

March 8, 2016

MINUTES OF THE REGULAR MEETING OF THE TOWN BOARD OF THE TOWN OF THURMAN HELD MARCH 8, 2016 AT THE TOWN HALL, 311 ATHOL ROAD, ATHOL, NEW YORK, COMMENCING AT 6:33 P.M...

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

RECORDING SECRETARY: Jeanie Sprague, Town Clerk

OTHERS PRESENT: Jamiee Ross, Tax Collector; Albert Vasak, Deputy Supervisor; Patrick Wood, Highway Superintendent; Jeffrey Ackley, Deputy Highway Superintendent;

PAYMENT OF CLAIMS

The Meeting was called to order by Evelyn Wood, Supervisor

PLEDGE ALLEGIANCE TO THE FLAG

ROLL CALL

MOMENT OF SILENCE FOR ARTHUR 'SKIP' BESSAW

RESOLUTION #34:

On a motion by Councilman Youngblood, seconded by Councilwoman Seaman, the Town Board resolved to approve the Annual Accounting Meeting Minutes of January 20, 2016 and the Regular Meeting Minutes of February 9, 2016.

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

1 Abstention ~ Councilwoman Shepler abstained from voting

Presentation on COOP (Continuity Operations Plan) by Amy Hirsch, A.E.M, P.C.P., Emergency Service Coordinator from the Warren County Office of Emergency Services.

CORRESPONDENCES: Letter from Michael Eddy, EMS Report.

Committee Reports:

Councilwoman Shepler: Concrete/Wall Repairs

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Councilman John Youngblood: Highway Report

Concert Series Report

Councilwoman Gail Seaman: Youth Report – Easter Party scheduled for Saturday March 26th, 2016 at the Thurman Town Hall from 1 p.m. to 3 p.m., egg hunt.

Gleaning

Councilman Michael Eddy: No Report

SUPERVISOR'S REPORT: New York City Training

Received the EMS Report and the Historian's Report

Supervisor Wood switched the Youth Commission to **Councilwoman Shepler** and the EMS to **Councilwoman Seaman**.

Jack Wax Party Saturday March 19th, 2016

Hazardous Waste Collection Day: Warrensburg on May 21st and Queensbury on June 18th – offering preregistration (Must be Warren County Resident)

Conference call between Supervisor Wood, Councilman Youngblood and Stored Tech regarding phone issues

Salt Usage Reports

Cedarwood Engineering did evaluation of the town's buildings. Letter on possible grants funding: 1) Help offset the cost of the asphalt cap in the salt shed 2) Do a Master Plan of the town's buildings

RESOLUTION #35:

On a motion by **Councilwoman Shepler**, seconded by **Councilman Youngblood**, the Town Board resolved to approve going forward with the process of applying with two grants: 1) To help offset the cost of the asphalt cap in the salt shed; and 2) Do a Master Plan of the town's buildings.

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

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1 Abstention ~ Councilman Eddy abstained from voting wanting to review the matter further.

Cabin Fever Party on Friday March 4, 2016 was very well attended.

Filed Annual SPDES Report

SWIFT was reviewed. Updated the BMPs

Annual Landfill Report is filed.

Concrete Pad for salt shed is complete.

DEC is ok with the town waiting for spring to address the tank issue.

AUD is filed and is going well.

No date yet for the town audit.

Four Election dates this year April 19th for Presidential Primary, June 28th for Congressional Primary , September 13th Primary and November 8th is General Election.

RESOLUTION #36:

On a motion by **Councilman Youngblood**, seconded by **Councilwoman Shepler**, the Town Board resolved to move the Board Meeting from Tuesday September 13th, 2016 to Wednesday September 14th, 2016 at 6:30 p.m. due to a conflict with the Primary Election and the Board Meeting from Tuesday November 8th, 2016 to Wednesday November 9, 2016 due to a conflict with the General Election.

Motion Carried: 5 Ayes ~ Youngblood, Wood, Seaman, Eddy, Shepler

RESOLUTION #37:

On a motion by **Councilman Youngblood**, seconded by **Councilwoman Seaman**, the Town Board resolved to add three additional Board Meetings. The dates added are :

Tuesday March 29th, 2016 at 6:30 p.m.

Tuesday April 26th, 2016 at 6:30 p.m.

Tuesday May 24th, 2016 at 6:30 p.m.

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Motion Carried: 5 Ayes ~ Youngblood, Wood, Seaman, Eddy, Shepler

Warren County Hazard Mitigation Plan.

Train Contract up for another 5 years.

New Doors have been installed.

Meeting between DEC, DOH and EFC discussed water issues in town and additional testing is needed.

NEW BUSINESS: Town's Emergency Plan. The only change that was needed this year was updating the contact information.

POINT OF INTEREST: Jack Wax Party; last month for tax payments at the town level - Jamiee Ross's hours: Monday–Thursday 9:30 a.m. to 1:00 p.m. and Thursday March 31 from 6-8:00 p.m.

PRIVILEGE OF THE FLOOR: Mary Eddy, Marilyn Hoy-Youngblood, Jamiee Ross, Jerry Cameron, and Joyce Eddy

RESOLUTION #38:

Resolution to Authorize Training

BE IT RESOLVED that the Town Board approves the following training which is budgeted in the 2016 budget:

| | | | |
|----------------|---------------------|-------------------|----------|
| Jeanie Sprague | Town Clerk Training | April 17-20, 2016 | \$180.00 |
|----------------|---------------------|-------------------|----------|

On a motion by **Councilwoman Seaman**, seconded by **Councilwoman Shepler**, Resolution #38 was approved.

Motion Carried: 5 Ayes ~ Youngblood, Wood, Seaman, Eddy, Shepler

RESOLUTION #39:

Resolution to Approve 2016 Summer Concert Series and Fireworks

WHEREAS the town wishes to continue its tradition of a summer concert series with a fireworks display, and

WHEREAS a fireworks display has been planned for August 29, 2016 following the final concert of the season at a cost of \$3,500.00, the same as last year with fifty percent of the display paid in advance to reserve the display, and

WHEREAS bands have been selected to perform for the concert series at a total cost of \$5,400, and

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WHEREAS Occupancy Tax funds have been budgeted to cover these costs,

BE IT RESOLVED that the Thurman Town Board hereby approves the following concert schedule and fireworks display and authorizes the Supervisor to sign any necessary documents.

July 4 – Marty Wendell

July 11 – Bill Healy and the Stringdusters

July 18 – Big Fez and the Surfomatics

July 25 – Ed Lowman and Co

August 1 – The Stony Creek Band

August 8 – Annie and the Hedonists

August 15 – The Bluebillies

August 22 – Brass and Blues

August 29 – Lustre Kings

On a motion by **Councilwoman Seaman**, seconded by **Councilman Youngblood**, Resolution #39 was approved.

Motion Carried: 5 Ayes ~ Youngblood, Wood, Seaman, Eddy, Shepler

RESOLUTION #40:

Resolution to Adopt Updated 2016 Emergency Management Plan for the Town of Thurman

BE IT RESOLVED that the town board adopts the updated Emergency Management Plan for 2016.

On a motion by **Councilman Youngblood**, seconded by **Councilwoman Seaman**, Resolution #40 was approved.

Motion Carried: 5 Ayes ~ Youngblood, Wood, Seaman, Eddy, Shepler

Copy on file with the Town Clerk.

RESOLUTION #41

RESOLUTION AUTHORIZING LEASE PURCHASE AGREEMENT

WITH FIRST NIAGARA LEASING FOR NEW LOADER

March 8, 2016

WHEREAS, the Town Board determined that a need exists for acquisition of a new loader for use by the Highway Department; and

WHEREAS, the Town Board authorized the purchase of a 2015 Case 621F Loader with Z-Bar and a 2015 MI 250MP Bucket (the "Equipment") under New York State Contract at a total cost of \$131,614 less a trade-in of \$36,000 for a net financed amount of \$95,614; and

WHEREAS, First Niagara has offered the interest rate of 2.78% over a three year period with annual payments in April of each year; and

WHEREAS, the Town is authorized to enter into lease purchase agreements for financing equipment, machinery or apparatus under General Municipal Law §109-b; and

WHEREAS, the Town Board prepared an evaluation of financing alternatives as required by 2 NYCRR Part 39;

NOW, THEREFORE, BE IT RESOLVED:

Section 1: After taking into account the evaluation of financing alternatives, the Town Board hereby determines that it is in the best interests of the Town to finance the Equipment pursuant to the Lease-Purchase Agreement with First Niagara for the following specific reasons: In light of the uncertainty of appropriations for various Town purposes, the flexibility afforded by termination of the Lease-Purchase Agreement if the Town cannot appropriate funds to pay the amounts due could be significant at some time over the next 3 years and the overall cost is estimated to be less under the proposed Lease-Purchase Agreement.

Section 2: The acquisition of the Equipment under the terms and conditions provided for in the Lease Purchase Agreement is necessary, convenient, in furtherance of, and the Equipment will at all times be used in connection with, the Town's governmental and proprietary purposes and functions and is in the best interests of the Town and no portion of the Equipment will be used, directly or indirectly, in any trade or business carried on by any person other than a governmental unit of the State on a basis different from the general public.

Section 3: The Town Board hereby authorizes financing the purchase of the Equipment pursuant to the provisions of the Lease-Purchase Agreement proposed by First Niagara.

Section 4: The Town Supervisor is hereby authorized and directed to execute and deliver the Lease-Purchase Agreement with First Niagara and to execute and deliver such other

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agreements, instruments and other writings, and to take such further actions as she, in her sole discretion, deems necessary or desirable to carry out the intent of this Resolution and the Lease-Purchase Agreement.

Section 5: The Town Board hereby certifies that the Town has not issued or effected the issuance of and reasonably anticipates that it will not issue or effect the issuance of more than \$10,000,000 of tax-exempt obligations during the current calendar year and, to the extent that it is permitted to do so under the Internal Revenue Code of 1986 as amended (the "Code"), hereby designates the lease of the Equipment to which the Agreement pertains as a "qualified tax-exempt obligation" as defined by Section 265(b)(3) of the Code.

Section 6. The Town Board anticipates that the Town may pay certain capital expenditures in connection with the Equipment prior to the receipt of the proceeds of the Lease-Purchase Agreement. The Town Board hereby declares its official intent to use Lease-Purchase Agreement proceeds to reimburse the Town for such Equipment 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 purchase of the Equipment.

Section 7. It is hereby determined that the period of probable usefulness of the Equipment is fifteen (15) years, pursuant to Section 11.00(a)(28) of the Local Finance Law. It is hereby further determined that the maximum maturity of the Lease-Purchase Agreement will not exceed five (5) years.

Section 8: The Town Board hereby covenants that it will perform all acts within its power which are or may be necessary to ensure the maintenance of the Town's legal status as being a duly organized and existing entity under the Laws of the State, which status is the basis for the interest portion of the rental payments coming due under the Agreement to at all times remain exempt from federal income taxation under the laws and regulations of the United States of America as presently enacted and construed or as amended.

Section 9: Execution of the Lease-Purchase Agreement will not cause the Town to exceed the limits prescribed by General Municipal Law Section 109-b[6](c).

Section 10: Effective Date - This Resolution shall take effect immediately.

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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 #41 was approved.

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

1 Abstention ~ Councilman Eddy abstained from voting

RESOLUTION #42:

APPROVAL OF CLAIMS: 2016 Abstract 003 (General Fund - \$12,640.97; Highway Fund - \$58,743.25, Capital Fund - \$24,493.61 and Enterprise Fund - \$1,237.68) for a total of \$97,115.51.

On a motion by **Councilwoman Seaman**, seconded by **Councilwoman Shepler**, the Board approved payment of the claims.

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

1 Abstention ~ Councilman Eddy abstained from voting

Supervisor Evelyn Wood asked for an **Executive Session** for matters related to proposed litigation. The Engineer staff accompanied the Town Board into Executive Session.

RESOLUTION #43:

On a motion by **Councilwoman Shepler**, seconded by **Councilman Youngblood**, the Town Board resolved to move into an Executive Session at 8:21 p.m. to discuss matters related to proposed litigation.

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

RESOLUTION #44:

On a motion by **Councilwoman Shepler**, seconded by **Councilwoman Seaman**, the Town Board resolved to come back from Executive Session at 9:17 p.m. and no action was taken.

Motion Carried: 5 Ayes ~ Youngblood, Wood, Seaman, Eddy, Shepler

ADJOURNMENT: On a motion by **Councilwoman Seaman**, seconded by **Councilwoman Shepler** the meeting was adjourned at 9:17 p.m.

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

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Respectfully Submitted:

Jeanie M. Sprague, Town Clerk

March 15, 2016

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

Thurman Town Board
P. O. Box 29
Athol, NY 12810

March 4, 2016

To: Supervisor Wood, Councilman Youngblood and taxpayers,

I received a letter from Supervisor Wood stating I should pay \$1,282.00 of the Town Counsel bill dated Jan. 26, 2016.

Attached is a copy of the 2 year contract between Town Counsel Mr. Schachner and the Town of Thurman. In the contract the Scope of Services states that Counsel will provide legal services to the Town Supervisor and Town Board. All of the \$1,282.00 charges were about the tie vote and town board seat vacancy. Clearly all essential town business.

During the town board discussion of the bill, Supervisor Wood said, "if Pat Wood (Highway Superintendent) were to incur costs knowing he didn't have any money in there, he is legally, personally responsible and he would have to pay that bill. If we are going to hold all other people to that standard we ourselves should be held to that standard."

Town Highway Law book page 15 - Pursuant to the provisions of Highway Law 284 - If a town superintendent's expenditures in a fiscal year exceed the amount appropriated, he is personally liable on the obligations he has thus incurred.

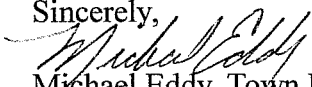
In fact the highway budget has been in a deficit. 2011 Minus \$214,222.00, 2012 Minus \$13,985.00, 2013 Minus \$117,386.00, 2014 Minus \$101,335.68.

Listen to the recorded meetings from December 2014 thru May 2015 concerning the highway deficit. Supervisor Wood presented 3 resolutions to cover the \$101,335.68 before getting it approved.

Why haven't these amounts been pursued from the Highway Superintendent as I've been requested to pay the \$1,282.00?

Attached is a memo to the town board from Town Counsel Mr. Schachner confirming that all services of the \$1,282.00 were rendered appropriately to the town.

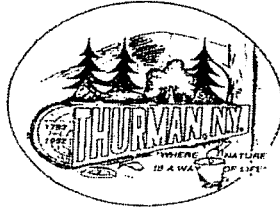
Make a budget adjustment as is done for all other costs on a regular basis.

Sincerely,

Michael Eddy, Town Board Member

Please include in town board minutes with the 3 attachments.

Town of Thurman

P.O. Box 29
311 Athol Road
Athol, New York 12810



Phone 518-623-9649
Fax 518-623-9573
ThurmanSupervisor@Verizon.net

Evelyn M. Wood
Town Supervisor

Michael Eddy
PO Box 9
Athol, NY 12810

February 11, 2016

Mr. Eddy,

At the February 9, 2016 meeting of the Thurman town board the Board examined an invoice from the town's attorney including work done at your request. The board found that fees on that invoice had been incurred by you without an available appropriation. The board was not aware that you were incurring these costs and no appropriation was/is available, which you were aware of at the time you incurred the cost. The Board believes that we should set the example for our employees and the town as a whole by holding ourselves to the same standards regarding incurring costs as we would any officer or employees of the town. The Board finds that Town Law 117 clearly indicates that no officer or employee may incur any cost or liability for which the Board has not made an appropriation, and that the Town will not be responsible for payment.

After review of the law and subsequent discussion during the Board meeting, the Board has decided that you are liable for the costs you incurred. You were provided with a copy of the bill when you attended the February 9th meeting with the charges highlighted. The total amount due the Town is \$1,282.00. Please remit the total due prior to the March 8, 2016 town board meeting. We appreciate your timely cooperation in regards to this matter.

Sincerely,

Evelyn M Wood
Town Supervisor

Cc: John Youngblood, Councilman
Gail Seaman, Councilwoman
Susan Shepler, Councilwoman

**AGREEMENT BETWEEN TOWN OF THURMAN AND
MILLER, MANNIX, SCHACHNER & HAFNER, LLC
FOR PROVISION OF LEGAL SERVICES TO TOWN OF THURMAN**

This Agreement is entered into as of December 10, 2013 between the TOWN OF THURMAN (Town) and MILLER, MANNIX, SCHACHNER & HAFNER, LLC (Counsel) for the provision of legal services to the Town of Thurman.

WHEREAS, the Town of Thurman requires legal representation in a wide variety of matters to deal with the numerous legal issues that come before and involve the Town; and

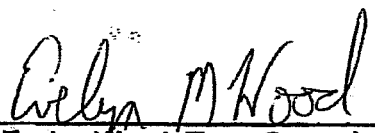
WHEREAS, the Town Board of the Town of Thurman wishes to engage legal counsel on a contractual basis for the period from January 1, 2014 to December 31, 2015; and

WHEREAS, the Town has agreed by Resolution to engage the services of Counsel on its behalf; and

WHEREAS, Counsel has agreed to provide such legal services to the Town, the Town and Counsel hereby agree as follows:

1. **Subject of Agreement** - Counsel shall advise and represent the Town and render legal services to it as requested by appropriately authorized Town personnel.
2. **Scope of Services** - Counsel will provide General Legal Services consisting of attendance at regular and/or special Town Board meetings as requested by the Town Supervisor, conferences, telephone consultations and other meetings with the Town Supervisor, Town Board and appropriately authorized personnel, drafting of letters, legal opinions and other legal documents and providing ongoing advice regarding general legal matters. Counsel will also provide Special Legal Services consisting of representation of the Town in litigation matters in Federal, State and Town Courts, bond counsel services, labor negotiations, and special district work, as requested.
3. **Term and Renewal** - The Term of this Agreement shall be from January 1, 2014 until December 31, 2015.
4. **Compensation** - Fees for all of Counsel's Legal Services will be billed to the Town at hourly rates not to exceed \$170 per hour. Counsel will invoice the Town on a monthly basis and the Town will pay all invoices within thirty (30) days.

TOWN OF THURMAN

By: 
Evelyn Wood, Town Supervisor

**MILLER, MANNIX,
SCHACHNER & HAFNER, LLC**

By: 
Mark Schachner, Esq.

eddysam@verizon.net

From: "Mark Schachner" <MSchachner@mmshlaw.com>
Date: Wednesday, February 17, 2016 11:42 AM
To: <eddysam@verizon.net>
Cc: <thurmansupervisor@verizon.net>
Subject: RE: For your info

Dear Mike – Received and reviewed your note about our billing entries and the idea that we should bill you individually. Not sure exactly what you are requesting or referring to as you have neither engaged us to represent you individually, nor would it be appropriate for us to do so, especially since you are seeking to assert a claim against the Town Board. However, we believe that any and all work which was undertaken at your request and billed was performed prior to receiving notification of the Town Board Resolution limiting access without prior Board authorization. Therefore, as far as we are aware, all services were rendered appropriately to the Town. As always, copies of this communication are being provided to the Town Board as well. Thank you.

cc: Town Board

From: eddysam@verizon.net [mailto:eddysam@verizon.net]
Sent: Thursday, February 11, 2016 6:19 PM
To: Mark Schachner <MSchachner@mmshlaw.com>
Subject: For your info

See attached

Discussion at the board meeting concerning your bill.

The contract reads authorized personnel - board members.

My understanding of the purpose of having a town attorney is a matter of town legal affairs.

The memorandum sent to the town board from you carried no weight with the Supervisor for the appointment of Seaman.

My question to verify your determination of legal and ethical procedure to bring an incumbent forward.

1. An incumbent can be brought forward with majority vote of setting board members.
2. Governor special election
3. Election in the following November

(If there is any question to this being town business or a personal request

Do not hesitate to send me a bill for the answer: M. Eddy P. O. Box 9 Athol, NY 12810)

Mike Eddy

2/18/2016

February 7, 2016

To whom it may concern.

This end of the year 2015 report is late. I am sorry.

Due to illness in the family I barely kept up with the request for information.

I have researched cemetery books, local genealogy books, and information from my files for about 8 requests during the past 6 months. I have 3 more pending on my desk. My office in the Harris House has been moved from the old Historian's room to another room I share with the Historical Society. With help we successfully moved the many items to the new room. Work is being done in the Harris House and my new office is now filled with items from the Court Room. Not making it easy to reach the needed files.

I still have a file in the Thurman Town Hall printing room and a computer there also, but with all the changes concerning the new Tax Collector's computer I have not accessed the same computer yet.

I do most of my research at home and with my own files: occasionally having to check the files in the other areas. I use my personal computer for contacts and responses and searches of information, to be shared with the recipient.

I look forward to a better 2016 and the many interesting people who contact me.

Thank you


Joan Harris

Town of Thurman Historian

WARRENSBURG



EMS

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 8, 2016

Thurman Town Board Members,

Attached you will find the run totals for February 2016. We handled a total of 6 calls in town. 1 of the calls was Advanced Life Support and 2 of the calls were Basic Life Support. 3 of the calls were lift assist calls. Our average response time to being on scene was just over 19 minutes. We were delayed on 1 call due to very poor road conditions.

We are pleased to announce that our open house will be on Saturday May 14, 2016 from 10:00 am to 2:00 pm at our building at 3 King Street. We will have a silent auction, free food, a bounce house for the kids, and ambulance and building tours. Please join us! If you have any questions, please give me a call.

I would like to remind everyone to please make sure that their house numbers can be easily seen. This will help aid all emergency responders find you when you need help.

All Thurman Town Board Members and residents are more than welcome 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

Thurman Calls handled by Warrensburg EMS
February 2016

| DATE | PCR # | PRIORITY | CHIEF COMPLAINT | DISPATCH TO ENROUTE | ENROUTE TO ONSCENE |
|-----------|----------|----------|--------------------|---------------------|--------------------------------------|
| 2/9/2016 | 16-04426 | BLS | FOOT PAIN | 4 MINUTES | 15 MINUTES |
| 2/15/2016 | 16-05143 | BLS | LIFT ASSIST | NO PCR | NO PCR |
| 2/15/2016 | 16-05176 | BLS | LIFT ASSIST | NO PCR | NO PCR |
| 2/16/2016 | 16-05217 | BLS | LIFT ASSIST | NO PCR | NO PCR |
| 2/20/2016 | 16-05641 | ALS | SHORT OF BREATH | 5 MINUTES | 20 MINUTES (WEATHER) |
| 2/24/2016 | 16-06108 | BLS | FACE PAIN FROM MVA | 2 MINUTES | 24 MINUTES (ROAD CONDITIONS/WEATHER) |