

ROLL CALL VOTE	AYE	NAY
Trustee Marjorie Apel	X	
Trustee Meg Walker	X	
Trustee Nicola Armacost	X	
Trustee Daniel Lemons	X	
Mayor Peter Swiderski	X	

**71:15 ADOPTION OF LOCAL LAW NO. 6 OF 2015 TO TO ESTABLISH A  
COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM IN THE  
VILLAGE OF HASTINGS-ON-HUDSON**

**Mayor Swiderski:** I assume we have talked ourselves out on this, but is there any other statement from the Board on CCA?

**Trustee Armacost:** This is an important initiative for us to take to be able to put money into people's pockets in the community. People need to understand that that is the spirit here, and it is a unique opportunity. It will not come again, and hopefully it will not just be five percent, hopefully it will be closer to 15 or 20 percent savings people get through this initiative irrespective of any other routes they take like solarization, et cetera. It is an important contribution to people's pocketbooks.

**Trustee Walker:** I agree with Trustee Armacost, and I wanted to mention something that Mr. Gordon said which struck me as important: that we are taking the power away from the state and giving it to local government. The default is no longer Con Ed, which was set up by the state, but we decide what the default is going to be. I like that local control. In addition to the saving that will accrue, we are hopeful we will find, and I like having, the possibility that we have that control.

**Trustee Apel:** I also like the concept that there is strength in numbers, but the individual also has power here and can make the decision for themselves. While we are giving you the opportunity to make a choice, you yourself have the individual choice to make up your mind and go with it, whatever you want to do for your pocketbook. But at least we give you the opportunity.

**Mayor Swiderski:** I want to thank Trustee Armacost for bringing this to our attention, and I want to do some math. Five percent of a typical gas and electric is minimally \$25 a month. That does not sound like a lot. It is \$300 a year times 2,000 households, so at least half a million dollars a year saved for the community and possibly easily over a million. That is not trivial. Keeping that money in the community is a good thing.

On MOTION of Trustee Armacost, SECONDED by Trustee Walker the following Resolution was duly adopted upon roll call vote:

**RESOLVED:** that the Mayor and Board of Trustees hereby adopt Local Law No. 6 of 2015 amending the Code of the Village of Hastings-on-Hudson, Westchester County, New York to establish a Community Choice Aggregation (energy) program in the Village of Hastings-on-Hudson.

Be it enacted by the Board of Trustees of the Village of Hastings-on-Hudson as follows:

**Section 1.** The Code of the Village of Hastings-on-Hudson is hereby amended by adding a new Chapter 110, entitled “COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM,” to read as follows:

## **ARTICLE I**

### **§110-1. Legislative Findings; Intent and Purpose; Authority.**

- A. It is the policy of both the Village of Hastings-on-Hudson 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 (CCA), 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 Village of Hastings-on-Hudson 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 Village 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 Village of Hastings-on-Hudson 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 Village of Hastings-on-Hudson 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 Village of Hastings-on-Hudson.”

#### **§110-2. 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 Village of Hastings-on-Hudson.

**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.

**§110-3. Establishment of a COMMUNITY CHOICE AGGREGATION (ENERGY) Program.**

- A. A COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM is hereby established by the Village of Hastings-on-Hudson, whereby the Village 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 Village's 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 Village's participation in a CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The Village 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 Village 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.

**§110-4. Procedures for Eligibility; Customer Data Sharing.**

- A. As permitted by the Order, the Village of Hastings-on-Hudson 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 Village of Hastings-on-Hudson, 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 Village if the Village so chooses, will then request individual customer data from the Distribution Utility in accordance with the CCA Program.
- D. Sustainable Westchester or the Village if the Village 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 at no cost.
- E. In accordance with and for purposes of the Order, the existing Distribution Utility, Consolidated Edison Company of New York, Inc. 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 Village of Hastings-on-Hudson
- F. Sustainable Westchester and the Village of Hastings-on-Hudson, will protect customer information as required by law, subject to the Order and the limitations of the New York State Freedom of Information Law.

**§110-5. Choice of Energy Supplier; Opt-Out Notice and Procedure.**

- A. The Village of Hastings-on-Hudson or in conjunction with the ESCO will notify its residential and Small Commercial customers, by letter notice, of the Village's 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.

**§110-6. 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.** If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

**Section 3.** This local law shall take effect upon filing with the Secretary of State.

**72:15 APPROVAL OF AGREEMENT TO PARTICIPATE IN THE COMMUNITY CHOICE AGGREGATION PROJECT**

**Mayor Swiderski:** This puts some color on it, clearly laying out that the prices have to be a good deal to be considered.

On MOTION of Trustee Lemons, SECONDED by Trustee Armacost the following Resolution was duly adopted upon roll call vote:

- WHEREAS,** Sustainable Westchester, Inc., a not-for-profit organization comprised of several municipalities in Westchester County, including the Village of Hastings-on-Hudson, received approval by the New York State Public Service Commission for a demonstration community choice aggregation ("CCA") program in Westchester County, which will allow local governments to participate in a Sustainable Westchester program to procure energy supply from energy service companies ("ESCOs") for the residents of the municipalities, and
- WHEREAS,** on Oct. 20, 2015, the Village adopted Local Law No.6 of 2015 to establish a Community Choice Aggregation (Energy) Program, and
- WHEREAS,** the Program is intended to provide consumers with the ability to lower their overall energy costs, and
- WHEREAS,** the 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
- WHEREAS,** suppliers preparing bids need some assurance that municipalities are serious in their intent to participate, subject to final terms and rates being acceptable to the municipalities, will then award a contract, now therefore be it

**RESOLVED:** that the Village of Hastings-on-Hudson intends to enter into agreements 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, subject the Village Board's review and acceptance of the final terms and rates secured in the winning, compliant bid, the Village Manager is hereby authorized to execute any and all documents to give effect to this resolution.

<b>ROLL CALL VOTE</b>	<b>AYE</b>	<b>NAY</b>
Trustee Marjorie Apel	X	
Trustee Meg Walker	X	
Trustee Nicola Armacost	X	
Trustee Daniel Lemons	X	
Mayor Peter Swiderski	X	

**Mike Gordon, Sustainable Westchester:** We very much look forward to working with you and looking back to report when we have a contract.

**Mayor Swiderski:** When do you think that will be?

**Mr. Gordon:** Out to bid November, early December. Then we will sit here to answer any questions that folks have and, in the interim, answer questions that folks have.



## **BOARD DISCUSSION AND COMMENTS**

### **1. Farmers' Market - Proposal for a Two-Year Agreement for Rental of Municipal Parking Lot**

**Sue Smith, Farmers' Market:** Again, this is the time of year to come to you considering what we call the Winter Market, when we would like to use the library a lot in December, April and May and go to the Community Center in the three really cold months. Also, since we have been through this ritual for 18 years now and have become rent-paying tenants, we wondered if you consider going to a multiyear contract so we do not come twice a year to ask the same thing over and over again. I think we have proved ourselves as being reliable and flexible. I do not know if this is a two-part action here or a one-part action or quite how we have constructed it. It is obviously for the winter because that is the time we are approaching, and in a way more urgent thing. But it seemed the opportunity to ask for a multiyear agreement also.

**Mayor Swiderski:** I think we should consider it as you are proposing it as a two-year, but have the Board still discuss the days proposed and the terms of the agreement. Are there comments on the dates proposed or the fact that it is a two-year? Let us start with two years. Is everybody comfortable with talking about this as a two-year first.

**Trustee Armacost:** It is not a problem for me.

**Trustee Lemons:** That is fine.

**Trustee Walker:** I am in favor.

**Trustee Apel:** I am OK.

**Mayor Swiderski:** Let us talk about the dates. There are some dates proposed here. These specific dates are 2015 and 2016, and I imagine would be similar for the follow year. Would you propose to be coming back next year with the dates, or are you looking for something similar for next year, approved now?

**Ms. Smith:** The days change by a day or two, and it is a leap year. We made an attempt this year to come up with an every other week schedule because that is in people's minds. They get confused if it is every other week and then the third week, and to try to avoid, as you requested, holiday dates like Easter weekend and Mother's Day weekend. We were able to come up with a regular schedule, skipping January 2 which is still New Year's Eve weekend.



## VILLAGE OF HASTINGS-ON-HUDSON

Municipal Building  
7 Maple Avenue  
Hastings-on-Hudson, New York 10706

On motion of Trustee Armacost, seconded by Trustee Walker the following Resolution was duly adopted upon roll call vote:

### **71:15 ADOPTION OF LOCAL LAW NO. 6 OF 2015 TO TO ESTABLISH A COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM IN THE VILLAGE OF HASTINGS-ON-HUDSON**

**RESOLVED:** that the Mayor and Board of Trustees hereby adopt Local Law No. 6 of 2015 amending the Code of the Village of Hastings-on-Hudson, Westchester County, New York to establish a Community Choice Aggregation (energy) program in the Village of Hastings-on-Hudson.

Be it enacted by the Board of Trustees of the Village of Hastings-on-Hudson as follows:

**Section 1.** The Code of the Village of Hastings-on-Hudson is hereby amended by adding a new Chapter 110, entitled "COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM," to read as follows:

#### **ARTICLE I**

##### **§110-1. Legislative Findings; Intent and Purpose; Authority.**

- A. It is the policy of both the Village of Hastings-on-Hudson 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 (CCA), 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 Village of Hastings-on-Hudson 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 Village 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 Village of Hastings-on-Hudson 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 Village of Hastings-on-Hudson 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 Village of Hastings-on-Hudson."

## **§110-2. 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:

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

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**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.

## **§110-3. Establishment of a COMMUNITY CHOICE AGGREGATION (ENERGY) Program.**

- A. A COMMUNITY CHOICE AGGREGATION (ENERGY) PROGRAM is hereby established by the Village of Hastings-on-Hudson, whereby the Village 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 Village's 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 Village's participation in a CCA Program constitutes neither the purchase of a public utility system, nor the furnishing of utility service. The Village 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 Village 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.

**§110-4. Procedures for Eligibility; Customer Data Sharing.**

- A. As permitted by the Order, the Village of Hastings-on-Hudson 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 Village of Hastings-on-Hudson, 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 Village if the Village so chooses, will then request individual customer data from the Distribution Utility in accordance with the CCA Program.
- D. Sustainable Westchester or the Village if the Village 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 at no cost.
- E. In accordance with and for purposes of the Order, the existing Distribution Utility, Consolidated Edison Company of New York, Inc. 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 Village of Hastings-on-Hudson
- F. Sustainable Westchester and the Village of Hastings-on-Hudson, will protect customer information as required by law, subject to the Order and the limitations of the New York State Freedom of Information Law.

**§110-5. Choice of Energy Supplier; Opt-Out Notice and Procedure.**

- A. The Village of Hastings-on-Hudson or in conjunction with the ESCO will notify its residential and Small Commercial customers, by letter notice, of the Village's 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.

**§110-6. 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.** If any section, subsection, clause, phrase or other portion of this Local Law is, for any reason, declared invalid, in whole or in part, by any court, agency, commission, legislative body or other authority of competent jurisdiction, such portion shall be deemed a separate, distinct and independent portion. Such declaration shall not affect the validity of the remaining portions hereof, which other portions shall continue in full force and effect.

**Section 3.** This local law shall take effect upon filing with the Secretary of State.

<b>ROLL CALL VOTE:</b>	<b>AYE</b>	<b>NAY</b>
Trustee Marjorie Apel	X	
Trustee Meg Walker	X	
Trustee Nicola Armacost	X	
Trustee Daniel Lemons	X	
Mayor Peter Swiderski	X	

**CERTIFICATION**

I, Linda Loeb, Acting Village Clerk of Hastings-on-Hudson, do hereby certify that I have compared the foregoing copy of the Resolution adopted at a Regular Meeting of the Board of Trustees on Oct. 20, 2015, with the original now remaining on file at this office and that the same is a correct transcript therefrom and of the whole of said original.

IN WITNESS WHEREOF, I have hereunto set my hand and the official seal of the Village of Hastings-on-Hudson this 7<sup>th</sup> day of March, 2017.

  
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Linda Loeb, Acting Village Clerk



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