

December 27, 2016

MINUTES OF THE SPECIAL MEETING OF THE TOWN BOARD OF THE TOWN OF THURMAN HELD DECEMBER 27, 2016 AT THE TOWN HALL, 311 ATHOL ROAD, ATHOL, NEW YORK, COMMENCING AT 4:00 P.M...

PRESENT: Mrs. Evelyn Wood, Supervisor
Mrs. Gail Seaman, Councilwoman
Mr. John Youngblood, Councilman
Mrs. Susan Shepler, Councilwoman
Mr. Michael Eddy, Councilman

RECORDING SECRETARY: Jeanie Sprague, Town Clerk

The Meeting was called to order by Evelyn Wood, Supervisor

ROLL CALL

OTHERS PRESENT: Jamiee Ross, Tax Collector

Supervisor Wood stated the main reason for this meeting is the Bond Resolution for the affected homes so we can get started with that process.

Councilman Eddy asked if **Supervisor Wood** just received this December 27th. **Supervisor Wood** answered yes. Discussion ensued about the amount to be bonded, why we are bonding and if it will affect the 2% tax cap.

RESOLUTION #137:

RESOLUTION AUTHORIZING THE ISSUANCE OF UP TO \$313,000 IN SERIAL BONDS OF THE TOWN OF THURMAN TO PAY THE COST OF ALTERNATIVE WATER SUPPLY; AND AUTHORIZING THE ISSUANCE OF UP TO \$313,000 IN BOND ANTICIPATION NOTES OF THE TOWN FOR THE SAME PURPOSE

WHEREAS, elevated levels of salt have been found in the well water located on and servicing certain properties in the vicinity of the Town's salt shed; and

WHEREAS, there were allegations that the elevated levels of salt in the well water were caused by a Town owned salt pile which allowed salt to enter the groundwater; and

WHEREAS, the Town denies all liability related to the elevated salt levels in the well water but has offered to install alternate water systems for affected properties in an effort to settle claims that may be related to the elevated salt levels; and

WHEREAS, the New York State Department of Environmental Conservation (“DEC”) has required the Town to install alternate water systems for affected properties and DEC and the Town have agreed upon or will agree upon an Order on Consent or other binding and enforceable determination acceptable to both parties; and

WHEREAS, the Town wishes to finance the cost of the alternate water system:

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN BOARD OF THE TOWN OF THURMAN, WARREN COUNTY, NEW YORK, AS FOLLOWS:

Section 1. The specific object or purpose for which the obligations authorized by this Resolution (the “Bond Resolution”) are to be issued is an alternate water supply for five homes and adjacent municipal buildings experiencing elevated levels of salt in their well water, including related preliminary and incidental costs (the “Project”), and such specific object or purpose is hereby authorized at a maximum estimated cost of Three Hundred Thirteen and 00/100 Dollars (\$313,000.00).

Section 2. The plan for the financing of such maximum estimated cost is issuance of up to \$313,000 in serial bonds and/or bond anticipation notes of said Town, hereby authorized to be issued pursuant to the Local Finance Law.

The proceeds of the bonds or bond anticipation notes may be used to reimburse expenditures paid by the Town from other funds or otherwise on or after the date of adoption of this Bond Resolution. The Town may submit applications for additional grants and/or low interest loans from the New York State Environmental Facilities Corporation (“EFC”) and/or other funding sources and, to the extent that any such moneys are received, may apply such funds to the payment of principal and interest on the bonds or bond anticipation notes. Pursuant to Local Finance Law Section 107.00(d)(9), a down payment from current funds is not required.

Section 3. The Town Board anticipates that the Town may pay certain capital expenditures in connection with the Project prior to the receipt of the proceeds of the Bonds. The Town Board hereby declares its official intent to use Bond proceeds to reimburse the Town for such Project expenditures. This section of the Resolution is adopted solely for the purpose of establishing compliance with the requirements of Section 1.150-2 of the Treasury Regulations and does not bind the Town to make any expenditure, incur any indebtedness or proceed with the acquisition, construction and installation of the Project.

Section 4. It is hereby determined that the period of probable usefulness of the specific object or purpose is forty (40) years for the improvements for the Town’s municipal building, pursuant to Section 11.00(a)(1) of the Local Finance Law, and five (5) years for the improvements to the five (5) homes required pursuant to a DEC Order on Consent or other binding and enforceable determination, pursuant to Section 11.00(a)(33) of the Local Finance Law. It is hereby further determined that the maximum maturity of the serial bonds herein authorized will not exceed five (5) years.

Section 5. The faith and credit of the Town of Thurman, Warren County, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such obligations as they become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such years. There shall annually be levied on all the taxable real property in the Town a tax sufficient to pay the principal of and interest on such obligations as they become due and payable. This Bond Resolution is not subject to permissive referendum pursuant to Local Finance Law Section 35.00.

Section 6. For the purpose of paying the cost of the Project, there are hereby authorized to be issued serial bonds of the Town up to a maximum amount of \$313,000 the maximum maturity of which shall not exceed the forty (40) year period of probable usefulness set forth above (which is further limited by the five (5) year limitation detailed in Section 4 above) and which shall mature on or before such date as measured from the date of the bonds or from the date of the first bond anticipation note issued in anticipation of the sale of such bonds, whichever date is earlier. The bonds may be issued in the form of a statutory installment bond.

Section 7. There are hereby authorized to be issued bond anticipation notes for the specific object or purpose in an amount up to but not exceeding the \$313,000 maximum amount of serial bonds authorized to be issued, in anticipation of the issuance and sale of the serial bonds authorized, including renewals of such bond anticipation notes.

Section 8. Any bond anticipation notes shall be payable from the proceeds derived from the sale of the bonds or otherwise redeemed in the manner provided by Section 23.00 of the Local Finance Law. The faith and credit of the Town are hereby irrevocably pledged for the payment of the bond anticipation notes and the interest on them.

Section 9. There are no bond anticipation notes outstanding which have been previously issued in anticipation of the sale of these bonds. Neither are the bond anticipation notes hereby authorized renewal notes. These bond anticipation notes will not be issued in anticipation of bonds for an assessable improvement. These notes shall mature at such time as the Town may determine and may be renewed from time to time, provided that in no event shall such notes or renewals extend more than one (1) year beyond the original date of issue except as permitted in the Local Finance Law.

Section 10. Subject to the terms and conditions of this Resolution and of the Local Finance Law, and pursuant to the provisions of Sections 30.00, 50.00 and 56.00 to 60.00, inclusive, of the Local Finance Law, the power to authorize bond anticipation notes in anticipation of the issuance of the serial bonds authorized by this Resolution and the renewal of these notes, and the power to prescribe the terms, form and contents of the serial bonds and bond anticipation notes and the power to sell and deliver the serial bonds and bond anticipation notes issued in anticipation of the issuance of the bonds is hereby delegated to the Town Supervisor, the Chief Fiscal Officer of the Town. The Town Supervisor is hereby authorized to sign any serial bonds and bond anticipation notes issued in anticipation of the issuance of the serial bonds and bond anticipation notes issued pursuant to this Resolution by manual or

facsimile signature, and the Town Clerk is hereby authorized to affix or impress or imprint a facsimile of the seal of the Town to any of the serial bonds or bond anticipation notes and to attest such seal by manual or facsimile signature. If executed by facsimile signature, such obligation shall be authenticated by the manual countersignature of the Town Supervisor or a designated fiscal agent. The Town Supervisor, as Chief Fiscal Officer of the Town, is authorized to execute and deliver any documents and to take such other action as may be necessary and proper to carry out the intent of the provisions of this Resolution.

Section 11. The exact date of issuance of the bonds and/or notes and the exact date upon which they shall become due and payable shall be fixed and determined by the Chief Fiscal Officer, provided, however, that the maturity of the notes or renewals shall not exceed one (1) year from the date of issue except as permitted by the Local Finance Law.

Section 12. The Chief Fiscal Officer shall prepare the bonds and/or notes and sell them at public or private sale and in accordance with the provisions of the Local Finance Law including, but not limited to, the provisions of Section 169.00, if applicable, and at such sale shall determine the interest rate to be borne by such bonds and/or notes, and whether fixed or variable. The Town Board authorizes the Chief Fiscal Officer to establish substantially level annual debt service or a declining annual balance for the repayment of such Bonds if the Chief Fiscal Officer believes it is in the best interests of the Town. The Town Board authorizes the Chief Fiscal Officer to issue such serial bonds in the form of a statutory installment bond.

Section 13. If issued, the bonds and/or notes shall be in registered form, and shall bear interest at the determined rate.

Section 14. The Chief Fiscal Officer shall deliver the bonds and/or notes to the purchaser only against a certified check or other immediately available funds. The proceeds of the sale of the bonds and/or notes shall be deposited and/or invested as required by Section 165.00 of the Local Finance Law, and the power to invest the proceeds of sale is hereby delegated to the Chief Fiscal Officer and the power to invest in any instruments described in Section 165.00 is expressly granted.

Section 15. To the extent that it is permitted to do so under the Internal Revenue Code of 1986, as amended (the "Code"), the Town hereby designates the bonds and/or notes as "qualified tax-exempt obligations" under Section 265(b)(3) of the Code. The Town hereby covenants that, to the extent permitted under the Code in effect as of the date of issuance of any bonds and/or notes, it will (i) take all actions on its part necessary to cause interest on the bonds and/or notes to be excluded from gross income for purposes of Federal income taxes and (ii) refrain from taking any action which would cause interest on the bonds and/or notes to be included in gross income for purposes of Federal income taxes.

Section 16. The Town of Thurman is a town wholly within the Adirondack Park. However, State lands subject to taxation within the Town's boundaries are assessed at less than thirty percent (30%) of the total taxable assessed valuation of the Town, so permission of

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the State Comptroller to issue the bonds and/or notes is not required under Local Finance Law Section 104.10(3).

Section 17. This Bond Resolution is contingent upon the Town and DEC entering into a mutually acceptable Order on Consent or other binding and enforceable determination regarding the installation of water systems for the five (5) homes. Financing for such improvements shall be issued only after such Order on Consent or other binding and enforceable determination is fully executed.

Section 18. Miller, Mannix, Schachner & Hafner, LLC, Glens Falls, New York, is hereby designated bond counsel.

Section 19. The validity of these serial bonds and bond anticipation notes may be contested only if:

(A) These obligations are authorized for an object or purpose for which the Town is not authorized to expend money, or

(B) The provisions of law which should be complied with at the date of publication of this Resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication, or

(C) Such obligations are authorized in violation of the provisions of the State Constitution.

Section 20. This Resolution or a summary thereof shall be published in the *Post Star*, which has been designated as the official newspaper of the Town, together with a notice of the Town Clerk in substantially the form provided in Section 81.00 of the Local Finance Law.

Section 21. This Resolution shall take effect immediately.

Section 22. The question of the adoption of this Resolution was duly put to a vote on roll call which resulted as follows:

On a motion by **Councilwoman Seaman**, seconded by **Councilwoman Shepler**, Resolution #137 was approved.

ROLL CALL VOTE:

- Councilwoman Seaman ~ Yes
- Councilman Youngblood ~ Yes
- Supervisor Wood ~ Yes
- Councilwoman Shepler ~ Yes
- Councilman Eddy ~ Abstain

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Motion Carried: 4 Ayes ~ Youngblood, Wood, Seaman, Shepler

1 Abstention ~ Eddy

Councilman Eddy abstained because he wanted to review the Bond Resolution before voting.

RESOLUTION #138:

Boundary Line Agreement

The Town Board of the town of Thurman resolved to approve a Boundary Line Agreement for James and Bridget Lieberum 209.-2-31 and a portion of 209.-2-28 to alleviate the .13 gore between the lots.

On a motion by **Councilwoman Seaman**, seconded by **Councilwoman Shepler**, Resolution #138 was approved.

Motion Carried: 4 Ayes ~ Youngblood, Wood, Seaman, Shepler

1 Abstention ~ Eddy

Supervisor Wood we have one other subdivision request. They did send over more information and maps. The easement that was granted didn't follow proper procedures and it is through our mine. When they granted the easement through the mine they violated our APA Permit. I don't think we want to endanger our mine. The other thing is the older maps reference Heath Road and the board switched it to a private road named Mosher Lane. There is some entry and egress issues. Also I have not heard back from the railroad yet. Mr. Smith is eager to get this moving. What does the board want to do? Discussion ensued.

RESOLUTION #139:

Subdivision

The Town Board of the town of Thurman resolved to not move forward with the subdivision of 196.-1-10.

On a motion by **Councilman Youngblood**, seconded by **Councilwoman Seaman**, Resolution #139 was approved.

Motion Carried: 4 Ayes ~ Youngblood, Wood, Seaman, Shepler

1 Nay ~ Eddy

The board came to a consensus that the Town Hall will be posted for Services Animals only.

Supervisor Wood brought up Jack Wax and the donations. Discussion ensued regarding donations, documentation, and procedures.

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The board came to a consensus to turn the Jack Wax matter over to the proper authorities. Councilman Eddy disagreed.

RESOLUTION #140:

Appoint Susan Shepler as the Organizer for the Jack Wax

The Town Board of the town of Thurman resolved to appointment Susan Shepler as the organizer for the Jack Wax.

On a motion by **Councilwoman Seaman**, seconded by **Councilman Youngblood**, Resolution #140 was approved.

Motion Carried: 3 Ayes ~ Youngblood, Wood, Seaman

1 Nay ~ Eddy

1 Abstention ~ Shepler

ADJOURNMENT: On a motion by **Councilwoman Seaman**, seconded by **Councilwoman Shepler** the meeting was adjourned at 4:28 p.m.

MOTION CARRIED: 5 Ayes ~Youngblood, Wood, Seaman, Shepler, Eddy

Respectfully Submitted:

Jeanie M. Sprague, Town Clerk

January 10, 2017