

MINUTES OF THE SPECIAL MEETING OF THE TOWN BOARD OF THE TOWN OF THURMAN, NY HELD JUNE 07, 2018 AT THE TOWN HALL, 311 ATHOL ROAD, ATHOL, NEW YORK, COMMENCING AT 6:30 PM....

PRESENT: Mr. Douglas Needham, Councilman

Mrs. Gail Seaman, Councilwoman

Mrs. Cynthia Hyde, Supervisor

Mrs. Joan Harris, Councilwoman

ABSENT: Councilwoman Brenda Ackley

RECORDING SECRETARY: Susan E. Staples

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL:

The meeting was called to order at **6:30 pm**. The **Supervisor** stated that the only order of business was to pass this resolution.

RESOLUTION:

On a motion introduced by **Councilwoman Harris** and seconded by **Councilwoman Seaman**

DISCUSSION: Councilwoman Seaman stated that there were errors in the resolution and that she wanted changes to be made to the resolution. The **Supervisor** stated that the attorney had drafted the resolution, and that she wasn't comfortable making changes to it. **Councilwoman Seaman** stated that the date on page 1 (December 13, 2016) should have been December 27, 2016. **Councilwoman Seaman** also wanted the issuer certificate dated May 31, 2017 included with the resolution and minutes. The **Supervisor** noted that she would like to confer with the attorney about these changes. **Councilwoman Seaman** also wanted to include the date May 31, 2017 on page 2 paragraph 3 to include, on May 31, 2017 after executed and before the word by. The **Supervisor** noted that other than changing the typo of the date on page 1 to the 27th she was not comfortable making changes without an attorney reviewing those changes.

RESOLUTION NO.: 67

INTRODUCED BY: Councilwoman Harris

SECONDED BY: Councilwoman Seaman

DATED: June 07, 2018

**RESOLUTION AUTHORIZING HOME RULE REQUEST
TO STATE LEGISLATURE FOR BILL VALIDATING
TOWN'S ISSUANCE OF BOND AND BOND ANTICIPATION NOTES
TO PAY COST OF ALTERNATIVE WATER SUPPLY**

WHEREAS, elevated levels of salt were 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 denied all liability related to the elevated salt levels in the well water but 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") required the Town to install alternate water systems for affected properties and DEC and the Town agreed upon or will agree upon an Order on Consent or other binding and enforceable determination acceptable to both parties; and

WHEREAS, the Town wished to finance the cost of the alternate water system; and

WHEREAS, on December 27, 2016 the Town Board adopted a Resolution authorizing the issuance of up to \$313,000 in bond and/or bond anticipation notes to finance the cost of the alternate water system (the "Bond Resolution"); and

WHEREAS, based on reasonable interpretation of information available at that time, the Bond Resolution included a statement that the Town is wholly within the Adirondack Park but that 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 the State Comptroller to issue bonds and/or notes was not required under Local Finance Law Section 104.10(3); and

WHEREAS, on May 31, 2017 the Town issued its Bond Anticipation Note in the amount of \$313,000 pursuant to the Bond Resolution; and

WHEREAS, the Issuer's Certificate executed by the Town Supervisor in connection with issuance of the Note repeated the statement that 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 the State Comptroller to issue bonds and/or notes was not required under Local Finance Law Section 104.10(3); and

WHEREAS, the Town Supervisor requested that the Assessor calculate this number and determined that State lands subject to taxation with the Town are assessed at more than thirty percent (30%) of the total taxable assessed valuation of the Town; and

WHEREAS, this means that the Town was required to obtain permission of the State Comptroller to issue bonds and/or notes under Local Finance Law Section 104.10(3) prior to issuing the Note; and

WHEREAS, on May 31, 2018 the Town made a principal payment of \$13,000 on the Note, leaving \$300,000 in principal outstanding and overdue; and

WHEREAS, the Town wishes to issue a statutory installment bond pursuant to the Bond Resolution to finance the outstanding amount of the Note but cannot legally do so because State Comptroller permission was not obtained prior to issuance of the Note; and

WHEREAS, the Town does not have sufficient funds to repay the Note without issuance of additional obligations pursuant to the Local Finance Law; and

WHEREAS, under Municipal Home Rule Law Section 40, the Town Supervisor with the concurrence of the Town Board or the Town Board by a vote of 2/3 of its total voting power

without the approval of the Supervisor may request the State Legislature to pass a bill relating to the property, affairs or government of the Town; and

WHEREAS, the Supervisor and the Town Board wish to request the State Legislature to adopt a bill legalizing, validating, ratifying and confirming the actions taken by the Town Board in relation to adoption of the Bond Resolution and issuance of the Note, and determining that the Note and any renewal notes or other obligations issued or to be issued under the Bond Resolution shall be valid obligations of the Town notwithstanding the failure to obtain the permission of the State Comptroller;

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

Section 1. The Town Supervisor, Town Clerk and/or the Town Board are hereby authorized and directed to execute and submit a Home Rule Request to the State Legislature substantially in the form attached hereto, requesting the State Legislature to adopt a bill legalizing, validating, ratifying and confirming the actions taken by the Town Board in relation to adoption of the Bond Resolution and issuance of the Note, and determining that the Note and any renewal notes or other obligations issued or to be issued under the Bond Resolution shall be valid obligations of the Town notwithstanding the Town's failure to obtain the permission of the State Comptroller.

Section 2. Necessity exists for the enactment of the requested legislation because the Town was required to provide the alternative water supply under the Order on Consent but does not have sufficient funds to pay the outstanding principal amount of the Note issued for that purpose pursuant to the Bond Resolution without issuing additional obligations under the Bond Resolution.

Section 3. The Town Supervisor, Town Board, Town Assessor, Town Clerk and Town Counsel are hereby authorized and directed to prepare and execute such other documents and take such other and further actions as may be necessary or advisable in connection with submission of such Home Rule Request to the State Legislature.

Section 4. This Resolution shall take effect immediately.

Section 4. The question of the adoption of this Resolution was duly put to a vote on roll call which resulted as follows:

AYES: 2

NAYS: 2

ABSENT:1

ROLL CALL

AYES: Councilwoman Harris, Supervisor Hyde

NAYS: Councilman Needham, Councilwoman Seaman

ABSENT: Councilwoman Ackley

_____ The Resolution was declared duly adopted by a vote of not less than two-thirds (2/3) of the full membership of the Town Board and the request may be submitted to the State Legislature by either the Town Board or by the Town Supervisor with the concurrence of the Town Board.

OR:

_____ The Resolution was declared duly adopted by a vote of not less than a majority of the full membership of the Town Board and the request may be submitted to the State Legislature by the Town Supervisor with the concurrence of the Town Board.

OR:

 X The Resolution was not adopted by sufficient vote of the Town Board.

After the vote the **Supervisor** noted that she had a previous appointment, and at this time she had to leave. She asked if anyone wanted to make a motion to adjourn the meeting.

Councilwoman Harris made a motion to adjourn at 6:43pm and it was seconded by **Supervisor Hyde**. **Councilwoman Harris** and **Supervisor Hyde** both voted in favor of adjourning the meeting. At this point the **Supervisor** left the meeting. Discussion continued by the remaining board members. **Councilwoman Seaman** wanted to make changes to the resolution, and **Councilwoman Harris** noting that she had not been given these changes for review, even though **Councilwoman Seaman** had shared them with some of the public.

Resolution # 68

On a motion introduced by **Councilman Needham** and seconded by **Councilwoman Seaman**

RESOLUTION NO.: 68

INTRODUCED BY: Councilman Needham

SECONDED BY: Councilwoman Seaman

DATED: June 07, 2018

**RESOLUTION AUTHORIZING HOME RULE REQUEST
TO STATE LEGISLATURE FOR BILL VALIDATING
TOWN'S ISSUANCE OF BOND AND BOND ANTICIPATION NOTES
TO PAY COST OF ALTERNATIVE WATER SUPPLY**

WHEREAS, elevated levels of salt were 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 denied all liability related to the elevated salt levels in the well water but 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") required the Town to install alternate water systems for affected properties and DEC and the Town agreed upon or will agree upon an Order on Consent or other binding and enforceable determination acceptable to both parties; and

WHEREAS, the Town wished to finance the cost of the alternate water system; and

WHEREAS, on December 27, 2016 the Town Board adopted a Resolution authorizing the issuance of up to \$313,000 in bond and/or bond anticipation notes to finance the cost of the alternate water system (the "Bond Resolution"); and

WHEREAS, based on reasonable interpretation of information available at that time, the Bond Resolution included a statement that the Town is wholly within the Adirondack Park but that 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 the State Comptroller to issue bonds and/or notes was not required under Local Finance Law Section 104.10(3); and

WHEREAS, on May 31, 2017 the Town issued its Bond Anticipation Note in the amount of \$313,000 pursuant to the Bond Resolution; and

WHEREAS, the Issuer's Certificate executed on May 31, 2017 by the Town Supervisor in connection with issuance of the Note repeated the statement that 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 the State Comptroller to issue bonds and/or notes was not required under Local Finance Law Section 104.10(3); and

WHEREAS, the Town Supervisor requested that the Assessor calculate this number and determined that State lands subject to taxation with the Town are assessed at more than thirty percent (30%) of the total taxable assessed valuation of the Town; and

WHEREAS, this means that the Town was required to obtain permission of the State Comptroller to issue bonds and/or notes under Local Finance Law Section 104.10(3) prior to issuing the Note; and

WHEREAS, on May 31, 2018 the Town made a principal payment of \$13,000 on the Note, leaving \$300,000 in principal outstanding and overdue; and

WHEREAS, the Town wishes to issue a statutory installment bond pursuant to the Bond Resolution to finance the outstanding amount of the Note but cannot legally do so because State Comptroller permission was not obtained prior to issuance of the Note; and

WHEREAS, the Town does not have sufficient funds to repay the Note without issuance of additional obligations pursuant to the Local Finance Law; and

WHEREAS, under Municipal Home Rule Law Section 40, the Town Supervisor with the concurrence of the Town Board or the Town Board by a vote of 2/3 of its total voting power without the approval of the Supervisor may request the State Legislature to pass a bill relating to the property, affairs or government of the Town; and

WHEREAS, the Supervisor and the Town Board wish to request the State Legislature to adopt a bill legalizing, validating, ratifying and confirming the actions taken by the Town Board in relation to adoption of the Bond Resolution and issuance of the Note, and determining that the Note and any renewal notes or other obligations issued or to be issued under the Bond

Resolution shall be valid obligations of the Town notwithstanding the failure to obtain the permission of the State Comptroller;

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

Section 1. The Town Supervisor, Town Clerk and/or the Town Board are hereby authorized and directed to execute and submit a Home Rule Request to the State Legislature substantially in the form attached hereto, requesting the State Legislature to adopt a bill legalizing, validating, ratifying and confirming the actions taken by the Town Board in relation to adoption of the Bond Resolution and issuance of the Note, and determining that the Note and any renewal notes or other obligations issued or to be issued under the Bond Resolution shall be valid obligations of the Town notwithstanding the Town's failure to obtain the permission of the State Comptroller.

Section 2. Necessity exists for the enactment of the requested legislation because the Town was required to provide the alternative water supply under the Order on Consent but does not have sufficient funds to pay the outstanding principal amount of the Note issued for that purpose pursuant to the Bond Resolution without issuing additional obligations under the Bond Resolution.

Section 3. The Town Supervisor, Town Board, Town Assessor, Town Clerk and Town Counsel are hereby authorized and directed to prepare and execute such other documents and take such other and further actions as may be necessary or advisable in connection with submission of such Home Rule Request to the State Legislature.

Section 4. This Resolution shall take effect immediately.

Section 4. The question of the adoption of this Resolution was duly put to a vote on roll call which resulted as follows:

AYES: 2

NAYS: 1

ABSENT:2

ROLL CALL

AYES: Councilman Needham, Councilwoman Seaman

NAYS: Councilwoman Harris

ABSENT: Councilwoman Ackley, Supervisor Hyde

_____ The Resolution was declared duly adopted by a vote of not less than two-thirds (2/3) of the full membership of the Town Board and the request may be submitted to the State Legislature by either the Town Board or by the Town Supervisor with the concurrence of the Town Board.

OR:

_____ The Resolution was declared duly adopted by a vote of not less than a majority of the full membership of the Town Board and the request may be submitted to the State Legislature by the Town Supervisor with the concurrence of the Town Board.

OR:

The Resolution was not adopted by sufficient vote of the Town Board.

Discussion: Councilwoman Seaman noted that **Charlie Bills** had resigned from the landfill. She stated that she had been contacted by the Highway Department about **Ed Brown** working at the landfill in lieu of filling an opening created. She stated that this would save the town money. **Councilwoman Harris** noted that she just finished working on the Highway contract, and that the Landfill operator was not in the highway business, only the pieces of equipment. **Councilwoman Harris** noted that this was for discussion only tonight as this was not the purpose of the Special Meeting. **Councilwoman Seaman** said that there was a quorum and that any business could be brought up. At this point **Councilwoman Harris** noted that she believed that the meeting had already ended and left at this point. The meeting ended at **7:37pm**.

Respectfully Submitted:

Susan E Staples, Town Clerk

June 18, 2018