

**Public Hearing & Regular Meeting  
of the Windsor Town Board  
September 5, 2012**

**Present were:** Supervisor Randy J. Williams, Councilman George B. West, Councilman Timothy J. Bates, Councilman Jeff Olin, Attorney Robert McKertich, Code Enforcement Officer Dave Brown, Town Clerk Barbara Rajner Miller, and the following guests: Joe Mirabito (from Leatherstocking), Ken Frederick, Jr., William DePersis, Ruth Seward, Russ Miller (from Leatherstocking), Elaine Card, Hazel Brandt, Betsy Majors, Mr. Majors, Matt Seward, Cathy Hupman, Brad Chubb, Village Mayor Ron Harting, Scott B. Clarke, Bob Merkel, Kedron Hay, Kelly Pennay, Cheryl Peet, John Svoboda, Linda Svoboda, Lesa Hawk-Shuler, Henry Shuler, Jeff McLaughlin, Dave Bagg, Gary Hupman, Minnie Keehle, Richard Keehle, Carl Gordon, Heather Gordon, Jean Worden, Ron Rambo, Sr., Bill McIntyre, John West, Jerry Launt, Floyd Bronson, Bruce Cameron, Bob Bennett, Barton Wolford, Tom Skinner, and approximately ten others.

**Absent was:** Councilman LeWayne H. Colwell, Town Engineer Ron Lake, and Town Attorney Cheryl Sacco.

Supervisor Williams called the meeting to order at 7:30pm, and recognized the presence of County Legislator Steve Herz.

**PUBLIC HEARING REGARDING FRANCHISE AGREEMENT WITH LEATHERSTOCKING GAS COMPANY:**

- \* Will probably come off the Laser line – have to be determined with the Town and the Village.
- \* The two schools (high school and middle/elementary school) will be the primary focus for “connecting.”
- \* Private residents along the route will be able to get service as well. Will not be forced to hook-up.
- \* Excess flow valve is at the street.
- \* “Warning tape” is placed one foot over the piping to caution future excavators.
- \* Timeframe: At the earliest, end of 2013; more likely Spring of 2014.
- \* In NYS the municipal franchise is the first step.
- \* Delivered cost of approximately \$8 (includes transportation, fuel and taxes). Comparative cost for fuel oil is approx. \$22, and propane is approximately \$18.
- \* Cost of changeover is identified up-front by Leatherstocking.

Mayor Ron Harting offered his thanks to the Town Board for supporting this endeavor.

**PUBLIC HEARING ENDED: 7:58PM**

Attorney McKertich did the SEQR

**Town of Windsor, County of Broome, State of New York  
A RESOLUTION APPROVING A FRANCHISE AGREEMENT WITH LEATHERSTOCKING GAS COMPANY, LLC  
Resolution #30-2012**

**PRESENT:** Supervisor Randy J. Williams  
Councilman Timothy Bates  
Councilman Jeffrey Olin  
Councilman George B. West

**ABSENT:** Councilman LeWayne H. Colwell

At a regular meeting of the Town of Windsor Town Board, held at the Town Hall on the 5th day of September, 2012, the following resolution was

**OFFERED BY:** Councilman George B. West

**SECONDED BY:** Councilman Jeff Olin

**WHEREAS**, a resolution was duly adopted by the Town Board of the Town of Windsor for a public hearing to be held by said Board at the Town Hall, 124 Main Street, Windsor, New York to hear all interested parties on a proposed Franchise Agreement with Leatherstocking Gas Company, LLC, a copy of which is attached hereto and incorporated herein; and

**WHEREAS**, notice of said public hearing was duly advertised in the official newspaper of the Town on August 8, 2012, and posted on the Town Clerk’s sign board and the Town’s website; and

**WHEREAS**, said public hearing was duly held at 7:30 p.m. on September 5, 2012, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Franchise Agreement, or any part thereof; and

**WHEREAS**, the Franchise Agreement would authorize Leatherstocking, LLC to provide natural gas service in the Town of Windsor for a period of 50 years, and said gas would be distributed by means of a natural gas pipeline subject to the terms and conditions of the Franchise Agreement; and

**WHEREAS**, the Town Board of the Town of Windsor, after due deliberation, finds it in the best interest of the Town to adopt said Franchise Agreement;

**NOW, THEREFORE, BE IT RESOLVED**, pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) (“SEQR”), it has been determined by the Town Board of the Town of Windsor that approval of the franchise constitutes an Unlisted Action, as defined under the SEQR regulations. The Town Board hereby declares itself the lead agency for SEQR review. The approval of the franchise will not have a significant adverse impact on the environment and the Town Board adopts a negative declaration with respect to the approval of the franchise.

**BE IT FURTHER RESOLVED**, the Town Board of the Town of Windsor hereby approves a franchise for Leatherstocking Gas Company, LLC to provide natural gas service in the Town to be distributed by means of a natural gas pipeline in accordance with the Franchise Agreement;

**BE IT FURTHER RESOLVED**, the Supervisor of the Town of Windsor is hereby authorized to execute the Franchise Agreement on behalf of the Town;

**BE IT FURTHER RESOLVED**, the Town Clerk of the Town of Windsor be and hereby is directed to give due notice of the grant of the franchise.

**BE IT FURTHER RESOLVED**, that this Resolution shall take effect immediately.

**FRANCHISE AGREEMENT  
BETWEEN  
THE TOWN OF WINDSOR, BROOME COUNTY, NEW YORK  
and  
LEATHERSTOCKING GAS COMPANY, LLC**

This agreement made this **5th day of September, 2012**, by and between the Town of Windsor, a municipal subdivision of the State of New York, situated in Broome County (hereinafter called the “Town”) and the Leatherstocking Gas Company, LLC, a New York Limited Liability Company doing business at 49 Court St., Binghamton, New York 13902 (hereinafter called the “Company”).

**WHEREAS**, the Company has requested a non-exclusive Specific Use Franchise Agreement to provide natural gas service to the Town to be distributed by means of a natural gas pipeline; and

**WHEREAS**, the Town has held a public hearing on said request and has determined such an agreement would be advantageous to the Town and its inhabitants;

**WHEREAS**, this franchise agreement is subject to the approval of the Public Service Commission of the State of New York;

**NOW, THEREFORE**, in consideration of the conditions and specifications hereinafter set forth, the Town wishes to grant consent and permission to the Company, its successors and assigns, to have and to exercise the right and privilege to lay, place and maintain in the streets, alleys and rights-of-way of the Town of Windsor, pipes, conduits, mains, and other appliances, including cutoffs and connections for distributing gas, artificial or natural, (hereinafter collectively referred to as the “Facilities”) through, along and under any of the highways, streets, lanes and rights-of-way in said Town; to enter and re-enter upon said streets, lanes, highways and rights-of-way in said Town as from time to time may be necessary for the maintenance, operation and repair of such Facilities or any part thereof; and to distribute and sell gas for light, heat or power to public and private facilities, and the inhabitants thereof, in said Town in accordance with certain mutually agreed conditions as follows:

Section 1. Term:

The term of this agreement shall be for a term of fifty (50) years commencing immediately upon the date of final approval of this franchise. Notwithstanding the foregoing, the Town shall have the option to change the amount of the liability insurance required in Section 6 at anytime after ten years from the date of the final approval of this franchise, provided that it notifies the Company of said changes and that the liability insurance is commercially available at a reasonable price. This agreement may be terminated by the Town in the event that the Company has not commenced construction of the proposed pipeline within the boundaries of the Town within 5 years of the date of this agreement, or if, after substantially constructing such pipeline within the boundaries of the Town, the Company ceases to use it for 365 days or longer.

Section 2. Franchise Area:

The franchise rights and obligations set forth in this agreement shall be applicable only within the municipal limits of the Town of Windsor, but excluding the Village of Windsor. This franchise is only intended to convey a limited right and interest. It is not a warranty of title or interest in the Town’s rights-of-way or other public property. None of the rights granted herein shall affect the Town’s jurisdiction over its property, streets or rights-of-way.

Section 3. Construction and Maintenance:

A. The Company shall construct, operate and maintain its Facilities so as to provide safe and reliable natural gas service. The Company shall at all times after placing the Facilities, keep the same in proper condition and repair, and shall do all necessary work to properly maintain said Facilities in a proper and suitable state of repair. At all times, the Company shall use proper and appropriate means to prevent the escape or leakage of gas from its Facilities and the causing of any damage or injury therefrom to any person or property. In addition, at all times the Company shall have a monitoring system in place which will be suitable to detect leaks by the measurement of pressures and flows across the franchise area. The Company shall have a written emergency response plan and procedure for locating leaks and ruptures and for shutting down valves as rapidly as possible, and such plan and procedures shall be provided to the Town. The Company shall provide annual training to members of the fire department, company and/or district regularly providing fire suppression service to the Town regarding the emergency response plan and

procedures.

B. The Company, its successors and assigns, shall lay and maintain the Facilities in conformity with the provisions and requirements of the Laws and Ordinances of the Town, and all other applicable laws, rules, ordinances, or regulations of the Federal, State and/or County governments which are now or hereafter may be adopted, and in accordance with plans approved by the Town Board and/or the Town of Windsor Engineer, which approval shall not be unreasonably withheld. The Company's compliance therewith shall be subject to inspection by the Town Engineer, or his designee, at any and all times. The Company agrees to obtain, prior to the commencement of the operation of the services hereunder, such permits as may be required by law from Federal, State and local regulatory bodies. As built drawings of all improvements constructed in the Town shall be filed with the Town Highway Department as soon as possible after completion of such construction.

C. When the Company shall have occasion to make an opening in any street or public place for the purpose of laying, or repairing any of its Facilities, it shall first secure any permit necessary under the Laws or Ordinances of the Town, and all other applicable laws, rules, ordinances, or regulations of the Federal, State and/or County governments which are now or hereafter may be adopted, conduct its work in a careful and workmanlike manner, cause as little disturbance of traffic as reasonably possible, and restore the surface of such street or other public place to the same condition as before excavation or to a minimum Town Standard as determined by the Town Engineer within thirty (30) business days, or if other conditions exist that prevent such restoration, as promptly as possible under the circumstances. The Company, during the opening of such surface, shall properly guard and protect all openings and trenches. In the event that permanent asphalt or comparable surfacing material cannot be placed immediately upon completion of filling such excavation, the Company shall level and maintain the surface until such time as permanent asphalt or comparable surfacing material can be placed. The Company shall monitor and maintain such surface for one year after completion of the work at such location. If the Company fails to restore such surface to its normal condition, the same may be repaired under the direction of the Town Engineer and the expense of such repairs shall be paid by the Company upon demand.

D. As consideration for this franchise agreement the Company shall install gas service piping and a meter and regulator to municipal buildings, including the Town Highway Garage, Town Hall and all school buildings, within 10 years of the execution of this franchise. The installation shall be at no cost to the Town, assuming said Town facilities are within NYS Public Service Commission approved areas and the necessary main and service expansions are allowed under NYPSC regulations. In addition, the Company shall provide gas service piping and a meter and regulator to all properties within the Town within 10 years of the execution of this franchise, provided that it is economically viable and in accordance with NYPSC main and service extension rules, unless the property owner refuses to sign a commitment letter with the Company.

As further consideration, the Company agrees that, if a franchise agreement is entered into with another municipality containing terms or conditions that the Town deems to be more beneficial than those contained herein, the Town of Windsor shall have the option of reforming such term or condition of this agreement accordingly.

#### Section 4. Costs:

All reasonable costs and expenses of the Town in connection with the grant of this franchise, including attorneys fees, engineering fees and publication costs, shall be paid by the Company.

#### Section 5. Taxes:

The Town expressly reserves all of its authority and rights under the law, including the authority and right to impose taxes.

#### Section 6. Indemnification:

The Company shall fully indemnify and save the Town and the officials, employees, agents, successors and assigns of the Town harmless from any and all losses sustained by the Town on account of any action, order, suit, judgment, execution, claim, damage, injury or demand whatsoever occasioned by or arising out of the construction, erection, placement, maintenance, repair, removal or operation of the Company's natural gas distribution Facilities or the exercise of the Company's franchise rights granted herein.

The Company shall obtain and carry general comprehensive liability insurance (naming the Town as an additional insured), written by an insurance company or companies qualified to do business in the State of New York. The Company shall provide a copy of the current certificate of insurance to the Town within thirty (30) days of the execution date of this agreement and shall maintain not less than a \$1 million per occurrence, \$2 million aggregate and a \$5,000,000 umbrella liability coverage at all times including explosion coverage.

The Company shall also obtain and carry Workers' Compensation and Disability Insurance upon its employees engaged in any manner in the construction, installation, or servicing of its Facilities within the Town.

Prior to performing any work within the streets, lanes, highways and rights-of-way in the Town, the Company shall execute, deliver and file security with the Town Clerk in the form of its bond or letter of credit in an amount to be determined by the Town Board on a case-by-case basis to guarantee the faithful performance by the Company of the construction and maintenance of the gas distribution system.

The indemnity, insurance and security provisions contained herein shall survive the termination of this franchise and shall continue for as long as the Facilities shall remain in or under the franchise area.

#### Section 7. Location:

The location of all Facilities in the Town shall be subject to the direction and approval of the Town Engineer, which shall not be unreasonably withheld.

#### Section 8. Plans and Inspection:

Before commencing any work in the Town, the Company shall file with the Town Engineer a plan drawn to scale showing the area which it proposes to occupy together with specifications of the mains, pipes and works propose to be laid or constructed and the depth at which the same are to be laid. The Town shall have access upon reasonable notice and during normal business hours to all records, maps, plans and other like materials of the Company.

Section 9. Sale or Transfer of Franchise:

The Company shall not sell, lease, convey or otherwise transfer or assign the franchise created by this Agreement unless the sale or transfer is to a purchaser or transferee approved in advance and in writing by the Town. Such approval shall not be unreasonably withheld and, if so granted, this franchise shall be binding upon and inure to the benefit of said purchaser or transferee. No transfer shall be approved unless the purchaser or transferee has at least the legal, technical, financial, and other requisite qualifications to carry out the activities of the Company as it relates to this franchise. Any sale, lease, conveyance, transfer or assignment of this franchise without the prior written consent of the Town shall be void and result in revocation of the franchise.

Section 10. Non-Exclusive Agreement:

Nothing herein contained shall be construed to grant the Company any exclusive right in said streets or alleys or prevent the granting of the privilege to furnish natural gas, electricity, or other utility services to other companies or individuals, and the pipes of the Company shall not interfere with other pipes, conduits or sewers laid in the streets or alleys of said Town, but said pipes may cross other pipes either above or below other pipes. In the event that Facilities installed as part of this franchise agreement conflict with other utilities or work proposed by the Town in their right-of-way, the Facilities will be located or relocated to a mutually acceptable location within said right-of-way at no additional cost to the Town of Windsor.

Section 11. Public Service Commission Authorization:

This grant of a franchise is made upon condition that the Company shall obtain proper permission and authorization for the continuance of its activity in the Town from the Public Service Commission of the State of New York, or such other governmental agency whose consent and authorization may be necessary to be obtained in connection therewith. The Company will comply with all State Environmental Quality Review Act ("SEQRA") approvals as may be required by law. In no event will the Company pay expenses of the Town if no franchise is granted.

Section 12. Severability:

If any section, subsection, clause, phrase or portion of this franchise is for any reason held invalid by any court or regulatory agency of competent jurisdiction, such invalid portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof. Jurisdiction and venue for any disputes concerning this Agreement shall reside with the Broome County Supreme Court.

Section 13. Termination:

Failure of the Company to comply with any of the above express conditions after sixty (60) days written notice or demand in writing from the Town of Windsor, specifying any such failure in detail, may be deemed by the Town to be a breach of contract and authorize the said Town Board to bring such proceedings as may be provided by law and the regulations of the Public Service Commission for suspension or revocation of this Franchise.

Unless otherwise directed by the Town, in the event of the Company's permanent cessation of use of its Facilities within the franchise area, the Company shall remove all above-ground unutilized Facilities and restore the franchise area to as good or better condition as before the work began. The removal and restoration shall be at the sole cost of the Company and the Company shall be responsible for any environmental review required for the removal and restoration.

Section 14. Core Services – See Attachment "A"

APPROVED:

For: Town of Windsor, New York:

For: Leatherstocking Gas Company, LLC:

\_\_\_\_\_  
Randy J. Williams, Town Supervisor

\_\_\_\_\_  
Michael I. German CEO

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Attached: Certified copy of the Town Board resolution authorizing the Supervisor to sign.  
Certified copy of Leatherstocking Gas Company, LLC authorizing the CEO to sign the franchise agreement.

ATTACHMENT "A"

Core Services

The Company shall provide to the Municipality the following basic services as Core Services:

1. As required by legislation, the Company shall provide and install all necessary regulators and meters necessary for measuring and billing the natural gas supply to each customer. The point of delivery shall be upon the customer's premises, currently at the outlet of the meter.
2. The Company agrees to collaborate with the fire department, company and/or district regularly providing fire suppression service to the Town in an effort to mutually develop emergency response procedures relating to natural gas emergencies.
3. The Company shall comply with all New York State Public Service Commission requirements related to

Emergency Response Services related to gas leak calls.

4. The Company will provide project design services using qualified gas engineers who are responsible for designing all natural gas facilities to satisfy all applicable regulatory codes and standards; and services for preparing necessary repair plans and for monitoring distribution network pressures to ensure that the Company's facilities will meet the customer's natural gas requirements.
5. The Company shall provide annually or at such other time as the Town may reasonably require, a report to the municipality on system reliability, customer satisfaction and public safety as such data is reported to the New York State Public Service Commission.
6. The Company shall meet at least annually with the Town Board to ensure a mutual exchange of information so the municipality is kept apprised of the Company's construction and upgrade plans in the Town. The Town will advise the Company of any issues relating to the gas distribution system as addressed by the Town Board.

**HIGHWAY:**

- Still have problems with the uniforms returning damaged from Cintas. Hwy has already sent several letters. Discussion about breaking the contract. Councilman West will visit Hwy garage next week to assess the situation.
- Supervisor Williams will check on the mining permit.
- 635 Blatchley Rd: issue with washed-out road/driveway. Discussion between Minnie Keehle and Hwy Superintendent Kohlbach. Kohlbach will check on it tomorrow. Hwy will be up there with the paver later this year.
- Supervisor Williams informed Kohlbach about some upcoming meetings.
- John Deere has a new policy. We can only trade a loader every two years.

**Motion By: Councilman Jeff Olin                      Sec. By: Councilman Timothy J. Bates**

To declare the following as surplus equipment:

Two crushers, one generator and a set of stairs.

Vote of the Board:

Supervisor Williams - AYE

Councilman Colwell - ABSENT

Councilman Bates - AYE

Councilman West - NAY

Councilman Olin - AYE

**Motion Approved.**

**OLD BUSINESS:**

**Motion By: Councilman George B. West                      Sec. By: Councilman Timothy J. Bates**

To approve the minutes of the 8/1/2012 Regular Meeting as submitted.

Vote of the Board:

Supervisor Williams - AYE

Councilman Colwell - ABSENT

Councilman Bates - AYE

Councilman West - AYE

Councilman Olin - AYE

**Motion Approved.**

**NEW BUSINESS:**

\* John West, President of the West Windsor Fire Co. informed the Board of the possibility of merging with Windsor Fire Co. The reasons for doing this is firefighter safety, more manpower, more equipment, timelier response. They have been responding as one company since January, and it's working out quite well.

**Motion By: Councilman Jeff Olin                      Sec. By: Councilman George B. West**

To schedule a Special Meeting on 9/26/12 at 7:00pm.

Vote of the Board:

Supervisor Williams - AYE

Councilman Colwell - ABSENT

Councilman West - AYE

Councilman Bates - AYE

Councilman Olin - AYE

**Motion Approved**

\* Planning Board Site Plan Review: Received by the Town Board. After the Attorney and the Engineer have looked at it, a meeting will be held to discuss further.

**Supervisor Williams requests a report from each committee monthly:**

- **Highway**-none.
- **Zoning/Planning**-none.
- **Code Enforcement**-informed Board of types/quantities of permits issued for the month.
- **Town Hall**-need to put up the rest of the shelving in the basement.
- **Youth/Recreation**-none.
- **Cemetery**- none.
- **Dog Control**-Looking into new vehicle. Have approx. \$5,500 toward that. DCO Bronson and Councilman West will meet on Friday at 9:00am.
- **Sewer**-none.
- **Historical**-none.
- **Natural Gas-Drilling, Pipeline, etc.-.**

**Motion By: Councilman Jeff Olin                      Sec. By: Councilman George B. West**

To pay: \* General Fund Vouchers #385 through #435, totaling \$20,474.39; and  
\* Highway Fund Vouchers #277 through #328, totaling \$152,886.14; and  
\* Sewer Operating Fund Vouchers #46 through #54, totaling \$1,576.19; and  
\* Trust and Agency Vouchers #44 through #50, totaling \$47,857.47.

Vote of the Board:

Supervisor Williams - AYE

Councilman Colwell - ABSENT

Councilman West - AYE

Councilman Bates – AYE

Councilman Olin - AYE

**Motion Approved**

**PUBLIC COMMENT:**

Dave Bagg wondered if Shedd Rd was on the list for roadwork. Kohlbach mentioned that CHIPS projects can only be every ten years, and Shedd Rd was done less than ten years ago.

**Motion By: Councilman Jeff Olin                      Sec. By: Councilman Timothy J. Bates**

To adjourn the meeting at 8:42pm.

Vote of the Board:

Supervisor Williams - AYE

Councilman Colwell - ABSENT

Councilman West - AYE

Councilman Bates – AYE

Councilman Olin - AYE

**Motion Approved**

Respectfully Submitted,  
Barbara Rajner Miller, Windsor Town Clerk