



# Town of Thurman Capital Projects

## Report of Examination

Period Covered:

January 1, 2012 – June 30, 2016

2016M-431



Thomas P. DiNapoli

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# State of New York Office of the State Comptroller

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## **Division of Local Government and School Accountability**

March 2017

Dear Town Officials:

A top priority of the Office of the State Comptroller is to help local government officials manage government resources efficiently and effectively and, by so doing, provide accountability for tax dollars spent to support government operations. The Comptroller oversees the fiscal affairs of local governments statewide, as well as compliance with relevant statutes and observance of good business practices. This fiscal oversight is accomplished, in part, through our audits, which identify opportunities for improving operations and Town Board governance. Audits also can identify strategies to reduce costs and to strengthen controls intended to safeguard local government assets.

Following is a report of our audit of the Town of Thurman, entitled Capital Projects. This audit was conducted pursuant to Article V, Section 1 of the State Constitution and the State Comptroller's authority as set forth in Article 3 of the New York State General Municipal Law.

This audit's results and recommendations are resources for local government officials to use in effectively managing operations and in meeting the expectations of their constituents. If you have questions about this report, please feel free to contact the local regional office for your county, as listed at the end of this report.

Respectfully submitted,

*Office of the State Comptroller  
Division of Local Government  
and School Accountability*

# Introduction

## Background

The Town of Thurman (Town) is located in Warren County and has a population of approximately 1,200 residents. The Town provides highway, court, transfer station and general governmental services to its residents, financed mainly by real property taxes, sales tax and State aid. The Town's appropriations for fiscal year 2016 were \$1,573,284.

The Town is governed by an elected five-member Town Board (Board) composed of the Supervisor and four Board members. The Board is responsible for the general oversight and control of the Town's operations and finances. The Supervisor serves as the Town's chief financial officer and chief executive officer and is responsible for the day-to-day management of the Town's financial operations.

In 2013, the State awarded the Town a \$200,000 Empire State Development (ESD) grant for the installation of a broadband network to provide Internet access (Internet project) to 89 households and businesses in the northwest portion of the Town.<sup>1</sup> This project was completed in 2016 with 32 households and businesses subscribing to the Internet service. Also in 2013, the Board authorized a capital project for the construction of a new road-salt storage shed and to remediate salt contamination due to runoff from the old salt shed (salt shed project). Town officials anticipate this project to be completed in 2017.

## Objective

The objective of our audit was to examine the Town's management of its capital projects. Our audit addressed the following related question:

- Did the Board provide sufficient oversight and management of the Town's capital projects?

## Scope and Methodology

We examined the Board's oversight of capital projects for the period January 1, 2012 through June 30, 2016.

We conducted our audit in accordance with generally accepted government auditing standards (GAGAS). More information on such standards and the methodology used in performing this audit are included in Appendix B of this report.

<sup>1</sup> The broadband network uses the white-space bandwidth (unused wireless broadcasting frequencies) to provide wireless Internet service to approximately 3.5 square miles in the northwestern portion of the Town. The subscribers are charged a one-time fee of \$292 for setup equipment and a monthly service fee of \$50.

**Comments of Local  
Officials and Corrective  
Action**

The results of our audit and recommendations have been discussed with Town officials, and their comments, which appear in Appendix A, have been considered in preparing this report. Town officials generally agreed with our recommendations and indicated they planned to initiate corrective action.

The Board has the responsibility to initiate corrective action. A written corrective action plan (CAP) that addresses the findings and recommendations in this report should be prepared and forwarded to our office within 90 days, pursuant to Section 35 of General Municipal Law. For more information on preparing and filing your CAP, please refer to our brochure, *Responding to an OSC Audit Report*, which you received with the draft audit report. We encourage the Board to make this plan available for public review in the Clerk's office.

## Capital Projects

Capital improvement projects are generally long-term and require large sums of money to acquire, develop, improve or maintain various facilities. The Board is ultimately responsible for the oversight and management of the Town's capital projects. Town officials should adequately plan and contract as necessary, monitor progress and implement necessary changes to ensure the project is completed in an adequate, timely and cost-effective manner. Initial estimated costs must be realistic so the Town can properly plan financing and keep the taxpayers informed. The Board should adopt resolutions authorizing the maximum estimated cost at project inception and the sources of funding and should prepare itemized project budgets. The Board may provide additional appropriations for a capital project, as needed, by formally amending the budget.

The Board is also required to audit all claims against the Town and, by resolution, direct the Supervisor to make payments for approved amounts. A thorough claims audit process verifies that all claims are properly itemized and contain sufficient documentation to determine the nature of the purchases and to show that the amounts represent actual and necessary expenses. A proper claims audit should also verify that purchases comply with statutory requirements and Town procurement policies. For capital project claims, the Board should ensure that the architect or project manager certifies that the equipment and construction work being billed for was received, completed and/or performed in accordance with the related contracts. A certification for payment should be used to verify that the progress indicated and quality of the work billed is in accordance with the building contract.

During our audit period, the Board managed two capital projects: the Internet project and the salt shed project. The Board did not provide adequate oversight and management of the capital projects because it did not adopt appropriate financial plans, monitor project expenditures against estimated costs, approve project change orders (additional modifications in construction or scope of work) or authorize additional funding to address cost increases. Further, the Board did not establish a plan to adequately fund both projects until aid or permanent financing was received, resulting in the general fund cash balance declining by more than \$390,000 over the last three fiscal years.

### **Internet Project**

In May 2012, the Board contracted with a network engineer to complete a first-phase study for testing and design of a rural broadband network at a cost not to exceed \$20,000. After determining the

viability of constructing a broadband network, the Town applied for and was awarded a \$200,000 ESD grant in July 2013, and in August 2013 the Board authorized a total project budget of \$200,000. The grant required the Town to initially pay for all the project costs and be reimbursed \$200,000 for those expenditures upon completion. On October 16, 2014, the Supervisor signed the ESD grant distribution agreement. The project budget per the agreement was \$250,300 and identified the funding sources as \$200,000 from the grant and \$50,300 from “Town equity.” However, there was no indication that the Supervisor presented the project budget included in the ESD agreement to the Board, and the Board never authorized an increase in the budget beyond \$200,000 or the use of any Town funds to finance the project. The Board also did not establish a financial plan to fund the upfront costs of the project prior to receiving the grant funding.

Construction started in 2014 and was completed in 2016 at a total cost of \$273,360 (\$73,360 in excess of the Board approved budget and \$23,060 in excess of the grant agreement signed by the Supervisor). As of June 30, 2016, the Town had not received the grant funds and all the capital project expenditures were paid with advances from the general fund and a capital reserve, even though the Board did not authorize these advances. Actual project expenditures have exceeded both the Board-authorized budget and the budget amount per the grant agreement (Figure 1).

Fiscal Year	Board-Authorized Project Budget	Cumulative Total Expenditures
2012	\$20,000	\$7,919
2013	\$200,000	\$15,669
2014	\$200,000	\$63,180
2015	\$200,000	\$238,032
2016	\$200,000	\$273,360

We reviewed all 112 project claims totaling \$273,360 paid during our audit period. While the Board reviewed and approved all project claims prior to payment, it did not require the network engineer to review and certify the construction claims. Therefore, the Board does not have assurance that construction work billed and paid for was actually completed and performed in accordance with the contract, or that any additional work completed or equipment purchased was necessary and approved prior to billing. For example, the Town contracted for electrical services totaling \$18,000. However, the electrical contractor was paid over \$80,000 without any contract change orders for the additional work.

The Board’s failure to adequately budget for and monitor the Internet project led to costs exceeding the Board’s authorized budget by

\$73,360. The lack of a financial plan to fund the project costs prior to receiving the grant proceeds resulted in the use of general fund proceeds and reserves to finance the project's expenditures without authorization by the Board.

## Salt Shed Project

The Board authorized a capital project in July 2013 for the replacement of the Highway Department's salt storage shed and any remediation of salt contamination required by the New York State Department of Environmental Conservation (DEC) at a cost not to exceed \$100,000, and for the project to be funded by capital reserve money. During August 2015, the Board authorized the use of an additional \$72,000 from the capital reserve to fund project cost increases. However, although the Board authorized the use of \$172,000 from reserves for the salt shed project, all the project costs incurred through the end of our audit period totaling \$163,179 were instead funded by advances from both the general fund and capital reserve.

Further, the project engineer's cost estimates as of October 2014 totaled \$305,760 (\$230,000 for the salt remediation and \$75,760 for shed construction). The Board did not increase the project authorized amount or establish sufficient funding to complete it (Figure 2). As of June 30, 2016, the project had not been completed but expenditures had reached nearly the entire budgeted amount.

**Figure 2: Salt Shed Project Estimates, Budget and Expenditures**

Fiscal Year	Engineering Estimates (Entire Project)	Board-Authorized Project Budget	Cumulative Total Expenditures
2012	\$87,760	\$100,000	\$0
2013	\$87,760	\$100,000	\$27,353
2014	\$305,760	\$100,000	\$54,864
2015	\$305,760	\$172,000	\$107,531
2016	\$305,760 <sup>a</sup>	\$172,000	\$163,179 <sup>b</sup>

<sup>a</sup> According to the Supervisor, project cost may increase to \$460,000 based on additional project revisions requested by the DEC.  
<sup>b</sup> As of June 30, 2016

We reviewed all 118 project claims totaling \$163,179 paid during our audit period. While the Board reviewed and approved all project claims prior to payment, it did not appoint a project manager to certify the claims prior to its review. For example, the Town incurred over \$31,000 in well drilling related services. While the Town sought bids for well drilling,<sup>2</sup> the contractor provided over \$16,000 in additional services not included in the original contract, for installing pumps and building two temporary access roads to access the well drilling site. However, there were no contract change orders for the additional work completed or project manager certification that it was necessary

<sup>2</sup> The contract was for a set price per foot drilled and related materials.

and consistent with the project scope. Without a certification by an architect or a designated project manager, the Board does not have assurance that construction work being billed was actually completed and performed in accordance with the construction contract and that any additional work completed and purchased was approved prior to billing.

In addition, the Town's contracted engineering firm<sup>3</sup> was paid over \$42,000 more for its services than estimated. This firm prepared the cost estimates for the entire project, including \$44,000 for an engineering fee and construction oversight; however, as of June 2016 the firm was paid over \$86,000 for services related to the salt shed project. According to the Supervisor, the engineers had several meetings with DEC, which recommended various changes requiring the engineering firm to redraw the project plans, increasing the engineering costs. However, the Board did not adequately monitor those costs and increase the budget when warranted.

Financial Planning — The Board's failure to establish an adequate financial plan for the two projects contributed to the need to advance funds from the general fund and use reserve funds to finance them. Capital expenditures for both projects were advanced by the general fund and capital reserve, resulting in a significant financial drain on the general fund's available cash balance. During the period January 1, 2013 through December 31, 2015, general fund unrestricted cash declined from \$205,627 to \$12,987 and general fund reserve cash declined from \$317,891 to \$117,362 due to transfers and advances. Further, as of June 30, 2016, the general fund reported having a negative cash balance of \$8,436.<sup>4</sup>

The Board's failure to establish an adequate financial plan to fund project costs and oversee the Internet and salt shed projects has contributed to increasing project costs and declining cash balances to fund project costs.

## Recommendations

The Board should:

1. Approve a detailed capital project budget including all anticipated costs and financing methods and require periodic financial reports that show actual revenues and expenditures compared to the approved budget.

<sup>3</sup> The Town annually contracts with a professional engineering firm for engineering services, as needed, at an hourly rate.

<sup>4</sup> The Town maintains a multifund checking account for the general, highway, enterprise and capital funds allowing for other funds to cover cash shortfalls in the general fund. Reporting negative cash is the result of additional unrecorded advances between funds.

2. Closely oversee the remaining project construction or designate a project manager to oversee the project and report to the Board.
3. Require an architect or engineer to certify that construction work is completed prior to audit and payment of claims.
4. Approve all change orders prior to the commencement of work.
5. Approve all advances to fund project expenditures prior to payment.

## **APPENDIX A**

### **RESPONSE FROM LOCAL OFFICIALS**

The local officials' response to this audit can be found on the following pages.

Jeffrey P. Leonard, Chief Examiner  
One Broad Street Plaza  
Glens falls, New York  
12801-4396



Town of Thurman  
PO Box 29  
311 Athol Road  
Athol, New York  
12810

February 24, 2017

Dear Jeffrey P. Leonard:

The current Town Board of the Town of Thurman agrees with the findings of the audit of the Town of Thurman Capital Projects for the period covering January 01, 2012 to June 30, 2016.

We agree that lack of supervision, management and a funding plan for the White Space Internet project, salt shed project and domestic (salt contamination) water remediation plan resulted in financial stress, unapproved and unplanned for overspending and a lack of accountability to the taxpayers.

Overspending on the internet project resulted in Thurman tax payers as a whole helping to fund a project that only benefits a small area of town. Only 34 out of 450 residential households receive internet via whitespace. Currently an operator for this internet system does not exist. The original designer and operator of the internet system was asked to leave by the prior administration and a claim for additional work performed (by the original designer) due to a redesign, authorized by the previous supervisor, was not paid. The second operator hired by the prior board failed to have the expertise needed to operate the internet system and resigned on January 18, 2017.

The original designer and operator is open to discussing a plan for the internet system and may be willing to train a new operator once his claim for work completed for the redesign is paid. The current board and supervisor will work together to decide what comes next for Thurman's Whitespace internet service? We will discuss our options, look at our finances and make a plan and policy before moving ahead.

The salt shed project is complete. The current board and supervisor will oversee the implementation of the purposed new water system. Together we will strive to provide oversight and planning as we move forward with the water system project. We will monitor project expenditures and should a change or modification be necessary it will only happen with board approval and understanding.

The Town Board of the Town of Thurman believes in teamwork. We will have discussion at meetings and all will be involved in decision making. Accountability to the public is paramount.

Thank you,

Cynthia Hyde  
Town of Thurman Supervisor

## APPENDIX B

### AUDIT METHODOLOGY AND STANDARDS

To achieve our audit objective and obtain valid evidence, we performed the following procedures:

- We interviewed Town officials regarding policies and procedures related to the establishment of the Internet and salt shed capital projects.
- We interviewed Town officials to determine their process for monitoring the Internet and salt shed capital projects.
- We reviewed project cost estimates and budgets for the Internet and salt shed capital projects.
- We reviewed monthly Board meeting minutes relevant to the Internet and salt shed capital projects.
- We reviewed paid project claims for the period January 1, 2012 through June 30, 2016 for evidence of Board audit and approval for payment.
- We reviewed Town procurement policies and procedures.
- We examined requests for proposals and bid documentation to determine whether procurements of professional services and public works contracts were in accordance with Town policy and legal requirements.
- We examined vendor contracts and change orders for services acquired for the project.

We conducted this performance audit in accordance with GAGAS. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

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**DIVISION OF LOCAL GOVERNMENT**  
**AND SCHOOL ACCOUNTABILITY**

Andrew A. SanFilippo, Executive Deputy Comptroller  
Gabriel F. Deyo, Deputy Comptroller  
Tracey Hitchen Boyd, Assistant Comptroller

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