

**MINUTES OF THE SPECIAL MEETING OF THE TOWN BOARD OF THE TOWN OF THURMAN HELD JULY 17, 2013 AT THE TOWN HALL, 311 ATHOL ROAD, ATHOL NEW YORK, COMMENCING AT 5:00 P.M...**

**PRESENT:     MRS. EVELYN WOOD, SUPERVISOR**  
**MR. CHARLES BILLS, COUNCILMAN**  
**MR. LEON GALUSHA, COUNCILMAN**  
**MR. AL VASAK, COUNCILMAN**  
**MRS. GAIL SEAMAN, COUNCILWOMAN**

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

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

**PLEDGE ALLEGIANCE TO THE FLAG**

**ROLL CALL**

**OLD BUSINESS**

**Supervisor Wood** read a report pertaining to the DEC's acceptance of the SWPP and NOI and her conversation with DEC Official Bill Lupo. Attached

As this project is subject to permissive referendum **Supervisor Wood** noted that if a petition should be circulated a special election would be very expensive for the town.

**Councilwoman Seaman** asked if this will encompass everything.

**Supervisor Wood** said that yes it would.

**Councilman Galusha** asked who would build the salt shed.

**Supervisor Wood** stated that we would use our own labor but may have to contract some of the work out, such as roof trusses. **Wood** added that in house labor is cheaper and that this project would take a lot of nails.

**RESOLUTION # 35:**

**RESOLUTION AUTHORIZING EXPENDITURE OF \$100,000**

*FROM CAPITAL RESERVE FUND TO PAY COSTS OF REPLACEMENT OF TOWN HIGHWAY DEPARTMENT SALT STORAGE SHED(S)*

*WHEREAS, the Town Highway Department salt storage shed(s) have been determined to be inadequate and in need of immediate replacement; and*

*WHEREAS, replacement of the salt shed(s) is anticipated to cost \$100,000; and*

*WHEREAS, the Town has more than \$100,000 in its general-type Capital Improvement Capital Reserve Fund (the "Capital Reserve Fund"); and*

*WHEREAS, replacement of the salt shed(s), being a physical public betterment or improvement, is a capital improvement which can be paid for using these funds;*

*NOW, THEREFORE, BE IT*

*RESOLVED, that the Thurman Town Board hereby authorizes the expenditure of \$100,000 of the funds in the Capital Reserve Fund to pay the cost of the specific project of replacement of the Town Highway Department salt storage shed(s), including removal of the existing shed(s) and construction of a new structure to store the Highway Department's salt, and any related actions including those that may be required by the New York State Department of Environmental Conservation (NYS DEC); and be it FURTHER RESOLVED, that the estimated maximum cost of such project is \$100,000; and be it FURTHER RESOLVED, that this Resolution is subject to permissive referendum as provided by General Municipal Law Section 6-c and Town Law Article 7, and shall not take effect except as therein provided; and be it*

*FURTHER RESOLVED, that the Town Clerk is authorized and directed to post and publish the Notice required for Resolutions subject to permissive referendum; and be it*

*FURTHER RESOLVED, that the Town Supervisor, Town Bookkeeper and Town Clerk are hereby authorized and directed to take all actions necessary to effect this Resolution and to comply with any requirements*

*of the NYS DEC relating to replacement of the salt shed(s). On a motion by **Councilwoman***

***Seaman**, seconded by **Councilman Vasak**, Resolution #35 was approved.*

**MOTION CARRIED: 3 AYES ~ WOOD, VASAK, SEAMAN**

**2 NAYS ~ GALUSHA, BILLS**

**RESOLUTION # 36:**

*RESOLUTION ESTABLISHING CAPITAL PROJECT*

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*WHEREAS the Town of Thurman received approval of the Notice of Intent, Storm Water Prevention Plan, and SPDES Multi Sector Permit, as submitted to the Department of Environmental Conservation in response to inspection by DEC staff, and*

*WHEREAS the Town recognizes the need to do what is right and in the best interests of its community, and*

*WHEREAS failure to comply with the accepted plans will result in the issuance of an Order on Consent and fines from the DEC, and*

*WHEREAS the DEC and the Town have worked together to develop appropriate measures to comply with both municipal activities and the laws and rules of the State of New York, and*

*WHEREAS this cooperation has resulted in the Town not receiving any fines regarding the issues of concern, and*

*WHEREAS the Town Board is prepared to move forward with the necessary steps to fulfill our NOI, SWPP, & SPDES Multi Sector Permit,*

*BE IT RESOLVED that the Town Board establishes a Capital Project in the amount of \$100,000 for the necessary remediation, and further*

*WHEREAS the Town has incurred engineering costs associated with the project, those costs will be reclassified from A1440.4 to the Capital Project so that an accurate accounting of the cost of the project*

*may be kept. On a motion by **Councilwoman Seaman**, seconded by **Councilman Vasak**, Resolution #36 was approved.*

**MOTION CARRIED: 5 AYES ~ WOOD, GALUSHA, BILLS, VASAK, SEAMAN**

**RESOLUTION # 37:**

*RESOLUTION AUTHORIZING IMPLIMENTAION OF NOI, SWPP, AND SPDES MULTI SECTOR PERMIT AS APPROVED BY DEC*

*WHEREAS the State Department of Environmental Conservation has approved the Town of Thurman's Notice of Intent, Storm Water Prevention Plan, and SPDES Multi Sector Permit,*

*BE IT RESOLVED the Town Board directs and authorizes the Highway Superintendent, Town Supervisor to take the necessary actions to implement the approved plan for the Town of*

*Thurman. On a motion by **Councilwoman Seaman**, seconded by **Councilman Vasak**, Resolution #37 was approved.*

**MOTION CARRIED: 5 AYES ~ WOOD, GALUSHA, BILLS, VASAK, SEAMAN**

**Supervisor Wood** said that we have been approached by another municipality regarding a shared services agreement.

**Councilwoman Seaman** asked if this agreement would benefit the town.

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**Supervisor Wood** stated that it would benefit the town and that as she understood it we would make a significant amount of revenue on it.

**ADJOURNMENT**: On a motion by **Councilman Galusha**, seconded by **Councilwoman Seaman**, the meeting was adjourned at 5:23 pm.

**MOTION CARRIED**: 5 AYES ~ **WOOD, GALUSHA, BILLS, VASAK, SEAMAN**

**Respectfully Submitted:**

**Cynthia R. Hyde**  
**Town clerk**  
**07/24/2013**

Bill Lupo at the local DEC office spoke to me on July 12<sup>th</sup> and affirmed that the NYSDEC has accepted our SWPP and NOI, as well as approved our Multi Sector SPDES general permit. He indicates that the Town must now move forward with the work. If the Town is blocked from moving forward with the work the costs for not implementing the work will far exceed the cost of simply moving forward and getting the work done. If for some reason we do not complete the work as expected DEC will issue an Order on Consent and fines will be issued. To clarify for the Board, an Order on Consent is basically a binding judicial decree, or in simpler terms we have to do what they say in a certain time frame. Fines are as high as \$37,500 per day per violation.

We have worked with DEC for over a year now to reach this agreement. DEC has issued no fines thus far, and as long as we continue to move forward I do not expect any. Mr. Lupo advised me that our bill for the SPDES permit can be expected around September and should be between \$50-\$100. Our annual reporting will begin in January. The engineer will be doing the initial sampling necessary once we have approved the resolutions to begin the project.

Our original Notice of Violation listed three areas of concern for the DEC:

The first was the floor drains which were installed when the Highway Garage was built in the 1950's, prior to the existence of the DEC. DEC requested we seal the drains and we did so.

The second was vehicle washing, which is addressed in our Storm Water Prevention Plan. Essentially we are relocating the vehicle washing to a designated area in the impervious asphalt area as depicted in our plans.

The third was salt/sand storage and handling. The Town records show a history of storing salt at multiple locations here on this property. None of those previous storage techniques appear to have been in accordance with regulations. DEC notes that the salt storage as it was at time of inspection had no storm water controls on site. After reviewing guidance documents provided by DEC which are dated January 26, 1989, it is obvious these guidelines were not considered or implemented when the 1997 salt shed was built. Also, no best management practices were implemented previously.

Because of this DEC required the submission of an NOI, a SWPP, and required the Town to obtain coverage under the DEC's SPDES Multi Sector Permit. Failure to do so can result in a violation of discharging industrial storm water to the waters of the State without a valid SPDES Permit. Now that the Town has obtained the necessary approvals, we are prepared to move forward and to do so I have three resolutions tonight.

The first is to authorize the expenditure of the funds for the work we must do. As discussed last year during the budgeting process we intend to take the necessary funds from the Capital Reserve Fund. The total cost of the project is estimated at \$100,000. This resolution is subject to permissive referendum, and the Town's attorney has drafted the resolution and provided a copy of the necessary notice for the Town Clerk to post and advertise.

It is important to note that this is the least costly and most financially sound of our options. Should we not be able to proceed as planned the Town will experience considerable financial impacts. We must complete the work regardless of whether we have the funding or not. DEC will not allow the work remain incomplete. I want to caution both the Board and the people of the Town that a special election would be costly and is not in the budget, bonding will increase costs significantly and impact our Tax Levy Cap which could increase taxes, and finally if both the proposed resolution, and bonding are

brought forward and both fail, we will be forced to pay for the work from our fund balance which will cause serious financial stress to the town.

Should someone decide to circulate a petition as a result of the permissive referendum requirement our attorney advises the following:

- No Town employees or elected officials should advise or facilitate regarding such a petition in anyway as it would be inappropriate for any of us to assist in any way. Should we be approached regarding the matter I recommend we should advise the individual that while they have the right to petition, it would not be appropriate for us to advise or facilitate in the matter.
- The Town Attorney also notes that should we find it necessary to have a special election that it would very expensive for the Town.

The second resolution tonight establishes the capital project for the project, and notes that engineering costs associated with the project will be reclassified to the Capital Project so that we can keep accurate accounting of the project costs.

The final resolution authorizes the Highway Superintendent and myself to take the necessary actions to implement the approved plan.