

January 20, 2016

MINUTES OF THE ANNUAL ACCOUNTING MEETING OF THE TOWN BOARD OF THE TOWN OF THURMAN HELD JANUARY 20, 2016 AT THE TOWN HALL, 311 ATHOL ROAD, ATHOL, NEW YORK, COMMENCING AT 7:00 P.M...

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

RECORDING SECRETARY: Jeanie Sprague, Town Clerk

OTHERS PRESENT: Jamiee Ross, Tax Collector; Joanna Cummings, Court Clerk; and Douglas Needham, Maintenance

This meeting was called to conduct an **annual audit** of officers who collect or expend money in the year and also to examine the **Justice's Dockets**.

The Meeting was called to order by **Evelyn Wood, Supervisor at 7:00 p.m.**

PLEDGE ALLEGIANCE TO THE FLAG

ROLL CALL

MOMENT OF SILENCE FOR VERN HARRIS

Councilman Michael Eddy wanted to bring something to the attention of the board. **Supervisor Evelyn Wood** told **Councilman Michael Eddy** that it was not the appropriate time.

Councilman Michael Eddy exited the meeting at 7:03 p.m.

Supervisor Evelyn Wood brought up the minutes for the **January 4, 2016 Organizational Meeting** for approval. The **Board** discussed the minutes and wanted more time to review them. The Board will bring up the **January 4, 2016 Organizational Meeting, January 12, 2016 Regular Meeting** and the **January 20, 2016 Annual Accounting Meeting** minutes at the **February 9, 2016 Regular Meeting** for approval.

Review of the **Justice's Dockets and Books**.

RESOLUTION #18:

On a motion by **Councilwoman Seaman**, seconded by **Councilman Youngblood**, the Town Board accepts the audit findings for the Annual Accounting. Amendment: Will be adding the audit findings to the resolution.

January 20, 2016

Motion Carried: 3 Ayes ~ Youngblood, Wood, Seaman

Joanna Cummings exited the meeting at **7:35 p.m.**

RESOLUTION #19:

On a motion by **Councilman Youngblood**, seconded by **Councilwoman Seaman**, the Town Board approved advertising for the open Board of Assessment Review Seat on the website and in the Post Star for one Sunday.

Motion Carried: 3 Ayes ~ Youngblood, Wood, Seaman

RESOLUTION #20:

On a motion by **Councilwoman Seaman**, seconded by **Councilman Youngblood**, the Town Board awarded the concrete pad bid to the low bidder Gallup Concrete in the \$13,400.00.

Motion Carried: 3 Ayes ~ Youngblood, Wood, Seaman

RESOLUTION #21:

Resolution Authorizing Lease Purchase Agreement

Be It Resolved that the Town Board authorizes a lease-purchase agreement with First Niagara Leasing, Inc., lease schedule No. 201521270, for the lease-purchase of a 2015 Case 621F Loader with Z-Bar, S/N:NFF232300 and a 2015 MI 250MP Bucket, S/N: AKR40414 at a total cost of \$131,614.00 less a trade in of \$36,000 for a net financed amount of \$95,614.00 with an interest rate of 2.780% to be paid as follows:

Total - \$95,614.00

Date	Payment	Interest	Principal	Termination Value
4/15/2016	\$33,017.22	\$ 782.65	\$32,234.57	\$63,379.43
4/15/2017	\$33,017.22	\$1,761.95	\$31,255.27	\$32,124.16
4/15/2018	<u>\$33,017.22</u>	<u>\$ 893.06</u>	<u>\$32,124.16</u>	0
Total	\$99,051.66	\$3,437.00	\$95,614.00	

And Be It Further Resolved that the Supervisor is authorized to complete and sign any necessary documents and the town's attorney is authorized to review the agreement and provide an opinion of counsel letter on the attorney's letterhead.

On a motion by **Councilman Youngblood**, seconded by **Councilwoman Seaman**, the Town Board approved Resolution Authorizing Lease Purchase Agreement for the purchase of a loader.

January 20, 2016

Motion Carried: 3 Ayes ~ Youngblood, Wood, Seaman

RESOLUTION #22:

On a motion by **Councilman Youngblood**, seconded by **Councilwoman Seaman**, the Town Board approved a two year contract with Miller, Mannix, Schachner & Hafner at a rate of \$190.00 an hour.

Motion Carried: 3 Ayes ~ Youngblood, Wood, Seaman

Discussion by the **Town Board** about the letter and statement **Councilman Michael Eddy** left.

Statement Letter by **Councilman Michael Eddy** read.

Councilwoman Gail Seaman read from page 89 of *The Town Clerk Manual*.

ADJOURNMENT: On a motion by **Councilwoman Seaman**, seconded by **Councilman Youngblood** the meeting was adjourned at 7:52 p.m.

MOTION CARRIED: 3 Ayes ~Youngblood, Wood, Seaman

Respectfully Submitted:

Jeanie M. Sprague, Town Clerk

February 3, 2016

The integrity and ethics of this administration and town board are in question.

I am asking one more time

Do you, Evelyn as Supervisor and John Youngblood, plan to follow the laws ~~as~~ from the attorney general opinions bureau as I presented in the letter last week?

Michael L. Eddy
P. O. Box 9
Athol, NY 12810

To: Thurman Town Board and Public

January 12, 2016

As a member of the Town Board of the Town of Thurman I am requesting a resolution rescinding the appointment of Gail Seaman as a Town Board Member made on January 4, 2016. We have sworn to uphold the law and that is why I am making this request. I am not attempting to be an obstructionist; rather, I believe that it was improper.

First, upon my recollection of the January 4, 2016 organizational meeting, Gail Seaman was allowed to vote upon her own appointment. However, upon my own research, I have discovered that an Appellate Court, The Third Department, has stated "it would be contrary to public policy to permit the hold-over respondent to vote upon the question of filling the vacancy of his own office" (In re Crosby, 265 AD 92, 93 [3rd Dept 1942].) This opinion has been echoed by the Attorney General who has offered an informal opinion that a public official cannot vote to appoint himself or herself.

I also believe, upon my own research, that the votes of Supervisor Wood, and Town Board member Youngblood were not enough to appoint Ms. Seaman. Again, the Appellate Court has stated:

"Subdivision 5 of section 64 of the Town Law provides that a vacancy in a town office may be filled by 'the town board or a majority of the members thereof. A majority of the Town Board in question here cannot be less than three members thereof. This not only appears from the plain wording of the portion of the section quoted, but is clarified by section 63 of the same law when read in connection with section 64. Section 63 provides, in part, '[e]very act, motion or resolution shall require for its adoption the affirmative vote of a majority of all the members of the town board.' The foregoing does not provide for vote by a majority of eligible members but specifically by vote of all members. Even making allowance for the vacancy caused by the tie in the vote for Councilman in 1941, there were four members of the Board, including respondent as hold-over, when the purported designation of petitioner took place. Clearly, a majority at that

time could not be less than three members."(In re Crosby, 265 AD 92, 93-94 [3rd Dept 1942](emphasis added)).

Gail Seaman is sitting as a board member after improperly voting for herself and without proper majority board approval.

I am asking our Town Board to follow the law and the ethical requirements set forth by our town board. That is all. As suggested by our own Town Counsel, the Town Board should, at the very least, take a conservative approach and wait for a special election or the next general election in the fall of 2016. The other members of our Town Board cannot continue ignoring our Town Counsel's advice and the law.

Sincerely,

Michael Eddy

in such resignation. (Public Officers Law, §31 (5)) The town clerk should also notify the town board.

Holding Over After Expiration of Term of Office

All town officers with a fixed term of office, having duly entered on the duties of office, may continue to perform the duties of the office and receive compensation for said services until such time as a successor is elected or appointed to the office. Town justices are not authorized by the Public Officers Law to hold over. (Public Officers Law, §5)

An officer who is holding over for one or more entire terms, shall, for the purpose of choosing a successor, be regarded as having been newly chosen for such terms. An appointment for a term shortened by reason of a predecessor holding over, shall be for the residue of the term only. (Public Officers Law, §5)

The purpose of the statute relating to holding over after expiration of term of office is to ensure a continuance of government where a vacancy occurs by expiration of time and there is a failure of election or appointment; the statute can be employed whenever the office vacated can be identified with a particular incumbent. (*Foley v. McNab*, 1964, 42 Misc.2d 460, 248 N.Y.S.2d 354 (Supreme Court, Suffolk County (1964))

A public officer holds over and continues to perform the duties of office until a successor is chosen and qualified but the office is legally vacant for the purpose of selecting a successor. (1979, Op. Atty. Gen. (I) 198) The person appointed to temporarily fill a vacancy in an elected office may not, however, hold over beyond December 31 following the date on which the election should have been held. (Op. Atty. Gen. (I) No. 84-67)

An officer may hold over where the successor was elected but failed to take the constitutional oath of office. (*People ex rel. Preston v. Keator* (3d Dept. 1915) 169 A.D. 368, 154 N.Y.S. 1007.

TOWN OF THURMAN

Trial Balance Detail for the Period 1/1/2015 to 12/31/2015 08-Feb-16

Batch No	Description	Debit	Credit
GENERAL FUND A			
000200.01.000.00	3428 200 - Cash	\$783,613.97	\$843,534.55
000230.01.000.00	3604 230 - Cash, Special Reserves	\$300,590.34	\$290,916.73
000391.01.000.00	3486 391 - Due from Other Funds	\$227,377.49	\$125,000.00
000600.01.000.00	3327 600 - Accounts Payable	\$317,576.36	\$317,883.82
000601.01.000.00	3434 601 - Accrued Liabilities	\$483,858.76	\$483,858.76
000630.01.000.00	4050 630 - Due to Other Funds	\$189,581.05	\$189,581.05
001001.01.000.00	3496 1001 - Real Property Tax	\$0.00	\$942.00
001081.01.000.00	3588 1081 - Other Payments in Lieu Of	\$1,418.91	\$4,536.74
001090.01.000.00	4357 1090 - Real Property Tax Interest & Penalty	\$0.00	\$2,730.43
001113.01.000.00	3483 1113. - Occupancy tax	\$0.00	\$41,759.71
001120.01.000.00	3590 1120 - Non-Property Tax Distribution by County	\$0.00	\$392,330.77
001255.01.000.00	3825 1255 - Town Clerk Fees	\$0.00	\$93.28
001289.01.000.00	4017 1289 Copy Fees	\$0.00	\$4.25
001550.01.000.00	3948 1550 - Dog Control Fees	\$0.00	\$230.00
001603.01.000.00	3625 1603 - Vital Statistics Fees	\$0.00	\$397.50
002130.01.000.00	3479 2130 - Refuse and Garbage Charges	\$0.00	\$15,954.30
002401.01.000.00	3605 2401 - Interest & Earnings	\$0.00	\$208.47
002405.01.000.00	3604 2405 - Interest Reserve Account	\$0.00	\$92.56
002410.01.000.00	3675 2410 - Rental of Real Property	\$0.00	\$150.00
002544.01.000.00	3479 2544 - Licenses	\$0.00	\$396.00
002610.01.000.00	3458 2610 - Fines, Forfeits of Bail	\$4,596.50	\$7,064.00
002650.01.000.00	4728 2650 - Sale of Surplus Scrap	\$0.00	\$110.00
002770.01.000.00	3669 2770 - Unclassified Revenues	\$0.00	\$126,760.46
003001.01.000.00	4564 3001 - State per Capita Aid	\$0.00	\$21,996.00
003005.01.000.00	4146 3005 - State Aid Mtg Tax	\$0.00	\$17,683.32
003772.01.000.00	4263 3772 - Programs for Aging	\$0.00	\$1,797.00
003820.01.000.00	4291 3820 - State Aid Youth Program	\$0.00	\$1,651.00
004789.01.000.00	3952 4789 - Economic Assistance (Tourism)	\$0.00	\$1,500.00
005031.01.000.00	4155 5031 - Interfund Transfer	\$101,335.68	\$0.00
010101.01.000.00	3697 1010.1 - Town Board PS	\$12,784.00	\$0.00
010104.01.000.00	3577 1010.4 - Town Board CE	\$2,489.21	\$1,418.91
011101.01.000.00	3500 1110.1 - Justices PS	\$5,499.96	\$0.00
011104.01.000.00	3570 1110.4 - Justices CE	\$2,950.54	\$0.00
011111.01.000.00	3434 1111.1 - Justices PS-2	\$4,978.79	\$0.00
012201.01.000.00	3434 1220.1 - Supervisor PS	\$10,799.88	\$0.00
012204.01.000.00	3454 1220.4 - Supervisor CE	\$3,184.25	\$50.00
012211.01.000.00	3434 1221.1- Sec/Bookkeeper Personal Services	\$12,047.18	\$0.00
013101.01.000.00	3434 1310.1 - Director of Finance P/S	\$2,089.88	\$0.00
013301.01.000.00	3500 1330.1 - Tax Collector PS	\$3,183.99	\$0.00
013304.01.000.00	3452 1330.4 - Tax Collector CE	\$2,352.69	\$0.00

Trial Balance Detail for the Period 1/1/2015 to 12/31/2015 08-Feb-16

Batch No	Description	Debit	Credit
013551.01.000.00	3457 1355.1 - Assessor PS	\$9,564.96	\$600.00
013554.01.000.00	3560 1355.4 - Assessor CE	\$3,554.20	\$277.06
013561.01.000.00	3500 1356.1 - Assessor PS-2	\$13,752.00	\$0.00
014101.01.000.00	3434 1410.1 - Town Clerk PS	\$18,384.08	\$0.00
014104.01.000.00	3327 1410.4 - Town Clerk CE	\$1,184.05	\$182.85
014111.01.000.00	3434 1411.1 - Town Clerk PS- 2	\$2,797.82	\$0.00
014204.01.000.00	3678 1420.4 - Attorney CE	\$6,712.00	\$0.00
014301.01.000.00	4569 1430.1 - Personnel PS	\$255.00	\$255.00
014504.01.000.00	4427 1450.4 - Elections CE	\$1,200.00	\$0.00
016201.01.000.00	3434 1620.1 - Buildings PS	\$12,867.63	\$0.00
016204.01.000.00	3441 1620.4 - Buildings CE	\$39,421.72	\$2,807.65
019104.01.000.00	4052 1910.4 - Unallocated Insurance	\$26,090.10	\$9,415.00
019204.01.000.00	3454 1920.4 - Municipal Association Dues	\$1,500.00	\$0.00
035101.01.000.00	3500 3510.1 - Dog Control PS	\$2,675.04	\$0.00
035104.01.000.00	3454 3510.4 - Dog Control CE	\$1,076.79	\$15.00
040201.01.000.00	3697 4020.1 - Regis. of Vital Stats PS	\$1,040.00	\$0.00
045404.01.000.00	3577 4540.4 - Ambulance CE	\$50,000.00	\$0.00
050101.01.000.00	3434 5010.1 - Supt. of Highway PS	\$40,485.12	\$0.00
051324.01.000.00	3441 5132.4 - Garage CE	\$13,261.71	\$1,293.21
051824.01.000.00	3426 5182.4 - Street Lighting CE	\$930.01	\$19.07
065104.01.000.00	3939 6510.4 - Veterans Services CE	\$135.00	\$0.00
067724.01.000.00	3497 6772.4 - Programs for Aging CE	\$5,980.00	\$0.00
069894.01.000.00	3453 6989.4 - Tourism CE	\$69,138.00	\$2,072.50
071401.01.000.00	3434 7140.1 - Playgrounds/Recreation PS	\$0.00	\$0.00
073104.01.000.00	3573 7310.4 - Youth Programs CE	\$1,900.00	\$114.52
075101.01.000.00	4062 7510.1 - Historian PS	\$500.00	\$0.00
075104.01.000.00	3457 7510.4 - Historian CE	\$81.47	\$0.00
080901.01.000.00	3471 8090.1 - Environmental Control PS	\$5.61	\$5.61
081601.01.000.00	3434 8160.1 - Refuse/Garbage PS	\$18,790.51	\$0.00
081604.01.000.00	3533 8160.4 - Refuse/Garbage CE	\$21,356.11	\$751.85
088101.01.000.00	3434 8810.1 - Cemeteries PS	\$4,177.20	\$0.00
088104.01.000.00	4427 8810.4 - Cemeteries CE	\$274.50	\$0.00
089891.01.000.00	3434 8989.1 - Meals on Wheels Driver	\$4,484.46	\$0.00
090108.01.000.00	4754 9010.8 - State Retirement	\$20,551.00	\$0.00
090308.01.000.00	3435 9030.8 - Social Security (Town Share)	\$12,704.47	\$0.00
090408.01.000.00	3453 9040.8 - Workers Comp	\$14,755.41	\$3,362.06
090558.01.000.00	3453 9055.8 - Disability Insurance	\$223.20	\$0.00
090608.01.000.00	3454 9060.8 - Medical Insurance (Town Share)	\$17,789.29	\$104.90

HIGHWAY FUND DA

000200.03.000.00	3434 200 - Cash	\$956,024.93	\$838,627.11
000600.03.000.00	3453 600 - Accounts Payable	\$457,809.74	\$415,515.82
001001.03.000.00	3496 1001 - Real Property Tax	\$0.00	\$570,808.00
002300.03.000.00	3627 2300 - Transportation Services	\$1,797.00	\$213,413.98

Trial Balance Detail for the Period 1/1/2015 to 12/31/2015 08-Feb-16

Batch No	Description	Debit	Credit
002401.03.000.00	3605 2401 - Interest & Earnings	\$0.00	\$208.51
002650.03.000.00	3776 2650 - Sale of Surplus Scrap	\$0.00	\$375.00
002770.03.000.00	4883 2770 - Unclassified Revenues	\$0.00	\$2,383.21
003960.03.000.00	3482 3960 - State Aid Emergency Disaster Work	\$0.00	\$28,474.67
005031.03.000.00	4155 5031 - Interfund Transfer	\$0.00	\$101,335.68
051101.03.000.00	3434 5110.1 - General Repairs PS	\$273,565.44	\$1,422.84
051104.03.000.00	3457 5110.4 - General Repairs CE	\$33,168.45	\$786.34
051122.03.000.00	4423 5112.2 - Permanent Improvement EQ	\$113,733.15	\$15,420.44
051204.03.000.00	3827 5120.4 - Bridges CE	\$6,752.81	\$0.00
051304.03.000.00	3457 5130.4 - Machinery CE	\$91,872.38	\$6,232.76
051421.03.000.00	3434 5142.1 - Snow Removal PS	\$32,502.30	\$2,070.00
051424.03.000.00	3577 5142.4 - Snow Removal CE	\$90,992.70	\$15,605.07
090108.03.000.00	4754 9010.8 - State Retirement	\$41,100.00	\$0.00
090308.03.000.00	3435 9030.8 - Social Security (Town Share)	\$23,756.22	\$105.80
090558.03.000.00	3453 9055.8 - Disability Insurance	\$187.20	\$745.03
090608.03.000.00	3457 9060.8 - Medical Insurance (Town Share)	\$90,267.94	\$0.00

CAPITAL PROJECTS FUND H

000200.05.000.00	3467 200 - Cash	\$257,898.78	\$359,831.01
000600.05.000.00	3462 600 - Accounts Payable	\$253,984.65	\$268,280.68
000630.05.000.00	3486 630 - Due to Other Funds	\$125,000.00	\$227,377.49
019972.05.000.00	3462 1997.2 - General Gov't & Equipment Outlay	\$182,698.03	\$16,759.64
051902.05.000.00	3462 5190.2 - Stockpile	\$62,945.36	\$10,278.00

FIRE PROTECTION DISTRICT SF

000200.06.000.00	3583 200 - Cash	\$74,500.00	\$74,500.00
000600.06.000.00	3575 600 - Accounts Payable	\$74,500.00	\$74,500.00
001001.06.000.00	3583 1001 - Real Property Tax	\$0.00	\$74,500.00
034104.06.000.00	3575 3410.4 - Fire Protection CE	\$74,500.00	\$0.00

TRUST & AGENCY FUND TA

000018.99.000.00	3435 18 - State Retirement	\$16,199.03	\$16,206.85
000020.99.000.00	3435 20 - Aflac	\$1,264.26	\$1,242.08
000021.99.000.00	3435 21 - NYS Income Tax	\$17,133.09	\$17,095.60
000022.99.000.00	3435 22 - Federal Income Tax	\$44,660.29	\$44,507.88
000024.99.000.00	3435 24 - Union Dues	\$3,915.48	\$3,847.30
000026.99.000.00	3435 26 - Social Security Tax	\$72,928.12	\$72,921.38
000027.99.000.00	3435 27 - Direct Deposit	\$91,028.28	\$91,028.28
000036.99.000.00	3435 36 - Wage Garnishes	\$0.00	\$0.00
000038.99.000.00	3435 38 - Child Support	\$10,865.00	\$10,865.00
000040.99.000.00	3605 40 - Youth Commission	\$200.00	\$0.34

Trial Balance Detail for the Period 1/1/2015 to 12/31/2015 08-Feb-16

Batch No	Description	Debit	Credit
000085.99.000.00	3435 85 - Medical Insurance	\$121,056.94	\$132,801.22
000200.99.000.00	3434 200 - Cash	\$1,442,777.87	\$1,431,304.27
000205.99.000.00	3605 YOUTH CASH ACCOUNT	\$0.34	\$200.00
000380.99.000.00	3440 380 - Accounts Receivable	\$563,574.09	\$563,574.09
000600.99.000.00	3437 600 - Accounts Payable	\$233,033.67	\$233,033.67
000630.99.000.00	3605 630 - Due to Other Funds	\$0.00	\$8.50

GENERAL CHECKING

000200.95.000.00	3428 200 - Cash	\$8,796,239.62	\$8,875,721.80
000380.95.000.00	3440 380 - Accounts Receivable	\$7,751,076.88	\$7,671,594.70

Enterprise E

000200.14.000.00	3547 200 - Cash	\$3,632.38	\$12,587.19
000600.14.000.00	3533 600 - Accounts Payable	\$12,869.57	\$12,869.57
002189.14.000.00	3778 2189 Other Home & Community Services	\$0.00	\$3,350.00
089894.14.000.00	3533 8989.4 Other Home & Community Services	\$12,587.19	\$282.38

Grand Total : \$25,426,507.07 \$25,426,507.07

Tax Collection for 2015

Warrant	\$960,548.87
Adjustment to Warrant	147.36
Amended Warrant	960,401.51
Taxes Collected	<u>768,991.50</u>
Unpaid Residents Returned	191,410.01

Payment to Town of Thurman

Taxes	\$645,998.00
Second Notice Fees	150.00
Penalties & Interest	2,580.43
Deposit Slips Order	- 51.79

Payments to County	122,993.50
--------------------	------------

Account#	Account Description	Fee Description	Qty	Local Share
	Copies	Copies	9	2.25
	Dog Boarding	Dog Boarding Gf Animal Hosp.	4	220.00
	Large Trash Bags	Large Trash Bags	301	6,020.00
	Redemption Fee	Redemption Fee	1	25.00
	Small Trash Bags	Small Trash Bags	304	3,040.00
	Transcript	Cerified Marriage Transcript	6	30.00
		Certified Death Transcript	34	325.00
			Sub-Total:	\$9,662.25
A1255	Conservation	Conservation	6	18.28
	Marriage License	Marriage Fee	7	122.50
			Sub-Total:	\$140.78
A2544	Dog Licensing	Female, Spayed	52	78.00
		Female, Unspayed	18	135.00
		Male, Neutered	36	54.00
		Male, Unneutered	17	127.50
			Sub-Total:	\$394.50
			Total Local Shares Remitted:	\$10,197.53
Amount paid to:	NYS Ag. & Markets for spay/neuter program			193.00
Amount paid to:	NYS Environmental Conservation			365.72
Amount paid to:	State Health Dept			157.50
Total State, County & Local Revenues:		\$10,913.75	Total Non-Local Revenues:	
			\$716.22	

To the Supervisor:
Pursuant to Section 27, Sub 1, of the Town Law, I hereby certify that the foregoing is a full and true statement of all fees and monies received by me, Cynthia R. Hyde, Town Clerk, Town of Thurman during the period stated above, in connection with my office, excepting only such fees and monies, the application of which are otherwise provided for by law.

Supervisor

Date

Cynthia R. Hyde
Town Clerk

12/30/15
Date