

THE TOWN OF MAMAKATING TOWN BOARD MEETING HELD ON TUESDAY, MARCH 19, 2019 AT 6:00 P.M. IN THE TOWN HALL, WURTSBORO, NEW YORK.

Present: William E. Herrmann- Supervisor
Brenda Giraldi- Councilwoman/Deputy Supervisor
Matt Taylor – Councilman
Christine Saward – Councilwoman
Patrick Keller – Councilman
Graham Vest - Councilman
Nicholas Salomone, Jr. - Councilman
J. Benjamin Gailey- Attorney for the Town
Jean M. Dougherty- Town Clerk

Also present: Catherine Owens-Herrmann – Confidential Secretary to the Supervisor/Legislator
Riley Platt III – Highway Superintendent

Absent: JoAnn Salamone – Deputy Highway Superintendent

Worksession Items for Discussion

1. LDC Appointment
2. Nutty Money Racing
3. Tax Certiorari Mamakating adv. Old Turnpike Corp.
4. Tax Certiorari Mamakating adv. Berko Interiors Inc.
5. Court Clerk Appointment
6. Personnel Handbook Changes
7. Board of Assessment Review Appointment
8. Speed limits
9. Surplus Equipment
10. Sign BFR Lease
11. Accept DGEIS/Comprehensive Plan as complete for public review and set public hearing for April 16, 2019
12. Discussion about CCA Local Law

CALL TO ORDER/PLEDGE OF ALLEGIANCE

- The March 19, 2019 meeting was called to order with the pledge to the flag.

PUBLIC HEARING – CCA LOCAL LAW

A motion was made by C. Saward, seconded by G. Vest to open the public hearing. All in favor.

Public Comment – NONE

A motion was made by C. Saward, seconded by G. Vest to close the public hearing. All in favor.

**TOWN OF MAMAKATING LOCAL LAW
CREATING COMMUNITY CHOICE AGGREGATION PROGRAM**

BE IT ENACTED by the Town Board of the Town of Mamakating, County of Sullivan, State of New York, as follows:

Section 1. The Code of the Town of Mamakating is amended by adding a new
Chapter 13, titled “Creating Community Choice Aggregation Program,” to read as follows:

ARTICLE I

§13-1. Legislative findings; intent and purpose; authority.

- A. It is the policy of the Town of Mamakating and the State of New York to reduce costs and provide price certainty for the purpose of consumer protection and economic development, to expand access and opportunities for consumers in retail energy markets, as well as to promote the sustainability and resilience of energy systems through the proliferation of renewable energy, energy efficiency, and Distributed Energy Resources (DER, as defined below). Among the initiatives that may advance these objectives in New York is Community Choice Aggregation (“CCA”), a policy that empowers local governments to determine the source of electricity and/or natural gas supply on behalf of its residents and small businesses, reflecting local resources, priorities, and challenges. Energy delivery remains the responsibility of the Distribution Utility.

- A. This Chapter establishes the authority for the Town of Mamakating, in connection with the implementation of a CCA program, to acquire utility data, to select, through competitive solicitation, energy Supplier(s) on behalf of Default Consumers within the jurisdictional boundaries of the Town of Mamakating, and to maximize value for Participating Consumers through enhanced services related to DER. The Municipality may choose to collaborate with other local governments to form an intermunicipal program. As a result, consumers will have the opportunity to lower and stabilize their energy costs, to spur local clean energy innovation and investment, and to reduce their environmental impact, thereby fulfilling the purposes of this Chapter and promoting an important public purpose.

- B. The Town of Mamakating Town Board is authorized to implement this Creating Community Choice Aggregation Program pursuant to Section 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law, and consistent with State of New York Public Service Commission Case No. 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs (issued April 21, 2016) as may be amended, including subsequent orders of the Public Service Commission issued in connection with or related to Case No. 14-M-0224, to the extent that orders related to Case No. 14-M-0224 enable actions by the Town.

§13-2. 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:

- A. AGGREGATED DATA shall mean aggregated and anonymized information including, but not limited to, the number of consumers by service and rate class, the aggregated peak demand (kW) (for electricity) by month for the past 12 months by service and rate class, and the aggregated energy (kWh) for electricity or volumetric consumption for gas by month for the past 12 months by service and rate class.
- B. CCA ADMINISTRATOR shall mean Town of Mamakating Town Board or its CCA Administrator, duly appointed and authorized by vote of the Town Board to request Aggregated and Customer Specific Data, to competitively solicit Suppliers for the aggregated demand for electricity and/or natural gas on behalf of Default Consumers, and to offer Participating Consumers additional opportunities to participate or enroll in programs or projects related to Distributed Energy Resources. The CCA Administrator is responsible for program organization, administration, procurement, communications, and for meeting all requirements for program implementation specified in the PSC CCA Order, unless otherwise specified.
- C. CUSTOMER SPECIFIC DATA shall mean customer specific information, personal data and utility data for all Default Consumers, including the customer of record's name, mailing address, telephone number, account number, and primary language, if available, and any customer-specific alternate billing name, address, and phone number.
- D. DEFAULT CONSUMERS shall mean customers of electricity and/or natural gas within opt-out eligible service classes (as delineated in the PSC CCA Order), who receive supply service from the Distribution Utility as of the date the supply contract goes into effect, or consumers within these service classes that subsequently become eligible to participate in the Program, including those that have terminated a supply contract with an ESCO, removed a freeze or block on their account, have voluntarily suspended service pursuant to a special rate, or are new residents of the Town. Consumers within opt-out eligible service classes, as of the date the supply contract goes into effect, taking service from an ESCO, those that have placed a freeze or block on their account, and those for whom enrollment in the CCA program would interfere with a choice they have already made to take service pursuant to a special rate are not considered Default Consumers and will not be enrolled on an opt-out basis. For the avoidance of doubt, all Default Consumers must reside or be otherwise located at one or more locations within the geographic boundaries of the Town, as such boundaries exist as of the date the supply contract goes into effect.
- E. DISTRIBUTED ENERGY RESOURCES (DER) shall mean local renewable energy projects, community distributed generation (e.g. shared solar), peak demand management, energy efficiency, demand response, energy storage, community resilience microgrid

projects, and other innovative Reforming the Energy Vision (REV) initiatives that further engage and/or reduce cost of service for Participating Consumers, optimize system benefits, and/or address infrastructure and demand challenges within geography of the CCA.

- F. DISTRIBUTION UTILITY shall mean owner or controller of the means of distribution of the natural gas or electricity in the Town. The Distribution Utility also serves as the default supplier of electricity and natural gas preceding the establishment of a CCA program.
- G. ESCO (ENERGY SERVICES COMPANY) means an entity duly authorized to conduct business in the State of New York as an ESCO.
- H. PARTICIPATING CONSUMERS shall mean Default Consumers who have not opted out, and non-Default Consumers of any service class that have voluntarily enrolled in the Program.
- I. PSC CCA ORDER shall mean the PSC's Order Authorizing Framework for Community Choice Aggregation Opt-Out Program, issued on April 21, 2016 in Case 14-M-0224, "Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs."
- J. PUBLIC SERVICE COMMISSION or PSC shall mean New York State Public Service Commission.
- K. SUPPLIER shall mean an ESCO that procures electric power and natural gas for Participating Consumers in connection with this Chapter or, alternatively, generators of electricity and natural gas or other entities who procure and resell electricity or natural gas.

§13-3. Authorization of a Community Choice Aggregation Program.

- A. A Community Choice Aggregation Program is hereby authorized by the Town, whereby the Town of Mamakating Town Board may implement a CCA program to the full extent permitted by the PSC CCA Order, as set forth more fully herein. Without limiting the foregoing:
- B. The Town of Mamakating Town Board on behalf of the Town may enter into contracts with one or more Suppliers for electric and/or natural gas supply and other services on behalf of Default Consumers.
- C. The Town of Mamakating Town Board on behalf of the Town may enter into agreements and contracts with other municipalities, non-profits, consultants, and/or other third parties to i) develop and implement the CCA program, ii) act as CCA Administrator, and/or iii) develop offers of opt-in DER products and services to Participating Consumers.

- D. The operation and ownership of the utility service shall remain with the Distribution Utility. The town's participation in a CCA program constitutes neither the purchase of a public utility system nor the furnishing of utility service. The Town shall 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 Consumers.
- E. The Public Service Commission supervises retail markets and participants in these markets through legislative and regulatory authority and the Uniform Business Practices, which includes rules relating to the eligibility of participating ESCOs, the operation by which ESCOs provide energy services, and the terms on which customers may be enrolled with ESCOs.

§13-4. Eligibility.

- A. All Default Consumers shall be enrolled on an opt-out basis. Default Consumers will have the right to opt out before the supply contract goes into effect, or disenroll any time thereafter with no penalty. Those that do not opt out before the supply contract goes into effect will be enrolled automatically.
- B. All non-Default Consumers within the Town, regardless of service class, shall be eligible to participate in the CCA program on an opt-in basis.
- C. The CCA Administrator, on behalf of the Town, 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.

§13-5. Opt-Out Process.

- A. A program notification letter, printed on Town letterhead, shall be mailed to Default Consumers at least 30 days prior to customer enrollment. The letter shall include information on the CCA program and the contract signed with the selected Supplier(s), including specific details on rates, services, contract term, cancellation fee, and methods for opting out of the CCA program. The letter shall explain that consumers that do not opt out will be enrolled in the program under the contract terms and that information on those consumers, including energy usage data and APP status, will be provided to the ESCO.
- B. After the 30 day opt-out period, all consumers shall have the option to disenroll from the CCA program at any time without penalty.

§13-6. Data Protection Requirements.

- A. The Town, or CCA Administrator on its behalf, may request Aggregated Data and

Customer Specific Data from the Distribution Utility.

B. Customer Specific Data shall be protected in a manner compliant with, collectively, (i) all applicable national, state and local laws, regulations or other government standards relating to the protection of information that identifies or can be used to identify an individual that apply with respect to the Town or its representative's processing of confidential utility information; (ii) the utility's internal requirements and procedures relating to the protection of information that identifies or can be used to identify an individual that apply with respect to the Town or its representative's processing of confidential utility information; and (iii) the PSC CCA Order and PSC rules, regulations and guidelines relating to confidential data.

C. For the purpose of protecting customer data, the Town must enter into an agreement with the Distribution Utility that obligates each party to meet, collectively, (i) all applicable national, state and local laws, regulations or other government standards relating to the protection of information that identifies or can be used to identify an individual Default Consumer or Participating Consumer with respect to the CCA Administrator or its representative's processing of confidential utility information; (ii) the Distribution Utility's internal requirements and procedures relating to the protection of information that identifies or can be used to identify individual Default Consumer or Participating Consumer with respect to the CCA Administrator or its representative's processing of confidential utility information; and (iii) the PSC CCA Order and PSC rules, regulations and guidelines relating to confidential data.

§13-7. Administrative Fee.

The Town or CCA Administrator may collect, or cause to be collected, funds from customer payments to pay for administrative costs associated with running the CCA program.

§13-8. Reporting.

- A. Annual reports shall be filed with the Town Board by March 31 of each year and cover the previous calendar year.
- A. Annual reports shall include, at a minimum: number of consumers served; number of consumers cancelling during the year; number of complaints received; commodity prices paid; value-added services provided during the year (e.g. installation of DER or other clean energy services); and administrative costs collected. The first report shall also include the number of consumers who opted-out in response to the initial opt-out letter or letters.
- B. If a CCA supply contract will expire less than one year following the filing of the annual report, the report must identify current plans for soliciting a new contract, negotiating an extension, or ending the CCA program.

§13-9. Severability.

If the provisions of any article, section, subsection, paragraph, subdivision or clause of this local law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this local law.

Section 2. Effective Date

This local law shall be effective immediately upon filing with the Secretary of State.

HIGHWAY SUPERINTENDENT'S REPORT

Working on cleaning ditches and watching the forecast for a possible snow event Thursday into Friday.

SUPERVISOR'S REPORT

The Supervisor gave an update on activities and requests for the use of the Environmental Center and read a letter from the LDC commending the board for their focus on the proposed Master Plan.

ABSTRACTS

A motion was made by N. Salomone, seconded by P. Keller to approve the following abstract as presented: Abstract #5 (Voucher #20190934-20190490) in the amount of \$47,214.72. All in favor.

A motion to approve the Manual Check Register in the amount of \$100,000.00 (1 check) was made by B. Giraldi, seconded by G. Vest. All in favor.

MINUTES

A motion was made by M. Taylor, seconded by G. Vest to accept the Minutes of March 5, 2019. All in favor.

RESOLUTIONS

TOWN OF MAMAKATING

RESOLUTION

Settling of Tax Certiorari Claim

At a meeting of the Town Board of the Town of Mamakating, County of Sullivan State of New York, held at Town Hall in said Town on the 19 day of March, 2019;

WHEREAS, Old Turnpike Corp., has commenced a tax certiorari proceeding against the Town of Mamakating in the Supreme Court of the State of New York, County of Sullivan for the 2018-19 tax assessment year bearing Sullivan County Index #, 1501/18;

WHEREAS, it appears from the recommendation of the Town Assessor and William E. Duquette, Esq., of Jacobowitz and Gubits, LLP counsel for the Town of Mamakating in the aforesaid proceedings, upon a thorough investigation of the claims that further proceedings and litigation by the Town would involve considerable expense with the attendant uncertainty of the outcome and that the settlement of the above matter as more fully set forth below is reasonable and in the best interests of the Town; and

WHEREAS, Old Turnpike Corp. is willing to settle these proceedings without interest, costs or disbursement, in the following manner;

(1) That the proceedings for the 2018-19 tax year be compromised and settled by the assessment being reduced from \$47,800 to a total amount of \$19,100 for tax map no.46.-1-59.

(2) That the Petitioner's real property taxes on said parcels above described for the 2018-19 School taxes and for the 2019 County and Town taxes be adjusted accordingly and the Petitioner be reimbursed for any overpayment or be credited with the corresponding decrease in taxes, as the case may be;

NOW, BE IT THEREFORE RESOLVED, that the proposed settlement as set forth and described above is hereby accepted pursuant to § 68 of the Town Law, and it is further;

RESOLVED, that Amy Platt, Assessor of the Town of Mamakating and William E. Duquette, Esq. on behalf of Jacobowitz and Gubits, LLP be and they hereby are designated as the officers of the Town who shall apply for such approval pursuant to the aforesaid section and law and be it further;

On a motion by Councilperson B. Giraldi, seconded by Councilperson C. Saward, the foregoing resolution was adopted to a vote of 7 Ayes, 0 Nays.

TOWN OF MAMAKATING

RESOLUTION

Settling of Tax Certiorari Claim

At a meeting of the Town Board of the Town of Mamakating, County of Sullivan State of New York, held at Town Hall in said Town on the 19 day of March, 2019;

WHEREAS, Berkco Interiors Inc., has commenced a tax certiorari proceeding against the Town of Mamakating in the Supreme Court of the State of New York, County of Sullivan for the 2018-19 tax assessment year bearing Sullivan County Index #, 1504/18;

WHEREAS, it appears from the recommendation of the Town Assessor and William E. Duquette, Esq., of Jacobowitz and Gubits, LLP counsel for the Town of Mamakating in the aforesaid proceedings, upon a thorough investigation of the claims that further proceedings and litigation by the Town would involve considerable expense with the attendant uncertainty of the outcome and that the settlement of the above matter as more fully set forth below is reasonable and in the best interests of the Town; and

WHEREAS, Berkco Interiors Inc. is willing to settle these proceedings without interest, costs or disbursement, in the following manner;

(2) That the proceedings for the 2018-19 tax year be compromised and settled by the assessment being reduced from \$64,100 to a total amount of \$35,000 for tax map no.46.-1-69.

(2) That the proceedings for the 2018-19 tax year be compromised and settled by the assessment being reduced from \$33,600 to a total amount of \$19,000 for tax map no.46.-1-70.

(3) That the Petitioner's real property taxes on said parcels above described for the 2018-19 School taxes and for the 2019 County and Town taxes be adjusted accordingly and the Petitioner be reimbursed for any overpayment or be credited with the corresponding decrease in taxes, as the case may be;

NOW, BE IT THEREFORE RESOLVED, that the proposed settlement as set forth and described above is hereby accepted pursuant to § 68 of the Town Law, and it is further;

RESOLVED, that Amy Platt, Assessor of the Town of Mamakating and William E. Duquette, Esq. on behalf of Jacobowitz and Gubits, LLP be and they hereby are designated as the officers of the Town who shall apply for such approval pursuant to the aforesaid section and law and be it further;

On a motion by Councilperson C. Saward, seconded by Councilperson P. Keller, the foregoing resolution was adopted to a vote of 7 Ayes, 0 Nays.

- A motion to **adopt Local Law #2-19** entitled "Creating Community Choice Aggregation Program

- was made by C. Saward, seconded by M. Taylor. All in favor.
- A motion was made by B. Giraldi, seconded by G. Vest to re-appoint Joseph Stifano to the **Board of Assessment Review** for a term of 10/1/18-9/30/23. All in favor.
- A motion approving the sale of the **Surplus Highway Equipment** as presented to the board was made by P. Keller, seconded by M. Taylor. All in favor.
- A motion was made by B. Giraldi, seconded by C. Saward to accept the **Personnel Handbook** as amended. All in favor.

**TOWN OF MAMAKATING TOWN BOARD
RESOLUTION AND NOTICE OF COMPLETION OF DGEIS
COMPREHENSIVE PLAN AND CODE AMENDMENTS**

This Notice of Completion of the Draft Generic Environmental Impact Statement (“DGEIS”) and Notice of SEQR Hearing is issued pursuant to the State Environmental Quality Review Act, Article 8 of the NYS Environmental Conservation Law and its implementing regulations at Part 617 of the New York State Code of Rules and Regulations (collectively referred to as “SEQR”).

The Town Board of the Town of Mamakating (the “Town Board”), as lead and only involved agency under SEQR, has determined that the DGEIS/2019 Town of Mamakating Comprehensive Plan (the “Comprehensive Plan”) is adequate with respect to its scope and content for the purpose of commencing public review pursuant to Part 617.9(a)(2).

The Town Board directs that the DGEIS/Comprehensive Plan, and attached Notice of Completion and Notice of SEQR Public Hearing, shall be filed, published, and circulated in accordance with the requirements of Part 617.9 and 617.12.

The Town Board also directs that: (1) the Notice of Completion and Notice of Public Hearing be published at least fourteen (14) calendar days in advance of the hearing date in a newspaper of general circulation and that said Notice be published in the Environmental Notice Bulletin (ENB); (2) the appropriate Town staff file copies of the DGEIS/Comprehensive Plan with the New York State Department of Environmental Conservation and the Office of the Town Clerk for public review; (3) a copy of the DGEIS/Comprehensive Plan, Notice of Completion, and Notice of Public Hearing is circulated as required by law; and (4) the DGEIS/Comprehensive Plan is posted on the Town’s website at <http://www.mamakating.org>.

- Name of action:** Adoption of Town of Mamakating Comprehensive Plan and Code Amendments
- Location:** Town of Mamakating, Sullivan County, New York.
- Project Sponsor:** Town of Mamakating Town Board
- SEORA Status:** Type I
- Project Description:** Pursuant to SEQR, the proposed action that is the subject of the DGEIS is the adoption of the Comprehensive Plan and subsequent code amendments. The draft Comprehensive Plan identifies goals and objectives, principles, guidelines, and means to provide for, guide, and regulate the immediate and long-range

protection, enhancement, growth, and development of the Town. Subsequent code amendments will not conflict with the Comprehensive Plan.

Scoping:

Scoping was not required nor held. The Comprehensive Plan Steering Committee, established by the Town Board, has held charrettes, public information sessions and a public hearing to elicit comments regarding the proposed Comprehensive Plan and the potential environmental impacts, both adverse and beneficial, associated with the proposed Comprehensive Plan. In addition, the Town Board previously held a public hearing on the draft Comprehensive Plan and will hold a public hearing on the DGEIS and draft Comprehensive Plan on April 16, 2019. The Town Board will consider the information elicited during the public hearing and comment period in its further review prior to the preparation and adoption of the Final Generic Environmental Impact Statement (“FGEIS”).

Reasons Supporting This Determination:

Issuance of the Notice of Completion of the DGEIS and associated SEQR hearing is based upon the review of the Comprehensive Plan recommended by the Steering Committee and the DGEIS prepared by the Town’s Planning Consultant in lieu of an environmental assessment form, which draft DGEIS is incorporated in the draft Comprehensive Plan. The review, consideration and acceptance of the DGEIS is intended to provide the Town Board, the public, and interested agencies with an understanding of the type of potential environmental impacts that may be associated with adoption of the Comprehensive Plan and subsequent code amendments. An important aspect of the environmental review process is that it incorporates public review and commentary into the decision-making process. Therefore, the Town Board will hold a SEQR public hearing on the DGEIS.

As stated in the SEQR Regulations, 6 NYCRR § 617.10(a), a Generic EIS may be used to assess the environmental impacts of “an entire program or plan having area-wide application...” In addition, this section says that “Generic EISs may be broader, and more general, than site or project-specific EISs.” The broad focus of a DGEIS aids in the identification and analysis of area-wide and cumulative effects of the action. Thus, the DGEIS addresses the Comprehensive Plan’s environmental impacts potentially resulting from implementation of the Comprehensive Plan’s recommendations and subsequent code amendments.

The Town Board has determined that the DGEIS is adequate for the purpose of commencing public review pursuant to Part 617.9(b) and 617.10, as it provides the public and interested agencies with the necessary information to evaluate potential environmental impacts, alternatives, and mitigation of identified impacts.

For Further Information – Contact Person

Bill Herrmann, Supervisor
Town of Mamakating Town Board
2948 Route 209
Wurtsboro, NY 12790
P: (845) 888-3049
Email: supervisor@mamakating.org

A copy of this notice must be sent to:

Department of Environmental Conservation, 625 Broadway, Albany, New York 12233-1750

DEC Region III, 21 South Putt Corners Road, New Paltz, New York 12561

Environmental Notice Bulletin, <http://www.dec.ny.gov/enb/enb.html>

Town of Mamakating Town Board

Any person who requested a copy

Interested Agencies

Sullivan County Planning Department
100 North Street, P.O. Box 5012
Monticello, New York 12701

Adjoining Municipalities

On a motion by Councilperson M. Taylor, seconded by Councilperson G Vest, the foregoing resolution was adopted on a vote of 7 Ayes, 0 Nays.

All in favor.

EXECUTIVE SESSION

- A motion was made by N. Salomone, seconded by P. Keller to go into Executive Session at 7:10 p.m. to discuss 2 personnel issues, 2 contract issues and get legal opinion from the attorney. Invite Buddy Platt into a portion of the session and then Fred Harding and Julie Stanton in for another portion. All in favor.
- A motion was made at 8:15 p.m. by G. Vest, seconded by B. Giraldi to come out of Executive Session. All in favor.
- A motion was then made by G. Vest, seconded by C. Saward to appoint Mary Williams to the Local Development Corp. with a term expiring 02.14.20. All in favor.
- A motion to appoint Alys Fello to the position of fulltime Court Clerk to Judge Dolan, at the judge's request, pending completion of the application process and probationary period. All in favor.

ADJOURNMENT

- A motion to adjourn the meeting was made by C. Saward, seconded by B. Giraldi. All in favor.

Respectfully Submitted;

Jean M. Dougherty, Town Clerk

