

Ann C Bullock
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June 6, 2019

Mr. Justin Hogan
Chairman, Board of Ethics
Saratoga Springs
City Hall
Saratoga Springs, NY 12866

Mr. John Franck
Commissioner, Accounts
Saratoga Springs
City Hall
Saratoga Springs, NY 12866

Mr. Vincent DeLeonardis, Esq.
City Attorney
Saratoga Springs
City Hall
Saratoga Springs, NY 12866

RE: Energy Procurement Contracts: City of Saratoga Springs

Dear Sirs:

We noted with interest the Minutes of May 21, 2019, in which the Accounts Department presented for immediate acceptance by the City Council contracts for electricity and gas delivery to the City.

Since about 1999, the City has purchased electricity and natural gas at competitive prices through the Saratoga County Chamber of Commerce energy program.

Joanne Foresta had been part of EnergyNext responsible for servicing Chamber energy customers and arranging pricing of energy supplies from suppliers (including Constellation Energy and Direct Energy) until early in 2019. In March, 2019, Ms. Foresta's husband, Edward Miller, formed a Limited Liability Company, known as EnergyNow Consultants, LLC (hereafter, EnergyNow).

Mr. Miller is the Saratoga County Chairman of the Independence Party, of which his wife, Ms. Foresta, is the Treasurer. Further, Mr. Miller is employed by the City of Saratoga Springs Department of Public Works, while Ms. Foresta serves as the Chair of the Saratoga Springs Housing Authority. In March 2019, Mr. Miller and Ms. Foresta attended a fundraising event for Commissioner Michele

Madigan, contributing \$500 from the Independence Party Chairman's Club to Commissioner Madigan's re-election effort. Also this spring, the Independence Party endorsed not only Commissioner Madigan, but also the other three incumbent City Council members running for re-election in 2019, i.e. Mayor Meg Kelly, Accounts Commissioner John Franck, and DPW Commissioner Skip Scirocco.

On May 21, 2019, all of the Independence-party endorsed City Council members voted to approve energy supply contracts, procured, it is believed, through EnergyNow. Further, it is believed that EnergyNow and its owners/members stand to receive significant commissions for the procurement of the energy contracts.

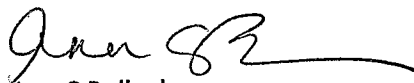
All of this begs the question, did City Council members agree to use the services of EnergyNow, formed by the Chairman of the Independence Party and apparently owned by individuals connected to the Independence Party, resulting in significant taxpayer-funded payments to EnergyNow and those individuals, in exchange for endorsements and campaign support by the Independence Party of those City Council members?

Is there a written agreement between the City and EnergyNow designating them as the City energy broker? What are the terms of this agreement? How and when was this agreement reached? Further, did Mr. Miller, a City employee, disclose publicly his interest in EnergyNow and any financial interest he may have had in the award of any energy contract, as required under Section 13-3(G) of the City Code of Ethics? Did Ms. Foresta offer such disclosure, likewise required of her, even as an unpaid Officer of the Housing Authority pursuant to the same section? (See definition Section 13-2)

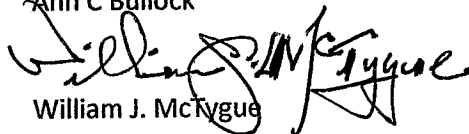
According to NYS General Municipal Law Section 801, "...no municipal ... employee shall have an interest in any contract with the municipality of which he is an ... employee, when such ... employee ... has the power or duty to ... negotiate, prepare, authorize or approve the contract" That is, pursuant to Section 13-3(P), "...no city ... employee shall have any financial interest in a business relationship [or] contract ... with the City." And any such contract entered into by or with the City shall be null and void.

It appears that the principals in EnergyNow, both of them employees of the City, as that term is defined in the Code of Ethics, and both of them officers of the Independence Party, an endorser, contributor and supporter of the incumbent City Council members seeking re-election, present conflicts of interest that should have prevented the City Council from pursuing energy contracts procured by EnergyNow. We have submitted a FOIA request (copy enclosed) seeking further documentation of the agreements and disclosures, if any. In the meantime, we respectfully submit that the energy contracts should be deemed null and void according to the Code of Ethics of the City.


Very truly yours,



Ann C Bullock



William J. McTygue



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FREEDOM OF INFORMATION LAW REQUEST

Today's Date

06/04/2019

*Submitted
6/4/2019*

Name

Ann C Bullock

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chartersecy@gmail.com

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State

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12866

Firm or Organization

Phone Number

Contract/agreement between City and energy broker referred to in Minutes, City Council Meeting, May 21, 2019 (Minutes);

Letter of Authority with energy procurement broker referred to in said Minutes;

Letter of Exclusivity for energy procurement broker referred to in said Minutes;

All pricing options for electricity and gas presented to City by energy procurement broker;

Agreement concerning energy brokerage commission division between City and energy procurement broker

Dear Records Access Officer, I request the following document(s):*

Contract/agreement between City and energy broker referred to in Minutes, City Council Meeting, May 21, 2019 (Minutes);
Letter of Authority with energy procurement broker referred to in said Minutes;
Letter of Exclusivity for energy procurement broker referred to in said Minutes;
All pricing options for electricity and gas presented to City by energy procurement broker;
Agreement concerning energy brokerage

You are requesting information under the provisions of the New York State Freedom of Information Law,

Article 6 of the Public Officers Law. Please describe the records you are requesting in the space above. To aid in the response time to your request, be as specific as possible. The Freedom of Information Law requires that an agency acknowledge a request within five (5) business days of receipt. The agency has up to twenty (20) business days to respond to a request and will respond as soon as possible. If any portion of the request is denied, you will be advised of the reason for denial. If approved, records will be made available upon receipt of payment. There is a 25 cent per page copying fee. Additional fees apply for photos and large maps. All checks are to be made payable to the Commissioner of Finance.

Receive an email copy of this form.

Email address

chartersecy@gmail.com

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* indicates a required field