

JULY 9, 2015 – WORK SESSION/REGULAR MEETING

Minutes of a combined work session/regular meeting of the Town Board of the Town of Somers held on Thursday evening July 9, 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. 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 two members of the Somers Police Benevolent Association (PBA) were there that evening to make a presentation the Somers Youth Sports Association (SYSO). Mr. Graham Leftwich, Secretary of the Somers PBA and Mr. Bob Matuszewski, Vice President of the Somers PBA introduced themselves. Mr. Matuszewski said that they were there to present an Automation External Defibrillator (AED) to SYSO. He said that they hoped that it would never need to use and wished them much luck with it.

Mr. Nicholas Ward-Willis, past President of SYSO, introduced Mr. Chris Lieberman, Current SYSO President said that everyone involved in SYSO was extremely grateful for the PBA's donation of the AED. He said that as was said hopefully this was a gift that they will never have to use. He said that this was part of their ongoing efforts to raise awareness of the need for AEDs and CPR training in Youth Sports. Mr. Ward-Willis said that they had raised about \$7,500.00 of their fund raising goal of \$25,000.00. He said that that was to have AED on the Town Fields for off hours when Coaches or people with a key to the AEDs were not available. He said that the PBA's donation was greatly appreciated and he sincerely thanked them.

Councilman Clinchy asked Mr. Ward-Willis to briefly explain how the AED worked and what they were used for. Mr. Ward-Willis said that an AED was used whenever there was a sudden Cardiac Arrest. He said that may happen in sports when hit by a ball or the child might have an unknown Heart Ailment. He said that also a Coach or Parent might be in need of assistance, the AED was available for everyone.

The Supervisor thanked the Somers PBA for their gracious donation.

The Supervisor said that the Board was presenting a Certificate of Appreciation to Mr. William F. Kehoe. He said that this was in recognition of Mr. Kehoe's 25 years of service to the Library Board of Trustees, 16 years of service on the Risk Management and Safety Committee and his input to the Somers Master Plan. He presented Mr. Kehoe with the Certificate of Appreciation on behalf of the Town Board.

Mr. Kehoe said that it had been an honor, a privilege and a pleasure to give his time to the Town of Somers. He thanked the Board for their recognition.

Councilman Garrity said that he worked with Mr. Kehoe on the Risk Management Committee. He said that Mr. Kehoe took everything that came before them very seriously. He said that because of Mr. Kehoe they were able to reduce costs in certain insurance areas and reduce claims in the Town. Councilman Garrity said that it was always a pleasure to work with him.

Councilman Clinchy said that Mr. Kehoe had institutional knowledge of the Town and over the years they all had learned from him.

Supervisor Morrissey said that Mr. Kehoe was the quintessential volunteer and this Town ran on volunteers. He said that Mr. Kehoe was the perfect example of that and he will be missed. He thanked Mr. Kehoe for all of his service to the Town.

The Supervisor said that the Board was also presenting a Certificate of Appreciation to Mr. Michael Yee for his service to the Somers Energy Environment Committee (SEEC). He said that Mr. Yee was unable to be present that evening. He said that Mr. Yee was a guiding force within in SEEC to work on the Complete Streets Project. The Supervisor explained that the Complete Streets Project studied the installation of sidewalks from the Somers Town Shopping Center to the Somers High School and Reis Park. He thanked Mr. Yee for his service to the Town of Somers.

The Supervisor said that it was in order for the Board to open a public hearing with regard to the granting of preliminary development concept plan approval and the reclassification of the site located at 16 Route 6 (Lot 15.07-1-6) for the proposed Hidden Meadow Development to the Multifamily Residence Baldwin Place District (MFR-BP) Floating Zone from an existing R80 Residence District pursuant to Section 170-13 Multifamily Residence MFR District.

7:10 PM – hearing opened  
7:25 PM – meeting reconvened.

The Supervisor invited Ms. Dym to discuss the proposed Resolution with the Board. Ms. Dym stated that the Board had before them a draft Resolution with a series of whereas that took them through the history of the project. She said that the Board needed to focus on the finding portion of the Resolution. She explained in order for the Board to designate the property as an MFR-BP there were a series of findings that had to be made. Ms. Dym went through the findings with the Board so that they would be clear as to what they were voting on. She stated that the project met all the required findings in order for the Town Board to apply the MFR-BP to the site.

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

## **RESOLUTION**

### **GRANTING OF APPROVAL OF A PRELIMINARY DEVELOPMENT CONCEPT PLAN AND THE RECLASSIFICATION OF A SPECIFIC PARCEL TO THE MULTIFAMILY RESIDENCE BALDWIN PLACE DISTRICT (MFR- BP) FLOATING ZONE**

Pursuant to § 170-13 Multifamily Residence MFR Districts of the Code of the Town of  
Somers

**WHEREAS**, the Town Board is considering the approval of a preliminary development concept plan and the reclassification of a specific parcel to the Multifamily Residence Baldwin Place MFR-BP District, a Floating Zone, pursuant to Section 170-13 Multifamily Residence MFR Districts of the Code of the Town of Somers to the property located at 16 Route 6 and identified as tax lot 15.07-1-6 on the tax maps; and

**WHEREAS**, the Project consists of a multi-family housing development with associated site appurtenances, consisting of (8) buildings containing (53) total units as follows: (37) market rate fee simple town homes, (8) fee simple affordable town homes and (8)

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affordable apartments, with its own individual entry, will be located within and owned by the owner of the corresponding affordable townhome, also with its own entry; and

**WHEREAS**, the project includes public water and sewer connections and onsite stormwater management; and

**WHEREAS**, multifamily residence districts were 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; and

**WHEREAS**, 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; and

**WHEREAS**, 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, 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, community facilities and services, and to include affordable housing; and

**WHEREAS**, all multifamily residence districts are established on a floating-zone basis, subject to approval by the Town Board and in accordance with an approved preliminary development concept plan; and

**WHEREAS**, the Town Board reviewed and clarified the intent of both the 1994 Comprehensive Master Plan and the MFR-BP District in light of the changes in the Route 6 Baldwin Place corridor over the last 20 years; and

**WHEREAS**, on September 27, 2013, the Town Board received an application for placement of the MFR-BP district and a concept plan of development relative to that district for the subject site; and

**WHEREAS**, the Town Board referred the proposed preliminary development concept plan and the reclassification of the Project Site to the Multifamily Residence Baldwin Place District Floating Zone to the Town of Somers Planning Board on October 10, 2013 and the Town of Somers Open Space Committee on November 15, 2013 for review and comment; and

**WHEREAS**, the Town Board, having made required referrals, held required public hearings, and having determined through review by the Planning Board whom it asked and who accepted the role of Lead Agency under SEQRA that there were no significant environmental impacts resulting from reclassification of the property or from development of the preliminary development concept plan in a Negative Declaration issued, January 28, 2015, reviewed and clarified the intent of both the 1994 Comprehensive Master Plan and the MFR-BP District in light of the changes in the Route 6 Baldwin Place corridor over the last 20 years and approved such clarifications by resolution on October 9, 2014

**WHEREAS**, in correspondence dated April 28, 2014 whereby the Planning Board approved proposed modification to the 1994 Town of Somers Comprehensive Master Plan and Associated Zoning Text Amendments to Section 170-13 Multifamily Residence MFR Districts; and

**WHEREAS**, in addition, as part of the issuance of the Negative Declaration of January 28, 2015 which, among other actions pertained to application of the MFR-BP floating zone on the subject site, the Town of Somers Planning Board provided its recommendation of approval regarding the proposed preliminary development concept plan and the reclassification of the Project Site to the Multifamily Residence Baldwin Place District Floating Zone; and

**WHEREAS**, in numerous memorandums and correspondence, the Town of Somers Open Space Committee provided its comments on the proposed preliminary development concept plan and the reclassification of the Project Site to the Multifamily Residence Baldwin Place District Floating Zone ending with correspondence of November 14, 2014 which stated its satisfaction with resolution of its issues and further recommendations subsequently incorporated into the plan and such correspondence constituted its recommendation of approval regarding such concept plan and zoning reclassification; and

**WHEREAS**, a duly advertised public hearing on the preliminary development concept plan and the reclassification of the Project Site to the Multifamily Residence Baldwin Place District Floating Zone was opened by the Town Board on July 9, 2015, at which time public comments were taken and the hearing was closed on July 9, 2015; and

**WHEREAS**, the Town Board has carefully considered all of the comments raised by the public and other interested agencies, organizations and officials, including those presented at meetings of the Board as well as those submitted separately in writing; and

**NOW, THEREFORE, BE IT**

**RESOLVED**, that the foregoing WHEREAS clauses are incorporated herein by reference and are fully adopted as part of this approval; and

**BE IT FURTHER RESOLVED** that the Town Board makes the following findings pursuant to §170-13 of the Town of Somers Zoning Law:

1. Minimum site area. The site meets the minimum site area of 10 acres to receive consideration for designation within the MFR-BP District. The site has an area of 16.8 acres.
2. Underlying Zoning. For consideration for designation within the MFR-BP District, a tract shall have an underlying zoning of R40 Residence District or R80 Residence District. The proposed site is located within the R40 Residence District.
3. Adjacency to Baldwin Place Business Center Area. For consideration for designation within the MFR-BP District, a tract shall have frontage on Route 6 and be located no further than 2,000 linear feet from the intersection of Route 6 and Mahopac Avenue. The proposed site has frontage on Route 6 and is located no more than 2,000 feet from the intersection of Route 6 and Mahopac Avenue.
4. Development Density. The proposed project meets the allowable development density and utilizes the allowable incentive density of one additional market-rate unit for each affordable unit in excess of the required 15% of the base permitted

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density, but does not exceed the maximum increase of 20% in the number of market-rate units.

5. Coverage. The proposed project complies with the maximum permitted building coverage of 20% and the maximum permitted combined coverage of buildings and paved surfaces of 40%. The project proposes 7.5% of building coverage and 18% of buildings and paved surfaces.
6. Maximum building height. The proposed project complies with the maximum permitted building height of 2.5 stories or 30 feet. The project proposes building heights of 22 feet.
7. Setbacks. The proposed project complies with all required building setbacks. All buildings within an 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 reduction in such setback requirements. The proposed setback shall be subject to Planning Board approval as part of its review of the detailed site development plans.
8. Traffic Access. The site has frontage on a major road, US Route 6. The access to the site is adequate to accommodate the anticipated traffic generation resulting from the multifamily development and it has been determined that Route 6 is capable of accommodating the additional traffic generated by the project.
9. Water and Sewerage Facilities. The site shall be connected to the Windsor Farms Water District and the Town of Somers Sewer District.
10. Drainage. The stormwater drainage system serving the multifamily development is designed so that the rate of runoff from the site during the one-hundred-year storm will not exceed that which occurred prior to its construction. The calculation of the runoff rate and the design of the drainage system shall be subject of the approval of the Consulting Town Engineer.
11. Refuse collection, storage and disposal. The plans for the collection, storage, and disposal of refuse within the multifamily development shall be subject to Planning Board approval as part of its review of the detailed site development plans.
12. Underground utilities. All utilities, including electric, telephone and cable television service, shall be placed underground.
13. Fire Protection. The site plans for the multifamily development provide proper access for firefighting equipment and personnel. The location and number of hydrants shall be determined as adequate by the Bureau of Fire Prevention and approved by the Planning Board as part of its review of the final site development plans.
14. Off-street Parking. The proposed project complies with the number of required off-street parking spaces. The project proposes 118 parking spaces where 112 parking spaces are required.
15. Recreation area and Open Space. The proposed project meets and exceeds the MFR-BP Zoning District requirements for recreation and open space. To comply with the zoning requirements for recreation area, the project would need to provide 8,700 square feet of recreational area. The project is providing 11,400 square feet of recreational area, which includes a gazebo, playground, multi-purpose recreation field, picnic/barbeque area and multi-purpose sport court. In addition, a recreation fee will be paid to the Town of Somers. All portions of the

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development which are not used for buildings, streets, or designated recreation areas will be maintained as permanent open space.

- 16. Individual Unit Access. Each individual dwelling unit has its own separate entrance leading directly to the outside.
- 17. Central Antenna System. Cable television service is available to serve the multifamily development and a central television antenna system will not be required.
- 18. Minimum Floor Area. All proposed dwelling units meet the required minimum floor area requirements.
- 19. Exterior lighting shall be provided according to a lighting plan approved by the Planning Board.
- 20. The proposed project complies with the required number of affordable housing units as defined in §170-13 of the Town of Somers Zoning Law.

**BE IT FURTHER RESOLVED**, that the Town Board of the Town of Somers, hereby approves the preliminary development concept plan and the reclassification of a Tax Lot 15.07-1-6 to the MFR-BP Multifamily Residence Baldwin Place District Floating Zone.

This Resolution shall have an effective date of July 9, 2015.

ROLL CALL:	Supervisor Rick Morrissey	AYE
	Councilman Richard G. Clinchy	AYE
	Councilman Thomas A. Garrity, Jr.	AYE
	Councilman Anthony J. Ciriaco	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 a proposed Local Law to add Chapter 83 entitled Community Choice Aggregation (Energy) Program to the Code of the Town of Somers and adopt a Resolution with regard to the Town’s participation in the Community Choice Aggregation Program.

7:35 PM – hearing opened  
7:37 PM – meeting reconvened.

The Supervisor said that it was in order for the Board to adopt the proposed Local Law adding Chapter 83 entitled Community Choice Aggregation (Energy) Program to the Code of the Town of Somers and adopt a Resolution with regard to the Town’s participation in the Community Choice Aggregation Program.

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

RESOLVED, that the Town Board does hereby adopt a Local Law to add Chapter 83 entitled Community Choice Aggregation (Energy) Program to the Code of the Town of Somers as follows:

A LOCAL LAW TO ESTABLISH A  
COMMUNITY CHOICE  
AGGREGATION (ENERGY)  
PROGRAM IN THE TOWN OF  
SOMERS

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

**Section 1.** The Code of the Town of Somers is hereby amended by adding a new Chapter 83, entitled “COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM,” to read as follows:

**ARTICLE I**

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

- A. It is the policy of both the Town of Somers and the State of New York to reduce costs and provide cost certainty for the purpose of economic development, to promote deeper penetration of energy efficiency and renewable energy resources such as wind and solar, and wider deployment of distributed energy resources as well as to examine the retail energy markets and increase participation of and benefits for residential and Small Commercial customers in those markets. Among the policies and models that may offer benefits in New York is community choice aggregation, which allows local governments to determine the default supplier of electricity and natural gas on behalf of its residential and Small Commercial customers.
- B. The purpose of this CCA Program is to allow participating local governments including the Town of Somers to procure energy supply service for their residential and Small Commercial customers, who will have the opportunity to opt out of the procurement, while maintaining transmission and distribution service from the existing Distribution Utility. This Chapter establishes a program that will allow the Town of Somers to put out for bid the total amount of natural gas and/or electricity being purchased by local residential and Small Commercial customers. Bundled Customers will have the opportunity to have more control to lower their overall energy costs, to spur clean energy innovation and investment, to improve customer choice and value, and to protect the environment; thereby, fulfilling the purposes of this Chapter and fulfilling an important public purpose.
- C. The Town of Somers is authorized to implement this COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM pursuant to Section 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law; and State of New York Public Service Commission Case No. 14-M-0564, Petition of Sustainable Westchester for Expedited Approval for the Implementation of a Pilot Community Choice Aggregation Program within the County of Westchester, Order Granting Petition in Part (issued February 26, 2015) as may be amended, including subsequent orders of the Public Service Commission issued in connection with or related to Case No. 14-M-0564 (collectively, the “Order”). Order shall also mean orders of the Public Service Commission related to State of New York Public Service Commission Case No. 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs (issued December 15, 2104) to the extent that orders related to Case No. 14-M-0224 enable actions by the Town of Somers not otherwise permitted pursuant to orders related to Case 14-M-0564; provided, however, that in the event of any conflict between orders from Case No. 14-M-0564 and orders from Case No 14-M-0224, orders from Case No 14-M-0564 shall govern the CCA Program.
- D. This Chapter shall be known and may be cited as the “COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM Law of the Town of Somers”.

**§2. Definitions.**

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

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

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

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

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

**Public Service Commission** – New York State Public Service Commission.

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

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

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

- A. A COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM is hereby established by the Town of Somers, whereby the Town of Somers shall work together with Sustainable Westchester to implement the CCA Program to the full extent permitted by the Order, as set forth more fully herein. The Town of Somers' role under the CCA Program involves the aggregating of the electric and/or natural gas supply of its residents and the entering into a contract with one or more Suppliers for supply and services. Under the CCA Program, the operation and ownership of the utility service shall remain with the Distribution Utility.
- B. The Town of Somers' purchase of energy supply through a CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The Town of Somers will not take over any part of the electric or gas transmission or distribution system and will not furnish any type of utility service, but will instead negotiate with Suppliers on behalf of participating residential and Small Commercial customers.
- C. In order to implement the CCA Program, the Town will adopt one or more resolutions that outline the process of and conditions for participation in the CCA Program, including but not limited to signing a contract for a compliant bid with one or more Suppliers, all as consistent with the Local Law and the Order.
- D. The Public Service Commission supervises retail markets and participants in these markets through legislative and regulatory authority and the Uniform Business Practices, which includes rules relating to the eligibility of participating ESCOs, the operation by which ESCOs provide energy services, and the terms on which customers may be enrolled with ESCOs.

**§4. Procedures for Eligibility; Customer Data Sharing.**

- A. As permitted by the Order, the Town of Somers may request from the Distribution Utilities aggregated customer information by fuel type and service classification on a rolling basis.
- B. Sustainable Westchester, on behalf of the Town of Somers, shall issue one or more requests for proposals to Suppliers to provide energy to participants and may then award a contract in accordance with the CCA Program.
- C. Sustainable Westchester or the Town of Somers if the Town of Somers so chooses, will then request individual customer data from the Distribution Utility in accordance with the CCA Program.

- D. Sustainable Westchester or the Town of Somers if the Town of Somers so chooses, and the selected Supplier will then notify Bundled Customers of the contract terms and their opportunity to opt out of the CCA Program.
- E. In accordance with and for purposes of the Order, the existing Distribution Utility, New York State Electric & Gas Corporation will provide to Sustainable Westchester aggregate and customer-specific data (including usage data, capacity tag obligations, account numbers, and service addresses) of all Bundled Customers in the Town of Somers not currently enrolled with an ESCO.
- F. Sustainable Westchester and the Town of Somers, will protect customer information as required by law, subject to the Order and the limitations of the New York State Freedom of Information Law.

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

- A. The Town of Somers or in conjunction with the ESCO will notify its residential and Small Commercial customers, by letter notice, of the Town of Somers' decision to establish the CCA Program, of the contract terms with an ESCO, and of the opportunity to opt out of the CCA Program.
- B. The letter notice will be sent to each customer at the address provided by the Distribution Utility and explain the CCA Program and the material provisions of the ESCO contract, identify the methods by which the customer can opt out of the CCA Program, and provide information on how the customer can access additional information about the CCA Program.
- C. The opt-out period shall be twenty (20) days.
- D. CCA Program Bundled Customers, upon enrollment, will receive a welcome letter that will explain the customers' options for canceling the enrollment if they believe they were enrolled incorrectly or otherwise decide to withdraw from the CCA Program in favor of another Supplier. The welcome letter also will explain that residential customers are entitled to the added protection of the mandated Three (3) Day rescission period as detailed in Section 5(B)(3) of the Uniform Business Practices.

**§6. Verification and Reporting.**

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

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

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

**RESOLUTION AFFIRMING THAT THE TOWN BOARD OF THE TOWN OF SOMERS SHALL ENTER INTO AN AGREEMENT TO PARTICIPATE IN A COMMUNITY CHOICE AGGREGATION (“CCA”) PROGRAM THROUGH SUSTAINABLE WESTCHESTER, INC.**

**WHEREAS**, Sustainable Westchester, Inc., a not-for-profit organization now comprised of over forty municipalities in Westchester County, sought approval of a demonstration community choice aggregation (“CCA”) program in Westchester County in 2014, which would allow local governments to participate in a Sustainable Westchester program to

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procure energy supply from energy service companies (“ESCOs”) for the residents of the municipalities, and

**WHEREAS**, on February 26, 2015, the Public Service Commission of the State of New York approved implementation of the first community choice aggregation (“CCA”) pilot program in New York State, which allows Sustainable Westchester to put out for bid the total amount of natural gas or electricity being purchased by local residents or small businesses, and

**WHEREAS**, the program is intended to provide consumers with the ability to lower their overall energy costs, and

**WHEREAS**, the potential benefits of CCA programs include price stability for a fixed contract term, lower prices, more favorable contract terms, and the ability to design a program that reflects local preferences and needs, including a preference for cleaner power sources, and

**WHEREAS**, the Westchester pilot program is intended to include residential and small non-residential customers, and to permit the aggregation of both electric and natural gas purchases, and

**WHEREAS**, Sustainable Westchester, Inc. will issue a request for proposals to suppliers to provide energy to participants, and will then award a contract, and

**WHEREAS**, Sustainable Westchester, Inc. or the Town will request individual customer data from the utility, and the selected supplier will then notify the bundled customers of the contract terms and the customer’s opportunity to opt-out of the program within twenty (20) days;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town of Somers shall enter into an agreement to participate in a Sustainable Westchester program for its residents and business consumers who are not currently purchasing electricity from an energy service company (ESCO), only if: 1) the default price is guaranteed to be consistently less than the utility price for the same period; or 2) 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; or 3) 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, and

**BE IT FURTHER RESOLVED** that the Town agrees to notify residents and business owners eligible for inclusion in a manner that the Town deems effective and efficient about the program in advance of the program’s implementation, and

**BE IT FURTHER RESOLVED** that based upon the text and prior interpretations of the General Municipal Law (“GML”), a municipality may participate in a Community Choice Aggregation (“CCA”) program without undertaking the referendum requirement of GML § 360, which applies only to the construction, leasing, purchasing, acquisition, use or ownership of a “public utility service” as defined in the GML.

**BE IT FURTHER RESOLVED**, that the Town Supervisor of the Town of Somers is hereby authorized to execute any and all documents to give effect to this resolution.

**PUBLIC COMMENT:**

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

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Monthly reports

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

Adjusting the timing of the payment of Rec Fees

The Supervisor said that the next item on the agenda was to acknowledge the Planning Board’s approval of adjusting the timing of the payment of Recreation Fees with regard to the Merritt Park Subdivision. He said that this was referred from the Town Board to the Parks and Recreation Board. He explained that the subdivision would pay all of their Recreation Fees it would just be in a staggered fashion as homes were being built.

The Town Board acknowledges the Planning Board’s approval of adjusting the timing of payment of Recreation Fees per memo dated June 16, 2015 from Syrette Dym, AICP, Town Director of Planning.

Councilman Garrity said that the reason for this was the applicant was doing quite a bit of offsite work to benefit Lake Lincolnale. He said that the improvements they were doing were expensive.

Discussion reg. traffic control device for Route 139

The next item on the agenda was a discussion and recommendation with regard to a traffic control device for Route 139. The Supervisor said that Councilman Cirioco, Councilman Faulkner and himself attention a New York State Department of Transportation (DOT) Public Meeting at Somers High School and there were not a lot of public present. He said that the Town Board wanted to engage the public and find out what the preferences were to a traffic control device for Route 139 at Somers High School. He invited the residents that were present that evening to give their input and suggestions. Discussion ensued between the Town Board and the residents present with regard to their concerns and objections to a traffic circle being placed at that location. The Supervisor said that he would recommend to the DOT after holding a public discussion at a Town Board meeting the Town was leaning towards a standard traffic light as a traffic control device at that location.

PERSONNEL:

Current Vacancies:

- Somers Energy Environmental Committee
- Affordable Housing Board (5 – 2 year terms ending July 11, 2015)
- Architectural Review Board (3 – 3 year terms ending March 9, 2018)
- Zoning Board of Appeals (1 – 7 year term ending December 31, 2017)

Upcoming Vacancies:

Hire C. Bush, Part-time Intermediate Clerk in the Planning and Engineering Office

The Supervisor said that it was in order to authorize the hiring of Carolyn Bush, Part-time Intermediate Clerk in the Planning and Engineering Office.

Thereupon motion of Councilman Garrity, seconded by Councilman Faulkner, it was unanimously,

RESOLVED, that the Town Board does hereby authorize the hiring of Carolyn Brush, Part-time Intermediate Clerk in the Planning and Engineering Office, at an hourly rate of \$15.00 to work no more than 17 hours per week beginning July 20, 2015 per memo dated June 10, 2015 from Syrette Dym, Director of Planning.

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Acknowledge V. Agudelo Summer Intern in Planning and Engineering Office

The Supervisor said that he wanted to acknowledge the Summer Intern in the Planning and Engineering Office. He said that Vanessa Agudelo was working in the Planning and Engineering Office on Mondays and Wednesdays to work on Planning items. He said that she was a resident of Peekskill and was a graduate of Kennedy Catholic High School and the Penn State. The Supervisor said that she was volunteering her time while she was seeking full time employment. He said that he wanted to recognize and appreciate her assistance.

Thereupon motion of Councilman Garrity, seconded by Councilman Faulkner, it was unanimously,

RESOLVED, that the Town Board does hereby authorize the volunteer services of Vanessa Agudelo as a Summer Intern in the Planning & Engineering Department to work on Monday and Wednesday.

Hire Full-time Senior Account Clerk in the Finance Office

The Supervisor said that he needed to add to the agenda the authorization to hire a Full-time Senior Account Clerk in the Finance Office on or about July 20, 2015 to replace Doreen Cardaci who is retiring on July 30<sup>th</sup>. He said that the annual salary for that position was not to exceed \$45,597.00.

Thereupon motion of Councilman Garrity, seconded by Councilman Clinchy, it was unanimously,

RESOLVED, that the Town Board does hereby authorize the hiring of an appropriate candidate for the title of Senior Account Clerk in the Finance Department effective July 20, 2015 at an annual salary not to exceed \$45,597.00 to replace Doreen Cardaci who is retiring the end of July per memo dated July 9, 2015 from Barbara J. Sherry, Secretary to the Supervisor.

Consensus agenda

The next item was the consensus agenda. The Supervisor said that there were a couple of additions he would like to make to the consensus agenda. He said that with regard to item number 1 they needed to add an item f and that was the 2015-2016 Workmen Compensation Agreement with PERMA. He said that agreement would be effective July 1, 2015 and the Finance Director and Insurance Carrier researched this and the Town would be saving money by that. The Supervisor said that they also needed to add an item g under number 1 which was the 2014 MOA with Somers, North Salem and Lewisboro Senior Citizen Nutrition Program. He said that there was an addition to item number 2 which was a \$500.00 Bond for an Erosion Control Permit.

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

Execute the Snow and Ice Indexed Lump Sum Contracts

1a. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the Snow and Ice Indexed Lump Sum Contracts, Payment Factor Adjustment Amendment B for the winter of : **2014-2015**, per letter dated June 25, 2015 from Jorge A. Argote, P.E., Resident Engineer, Westchester North.

Execute the Mutual Aid and Rapid Response IMA

1b. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the Mutual Aid and Rapid Response Inter-Municipal Agreement (IMA) between the Town of Somers and the Westchester County Department of Public Safety per letter dated June 24, 2015 from Joy K. Mathai, Director of Administrative Services.

Execute Agreement with Danziger & Markhoff, LLP for Actuarial Services

1c. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute Agreement with Danziger & Markhoff, LLP for Actuarial Services for the fiscal year ending December 31, 2015 in the amount of \$3,250.00

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per e-mail letter dated June 18, 2015 from Edward A. Echeverria, FSPA, MAAA, CP, EA.

Execute 2015-2016  
Westchester County  
Department Health  
Permit

- 1d. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute 2015-2016 Westchester County Department Health Permit to Operate the Somers Senior Nutrition Program located at Van Tassell House – 98 Primrose Street, Somers, New York per memo dated June 12, 2015 from Barbara Taberer, Program Director.

Execute agreement  
with Garon Fence  
Company, Inc

- 1e. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute agreement with Garon Fence Company, Inc. and establish a budget of \$7,845.00 from Recreation Fees, for the removal and relocation of the outfield fencing at Van Tassell per memo dated June 23, 2015 from Steven Ralston, Superintendent of Parks & Recreation.

Execute the PERMA  
Workers' Compensation  
Employers Liability  
Program Agreement

- 1f. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the Public Employer Risk Management Association Workers' Compensation Employers Liability Program Agreement effective July 01, 2015 per letter dated July 2, 2015 from Michael D. Ritchie, Member Service Specialist, Public Employer Risk Management Association, Inc.

Execute MOA for  
Senior Citizen  
Nutrition Program

- 1g. RESOLVED, that the Town Board does hereby authorize the Supervisor to execute the 2014 Memorandum of Agreement (MOA) among the Towns of Somers, North Salem and Lewisboro with regard to the Senior Citizen Nutrition Program per memo dated July 7, 2015 from Barbara Taberer, Program Director.

Accept  
Erosion  
Control Bonds

2. RESOLVED, that the Town Board does hereby authorize the acceptance of the following Erosion Control Bonds per memos from Wendy Getting, Senior Office Assistant:
- a. \$500.00 – Boniello Land & Realty, Ltd. – Stormwater Management & Erosion & Sediment Control – 48.17-1-36.
  - b. \$500.00 – Deutsch – Steep Slope & Stormwater Management & Erosion & Sediment Control – 48.18-1-5.
  - c. \$300.00 – Lord – Wetland Permit – 48.17-1-5.
  - d. \$500.00 – TS Transporters, Inc. (Calvello/Bordieri) Stormwater Management & Erosion & Sediment Control & Tree Preservation Permit – 37.13-1-2.
  - e. \$500.00 – DeLeonardis Griffith/Senatore – Stormwater Management & Erosion & Sediment Control Permit – 16.08-1-30.

Return Erosion  
Control Bonds

3. RESOLVED, that the Town Board does hereby authorize the return of the following Erosion Control Bonds per memos from Steven Woelfle, Principal Engineering Technician:
- a. \$500.00 – Festo/North County Homes, Inc. – Steep Slope Stormwater Management & Erosion & Sediment Control/Tree Preservation Permit – 26.20-1-23.
  - b. \$100.00 – Agostino – Steep Slopes/Erosion & Sediment Control Permit – 28.13-1-18.
  - c. \$200.00 – Solitario (Bueti) – Stormwater Management & Erosion & Sediment Control Permit - 38.05-2-20.

Refund SEQRA  
Professional  
Service Fees

4. RESOLVED, that the Town Board does hereby authorize the refunding of the following SEQRA Professional Services Fees per memos from Syrette Dym, AICP, Director of Planning:
- a. \$2,159.82 – Heritage Hills of Westchester Sewage Treatment Plant.

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b. \$ 139.68 – New Cingular Wireless PCS, LLC (AT&T).

Resignation of  
M. Yee from  
SEEC

5. RESOLVED, that the Town Board does hereby acknowledge with regret the resignation of Michael Yee from the Somers Energy Environment Committee effective June 22, 2015.

Reimbursement  
from Insurance  
Reserve

6. RESOLVED, that the Town board does hereby authorize reimbursement from the Insurance Reserve in the amount of \$1,000.00 for the repair of Highway Vehicle 2012 Chevy Tahoe Car #1 for accident occurring on January 18, 2015 per memo dated June 9, 2015 from Thomas E. Chiaverini, Superintendent of Highways.

RFP for the  
interior painting  
of Mt. Zion  
Church

7. RESOLVED, that the Town Board does hereby authorize Request for Proposals (RFP) for the interior painting of Mt. Zion Church per memo dated June 12, 2015 from the Historic Properties Board.

Completion and  
receipt of the annual  
Independent  
Auditors Report for  
the Justice Court

8. RESOLVED, that the Town Board does hereby acknowledge the completion and receipt of the annual Independent Auditors Report for the Justice Court for the year ending December 31, 2014.

The Supervisor said that the Somers Nutrition Program was in need of Volunteers, he asked anyone that was interested to check the Town website or call the Office.

The Supervisor said that he wanted to remind everyone that St. Luke's Food Pantry was up and operating. He said that they were looking for donations and it was his understanding that it was a very well used Food Pantry. Councilman Clinchy said that there was a website that listed items that they were in need of and what they offered.

The Supervisor said that the Somers Blood Drive held at the Town House on June 30<sup>th</sup> netted 28 donations of blood and he thanked all that donated. He said that the next Blood Drive would be held on Tuesday, September 1, 2015.

The Supervisor said that the next Town Board Meeting will be held on August 20, 2015 at 7:00 PM and that would also be a combined work session/regular meeting.

The Supervisor said that the Town had held their Annual Independence Day Celebration and it was not the driest celebration although they did ignite fireworks. He said that Lions' Club did provide food all day long and it was a great day.

The Supervisor said that he wanted to recognize the Somers Girl Lacrosse Team who came in second in the New York State Finals.

Councilman Faulkner said that on June 24<sup>th</sup> the Middle School had their graduation and he congratulated all of them. He said that on June 23<sup>rd</sup> the Class of 2015 graduated and he congratulated all of them as well.

Claims for the payment of all Town Bills in the amount of \$782,483.98 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 8:30 PM.

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Town Clerk