

MINUTES OF THE JANUARY 14, 2016 MEETING OF THE TOWN BOARD OF THE TOWN OF POUND RIDGE HELD AT TOWN HOUSE, 179 WESTCHESTER AVENUE, POUND RIDGE, N.Y., COMMENCING AT 8:00 P.M.

PRESENT: SUPERVISOR RICHARD LYMAN; COUNCIL MEMBERS:  
DANIEL PASCHKES, BONNIE SCHWARTZ, DAVID DOW AND  
JODY SULLIVAN

ALSO PRESENT: TOWN ATTORNEY, WILLIAM P. HARRINGTON, ESQ.  
TOWN CLERK, JOANNE PACE  
DEPUTY SUPERVISOR, JONATHAN POWERS

**CALL TO ORDER:** Supervisor Lyman called the meeting to order at 8:00 p.m.

**CALL FOR EXECUTIVE SESSION:** None

**ANNOUNCEMENTS:**

- Resident Lisl Steiner Monchek gave a book about her life to the Town Board and the Town Board thanked her for the gift.

**MINUTES: Acknowledge/correct/accept minutes of Town Board Meetings on January 7, 2016**

**Board Action:** Motion by Councilman Paschkes, seconded by Councilwoman Sullivan, all voting aye to accept the minutes of the Town Board Meeting with the amendments held on January 7, 2016.

**OLD BUSINESS:**

- CCA

Counsel Harrington and the Town Board received the latest version dated January 13, 2016 of the Memorandum of Understanding for the Community Choice Aggregation (CCA). Counsel Harrington commented on a few points throughout the entire agreement. The highlights of his comments reflect the fact that under definitions, there is no price fixed guarantee and there is literally a float that could rebound in a 25% increase. The Joint Utilities, Con Edison and NYSEG and Public Service Commission (PSC) believe that the development of the CCA programs requires careful consideration and analysis. They feel that cyber insurance is necessary but the CCA pilot proposal does not deem it necessary at this time. They are suggesting that each municipality would be expected to protect identifiable customer information that is confidential and employ methods to do this. The Commission is opining that it is the obligation of the municipality to have the appropriate cyber security insurance. It is also the municipality's responsibility to notify its residents of its decision to establish a CCA Program, to inform them of the contract terms with an ESCO and inform them of the opportunity to opt-out of the CCA program.

Another concern that was brought up by Counsel Harrington is the fact that the Commission has had a longstanding policy that affirmative customer consent is required in order for a customer to change suppliers. In order to help ensure costs savings for

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CCA participants, the Uniform Business Practices for that requirement are waived for this CCA program.

There are also administrative costs of operating the program and the fees are passed on to the residents as part of their bill. Councilman Paschkes is adamant about having the fees inclusive in the bid price. Sustainable Westchester will receive 1/10 of a cent for every kilowatt hour of energy used.

There is an opt-out option for residents at any time once enrolled in the program with no fee or penalty. Under Term of Contract and Termination, this ESA may be terminated by the municipality with restrictive conditions such as party failure to remedy or cure any breach of any material provision or condition of this ESA; provision ruled invalid; bankruptcy by the supplier or failure for supplier to provide full requirements of power supply. Councilman Dow stated that the termination clause could tie the Town's hands if it wished to cancel the agreement. Another point was made that there seems to be no mention of how long the contract is for. Glenn Weinberg of Sustainable Westchester said that it could be one year, two year or up to but no more than three years. This has to still be defined. It stands open ended at this point.

The MOU requires that the energy supplier selected must offer a 100 percent renewable energy option, which could also serve to raise costs and lower savings to the consumer who chooses this option. Before signing up, the Town wants to make sure the residents will be saving money.

Another concern with this agreement is the fact that the competitive supplier shall not be responsible to the municipality or participating consumer in the event that, through no fault of their own, the distribution utility disconnects, curtails or reduces service to consumers. In other words, the competitive supplier has no liability in the event that they can't supply the consumer.

The Section under Non-Discriminatory Provision of Service, there were questions about what tag buying means. Glenn Weinberg explained that Sustainable Westchester is trying to run a program to determine how much power the utility company has to buy or a block of power to be able to supply all their consumers. They would try to determine the capacity or manage the usage demand for a year and see what the peak demand time would be. They would like to be able to sell back the excess if not used in the next year. The supplier would buy less than the current year and pass the savings onto the residents.

Under the Role of the Municipality, it is unclear because at one point, it says that the municipality *may* be considered to be operating a municipal load aggregation plan, and then we are basically indemnified.

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Sustainable Westchester wants the municipality to conduct outreach to the community; however, there is no mention of how the municipality can submit their expenses in doing this and to whom. There should be reimbursement but it is not spelled out in the agreement. They are being affirmative in saying that the municipality shall provide outreach materials but there is no mention of ramification if the Town doesn't do all they require to reach out to the residents.

There were some concerns under Remedies because it makes it clear that the competitive supplier and the municipality reserve whatever claims they have against one another; notably absent is Sustainable Westchester. Then under limitations, it explicatively says "no party shall be liable for consequential, incidental, punitive, exemplary or indirect damages." Counsel Harrington is troubled by the wording and wonders what they will not cover. The municipality would have to go against our town insurance to collect. There is mention of seeking indemnification from the competitive supplier, with questionable limits. Some portions seem unenforceable and there shouldn't be any limitations for damages.

There are a few areas that need clarification and the Town would like the administrative fees built into the bid. Counsel Harrington will summarize the major concerns and pass them to the Town Board for discussion on Thursday, February 4, 2016. In the meantime, Counsel Harrington suggested sending this to our Town insurance agency to see what additional insurance we would need to make sure we are covered.

- **Update on Recreation Pool Repairs**

Supervisor Lyman gave a brief update on the Recreation Pool repairs. The leak has been definitively found and an outside vendor Paddock Gutters, South Carolina who installed the original gutter system will send a team to repair the leak. They are expected to do a job in New Jersey and then come to Pound Ridge which will ultimately save us money because they will already be in the area. The job should cost approximately \$3,500.

**NEW BUSINESS:**

- **Civil Service Title Change**

**RESOLUTION #: 31-16**

**Board Action:** Motion by Councilwoman Sullivan, seconded by Councilwoman Schwartz, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes the temporary change of title for Patty Marino, Senior Office Assistant-Recreation to Recreation Assistant effective January 1, 2016.

- **Discussion on revising Zoning Chapter 113 Article VIII Special use Permits-  
modify language in 113-50 to provide relief for simple applications**

Supervisor Lyman said that there should be a little flexibility in the Zoning language in Chapter 113-50 Special Use Permits. There are times when the current procedure is unnecessary. For a simple revision or amendment to a Special Use Permit, it sometimes need not be referred by the Town Board to the Planning Board prior to the Town Board scheduling a Public Hearing. The Building Inspector, Jim Perry agrees that at times, the Town Board would be able to use their discretion and issue amendments and transfers to Special Use Permits without violating the spirit or intent of the formal process. Supervisor Lyman will draft language and send it to Planning Board Chair Clay Fowler for his input.

- **Pool and Park Items for purchase**

The Recreation Commission is requesting permission to purchase 24 chaise lounge chairs, 12 sand chairs and replace 2 existing grills as they are rotting out. The total cost will not exceed \$7,000.

**RESOLUTION #: 32-16**

**Board Action:** Motion by Councilman Paschkes, seconded by Councilwoman Schwartz, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes the purchase of 24 chaise lounge chairs(\$3,502.08) and 12 sand chairs (\$989.04) from Taylor Company and 2 grills from Jamestown for the cost of \$1,239.00. The total will be \$5,730.12 and will be encumbered from the 2015 budget.

- **Liaison's report**

A few comments were made by the Town Board liaisons. Councilman Paschkes followed up with the Open Space Committee regarding the reappointment of their members and the following would like to be reappointed: Tom Anderson as Chair; Cynthia Rigas, Gail Jankus and John Bria as members.

**RESOLUTION #: 33-16**

**Board Action:** Motion by Councilman Paschkes, seconded by Councilwoman Sullivan, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes the following appointments to the Open Space Committee:

Tom Anderson, Chair, Cynthia Rigas, Gail Jankus and John Bria.

**FINANCIAL MATTERS:**

- **Recreation Department-requesting refunds**

**RESOLUTION #: 34-16**

**Board Action:** Motion by Councilman Paschkes, seconded by Councilwoman Sullivan, all voting aye on the following:

RESOLVED, that the Town Board hereby authorizes the refund of five hundred (\$500) dollars deposit fee to Brett Cameron, 295 Stone Hill Road, Pound Ridge, NY 10576, for the use of Conant Hall on January 10, 2016 for a party.

- **Receipt of monthly Departmental reports**

The monthly reports have been received for December 2015 and are available in the Town Clerk's office.

- **Pay Bills**

**RESOLUTION #: 35-16**

**Board Action:** Motion by Councilman Paschkes, seconded by Councilwoman Schwartz, the Board polled and motion passing 4-0 with Councilwoman Sullivan abstaining to authorize payment of the bills:

WHEREAS, Councilwoman Sullivan has audited claims for payment and has reported that same could be paid, Now, Therefore, Be It

RESOLVED, that the Supervisor be and is hereby authorized to pay the following claims for payment provided there are sufficient funds in the account to which a claim may be charged:

|                         |          |  |                      |
|-------------------------|----------|--|----------------------|
| <b>GENERAL FUND</b>     | <b>G</b> |  | <b>\$ 341,369.42</b> |
| <b>HIGHWAY FUND</b>     | <b>D</b> |  | <b>\$ 17,050.86</b>  |
|                         |          |  |                      |
| <b>TRUST AND AGENCY</b> | <b>T</b> |  | <b>\$ 78,111.71</b>  |
| <b>CAPITAL</b>          | <b>H</b> |  | <b>\$ 0</b>          |

**ADJOURNMENT:** There being no further business to come before the Board, Supervisor Lyman adjourned the regular meeting at 9:55 p.m.

**RECONVENE:** As Parking District Commission

- Pay Bills

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**RESOLUTION #: 36-16**

**Board Action:** Motion by Councilwoman Schwartz, seconded by Councilman Paschkes, the Board polled and motion passing 4-0 with Councilwoman Sullivan abstaining to authorize payment of the bills:

WHEREAS, Councilwoman Sullivan has audited claims for payment of Parking District bills and has reported that same could be paid, Now, Therefore, Be It

RESOLVED, that the Supervisor be and is hereby authorized to pay the following claims for payment provided there are sufficient funds in the account to which a claim may be charged:

**PARKING DISTRICT      ST      \$ 4,519.74**

**ADJOURNMENT:** There being no further business to come before the Board, Supervisor Lyman adjourned the meeting at 10:00 p.m.

Joanne Pace  
Dated at Pound Ridge, New York  
January 15, 2016