll from the Program. However, all other Participating Consumers (demand charge commercial or industrial Participating Consumers) may pay a termination fee specified in Exhibit A.

ARTICLE 4 TERM OF CONTRACT AND TERMINATION

4.1 TERM

This ESA shall commence on the Effective Date, provided, however, that Competitive Supplier's obligation to provide Full-Requirements Power Supply shall commence on the Service Commencement Date, and shall terminate with the Participating Consumers' first meter read date after _____, unless terminated earlier under Article 4.2 below ("Term").

4.2 TERMINATION

This ESA may be terminated at any time upon written notice:

a) by the Municipality, or the Competitive Supplier, if the other Party fails to remedy or cure any breach of any material provision or condition of this ESA (including, but not limited to, Article 2.5 and Article 9), but excluding the failure to provide or arrange for Full-Requirements Power Supply, which is addressed in Article 4.2(d)), within sixty (60) days following written notice to do so by the non-breaching party; or

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- b) by the Municipality, or the Competitive Supplier, if any material provision or condition of this ESA be finally adjudged invalid by any court of competent jurisdiction, or if PSC exercises any lawful jurisdiction so as to invalidate or disapprove this ESA in whole or in significant part; or
- c) by the Municipality, i) if an order is entered against the Competitive Supplier approving a petition for an arrangement, liquidation, dissolution or similar relief relating to Bankruptcy or insolvency and such order remains unvacated for thirty (30) days; or (ii) immediately if the Competitive Supplier shall file a voluntary petition in Bankruptcy or any petition or answer seeking any arrangement, liquidation or dissolution relating to Bankruptcy, insolvency or other relief for debtors or shall seek, consent to, or acquiesce in appointment of any trustee, receiver, or liquidation of any of Competitive Supplier's property; or
- d) notwithstanding the foregoing, the failure of Competitive Supplier to provide or arrange for Full-Requirements Power Supply to Participating Consumers, in the absence of Force Majeure or the Municipality's failure to perform, shall constitute an act of default, and the Municipality may terminate this ESA upon giving written notice and without a cure period. In the event the Competitive Supplier has performed its obligations hereunder and its failure to arrange for or provide Full-Requirements Power Supply is a direct result of actions or non-actions by any transmission service provider, the Local Distribution Utility, or the NYISO, the Competitive Supplier's failure shall not be deemed to be an act of immediate default and would be subject to remedy or cure as provided in Article 4.2(a).

4.3 OBLIGATIONS UPON TERMINATION

Following termination of this ESA, the Parties shall each discharge by performance all obligations due to any other Party that arose up to the date of termination of the ESA and Competitive Supplier shall continue to have the right to collect all monies due for services rendered to that date.

The Competitive Supplier shall submit all consumer drops via EDI to the Local Distribution Utility in a form acceptable to the Local Distribution Utility.

4.4 EXTENSION

The ESA may be extended beyond the termination date established in Article 4.1 by mutual, written agreement of the Parties. Any new pricing terms shall be added to and replace Exhibit A as Exhibit A-2. Upon any such extension, this ESA shall continue to be in effect, and all provisions of the ESA shall retain the same force and effect as before the extension, unless it is terminated by any Party pursuant to the provisions of Article 4.2 or until the date stated in such extension.

ARTICLE 5 CONTINUING COVENANTS

The Competitive Supplier agrees and covenants to perform each of the following obligations during the term of this ESA.

5.1 STANDARDS OF MANAGEMENT AND OPERATIONS

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In performing its obligations hereunder, during the term of this ESA, the Competitive Supplier shall exercise reasonable care to assure that its facilities are prudently and efficiently managed; that it employs an adequate number of competently trained and experienced personnel to carry out its responsibilities; that it delivers or arranges to deliver an uninterrupted supply of such amounts of electricity to the Point of Delivery as are required under this ESA; that it complies with all relevant industry standards and practices for the supply of electricity to Participating Consumers; and that, at all times with respect to Participating Consumers, it exercises good practice for a Competitive Supplier and employs all Commercially Reasonable skills, systems and methods available to it.

5.2 CUSTOMER SERVICE ACCESS

The Competitive Supplier agrees to provide, or cause to be provided, certain customer services to Participating Consumers. Such services shall be reasonably accessible to all Participating Consumers, shall be available during normal working hours, shall allow Participating Consumers to transact business they may have with the Competitive Supplier, and shall serve as a communications liaison among the Competitive Supplier, the Municipality, and the Local Distribution Utility. A toll-free telephone number will be established by Competitive Supplier and be available for Participating Consumers to contact Competitive Supplier during normal business hours (9:00 A.M.- 5:00 P.M. Eastern Time, Monday through Friday) to resolve concerns, answer questions and transact business with respect to the service received from Competitive Supplier. The Municipality will post program-related information on the Municipality's website which will be available to Participating Consumers for general information, comparative pricing, product, and service information, and other purposes.

5.3 RESPONDING TO REQUESTS FOR INFORMATION

To the extent authorized by the Participating Consumer(s) and to the extent such individual permission is required by law, the Competitive Supplier shall, during normal business hours (as set forth above), respond promptly and without charge therefore to reasonable requests of the Municipality for information or explanation regarding the matters covered by this ESA and the supply of electricity to Participating Consumers. Competitive Supplier agrees to designate a service representative or representatives (the "Service Contacts") who shall be available for these purposes, and shall identify the office address and telephone number of such representative(s). Whenever necessary to comply with this Article 5.3, the Service Contacts shall call upon other employees or agents of the Competitive Supplier to obtain such information or explanation as may be reasonably requested. Nothing in this Article 5.3 shall be interpreted as limiting the obligation of the Competitive Supplier to respond to complaints or inquiries from Participating Consumers, or to comply with any regulation of PSC regarding customer service.

5.4 ARRANGING FOR FIRM FULL-REQUIREMENTS POWER SUPPLY

Competitive Supplier shall participate in or make appropriate arrangements with NYISO, any relevant regional transmission organization, wholesale suppliers or any other entity to ensure an uninterrupted flow of firm Full-Requirements Power Supply to the Local Distribution Utility for

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delivery to Participating Consumers, and exercise all Commercially Reasonable efforts to cooperate with NYISO or any other entity to ensure a source of back-up power in the event that Competitive Supplier is unable to deliver Full-Requirements Power Supply to the Point of Delivery. In the event the Competitive Supplier is unable to deliver sufficient electricity to the grid to serve Participating Consumers, the Competitive Supplier shall utilize such arrangements and exercise all Commercially Reasonable efforts as may be necessary to continue to serve Participating Consumers under the terms of this ESA, and shall bear any costs it may incur in carrying out these efforts and obligations. Competitive Supplier shall not be responsible to the Municipality or any Participating Consumers in the event that, through no fault of the Competitive Supplier or its Associated Entities, the Local Distribution Utility disconnects, curtails or reduces service to Participating Consumers (notwithstanding whether such disconnection is directed by NYISO).

5.5 NON-DISCRIMINATORY PROVISION OF SERVICE

Competitive Supplier shall supply electric energy to the Point of Delivery to all Participating Consumers on a non-discriminatory basis; provided, however, that those prices and other terms may vary in accordance with reasonably established rate classifications (e.g., residential, commercial, municipal, industrial) or by such other categories as appear in Exhibit A. To the extent applicable, Competitive Supplier's prices, terms and conditions shall be in accordance with the New York General Laws, the regulations of PSC, and other applicable provision of law. To the extent required by law and/or the conditions of any PSC approval of this ESA, the Competitive Supplier may not deny service to an Eligible or Participating Consumer for failure to pay the bills of any other electric company (whether engaged in the distribution, transmission, or generation of electricity) or of any other aggregator, marketer or broker of electricity, but may reasonably deny or condition new service, or terminate existing service, based upon any Participating Consumer's failure to pay bills from the Competitive Supplier, subject to any provisions of law or applicable PSC orders or regulations. Provision of electric energy supply shall be subject to Competitive Supplier's standard credit policies, to the extent permitted by law, as described in Exhibit A.

In any event, should either Program Manager or Municipality actively achieve and document (e.g. to the satisfaction of the New York State Public Service Commission and the Utility) reduction in capacity tag buying obligations, Supplier will pay or distribute benefits from these tag reductions to Participating Consumer at the NYISO strip clearing price for the appropriate zone (H or I), in which the capacity tag reduction is certified by appropriate party.

5.6 APPROVAL OF GENERAL COMMUNICATIONS

Competitive Supplier shall cooperate with the Municipality in the drafting and sending of messages and information to Eligible Consumers concerning the Program or any matter arising under or related to this ESA. Competitive Supplier shall, prior to sending, whether directly or through its Associated Entities, any direct mail, advertising, solicitation, bill insert, electronic mail, or other similar written or electronic communication (collectively, "General Communications") to Participating Consumers (but excluding individually drafted or tailored communications responding to the specific complaint or circumstance of an individual

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consumer), provide a copy of such General Communication to the Municipality and to Program Manager for its review to determine whether it is consistent with the purposes and goals of the Municipality and Program Manager. The Municipality or Program Manager shall have the right to disapprove such General Communications and suggest revisions if it finds the communication inconsistent with the purposes and goals of the Municipality, factually inaccurate or likely to mislead; provided, however: (i) that the communication shall be deemed approved if the Municipality and Program Manager fails to respond within seven (7) calendar days (not including weekends and holidays); and (ii) that no approval shall be necessary for any communication (a) regarding any emergency situation involving any risk to the public health, safety or welfare; or (b) in the nature of routine monthly or periodic bills, or collection notices, except that any bill insert or message included at the bottom of such bill not within the scope of (a) above shall require approval. If the Municipality objects to any General Communication on the grounds it is inconsistent with the purposes and goals of the Municipality, the Competitive Supplier, after consultation as provided in this Article 5.6, may nevertheless elect to send such General Communication provided that it: (i) clearly indicates on such mailing that it has not been endorsed by the Municipality, (ii) has previously provided all Participating Consumers a meaningful chance to opt not to receive such General Communications. The Municipality may reject or exclude any proposed General Communication that, in its reasonable judgment, is contrary to the interests and objectives of the Program or the Municipality, provided, however, any such right of rejection or exclusion shall not apply to Competitive Supplier's notice to exercise or enforce its rights under the ESA or Customer Agreement, including but not limited to any notice of Force Majeure or Change in Law.

5.7 COMMUNICATION OF INSERTS AND MESSAGES

Competitive Supplier agrees that if it communicates with Participating Consumers directly, and unless prevented for regulatory or other such reasons from doing so, it shall allow the Municipality or Program Manager to include no less than three (3) inserts per year into such communications, provided that the Municipality pays the cost of printing and reproducing such insert and any incremental postage or handling costs the Competitive Supplier may incur as a result of including such insert. Competitive Supplier shall have the right to disapprove such General Communications (that is communications other than those pertaining to the Municipality's demand-side management, energy efficiency programs and technology, and renewable energy programs, if applicable) and suggest revisions if it finds the communication inconsistent with its business interests, factually inaccurate or likely to mislead; provided, however: (i) that the communication shall be deemed approved if the Competitive Supplier fails to respond within seven (7) calendar days after receipt (not including weekends and holidays); and (ii) that no approval shall be necessary for any communication which has been ordered by PSC, or any other Governmental Authority to be so communicated.

5.8 PARTICIPATING CONSUMER LISTS

To the extent not prohibited by any Governmental Rule or expressly by any Participating Consumer(s), the Competitive Supplier shall, upon request of the Municipality or of Program Manager, provide aggregate consumption information as the Municipality or Program Manager may request to the extent such information is available to Competitive Supplier. Competitive

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Supplier shall provide Participating Consumer lists in an electronic format reasonably acceptable to both Parties and with no more frequency than once a month, for customers who have agreed to have their personal information provided to Program Manager or to Municipality.

5.9 COMPLIANCE WITH LAWS

The Parties shall promptly and fully comply with all existing and future Governmental Rules of all Governmental Authorities having jurisdiction over the activities covered by this ESA.

5.10 CONSENT

Whenever performance of an obligation of any Party hereto requires the consent or approval of any Governmental Authority, such Party shall make Commercially Reasonable efforts to obtain such consent or approval. In the event the Competitive Supplier requests the Municipality's assistance in obtaining such consent or approval and the Municipality anticipates that it will incur costs in fulfilling the Competitive Supplier's request, it shall give the Competitive Supplier an estimate of such costs. Upon receiving the estimate, Competitive Supplier shall determine whether it will continue to request the Municipality's assistance, and if so, the Competitive Supplier shall reimburse the Municipality for all costs, up to the estimated dollar amount, reasonably incurred by the Municipality in connection with such efforts.

ARTICLE 6 ROLE OF THE MUNICIPALITY

Under this ESA, the Municipality shall not actually receive, take title to, or be liable for the supply or delivery of Full-Requirements Power Supply in any manner whatsoever. The Parties specifically agree that the role of the Municipality is established under February Order and Local Law and includes negotiating the terms and conditions under which Full-Requirements Power Supply will be provided by the Competitive Supplier under this ESA. It is the sole obligation of the Competitive Supplier to arrange for delivery of Full-Requirements Power Supply to Participating Consumers. The Parties agree that, with regards to electricity, Municipality is not a "public utility company" or providing any "public utility service" within the meaning of GML 360 and Article 4 of Public Service Law as a result of this ESA, unless a court, PSC, or other lawful authority shall adjudicate to the contrary; provided, however, that the Municipality may be considered to be operating a municipal load aggregation plan pursuant to February Order and Local Law. The Competitive Supplier hereby agrees that it will take no action, whether directly or through its Associated Entities, that would make the Municipality liable to any Participating Consumer due to any act or failure to act on the part of the Competitive Supplier or its Associated Entities relating to the delivery or supply of Full-Requirements Power Supply.

Municipality shall conduct outreach to the community in addition to the program notification letter, which will be delivered at the Competitive Supplier's expense. Municipality will report on their endeavors to Program Manager to inform residents on the Program and "non-demand charge" commercial businesses. In case of any doubt, Municipality shall retain final control of content related to all communications.

ARTICLE 7 ROLE OF PROGRAM MANAGER

7.1 PROGRAM MANAGER DUTIES

Pursuant to the Memorandum of Understanding, Sustainable Westchester Inc, as Program Manager, agrees to:

- a. Provide the involved agencies and parties, such as but not limited to the PSC or Local Distribution Utility, requested information about and documentation of the actions undertaken by the Municipality in furtherance of enabling participation in the Program;
- b. Prepare, or cause to be prepared, and provide the Municipality with requested and non-confidential information that the involved agencies and parties, such as but not limited to the PSC or Local Distribution Utility, provide to the Program Manager in furtherance of establishing the Program;
- c. Manage the energy procurement bidding process including the identification and notification of potential firms seeking to be Competitive Supplier, the Request for Proposals process from preparation of the content to the publication of the Request and management of firms responding to the Request, the preparation of the ESA that will be included in the Request, the acceptance and secure opening of the responses to the Request, and the organizing and procuring the independent reviews of the credit worthiness of the Competitive Supplier and the compliance of the Competitive Supplier's response with the Request and ESA, all in a manner that is transparent to the Municipality and firms seeking to be the Competitive Supplier;
- d. Should a compliant and credit worthy Competitive Supplier be selected, initiate all the necessary steps to secure the needed information to fulfill the customer notification requirements of the February Order, including but not limited to the following:
 - “5. Sustainable Westchester, Inc., its municipal members, and any other municipal contractors receiving the personally identifiable information of utility customers shall agree to protect that information consistent with the discussion in the body of this Order, and shall submit their agreement to Department of Public Service Staff at the time the letter certifying authorization discussed in the body of this Order is submitted.
 6. Sustainable Westchester, Inc. will file any Requests for Proposals, or Requests for Information, and similar documents, as well as any contracts entered into for energy supply, at the time they are issued.”
- e. Manage the customer responses to the notification regarding “opt out” or Clean Power Product and deliver the resulting information in a timely manner to the Local Distribution Utility;
- f. Sign the ESA in a timely fashion including the conditions that the Competitive Supplier is deemed credit worthy for the duration of the ESA by an independent review of a qualified organization, such as an accounting firm, and the Competitive Supplier's response to the Energy Procurement Request for Proposals is deemed compliant with the terms and conditions set forth in the ESA by an independent review of a qualified organization, such as an energy consulting firm;
- g. Provide the Municipality with the communications content to effect customer notification requirements for approval, not to be unreasonably withheld, given the projected schedule of Program's implementation; and

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- h. Fulfill any other responsibilities as may reasonably adhere to facilitating the implementation of the Program, subject to the Program Manager's inherent and original role as an organization driven by the deliberated priorities of its constituent member municipalities.

7.2 PROGRAM MANAGER FEE

Competitive Supplier shall pay Program Manager \$0.001 for each kWh delivered, invoiced and paid for by Participating Consumers during the Term ("Program Manager Fee" or "Fee"). The Parties agree that Competitive Supplier will remit the Program Manager Fee to the Program Manager, pursuant to the terms of this ESA. Competitive Supplier shall pass through such payments to Sustainable Westchester, Inc. for the duration of this ESA. This provision shall be binding upon the Parties and all permitted assigns and other successors-in-interest of the Parties.

7.3 PAYMENT OF FEE

Payment to Program Manager will be made monthly by Automated Clearing House ("ACH") (an electronic network for financial transactions) to the account set forth in Exhibit C hereto, provided that Supplier has received payment with respect to the electricity used by the Participating Consumers. The Program Manager Fee shall be paid by the last business day of the month based on revenue collected by Supplier with respect to each Participating Consumer during the prior calendar month. For example, full payments received in January will be paid by the end of February. If Supplier has paid a past Fee in error (or the payment was based on information subsequently determined invalid), it may deduct from or add to future payments due under this ESA and provide explanation of the error in sufficient detail. Program Manager shall provide the Municipality with a reasonably detailed accounting not less than annually of the program impact, financial and other, including revenues received and expenses incurred on communication, administration and legal expenses.

7.4 INDEPENDENT CONTRACTOR

The Parties agree that Program Manager is not an agent or employee of Supplier for any purpose. All expenses which are incurred by Program Manager in connection with this ESA shall be borne wholly and completely by Program Manager. Program Manager shall be responsible for all state, federal, and local taxes, including estimated taxes and social security and employment reporting for Program Manager or any employees or agents of Program Manager.

ARTICLE 8 PRICES AND SERVICES; BILLING

8.1 SCHEDULE OF PRICES AND TERMS

Competitive Supplier agrees to provide Full-Requirements Power Supply and other related services as expressly set forth herein in accordance with the prices and terms included in Exhibit A to this ESA, which Exhibit is hereby incorporated by reference into this ESA.

8.2 OBLIGATION TO SERVE

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As between the Parties, Competitive Supplier has the sole obligation to obtain sources of supply, whether from generating facilities owned or controlled by its affiliates, through bilateral transactions, or the market, as may be necessary to provide Full-Requirements Power Supply for all of the Participating Consumers under the Program. Competitive Supplier, except as explicitly limited by the terms included in Exhibit A, shall be obligated to accept all Participating Consumers, regardless of their location or energy needs provided such Participating Consumers are eligible under the applicable regulations and tariffs of the Local Distribution Utility.

8.3 METERING

The Local Distribution Utility will be responsible for any metering which may be required to bill Participating Consumers in accordance with the Local Distribution Utility's Terms and Conditions for Competitive Suppliers.

8.4 TERMS AND CONDITIONS PERTAINING TO INDIVIDUAL ACCOUNT SERVICE

8.4.1 Title

Title to Full-Requirements Power Supply will transfer from Competitive Supplier to Participating Consumers at the Point of Sale. In accordance with the Local Distribution Utility's Terms and Conditions for Competitive Suppliers, the Competitive Supplier will be responsible for any and all losses incurred on the local network transmission systems and distribution systems, as determined by the Local Distribution Utility.

8.4.2 Billing and Payment

Unless otherwise specified in an Exhibit to this ESA, all billing under this ESA shall be based on the meter readings of each Participating Consumer's meter(s) performed by the Local Distribution Utility. Competitive Supplier shall, or shall cause the Local Distribution Utility or any other entity, to prepare and mail bills to Participating Consumers monthly. If the Competitive Supplier arranges for the Local Distribution Utility to perform billing services, the Competitive Supplier shall adopt the billing and payment terms offered by the Local Distribution Utility to its Eligible Consumers on Default Service unless the Competitive Supplier otherwise agree. If actual meter data is unavailable, the Competitive Supplier may bill based on its good faith estimates of usage. Any over-charge or under-charge will be accounted for in the next billing period for which actual meter data is available.

8.4.3 Regional and Local Transmission

The prices quoted in Exhibit A do not include current and future charges for distribution service costs collected by the Local Distribution Utility under its distribution service tariff or local transmission costs as may be imposed by NYISO or individual electric utilities that have FERC transmission tariffs. The Competitive Supplier understands that these costs will be collected by the Local Distribution Utility. If, in the future, Competitive Supplier becomes responsible for such distribution or transmission costs, Competitive Supplier shall be entitled to collect such

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costs from Participating Consumers to the extent permitted by any Governmental Rules. These costs are "pass through" costs as determined by the appropriate regulatory agencies.

8.4.4 Taxes

All sales, gross receipts, excise or similar taxes imposed with respect to the sale or consumption of Full-Requirements Power Supply required to be collected by the Competitive Supplier shall be included on the Participating Consumer's bill and shall be remitted to the appropriate taxing authority by Competitive Supplier. Participating Consumers shall be responsible for all taxes that are customarily imposed upon a purchaser of electricity and are associated with electricity consumption under the ESA. Participating Consumers shall be responsible for identifying and requesting any exemption from the collection of any tax by providing appropriate documentation to Competitive Supplier. For avoidance of doubt, Competitive Supplier shall be responsible for all taxes imposed upon it as a supplier of electricity, including taxes on Competitive Supplier's income.

ARTICLE 9 COMPLIANCE WITH THE FEBRUARY ORDER

Competitive Supplier agrees that it, and its Associated Entities directly or indirectly involved in providing services or meeting the Competitive Supplier's obligations under the ESA, will comply with the applicable provisions of the February Order and any regulations, orders or policies adopted pursuant thereto.

ARTICLE 10 SERVICE PROTECTIONS FOR RESIDENTIAL CONSUMERS

Competitive Supplier agrees that it and its Associated Entities directly or indirectly involved in providing services or meeting the Competitive Supplier's obligations under the ESA shall comply with the provisions of the Uniform Business Practices, as applicable to Competitive Suppliers, and any amendments thereto, and any code of conduct or policies the PSC may adopt in accordance with the February Order and to all related Orders of Case 15020/14-M-0564, that Program Manager is required to adhere to notwithstanding any relief from the Uniform Business Practices offered by the PSC.

The Competitive Supplier shall, on or before _____, provide a written, detailed description of its billing and termination procedures, customer services, confidentiality and related practices and procedures for approval by the Municipality (which approval shall not be unreasonably withheld). Such written description shall also include the Competitive Supplier's plans for protecting the rights and protections of Participating Customers under the Home Energy Fair Practices Act which requires that all utility customers be treated fairly with regard to application for service, customer billing, and complaint procedures. If the Participating Consumer(s) so permit(s) or to the extent such permission is required by law or the terms of any PSC order with respect to this ESA, the Competitive Supplier agrees to provide notice to the Municipality of any consumer complaints received from a Participating Consumer, and the Municipality shall have the right, but not the obligation, to participate in resolution of the dispute, to the extent that such complaints relate directly to the Program, and to the extent permitted by PSC regulations and other applicable law. The failure to timely submit such written

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description, or the submission of practices and procedures which materially fail to comply with PSC regulations and policies, shall be deemed grounds for termination of this ESA, at the discretion of the Municipality after providing written notice of such failure to the Competitive Supplier and allowing the Competitive Supplier sixty (60) days to cure such failure.

In addition, and in accordance with the Uniform Business Practices, in the event of a dispute regarding an invoice or Competitive Supplier's service, whether directly or through its Associated Entities, under this ESA, a Participating Consumer may initiate a formal dispute resolution process by providing written notice to the PSC. PSC will assist the parties in reaching a mutually acceptable resolution. If no such resolution is reached within 40 calendar days of receipt of the formal written notice, any party may request an initial decision from PSC. Parties may appeal this decision.

ARTICLE 11 NON-DISCRIMINATION IN HIRING AND EMPLOYMENT

Competitive Supplier agrees that it shall conduct its operations and activities under this ESA in accordance with all applicable state and federal laws regarding non-discrimination in hiring and employment of employees, and will require all Associated Entities to do the same.

ARTICLE 12 POWER SUPPLY INFORMATION AND ACCESS TO INFORMATION

12.1 POWER SUPPLY INFORMATION

12.1.1 Quarterly Report of Sales

Competitive Supplier shall provide the Municipality or its agent with a quarterly report of sales which will contain: (i) the actual aggregate kWh sales for each meter read of the reporting period and (ii) the number of Participating Consumer accounts active in each meter read of the reporting period. The quarterly report will be due to the Municipality or its agent within sixty (60) days following the close of each quarter (March 31, June 30, September 30, and December 31). The aggregate kWh sales and number of Participating Consumer accounts shall be listed in the report both by rate code and rate name as shown on Exhibit B attached hereto. This information shall be provided in electronic format.

12.1.2 Consumer-Related Data

On and after the Service Commencement Date, Competitive Supplier will maintain consumer-related data in electronic form including utility account number, billing name, billing address, service address historical usage, demand, and ICAP (Installed Capacity) data. A violation of this Article 12.1.2 shall be grounds for termination under Article 4.2(a) unless such violation is due to a system or reasonable administrative error and the Competitive Supplier demonstrates to the Municipality's satisfaction that such system or administrative error exists and that the Competitive Supplier is acting in good faith to resolve such issue.

12.1.3 Standard of Care

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Competitive Supplier and its Associated Entities shall use all Commercially Reasonable efforts in preparing and providing any information or data required under the ESA. To the extent that Competitive Supplier determines that any information or data provided hereunder is in error, it shall provide such information or data to the Municipality or its agent within a Commercially Reasonable time.

12.2 POWER SUPPLY REPORT

Unless the Environmental Disclosure Label requirement is waived by PSC, within fifteen (15) days of the end of the quarter, Competitive Supplier shall present a copy of the current Environmental Disclosure Label required by PSC of all Competitive Suppliers to be disclosed to their Participating Consumers, which includes information pertaining to Competitive Supplier's power supply and a reasonably detailed description of the sources of Competitive Supplier's power supply used to serve Participating Consumers pursuant to this ESA, except to the extent such disclosure would violate any confidentiality obligations of Competitive Supplier.

12.3 BOOKS AND RECORDS

Competitive Supplier shall keep their books and records in accordance with any applicable regulations or guidelines of PSC, FERC, and any other Governmental Authority. The Municipality will have access to any reports mandated by the Securities and Exchange Commission which are available on the Internet "EDGAR" system. Upon reasonable request by the Municipality and at the Municipality's expense, Competitive Supplier or its Associated Entities shall provide reasonable back up for any charge under this ESA questioned by the Municipality.

12.4 COPIES OF REGULATORY REPORTS AND FILINGS

Upon reasonable request, Competitive Supplier shall provide to the Municipality a copy of each public periodic or incident-related report or record relating to this ESA which it files with any New York or federal agency regulating rates, service, compliance with environmental laws, or compliance with affirmative action and equal opportunity requirements, unless the Competitive Supplier is required by law or regulation to keep such reports confidential. ~~The Municipality shall treat any reports and/or filings received from Competitive Supplier as confidential information subject to the terms of Article 15.~~ Competitive Supplier shall be reimbursed its reasonable costs of providing such copies.

ARTICLE 13 RESOLUTION OF DISPUTES; CHOICE OF LAW AND FORUM

13.1 CHOICE OF LAW AND FORUM

This ESA and the rights of the Parties shall be interpreted and determined in accordance with the laws of the State of New York without respect to conflicts-of-laws principles. Any litigation arising hereunder shall be brought solely in the appropriate federal court in New York or appropriate state court sitting in the New York county in which the Municipality is located, to whose jurisdiction the parties hereby assent, waiving all objections to venue or forum.

13.2 DISPUTE RESOLUTION

Unless otherwise provided for in this ESA, the dispute resolution procedures of this Article 13.2 shall be the exclusive mechanism to resolve disputes arising under this ESA. The Parties agree to use their respective best efforts to resolve any dispute(s) that may arise regarding this ESA. Any dispute that arises under or with respect to this ESA that cannot be resolved shall in the first instance be the subject of informal negotiations between the Parties involved in the dispute. The dispute shall be considered to have arisen when one Party sends the other Party(ies) involved in the dispute a written notice of dispute. The period for informal negotiations shall be fourteen (14) days from receipt of the written notice of dispute unless such time is modified by written agreement of the Parties involved in the dispute. In the event that the parties involved in the dispute cannot resolve a dispute by informal negotiations, the Parties may seek judicial enforcement subject to the provisions of this ESA. Notwithstanding the foregoing, injunctive relief may be immediately sought without resorting to alternative dispute resolution to prevent irreparable harm that would be caused by a breach of this ESA.

ARTICLE 14 INDEMNIFICATION

14.1 INDEMNIFICATION BY THE COMPETITIVE SUPPLIER

In addition to any other remedies available to the Municipality at law or equity, and notwithstanding any other provision contained herein, the Competitive Supplier shall indemnify, defend and hold harmless the Municipality and the Program Manager ("Indemnified Parties") and the Indemnified Parties' officials, officers, employees, agents, representatives and independent contractors, from and against any and all costs, claims, liabilities, damages, expenses (including reasonable attorneys' fees), causes of action, suits or judgments, incurred by, on behalf of or involving any one of the foregoing parties to the extent arising directly from or in connection with (i) any material breach by Competitive Supplier or its Associated Entities of its obligations, covenants, representations or warranties contained in this ESA and not resulting from the actions (or omissions where there is a duty to act) of the NYISO, Local Distribution Utility, the Municipality or its employees or agents, or (ii) any action or omission taken or made by the Competitive Supplier or its Associated Entities in connection with Competitive Supplier's performance of this ESA.

14.2 NOTICE OF INDEMNIFICATION CLAIMS

If the Municipality or Program Manager seeks indemnification pursuant to this Article 14, it shall notify Competitive Supplier of the existence of a claim, or potential claim as soon as practicable after learning of such claim, or potential claim, describing with reasonable particularity the circumstances giving rise to such claim.

14.3 SURVIVAL

Notwithstanding any provision contained herein, the provisions of this Article 14 shall survive the termination of this ESA for a period of two (2) years with respect to (i) any claims which

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occurred or arose prior to such termination and (ii) any losses occurring as a result of the termination.

14.4 DUTY TO MITIGATE

Each Party agrees that they have a duty to mitigate damages and covenant that they will use Commercially Reasonable efforts to minimize any damages they may incur as a result of the other Party's performance or non-performance of this ESA.

ARTICLE 15 REPRESENTATIONS AND WARRANTIES

15.1 BY THE COMPETITIVE SUPPLIER

As a material inducement to entering into this ESA, the Competitive Supplier hereby represents and warrants to the Municipality as of the Effective Date of this ESA as follows:

- a) it is duly organized, validly existing and in good standing under the laws of the jurisdiction of its formation and is qualified to conduct its business in those jurisdictions necessary for it to perform its obligations under this ESA;
- b) it has all authorizations from any Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due;
- c) the execution, delivery and performance of this ESA are within its powers, have been duly authorized by all necessary action and do not violate any of the terms or conditions in its governing documents or any contract to which it is a party or any Governmental Rule applicable to it;
- d) subject to the conditions set forth in Article 2.4, this ESA constitutes a legal, valid and binding obligation of the Competitive Supplier enforceable against it in accordance with its terms, and the Competitive Supplier has all rights such that it can and will perform its obligations to the Municipality in conformance with the terms and conditions of this ESA, subject to Bankruptcy, insolvency, reorganization and other laws affecting creditor's rights generally and general principles of equity;
- e) no Bankruptcy is pending against it or to its knowledge threatened against it;
- f) none of the documents or other written information furnished by or on behalf of Competitive Supplier to the Municipality pursuant to this ESA, contains any untrue statement of a material fact or omits to state any material fact required to be stated therein or necessary to make the statements contained herein or therein, in the light of the circumstances in which they were made, not misleading; and
- g) all information furnished by Competitive Supplier in response to the Request for Proposals for competitive electric supply services is true and accurate.

15.2 BY THE MUNICIPALITY

As a material inducement to entering into this ESA, the Municipality hereby represents and warrants to Competitive Supplier as of the effective date of this ESA as follows:

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- a) this ESA constitutes the legal, valid and binding contract of the Municipality enforceable in accordance with its terms, subject to applicable law;
- b) the execution, delivery and performance of this ESA are within the Municipality's powers, have been or will be duly authorized by all necessary action;
- c) Municipality has all authorizations from local Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and
- d) no Bankruptcy is pending or threatened against the Municipality;

15.3 BY THE PROGRAM MANAGER

As a material inducement to entering into this ESA, the Program Manager hereby represents and warrants to Competitive Supplier as of the effective date of this ESA as follows:

- a) this ESA constitutes the legal, valid and binding contract of Program Manager enforceable in accordance with its terms, subject to applicable law
- b) the execution, delivery and performance of this ESA are within Program Manager's powers, have been or will be duly authorized by all necessary action;
- c) Program Manager has all authorizations from any local or state Governmental Authority necessary for it to legally perform its obligations under this ESA or will obtain such authorizations in a timely manner prior to when any performance by it requiring such authorization becomes due; and
- d) no Bankruptcy is pending or threatened against Program Manager.

ARTICLE 16 INSURANCE

16.1 In order to help support the indemnifications provided in Article 14, and its other promises and covenants stated herein, Competitive Supplier shall secure and maintain, at its own expense, before the Effective Date and throughout the term of this ESA, unless otherwise specified, commercial general liability insurance of at least \$1,000,000 combined single limit and excess liability coverage of at least \$3,000,000 with insurers licensed to do business in the State of New York and satisfactory to the Municipality. A certificate that each such insurance coverage is in force and effect, and listing the Municipality as an additional insured on all policies, shall be submitted on or before the Effective Date and thereafter whenever renewed or requested by the Municipality. All insurers must be notified that the insurance policies must provide that a copy of any notice of cancellation or non-renewal will be sent to the Municipality.

16.2 With respect to any of the insurance policies provided by the Competitive Supplier pursuant to these requirements which are "claims made" policies, in the event at any time such policies are canceled or not renewed, the Competitive Supplier shall provide a substitute insurance policy with terms and conditions and in amounts which comply with these requirements and which provides for retroactive coverage to the date of the cancellation or non-renewal of the prior "claims-made" policy. With respect to all "claims made" policies which have been renewed, the Competitive Supplier shall provide coverage retroactive to the Effective Date under this ESA. All said substitute or renewed "claims made" policies shall be maintained in full force and effect for three (3) years from the date of the termination of the ESA.

16.3 Competitive Supplier, to the extent required by law, must provide worker's compensation insurance meeting all applicable state and federal requirements.

ARTICLE 17 REGULATORY EVENT/NEW TAXES

17.1 REGULATORY EVENT

If a Regulatory Event occurs, the Parties shall use their best efforts to reform this ESA to give effect to the original intent of the Parties. If a Regulatory Event affects Competitive Supplier and Competitive Supplier incurs excess costs as a result thereof, such amount shall be allocated to and collected from Participating Consumers on a per kWh basis through applicable monthly invoice(s), or at the sole discretion of Municipality or Program Manager, this ESA may be terminated under Article 4.2.

17.2 NEW TAXES

If any New Taxes are imposed for which Competitive Supplier is responsible, the amount of such New Taxes shall be allocated to and collected from Participating Consumers through applicable monthly invoice(s).

ARTICLE 18 MISCELLANEOUS

18.1 NO ASSIGNMENT WITHOUT PERMISSION

Other than in connection with a sale of all or substantially all of its competitive electric supply business related to this ESA, or to an affiliate of Competitive Supplier, Competitive Supplier shall not assign this ESA or any of its rights, obligations and privileges under this ESA without the prior written approval of the Municipality. Such approval may be denied at the reasonable discretion of the Municipality, including if the proposed assignee does not have the experience and financial ability to fulfill all obligations of the Competitive Supplier in the ESA. Notwithstanding the above, any assignment, of this ESA by the Competitive Supplier, whether as the result of the sale of all or substantially all of the Competitive Supplier's business related to this ESA or otherwise, shall be subject to the following requirements: (i) Competitive Supplier shall provide the Municipality with notice of the proposed assignment at least 120 days prior to such assignment; (ii) Competitive Supplier's assignee shall agree in writing to be bound by the terms and conditions of this ESA; and (iii) Competitive Supplier and such assignee shall, at least ninety (90) days in advance of any assignment, reasonably demonstrate to Municipality that assignee has the experience and financial ability to fulfill all obligations of the Competitive Supplier in the ESA. The Municipality or Program Manager may assign this ESA without the prior consent of Competitive Supplier provided that the proposed assignee has at least the same financial ability as the Municipality or Program Manager and such assignment would not materially impair the rights and interests of Competitive Supplier under this ESA. The rights and obligations created by this ESA shall inure to the benefit of, and be binding upon, the successors and permitted assigns of, the respective Parties hereto.

18.2 DIRECT MARKETING

Prior to the introduction of any new product or service which Competitive Supplier may wish to make available to Participating Consumers or other Eligible Consumers located within the Municipality, Competitive Supplier agrees to (i) give the Municipality written notice of such new product or service and (ii) subject to the entry into reasonable confidentiality terms to the extent permitted by law and mutually acceptable to the Parties, discuss with the Municipality the possible inclusion of such new product or service in this or another aggregation program undertaken by the Municipality.

Competitive Supplier also agrees not to engage, whether directly or through any of its Associated Entities, in any direct marketing to any Participating Consumer that relies upon Competitive Supplier's unique knowledge of, or access to, Participating Consumers gained as a result of this ESA. For the purposes of this provision, "direct marketing" shall include any telephone call, mailing, electronic mail, or other contact between the Competitive Supplier and the Consumer. Programs of the Competitive Supplier that do not rely on unique knowledge or access gained through this ESA will not constitute such "direct marketing."

18.3 NOTICES

All notices, demands, requests, consents or other communications required or permitted to be given or made under this ESA shall be in writing and addressed to:

If to Competitive Supplier:

If to Municipality:

Community Choice Aggregation Memorandum of Understanding

and if to Program Manager:

Executive Director
Sustainable Westchester Inc
c/o Village Manager of Ossining
16 Croton Avenue
Ossining NY 10562

Notices hereunder shall be deemed properly served (i) by hand delivery, on the day and at the time on which delivered to the intended recipient at the address set forth in this ESA; (ii) if sent by mail, on the third business day after the day on which deposited in the United States certified or registered mail, postage prepaid, return receipt requested, addressed to the intended recipient at its address set forth in this ESA; or (iii) if by Federal Express or other reputable express mail service, on the next business day after delivery to such express mail service, addressed to the intended recipient at its address set forth in this ESA. Any party may change its address and contact person for the purposes of this Article 18.3 by giving notice thereof in the manner required herein.

18.4 CHANGES IN EMERGENCY AND SERVICE CONTACT PERSONS

In the event that the name or telephone number of any emergency or service contact for the Competitive Supplier changes, Competitive Supplier shall give prompt notice to the Municipality in the manner set forth in Article 18.3. In the event that the name or telephone number of any such contact person for the Municipality changes, prompt notice shall be given to the Competitive Supplier in the manner set forth in Article 18.3.

18.5 ENTIRE ESA; AMENDMENTS

This ESA constitutes the entire agreement between the Parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings between the Parties relating to the subject matter hereof. This ESA may only be amended or modified by a written instrument signed by all Parties hereto.

18.6 FORCE MAJEURE

If by reason of Force Majeure any Party is unable to carry out, either in whole or in part, its obligations herein contained, such Party shall not be deemed to be in default during the continuation of such inability, provided that: (i) the non-performing Party, within two (2) weeks after the occurrence of the Force Majeure, gives the other Party hereto written notice describing the particulars of the occurrence; (ii) the suspension of performance be of no greater scope and of no longer duration than is required by the Force Majeure; (iii) no obligations of the Party which were to be performed prior to the occurrence causing the suspension of performance shall be excused as a result of the occurrence; and (iv) the non-performing Party shall use Commercially Reasonable efforts to remedy with all reasonable dispatch the cause or causes preventing it from carrying out its obligations. If (i) an event of Force Majeure caused by any strikes, lockouts or other industrial disturbances involving Competitive Supplier or its Associated Entities continues

Community Choice Aggregation Memorandum of Understanding

for a period of thirty (30) days or longer, or (ii) an event of Force Majeure arising from any other cause continues for a period of one hundred eighty (180) days or longer, any Party may terminate this ESA by sending the other Party a written notice as set forth in Article 4.2; provided, however, that the same shall not constitute a default under this ESA and shall not give rise to any damages. Additionally, Competitive Supplier shall submit all consumer drops via EDI to the Local Distribution Utility in accordance with the rules and regulations set forth by the EBT Working Group.

18.7 EXPENSES

Each Party hereto shall pay all expenses incurred by it in connection with its entering into this ESA, including without limitation, all of its attorney's fees and expenses.

18.8 NO JOINT VENTURE

Each Party will perform all obligations under this ESA as an independent contractor. Nothing herein contained shall be deemed to constitute any Party a partner, agent or legal representative of the other Party or to create a joint venture, partnership, agency or any relationship between the Parties. The obligations of the Municipality and the Competitive Supplier hereunder are individual and neither collective nor joint in nature.

18.9 JOINT WORK PRODUCT

This ESA shall be considered the work product of all Parties hereto, and, therefore, no rule of strict construction shall be applied against any Party.

18.10 COUNTERPARTS

This ESA may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute a single agreement.

18.11 WAIVER

No waiver by any Party hereto of any one or more defaults by any other Party in the performance of any provision of this ESA shall operate or be construed as a waiver of any future default, whether of like or different character. No failure on the part of any Party hereto to complain of any action or non-action on the part of any other Party, no matter how long the same may continue, shall be deemed to be a waiver of any right hereunder by the Party(ies) so failing. A waiver of any of the provisions of this ESA shall only be effective if made in writing and signed by the Party who is making such waiver.

18.12 ADVERTISING LIMITATIONS

Competitive Supplier agrees not to use, whether directly or through any of its Associated Entities, the name of the Municipality, or make any reference to the Municipality in any advertising or other information to be distributed publicly for marketing or educational purposes,

Community Choice Aggregation Memorandum of Understanding

unless the Municipality expressly agrees to such usage. Any proposed use of the name of the Municipality must be submitted in writing for agreement and prior approval. The Municipality acknowledges that the Competitive Supplier's corporate affiliates own the exclusive right to the trademarked logo and trade name used by Competitive Supplier. No right, license or interest in this trademark and/or trade name is granted to the Municipality hereunder, and the Municipality agrees that it shall not assert any right, license or interest with respect to such trademark and/or trade name.

18.13 PRESS RELEASES

The Parties agree to cooperate in good faith prior to the issuance of any formal press release with respect to this ESA, such cooperation to include agreement as to the form, substance and timing of such formal press release.

18.14 HEADINGS AND CAPTIONS

The headings and captions appearing in this ESA are intended for reference only, and are not to be considered in construing this ESA.

18.15 SURVIVAL OF OBLIGATION

Termination of this ESA for any reason shall not relieve the Municipality or the Competitive Supplier of any obligation accrued or accruing prior to such termination.

19 REMEDIES

19.1 General

Subject to the limitations set forth in Article 18.19.2 below and Article 4, the Municipality and the Competitive Supplier reserve and shall have all rights and remedies available to each of them at law or in equity with respect to the performance or non-performance of the other Party hereto under this ESA.

19.2 Limitations

NO PARTY HERETO SHALL BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY OR INDIRECT DAMAGES, LOST PROFITS OR OTHER BUSINESS INTERRUPTION DAMAGES, BY STATUTE, IN TORT OR CONTRACT. Notwithstanding the foregoing, each Party acknowledges that the preceding sentence shall not limit the other Party's rights to seek direct damages or, under Article 14.1, to seek indemnification from Competitive Supplier for consequential, punitive, or incidental damages or other such losses claimed by third- parties subject to an aggregate limit of \$[] on Competitive Supplier's indemnification obligation pursuant to this provision.

//Signatures Follow//

Community Choice Aggregation Memorandum of Understanding

IN WITNESS WHEREOF, the Parties have caused this ESA to be executed by their duly authorized representatives, as required by the applicable laws of the city, town or municipality and the laws, rules and regulations of the State of New York, as of the respective dates set forth below

COMPETITIVE SUPPLIER

By: _____

Name: _____

Title: _____

Address: _____

Dated: _____

MUNICIPALITY

By: _____

Name: _____

Title: _____

Address: _____

Dated: _____

PROGRAM MANAGER

By: _____

Name: _____

Title: _____

Address: _____

Dated: _____

**EXHIBIT A-Part 1
PRICES AND TERMS**

**SUSTAINABLE WESTCHESTER COMMUNITY CHOICE AGGREGATION PROGRAM
DEFAULT PRODUCT**

Full-Requirements Price by Rate Classification for all Participating Consumers commencing service on the first Consumer meter-read date after _____ .

Rate Class	Price per kWh
Residential	
Small Commercial	
Large Commercial & Industrial	

[Final Prices will be determined prior to the beginning of the respective pricing periods]

Terms for System Supply Service

Term: The Price and Terms stated on this Exhibit A will commence on the first Consumer meter read date after _____ and continue until the first Consumer meter read date after _____, unless this ESA is sooner terminated in accordance with Article 4.2 of this ESA.

Start-Up Service Date: Full-Requirements retail power supply will commence at the prices stated above as of Participating Consumer's first meter read dates after _____.

Renewable Energy in System Supply: The Competitive Supplier shall include Renewable Energy and Renewable Energy Certificates in the Full-Requirements Power Supply mix in an amount equal to New York State's Renewable Portfolio Standards in a manner designated by New York State.

Term: The period of delivery of Full-Requirements Power Supply shall be consistent with the provisions of Article 4 and Exhibit A of this ESA.

Termination Fee: Demand charge commercial and industrial Participating Customers that have opted in to the Program may pay a termination fee of \$_____ if they choose to disenroll from the Program (see Article 3.4.5).

Eligible Consumer Opt-Out: Participating Consumers are free to opt-out of the Program utilizing established EDI drop protocols. Participating Consumers are to provide five (5) days notice to the Competitive Supplier of such termination and Competitive Supplier will notify Local Distribution Utility to resume service as soon as possible after such notification. There are no fees or charges for Participating Consumers to opt-out or terminate service.

Community Choice Aggregation Memorandum of Understanding

Competitive Supplier's Standard Credit Policy: The Competitive Supplier will not require a credit review for any consumer participating in the Program, nor will Competitive Supplier require any consumer to post any security deposit as a condition for participation in the Program. The Competitive Supplier may terminate service to a Participating Consumer and return such consumer to Default Service in the event that the consumer fails to pay to Competitive Supplier amounts past due greater than sixty (60) days.

Participating Consumers who opt into the Program after the first Consumer meter-read date referred to above shall be served at a price of \$_____ plus the applicable adder for each rate class outlined below.

Rate Class	Adder per kWh
Residential	
Small Commercial	
Large Commercial & Industrial	

**EXHIBIT A-Part 2
PRICES AND TERMS**

**SUSTAINABLE WESTCHESTER COMMUNITY CHOICE AGGREGATION PROGRAM
100% RENEWABLE CLEAN POWER PRODUCT**

Full-Requirements Price for 100% Renewable Power Supply by Rate Classification for all Participating Consumers commencing service on the first Consumer meter-read date after _____.

Rate Class	Price per kWh
Residential	
Small Commercial	
Large Commercial & Industrial	

[Final Prices will be determined prior to the beginning of the respective pricing periods]

Terms for System Supply Service

Term: The Price and Terms stated on this Exhibit A will commence on the first Consumer meter read date after _____ and continue until the first Consumer meter read date after _____, unless this ESA is sooner terminated in accordance with Article 4.2 of this ESA.

Start-Up Service Date: 100% Renewable Full-Requirements retail power supply will commence at the prices stated above as of Participating Consumer's first meter read dates after _____.

Renewable Energy in System Supply: The Competitive Supplier shall include Renewable Energy and Renewable Energy Certificates in the Full-Requirements Power Supply mix in an amount equal to 100% of all power supplied under this exhibit.

Term: The period of delivery of 100% Renewable Full-Requirements Power Supply shall be consistent with the provisions of Article 4 and Exhibit A of this ESA.

Termination Fee: Demand charge commercial and industrial Participating Customers that have opted in to the Program may pay a termination fee of \$ _____ if they choose to disenroll from the Program (see Article 3.4.5).

Eligible Consumer Opt-Out: Participating Consumers are free to opt-out of the Program utilizing established EDI drop protocols. Participating Consumers are to provide five (5) days notice to the Competitive Supplier of such termination and Competitive Supplier will notify Distribution Utility to resume service as soon as possible after such notification. There are no fees or charges for Participating Consumers to opt-out or terminate service.

Community Choice Aggregation Memorandum of Understanding

Competitive Supplier's Standard Credit Policy: The Competitive Supplier will not require a credit review for any consumer participating in the Program, nor will Competitive Supplier require any consumer to post any security deposit as a condition for participation in the Program. The Competitive Supplier may terminate service to a Participating Consumer and return such consumer to Default Service in the event that the consumer fails to pay to Competitive Supplier amounts past due greater than sixty (60) days.

Participating Consumers who opt into the Program after the first consumer meter-read date referred to above shall be served at a price of \$ ____ plus the applicable adder for each rate class outlined below.

Rate Class	Adder per kWh
Residential	
Small Commercial	
Large Commercial & Industrial	

EXHIBIT B
TEMPLATE KWH SALES AND CONSUMER ACCOUNTS DATA SUMMARY

Rate Code	
Rate Name	
Municipality	
# of Default Accounts of Eligible Consumers	
	kWh
January	
February	
March	
April	
May	
June	
July	
August	
September	
October	
November	
December	

**EXHIBIT C
PAYMENT SCHEDULE**

<p><u>PROGRAM MANAGER GENERAL INFORMATION</u></p> <p>Contact Name:</p> <p>Telephone Number:</p> <p>E-mail Address:</p>	<p><u>MUNICIPALITY GENERAL INFORMATION</u></p> <p>Contact Name:</p> <p>Telephone Number:</p> <p>E-mail Address:</p>	<p><u>SUPPLIER GENERAL INFORMATION</u></p> <p>Contact Name:</p> <p>Telephone Number:</p> <p>E-mail Address:</p>
<p><u>CONSULTANT LEGAL NOTICE ADDRESS</u></p> <p>ATTN:</p> <p>Address:</p> <p>City, State Zip:</p> <p>Facsimile:</p>	<p><u>MUNICIPALITY LEGAL NOTICE ADDRESS</u></p> <p>ATTN:</p> <p>Address:</p> <p>City, State Zip:</p> <p>Facsimile:</p>	<p><u>SUPPLIER LEGAL NOTICE ADDRESS</u></p> <p>ATTN:</p> <p>Address:</p> <p>City, State Zip:</p> <p>Facsimile:</p>
<p><u>CONSULTANT BANK INFORMATION FOR PAYMENTS BY ACH</u></p> <p>Bank Name:</p> <p>Bank Routing Number:</p> <p>Bank Account Number:</p> <p>Federal ID:</p>		

TELEPHONE
(914) 232-4848
FAX
(914) 232-0150

Town of Somers

250 RT. 100
P.O. BOX 281

WESTCHESTER COUNTY, N.Y.

THOMAS E. CHIAVERINI
Superintendent of Highways

LOUIS N. NOTO, JR.
Deputy Supt. of Highways



*Jan 14
Agenda
EC - TC TA
TB 1/8/16
RYS*

MEMO TO: SUPERVISOR
TOWN BOARD

FROM: THOMAS E. CHIAVERINI
SUPT. OF HIGHWAYS

DATE: JANUARY 4, 2016

RE: ANNUAL BONUS BASED ON ATTENDANCE

The following employees will be entitled to an annual bonus based on their attendance:

<u>Name</u>	<u>Number of Sick Days Taken</u>	<u>Amount of Bonus</u>
Arnold Guyot	-5-	\$200.00
Edward Gall	-1-	\$600.00

THOMAS E. CHIAVERINI
SUPT. OF HIGHWAYS

Cc: TOWN CLERK
FINANCE DEPT.

OFFICE OF THE SUPERVISOR

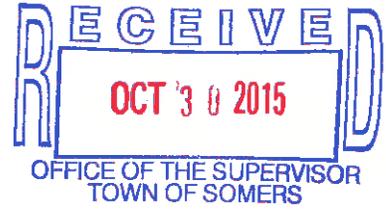
Town of Somers

WESTCHESTER COUNTY, N.Y.

Telephone
(914) 277-3637
Fax
(914) 276-0082

SOMERS TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589

RICK MORRISSEY
SUPERVISOR



October 27, 2015

Mr. Umberto Santaroni

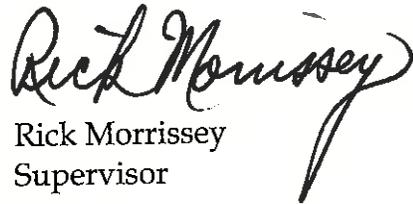
Dear Mr. Santaroni

Your term on the Somers Zoning Board of Appeals expires on December 31, 2015. We sincerely appreciate your service on behalf of the Town of Somers.

If you are interested in being considered for reappointment for a new term please notify me at your earliest convenience.

Again, thank you for your continued dedication and for the many contributions you have made to the Town of Somers as a member of the Somers Zoning Board of Appeals.

Very truly yours,


Rick Morrissey
Supervisor

RM/bj
C: Town Board

Z:\Supervisor\bsherry\Barbara\My Documents\board.misc.docx

*I would like to be reappointment to the board
Thank you for your consideration.*

Barbara Sherry

From:
Sent: Wednesday, November 25, 2015 4:24 PM
To: Rick Morrissey
Cc: Kathie Pacella
Subject: (no subject)

Supervisor Rick,

In accordance with our telephone conversation several days ago, this is to notify you that I am interested in being considered for reappointment as a member of the Planning Board. If you and the councilmen would like to question me with regard to this position, please do not hesitate to contact me.

Respectfully,
Fedora

Telephone
(914) 277-3504

FAX
(914) 277-3790

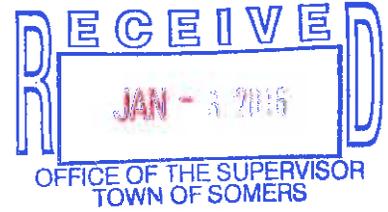
ASSESSOR'S OFFICE

Town of Somers

WESTCHESTER COUNTY, N.Y.

TOWN HOUSE
ANNEX
337 ROUTE 202
SOMERS, NY 10589

*Jan 14, 2016
Agenda
EC - TB TC TA
Finance
1/6/16 bis*



January 5, 2016

Rick Morrissey, Supervisor
Town of Somers
335 Route 202
Somers, NY 10589

Dear Supervisor Morrissey and Town Board Members:

As per this letter I am resigning my position as Assessment-Tax Aide. My last day will be January 15, 2016.

It has been a pleasure working for the Town of Somers.

Sincerely,

Barbara A. Brandt
Barbara A. Brandt
Assessment-Tax Aide

cc: Town Board Members

OFFICE OF THE SUPERVISOR

Town of Somers

WESTCHESTER COUNTY, N.Y.

Telephone
(914) 277-3687
Fax
(914) 276-0082

SOMERS TOWN HOUSE
385 ROUTE 202
SOMERS, NY 10589

RICK MORRISSEY
SUPERVISOR



January 11, 2016

MEMO

TO: Town Board

FROM: Barbara J. Sherry *Barbara J Sherry*
Secretary to the Supervisor

SUBJECT: Assessor's Office

With the resignation of Barbara Brandt, Assessment Tax Aide effective Friday, January 15, 2016, I am asking permission to canvass the civil service list for a replacement.

With Teresa Stegner's assistance, it has been determined that an Assessment Clerk would be the best title to fill this position.

Ms. Brandt's current annual salary is \$45,848 (Grade 3 Step 11 of the CSEA Agreement). I am asking that we set a range of \$41,010 - \$43,508 (Grade 4 Steps 1 - 3) of the CSEA Agreement).

Thank you.

ASSESSMENT-TAX AIDE

DISTINGUISHING FEATURES OF THE CLASS: Under the direct supervision of the Assessor and/or Receiver of Taxes, an employee in this class performs responsible and moderately complex specialized clerical work relating to assessment and tax records, and undertakes field work assignments to gather information for assessment records. The employee maintains files, computer file content sheets, property record cards, tax receipts and related assessment and tax materials. Typically the employee of this class may work in both the Tax Receiver's Office and the Assessor's Office, as determined by workload. Supervision is not a responsibility of this class. Does related work as required.

EXAMPLES OF WORK: (Illustrative Only)

Assists Assessor in preparation and maintenance of assessment roll;

Enters all assessment data onto field sheets, property record cards, assessment roll and other permanent records either manually or by using computer applications;

Prepares new property record cards, removing obsolete cards;

Prepares change information for in-house automated system or outside service bureau when assessment and tax rolls are computerized;

Verifies current assessment and tax rates in response to inquiries;

Assists in checking tax rolls to assure receipts issued are correct in relation to property description and evaluation;

Assists public, both at counter and telephone, with basic information regarding assessments and taxes; (tax rates, back tax information, exemption applications);

Collects tax payments and issues tax receipts;

Prepares listing of unpaid taxes;

Bills taxes to delinquent property owners;

Prepares notices to property owners regarding assessment changes;

Researches tax books, assessment rolls, deeds, tax maps to obtain information for the public;

Assists with the review of exemption applications;

Assists public in use of tax maps;

EXAMPLES OF WORK: (continued)

Interviews property owners, measures and inspects property to obtain data used in the development of real property records under the direct supervision of the Assessor or Real Property Appraiser;

May participate in field review with Assessor to cross-check and verify that property data maintained on record cards for tax assessment purposes contain accurate and up to date information;

Performs a variety of clerical tasks, including filing, operating office machines, opening, sorting, stamping in-mail, etc;

Uses computer applications such as spreadsheets, word processing, calendar, e-mail and database software in performing work assignments.

REQUIRED KNOWLEDGE, SKILLS, ABILITIES AND ATTRIBUTES: Good knowledge of office terminology, procedures and equipment; working knowledge of business English and arithmetic and discipline to work with numbers; working knowledge of property assessment and tax methods; ability to perform clerical work requiring accuracy; ability to work with computerized input/output sheets; ability to understand and follow oral and written instructions; ability to deal effectively and cooperatively with the public; ability to read, write, speak, understand, and communicate in English sufficiently to perform the essential duties of the position; ability to effectively use computer applications such as spreadsheets, word processing, e-mail and database software; ability to get along well with others; tact; courtesy; reliability; physical condition commensurate with the duties of the position.

MINIMUM ACCEPTABLE TRAINING AND EXPERIENCE: Graduation from high school or possession of a high school equivalency diploma and one (1) year of clerical work experience, including or supplemented by six (6) months of experience where the primary function of the position was the maintenance of assessment records, the appraisal or sale of real estate, title searching, tax assessments, or a combination of experience in any of those areas.

SUBSTITUTION: Satisfactory completion of 30 college credits* may be substituted for the one (1) year of work experience described above, but there is no substitution for the six months of specialized experience cited above.

NOTE: Unless otherwise noted, only experience gained after attaining the minimum education level indicated in the minimum qualifications will be considered in evaluating experience.

*SPECIAL NOTE: Education beyond the secondary level must be from an institution recognized or accredited by the Board of Regents of the New York State Department of Education as a post-secondary, degree-granting institution.

Towns, Villages
Cities of Rye & Peekskill
J. C.: Competitive
1f

Job Class Code: 0097

ASSESSMENT CLERK

DISTINGUISHING FEATURES OF THE CLASS: Under the general supervision of the Assessor, incumbents of this position perform specialized clerical work in the preparation and maintenance of assessment rolls and records. Records may be maintained manually or through the use of automated systems equipment. This position involves the performance of responsible and complex work requiring the exercise of independent judgment and considerable contact with the public. Supervision may be exercised over the work of clerical assistants. Does related work as required.

EXAMPLES OF WORK: (Illustrative Only)

Enters new assessments and changes in assessments in an automated system, field books, on cards, on the assessment roll, or on various other records;

Checks changes on assessment maps;

Assists with the apportionment of property;

Assists in the field check of measurements and improvements of property;

Assists in computing land and improvement valuations;

Prepares and summarizes assessment data;

Checks accuracy of total and special district assessments;

Makes final tabulations of exempt property; veteran's exemptions, etc.;

Answers requests for information concerning assessments and land locations;

Assists with the compilation of information for reports for the County and State;

Uses computer applications or other automated systems such as spreadsheets, word processing, calendar, e-mail and database software in performing work assignments.

REQUIRED KNOWLEDGE, SKILLS, ABILITIES AND ATTRIBUTES: Familiarity with the field of real estate and assessment; good knowledge of modern office practices, terminology, procedures, and equipment; mathematical ability; ability to use computer applications such as spreadsheets, word processing, calendar, e-mail and database software; ability to make simple sketches, maps, and plans; ability to understand and carry out complex oral and written directions; ability to plan and organize clerical work; ability to deal effectively with the public; ability to get along with others; resourcefulness; initiative; accuracy; neatness; physical condition commensurate with the duties of the position.

MINIMUM ACCEPTABLE TRAINING AND EXPERIENCE: Graduation from high school or possession of a high school equivalency diploma and three (3) years of work experience, one year of which the primary function of the position was the maintenance of assessment records, the appraisal or sale of real estate, title searching, or a combination of experience in any of those areas.

SUBSTITUTION: Satisfactory completion of 30 college credits* may be substituted on a year for year basis for up to two (2) years of general work experience. There is no substitution for the one (1) year of specialized experience described above.

NOTE: Unless otherwise noted, only experience gained after attaining the minimum education level indicated in the minimum qualifications will be considered in evaluating experience.

*SPECIAL NOTE: Education beyond the secondary level must be from an institution recognized or accredited by the Board of Regents of the New York State Department of Education as a post-secondary, degree-granting institution.

Towns & Villages
Cities of Rye & Peekskill
J.C.: Competitive
1e

Job Class Code: 0089

Highway Department

TELEPHONE
(914) 232-4848
FAX
(914) 232-0150

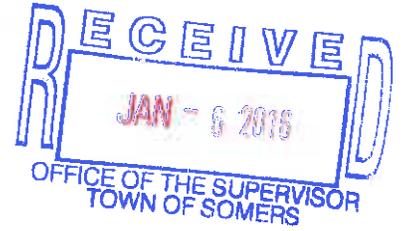
Town of Somers

250 RT. 100
P.O. BOX 281

WESTCHESTER COUNTY, N.Y.

THOMAS E. CHIAVERINI
Superintendent of Highways

LOUIS N. NOTO, JR.
Deputy Supt. of Highways



*Jan 14, 2016
Agenda
EC-TBTC TA-Fin
1/6/2016*

MEMO TO: SUPERVISOR
TOWN BOARD

FROM: THOMAS E. CHIAVERINI
SUPT. OF HIGHWAYS

DATE: JANUARY 6, 2016

RE: PAUL WESTHOFF

As of January 4, 2016 Paul Westhoff has been promoted to Road Maintenance Forman at the pay rate of \$36.2768 per hour.

If you should have any questions please feel free contact me.

Thomas E. Chiaverini

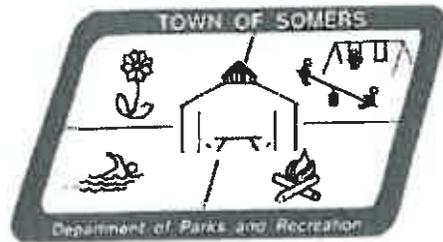
Thomas E. Chiaverini
Supt. of Highways

Cc: Finance
Town Clerk
File

Somers Department of Parks & Recreation
PO Box 46 Somers, New York 10589

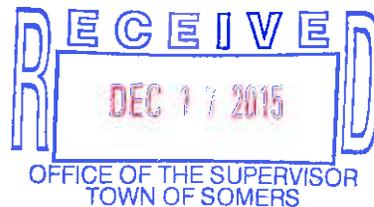
OFF: (914)-232-8441
FAX: (914)-232-8548

Steven Ralston
Superintendent



*Jan 7, 2016
Agenda EC-TB TC TA
Finance 12/17/15 bjs*

December 15, 2015



To: Town Board

From: Steven Ralston *[Signature]*
Superintendent of Parks and Recreation

Re: Request for Approval

Request permission to set the attached fee schedule for 2016 programs and services.

~~Request permission to include Day Camp trip vouchers on the pre-pay list.~~ *on Organization Agenda*

Request permission for the Supervisor to execute North East Special Recreation Inc. interagency agreement for the January 1 – December 31, 2016 program year.

C: Director of Finance
Town Clerk
Park Board

PARKS & RECREATION 2016 FEE SCHEDULE

PARK USE

PERMIT	SESSION DURATION	2015 FEE(S)		2016 FEE(S)		LAST INCREASE
		March - November				
Pavilion Use	Daily					
	• Groups under 25 people		\$40.00	\$40.00	2007	
	• Groups of 25 - 74 people		\$70.00	\$70.00	2007	
	• Groups of 75 - 99 people		\$95.00	\$95.00	2010	
	• Groups larger than 100 people		\$125.00	\$125.00	2010	
• Company/Corporate rate		\$175.00	\$175.00	2010		
• Security Deposit Includes Pavilion Key		\$150.00	\$150.00	2010		
Recreation Center	Daily	January - December	\$0.00	\$0.00	N/A	
Pony/JR/Softball Field Lights for non-sanctioned teams	Hourly	April - November	\$125.00	\$125.00	N/A	
Dog Park	Yearly	January 1 December 31	\$40.00 resident; \$100.00 non- resident	\$40.00 resident; \$25.00 after July 1 \$100.00 non- resident	2014	

CAMPS

PROGRAM	SESSION	DURATION	2015 FEE(S)	2016 FEE(S)	LAST INCREASE
Day Camp K-6	Summer	6 wks	\$600.00	\$600.00, 3/3-4/30	2013
				\$625.00 after 4/30	2015
Day Camp PK	Summer	6 wks	\$300.00 ½ Day	\$300.00 ½ Day	2015
				\$325.00 after 4/30	2015
• Extended Day PK-6	Summer	8-9 a.m.	\$125.00	\$125.00	2011
• Extended Day PK-6	Summer	3-6 p.m.	\$200.00	\$200.00	2011
				\$625.00 after 4/30	
Additional T-shirt All Camps	Summer		\$10.00	\$10.00	2007
Teen Travel	Summer	6 weeks	Three two week sessions \$500.00 per session	Three two week sessions \$500.00 per session	2013
Tennis	Summer	1 week - 5, 1 hr lessons	\$85.00	\$85.00	2008
Summer Camps, run by outside organizations.	Summer	1-2 weeks	20% of total gross registration fee	20% of total gross registration fee	N/A
SYSO Sports Camps	Weekly	Seasonal	20% of total gross registration fee	20% of total gross registration fee	N/A

YOUTH PROGRAMS

PROGRAM	SESSION	DURATION	2015 FEE(S)	2016 FEE(S)	LAST INCREASE:
After School/Pre School Instructional	Spring, Fall, Winter	6/7 - 1-1 1/2 hr classes	\$65.00-\$125.00	\$55.00-\$125.00	2013
After School/Pre School Instructional	Spring, Fall, Winter	6/7 - 1-1 1/2 hr classes	20% of total gross registration fee	20% of total gross registration fee	N/A
Tennis Lessons	Spring & Fall	5 - 1 hr lessons	\$85.00	\$85.00	2008

ADULT PROGRAMS

PROGRAM	SESSION	DURATION	2015 FEE(S)	2016 FEE(S)	LAST INCREASE
Basketball	Spring, Fall, Winter	2 hr/wk, October - May	\$75.00	\$75.00	2006
Tennis Lessons	Spring & Fall	5 - 1 1/2 hr lessons	\$90.00	\$90.00	2008
Women's Tennis Team	Spring	12 weeks	\$25.00	\$25.00	2007
Men's Softball	Spring-Fall	24 games	\$1,500 team	\$1,500 team	2015
Programs run by outside organizations.	Summer	4-8 weeks	20% of total gross registration fee	20% of total gross registration fee	N/A

NORTH EAST WESTCHESTER SPECIAL RECREATION, INC.

INTERAGENCY AGREEMENT

This agreement made on the (1st.) day of (January), (2016), by and between North East Westchester Special Recreation Inc., a NFPC organized pursuant to laws of State of New York and the Town of Mount Pleasant, a municipal corporation of the State of New York, the Town of New Castle, a municipal corporation of the State of New York, the Town of Bedford, a municipal corporation of the State of New York, the Town of Somers, a municipal corporation of the State of New York, the Town of Lewisboro, a municipal corporation of the State of New York, the Town of North Castle, a municipal corporation of the State of New York, the Village-Town of Mount Kisco, a municipal corporation of the State of New York, the Village of Sleepy Hollow, a municipal corporation of the State of New York, the Village of Pleasantville, a municipal Corporation of the State of New York, The Town of North Salem, a municipal corporation of the State of New York, The Town of Pound Ridge, a municipal corporation of the State of New York, The Village of Briarcliff Manor, a municipal Corporation of the State of New York; shall enable said municipalities the opportunity to provide a collective program of Therapeutic Recreation services for individuals with disabilities through participation in (North East Westchester Special Recreation Inc.)

Now, therefore, the parties hereto agree as follows:

- FIRST:** The parties shall jointly operate a therapeutic recreation program for individuals with disabilities residing or domiciled within the corporation limits of their respective municipalities irrespective of age or degree of the disabling condition.
- SECOND:** The program shall be funded through each municipality in accordance with a schedule of fees attached hereto and made part hereof establishing respective local shares which shall be in addition to any third party sources of funding. Additionally, the parties agree to help with fund raising events in support of North East Westchester Special Recreation Inc. Said local share shall be paid to North East Westchester Special Recreation in two installments; the first before the last day of February, and the second on the last day of July in any calendar year in which this agreement shall be operative.

- THIRD:** The substantive program policy shall be the joint responsibility of all the parties; but shall be carried out administratively by North East Westchester Special Recreation, Inc.; in the manner as any other programs for which said municipality would otherwise individually be responsible. Administrative services include, but are not limited to, accounting, payroll, legal, personnel, insurance, and risk management. In addition, the agency on behalf of the program may apply and receive grants and other third party sources of revenue and may further enter into agreements on behalf of the program with other governmental agencies and non-profit organizations providing full or partial support of any program or activity to be provided hereunder.
- FOURTH:** The Board of Directors, consisting of the Recreation Department Chief Administrator from each of the parties shall have policy making power for the program and which shall further have the power to adopt rules, regulations and procedures for the governing of the program affairs in a manner consistent herewith.
- FIFTH:** North East Westchester Special Recreation shall procure and maintain liability insurance at its own cost and expense relating to all activities sponsored by and performed by the program, which insurance shall protect the interest of the parties hereto as named insured. Members of the North East Board of Directors shall be indemnified should suit be brought against them. A copy of the insurance coverage is submitted herewith naming North East Westchester Special Recreation, Inc. as the insured party to the benefit of the individual municipality.
- SIXTH:** The chief fiscal officer of North East Westchester Special Recreation shall be the Treasurer.
- SEVENTH:** Programs shall be held throughout the participating municipalities, utilizing existing community facilities.
- EIGHTH:** North East Westchester Special Recreation shall provide services for residents of participating communities and will accommodate non-resident participants in accordance with agency guidelines currently enforced.

NINTH: This agreement shall be effective for the calendar year and upon further agreement of the parties, may be amended and/or extended from year to year thereafter.

TENTH: This Agreement may be executed by the separate signatures of the parties hereto on any number of counterpart copies hereof, and each of said executed copies shall become effective when so executed by North East Westchester Special Recreation, Inc. and each particular municipality, and only after all of the municipalities to this Interagency Agreement have been signed, which would then bind all parties thereto.
Each counterpart signed copy shall be deemed an original, but all of which together shall constitute one instrument.

IN WITNESS WHEREOF the parties hereto have executed this agreement as of the date appearing next to their signature below.

**NORTH EAST WESTCHESTER
SPECIAL RECREATION INC.**

1/1/16
Date

By: _____

Janet Riley
Name Printed

Title: Executive Director

Municipality/Town/Village of: _____

Date

By: _____

Name Printed Title



North East Westchester Special Recreation Inc.
63 Bradhurst Avenue, Hawthorne, New York 10532
914-347-4409 FAX 914-347-4050

2016
MUNICIPAL MATCH CONTRIBUTIONS
(3-Year Average)

Per Capita .44533725
Per Participant 156.20

	2016	2016	2016
TOTALS	Per Capita	Per Part	Total
Bodford	7,719.92	9,163.73	16,883.65
Briarcliff	3,503.47	3,696.73	7,200.20
Lewisboro	5,527.08	4,373.60	9,900.68
Mt. Kisco	4,843.93	10,465.40	15,309.33
Mt. Pleasant	11,993.38	8,278.60	20,271.98
New Castle	7,824.13	6,664.53	14,488.66
North Castle	5,273.24	1,1666.13	6,939.37
Sleepy Hollow	4,395.48	1,718.20	6,113.13
North Salem	2,273.00	1,926.47	4,199.47
Pleasantville	3,125.82	4,061.20	7,187.02
Pound Ridge	2,273.00	4,373.60	6,646.60
Somers	9,100.02	10,829.87	19,929.89
Totals	67,852.47	67,218.07	135,070.54

Highway Department

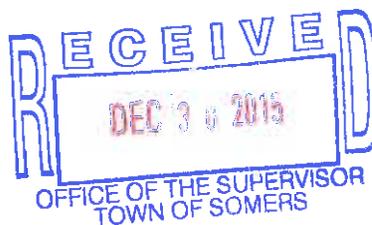
TELEPHONE:
(914) 252-4648
FAX
(914) 252-0120

Town of Somers
WESTCHESTER COUNTY, N.Y.

200 RT. 100
P.O. BOX 281

THOMAS E. CHIAVERINI
Superintendent of Highways

LOUIS N. NOTO, JR.
Deputy Supt. of Highways



*Jan 7, 2016
WPK session
Agenda
cc-all 12/30/15 bsp*

Memo To: Supervisor
Town Board

From: Thomas E. Chiaverini
Supt. of Highways

Date: December 30, 2015

Re: Dennis Coffey – Highway Dept.

Please be advised that I will be hiring Dennis Coffey Full Time at the Highway Department as a Road Maintainer effective Monday January 4, 2016 at an annual salary of \$50,304.00 which he will receive 90% of it for the first six months at an hourly rate of (\$24,1847) Then after the 26 week 95%, upon completion of one year of service the employee shall receive the full salary rate of pay.

If you should have any questions please feel free to contact me at any time.

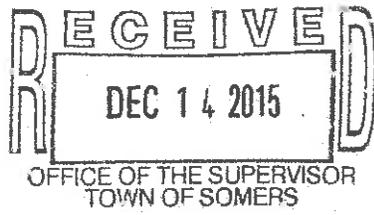
Yours truly,

Thomas E. Chiaverini
Supt. of Highways

Cc: Finance Dept
Town Clerk

Jan 7, 2016
TB mtg.

Chief Michael Driscoll
Town of Somers Police



December 11, 2015

cc -
TB
12/15/15
DJS

This is my letter of retirement from my position as Police Officer from The Town of Somers Police Department, this is effective immediately. Please make arrangements for me to receive a retired ID card from the Westchester County Police Academy, this document is necessary for HR218 qualification.

Respectfully Submitted

Robert J. Matuszewski
Robert J. Matuszewski

cc: Supv.

Water & Sewer Department

Adam Smith
Superintendent of Water & Sewer
asmith@somersny.com

Town of Somers

WESTCHESTER COUNTY, N.Y.

P.O. Box 618
40 Lakeview Drive
Shenorock, NY 10587
Telephone & Fax
(914) 248-5181



Date: December 14, 2015
To: Somers Town Board
From: Adam Smith
Water Superintendent
RE: **Meter Reading Handheld & Software**

The meter reading handheld and software currently being used to capture water meter readings and transfer the data to our billing program is outdated and incompatible with the new Windows operating system. The cost for the new handheld, associated software and 3 years of software maintenance and support are as follows;

3 years Neptune software maintenance	\$4,500
3 years Neptune 800 customer support	included
1 Trimble Ranger with cradle	\$8,225
1 Training Implementation provided by RIO Supply	\$350
TOTAL:	\$13,075

The cost of this purchase will be divided equitable amongst each of the water districts and sewer district #1.

I respectfully request the town board authorize the purchase of the Trimble Ranger 3XE Handheld Data Collector including all necessary hardware, software and 3 years of support at a price not to exceed \$13,075.00.



TRIMBLE RANGER 3XE HANDHELD DATA COLLECTOR

STREAMLINE AND AUTOMATE WATER MEASUREMENT

When you work with Neptune's R900[®] System, you'll streamline and automate processes to help your workforce be more efficient in their jobs, saving your utility time and money. The Trimble Ranger 3XE's intuitive design reduces training time, and our automated features ensure that the data you collect is accurate and easy to share with other departments. And if you need it, you can count on our support staff to resolve issues quickly and efficiently. Neptune's systems provide the foundation that you can build on, turning data into meaningful information to improve accuracy, identify hidden causes of loss, and streamline operations.



PROTECT ASSETS WHILE ADOPTING NEW TECHNOLOGIES

Neptune has designed the R900 System to ensure that individual components work easily with past generations of equipment, and will work just as seamlessly with future innovations as your utility's needs evolve. For instance, the Trimble Ranger 3XE maintains support to read R900[®] MIUs through its internal HR2650i receiver. The Ranger lets you choose manual keyed entry, probed, and walk-by RF data collection methods at any time. The Ranger can also be paired via Bluetooth with the new R900[®] Belt Clip Transceiver (BCT). This enables features such as RF-activated data logging to extract 96 days' worth of hourly consumption data from the new enhanced R900 or E-Coder[®] R900i[™] for an individual account. You can phase in these and other new features and equipment at your own pace, confident that Neptune will support your future needs without leaving stranded assets.

ADDRESS CUSTOMER ISSUES AND IMPROVE SERVICE

With the Trimble Ranger 3XE and R900 BCT, access to the meter is not an issue, so your meter readers can quickly capture the information they need remotely. Your field personnel can now have AMI functionality in the palm of their hand, with immediate access to detailed interval data as well as flags for leaks, tamper, and reverse flow from E-Coder[®]-equipped meters. They can generate graphs of a customer's water consumption and show the customer on-screen exactly when excessive water usage occurred or when a probable continuous leak began. Seeing usage patterns and receiving alerts will help your utility proactively improve your customer service, heading off high bill complaints, reducing delinquent payments, and avoiding write-offs in the process.

KEY BENEFITS

- Increases Efficiency
 - Supports multiple data collection methods – manual keyed entry, probed, and walk-by RF
 - Integrated HR2650i receiver for easy transition to walk-by RF
 - Supports two-way communication to R900 when connected to R900 Belt Clip Transceiver (BCT)
- Protects your meter reading data
 - SD card backup
 - Meets MIL-STD-810G for impact, vibration, humidity, altitude, and extreme temperatures
 - Meets IP67 for protection against dust and water intrusion
- Analyze data at the source
 - View data logging graphs in the field to address high bill complaints
 - Identify high/low audit status failures
 - Receive leak, reverse flow, and days of no flow alerts from E-Coder-equipped meters

- Operating System: Windows Mobile 6.5 Professional
- Software Application: N_SIGHT™ R900[®] (version 4.7 or later)
- Processor: TI AM3715 Sitara ARM Cortex-A8 processor at 800 MHz
- Memory: 256 MB RAM
- Display: 4.2 in (10.6 cm), 640 x 480 pixel, VGA TFT with LED backlighting
- Keyboard: QWERTY full keypad with number pad, directional buttons with 4 programmable buttons
- Power Supply
 - Rechargeable lithium ion battery pack – 11.1V, 2500 mAh, 27.8 Wh
 - Power management system
 - Integrated charge status and low battery indicator
 - Typical 10+ hour work day
- Communication
 - Bluetooth 2.0 + EDR
 - WiFi (802.11b/g)
- WWAN Radios
 - HSDPA, Tri-band
 - HSDPA/UMTS: 850/1900/2100 MHz, Quad-band
 - GSM/GPRS/EDGE
 - CDMA
- Audio: Integrated speaker and microphone
- AMR RF Receiver: HR2650i integrated receiver, Also compatible via Bluetooth with R900 Belt Clip Transceiver (BCT)
- Dimensions
 - Height: 1.9" (4.8 cm)
 - Width: 5.2" (13.1 cm)
 - Length: 10.5" (26.6 cm)
 - Weight: 2.3 lbs. (1.04 kg) including rechargeable battery and stylus
- Temperature Range
 - Operating: -22°F to +140°F (-30°C to +60°C)
 - Storage: -40°F to +158°F (-40°C to +70°C)
 - Humidity: 90% RH temp cycle -4°/+140°F (-20°C/+60°C)

- Environmental
 - Meets or exceeds:
 - Water: IEC-529, IP67
 - Sand & Dust: IEC-529, IP67
 - Drop: MIL-STD-810G, Method 516.6, Procedure IV
 - Vibration: MIL-STD-810G, Method 514.6, Procedure I, II
 - Operating and Storage Temperature: MIL-STD-810G, Method 501.5 – Procedure I, II, Method 502.5 – Procedure I, II, III
 - Temperature Shock: MIL-STD-810G, Method 503.5, Procedure I
 - Humidity: MIL-STD-810G, Method 507.5
 - Altitude: MIL-STD-810G, Method 500.5, Procedure I, II, III
- Approvals
 - FCC, CE, R&TTE, IC (Canada), C-tick, GCF compliant, RoHS compliant, Section 508 compliant, AT&T certified, WiFi Alliance certified, MIL-STD-810G, IP67, MIL-STD-461
- Accessories
 - Ethernet communications and charging cradle
 - Replacement lithium-ion battery
 - Hand strap
 - AC power adapter
 - Anti-glare screen protector
 - Stylus
- Warranty
 - Two year comprehensive warranty
 - Hardware and software maintenance contracts available

Neptune Technology Group Inc.
 1600 Alabama Highway 229
 Tallahassee, AL 36078
 USA
 Tel: (800) 633-8754
 Fax: (334) 283-7293

Neptune Technology Group (Canada) Ltd.
 7275 West Credit Avenue
 Mississauga, Ontario
 L5N 5M9
 Canada
 Tel: (905) 858-4211
 Fax: (905) 853-0428

Neptune Technology Group S de RL de CV
 Ejército Nacional No. 418
 Piso 12, Desp. 1201-1202
 Col. Chapultepec Morales
 Delegación Miguel Hidalgo
 11570 México, Distrito Federal
 Tel: (525) 55203 5294 / (525) 55203 5708
 Fax: (525) 55203 6503





N_SIGHT™ AND N_SIGHT™ PLUS

N_SIGHT™ AND N_SIGHT™ PLUS HOST SOFTWARE APPLICATIONS

Turn Information into Action

Data is just data unless you can use it effectively. To go beyond basic meter reading and billing, your utility needs tools that provide a deeper understanding of the data you collect – that turn it into meaningful information for a smart water network. Neptune's N_SIGHT™ and N_SIGHT™ PLUS host software applications were designed to provide as much data as your utility needs, and then make sense of it all so that you can make faster, more informed decisions.

It starts with Neptune's E-Coder®-equipped meters, which provide the data "fuel" for the N_SIGHT software suite's analysis "engine". The accurate, detailed, and timely consumption data at the meter identifies leaks, backflow, and days of no flow. With Neptune's latest enhancements to its R900 System, 96 days of hourly consumption data can be available at any time for an individual account. With this data logging functionality, you can identify – and address – existing or potential issues faster, saving time and money.



Resolve Issues Early for Better Customer Service

Neptune's N_SIGHT host applications provide quick and easy access to the information you need to pinpoint and address a customer's water-related issue – often before they even call to complain. Not only can you see detailed graphs pinpointing consumption anomalies, but it's also simple to present this information on possible leak, tamper, or reverse flow events to your customers. Our host software makes configuring, generating, and analyzing customers' historical water consumption easier and more intuitive. As an example, reports such as the continuous leak report can be used to notify your customers of potential leaks in their homes or



Share Information Across the Smart Water Network

Your management, maintenance, customer service, water quality, and other utility departments all need fast, easy access to information for your utility to run smoothly. Now you can share and leverage crucial data captured by N_SIGHT and N_SIGHT PLUS, collaborating on daily issues or larger projects and predicting the impacts they could have on your utility. Both host software packages support seamless integration of enterprise-level data to other utility software applications through Neptune's Connected Utility Partnership Program™ (see a list of Partners at neptunetg.com/About/Partners).

businesses. Use N_SIGHT or N_SIGHT PLUS to address high water bill complaints confidently, reduce delinquencies, and eliminate costly write-offs. Then leverage customer usage profile data to support water conservation initiatives.





Protect Existing Assets while Adopting Future Technologies

Neptune's ARB® Utility Management Systems™ are designed to maximize your utility's existing metering assets, while allowing you to expand your system as your needs grow – without stranding your assets. Our host software applications make it especially easy to migrate from walk-by to mobile automatic meter reading (AMR) to fixed network advanced metering infrastructure (AMI). N_SIGHT is ideal for those utilities who want monthly reads and data logging capabilities using mobile AMR. N_SIGHT PLUS provides additional AMI capabilities to identify, track, and reduce Non-Revenue Water while improving customer service. These applications can be installed individually or combined for a hybrid system.

In any case, Neptune's host software packages allow your utility to use only what you need, and give you the freedom to move ahead at your own pace.

Simplify Operations, Adapt to a Changing Workforce

Using N_SIGHT and N_SIGHT PLUS with Neptune's AMR and AMI devices, you'll automate and improve processes to enhance customer service, facilitate system monitoring, boost asset performance, and help your workforce be more efficient in their jobs, saving your utility time and money. By streamlining data collection, simplifying operations, and enabling more proactive response time, N_SIGHT allows you to do more with less, and provides your utility the flexibility to refocus your staff on other tasks while adapting to changes in your workforce over time.

Optimize your water utility efficiency. Satisfy customers who've come to expect more transparency and accountability. Conserve water resources. And increase your utility's financial viability. All by turning data into meaningful information – Neptune's answers for effective utility management.



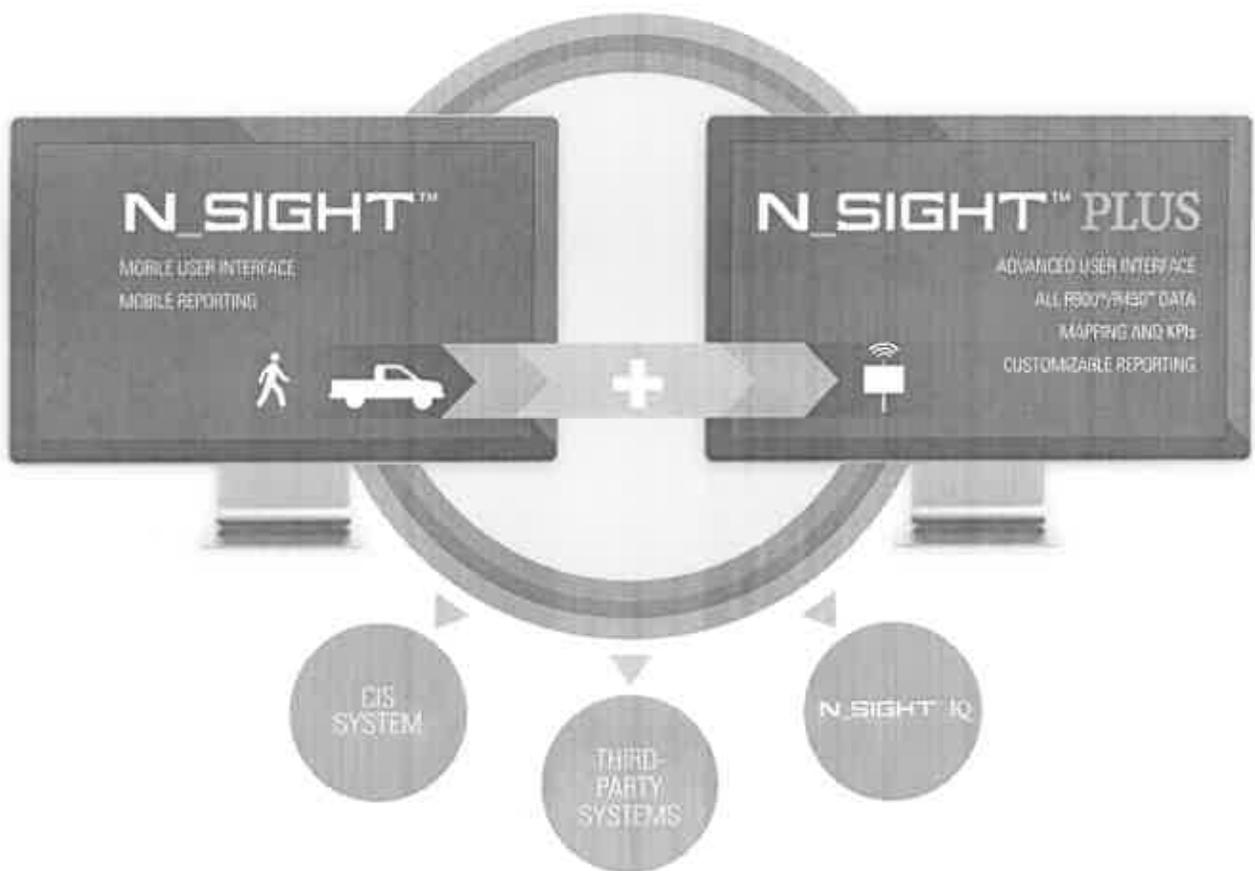
Act on Insight

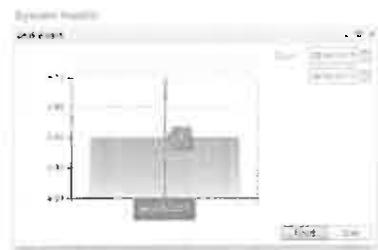
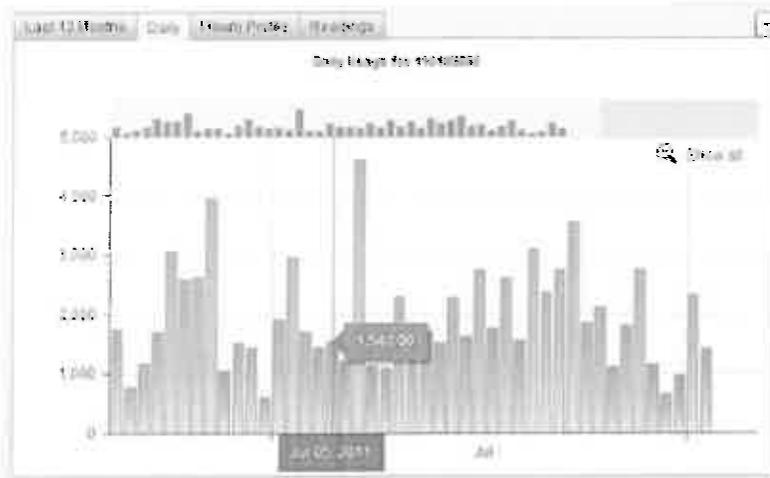
Now you can know more, much more, much faster. Know how to use and share the data your system generates. And be secure in the knowledge that you'll be making better decisions while getting the most value from your assets over time.

Make your data work for you, and extract the most value from your assets for years to come.

MIGRATION MADE EASY

Move seamlessly from walk-by and mobile reads to full fixed network. All using the same endpoints - and the same database. It's simple. Just add N_SIGHT PLUS to N_SIGHT, and enjoy all the advantages of AMI, while always being able to use your mobile and walk-by data collection as backup. Plus you can integrate data from billing, N_SIGHT IQ, and third-party software. **JUST ADD PLUS**





N_SIGHT PLUS

- Web-based, thin-client platform to support fixed network AMI
- Review system-wide KPIs on a dashboard screen
- View graphical/tabular representations of consumption data
- Perform diagnostics for individual meters or groups of meters
- Set and receive priority alarm notifications for leaks or backflow events
- Instantly access detailed consumption profile information by account for proactive customer service
- Eliminate truck rolls for move-ins and move-outs
- Generate advanced reports including high/low, backflow, and even custom reports
- Utilize a full Esri®-powered map-based data reporting and analysis engine
- Balance water produced against water consumed, track Non-Revenue Water
- Group accounts for District Metered Area analysis and comparative analytics
- Perform virtual disconnects with and without usage
- Provide visual confirmation with stored before-and-after photos of meter install conditions
- Share data with other utility systems using Connected Utility APIs
- Data encryption, secure login process, and active directory integration

N_SIGHT PLUS software provides graphical information on trending flow, and leaky consumption. These graphs are equipped with a mouse hover option that shows the data and consumption value for the selected bar in the graph. The dashboard is divided into sub-sections for Key Performance Indicators.

N_SIGHT™

N_SIGHT™ SERVER SPECIFICATIONS

- Windows Server 2012[®] Standard/Windows Server 2008[®] R2
 - Intel Pentium 4 3.0 gigahertz (GHz) or compatible processor or higher, depending on the system configuration
 - 2 gigabytes (GB) RAM (4 GB RAM or higher recommended), depending on the system configuration
 - For networking: Network adapter appropriate for the type of local area, wide area, wireless, or home network to be connected to, and access to an appropriate network infrastructure; access to third-party networks may require additional charges
 - Minimum 1 USB port
 - Video graphics adapter capable of 256 colors and 1024 X 768 pixels
 - 10 GB available hard disk space (no R900 Gateways) or 250 GB available hard disk space (with R900 Gateways)
 - Neptune recommends using a RAID configuration for the N_SIGHT server installation
-
- Windows[®] 8 Professional, Windows[®] 8 Enterprise, Windows[®] 7 Professional, Windows[®] 7 Enterprise
 - Intel Pentium 4 3.0 GHz processor or faster
 - Minimum 2 GB RAM (higher recommended), depending on the system configuration
 - Minimum 5 GB of available space on the hard disk
 - Minimum 1 USB port
 - Keyboard and a Microsoft mouse or other compatible pointing device
 - Video adapter and monitor with Super VGA (1024 X 768) or higher resolution

N_SIGHT™ PLUS

N_SIGHT™ PLUS SERVER SPECIFICATIONS

# of Services	0-10,000	10,000 - 50,000	50,000 - 100,000
Server Model	Dell Power-Edge R620	Dell Power-Edge R620	Dell Power-Edge R620
Operating System	Server 2008 R2 Server 2012 Std. (w/5 CALs)	Server 2008 R2 Server 2012 Ent. (w/10 CALs)	Server 2008 R2 Server 2012 Ent. (w/10 CALs)
Processor	Dual - Intel Xeon E5-2609 2.40 GHz, (10 M Cache, 4-Core, 80 W)	Dual - Intel Xeon E5-2609 2.40 GHz, (10 M Cache, 4-Core, 80 W)	Quad - Intel Xeon E7-4830 2.13 GHz, (24 M Cache, 8-Core)
RAM	32 GB RDIMM, 1600 MT/s	64 GB RDIMM, 1600 M9T/s	128 GB RDIMM, 1066 Mhz
Hard Drive Size (Total)	3.6 TB	6 TB	8.4 TB
Network Adapter	Yes - 100 megabit or higher	Yes - Gigabit - Quad Port	Yes - Gigabit - Quad Port
Power Supply	Redundant	Redundant	Redundant
DVD-ROM drive	Yes	Yes	Yes

N_SIGHT™ PLUS SINGLE-USER PC SPECIFICATIONS

- Windows 7 Professional and Windows 7 Enterprise/b/Windows 8 Professional and Windows 8 Enterprise
- Intel[®] Core[™] 2 Duo 2-gigahertz (GHz) processor or faster
- Minimum 2 gigabytes (GB) of RAM (4 GB is recommended)
- At least 1.5 GB of available space on the hard disk
- Minimum 1 USB port
- Keyboard and a Microsoft mouse or some other compatible pointing device
- Video adapter and monitor with Super VGA (1024 X 768) or higher resolution
- 56 kilobits per second (Kbps) or higher-speed modem
- Network adapter appropriate for the type of local-area, wide-area, wireless or home network you wish to connect to, and access to an appropriate network infrastructure; access to third party networks may require additional charges
- Internet Explorer (version 9 or higher) and Firefox browsers supported

Neptune Technology Group Inc.
1600 Alabama Highway 229
Tallassee, AL 36078
USA
Tel: (800) 633-8751
Fax: (334) 283-7293

Neptune Technology Group (Canada) Ltd.
7275 West Credit Avenue
Mississauga, Ontario
L5N 5M9
Canada
Tel: (905) 850-4211
Fax: (905) 858-0423

Neptune Technology Group Inc.
Avenida Ejercito Nacional No 418
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C.P. 11560
Delegación, Miguel Hidalgo
Mexico D.F.
Tel: (525) 5203-0032 / (525) 5203-6204
(525) 5203-5294
Fax: (525) 5203-6503



*Jan
Agenda
ec-all 12/17/15
BP*

Telephone
(914) 277-5582

KATHY CUCCHIARELLA
CHAIRMAN



PARTNERS IN PREVENTION

Town of Somers

WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
335 ROUTE 202
SOMERS, NY 10589



MEMO TO: Town Board

FROM: Partners in Prevention

RE: Eagle Scout Project

DATE: December 10, 2015

At our regular monthly meeting on December 8, 2015, the Partners in Prevention met with resident William Walsh to review and discuss his Eagle Scout Project. He would like to renovate (paint, replace the plexi-glass, add letter tracking and add the new name) the existing Partner's display sign on Route 100 and plant flowers around it. His project was unanimously accepted as submitted. The Partners in Prevention respectfully request the Town Board's approval as well.

SURVEY AUTHORIZATION

Project: Access Northeast

I/we, hereby give to Algonquin Gas Transmission, LLC, its affiliates, agents, employees and contractors, the limited permission to enter my/our property only for the purposes of making a civil, cultural resource and environmental survey, *expressly subject to the condition that I am/we are paid for any and all damages to property or crops that may be directly caused by such activities.*

Algonquin agrees to indemnify, defend, and hold you harmless from and against all costs and expenses arising from any and all damages, suits, claims, and demands which you may suffer, resulting directly from the Project work in, on, about, under, over, or from the Property, excepting there from any such loss, injury, or damage that results from your negligence, or the negligence of your contractors, agents, assigns, or licensees.

Is there a water well located on this property? _____Yes _____No

Is there a septic system located on this property? _____Yes _____No

Signature: _____

Printed Name: _____

Date: _____

Phone: _____ (Home or Cell)

_____ (Work)

Comments:

Tract #: See Attached
Parcel #: See Attached
Map/Block: See Attached
Town of Somers

Town: Somers
County: Westchester
State: New York

Barbara Sherry

From: Bob Kehoe
Sent: Tuesday, January 12, 2016 11:24 AM
To: Barbara Sherry
Subject: Statutory Installment Bond

Items for Statutory Installment Bond

<u>Item</u>	<u>Description</u>	<u>Fund</u>	<u>Resolution Cost</u>
1	Radar speed machine for Police	General	5,000
2	Turf seeder	General	10,000
3	Nutrition handicap accessible 14 seat van	General	53,000
4	Pay off Building Department Ford SUV lease	General	16,046
5	Pay off Police F 150 lease	General	20,539
6	2016 Ford Explorer including all equipment (lights & radio)	General	35,000
<i>Sub-Total General Fund</i>			<u>\$139,585</u>
7	One 12 FT Stainless steel sander/Plow & hydraulic package mounted on tandem axle military chassis	Highway	53,000
8	One 10 foot dump body/Hydraulic system for dump body and future Sander hookups mounted on single axle military chassis	Highway	33,000
9	One 13 foot dump body/Hydraulic system mounted on single axle military chassis	Highway	31,000
10	One 9 foot plow/Stainless steel sander for New Ford 550 purchased in 2014	Highway	12,000
11	Takeuchi Excavator model TB290	Highway	96,415
<i>Sub-Total Highway</i>			<u>\$225,415</u>
<i>Total</i>			<u><u>365,000</u></u>

Robert Kehoe
Director of Finance
Town of Somers
335 Route 202
Somers, New York 10589
914-277-4394
914-277-3788 Fax

PLANNING AND ENGINEERING DEPARTMENTS

Telephone
(914) 277-3366
Fax
(914) 277-4093

Town of Somers

WESTCHESTER COUNTY, N.Y.

SOMERS TOWN HOUSE
885 ROUTE 908
SOMERS, NY 10560
www.somersny.com

*Jan 7, 2016
Work Session
Agenda*

Steven Woelfle
Principal Engineering Technician
swoelfle@somersny.com



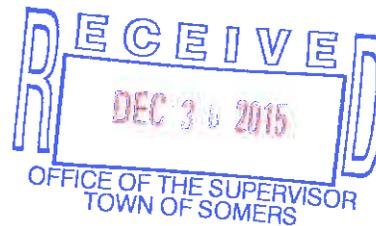
Syrette Dym, AICP
Town Planner
sdym@somersny.com

Date: December 30, 2015

To: *SC* Town Board *TC TA Finance* 12/30/15
bp

From: Steven Woelfle *SW*
Principal Engineering Technician

RE: Somers Realty Planned Hamlet Phase 2
Soil Export of Clayton Boulevard
Release of Performance Bond
Check Received August 17, 2015



This office conducted a site inspection of the subject property and found the site generally stable. Therefore, this Office has no objection to the return of the Surety Bond (Performance Bond) in the amount of \$73,590.

Please return to:

Somers Realty Corp.
15 Charles Street, Apt 12G
New York, NY 10014

SW/mm

cc: Town Clerk
Director of Finance
Somers Realty Corp.