

**A regular meeting of the Village of Victor Board of Trustees was held on Monday, March 18, 2019 at the Village Hall, 60 East Main Street.**

**MEMBERS PRESENT:**

Mayor	Gary Hadden
Deputy Mayor	Michael Crowley
Trustee	Carol Commisso
Trustee	Robert Kelly
Trustee	Michelle Chalupa
Director of Public Works	John Turner
Attorney	Reid Holter
Village Clerk	Pamela Hogenes

**OTHERS PRESENT:** Kathy Rayburn, Mitch Donovan, Brad Pearson and Sean McAdoo

Meeting was called to order by Mayor Hadden at 7:00pm.

Salute to the flag.

**Privilege of the Floor**

**Brad Pearson, President, Chamber of Commerce**, first thanked John Turner and the DPW for the excellent job they did this winter on the roads.

Mr. Pearson then explained that the Chamber received a proposal from the Victor Business Connection (VBC) and VCS Education Foundation to collaborate with the Chamber for Hang Around Victor Day (HAVD) including a "Devil Dash" in the middle of the day and a "Brewfest" at 3:00pm towards the end of the event.

Mr. Pearson explained the Chamber declined to collaborate with the VBC on the event. Mr. Pearson first provided history of the chamber and the revenue that the HAVD event generates, about 12% hoping to increase it to 15% this year. Most of the Chamber's revenue comes from membership fees (\$210/yr). Mr. Pearson felt the proposal would greatly change the dynamics of the event.

Mayor Hadden asked Mr. Pearson if the Village businesses get less support from the Chamber than the members outside of the downtown businesses. Mr. Pearson stated the members that are engaged and participate get more out of their Membership fee than ones that do not. Currently, there are no members from the downtown merchants.

Ms. Commisso asked Mr. Pearson how the Chamber felt the VBC proposal had an impact on the Chambers profits? Mr. Pearson stated in the proposal, the VBC asked to be included in the Chambers marketing advertising and materials, but stating nothing about what the Chamber was getting out of it.

Ms. Rayburn was disappointed that the VBC didn't have the opportunity to talk to the Chamber regarding the proposal, it was just "no". The VBC is still working with the School to do the "Devil Dash" and the "Brewfest" at a different location.

Mr. Pearson stated the Chamber feels they are competing with VBC. Mr. Pearson will be attending the next LDC meeting and Jodell Raymond will be coming to a future Village Board meeting.

Mr. Crowley felt Mr. Donovan and Ms. Rayburn had a great working relationship. Mr. Crowley feels there is a disconnect between Ms. Raymond from the Chamber and Ms. Hubler from the VBC. Mr. Crowley sent Ms. Raymond the steps that need to be taken to close off Main St. for HAVD next year (2020). Mr. Crowley asked Mr. Pearson for a list of benefits the Chamber members receive.

### **Clerk Report**

#### **Resolution #29-19**

##### **Acceptance of Minutes**

On motion of Trustee Carol Commisso, seconded by Trustee Michelle Chalupa the following resolution was APPROVED 5 AYES 0 NAYS

**Resolved** to accept the meeting minutes from March 4, 2019

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#### **Resolution #30-19**

##### **Payment of Bills**

**Whereas**, the Village Board of Trustees has audited and approved invoices for payment, that appear on Abstract #20 using vouchers #1530-1606; and,

**NOW**, therefore on a motion made by Trustee Michael Crowley, seconded by Trustee Robert Kelly, the following resolution was ADOPTED 5 AYES 0 NAYS

**Resolved** to authorize the Treasurer to pay invoices from Abstract #20 in the following amounts:

General	\$ 30,827.04
Water	\$ 15,338.19
Sewer	\$ 208.57
HG – Glendower/Duxbury Reconst.	\$ <u>3,575.00</u>
<b>TOTAL</b>	<b>\$ 49,948.80</b>

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## **Director of Public Works Report**

Mr. Turner reported:

- Sewer plug on W. Main St.
- Time Warner/Charter has cables on the pole in Village parking lot that needs to be removed. Asked Mr. Holter if Time Warner needs a utility easement to bore under the parking lot. Will check with RG&E.

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## **Trustees Reports**

**Robert Kelly** – Meeting with Tim Niver and Jim Myers from the Library Board with Mayor Hadden and John Turner on Thursday March 21 regarding a new location.

**Carol Commisso** - VBC is not holding monthly meetings anymore.

**Michelle Chalupa** – Attended the Joule Assets webinar, very informative. Tree Board received the Tree City USA Growth Award. No one can attend the ceremony in Albany. VanBortle Subaru is not sponsoring the tree purchase for Arbor Day, but helping in other ways. Tree Board is working on their Management Plan.

**Michael Crowley** – Went to the Fire Hall to view the repairs made there after the flood. There is a ZBA case coming for subdivision approval to the Village Board on April 1.

## **Mayor Report**

Mayor Hadden read the following resolution into record:

### **Resolution #31-19**

#### **Adopt Local Law #02-19 to Establish a Community Choice Aggregation Program (CCA) in the Village of Victor**

On motion of Trustee Michael Crowley, seconded by Trustee Carol Commisso the following resolution was ADOPTED 5 AYES 0 NAYS

**Whereas**, a resolution was adopted by the Board of Trustees of the Village of Victor for a public hearing to be held by said Board of Trustees on January 22, 2019 at 6:00pm at the Village Hall, 60 East Main Street, Victor, New York to hear all interested parties on the proposed establishment of a Community Choice Aggregation Program in the Village of Victor; and

**Whereas**, notice of said public hearing was duly advertised in the official newspaper of the Village of Victor, on January 10 and all other notices required by law to be given were properly served, posted or given; and

**Whereas**, said public hearing was held on January 22, 2019 at 6:00pm at the Village Hall, 60 East Main Street, Victor, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof; and

**Whereas**, the Board of Trustees on the Village of Victor, after due deliberation, finds it in the best interest of the Village of Victor to adopt said Local Law.

**Now, Therefore Be It Resolved**, that the Board of Trustees of the Village of Victor hereby adopts said Local Law No. 2-19 of 2019, entitled, "A Local Law of establish a Community Choice Aggregation Program in the Village of Victor", a copy of which is attached hereto and made a part of this resolution, and be it further

**Resolved**, that the Village Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and give due notice of the adoption of said local law to the Secretary of State of New York.

**LOCAL LAW NO. 2 – 2019**  
**A LOCAL LAW TO ESTABLISH A COMMUNITY CHOICE AGGREGATION**  
**PROGRAM IN THE VILLAGE OF VICTOR**

Be it enacted by the Village of Victor of the County of Ontario as follows:

**Section 1.** The Code of the Village of Victor is hereby amended by adding a new Chapter 75, entitled "ENERGY AGGREGATION," to read as follows:

**ARTICLE I**

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

- A. It is the policy of both the Village of Victor ("Municipality") 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.
- B. This Chapter establishes the authority for the Village of Victor, in connection with the implementation 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 village, 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 fulfilling an important public purpose.

- C. The Village of Victor is authorized to implement this COMMUNITY CHOICE AGGREGATION PROGRAM pursuant to Section 10(1)(ii)(a)(12) of the New York Municipal Home Rule Law; and consistent with State of New York Public Service Commission Case No. 14-M-0224, Proceeding on Motion of the Commission to Enable Community Choice Aggregation Programs (issued April 21, 2016) as may be amended, including subsequent orders of the Public Service Commission issued in connection with or related to Case No. 14-M-0224, to the extent that orders related to Case No. 14-M-0224 enable actions by the Municipality.
- D. This Chapter shall be known and may be cited as the “ENERGY AGGREGATION Law of the Village of Victor”.

## **§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 the administrator selected by the Village Board of Trustees, duly authorized to request Aggregated and Customer Specific Data, 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. 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.
- E. 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 Municipality. 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 Municipality, as such boundaries exist as of the date the supply contract with the goes into effect.

- F. 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.
- G. DISTRIBUTION UTILITY shall mean owner or controller of the means of distribution of the natural gas or electricity in the Municipality. The Distribution Utility also serves as the default supplier of electricity and natural gas preceding the establishment of a CCA program.
- I. ESCO or ENERGY SERVICES COMPANY mean an entity duly authorized to conduct business in the State of New York as an ESCO.
- K. 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.
- M. 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.”
- N. PUBLIC SERVICE COMMISSION or PSC shall mean New York State Public Service Commission.
- O. 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.

### **§3. Authorization of a Community Choice Aggregation Program.**

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

### **§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 Municipality, regardless of service class, shall be eligible to participate in the CCA program on an opt-in basis.
- B. CCA Administrator, on behalf of the Village of Victor, 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.

### **§5. Opt-Out Process.**

- A. A program notification letter, printed on municipal 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, 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.

#### **§6. Data Protection Requirements.**

A. The Municipality, 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 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 Municipality 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 Municipality or its representative's processing of confidential utility information; and (iii) the PSC CCA Order and PSC rules, regulations and guidelines relating to confidential data.

C. For the purpose of protecting customer data, the Municipality must enter into an agreement with the Distribution Utility that obligates each party to meet, collectively, (i) all 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.

#### **§7. Administration Fee.**

The Municipality 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.

#### **§8. Reporting.**

A. Annual reports shall be filed with the Board of Trustees of the Municipality by March 31 of each year and cover the previous calendar year.



- B. 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.
- C. 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.

**§9. Effective Date.**

This Local Law shall be effective immediately upon passage.

**§10. Severability.**

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

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- Meeting with Reid, Chris Luley and Gene Pratt regarding indemnification language in the Management Plan agreement.
- Chief McAdoo would like to increase Lisa Hauf's hours from 20 to 25 per week. The funds will be moved from their fuel budget.
- Would like to enter into executive session regarding a matter of litigation.

**Attorney Report**

None

**Executive Session**

On a motion made by Trustee Robert Kelly, seconded by Trustee Michelle Chalupa, the following resolution was ADOPTED 5 AYES 0 NAYS

**Resolved**, that the Village Board of Trustees will enter into executive session to discuss a litigation matter. Attorney Holter, Mr. Turner and Ms. Hogenes to remain.

On motion of Trustee Robert Kelly, seconded by Trustee Carol Commisso, the following resolution was ADOPTED 5 AYES 0 NAYS

**Resolved**, that the Village Board of Trustees will exit out of executive session.

**Adjournment**

Meeting adjourned on motion at 7:55pm.

Pamela Hogenes, Village Clerk