

REGULAR MEETING, TOWN BOARD, TOWN OF LITTLE FALLS, JULY 13, 2021

A Regular meeting of the Town Board, Town of Little Falls was held on July 13, 2021 at the town hall commencing at 7:05 p.m. with the following members present:

Present: Councilman Kevin Sullivan
Councilman Mitchell Soules
Councilman Kirk Schwasnick

Absent: Supervisor Casler
Councilman Eric Gehring

Others Present: Town Clerk, Sandra Regan; Highway Superintendent, Donald Cotton; Town Attorney, Nick Macri; Phil Green, Codes Enforcer.

Councilman Sullivan presided at the meeting and called the meeting to order directing the clerk to call the roll.

RESOLUTION #49

Minute Approval

On motion of Councilman Soules, seconded by Councilman Schwasnick, the following resolution was ADOPTED-vote:

Ayes-Councilmen Sullivan, Soules, Schwasnick

Noes-0

RESOLVED that the minutes of the previous month's meetings, as submitted by the clerk, hereby be approved.

-Privilege of the floor was granted to those present. There were no comments.

-Supervisor Report:

Clerk Regan, on behalf of Supervisor Casler reported:

-That a supervisor's financial report for the month has been submitted for review.

-That Neil Bandel has formally resigned from the Board of Assessment & Review.

-That the application for funding through the American Rescue Plan Act has been submitted and the town should receive \$150,871 which will be received in two payments over two years.

-That Supervisor Casler renewed the decommissioning CD, but would like to change it to a Municipal Checking Account to gain more interest. Attorney Macri stated that since this is relative to the solar farm's decommissioning agreement, he would like to check and see if the town is bound by any agreement on how the town invests the money. This matter was tabled until Attorney Macri reviews the decommissioning agreement.

-That Supervisor Casler will meet with the new Comp Alliance representative and would like the board to consider allowing him to do a three-year contract. The board agreed to entertain such but would like to have the figures before formally adopting a contract.

-That Supervisor Casler had emailed the board a copy of a letter of appreciation received from David Keyser for the work done on O'Hara Road.

-That a certificate of final special franchise full value and a letter of explanation has been received. The board agreed to have Supervisor Casler explain this at the next meeting.

-That Supervisor Casler needs a resolution to transfer \$68,439.88 from the Fire Protection Account to the General Fund to pay the fire contract bill.

RESOLUTION #50

Fund Transfer

On motion of Councilman Schwasnick, seconded by Councilman Soules, the following resolution was ADOPTED by roll call vote:

Councilman Sullivan	Aye
Councilman Soules	Aye
Councilman Schwasnick	Aye

RESOLVED that \$68,439.88 hereby be transferred from the Fire Protection Account to the General Fund.

RESOLUTION #51

Resignation Acceptance-Neil Bandel, Board of Assessment & Review

On motion of Councilman Schwasnick, seconded by Councilman Soules, the following resolution was ADOPTED-vote:

Ayes- Councilmen Sullivan, Soules, Schwasnick
Noes-0

RESOLVED that the resignation of Neil Bandel from the Board of Assessment & Review hereby be accepted effective immediately.

-The board decided to table approval of the Supervisor's monthly financial report being there were questions relative to the fire protection account transfer.

-Assessor Report: None

-Town Attorney Report: Nothing at this time.

-Town Justice Report: None

-Health Officer Report: None

-Planning Board Report:

Clerk Regan reported that no meeting was held, therefore there is no report.

-Dog Control Report: None

-Highway Superintendent Report: Nothing at this time.

-Town Clerk Report:

Clerk Regan reported that she didn't find a resolution regarding putting lawn mowing bills on taxes, but found where the town clerk was directed to turn over the bills to the assessor to be put on the taxes.

Discussion was held on this with Attorney Macri stating that he will draft what is needed so this can be done.

Clerk Regan was directed to contact Assessor Meeker to see if she has put any mowing bills on the taxes in the past and if she has what she needs to do this in the future.

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-Codes Enforcer Report:

Codes Enforcer Green reported that he had one lawn mowed and the bill will be coming and that he has some pending building permits.

-Meeting recessed at 7:30 p.m. to audit the bills.

-Meeting resumed at 7:46 p.m.

RESOLUTION #52

Payment of General Bills

On motion of Councilman Soules, seconded by Councilman Schwasnick, the following resolution was ADOPTED-vote:

Ayes- Councilmen Sullivan, Soules, Schwasnick

Noes-0

RESOLVED that the General Bills #73-87 in the amount of \$5,581.87 hereby be paid.

RESOLUTION #53

Payment of Highway Bills

On motion of Councilman Soules, seconded by Councilman Schwasnick, the following resolution was ADOPTED-vote:

Ayes-Councilmen Sullivan, Soules, Schwasnick

Noes-0

RESOLVED that the Highway Bills #107-127 in the amount of \$41,629.95 hereby be paid.

RESOLUTION #54

Adoption of Local Law #1-2021, A Law Providing For The Use of and Reimbursement for Legal Engineering and Consulting Services

On motion of Councilman Schwasnick, seconded by Councilman Soules, the following resolution was ADOPTED by roll call vote:

Councilman Sullivan Aye

Councilman Soules Aye

Councilman Schwasnick Aye

WHEREAS, a Public Hearing was held on Local Law # 1-2021, a Law Providing For The Use of and Reimbursement for Legal Engineering and Consulting Services, on July 13, 2021, and

WHEREAS, there were no comments against adoption of said local law,

BE IT RESOLVED that the Town Board, of the Town of Little Falls, hereby enacts Local Law #1-2021 as follows:

BE IT ENACTED by the Little Falls Town Board as follows:

ARTICLE I. The Use of and Reimbursement for Legal Engineering and Consulting Services

Section 1. Where the Town Board or Planning Board use the services of private engineers, attorney or other consultants for purposes of engineering, scientific land use planning,

(Resolution #54-cont.)

environmental or legal reviews of the adequacy or substantive details of applications, or issues raised during the course of review of such applications, or issues raised during the course of review of such applications for special permit approvals of this chapter or site plan approvals Subdivision of Land use or area variances, applications for parcels to accommodate site-specific land development proposals or otherwise, applications for permits to extract topsoil or natural resources or for any other ancillary land use or development permits or approvals required under the Town Laws as well as to assist in insuring or enforcing an applicant's compliance with the terms and conditions of all the aforementioned administrative and legislative permits or approvals, the applicant and landowner, if different, shall be jointly and severally responsible for payment of all the reasonable and necessary costs of such services. In no event shall that responsibility be greater than the actual cost to the Town of such engineering, legal or other consulting services.

Section 2. The Town Board or Planning Board through or with the assistance of the Town of Little Falls employees, will require advance periodic monetary deposits, to be held on account of the applicant or landowner, by the Town of Little Falls to secure the reimbursement of the Town's consultant expenses. The Town may make payments from the deposited funds for engineering, legal or consulting services, after audit and approval by the Town Board of itemized vouchers for such services. The Town shall supply copies of such vouchers to applicant and/or landowner, appropriately redacted where necessary to shield legally privileged communications between Town officers and employees and the Town's consultants.

Section 3. The Town Board shall review and audit all vouchers and shall approve payment only of such engineering, legal and consulting expenses as are reasonable in amount and necessarily incurred by the Town in connection with the review and consideration of applications for land use or development approvals, or for the monitoring, inspection or enforcement of permits or approvals or the conditions attached thereto. For the purpose of this review and audit, a fee shall be "reasonable in amount" if it bears a reasonable relationship to the average charge by engineers, attorneys or other consultants to the Town for services performed in connection with similar applications and, in this regard, the Town Board may take into consideration the complexity, both legal and physical, of the project proposed, including the size, type, and number of buildings to be constructed, the amount of time to complete the project, the topography of the land on which such project is located, soil conditions, surface water, drainage facilities, utilities or parks to be constructed and special conditions or considerations as the Town Board may deem relevant. A fee or part thereof is "necessarily incurred" if it was charged by the engineer, attorney, or consultant for a service which was rendered in order to protect or promote the health, safety or other vital interests of the residents of the Town, protect public or private property from damage from uncontrolled surface water run-off and other environmental factors, assure the proper and timely construction of highways, drainage facilities, utilities and parks, protect the legal interests of the Town including receipt by the Town of good and proper title to dedicated highways and other facilities, the correction of defects arising during any post dedication maintenance period and the avoidance of claims and liability and such other interests as the Town board may deem relevant.

Section 4. The owner(s) of the subject real property, if different from the applicant, shall be jointly and severally responsible to reimburse the Town of Little Falls for funds expended to compensate for services rendered to the Town under this section by private

(Resolution #54-cont.)

engineers, attorneys or other consultants. In order for a land use application to be complete, the applicant shall provide the written consent of all owners of the subject real property, both authorizing the applicant to file and pursue land development proposals and acknowledging potential landowner responsibility, under this section, for engineering, legal and other consulting fees incurred by the Town. In the event of failure to reimburse the Town for such fees, the following shall apply:

- (1) The Town may seek recovery of reimbursed engineering, legal and consulting fees by action venued in a court of appropriate jurisdiction, and the defendant(s) shall be responsible for the reasonable and necessary attorney's fees expended by the Town in prosecuting such action.
- (2) Alternatively, and at the sole discretion of the Town, a default in reimbursement of such engineering, legal and consulting fees expended by the Town shall be remedied by charging such sums against the real property which is the subject of the land development application, by adding that charge to, and making it a part of, the next annual real property tax assessment roll of the Town. Such charges shall be levied and collected at the same time and in the same manner as town assessed taxes and shall be paid to the Town Supervisor, to be applied in reimbursing the fund from which the costs were defrayed for the engineering, legal and consulting fees. Prior to charging such assessments, the owners of the real property shall be provided written notice to their last known address of record, by certified mail, return receipt requested, of an opportunity to be heard and object before the Town Board to the proposed real property assessment, at a date to be designated in the notice, which shall be no less than thirty (30) days after its mailing.

Section 5. The provisions of this local law shall apply to all engineering, legal or consulting fees incurred by the Town with regard to applications or matters pending on or after the effective date of this local law.

Article II. Effective date

This local law shall take effect immediately upon filing with the Secretary of State.

-The next regular meeting will be held on August 10, 2021 at the town hall at 7:00 p.m.

-Meeting adjourned at 7:47 p.m.-Councilmen Soules, Schwasnick

Respectfully submitted,
Sandra Regan, Town Clerk