

Public Safety: Council Member Grant reported that the school Superintendent has left, and we have a new interim Superintendent. The Sheriff's Office is reaching out to the new interim to set up the active shooter training that has been mentioned previously.

Parks: Supervisor Wenzel reported that we are in week three of the youth park program. Great turnout around 50 kids per day. They made tie-dye shirts this week. Great job to the counselors and everyone involved.

Sewer District #1, 2 &3: Nothing to report.

Technology: Council Member Santulli reported that he is going back and forth with Civic Plus on the codification program.

Broadband we are waiting for word on what the cable wire is that was found on Sheldon Rd. before we go further.

Business Meeting:

Resolution 97-23: Council Member Grant motioned, seconded by Council Member Lucks to fully support Schenectady County's declaration of a State of Emergency.
Motion carried, 5 ayes

Resolution 98-23: Council Member Grant motioned, seconded by Council Member Lucks to approve the addition of the use of town vehicles to the employee handbook.
Motion carried, 5 ayes

Resolution 99-23: Council Member Grant motioned, seconded by Council Member Lucks to accept the resignation of Brandy Fall as the Deputy Town Clerk.
Motion carried, 5 ayes

Resolution 100-23: Council Member Grant motioned, seconded by Council Member Lucks to approve Northeastern Log Homes as an approved vendor and authorizes the Deputy Supervisor to execute the Professional Service Agreement.
Motion carried, 4 ayes Supervisor Wenzel abstained

Discussion: Supervisor Wenzel spoke on reasoning for abstaining from vote on this resolution. See letter from Ethics Board attached.

Privilege of the Floor:

Lynne Bruning of 13388 Duanesburg Road spoke (see attached).

Kevin of New York Citizens Audit spoke (see attached).

Bill Parks of Maranatha Way spoke in support of the New York Citizens Audit.

Council Member Grant motioned, seconded by Council Member Potter to adjourn.

Motion carried, 5 ayes

I, Jennifer Howe, Town Clerk of the Town of Duanesburg, so hereby certify that this is a true and accurate transcript of the Regular Town Board Meeting held on Thursday July 27, 2023.

Monthly Statement of the Town Supervisor

TO THE TOWN BOARD OF THE TOWN OF DUANESBURG, NEW YORK

Pursuant to Section 119 of Town Law, I hereby render the following statement of all money received and disbursed by this office during the month of JUNE 2023

Revenues

Fund	Amount
General Fund	\$127,788.82
Highway Fund	\$706.53
Drainage	\$0.00
Fire District	\$0.00
Lighting District #1	\$0.00
Lighting District #2	\$0.00
Lighting District #3	\$0.00
Sewer District #1	\$1,627.98
Sewer District #2	\$12.50
Sewer District #3	\$935.36
Total	<u>\$ 131,071.19</u>

Disbursements

General Fund	\$190,256.45
Highway Fund	\$31,479.10
Fire District	\$0.00
Lighting District #1	\$292.99
Lighting District #2	\$562.55
Lighting District #3	\$257.83
Sewer District #1	\$21,771.01
Sewer District #2	\$10,113.07
Sewer District #3	\$20,384.46
Total	<u>\$ 275,117.46</u>

TOWN OF DUANESBURG
CASH REQUIREMENTS PER FUND
7/27/23

FUND		AMOUNT
General Fund A		22,965.26
General OV B		1,037.08
Highway Fund DA		5,636.98
Highway OV-DB		12,207.99
Sewer District #1		20,476.15
Sewer District #2		163,259.97
Sewer District #3		5,850.99
		-
	TOTAL TRANSFERS TO AP	231,434.42

Town of Duanesburg Town Board

RESOLUTION #97-23

July 27, 2023

WHEREAS, the Duanesburg Town Board supports legal and safe immigration into the United States and rightfully encourages people from all over the world to seek legal United States citizenship; and

WHEREAS, the Duanesburg Town Board acknowledges and applauds this country's long history of legal immigration and celebrates the contributions that millions of legal immigrants have made to help build this nation; and

WHEREAS, the current policies of the Federal Government regarding US border security has created a human rights crisis at the border; and

WHEREAS, the referenced policies have created a federal crisis that has left the nation, and the states, counties, cities, and all local governments, unprepared and unable to handle the overwhelming volume of migrants into our communities; and

WHEREAS, the City of New York and State of New York continue to shift the burden to local governments in communities across upstate New York; and

WHEREAS, the local governments across the country do not have the capacity or resources to receive and sustain the influx of migrants under these circumstances;

NOW THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Duanesburg does hereby fully support Schenectady County's declaration of a State of Emergency.

NOW, THEREFORE, BE IT FURTHER RESOLVED, that the Town Board of the Town of Duanesburg calls upon the County of Schenectady to take action with regard to this situation as follows:

1) prohibiting the mass relocation of migrants, as described above, to any community within the county; and

2) forbidding any municipality, persons, business, or entities within the county to partake in the transportation and/or housing of any migrants without a license issued by the county and the local government in which the migrant is seeking housing.

By (unanimous/majority) vote of the Town Board of the Town of Duanesburg at its regular meeting on July 27, 2023.



William Wenzel, Town Supervisor



Jennifer Howe, Town Clerk

Present: ALL

Absent:

Council Members:

William Wenzel	<u>Yea</u>	Nay	Abstain
Rick Potter	<u>Yea</u>	Nay	Abstain
Michael Santulli	<u>Yea</u>	Nay	Abstain
Dianne Grant	<u>Yea</u>	Nay	Abstain
Andrew Lucks	<u>Yea</u>	Nay	Abstain

TOWN OF DUANESBURG TOWN BOARD

RESOLUTION 98 - 23

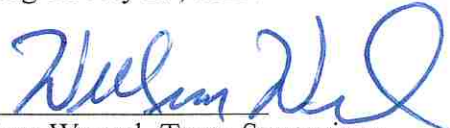
July 27, 2023

WHEREAS, The Town of Duanesburg has a duly adopted Employee Handbook;

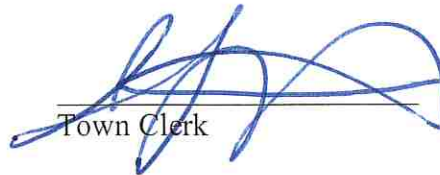
WHEREAS, The Town Board and the Town Staff have reviewed the attached addition to the Employee Handbook on the use of Town Vehicles;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves the attached addition to the Employee Handbook addressing the use of Town Vehicles and directs that the addition be inserted in the Employee Handbook and distributed to all Town Employees.

By (unanimous/majority) vote of the Town Board of the Town of Duanesburg at its regular meeting on July 27, 2023.



William Wenzel, Town Supervisor



Town Clerk

Present: ALL

Absent:

Council Members:

William Wenzel	<u>Yea</u>	Nay	Abstain
Dianne Grant	<u>Yea</u>	Nay	Abstain
Andrew Lucks	<u>Yea</u>	Nay	Abstain
Francis Potter	<u>Yea</u>	Nay	Abstain
Michael Santulli	<u>Yea</u>	Nay	Abstain

Insert to Duanesburg Employee Handbook (July 27, 2023)

1100 Vehicle Use

1101 Scope & Purpose

The Town shall provide vehicles for various departments and employees for the purpose of conducting Town business when determined necessary by the Town Board or by the Town Supervisor.

Vehicles shall include all equipment, tractors, land mowers, trailers and the like.

Town vehicles are not personal vehicles and are not for personal use. Town vehicles shall be viewed as belonging to the residents of the Town of Duanesburg and are assigned solely for purposes consistent with providing services to those residents.

To the extent this Policy conflicts with any applicable Collective Bargaining Agreement, or law, such Agreement or law shall control.

1102 License Requirements

Any employee who is required to drive either a Town-owned vehicle, or his/her personal vehicle to conduct business on behalf of the Town, must possess, at the time of appointment, and must maintain throughout employment, a valid New York State driver's license.

Each employee who is authorized to operate a town-owned vehicle shall be 18 years of age or older and have, on file with the Town Supervisor's office, a copy of a current, valid New York State driver's license or commercial driver's license.

In addition, employees who are required to operate vehicles requiring a Commercial Driver's License (CDL) must maintain this license throughout employment. Employees requiring a CDL license must also submit to random alcohol and drug testing. Department Heads will notify employees that have been selected for testing upon arrival at work on the day of the test. Employees will be provided with appropriate documentation and will immediately report to the lab for testing. Employees required to possess a driver's license to perform job duties and responsibilities shall immediately inform their Department Head should their license be suspended or revoked. The loss or suspension of your license may have an effect on your employment with the Town, if required to perform certain job duties and responsibilities.

Employees shall meet or exceed all insurability standards, as established by the Town Board or the Town's insurance carrier, which are required for the use or operation of a Town vehicles. An employee with a Motor Vehicle Record grade of "poor" may not be insurable by our carrier. If driving is required as part of an employee's position, the inability to be insured could jeopardize ones' employment.

Town employees who operate Town-owned vehicles shall be required to take a defensive driving course at least once every three years.

The Town shall sponsor a defensive driving course for these Town employees every three years. Newly hired employees who operate Town-owned vehicles are required to have a current defensive driving course certificate. Employees that do not have a current certificate will have 90 days from their date of hire to obtain said certificate. The Town will reimburse the employee for the cost of the defensive driving course, up to a maximum of thirty dollars (\$30.00).

1103 General Vehicle Use Regulations

All Town-owned vehicles shall be assigned by the Town Supervisor's office, either for specific Town employees' use or department use. Assignment of vehicles is discretionary and may be modified, at any time, by the Town Supervisor's office. Contractors and sub-contractors are not authorized to drive Town-owned vehicles.

The assignment of vehicles for twenty-four (24) hour use will be made by the Town Supervisor and will be considered for employees who require a vehicle for the ordinary and necessary discharge of their job functions such as frequent emergency availability. The vehicle should be driven the most direct route, from residence to place of work, taking into account road and traffic conditions.

Town-owned vehicles shall be operated for Town business only. All Town vehicles shall be always operated in a safe manner. All traffic regulations shall be complied with by any driver of a Town-owned vehicle.

The use of Town vehicles for personal purposes or use by unauthorized individuals is strictly prohibited. Friends, family members, and pets of Town employees are not permitted as passengers in Town vehicles.

No employee may use a municipal vehicle for a distance greater than 125 miles from the Town of Duanesburg within New York State or for out of state use without approval of the Town Supervisor.

Vehicles should contain only those items for which the vehicle is designed to carry. The Town shall not be liable for the loss or damage of any personal property transported in the vehicle.

Town-owned vehicles shall remain free from markings such as political paraphernalia, bumper stickers, signs, advertisements, and the like.

Employees are expected to keep municipal vehicles clean, inside and out, and to report any malfunction or damage to their Department Head.

Smoking is not permitted in Town-owned Vehicles.

Employees assigned vehicles are expected to park vehicles in safe and appropriate locations.

Safety is the first priority in the operation of any Town-owned vehicle.

While operating Town-owned vehicles employees are not permitted to use hand-held portable electronic devices for reading and/or responding to emails, text messages and phone calls.

Employees who use medications prescribed by their physician which may impair their operation of a town vehicle, or employees who take over-the-counter medications such as cold/allergy medications and/or cough syrups, and where medications or syrups come with warnings which can indicate that "mechanical equipment should not be operated while using this medication" are to exercise discretion in the operation of any Town vehicle.

Operation of any vehicle while under the influence of alcohol or illegal substances is strictly prohibited. This is a "zero-tolerance" policy, any employee who violates this policy shall be subject to termination.

1104 Traffic Violations & Accidents

Any employee who is charged with a traffic violation while driving a Town vehicle shall be held personally responsible for the payment of any fines incurred during the use. In addition, the employee shall bring such violation(s) to the attention of their Department Head in writing.

Any employee who is involved in an accident with a Town vehicle regardless of severity, shall obtain a Police Accident Report on the circumstances of the accident. The Department Head will in turn submit the report to the Town's Insurance Carrier and to the Town Supervisor.

1105 Operations & Maintenance

Department Heads shall insure that any Town-owned vehicle assigned to the department for use by department personnel is available on a daily basis for use by the department personnel. Regular maintenance shall be scheduled through the department. Except in extraordinary situations or where public safety and well-being is involved, any Town-owned vehicle shall be returned to the Town parking lot each night, with a full tank of fuel.

Each vehicle shall have a safety check each morning, prior to use, which should include; check of directionals, pump brakes, check of tires, check for any leaks, and a check of all lights. To the extent possible, each vehicle shall be filled with fuel from a Town-owned pump.

Department Heads shall advise the mechanics of the need for inspections, and/or repairs in a timely manner. Each vehicle shall be regularly inspected to ensure that the vehicle is in proper and safe condition. If there is a question, the Town's mechanics shall be consulted.

1106 Violations & Penalties

Failure to comply with any and all provisions of this policy may result in disciplinary action up to and including removal of Town vehicle privileges, suspension, and/or termination from Town service.

TOWN OF DUANESBURG TOWN BOARD

RESOLUTION ~~10~~ 23

July 27, 2023

WHEREAS, the Town of Duanesburg Town Board has for several years been attempting to construct an addition to the Town Hall that will improve access to the existing building and provide restroom facilities on the lower floor, among other improvements that are in the public interest;

WHEREAS, the purpose of the project is to improve the Town Hall to enhance the provision of municipal services necessary to accommodate growth and to address issues identified during the Covid Pandemic for which ARPA funds are being used; and

WHEREAS, the Town wishes to enter into a Professional Service Agreement (the "Agreement") with a professional engineer, Al Stahl, associated with Northeastern Log Homes (the "Engineer") for professional engineering services to supply design and construction drawings for the Town Hall addition; and

WHEREAS, the Town Board received proposals or had work done in the past by other engineering firms including AE Prime and CT Male, respectively, copies of these are available in the Town Clerk's Office; and

WHEREAS, the Town Board has determined that the Agreement is a professional services agreement not subject to competitive bidding in accordance with General Municipal Law §104-b; and

WHEREAS, the Town Deputy Supervisor will negotiate and prepare a Professional Services Agreement with the Engineer with the assistance of the Town's law firm; and

WHEREAS, the Town Supervisor, with the advice of the Board of Ethics, has determined that since he commonly works with Northeastern Log Homes as an independent contractor, he will recuse himself from this matter and not be involved in the work being undertaken by the engineer; and

WHEREAS, Chris Parslow, the Town's Building Inspector and Dale Warner will be responsible for working with the engineer and for developing the documents necessary to put the work on the addition out to bid and for supervising that work on behalf of the Town;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board approves Northeastern Log Homes as an approved vendor and authorizes the Deputy Town Supervisor to execute the Professional Service Agreement attached hereto.

By (unanimous/majority) vote of the Town Board of the Town of Duanesburg at its regular meeting on July 27, 2023.

Francis Potter

Francis Potter, Deputy Supervisor

[Signature]

Town Clerk

Present: Council members Grant, Potter, Lucas + Santulli.

Absent: Supervisor Wenzel recused from reading and vote

Council Members:

William Wenzel

RECUSED

Dianne Grant

Yea

Nay Abstain

Andrew Lucks

Yea

Nay Abstain

Francis Potter

Yea

Nay Abstain

Michael Santulli

Yea

Nay Abstain

AIA[®] Document A104[®] – 2017

Standard Abbreviated Form of Agreement Between Owner and Contractor

AGREEMENT made as of the day of July in the year 2023
(In words, indicate day, month and year.)

BETWEEN the Owner:
(Name, legal status, address and other information)

Town of Duanesburg 5853 Western Turnpike
Duanesburg, NY 12056

and the Contractor:
(Name, legal status, address and other information)

Northeastern Log Homes
PO Box 46
Kenduskeag, ME 04450-0046

for the following Project:
(Name, location and detailed description)

Town Hall Addition Plans
5853 Western Turnpike
Duanesburg, NY 12056

The Architect:
(Name, legal status, address and other information)

NA

The Owner and Contractor agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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User Notes:

(810963537)

(Paragraphs deleted)

ARTICLE 1 THE WORK OF THIS CONTRACT

The Contractor shall execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

ARTICLE 2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 2.1 The date of commencement of the Work shall be:

(Check one of the following boxes.)

- ☒ [X] The date of this Agreement.
- ☐ [] A date set forth in a notice to proceed issued by the Owner.
- ☐ [] Established as follows:
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 2.2 The Contract Time shall be measured from the date of commencement. All times set forth in the Contract Documents shall be time is of the essence.

§ 2.3 Final Completion

§ 2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Final Completion of the entire Work:

(Check the appropriate box and complete the necessary information.)

- ☒ [X] Not later than ____ (____) calendar days from the date of commencement of the Work.
- ☐ [] By the following date:

(Paragraph deleted)

(Table deleted)

(Paragraph deleted)

ARTICLE 3 CONTRACT SUM

§ 3.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be one of the following:

(Check the appropriate box.)

- ☒ [X] Stipulated Sum, in accordance with Section 3.2 below
- ☐ [] Cost of the Work plus the Contractor's Fee, in accordance with Section 3.3 below
- ☐ [] Cost of the Work plus the Contractor's Fee with a Guaranteed Maximum Price, in accordance with Section 3.4 below

(Based on the selection above, complete Section 3.2, 3.3 or 3.4 below.)

§ 3.2 The Stipulated Sum shall be **Four Thousand Six Hundred and 00/100 Dollars (\$ 4,600.00)**, subject to additions and deductions as provided in the Contract Documents.

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(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
ARTICLE 4 PAYMENT

§ 4.1 Payment
(Paragraph deleted)
§ 4.1.1 Payment, constituting the balance of the Contract Sum, shall be made by the Owner to the Contractor when
 .1 the Contractor has fully performed the Contract.
 .2 the Contractor has submitted to Owner the full set of Plans as approved by the Owner.
§ 4.1.2 The Owner's payment to the Contractor shall be made no later than 30 days after completion of the Work by the Contractor.

(Paragraphs deleted)
ARTICLE 5 DISPUTE RESOLUTION
§ 5.1 Binding Dispute Resolution
For any claim subject to, but not resolved by, mediation pursuant to Section 21.5, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

☐ Arbitration pursuant to Section 21.6 of this Agreement
☒ Litigation in a court of competent jurisdiction
☐ Other (Specify)
(Paragraphs deleted)

ARTICLE 6 ENUMERATION OF CONTRACT DOCUMENTS
§ 6.1 The Contract Documents are defined in Article 7 and, except for Modifications issued after execution of this Agreement, are enumerated in the sections below.
§ 6.1.1 The Agreement is this executed AIA Document A104™-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor.

§ 6.1.2 Additional documents, if any, forming part of the Contract Documents:
 .1 Other Exhibits:
 (Check all boxes that apply.)

Title	Date	Pages
NA		

[] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
NA			

- .2 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents.)

Contractor's Proposal Letter dated July 26, 2023 attached hereto (the "Contractor's Proposal")

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

(Table deleted)

(Paragraph deleted)

ARTICLE 7 GENERAL PROVISIONS

§ 7.1 The Contract Documents

The Contract Documents are enumerated in Article 6 and consist of this Agreement (including, if applicable, Supplementary and other Conditions of the Contract), the Contractor's Proposal, other documents listed in this Agreement, and Modifications issued after execution of this Agreement. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, or (3) a Construction Change Directive. The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 7.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind between any persons or entities other than the Owner and the Contractor.

§ 7.3 The Work

The term "Work" means the completion of a full set of plans for the construction of an addition to the Town of Duaneburg Town Hall (the "Plans"), in form reasonably satisfactory to Owner. Contractor shall subcontract with Alfred Stahl (the "Consulting Engineer"), in connection with the performance of the Work. All professional design services, including, without limitation, the Plans, or certifications to be provided by the Contractor or the Consulting Engineer, including all plans, drawings, calculations, specifications, certifications, and other submittals, shall contain the signature and seal of the licensed design professional preparing them, who shall be licensed in the State of New York. The Plans shall comply with all applicable laws and regulations of the State of New York. The Owner shall be entitled to rely upon the adequacy, accuracy and completeness of the Plans, services, certifications or approvals performed by such design professionals.

§ 7.4 Severability

The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and

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enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 7.5 Notice

§ 7.5.1 Except as otherwise provided in Section 7.952, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission or as otherwise set forth below:

§ 7.5.2 Notice of Claims shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

(Paragraphs deleted)

ARTICLE 8 OWNER

§ 8.1 Owner's Right to Stop the Work

If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents, or repeatedly fails to carry out the Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order is eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity.

(Paragraphs deleted)

§ 8.2 EXTENT OF OWNER'S RIGHTS

The rights stated in this Article 8 and elsewhere in the Contract Documents are cumulative and not in limitation of any rights of the Owner (i) granted in the Contract Documents, (ii) at law, or (iii) in equity. In no event shall the Owner have control over, charge of, or any responsibility for construction means, methods, techniques, sequences, or procedures in connection with the Work, notwithstanding any of the rights and authority granted the Owner in the Contract Documents.

(Paragraphs deleted)

ARTICLE 9 CONTRACTOR

§ 9.1 Supervision and Construction Procedures

§ 9.1.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over the Work and shall coordinate all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters.

§ 9.1.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors, the Consulting Engineer and their agents and employees, and other persons or entities performing portions of the Work for or on behalf of the Contractor or any of its Subcontractors.

(Paragraph deleted)

§ 9.2 Labor and Materials

§ 9.2.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, transportation, and other facilities and services necessary for proper execution and completion of the Work whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

(Paragraph deleted)

§ 9.3 Warranty

The Contractor warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects. Work, not conforming to these requirements may be considered defective..

(Paragraphs deleted)

§ 9.4 Taxes

The Contractor shall pay applicable sales, consumer, use, and other similar taxes.

§ 9.5 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work, including, without limitation, all applicable federal and local laws, statutes, ordinances, codes, rules and regulations regarding the environment, health and safety. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 9.6 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

(Paragraphs deleted)

§ 9.7

(Paragraphs deleted)

Indemnification

(Paragraphs deleted)

§ 9.7.1 To the fullest extent permitted by law, the Contractor shall indemnify, defend and hold harmless the Owner, the Owner's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, the Consulting Engineer anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss, or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity which would otherwise exist as to a party or person described in this Section 9.7.1.

§ 9.7.2 In claims against any person or entity indemnified under this Section 9.7 by an employee of the Contractor, a Subcontractor, the Consulting Engineer, anyone directly or indirectly employed by them, or anyone for whose acts they may be liable, the indemnification obligation under Section 9.7.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

ARTICLE 10 SUBCONTRACTORS

§ 10.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work.

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§ 10.2 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner of the Subcontractors or suppliers proposed for each of the principal portions of the Work. The Contractor shall not contract with any Subcontractor or supplier to whom the Owner has made reasonable written objection within ten days after receipt of the Contractor's list of Subcontractors and suppliers. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

(Paragraphs deleted)

§ 11.3 Contracts between the Contractor and Subcontractors shall (1) require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by the terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by the Contract Documents, assumes toward the Owner, and (2) allow the Subcontractor the benefit of all rights, remedies and redress against the Contractor that the Contractor, by these Contract Documents, has against the Owner.

ARTICLE 11 CHANGES IN THE WORK

§ 11.1 By appropriate Modification, changes in the Work may be accomplished after execution of the Contract. The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, with the Contract Sum and Contract Time being adjusted accordingly. Such changes in the Work shall be authorized by written Change Order signed by the Owner and the Contractor, or by written Construction Change Directive signed by the Owner. Upon issuance of the Change Order or Construction Change Directive, the Contractor shall proceed promptly with such changes in the Work, unless otherwise provided in the Change Order or Construction Change Directive.

§ 11.2 Adjustments in the Contract Sum and Contract Time resulting from a change in the Work shall be determined by mutual agreement of the parties or, in the case of a Construction Change Directive signed only by the, by the Contractor's cost of labor, material, equipment, and reasonable overhead and profit, unless the parties agree on another method for determining the cost or credit. Pending final determination of the total cost of a Construction Change Directive, the Contractor may request payment for Work completed pursuant to the Construction Change Directive. When the Owner and Contractor agree on adjustments to the Contract Sum and Contract Time arising from a Construction Change Directive, the Contractor will prepare a Change Order.

ARTICLE 12 TIME

§ 12.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing this Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 12.2 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Final Completion of the Work.

§ 12.3 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

(Paragraph deleted)

§ 12.5 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) changes ordered in the Work; (2) by labor disputes, fire, unusual delay in deliveries, abnormal adverse weather conditions not reasonably anticipatable, unavoidable casualties, or any causes beyond the Contractor's control; or (3) by other causes that the Contractor asserts, and the Owner determines, justify delay, then the Contract Time shall be extended for such reasonable time as the Owner may determine.

init.

ARTICLE 13 PAYMENT AND COMPLETION

§ 13.1. Final Completion and Payment

§ 13.1.1 Upon receipt of the Contractor's notice that the Work is ready for final review and acceptance the Owner shall review the Work and, if reasonably acceptable, approve the Work.

§ 13.2 Payment shall not become due until the Contractor has delivered to the Owner a complete set of the plans as approved by Owner.

(Paragraphs deleted)

§ 13.3. The making of payment shall constitute a waiver of claims by the Owner except those arising from

- .1 liens, claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 15.1.4 Acceptance of payment by the Contractor, a Subcontractor or supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of the final Application for Payment.

ARTICLE 14 INSURANCE AND BONDS

§ 14.1 Contractor's Insurance

(Paragraphs deleted)

§ 14.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in this Section 14.1 or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the insurance required by this Agreement from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

§ 14.1.2 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than One Million Dollars (\$ 1,000,000.00) each occurrence, Two Million Dollars (\$ 2,000,000.00) general aggregate, and (\$) aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Contractor's indemnity obligations under Section 9.15.

§ 14.1.3 Automobile Liability covering vehicles owned by the Contractor and non-owned vehicles used by the Contractor, with policy limits of not less than One Million Dollars (\$ 1,000,000.00) per accident, for bodily injury,

init.

death of any person, and property damage arising out of the ownership, maintenance, and use of those motor vehicles along with any other statutorily required automobile coverage.

§ 14.1.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as those required under Section 14.1.2 and 14.1.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.1.5 Workers' Compensation at statutory limits.

§ 14.1.7 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than One Million Dollars (\$ 1,000,000.00) each claim, Two Million Dollars (\$ 2,000,000.00) general aggregate,

§ 14.1.8 The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Section 14.1 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy.

§ 14.1.9 The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ 17.1.10 To the fullest extent permitted by law, the Contractor shall cause the commercial liability coverage required by this Section 14.1 to include (1) the Owner, the Owner's Consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04.

§ 17.1.11 Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by this Section 14.1, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

ARTICLE 15 CORRECTION OF WORK

§ 15.1 The Contractor shall promptly correct Work rejected by the Owner or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed, or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, shall be at the Contractor's expense.

(Paragraphs deleted)

ARTICLE 16 MISCELLANEOUS PROVISIONS

(Paragraphs deleted)

Inf.

§ 16.1 Assignment of Contract

(Paragraphs deleted)

Neither party to the Contract shall assign the Contract without written consent of the other, except that the Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

§ 16.2 Governing Law

The Contract shall be governed by the law of the State of New York, excluding that jurisdiction's choice of law rules.

(Paragraphs deleted)

§ 16.3 Tests and Inspections

Tests, inspections, and approvals of portions of the Work required by the Contract Documents or by applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities shall be made at an appropriate time. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Owner timely notice of when and where tests and inspections are to be made so that the Owner may be present for such procedures.

§ 16.4 The Owner's representative:

(Name, address, email address and other information)

Francis R. Potter
Town of Duaneburg
5853 Western Turnpike
Duaneburg, NY 12056

§ 16.5 The Contractor's representative:

(Name, address, email address and other information)

Bary Jones
Northeastern Log Homes
PO Box 46
Kenduskeag, ME 04450-0046

§ 16.6 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

16.7 CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS. Contractor

acknowledges and agrees that the Work is to be funded, in whole or in part, using American Rescue Plan Act, Coronavirus State and Local Fiscal Recovery Funds. Contractor ensures that no costs of the Work will be sought for or reimbursed by other federal or state funding streams. Contractor is subject to the

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User Notes: (810963537)

applicable provisions and requirements of the following documents, which are incorporated herein by reference, where Treasury issues exceptions or waivers to any of the federal requirements stated in the documents below, such exceptions and waivers shall automatically be incorporated by reference into this agreement and control over any conflicting provisions of this Agreement:

- .1 U.S. Department Of The Treasury Coronavirus Local Fiscal Recovery Fund Award Terms And Conditions (OMB Approved 1505-0271)
- .2 Assurances Of Compliance With Civil Rights Requirements (OMB Approved 1505-0271).

ARTICLE 17 TERMINATION OF THE CONTRACT

§ 17.1 Termination by the Contractor

If the Owner fails to make payment as provided in Section 4.1.3 for a period of 30 days, the Contractor may, upon seven additional days' notice to the Owner, terminate the Contract and recover from the Owner payment for Work executed. S.

(Table deleted)

(Paragraphs deleted)

§ 17.2 Termination by the Owner for Cause

§ 17.2.1 The Owner may terminate the Contract if the Contractor

- .1 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .2 disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .3 otherwise is guilty of substantial breach of a provision of the Contract Documents.
- .4 breaches any warranty by the Contractor under or pursuant to the Contract Documents;
- .5 fails to furnish the Owner with assurances satisfactory to the Owner evidencing the Contractor's ability to complete the Work in compliance with all the requirements of the Contract Documents; or
- .6 fails after commencement of the Work to proceed continuously with the completion of the Work for more than five (5) calendar days, except as permitted under the Contract Documents.

§ 17.2.2 When any of the reasons described in Section 17.2.1 exists, the Owner, may, without prejudice to any other remedy the Owner may have and after giving the Contractor one day's notice, terminate the Contract and take possession of the Work by whatever reasonable method the Owner may deem expedient. Upon request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

(Paragraphs deleted)

§ 17.2.3

(Paragraphs deleted)

When the Owner terminates the Contract for one of the reasons stated in Section 17.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

(Table deleted)

§ 17.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, and this obligation for payment shall survive termination of the Contract.

§ 17.3 Termination by the Owner for Convenience

The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause. The Owner shall pay the Contractor for Work executed.

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(Insert the amount of or method for determining the fee payable to the Contractor by the Owner following a termination for the Owner's convenience, if any.)

n/a

(Paragraphs deleted)

ARTICLE 18 CLAIMS AND DISPUTES

§ 18.1 Claims, disputes, and other matters in question arising out of or relating to this Contract, shall be referred initially to mediation as a condition precedent to binding dispute resolution.

§ 18.2 Notice of Claims

§ 18.2.1 Claims by either the Owner or Contractor, shall be initiated by notice to the other party within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 18.2.2 Claims by either the Owner or Contractor, shall be initiated by notice to the other party.

§ 18.3 Time Limits on Claims

The Owner and Contractor shall commence all claims and causes of action against the other and arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in this Agreement whether in contract, tort, breach of warranty, or otherwise, within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all claims and causes of action not commenced in accordance with this Section 18.3.

§ 18.4 If a claim, dispute or other matter in question relates to or is the subject of a mechanic's lien, the party asserting such matter may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 18.5 The parties shall endeavor to resolve their disputes by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with their Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 18.10 Continuing Contract Performance

Pending final resolution of a Claim, except as otherwise agreed in writing, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 18.11 Waiver of Claims for Consequential Damages

The Contractor and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 20. Nothing contained in this Section 18.11 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

This Agreement entered into as of the day and year first written above.

TOWN OF DUANESBURG

NORTHEASTERN LOG HOMES

OWNER (Signature)

Francis R. Potter

(Printed name and title)

CONTRACTOR (Signature)

(Printed name and title)

(Table deleted)(Paragraphs deleted)

Init.

1
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(810963537)



July 26, 2023

Town of Duanesburg
5853 Western Turnpike
Duanesburg, NY 12056

Project: Town Hall Addition Plans

To Whom It May Concern:

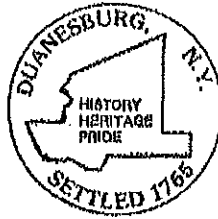
Northeastern Log Homes has agreed to supply a complete set of plans for the Town of Duanesburg Town Hall addition project for the price of \$4600.00. These plans will be stamped by Alfred Stahl, Consulting Engineer.

Any changes to the plans after approval may result in an increase to the plan price.

Sincerely,

Barry Jones
Northeastern Log Homes

Board of Ethics



Tammy J. Arquette, Chair
Jean E. Frisbee
Francis R. Potter
James Mugits
Lorri M. Meyers

Town of Duanesburg

Schenectady County

William Wenzel (wwenzel@duanesburg.net)
Duanesburg Town Board
Duanesburg Town Hall
Duanesburg, NY 12056

Re: Request for Advisory Opinion
Index NO. 2023-1

Dear Mr. Wenzel:

Please be advised that the Ethics Board has received and reviewed your e-mailed of July 3, 2023 request for an advisory opinion.

We believe that the relevant portions of the Duanesburg Code of Ethics are as follows:

SECTION 4. DEFINITIONS

As used in this Local Law, the following terms shall have the meanings indicated:

INTEREST:

Any claim, account or demand against or in agreement with the Town, express or implied, including designation of a depository of public funds and the designation of an official newspaper, and any direct or indirect pecuniary or material benefit accruing to a Town Board Member, a Town Officer or a Town Employee as a result of a business or professional transaction with the Town. For the purposes of this Local Law, a Town Board Member, Town Officer or Town Employee shall be deemed to have a direct interest in the affairs of:

B. A business concern, limited partnership, limited liability company, corporation, partnership or association (collectively, "Business Entity"), of which such Town Board Member, Town Officer or Town Employee, or any Immediate Family Member, is a member, partner, owner, shareholder, officer, director, manager or employee.

SECTION 5. STANDARDS OF CONDUCT

(a) No Town Board Member, Town Officer or Town Employee shall have any Interest, financial or otherwise, direct or indirect, or engage in any business or transaction or professional activity or incur any obligation of any nature, which is in substantial conflict with the proper discharge of his duties in the public interest.

(b) No Town Board Member, Town Officer or Town Employee shall have an Interest in any contract with the Town, when such board member, officer or employee, individually or as a member of a board, has the power or duty to (i) negotiate, prepare, authorize or approve such contract or payments thereunder; (ii) audit bills or claims under such contract; or (iii) appoint a board member, officer or employee who has any of the powers or duties set forth herein.

(g) No Town Board Member, Town Officer or Town Employee shall engage in any transaction as Town Consultant, or as a representative or agent of the Town, with any business entity in which he has a direct or indirect interest, financial or otherwise, that might reasonably tend to conflict with the proper discharge of his official duties.

(k) Each Town Board Member, Town Officer and Town Employee shall disclose any interest of which he is aware in any matters pending before the Town.

(m) Each Town Board Member, Town Officer and Town Employee shall promptly recuse himself from acting on a matter before the Town if acting on the matter, or failing to act on the matter, may financially benefit any of the following persons: (i) the Town Board Member, Town Officer or Town Employee; (ii) his outside employer or business; (iii) any Immediate Family Member; (iv) a customer or client; (v) a relative; or (vi) a person or Business Entity from whom the Town Board Member, Town Officer or Town Employee has received election campaign contributions of more than One Thousand (\$1000) Dollars in the aggregate during the past twelve months.

SECTION 6. DISCLOSURE OF INTEREST

(a) Contracts or Agreements. Any Town Board Member, Town Officer or Town Employee who has, will have, or later acquires an interest in an actual or proposed contract or agreement with the Town or other matter pending before any board or agency thereof, shall publicly disclose the nature and extent of such interest in writing to his immediate supervisor and to the governing body thereof as soon as he has knowledge of such actual or prospective interest. Such written disclosure shall be made part of and set forth in the official record of the proceedings of such body.

You have indicated in your correspondence that you are affiliated with Northeastern Log Homes as an independent authorized factory representative. You have further indicated that you have asked Northeastern Log Homes to provide the Town Board with an estimate for the cost of stamped drawings, documentation and blueprints for the Town's proposed addition, roof and HVAC projects and have received a quote of \$4,600.00 for the same. The Board is contemplating a vote on a resolution to engage Northeastern Log Homes to provide the services at the quoted price. It is noted that you are the Town Supervisor for the Town of Duanesburg.

It is the opinion of the Board of Ethics that there is an inherent conflict of interest between your role on the Town Board as Town Supervisor and your interest in Northeastern Log Homes. In short, although you may not be a formal employee of Northeastern Log Homes, you are certainly an independent authorized factory representative of that company and do business with that company. Because it is the opinion of the Board of Ethics that your relationship with Northeastern Log Homes falls within the definition of interest in Local Law No. 1 of the Year 2010, known as the Code of Ethics, you should meet certain obligations and requirements that are set forth in Section 5, subparagraph k and m of said code. More specifically, you should make full written disclosure to the Town Board and you should recuse yourself from acting on the matter before the Town concerning Northeastern Log Homes' contract,

including but not limited to, the negotiating of the contract, voting on the contract, voting on that portion of the budget which directs payment of the contract and any other matters that deal with and/or address negotiating the contract and price for Northeastern Log Homes. Section 6, paragraph a of the Code, more specifically clarifies the written disclosure requirement which includes a public disclosure of the nature and extent of your interest in writing to the Town Board and that such written disclosure should be made part of and set forth in the official record of the proceedings of the Town Board.

If you should have any other questions or concerns, please feel free to reach out to the Board of Ethics.

Thank you for your attention to this matter.

Respectfully submitted,



Tammy J. Arquette, Chairperson

PO Box 160
Quaker Street, NY 12141

William Wenzel, Supervisor
Town of Duanesburg
5853 Western Turnpike
Duanesburg, NY 12056

Transmitted via email: jhowe@duanesburg.net

July 13, 2023, 2023

Re: Privilege of the Floor, Ethics Board Annual Reports

Dear Supervisor Wenzel,

On June 26, 2023 I submitted a Freedom of Information to the town clerk for the Ethics Board's meeting dates, agendas, meeting minutes, correspondence letters and emails between January 1, 2019 to June 26, 2023.

On July 6, 2023 the town yielded 24 pages of documents. This included the April 4, 2019 annual report summarizing the ethic board's activities in 2018.

The Board of Ethics law Section 13(a) states "(a) The Board of Ethics shall prepare and submit an annual report to the Town Board of the Town of Duanesburg, summarizing the activities of the Board of Ethics. The report may recommend changes to the text or administration of this Local Law."

Has the Board of Ethics provided the town board with annual reports for 2019, 2020, 2021 and 2022?

Or did I make an error by not stating "report" in my June 26, 2023 Freedom of Information request?

Thank you for your time and consideration.

Respectfully,
Lynne Bruning
720-272-0956
lynnebruning@gmail.com

CC: Tammy Arquette, Esq, Chair of the Town of Duanesburg Ethics Board

PO Box 160
Quaker Street, NY 12141

William Wenzel, Supervisor
Town of Duanesburg
5853 Western Turnpike
Duanesburg, NY 12056

Transmitted via email: jhowe@duanesburg.net

July 13, 2023

Re: Meeting Minutes June 22, 2023

Dear Supervisor Wenzel,

At the June 22, 2023 the town board entered executive session to discuss the possible addition to the building and to seek legal counsel.

The draft meeting minutes posted on the town website reflect that the board voted to enter executive session at 7:22 PM and came out of executive session at 7:55 PM.

https://www.duanesburg.net/sites/g/files/vyhlif4351/f/minutes/june_22_2023_tb_minutes_draft_0.pdf

The meeting minutes do not reflect if the board took action or if no action was taken.

The meeting minutes may lack accountability and transparency.

Did the town board take any action at the June 22, 2023 executive session?

Thank you for your time and consideration.

Respectfully,
Lynne Bruning
720-272-0956
lynnebruning@gmail.com

PO Box 160
Quaker Street, NY 12141

William Wenzel, Supervisor
Town of Duanesburg
5853 Western Turnpike
Duanesburg, NY 12056

Transmitted via email: jhowe@duanesburg.net

July 27, 2023

Re: Meeting Videos

Dear Supervisor Wenzel,

Recordings of town, planning and zoning board meetings are posted on four different youtube channels. The quality of recent recordings does not allow the board members or public speakers to be heard. The board members voices cut in and out. Speakers distant from a microphone can not be heard. The videos do not appear to be a reliable record of town board activity.

For example:

July 13, 2023 Town Board meeting video
<https://www.youtube.com/watch?v=i7gkim3wnf0>

July 18, 2023 Zoning Board video
<https://youtu.be/FOegdpvfd90>

July 20, 2023 Planning Board meeting video
<https://www.youtube.com/watch?v=GTVn8CMmLKY>

Recordings of poor quality do not provide the taxpayers with an accurate and transparent understanding of town actions. This may open the door to impropriety and fraud.

I request that

1. the town purchase additional microphones and improve how the board meeting video recordings are made; and
2. that audio recordings of the meetings are also made.

Thank you for your time and consideration.

Respectfully,

Lynne Bruning
720-272-0956
lynnebruning@gmail.com



New York's 2020 General Election: A STUDY IN DEFICITS

Report Produced by New York Citizens Audit

New York Citizens Audit is a citizen's group organized for the purpose of performing an open-source audit of the 2020 General Election in New York. The following report focuses on the three basic tenets of an election:

- 1 ► **Voter rolls must be accurate,**
- 2 ► **Votes counted must be from qualified electors,**
- 3 ► **The number of votes must equal the number of voters.**

1

VOTER ROLLS MUST BE ACCURATE

Researchers from New York Citizens Audit (NYCA) examined voter rolls provided by the New York Board of Elections (NYSBOE), as well as voter rolls provided by the county BOEs (where these were granted), pursuant to freedom of information law (FOIL) requests. New York State election law provides clear guidance regarding the qualifications for a person to register to vote:

Election (ELN) CHAPTER 17, ARTICLE 5

§ 5-102. Qualifications of voters; age and residence.

1. No person shall be qualified to register for and vote at any election unless he is a citizen of the United States and is or will be, on the day of such election, eighteen years of age or over, and a resident of this state and of the county, city or village for a minimum of thirty days next preceding such election.

§5-204. Local registration; General Provisions for the Conduct of.

3. b. If the applicant's name does not appear on the list of registered voters and if the applicant is not challenged, and he is found by the inspectors of election to be otherwise qualified, they shall complete his registration as provided herein.
- c. If the person's name appears on the list of registered voters and he is residing at the same address as set forth therein, his registration shall be refused as unnecessary.

Additionally, New York State election law makes clear what elements comprise a complete registration record:

§ 5-500. Registration records; form and content.

4. The central file registration records and the face of the registration poll records shall contain a space for the voter's signature, preceded by the words, "The foregoing statements are true", and followed by the signature of the two members of the board of inspectors or central registration board by whom the voter is registered. In addition, there shall be spaces for the following entries, all of which shall precede the space for the voter's signature:
 - a. Serial number assigned to voter and county of registration;
 - b. The voter's surname, given name and initials of other names;
 - c. The date of registration;
 - d. The residence address at which the voter claims to reside and post office address, if not the same; and the number or designation of the room, apartment, or floor occupied by the voter if he or she does not claim the entire building as his or her residence;
 - e. The assembly district or ward and the election district in which such residence address is located;
 - f. The length of the voter's residence in the county or city calculated to the time of the next general election;
 - g. Whether the voter has previously voted or registered to vote and, if so, the approximate year in which he last voted or registered and his name and address at the time;
 - h. His date of birth;
 - i. A space for the applicant to indicate whether or not he is a citizen of the United States;
 - j. The gender of the voter (optional);
 - k. The telephone number of the applicant (optional);
 - l. Whether the voter was challenged;
 - m. A space for the applicant to indicate his choice of party enrollment, with a clear alternative provided for the applicant to decline to affiliate with any party.
 - n. On the face of each registration record there also shall be spaces appropriately entitled, for entering information about the cancellation of registration, the date of such cancellation and the reason therefor, and the signature of the two members or employees of the board, representing different political parties by whom the cancellation was recorded;
 - p. A space for pre-registering applicants to respond to the following question: "Are you at least 16 years of age and understand that you must be 18 years of age on or before election day to vote, and that until you will be eighteen years of age at the time of such election your registration will be marked 'pending' and you will be unable to cast a ballot in any election?"

IRREGULAR REGISTRATION

Despite the simple delineation under New York election law of voter qualifications, and the elements of a complete registration record including those that are considered “optional”, NYCA researchers found the following irregular registrations in the NYSBOE voter rolls (registrations identified as “suspicious”, “probably illegal”, “ineligible”, or “invalid” are collectively described as “irregular” in this document):

Clones*	<p>2,427,827 SBOEID numbers attached to 1,170,790 individuals regardless of current registration status.</p> <p>Of those, 1,374,953 were registered for the 2020 GE.</p> <p>Of those registered for 2020, there are 1,066,066 distinct individuals.</p> <p>This means there are a minimum of 1,257,037 excess SBOEID numbers regardless of registration status, and a minimum of 308,887 excess registrations for the 2020 GE.***</p>
Double name registrants	2,340
Blank address registrants	51,150
Age discrepant registrants**	19,712
Registration after 2020GE cutoff date, yet voted	27,639
Last vote date prior to age 12	27
Purged with no purge date listed	1,488,251
Purged before age 12	2
Purged before last voted date	126
Purged before registered	1,021
Registered after last voted date	70,429
Registered before age 12	4,724

No total provided due to possible overlap between irregular registration categories.

* Duplicate name and date of birth, but each assigned a unique state board of elections ID number; can carry multiple votes.

** Under age voter, or older than the oldest person known to be alive in the US.

*** It is possible that 2 or more individuals share the same name and DOB, but NYCA has no means of knowing if this actually occurred and if so, how often.

► Registrations made on federal holidays

NYCA identified:

- **1,106,646** registrations in the voter rolls made on federal holidays, for which there is no known explanation.
- **640,792** of these were registered for the 2020 general election, and
- **365,737** of these voted in the 2020 election.

New Year's Day is a federal holiday. All non-essential government offices are closed on this day. Should it fall on a weekend, when offices are closed anyway, the holiday is observed on the following Monday. Regardless, the NYSBOE voter rolls record **987,490** January 1st registrations across various years, from before the year 1900 through 2021. There are **202,573** January 1st registrations in Kings County. Other New York City counties come close, as shown below. Most New York counties have fewer than 10 registrations on this date, such as Chenango, which has 1. These registration dates suggest any one or a combination of the following possibilities:

1. **County BOE offices were open on this federal holiday, conducting business,**
2. **The entries are falsified, the result of maladministration,**
3. **The entries are falsified, the result of nefarious conduct.**

An accurate registration date is material to determining a voter's eligibility to vote in any given election. A false date makes it impossible to determine if the voter was eligible to vote during any election for which a vote was recorded.

COUNTY	JANUARY 1ST REGISTRATIONS
Bronx	116,396
Kings	202,523
New York	182,739
Queens	200,701
Richmond	59,692
TOTAL	762,051

► National Change of Address and Non-Citizens

Categories of known irregular registration that are not accounted for, as of publication, include individuals labeled in the national change of address (NCOA) database as having moved, and registrations assigned to non-citizens. NYCA is not able to access citizenship records. Recent coverage in the *New York Post* indicates this is a category that should be investigated, however. 63-year-old Abdul Rahman Kargbo, a non-resident green card holder, claims he never registered to vote. Yet he has a voter registration record and, according to the NYSBOE, has voted multiple times over 13 years (<https://nypost.com/2022/09/17/manhattan-immigrant-was-voting-illegally-for-13-years-boe/>). In the article, a NYC-BOE whistleblower asserts there "could be thousands" of illegal voters currently registered and voting.

► State and County voter roll agreement

NYCA researchers correlated registered voters between state and county voter rolls. This analysis was limited to 7 counties, as the other 55 counties refused to provide lawfully requested data. Correlation was deemed impossible upon discovery of the following discrepancies:

Total registrations from State exceed registrations from County by...	
New York City	781,633
Erie	456,247
Nassau	661,850
TOTAL	1,899,730

This significant problem appears impossible under NY election law:

§ 5-614. Statewide voter registration list.

- The official statewide voter registration list shall be created by combining the existing voter registration list maintained by each local board of elections into a single integrated list.
- Adding, changing, canceling or removing voter registration records shall be conducted only by local boards of elections as provided by this chapter.

► Over-registration

Further confounding reasonable accuracy of the NY voter rolls was the revelation that six New York state counties had in excess of 100% voter registration during the 2020 general election, as compared with their official state reported population by age, and 51 additional counties had over-registration in certain age categories, resulting in a minimum of

625,359 excess registrations:

County	Registered voters	% Voter registration ages 18-100	Highest registration rate by age
Allegany	27,588	100.34	146.62% age 30
Erie	1,074,115	145.48	3475.05% age 100
Hamilton	4,677	120.52	444.28% age 97
Nassau	1,641,368	155.81	3076.40% age 100
Westchester	1,034,715	140.27	1948.08% age 100
Wyoming	38,285	125.01	2101.37% age 100
Bronx	868,532	79.05	386.03% age 100
Kings	1,728,983	85.79	537.44% age 100
New York (Manhattan)	1,248,481	88.83	427.90% age 100
Queens	1,369,101	74.80	226.56% age 100
Richmond	345,990	90.81	348.70% age 100
Suffolk	1,116,934	93.81	104.38% age 31
Columbia	49,665	98.59	120.99% age 32
Rockland	219,206	91.53	109.56% age 30

SUMMARY

It is impossible to describe voter rolls which contain irregular registrations in the millions as “reasonably accurate.” Irregular registrations are present in state and county voter rolls. These registrations do not represent unique eligible voters. There are no innocent explanations known to NYCA that can adequately explain them. NYSBOE and county BOE voter rolls appear to be in significant violation of the Help America Vote Act of 2002:

H. R. 3295, TITLE III, Subtitle A—Requirements

SEC. 303. COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS.

(a) COMPUTERIZED STATEWIDE VOTER REGISTRATION LIST REQUIREMENTS.—

(4) MINIMUM STANDARD FOR ACCURACY OF STATE VOTER REGISTRATION RECORDS.—

The State election system shall include provisions to ensure that voter registration records in the State are accurate and are updated regularly, including the following:

(A) A system of file maintenance that makes a reasonable effort to remove registrants who are ineligible to vote from the official list of eligible voters.

2

VOTES COUNTED MUST BE FROM QUALIFIED ELECTORS

IRREGULAR REGISTRANTS THAT "VOTED"

Using NYSBOE voter rolls provided on October 21, 2021, "the official statewide voter registration list" according to § 5-614, NYCA counted the following votes assigned to irregular registrations in the general election of November 3, 2020:

Clones*

2,427,827 SBOEID numbers attached to **1,170,790** individuals regardless of current registration status.

Of those, 696,122 voted in the 2020 GE.

Of those who voted in 2020, there are **693,501** distinct individuals.

This means there are a minimum of **2,621** votes for the 2020 GE, associated with cloned records, that are both irregular *and* excess; more than one vote per irregular registrant.**

Double name registrants

1,049

Blank address registrants

27,496

Age discrepant registrants

1,301

Registration after 2020 GE cutoff date, yet voted

27,639

Last voted date prior to age 12

2

Purged with no purge date listed

30,004

Purged before age 12

8

Purged before last voted date

1,282

Purged before registered

12

Registered after last voted date

4,070

Registered before age 12

2,255

Registered on federal holiday

365,737

No total provided due to overlapping irregularities in some records.

* It is possible that 2 or more individuals share the same name and DOB but NYCA has no means of knowing if this actually occurred and if so, how often.

** This number may be artificially low due to deleted votes from state records known to be present in county records.

► Name and address are curable at polling sites

According to **§ 8-302 of NYS election law**, some of these defects could have been cured at the polling site. These include an address update or name change. In order to accept an address update, the following procedure must be implemented:

3. (b) A person who claims to have moved to a new address within the election district in which he or she is registered to vote shall be permitted to vote in the same manner as other voters unless challenged on other grounds. The inspectors shall enter the names and new addresses of all such persons in either the first section of the challenge report or in the place provided in the computer generated registration list and shall also enter the new address next to such person's address on such computer generated registration list. When the registration poll records of persons who have voted from new addresses within the same election district are returned to the board of elections, such board shall change the addresses on the face of such registration poll records without completely obliterating the old addresses and shall enter such new addresses and the new addresses for any such persons whose names were in computer generated registration lists into its computer records for such persons.

In order to accept a name change update, the following procedure must be implemented:

- (c) A person who claims a changed name shall be permitted to vote in the same manner as other voters unless challenged on other grounds. The inspectors shall either enter the names of all such persons in the first section of the challenge report or in the place provided in the computer generated registration list, in the form in which they are registered, followed in parentheses by the name as changed or enter the name as changed next to such voter's name on the computer generated registration list. The voter shall sign first on the registration poll record or in the computer generated registration list, the name under which the voter is registered and, immediately above it, the new name, provided that in such registration list, the new name may be signed in the place provided. If a voter has signed a new name in a computer generated registration list, such board shall enter such voter's new name and new signature in such voter's computer record.

In either case, there is no explanation for the **continued irregularities 352 days after the election** was administered (as well as the June 22, 2021 primary), when NYCA received the NYSBOE voter rolls. Clearly, there was no cure for these irregularities.

► Affidavit Ballots

Similarly, there are cures that can be effected at the polling site with an affidavit ballot. One example is a blank address. NYCA requested the list of affidavit ballots from each county BOE, along with the reason for its use. One example of how affidavit ballots do not provide an adequate explanation for the irregular votes comes from Steuben County:

Steuben County Affidavit Ballots	
Number of active no address registrants	313
Number of no address registrants who voted in 2020 GE according to NYSBOE	204
Number of affidavits provided by the County BOE with a reason of blank address	7
Discrepancy	197

There are simply not enough affidavit ballots from the 2020 general election to cure the irregular votes.

► Purged registrant cures

No procedure is given under the law to allow a purged registrant to vote.

► The outcome of many races is affected by 740,396 irregular votes

NYCA analyzed the impact of these irregular votes on election outcomes by district, including Congressional district, NYS Senate district, and NYS assembly district. Here is the result by Congressional district:

District	Votes cast	Victory Margin	Irregular votes	+Missing Votes *	Certifiable**
CD1	391,007	36,421	36,236		N
CD2	358,019	29,162	32,179		N
CD3	392,915	46,624	47,090		N
CD4	381,202	43,850	48,548		N
CD5	259,225	229,125	18,469	+14,398 = 32,867	Y
CD6	230,804	85,896	13,859	+12,671 = 26,530	Y
CD7	219,735	59,068	15,130	+9,591 = 24,721	Y
CD8	268,331	192,926	16,477	+14,357 = 30,834	Y
CD9	269,181	183,194	15,534	+12,756 = 28,290	Y
CD10	270,574	142,657	19,284	+10,496 = 29,780	Y
CD11	250,064	26,098	11,413	+47,620 = 59,033	N
CD12	317,492	214,926	26,533	+7,282 = 33,815	Y
CD13	236,290	212,012	17,082	+21,817 = 38,899	Y
CD14	206,947	94,221	13,348	+12,739 = 26,087	Y
CD15	173,450	148,312	11,524	+22,781 = 34,305	Y
CD16	305,800	177,420	37,671	+6,481 = 44,152	Y
CD17	360,473	71,425	38,504		N
CD18	359,317	45,456	39,579		N
CD19	370,139	40,805	42,714		N
CD20	368,641	80,232	35,108		Y
CD21	325,007	65,384	28,337		Y
CD22	325,256	69	28,525		Adjudicated
CD23	323,837	52,154	29,485		N
CD24	352,292	36,787	34,263		N
CD25	367,253	70,198	25,017		Y
CD26	336,695	131,008	26,222		Y
CD27	398,233	22,925	32,265		N
TOTAL	8,418,179		740,396		42% uncertifiable

* Please see section 3 of this report for a description of missing votes in NYC.

** If the "N" is red, the number of irregular votes exceeds the margin of victory. If the "N" is blue, the number of irregular votes exceeds 50% of the margin of victory. There is no way to know how irregular votes were cast. In the case where the irregular votes are subtracted from the "winner" and added to the "loser," the outcome would have been opposite; therefore the outcome is unknown and should never have been certified. NYCA is non-partisan and has no preferred candidates.

NYCA analysis of the 2020 general election NYS Senate and Assembly races, conducted in an identical manner to the Congressional table on the previous page, concludes that **38% were uncertifiable:**

▶ **Uncertifiable NYS Senate races, by district, 24 out of 63 total:**

1, 3-7, 9, 15, 37-43, 45, 46, 50, 51, 53, 55, 56, 58 and 61.

▶ **Uncertifiable NYS Assembly races, by district, 60 out of 150 total:**

1-4, 9-17, 19-21, 23, 26, 46, 61, 63, 64, 76, 94, 98, 99, 101, 102, 104-108, 110-122, 124-127, 131-133, 135, 140, 143-146 and 148.

SUMMARY

Votes cast by ineligible registrants are election fraud. In the financial sector, the discovery of any amount of fraud triggers a full investigative audit of the reported figures (see "Threshold of Materiality" in section 5, conclusions). The NYSBOE, whether by dereliction of duty or deliberate malfeasance, is unquestionably responsible for impacting election outcomes in NY, with consequences of as yet unknown magnitude. Only a full end-to-end audit by professionals, and possibly law enforcement, would be able to provide that conclusion.

3

▶ THE NUMBER OF VOTES MUST EQUAL THE NUMBER OF VOTERS

NYCA researchers compared reports from various official NY state sources, regarding the 2020 general election vote and voter counts. The comparisons below are based on data downloaded from the NY Secretary of State (NYSOS) website, voter rolls provided by NYSBOE, voter rolls provided by 43 counties, and reporting from NY election precincts.

▶ NYCA identified discrepancies in every comparison:

Votes (NYSOS)	Voters (NYSBOE)	Votes (Precincts)	Voters (43 Counties)	Min Discrepancy	Max Discrepancy
8,690,614	8,418,179	8,627,153	6,656,149	19,266	338,356*

*The max discrepancy is calculated based on the max discrepancy per county, where the greatest discrepancy between 2 sources in one county is different from the 2 sources that yield the max discrepancy in another. The max discrepancy between any 2 sources for the state is between the count of certified votes provided by the Secretary of State and the number of 2020GE votes recorded in the NYSBOE voter roll (272,439 votes).

The fact that a completely unexplained discrepancy between official sources, of 338,356 votes, stands as the certified result of New York's 2020 general election is shocking. It is not clear how the various sources differ, since each ostensibly relies on the other as its source. Regardless, **NY officials appear to have certified an election with 338,356 more votes cast than voters who voted, contrary to the law.**

NYCA was able to find one law in NY that addresses the question of procedure regarding discrepancies:

§ 9-108. Canvass; ballots, verifying number cast.

2. If the ballots found in any box shall be more than the number of ballots so shown to have been deposited therein, such ballots shall all be replaced, without being unfolded, in the box from which they were taken, and shall be thoroughly mingled therein, and one of the inspectors shall, with his or her back to the box, publicly draw out as many ballots as shall be equal to such excess and, without unfolding them forthwith shall enclose them in an envelope which he or she shall then and there seal and endorse "excess ballots for the general election, presidential electors, or party ballots or otherwise", as the case may be, and shall sign his or her name thereto, and place such envelope in the box for defective or spoiled ballots.

Thankfully, this law allowing the indiscriminate disposal of voted ballots was not completely followed in regards to the 2020 general election, and 338,356 voters were not disenfranchised without a trace. The question of "Who cast what?" remains.

3. THE NUMBER OF VOTES MUST EQUAL THE NUMBER OF VOTERS

Every county in NY was affected by these discrepancies, but none more so than the five boroughs of New York City:

County	Votes (SoS)	Voters (NYSBOE)	Votes (Precincts)	Voters (County)	Max Discrepancy
Bronx	432,399	382,672	426,693	424,211	49,727
Kings	920,380	865,412	916,009	867,198	54,968
New York	701,405	646,452	697,813	630,859	70,546
Queens	794,498	737,986	789,973	739,885	56,512
Richmond	217,899	172,350	216,767	215,955	45,549
TOTAL	3,066,581	2,804,872	3,047,255	2,878,108	277,302

With only 61,054 remaining discrepant votes to distribute over 57 counties, New Yorkers who desire to separate from NYC could be forgiven, if only because basic math instruction in their regions appears to be vastly superior.

► Missing Votes

Voter rolls maintained by the NYCBOE, as well as Dutchess and Onondaga Counties, show **195,271** votes cast in the 2020 general election that are not recorded in the NYSBOE voter rolls.

Voter rolls maintained by the NYSBOE show **28,369** votes cast in the 2020 general election, in Erie and Nassau counties, that are not recorded in the voter rolls maintained by the corresponding county.

There is no known explanation for these discrepancies.

SUMMARY

Discrepancies between various official vote counts are irreconcilable. The remedy for this is to not certify any vote counts that are so affected, or to decertify or nullify any affected election that was certified previously.

VERIFICATION METHODS

NYCA researchers have used a variety of strategies to verify these findings, using open source information only.

► Clones

Much of this effort has centered around cloned registrants, whose identities have been used to create official documents without their knowledge. A number of things must occur before an individual voter can have multiple identification numbers and votes assigned to their personal information:

1. An “original record” must be made, often legitimate and connected to a real voter.
2. The original record must be cloned by someone with official access, or using software installed by someone with official access ([§170.10 forgery in the second degree](#), [§190.80 identity theft in the first degree](#), [18 U.S. Code §1028A Aggravated Identity Theft](#), and [§17-160 Procuring fraudulent documents in order to vote](#)).
3. The cloned record(s) must be entered into the voter roll by someone with official access, and assigned a unique SBOEID ([§17-104 False registration](#), [§17-106 Misconduct of election officers](#)).
4. A vote must be assigned to the replicated record(s) by someone with official access ([§17-132 Illegal voting](#)).

Each registrant, under NY law, must have a registration application document on file, bearing their signature. Using the FOIL process, NYCA requested a set of these application documents, specific to the suspected cloned registrants identified, from the BOE in each county.

Each responded in a slightly different way but their responses have one thing in common: they either do not supply records for suspected clone registrations, or the records they do supply appear to be photographic replicas of forms assigned to other SBOEID numbers thought to be the clone source.

For instance, if you have a legitimate voter “John Doe #1”, there will be a legitimate registration application form and SBOEID number in his name. If his data is cloned, there will be a second SBOEID number and digital record in his name. There will not be a second application form with signature for John Doe #2. The way counties have responded is consistent with this scenario. They provide records for John Doe #1 in every case. For John Doe #2, they either claim they don’t have access to the record, or they present a variation of John Doe #1’s record, usually a photographic duplicate of the signature attached to a “voter record” (not the application form).

Last, some counties have made tacit admissions that the records in question are clones. They did this by purging the records as duplicates after receiving our FOIL request. This is usually 2 years or more after the registration was created and given active status. Many of them were used to vote.

It is NYCA’s belief that no genuine signed voter enrollment applications exist for cloned registration records.

► Canvass

NYCA has used these forged documents, as well as the original information from the NYSBOE voter rolls, to canvass the clones, who have had their identities stolen from within the NYSBOE. In hundreds of addresses visited, there have been no false positives. Instead, in the process of canvassing, other violations have been uncovered including falsified registration dates, illegal votes cast, and the removal of votes legitimately cast. Sworn affidavits attest to each of these discoveries.

In fact, the discovery during canvass that parts of a registration record are falsified has become so “normal,” that NYCA no longer considers the “official statewide voter registration list” to be reliable at all. If an entry in the voter rolls for any given voter is proven to be false, impossible, or irreconcilable with other official records, that portion of the record is false. To be false, it has been falsified, regardless of the reason. A falsified record is invalid.

An accurate voter registration record is material to determining whether a voter was disenfranchised from the voting process, whether votes were correctly tallied, and if state and county election officials have faithfully followed election law. Falsified data makes it impossible to determine if legitimate votes cast were counted, or illegitimately cast votes were counted.

In two especially egregious cases of identity theft, one where the registrant was assigned 11 SBOEIDs in a 48 hour period, the other assigned 21 SBOEIDs in a 24 hour period, all to the exact same name, DOB, and address, every one of the registrations was found to be false. In the first instance, canvassers found a single homeowner who had been living at that address for decades, long before the registrations were created, and had no knowledge of the registrant. In the second instance, there was no residence, but that did not prevent the “voter” from carrying two votes in the 2020 general election.

SUMMARY

NYCA has accurately assessed problems of irregular registration and voting during voter roll analysis. Verifying our suspicions has only led to an increase in known irregularities.

CONCLUSIONS

► The three basic tenets of an election:

- 1 ► Voter rolls must be accurate,
- 2 ► Votes counted must be from qualified electors,
- 3 ► The number of votes must equal the number of voters,

were all significantly violated in the NY 2020 general election.

NYCA has already demonstrated that this resulted in the false certification of 95 state and federal legislators, without examination of ballots or investigation of suspicious persons and activities, of which NYCA has received many reports. NYCA has also demonstrated that every race statewide was marred by fraud.

► Threshold of materiality

The standard for auditing in accounting and finance is called the “materiality threshold”. If a misstatement concerns 5% or less of a company’s net income, it is considered not material, and no audit is performed. If it concerns 10% or more, it is considered material. For amounts between 5%-10%, it is a judgment call for the auditor. However, according to the Securities and Exchange Commission’s guidelines, any misstatement is material if “the misstatement involves concealment of an unlawful transaction.”

Investigation of NY voter rolls by NYCA, and lack of compliance from some county officials, suggests that election officials have created systemic fraud within NY elections for the purpose of altering election outcomes. For that reason, the stricter accounting industry threshold of materiality should be used instead of the “exceeds the margin of victory” threshold. According to that standard, no election with demonstrable fraud, or which was administered by officials so incompetent as to demonstrate clear dereliction of duty, should have been certified.

AN END-TO-END AUDIT OF NYSBOE IS WARRANTED

1. NY Citizens Audit volunteers have presented the facts contained in this report, as known to us on May 9, 2022, in petition form to the NY Attorney General, NYSOS, NYSBOE Commissioners, and the leaders of the Republican and Democrat parties. No response was received. Petitions sent to the SOS were returned.
2. NY Citizens Audit volunteers met with investigators at the NY State Police to present the facts contained in this report, as well as other sensitive findings, on June 27, 2022. The materials presented were passed to the Foreign Intelligence Task Force of the FBI. No response was received.
3. NY Citizens Audit volunteers met with sheriffs in 5 counties to present this information, as well as a special report regarding the 308,887 cases of identity theft within the NYSBOE. One investigation was launched, the scope of which is unknown to NY Citizens Audit. The majority of sheriffs contacted have refused to meet with NY Citizens Audit. Some of them have claimed they are simply too busy dealing with surges in violent crime, which could well be the result of policies implemented by false representatives, including District Attorneys, Mayors, and others whose races NYCA has not yet analyzed.

Findings made by NY Citizens Audit regarding the administration of the 2020 general election demonstrate that the government agencies with authority over our elections are irresponsible, incompetent, and possibly malicious in the way they carry out their duties. There is no reason to believe improvements have been made in advance of the 2022 midterm election.

The miracle that a small group of determined citizens uncovered this abject mess must not be ignored, and indeed NY Citizens Audit is doing everything possible to ensure that every official across NY is made aware of these facts, as well as every citizen, and the crisis in governance that has resulted. The NYSBOE must be audited end-to-end.

Disclaimer: Results presented are based on a good faith effort to accurately analyze and report on the NY State voter rolls provided to NY Citizens Audit on 10/12/2021 and the voter information provided by various counties in NY. Some values and statements may change as we gain a deeper understanding of these data.



A peer-reviewed study in the Journal of Information Warfare (JIW) confirms a "Loss of Control" breach has occurred in the NYSVoter Database. A peer-reviewed paper of their results in a respected journal is a hard-won and "significant milestone," according to Marly Hornik, Executive Director of the NY Citizens Audit.



The audit of the voter rolls was led by Marly Hornik and Andrew Paquette, Ph.D., Director of Research, who submitted the paper to JIW. Paquette "co-founded the International Game Architecture and Design Academy (now BUAS) in the Netherlands after a career in the feature film and video game industries. He received his Ph.D. from King's College, London, in 2018 for a thesis on the development of expertise."

In July 2021, Hornik and Paquette assembled a group of volunteers in New York that has grown to around 2000 individuals statewide to investigate the state's voter registration rolls. Hornik presented the group's preliminary findings to attendees at The Pit, sponsored by True the Vote, in August 2022.

In her recent [letter](#) to New York citizens, Hornik explains the seriousness of the group's findings:

"Through auditing the voter roll databases, obtained directly from state and local boards of elections, we have uncovered millions of invalid registrations, hundreds of thousands of votes cast by legally invalid registrations, hundreds of thousands of votes cast by legally invalid registrants, massive vote discrepancies, and the clear presence of algorithmic patterns we reverse engineered from within the state's own official records.

To be absolutely clear, there is no known innocent purpose or explanation for why these algorithms exist. I am told by cyber-intelligence experts they indicate a 'Total Loss of Control' data breach, the most severe kind of data breach recognized by our federal government. The law says it renders the affected NYSVoter database completely untrustworthy."

 **Peter Bernegger** 
@PeterBernegger · Follow

Breaking down the American Thinker article of how algo's are in the voter registration systems:

1. The author discovers an algorithm hidden in New York's voter rolls.

2. The algorithm links county voter identification (county voter identification) and State Board of Elections... [Show more](#)



64197	KYdG2dhzrP	Kelley	R
64198	9fk1pD3li/	Wolf	Si
64199	lW0zVXj2us	Owen	M
64200	16udjS6A+g	Kostowicz	St
64201	RsbI05Y7eb	Honzik	Ma
64202	udWEEnFHVIN	Hansen	Jos
64203	q/eZpSwLkh	Chojnacki	Ha
64204	MvAFPKRVEp	Oszewski	Kai
64205	BylLMPQvN4	Block	Nat
64206	a0HdHOfoaU	Koehn	Reb
64207	DhmDepgYuF	Migliano	Hail
64208	8tjZJJ1Sw0	Pike	Benj
64209	Kpc/fAFhB+	Kingstad	Evan
64210	XpTSgBzO08	Guzman	Eddie
64211	dE0lrZzG2Q	Clementi	Gran
64212			
64213			

 Last edited 8:48 PM · May 22, 2023



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New York Voter Registration Rolls Show a Catastrophic "Loss of Control Breach"

The "Loss of Control Breach" references [standards](#) published by the United States Computer Emergency Readiness Team (US-CERT) that reflect the level of impact of a given information security event where data has been compromised. According to the US-CERT Federal Incident Notification Guidelines, "the document provides guidance to Federal Government departments and agencies (D/As); state, local, tribal, and territorial government entities; Information Sharing and Analysis Organizations; and foreign, commercial, and private-sector organizations for submitting incident notifications to the National Cybersecurity and Communications Integration Center (NCCIC)/United States Computer Emergency Readiness Team (US-CERT)."

A "Loss of Control Breach" is a catastrophic level of "impact," both functionally and in terms of information lost. It is important to note that the designation indicates "recovery from such an incident is not possible."

US-CERT Federal Incident Notification Guidelines

Impact Category	Category Severity Levels
Functional Impact – A measure of the impact to business functionality or ability to provide services	NO IMPACT – Event has no impact.
	NO IMPACT TO SERVICES – Event has no impact to any business or Industrial Control Systems (ICS) services or delivery to entity customers.
	MINIMAL IMPACT TO NON-CRITICAL SERVICES – Some small level of impact to non-critical systems and services.
	MINIMAL IMPACT TO CRITICAL SERVICES – Minimal impact but to a critical system or service, such as email or active directory.
	SIGNIFICANT IMPACT TO NON-CRITICAL SERVICES – A non-critical service or system has a significant impact.
	DENIAL OF NON-CRITICAL SERVICES – A non-critical system is denied or destroyed.
	SIGNIFICANT IMPACT TO CRITICAL SERVICES – A critical system has a significant impact, such as local administrative account compromise.
	DENIAL OF CRITICAL SERVICES
	LOSS OF CONTROL – A critical system has been rendered unavailable.

https://www.cisa.gov/sites/default/files/publications/Federal_Incident_Notification_Guidelines.pdf

US-CERT Federal Incident Notification Guidelines

Impact Category	Category Severity Levels
Information Impact – Describes the type of information lost, compromised, or corrupted.	NO IMPACT – No known data impact.
	SUSPECTED BUT NOT IDENTIFIED – A data loss or impact to availability is suspected, but no direct confirmation exists.
	PRIVACY DATA BREACH – The confidentiality of personally identifiable information (PII) or personal health information (PHI) was compromised.
	PROPRIETARY INFORMATION BREACH – The confidentiality of unclassified proprietary information, such as protected critical infrastructure information (PCI), intellectual property, or trade secrets was compromised.
	DESTRUCTION OF NON-CRITICAL SYSTEMS – Destructive techniques, such as master boot record (MBR) overwrite; have been used against a non-critical system.
	CRITICAL SYSTEMS DATA BREACH – Data pertaining to a critical system has been exfiltrated.
	CORE CREDENTIAL COMPROMISE – Core system credentials (such as domain or enterprise administrative credentials) or credentials for critical systems have been exfiltrated.
	DESTRUCTION OF CRITICAL SYSTEM – Destructive techniques, such as MBR overwrite; have been used against a critical system.

https://www.cisa.gov/sites/default/files/publications/Federal_Incident_Notification_Guidelines.pdf

US-CERT Federal Incident Notification Guidelines

Impact Category	Category Severity Levels
Recoverability – Identifies the scope of resources needed to recover from the incident	REGULAR – Time to recovery is predictable with existing resources.
	SUPPLEMENTED – Time to recovery is predictable with additional resources.
	EXTENDED – Time to recovery is unpredictable; additional resources and outside help are needed.
	NOT RECOVERABLE – Recovery from the incident is not possible (e.g., sensitive data exfiltrated and posted publicly).

https://www.cisa.gov/sites/default/files/publications/Federal_Incident_Notification_Guidelines.pdf

Journal of Information Warfare: Three Experts Agree With Paquette's Paper

Paquette submitted a paper to the JIW summarizing the findings from the NY Citizens Audit. He says it took about "six months to see his article through the review process." It was the second journal to which he submitted his paper. The first was rejected "for political reasons," according to Paquette.

Paquette published a [substack](#) on May 17 about the significance of the peer-reviewed paper mentioning that he has "learned more about the algorithm" since he submitted his paper to JIW. Paquette also summarized his investigation in his May 22, 2023, article for the [American Thinker](#).



New York Citizens Audit News
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The first discovery

Altered certified vote counts

12:48 PM · May 24, 2023



15



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In his Substack, Paquette comments on the significance of the paper's peer review and publication:

"The point of peer review is not to rubber stamp an article (though that may happen at lower quality journals); the point is to perform a thorough check of the article to be sure it is accurate and represents a fair description of the facts both pro and con related to the subject.

Because peer review is a rigorous process, and reviewers tend to be experts, getting through peer review can be likened to putting three expert witnesses on the stand in a court of law to attest to the accuracy of the material."

Paquette's paper was reviewed by three peer experts from the JIW who confirmed his analysis was correct with only "*minor corrections*," explained Hornik. The article in the Journal of Information Warfare (JIW), Volume 22, Issue 2, is entitled "The Caesar Cipher and Stacking the Deck in the New York State Voter Rolls" by Andrew Paquette.

According to the JIW peer-reviewed paper, "New York State voters are assigned two identification numbers. This study has discovered strong evidence that both numbers have been algorithmically manipulated to produce steganographically concealed record attribute information." The "secret fraudulent phantom voter infrastructure" allows for the manipulation of elections in a way that is not easily detectable. Dirty voter rolls are often a primary vector for election fraud.

The excerpt below from the JIW paper discusses what seems to be a purposeful alteration of voter registration data to manipulate elections.

Fraudulent records

The data uncovered by NYCA's research suggests that systemic election fraud is built into New York's electoral process. The current working hypothesis is that:

1. False voters were introduced into the voter rolls;
2. Records belonging to false voters were covertly tagged via an algorithm for easy retrieval when needed;
3. Absentee ballots were requested by false registrants;
4. Ballots and ballot envelopes were gathered at central collection points;
5. Fraudulently generated ballots were cast in fraudulently obtained ballot envelopes;
6. False voter records were updated to reflect false votes; and
7. After certification, false voter records were manipulated to disguise their purpose and history.

Of these 7 items, the following are known to have occurred:

- There are hundreds of thousands of illegally generated registrations in the official NYSBOE voter rolls. The exact number is unknown, but it is not less than about 338,000 for registrations active for the 2020 General Election (NYCA 2022). If other elections are included, the number of apparently illegal registrations jumps to between 1.2 and 2.4 million.
- 56.93% of all voter ID numbers were assigned based on the primary algorithm discussed in this paper. The algorithm allows a hidden attribute tag to be added.
- NYCA has recovered documents related to a fictitious identity with twenty-two registrations that requested multiple absentee ballots sent to the same rented mailbox. NYCA has identified other fictitious identities like this.
- Canvassing has uncovered cases where false votes were added to false registrations or genuine votes were erased.
- A comparison of four versions of the NYSBOE voter roll database created over a thirteen-month period shows hundreds of thousands of modifications to multiple fields belonging to

the same voter ID numbers. Although there are valid reasons to update these fields, none of those reasons apply in these situations. For instance:

- In Greene County, a voter with the initials "C.S." has a DOB of 5/5/1925 in the 2021 database. In the 2022 database, his DOB is 8/18/1971. Both records have the same ID numbers, addresses, and RegDates. It is the same person, but birth dates are immutable. They do not change. Both records cannot be correct.
- A voter with initials "R.V." has three records in the 10/21 and the 12/21 databases. In the 2021 database, he has two SBOEID numbers. In the 2022 database, he has one. An examination of the records shows that one record, with a RegDate of 6/9/2021, was retroactively altered to change the SBOEID number. This is illegal because no voter is allowed more than one SBOEID number and changing this after the fact conceals the prior existence of an illegal record.
- A voter with initials "M.P." has two SBOEID numbers, one of which is illegal, and both have a vote recorded for the 2020 General Election. When M.P. was canvassed, she said she did not vote in that election, nor was she registered at the time of the election. The voter rolls confirm that she registered almost 3 weeks after the election, on 11/23/2020. Her voting history does not reflect her actual voting behavior.

JIW/Pp. 87,88/Dr. Andrew Paquette/Peer-reviewed paper on NY State Voter Rolls for 2020 election

The paper also describes findings from the NY Citizens Audit "suggest[ing] that systemic election fraud is built into New York's electoral process." Algorithms were found in all 62 counties in New York. Notably, the presence of steganographically concealed records "renders the state's elections illegal on their face," explained Hornik.

Two-Plus Years of Persistence and Follow-Through

Volunteers from the NY Citizens Audit investigated New York's voter registration rolls after the 2020 election only to find that "New York elections massively violate state and federal law," according to Hornik. The group's "Deficits Report" showed evidence of falsifying records, registrations with no trackable records, ineligible registrations, phantom voters, and many inaccuracies and discrepancies in the registrations that effectively make the rolls completely unreliable in terms of reflecting actual, registered voters in the state. Their investigation led to a Resolution for Audit requesting a "complete end-to-end audit of the New York State 2022 General Election."

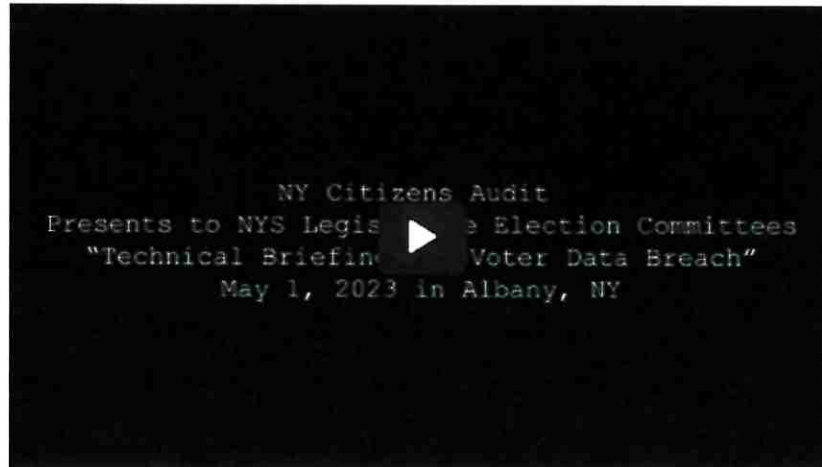


Marly Hornik/The Pit

UncoverDC has closely followed the group's work and touched base with Hornik again on May 19. Hornik and her volunteers have been actively campaigning at the Capitol in Albany since January 2023 "in order to educate our legislators about our findings, stated in our critically important report, "A Study in Deficits," summarized here. The "Study in Deficits" report was delivered on January 24, 2023, to 89 members of the New York State Assembly.

Following the submission of the "Study in Deficits report," Hornik and her volunteers persisted, making "follow-up calls and sending emails to arrange a presentation to the members of the Election Committees of both the Assembly and the Senate. Special efforts were made to communicate comprehensively with the senior staff of Assembly Member Latrice M. Walker, Chair of the Election Law Committee in the Assembly, and Senator Zellnor Y. Myrie, Chair of the Senate Election Committee," according to Hornik.

Remarkably, Hornik and Paquette ultimately secured a presentation with Election Committee members from each Chamber with a Democratic majority State Assembly. The presentation, "A Technical Briefing: NYSVoter Type 2 Data Breach," was given on May 1, 2023, in the Legislative Office Building in Albany. Some members could not attend because of the finalization of the state budget that same day. For those who could not attend, a link to a [video](#) from the briefing was sent on May 6 to each member.



On May 22, according to Hornik, *"a visit was made to Albany to inquire if any action will be taken by the Election Committees of the Assembly and the Senate in order to address the critically important findings that the New York State voter database has been breached. The senior staff of the Chairs of both committees did not offer any assurance that action would be taken."* The Legislative Session ends on June 8.

Hornik is now leading a nationwide initiative to replicate what she and her team have done in New York. She says, in many cases, *"the American people have already done the work."* She says it is time to review the findings, meet with legislators, and bring litigation where appropriate. Hornik says she plans to *"hold election officials accountable"* wherever possible.



NEW YORK

CITIZENS AUDIT

Dear Fellow Citizen,

Two years ago, a group of New Yorkers—busy, like you—felt that something had gone terribly wrong in our state. We knew it in our bones. We watched as our officials became less responsive, our taxes climbed, our businesses were shuttered, our elders died alone, our children and families suffered increasingly vicious moral and physical attacks on their sovereignty, and the transformation of our bountiful farmland into soy fields and solar “farms” accelerated. We watched violent criminals returned to our streets to destabilize and destroy, to traffic and trade unhindered by our laws. We watched our families and neighbors turned against one another in suspicion and rage. Finally, we watched as massive, blatant violations of election law went unanswered in 2020 and 2022.

Our forefathers and mothers knew well the dangers of blind trust in government. Their grievances against the King, enumerated in our Declaration of Independence, still present a fine study in tyranny. Our founders applied hard won truths of right and wrong, good and evil, to meticulously craft a system designed to maximize freedom while protecting our country, and our inalienable rights.

The first law passed in our new nation was not passed by any federal agency or legislative body. We The People were the ones to ratify our US Constitution, thus giving birth to America, the land never to be ruled by the unjust laws of self-dealers and con-men. America became the beacon of hope! People from around the world sacrificed everything to come here and join our freedom movement. Our forebears would never have believed that one day we would face an insular, unresponsive and entrenched government that has increasingly turned the weapons of government on its own masters, us.

Against this stark landscape, NY Citizens Audit set forth to determine if our elections were fair and honest. What we found is stunning: New York elections massively violate state and federal law. The problems are dismissed by officials who steadfastly resist the efforts of honest, well-intentioned citizens to get answers regarding their legitimate findings.

Through auditing the voter roll databases, obtained directly from state and local boards of election, we have uncovered millions of invalid registrations, hundreds of thousands of votes cast by legally invalid registrants, massive vote discrepancies, and the clear presence of algorithmic patterns we reverse engineered from within the state's own official records. To be absolutely clear, there is no known innocent purpose or explanation for why these algorithms exist. I am told by cyber-intelligence experts they indicate a “Total Loss of Control” data breach, the most severe kind of data breach recognized by our federal government. The law says it renders the affected NYSVoter database completely untrustworthy.

Any honest person can repeat and verify our research. We use the Freedom of Information Law (FOIL) to request public records, we identify “black letter law” registration and voting violations, and we present the total number of occurrences, inspecting and verifying the records as we go. This labor has involved tens of thousands of hours volunteered by over 2,000 citizens including lawyers, engineers, artists, farmers, statisticians, musicians, PhDs, parents, police officers and your neighbors.

On May 9, 2022, NY Citizens Audit delivered a Petition for Redress of Grievances, pursuant to the first amendment of our US Constitution, to our appointed representatives at the state board of elections, and our elected representatives, Attorney General Letitia James and Secretary of State Robert Rodriguez. Signed by over 5,000 citizens, this fact-filled petition contained all our findings. We demanded a material response. They ignored us and administered and certified another federal election using the same legally invalid data and procedures.

Now our effort is being denounced by some of these same officials who admit they have not examined our data or analysis. They describe our work as “malicious,” “false,” and “debunked,” hiding behind instruments of naked power and the press. Charged with the public trust and paid by the citizens they are sworn to serve, they ignore the simple solution to meet with us. Instead, using the false mantle of their confiscated authority, they have announced our claims are “baseless,” and the provenance of our data is “fictional,” knowing many will be deceived. Why?

Perhaps even more damaging to our democracy, the top election official in NY has addressed the local commissioners with dangerous lies about us and our work. This is not the behavior of a faithful servant. Deliberately warning county staff away from meeting with citizens proves how deeply arrogance, apathy and corruption penetrate our government. NY Citizens Audit still looks to share our findings with all that will fulfill their duty and meet with us. We take solace that those who have already met with us universally expressed gratitude for our help repairing abundant errors and legal violations in the election system they hold dear. Active interference by the state in our collaboration condemns the people to elections that cannot be trusted, and, therefore, escalating discontent.

The burden to prove our elections are accurate, and comply with the law, is the statutory duty of our election officials. Ad hominem attacks are tired tools of tyranny, not transparency. New York is waiting. In the meantime, I encourage you to review NY Citizens Audit’s fully transparent findings, and learn how our election officials are ignoring the US Constitution, federal and state law, and failing to guarantee our recognized civil right to free and fair elections. When did we grant them the authority to disregard the law?

Thank you for taking the time to get to know us. I invite you to learn more at AuditNY.com, and I welcome you to our bipartisan movement to ensure citizen sovereignty through honest, provable elections.

Sincerely,



Marly Hornik
Executive Director
NY Citizens Audit



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NEW YORK CITIZENS AUDIT

Response to NYS board of elections “False Claims Explained”

New York State board of elections claims are in black. NY Citizens Audit responses are in red.

New York Citizens Audit’s (NYCA) claims are based on true and accurate observations of the New York State Board of Elections (NYSBOE) voter roll database, NYSVoter.

1. Duplicated Voter IDs.

Each voter in New York is assigned both a state voter ID and a county ID. Although the state database is designed to have a single state ID follow a voter as they move from county to county, it is possible for multiple reasons that a voter may have multiple records with different state IDs. For example, if a voter registered more than once using the DMV’s online portal creating a duplicate record, their duplicate record may be purged, which would show the same voter and name with two voter IDs. One record would be active and the second would be purged.

NYCRR 6217.1(b) “NYSVoter shall maintain one record for each voter including the statewide unique identifier.”

NYCRR 6217.5(e) “NYSVoter shall assign a unique identifier to every voter that will remain with that voter for their voting life.”

NYS Election Law §5-614.4 “There shall be one official record of the registration of each voter. Such record shall be maintained in an interactive, statewide, computerized, voter registration list. Such statewide voter registration list shall constitute the official list of voters for the state of New York.”

NYCA found a minimum of 1.25M SBOEID numbers assigned to individuals who already had one, a violation of the law greater than the population of the entire state of Rhode Island. If there is a systemic procedural violation of the law, it must be corrected to comply with the law. If there is misconduct, it must be rooted out. We never granted our officials the privilege to ignore the law.

In addition, this explanation does not explain cases like A. Pimenta, who has eleven simultaneously active registrations at an address where he is unknown and has never lived. It does not explain how 31,000+ registrations that were purged at the time of the 2020 general election voted.

Likewise, it’s possible for two different voters in two different counties to have the same county ID number since the county systems are independent of one another and the county number serves to differentiate voters within a county.

NYCA has never made any claim of impropriety regarding multiple county ID (CID) numbers. The violation is with multiple SBOEID numbers. As a county commissioner stated directly to NYCA, “This is illegal because it allows double voting.”

2. More Votes than Registered Voters.

The statewide registration database reflects voter information as of the moment the data is extracted. The group requested data in October of 2021 and compared it to election results from November of 2020, nearly a year earlier. Any voter that moved would not be accurately represented as voting at the location where they had been registered at the time of the election. A more accurate representation would be to compare the Board's November 2020 enrollment data against the 2020 election results which would show an accurate 13.5 million eligible voters and 8.6 million votes cast.

The petition NY Citizens Audit formally presented to the NYSBOE on May 9, 2022 clearly stated there were 272,435 more votes cast than *voters who voted*. This compares NYSBOE results published on multiple state websites with raw voter history data from NYSVoter, the "official record" under the law. Following examination of the deficits by county, our number has been revised to 338,356 more votes cast than voters who voted. Voter history in a statewide federal election is not dependent upon county of residence, nor should this record change over time. No meaningful response has ever been given for this massive deficit discovered by comparing official NYSBOE records.

In August of 2021, a volunteer with NY Citizens Audit made a Freedom of Information Law (FOIL) request for the November 2020 enrollment data from the NYS Board of Elections. The official response returned by Michael Chin, an IT professional with the NYSBOE, explained that it was no longer possible to receive a copy of NYSVoter as it stood on the eve of the 11/3/2020 election, as it had been overwritten and no longer existed. This is a direct violation of 52 USC §20701, which clearly states that all records pertaining to a federal election must be maintained for 22 months. NYSBOE's assertion that NYCA is at fault for investigating the incorrect data set only further supports NYCA's assertion: the results of the 2020 and 2022 general election in NYS are unprovable, and therefore should never have been certified.

3. Multiple Registrations for a Single Voter

As noted, the data in the statewide database is continually changing. When a voter moves from one county to another, a transfer process will occur so that the voter's registration moves with them throughout the state. This is required by state law. The examples listed in the group's report showed voters moving through the normal transfer process. Most were purged in one county and active in another. As the transfer happens, the voter is inactive so that the new county can take the data. There were many examples given where the same voter was listed in multiple counties. Again, the group failed to look at the voter's status. There will always be some overlap as a voter moves from one jurisdiction and registers in another. It is a crime to attempt to vote or vote in two places.

NYCA has found many records that reflect double voting by the same individual, using multiple SBOEID numbers. Voters are not aware of SBOEID numbers, and would have no means to secure a second ballot using this method. Yet thousands of such votes were cast by *different* sets of voters in 2020 and 2022. Either those records are correct, and double voting occurred internally, or the records are false. If they are false, the NYSBOE has introduced, maintained, and now defended the presence of false data in their database.

4. Voters Missing Date of Birth or Having Date of Birth that Seems Implausible

Voters in New York were not always required to give a date of birth. Prior to 1960, voters registered in person at a Board of Elections office. They did not have the ability to mail their registrations or register online. These voters would give their age but not their date of birth. When electronic registration systems were introduced, some counties used “placeholder dates” for voters who were not legally required to provide this information.

One way the NYSBOE could instill trust in their data is to repair material deficiencies like “placeholder dates.” The presumption that a blanket excuse affecting tens of thousands of registrations in NYSVoter must be accepted is naive. NYSVoter is the “official record” by law for administration and certification of federal elections, and included within our National Security Infrastructure. Current law says it must be accurate.

The excuse falls short regardless, due to the existence of thousands of records dated after 1960 with false birth date information. It also does not explain why the so-called “placeholder dates” vary considerably, incorporating any date in the past or future.

5. Voters Missing Identification

Voters missing data such as a driver license number or social security number are not voting illegally. New York is compliant with the Help America Vote Act as implemented in New York in 2005. To describe the ID requirements of HAVA as required for all voters is incorrect. The ID requirements of Section 303 (b) of HAVA only apply to first time voters who registered after 2005 in New York. Voters registered before 2006 were not subject to the ID requirements of Section 303(b) of HAVA in New York. In addition, all Military and overseas voters are exempt from the ID requirements of Section 303(b) of HAVA.

New York Election Law mirrors the provisions of Section 303(b) for first-time voters who register by mail which asks for a DMV number or the last 4 digits of an SSN. If the voter does not have either of those, the law allows them to provide an alternative form of ID such as a valid photo ID, a current utility bill, bank statement, paycheck, government check or some other government document that shows the voter’s current name and address. If the voter does not provide the alternative ID with the registration form, the voter’s poll record is flagged so they must produce one of those pieces of ID before they can vote on a machine. If they don’t produce the ID, they must be allowed to vote a provisional ballot, which in New York is called an affidavit ballot, as required by Section 303(b) of HAVA.

There are no claims made by NYCA that are relevant to this.

6. More Voters than Current Population Size

The group has claimed that several counties have more than 100% registered voters based on voting age population. A simple search of New York's enrollment data and data from the 2020 US Census would show this is not the case. While the report does not cite the statistics used, the census website shows the following:

County	Active Registered Voters (Per Nov 20 Enrollments[1])	Eligible Voting Age Population (Per 2020 Census)[2]	Percentage of Voters Registered
Allegany	26,197	36,886	71%
Erie	629,676	762,434	82%
Hamilton	4,321	4,443	97%
Westchester	624,871	782,472	80%
Wyoming	24,629	32,911	75%

NYCA did not use any published, downloadable spreadsheets to calculate the number of registered voters by county. NYCA referred exclusively to the raw data in NYSVoter, the "official record" under the law, to determine the number of registrants in each county of New York.

When NYCA applied the method of directly comparing published, downloadable spreadsheets prepared by the NYSBOE to NYSVoter, we discovered the massive deficit of 338,356 more votes cast than voters who voted. The source of the numbers NYSBOE publishes in these downloadable spreadsheets is unknown. We are expected to take their word for it.

7. Voters Registered on Federal Holidays

Voters that are pre-registered to vote will have their record activated on the day of their 18th birthday regardless of whether that date is a holiday. Additionally, if records did not have a registration date stamp when entering the voter into the electronic system, counties may have used January 1st as a placeholder day.

The "placeholder date" excuse attempts to cover provably false data in the voter rolls. Registration dates are material to determining eligibility to vote. When dates are false, the true date is unknown, and eligibility cannot be certain.

Further, this does not explain why January 1st registration dates are assigned special ID numbers occupying key positions in the voter roll algorithms NYCA decrypted, creating a highly complex and deliberate geometric pattern.

Cyber-intelligence experts tell us that these algorithms, because they are complex, extremely well hidden, and unknown to the local commissioners responsible for local certification, represent a "Loss of Control" data breach. This is the most severe type of data breach recognized under federal law. The law says this renders NYSVoter completely untrustworthy.

This means the NYSBOE may not actually know what is happening in NYSVoter. Perhaps no one knows, yet our elections proceed regardless. NYCA has proven the presence of these algorithms in NYSVoter, and reverse engineered one in its entirety. The NYSBOE has arrogantly dismissed our effort, involving 2,000 citizens and tens of thousands of hours of volunteer work, and blithely excused millions of material violations of the law. Why?

Response to NYS board of elections “Truths About Voter Registration List Maintenance in New York State”

Additional Truths have been provided by NYCA in red.

1. **Registration records are maintained daily on a bipartisan basis.** Any change to a voter’s record undergoes a bipartisan review to ensure a greater level of oversight in any election transaction.

NYCA is a non-partisan 501c3 organization. No claims made by NYCA assert partisan bias.

2. **Any change is meticulously documented to ensure no record is altered without due process.** County Boards review correspondence from voters, agencies, and other states to ensure all records are up to date. Deceased notices from the Department of Health and local obituaries, notices of individuals incarcerated for felony offences from the Department of Corrections, and lists of new voters in other states who indicate holding a prior residence in New York, are processed, and documented routinely.

If true, this statement demonstrates the failure of the procedures described by the NYSBOE. If those procedures worked:

1. NYCA would not have uncovered millions of irregularities in the voter rolls.
2. County commissioners who have seen the data would not have been able to subsequently confirm NYCA’s findings.
3. NYCA’s findings would not have been a surprise to those commissioners.

If there is a systemic procedural violation of the law, it must be corrected to comply with the law. If there is misconduct, it must be rooted out. We never granted our officials authority to disregard the law.

3. **County Boards undertake a mandatory annual mail check process which requires notice to be sent to all active voters to ensure they have not moved.** The annual mail check process required in state law ensures that Boards can determine whether a voter may have moved based on whether their mail check card is returned undelivered.

This system does not function as designed. If it did, apparently fictitious voters with over a dozen SBOEID numbers each would not remain active on the rolls for more than a year, and yet they do.

4. County Boards annually compare voter addresses against the National Change of Address database.

In addition to the mail check process, Boards also check voter addresses against a list of individuals who may have moved according to the USPS. Using this list, the Board can make an informed decision in accordance with state law on whether to inactivate or purge a voter that may have moved.

The failures NYCA uncovered demonstrate that this process is not functioning correctly, and that violations of election law have occurred as a direct consequence. If there is a systemic procedural violation of the law, it must be corrected to comply with the law. If there is misconduct, it must be rooted out. Those charged with the public trust are not allowed to excuse or ignore the law.

5. The law requires an affirmative notice to make changes to any voter's record. Without a return mail check card (or other returned mail), signed letter from a voter indicating they've moved, or a copy of an official document or publication from an agency or state, boards of elections are prohibited from making registration record changes. These checks and balances are for the benefit of the voter and ensure that no voter is purged without cause.

NYCA has found evidence of changes made to voter records without any input from the voter, and confirmed it via canvass. Therefore the process is functioning contrary to law, by generating abundant false or falsified records that are accepted into our voting system.

"Purged" status as a remedy for breaking the law is unacceptable, as there are tens of thousands of registrants that demonstrate voting after purge status has been assigned—another blatant violation of the law. If this represents a lag of some kind related to voters who move (and that cannot explain every case found by NYCA), then the records are false. The law does not allow false information in these official records.

When the law is broken, the responsible party is not the one who determines impact or remedy.

6. Counties undergo a biannual review of their internal record keeping process. Every two years, the State Board of Elections audits all County Boards to ensure they are properly processing voters within their local registration system and the state's registration system. If a County is found to not be correctly processing voters, the state will make recommendations on how to amend their processes.

This review process has failed. If it worked, NYCA would not have found millions of irregular records in the NYSVoter database. If there is a systemic procedural violation of the law, it must be corrected to comply with the law. If there is misconduct, it must be rooted out.

In summary, *the law requires our voting systems be accurate and provable.* The NYSBOE would like you to:

1. Ignore that fact,
2. Join in their attack on an honest effort by dedicated citizens to investigate,
3. Keep taking their word for it.

"In America THE LAW IS KING." —Thomas Paine, "Common Sense"

NEW YORK CITIZENS AUDIT

Response to Ontario County Board of Elections

1. **The appropriate avenue for Citizens' Audit redress is via the court system and not the board of supervisors, or any other legislative body.**

In America, the chain of command is simple. We The People passed the first law when we ratified the US Constitution, creating our government. We choose our legislative, executive and judicial representatives via accurate, provable elections. These representatives swear an oath to serve us and uphold the law. An official assertion that it is not "appropriate" to bring our findings to these representatives, and we must file an expensive lawsuit to get redress for material violations of the law by election officials, is either disqualifying or deliberately deceptive.

2. **There is misunderstanding of what the data is actually telling them.**

NY Citizens Audit has uncovered millions of invalid registrations, and hundreds of thousands of invalid votes, within NYSVoter, the "official record" by law for our voting system. The NYSVoter database is proven to contain algorithmic patterning that is neither natural nor innocent. The law has been violated, at scale. An investigation is required to determine cause and impact. There is no misunderstanding.

3. **The complexity of the voter enrollment databases combined with their very dynamic nature is poorly understood by nearly everyone except those who work closely with the information. That lack of understanding makes it very easy to exploit preconceived notions about the entire elections process.**

NY Citizens Audit's findings in the databases are true and accurate. Asserting that only a tiny handful of people are qualified to search databases, and We The People must therefore take their word for it, is arrogant. It is a violation of their statutory duty to meet with citizens and investigate our findings.

4. **Both our board and the state board of elections conduct extensive reviews of voter records on a regular and consistent basis, daily.**

It is critical that we understand why this effort is ineffective, as the law requires our voter records to be accurate and they are not.

5. **All county Boards of Election as well as the NY State BoE are staffed with bi-partisan elections administrators who work together in a checks & balance method to ensure that every citizen's franchise is respected and their registrations are kept current.**

It is critical that we understand why this effort is ineffective, as the law requires our voter records to be accurate and they are not.

6. It is likely that most anomalies this group claims to have uncovered are either a misunderstanding of the material being reviewed, or a misrepresentation of the information that has been provided to them via the FOIL process.

A “likely...misunderstanding” does not equal certainty. An honest official must obey their statutory duty to meet with us and investigate, regardless of personal bias. 2,000 New York State Citizens have contributed tens of thousands of volunteer hours to this effort, and our civil servants assert the privilege to dismiss every one of us, and excuse violations of the law.

7. Information is often clouded by the fact that we do receive duplicate voter registration applications, mostly from DSS, DMV, and other state agencies with mandatory reporting requirements, and the state refers to these duplicate applications as “duplicate voters.” Multiple protocols are in place with each and every County Board of Elections, in concert with the State Board of Elections, to ensure “one person -one vote”, before, during, and after each election.

It is critical that we understand why these “multiple protocols” are ineffective. The law requires our elections be provably accurate. Upon inspection, many votes are neither accurate nor provable. The law says the error rate for a federal election is one in 10,000,000 ballot positions. NYCA has discovered this was trampled in 2020. We never granted our officials authority to ignore the law.

8. All data provided by this group has been debunked by our peers.

NYCA audited NYSVoter, the “official record” under the law for our voting system. Is NYSVoter now debunked? There is ample reason to believe that is a true statement, though likely unintended here. Further, if the Ontario BOE asserts universal agreement with their conclusions among election officials and law enforcement, they are mistaken.

In summary, *the law requires our voting systems be accurate and provable.*

The Ontario Co BOE would like you to:

1. Ignore the law,
2. Join in their attack on an honest effort by dedicated citizens to investigate,
3. Keep taking their word for it.

“In America THE LAW IS KING.” —Thomas Paine, “Common Sense”

Peter S. Kosinski
Co-Chair

Anthony J. Casale
Commissioner

Vacant
Co-Executive Director



Board of
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Douglas A. Kellner
Co-Chair

Andrew J. Spano
Commissioner

Kristen Zebrowski-Stavisky
Co-Executive Director

April 5, 2023

Dear County Board Commissioners, Directors, and Staff,

In recent months, we have been made aware of a group alleging that New York State's voter registration database contains unidentified or "cloned" voters that are casting ballots in elections. We know these claims are unequivocally false, but we recognize the immense pressure the spread of this misinformation places upon your crucial work in conducting elections in New York State.

We understand how tirelessly you work year round to ensure elections are safe and secure. These baseless claims insult your service to the people of New York and undermine the extensive record keeping processes we know you follow. We want to thank you for that work and remind you that you are an integral part of protecting our democracy from bad actors, including those who create malicious claims to feed a false narrative predicated on a fictional analysis of voter data.

In an effort to dispel this distortion of the truth, our office has compiled explanations for the majority of false claims. It should be noted that no one has seen the actual data used to create the false claims. Even members of the press have not been privy to the alleged voter list the group is using. Without seeing their "data", it is difficult to explain every supposed anomaly. In place of those explanations, we have also provided a list of facts regarding your list maintenance processes.

We hope that you find these clarifications helpful in your efforts to cull the spread of misinformation, and we again thank you wholeheartedly for all that you do to keep elections up and running in New York State.

Sincerely,

Kristen Zebrowski Stavisky
Co-Executive Director
New York State Board of Elections

False Claims Explained

1. Duplicated Voter IDs.

Each voter in New York is assigned both a state voter ID and a county ID. Although the state database is designed to have a single state ID follow a voter as they move from county to county, it is possible for multiple reasons that a voter may have multiple records with different state IDs. For example, if a voter registered more than once using the DMV's online portal creating a duplicate record, their duplicate record may be purged, which would show the same voter and name with two voter IDs. One record would be active and the second would be purged.

Likewise, it's possible for two different voters in two different counties to have the same county ID number since the county systems are independent of one another and the county number serves to differentiate voters within a county.

2. More Votes than Registered Voters.

The statewide registration database reflects voter information as of the moment the data is extracted. The group requested data in October of 2021 and compared it to election results from November of 2020, nearly a year earlier. Any voter that moved would not be accurately represented as voting at the location where they had been registered at the time of the election. A more accurate representation would be to compare the Board's November 2020 enrollment data against the 2020 election results which would show an accurate 13.5 million eligible voters and 8.6 million votes cast.

3. Multiple Registrations for a Single Voter

As noted, the data in the statewide database is continually changing. When a voter moves from one county to another, a transfer process will occur so that the voter's registration moves with them throughout the state. This is required by state law. The examples listed in the group's report showed voters moving through the normal transfer process. Most were purged in one county and active in another. As the transfer happens, the voter is inactive so that the new county can take the data. There were many examples given where the same voter was listed in multiple counties. Again, the group failed to look at the voter's status. There will always be some overlap as a voter moves from one jurisdiction and registers in another. It is a crime to attempt to vote or vote in two places.

4. Voters Missing Date of Birth or Having Date of Birth that Seems Implausible

Voters in New York were not always required to give a date of birth. Prior to 1960, voters registered in person at a Board of Elections office. They did not have the ability to mail their registrations or register online. These voters would give their age but not their date of birth. When electronic registration systems were introduced, some counties used "placeholder dates" for voters who were not legally required to provide this information.

5. Voters Missing Identification

Voters missing data such as a driver license number or social security number are not voting illegally. New York is compliant with the Help America Vote Act as implemented in New York in 2005. To describe the ID requirements of HAVA as required for all voters is incorrect. The ID requirements of Section 303 (b) of HAVA only apply to first time voters who registered after 2005 in New York. Voters

registered before 2006 were not subject to the ID requirements of Section 303(b) of HAVA in New York. In addition, all Military and overseas voters are exempt from the ID requirements of Section 303(b) of HAVA.

New York Election Law mirrors the provisions of Section 303(b) for first-time voters who register by mail which asks for a DMV number or the last 4 digits of an SSN. If the voter does not have either of those, the law allows them to provide an alternative form of ID such as a valid photo ID, a current utility bill, bank statement, paycheck, government check or some other government document that shows the voter's current name and address. If the voter does not provide the alternative ID with the registration form, the voter's poll record is flagged so they must produce one of those pieces of ID before they can vote on a machine. If they don't produce the ID, they must be allowed to vote a provisional ballot, which in New York is called an affidavit ballot, as required by Section 303(b) of HAVA.

6. More Voters than Current Population Size

The group has claimed that several counties have more than 100% registered voters based on voting age population. A simple search of New York's enrollment data and data from the 2020 US Census would show this is not the case. While the report does not cite the statistics used, the census website shows the following:

County	Active Registered Voters (Per Nov 20 Enrollments ¹)	Eligible Voting Age Population (Per 2020 Census) ²	Percentage of Voters Registered
Allegany	26,197	36,886	71%
Erie	629,676	762,434	82%
Hamilton	4,321	4,443	97%
Westchester	624,871	782,472	80%
Wyoming	24,629	32,911	75%

7. Voters Registered on Federal Holidays

Voters that are pre-registered to vote will have their record activated on the day of their 18th birthday regardless of whether that date is a holiday. Additionally, if records did not have a registration date stamp when entering the voter into the electronic system, counties may have used January 1st as a placeholder day.

¹ <https://www.elections.ny.gov/EnrollmentCounty.html>

² <https://www.census.gov/quickfacts/fact/table/US/PST045222>

Truths About Voter Registration List Maintenance in New York State

- 1. Registration records are maintained daily on a bipartisan basis.** Any change to a voter's record undergoes a bipartisan review to ensure a greater level of oversight in any election transaction.
- 2. Any change is meticulously documented to ensure no record is altered without due process.** County Boards review correspondence from voters, agencies, and other states to ensure all records are up to date. Deceased notices from the Department of Health and local obituaries, notices of individuals incarcerated for felony offences from the Department of Corrections, and lists of new voters in other states who indicate holding a prior residence in New York, are processed, and documented routinely.
- 3. County Boards undertake a mandatory annual mail check process which requires notice to be sent to all active voters to ensure they have not moved.** The annual mail check process required in state law ensures that Boards can determine whether a voter may have moved based on whether their mail check card is returned undelivered.
- 4. County Boards annually compare voter addresses against the National Change of Address database.** In addition to the mail check process, Boards also check voter addresses against a list of individuals who may have moved according to the USPS. Using this list, the Board can make an informed decision in accordance with state law on whether to inactivate or purge a voter that may have moved.
- 5. The law requires an affirmative notice to make changes to any voter's record.** Without a return mail check card (or other returned mail), signed letter from a voter indicating they've moved, or a copy of an official document or publication from an agency or state, boards of elections are prohibited from making registration record changes. These checks and balances are for the benefit of the voter and ensure that no voter is purged without cause.
- 6. Counties undergo a biannual review of their internal record keeping process.** Every two years, the State Board of Elections audits all County Boards to ensure they are properly processing voters within their local registration system and the state's registration system. If a County is found to not be correctly processing voters, the state will make recommendations on how to amend their processes.



Ontario County Board of Elections

Albert (A.J.) Magnan 74 Ontario Street, Canandaigua New York 14424
Commissioner 585-396-4005

Michael J. Northrup
Commissioner

Rebuttal to Citizen's Audit

- 1) The appropriate avenue for Citizens' Audit redress is via the court system and not the Board of Supervisors, or any other legislative body.
- 2) There is misunderstanding of what the data is actually telling them.
- 3) The complexity of the voter enrollment database(s) combined with their very dynamic nature is poorly understood by nearly everyone except those who work closely with the information. That lack of understanding makes it very easy to exploit preconceived notions about the entire elections process.
- 4) Both our Board and the State Board of Elections conduct extensive reviews of voter records on a regular and consistent basis, daily.
- 5) All county Boards of Election as well as the NY State BoE are staffed with bi-partisan elections administrators who work together in a checks & balance method to ensure that every citizen's franchise is respected and their registrations are kept current.
- 6) It is likely that most anomalies this group claims to have uncovered are either a misunderstanding of the material being reviewed, or a misrepresentation of the information that has been provided to them via the FOIL process.
- 7) Information is often clouded by the fact that we do receive duplicate voter registration applications, mostly from DSS, DMV, and other state agencies with mandatory reporting requirements, and the state refers to these duplicate applications as "duplicate voters." Multiple protocols are in place with each and every County Board of Elections, in concert with the State Board of Elections, to ensure "one person - one vote", before, during, and after each election.
- 8) All data provided by this group has been debunked by our peers.