

March 11, 2014

MINUTES OF THE FISCAL AND REGULAR MEETING OF THE TOWN BOARD OF THE TOWN OF THURMAN HELD MARCH 11, 2014 AT THE TOWN HALL, 311 ATHOL ROAD, ATHOL NEW YORK, COMMENCING AT 6:30 P.M...

PRESENT: MRS. EVELYN WOOD, SUPERVISOR
MR. MICHAEL EDDY, COUNCILMAN
MR. LEON GALUSHA, COUNCILMAN
MR. DANIEL SMITH, COUNCILMAN
MRS. GAIL SEAMAN, COUNCILWOMAN

ALSO IN ATTENDANCE:

HONORABLE SHEILA FLANAGAN, TOWN OF THURMAN TOWN JUSTICE

Recording secretary: **Cynthia R. Hyde**, Town Clerk

FISCAL MEETING: The Town Board reviewed all claims.

BOARD MEETING: The regular town board meeting was called to order by **Evelyn Wood, Supervisor**.

PLEDGE ALLEGIANCE TO THE FLAG

ROLL CALL

APPROVAL OF THE MINUTES:

On a motion by **Councilman Galusha**, seconded by **Councilman Smith**, the minutes from the January 2014 regular meeting and the minutes from the February 2014 regular meeting were approved.

MOTION CARRIED: 5 AYES ~ **WOOD, GALUSHA, EDDY, SMITH, SEAMAN**

LETTERS:

A letter from **Richard Bardi** was read and a letter from the **Thurman EMS** was read. Attached

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REPORTS:

Councilman Galusha read the **Warrensburg EMS** report.

Councilwoman Seaman reported on the Thurman Youth Commission, the food pantry, gleaning and the Thurman Highway Department

Supervisor Wood gave the Supervisor's Report

APPOINTMENTS:

Councilwoman Seaman and **Councilman Smith** to perform the annual audit.

Councilman Smith to buildings and grounds.

Councilman Galusha to mining permit renewal for River Road.

DISCUSSION:

Discussion ensued regarding salting and sanding roads and the maintenance of county roads. The town board is looking at ways to save on salt costs.

OLD BUSINESS:

There was discussion about the Harris House. The town court applied for and received a grant for \$11,550.00. **Supervisor Wood** turned the floor over to **Honorable Sheila Flanagan**, Town of Thurman Town Justice. **Judge Flanagan** explained her plans and her reasons for moving the Town Court back to the Harris House. Board members asked questions and gave suggestions on the matter of the Harris House.

NEW BUSINESS:

Computer disaster recovery. See resolution # 24

IT services. See resolution # 25

Environmental Assessment: See resolution # 21

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RESOLUTION #19:

Resolution to Enter Contract with Glens Falls Animal Hospital

WHEREAS the New York State Agriculture and Markets Law states that under certain circumstances dogs that, among other things, run at large and/or cause physical harm to person or damage property may be seized, and unidentified dogs must be held for five days, and

WHEREAS the Town of Thurman contracts with a facility for holding dogs, euthanasia, cremation, or other services as necessary,

NOW THEREFORE BE IT RESOLVED that the Town of Thurman renews its contract with Glens Falls Animal Hospital for a period of one year at the rates set forth within the contract and authorizes the Supervisor to sign the necessary documents.

On a motion by **Councilman Smith**, seconded by **Councilwoman Seaman**, Resolution # 19 was approved.

MOTION CARRIED: 5 AYES ~ WOOD, GALUSHA, EDDY, SMITH, SEAMAN

RESOLUTION #20:

Resolution to Accept Court Grant and Establish Capital Project

WHEREAS the Town Justice applied for a JCAP grant, and the Thurman Court has been awarded a grant in the amount of \$11,550,

BE IT RESOLVED that the Town of Thurman accepts the grant, and

BE IT FURTHER RESOLVED that the Town Board increases revenues and appropriations in the amount of \$11,550.

On a motion by **Councilman Galusha**, seconded by **Councilwoman Seaman**, Resolution #20 was approved.

MOTION CARRIED: 5 AYES ~ WOOD, GALUSHA, EDDY, SMITH, SEAMAN

RESOLUTION #21:

Resolution to Adopt Environmental Assessment

WHEREAS the Town of Thurman is engaging in expansion of broadband to its citizens, and

WHEREAS the Town intends to construct a white space internet system, and

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WHEREAS the Town has reviewed the potential environmental impacts to the area effected by the project, and

WHEREAS a Short Environmental Assessment Form has been prepared regarding the project which indicates the expected environmental impact to be small or none, therefore

BE IT RESOLVED that the Town of Thurman finds no negative impact on the environment and approves the Short Environmental Assessment Form, and further

BE IT RESOLVED that the Town Board authorizes the Supervisor to sign the Short Environmental Assessment Form.

On a motion by **Councilman Galusha**, seconded by **Councilwoman Seaman**, Resolution #21 was approved.

MOTION CARRIED: 4 AYES ~ WOOD, GALUSHA, SEAMAN, SMITH

1 NAY ~ EDDY

RESOLUTION #22:

Resolution to Amend Highway Budget

WHEREAS Warren County contracts with the Town of Thurman for the maintenance of county roads within the Town, and

WHEREAS Warren County has indicated it would like to increase the amount of payment to the Town for the contracted road maintenance,

BE IT RESOLVED that the Town of Thurman accepts the increase of payment to the Town and authorizes the Supervisor to sign the necessary documents, and

BE IT FURTHER RESOLVED that the Town Board hereby amends the 2014 budget as follows:

Increasing

DA 2300 Services for Other Governments \$6,048

Increasing

DA5142.4 Snow Removal Contractual \$6,048

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On a motion by **Councilwoman Seaman**, seconded by **Councilman Galusha**, Resolution # 22 was approved.

MOTION CARRIED: 5 AYES ~ WOOD, GALUSHA, EDDY, SMITH, SEAMAN

RESOLUTION #23:

Resolution to Adopt Claims Audit Policy

WHEREAS the Town of Thurman has not previously adopted a policy regarding the Audit of Claims by the Town, and

WHEREAS it is recommended that the Town adopt a policy detailing the process for audit of claims,

BE IT RESOLVED that the Town Board adopts the following Audit of Claims Policy.

On a motion by **Councilman Galusha**, seconded by **Councilwoman Seaman**, Resolution #23 was approved.

MOTION CARRIED: 5 AYES ~ WOOD, GALUSHA, EDDY, SMITH, SEAMAN

RESOLUTION #24:

Resolution to Adopt Computer Disaster Recovery Policy

WHEREAS the Town of Thurman has not previously adopted a policy regarding the recovery of its computer systems following a disaster, and

WHEREAS it is recommended that the Town adopt such a policy,

BE IT RESOLVED that the Town Board adopts the following Computer Disaster Recovery Policy.

On a motion by **Councilwoman Seaman**, seconded by **Councilman Smith**, Resolution #24 was approved.

MOTION CARRIED: 5 AYES ~ WOOD, GALUSHA, EDDY, SMITH, SEAMAN

RESOLUTION #25:

Resolution to Request Proposals

WHEREAS the Town of Thurman has a need for qualified IT services, and

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WHEREAS the Town has not sought proposals for IT services in a number of years,

BE IT RESOLVED that the town of Thurman requests proposals for the performance of information technology work including, but not limited to basic troubleshooting with office computers, maintenance of local networks, server maintenance, and security system maintenance. All proposals should be in a rate per hour form and should be clearly marked "IT Services Proposals" on the envelope containing the proposal. The Town of Thurman retains the right to reject any and/or all proposals. Proposals should be mailed to Thurman Town Clerk, PO Box 29, Athol, NY 12810 and must be received no later than 4pm April 4, 2014. Proposals will be opened at 7 pm on April 8, 2014 during the Town Board's regular meeting.

BE IT FURTHER RESOLVED that the Town Board further directs the Town Clerk to advertise our request for proposal in the Town's designated newspaper.

On a motion by **Councilwoman Seaman**, seconded by **Councilman Galusha**, Resolution #25 was approved.

MOTION CARRIED: 5 AYES ~ WOOD, GALUSHA, EDDY, SMITH, SEAMAN

RESOLUTION #26:

Resolution Requesting Electrical Services Proposals

BE IT RESOLVED that the Thurman Town Board hereby requests proposals for the electrical services for the Thurman White Space Project, and

BE IT FURTHER RESOLVED that the proposal due date shall be April 4, 2014 at 4 pm. The Town of Thurman reserves the right to reject any and all bids and/or proposals. Bids/proposals must comply with all applicable local, state, and Federal laws including prevailing wage. The Town Clerk shall log the receipt of any and all bids.

On a motion by **Councilman Galusha**, seconded by **Councilwoman Seaman**, Resolution #26 was approved with an amendment pertaining to prevailing wage.

.MOTION CARRIED: 5 AYES ~ WOOD, GALUSHA, EDDY, SMITH, SEAMAN

RESOLUTION #27:

BE IT RESOLVED that the Thurman Town Board hereby requests proposals for utility pole installation services for the Thurman White Space Project, and

BE IT FURTHER RESOLVED that the proposal due date shall be April 4, 2014 at 4 pm. The Town of Thurman reserves the right to reject any and all bids and/or proposals. Bids/proposals must comply with

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all applicable local, state, and Federal laws including prevailing wage. The Town Clerk shall log the receipt of any and all bids. The description of the work to be performed is as follows:

On a motion by **Councilwoman Seaman**, seconded by **Councilman Galusha**, Resolution #27 was approved with an amendment pertaining to prevailing wage.

MOTION CARRIED: 5 AYES ~ WOOD, GALUSHA, EDDY, SMITH, SEAMAN

RESOLUTION #28:

WHEREAS the Town of Thurman has a Pay As You Throw (PAYT) program for disposal of household garbage, and

WHEREAS the Town has a low inventory of 33 gallon sized garbage bags,

BE IT RESOLVED that the town of Thurman requests proposals for ten thousand (10,000) 33 gallon garbage bags which shall be packaged in sleeves or units of ten bags. Each bag must be 33x39 1.25mil, orange in color, and have Town of Thurman printed on them in black. Bags must have a twenty-five pound weight capacity at minimum. Each sleeve or unit at a minimum must be clearly marked either by label or flier indicating Thurman Transfer Station Refuse Bags and the quantity of bags per sleeve or unit. All proposals should be clearly marked "PAYT Bags" on the envelope containing the proposal. The Town of Thurman retains the right to reject any and/or all proposals. Proposals should be mailed to Thurman Town Clerk, PO Box 29, Athol, NY 12810 and must be received no later than 4pm April 4, 2014. Proposals will be opened at 7 pm on April 8, 2014 during the Town Board's regular meeting.

BE IT FURTHER RESOLVED that the Town Board further directs the Town Clerk to advertize our request for proposal in the Town's designated newspaper

On a motion by **Councilwoman Seaman**, seconded by **Councilman Smith**, Resolution #28 was approved.

MOTION CARRIED: 5 AYES ~ WOOD, GALUSHA, EDDY, SMITH, SEAMAN

APPROVAL OF CLAIMS:

On a motion by **Councilwoman Seaman**, seconded by **Councilman Galusha**, the town board approved vouchers #'s 2014-161 thru 2014- 208 for a highway, capital project, fire protection and general fund grand total of \$209,254.89 minus the extra voucher 2014-145 to Myrtle Buyce for \$104.90.

MOTION CARRIED: 5 AYES ~ WOOD, GALUSHA, EDDY, SMITH, SEAMAN

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PRIVILEGE OF THE FLOOR:

The following people spoke or asked questions during privilege of the floor...

John Haskell, Marilyn Youngblood, Mary Eddy, Brian Angell, Richard Kline, Richard Bardi, Jerry Cameron, Kathy Templeton, Winnie Martin, Jenny Bird and Joyce Eddy.

STATEMENT:

After closing privilege of the floor to prevent any further comment, **Supervisor Wood** said that she wanted to clear the air on what she described as undocumented bid opening. **Wood** gave her personal rendition on the matter.

EXECUTIVE SESSION:

On a motion by **Councilwoman Seaman**, seconded by **Councilman Smith**, the town board went in to executive session at 8:54 pm to discuss the possible discipline or removal of a particular individual.

MOTION CARRIED: 5 AYES ~ WOOD, GALUSHA, EDDY, SMITH, SEAMAN

On a motion by **Councilman Galusha**, seconded by **Councilwoman Seaman**, the town board came out of executive session at 9:15 pm with no action being taken.

MOTION CARRIED: 5 AYES ~ WOOD, GALUSHA, EDDY, SMITH, SEAMAN

ADJOURNMENT: On a motion by **Councilwoman Seaman**, seconded by **Councilman Galusha**, the meeting was adjourned at 9:16 pm.

MOTION CARRIED: 5 AYES ~ WOOD, GALUSHA, EDDY, SMITH, SEAMAN

Respectfully Submitted: Cynthia R. Hyde, Town clerk 03/25/2014

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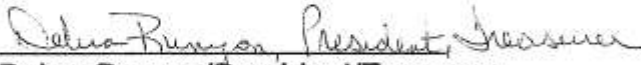
Thurman Emergency Medical Services Inc.
572 High St.
P.O. Box 114
Athol, N.Y. 12810

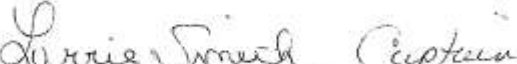
Feb. 27, 2014

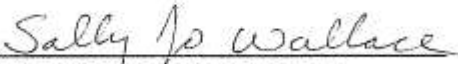
Re: Thurman Emergency Medical Services Inc. Certificate of Need

It is with deep regret that Thurman Emergency Medical Services Inc. needs to inform you that we have surrendered our Certificate Of Need to the New York State Department of Health. We have not responded with our Ambulance to any emergency calls since Dec. 2013. We do not for see us being able to respond in the near future.

Respectfully Yours;


Debra Runyon/President/Treasurer


Lorrie Smith/Captain


Sally Wallace/Secretary

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Stephen W. Emerson
Operations Manager

Phone ~ (518) 232-0817
Fax ~ (518) 623-3651
Email ~ tek910@nycap.rr.com

*Our Patients Are Our First Priority
Our Members Are Our Greatest Asset*

March 11, 2014

Thurman Town Board Members,

Attached you will find the run totals for February 2014. We handled 7 calls in Thurman in February and our average response time was just over 17 minutes to being on-scene. Six of the calls were emergency calls, 5 ALS and 1 BLS, and one call was a transport home from the hospital.

The mutual aid agreement with Johnsbury EMS is in place. We have 5 WEMS members that are Thurman residents that are set up for first response with the basic equipment to help while the ambulance is responding.

Please do not hesitate to contact me at any time if you have any questions, comments, or concerns. I can be reached on my cell phone at 232-0817.

I would like to thank the Town Board and the Thurman residents for their continued support.

Respectfully Submitted,

Stephen W. Emerson

Stephen W. Emerson
Operations Manager
Warrensburg EMS, Inc.

Warrensburg Emergency Medical Services Inc.
PO Box 157
Warrensburg, New York 12885

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Thurman EMS Calls Handled by Warrensburg EMS
February 2014

DATE	PCR #	PRIORITY	CHIEF COMPLAINT	ENROUTE TO ON-SCENE
2/5/2014	14-04238	ALS	LEFT KNEE AND HEAD PAIN FROM MVA	17 MINS (WEATHER COND)
2/6/2014	14-04320	ALS	CHEST PAIN	18 MINS (WEATHER COND)
2/7/2014	14-04398	ALS	DIFFICULTY BREATHING	9 MINS
2/8/2014	14-04570	ALS	WEAKNESS	16 MINS
2/14/2014	14-05202	ALS	ABDOMINAL PAIN	24 MINS (RESP FROM GFH)
2/15/2014	14-05303	BIS	LEFT ARM AND GROIN PAIN FROM FALL	19 MINS (PRIORITY OF CALL)
2/15/2014		BIS	TRANSPORT HOME	

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Town of Thurman

11MAR2014

PO Box 29

Athol, NY 12810

Madam Supervisor and Town Board members:

There has been much discussion regarding the opening and dissemination of the bids that were received in response to the Town's advertisement for bids published August 20, 2013. Apparently, an attorney has billed the Town of Thurman more than nine hundred dollars to "research", "analyze", "phone conference", and "draft memorandum", and then to several times "revise memorandum" on the issue of opening the bids.

Yet, the lawyer's \$900 researched and analyzed, memorandum, doesn't even mention the law governing the process ---- General Municipal Law § 103 Advertising for Bids, in ¶ 2 provides, in relevant part:

Such advertisement shall contain a statement of the time when and place where all bids received pursuant to such notice will be publicly opened and read, ...

All bids received shall be publicly opened and read at the time and place so specified.

When used in a State law, the word "shall" allows for NO discretion. Since General Municipal Law mandates that, "ALL bids received SHALL BE publicly OPENED AND READ at the time and place SO SPECIFIED", it follows the NO ONE has authority, or discretion to order that the bids remain sealed. The Legislature gives to the Town Board the authority to consider a bid, to accept a bid, or to reject a bid. But NO ONE, not the Town Clerk, not the Town Board, not the Town Supervisor, not the Town attorney, not even a County or Supreme court judge, has the authority to overrule the Legislature by ordering that bids timely received are to remain sealed and unopened past the time stated in the advertisement for the opening of bids. The law makes no allowance for discretion by *anyone* regarding the opening of bids.

Regarding the recent events here in the Town of Thurman --- Whether the Board *intended* different dates than the dates that were in the advertisement for bids, is the proverbial 'red herring'. It doesn't change the fact that, the sealed bids timely received in response to the advertisement for bids were subject to the Legislative mandate, "All bids received *shall be* publicly opened and read at the time and place so specified." [GML

§103 ¶ 2] Only *after* they were opened and read, would the Board *then* acquire the authority to accept, or reject the bid(s). The error and malfeasance was the Board's decision to not open the bids at the time and place specified in the advertisement.

In his Memorandum, the lawyer states:

First, the Town Board directed that the bids remained sealed and not be opened and, unless contrary to legal requirements, Town Clerks should generally abide by the directions of their Town Boards.

Although fully aware that the Town Board directed the bids "not be opened", the "memorandum" ignores the salient fact that such a direction WAS ILLEGAL, contrary to the GML cited above. Instead, the lawyer adds the obtuse comment, "UNLESS CONTRARY TO LEGAL REQUIREMENTS, Town Clerks should generally abide by the directions of their Town Boards. "The direction by the Board to not open the bids was clearly "contrary to legal requirements" set forth by the law's use of the phrase, 'SHALL be opened.' A great disservice was done to the Board by the Memorandum's failure to properly advise the Board that it does not have authority to 'direct the bids remained sealed.' In a sort of backward way, the Memorandum acknowledges that the Town Clerk properly disregarded a direction of the Board that was illegal.

The second point of the Memorandum, focuses on the second "red herring issue". The Memorandum states:

Second, contrary to some popular misconception, the Freedom of Information Law (FOIL) does not require public disclosure of sealed bids prior to the bid opening date or prior to any subsequent bid deadline when distribution of the previously sealed information could create an unfair competitive advantage or disadvantage for prospective bidders

The fact is that the Town Clerk did not open the bids prior to the bid opening date, nor were they opened prior to the second bid opening date. One can only imagine how many of the hours in that \$900 bill were spent researching and analyzing that completely irrelevant issue—what a waste of taxpayer money.

I suggest someone on the Town Board make a motion to replace the Town attorney, so that the next time legal advice is needed, the Town will get the proper advise it needs.

And, why not also compliment the Town Clerk for taking the initiative to obtain proper legal advice, and then following the law that requires, the bids SHALL be OPENED.

Richard Bardi,

For your convenience, the full text of General Municipal Law §103 Advertising for Bids, ¶ 2 is reproduced below

2. Advertisement for bids shall be published in the official newspaper or newspapers, if any, or otherwise in a newspaper or newspapers designated for such purpose. Such advertisement shall contain a statement of the time when and place where all bids received pursuant to such notice will be publicly opened and read, and the designation of the receiving device if the political subdivision or district has authorized the receipt of bids in an electronic format. Such board or agency may by resolution designate any officer or employee to open the bids at the time and place specified in the notice. Such designee shall make a record of such bids in such form and detail as the board or agency shall prescribe and present the same at the next regular or special meeting of such board or agency. All bids received shall be publicly opened and read at the time and place so specified. At least five days shall elapse between the first publication of such advertisement and the date so specified for the opening and reading of bids.