

REGULAR TOWN BOARD MEETING
JUNE 13, 20137PM

Present:Sup Tarbell

Coun Hurst

Coun Monteleone

Coun Klein

Coun Vitagliano

Also Present:J. Koch, M. Hotchkiss, R. Uptegrove, M. Hanzly, J. Norcross, D. Nourse,

B. Bark

Sup Tarbell called the meeting to order at 7:06PM

REGULAR TOWN BOARD MEETING, cont'dJUNE 13, 20137PM

At 7:06PM Sup Tarbell opened the Public Hearing regarding the Road Use Law.

The following vouchers were audited:

GENERAL FUND – TOWNWIDE\$10,939.35

GENERAL FUND – OUTSIDE VILLAGE219.05

HIGHAWY FUND – TOWNWIDE3,062.14

HIGHWAY FUND – OUTSIDE VILLAGE10,473.73

SILVER LAKE SEWER DISTRICT33,328.95

GARDEAU WATER DISTRICT1,264.14

SILVER LAKE INSTITUTE WATER DISTRICT4,185.31

SILVER LAKE LIGHTING INSTITUTE436.23

TOTAL\$63,908.90

A motion was made by Coun Monteleone, seconded by Coun Vitagliano to approve the vouchers totaling \$63,908.90.

Polled:Ayes:Monteleone, Vitagliano, Hurst, Klein, Tarbell

Noes:NoneCarried

A motion was made by Coun Monteleone, seconded by Coun Klein to approve the Supervisors Report.

Polled:Ayes:Monteleone, Vitagliano, Hurst, Klein, Tarbell

Noes:NoneCarried

A motion was made by Coun Klein, seconded by Coun Hurst to approve the minutes from the 5/9/13 meeting.

Polled:Ayes:Monteleone, Vitagliano, Hurst, Klein, Tarbell

Noes:NoneCarried

The Water/Sewer Report was reviewed.

D. Nourse stated that he has checked on prices to repair some of the inflow and infiltration issues that we have and it will cost about \$3,000 per day, they think they can get 3 stations done in 1 day.D. Nourse also stated that Pump Station 6 will cost about \$10,000 to repair all 3 walls that are deteriorating but only 1 wall is really bad.He stated that there should be no shut down time to repair the walls.

A motion was made by Coun Hurst, seconded by Coun Monteleone to allow D. Nourse to repair the walls on Pump Station 6 and to repair as many I&I issues as possible not exceeding \$13,000.

REGULAR TOWN BOARD MEETING, cont'dJUNE 13, 20137PM

Polled:Ayes:Monteleone, Vitagliano, Hurst, Klein, Tarbell

Noes:NoneCarried

The Highway Report was reviewed.D. Nourse stated that they are trying to get paving done but it has been delayed because of the rain.The Chapman Ave. speed limit signs should be up in a couple of weeks.

The Zoning Report was reviewed.

The Assessors Report was reviewed.

At 7:29 a motion was made by Coun. Klein, seconded by Coun Hurst to close the

Public Hearing.

Coun Klein stated that the Road Use Law seems to give a lot of authority to Deputy Highway Superintendent Nourse.

Sup Tarbell stated that the Town Clerk will be issuing the permits and handling the applications.

A motion was made by Coun Klein, seconded by Coun Monteleone to adopt the Road Use Law as follows:

Polled:Ayes:Monteleone, Vitagliano, Hurst, Klein, Tarbell

Noes:NoneCarried

LOCAL LAW NO. 1-2013

**

A Local Law Providing For The Permitting And Regulation Of Vehicles Exceeding The Weight And Dimensional Limits Set Forth In Section 385 Of The Vehicle And Traffic Law Of The State Of New York And Further Regulating The Travel Of Said Vehicles In The Town Of Castile.

**

BE IT ENACTED BY THE TOWN BOARD OF CASTILE, COUNTY OF WYOMING AS FOLLOWS:

**

Section 1._Introduction and Legislative Purpose._This Local Law is enacted pursuant to the New York State Municipal Home Rule Law, the New York Town Law, the New York County Law Section 725, Highway Law Section 102, New York Vehicle and Traffic Law Section 385 (15) and the New York Vehicle and Traffic Law Section 1650, so as to provide for the general health, safety, welfare of the citizens of the Town of Castile (hereinafter "Town") and to regulate by "permit" the operation of motor vehicle exceeding the weight and dimensions standards set forth by New York Vehicle and Traffic Law Section 385 (hereinafter "Permit").

Section 2._Permit Required._

a.Any vehicle or combination of vehicles that exceed the weight or dimensions standards set forth in New York Vehicle and Traffic Law Section 385 shall be prohibited from operating on roads under the jurisdiction of the Town unless holding a Permit issued under the provisions of this Local Law.An applicant for

purposes of this law shall mean the owner of the motor vehicle to be permitted.

b. This Local Law shall only apply to Permits issued in connection with a “major project” as defined in this subsection. For purposes of this Local Law, “major project” shall mean a commercial activity, including but not limited to, the installation, development or construction of one (1) or more natural gas wells and related infrastructure and facilities as well as the installation, development or construction of any wind power generation facility involving the installation, development or construction of one (1) or more wind energy conversion devices in excess of one hundred twenty (120) feet high.

c. Town of Castile Highway Superintendent (hereinafter “Highway Superintendent”) shall issue the Permits established by this Local Law.

Section 3. Permit Procedure. The Town Highway Superintendent shall make available to any applicant who wishes to operate a motor vehicle exceeding the weight and dimensions standards established by New York Vehicle and Traffic Law a permit application which shall require the applicant to submit, in a form acceptable to the Town Highway Superintendent, the following:

a. Proof of valid New York State motor vehicle registration for each vehicle.

b. A valid New York State Special Hauling Permit issued by the New York State Department of Transportation pursuant to New York Code of Rules and Regulations (NYCRR) Part 154 (17 NYCRR §154).

c. A specification of the Town highways for which a Permit is requested as well as a route map indicating the applicant’s proposed hauling routes, if applicable.

d. Proof of liability insurance, as requested by the Town Highway Superintendent.

Additional relevant information may be required in the permit applications as deemed necessary for the purposes of this Local Law by the Town Highway Superintendent.

Section 4. Permit Conditions. The Town Highway Superintendent is specifically authorized to attach appropriate conditions to any Permit issued under this Local Law so as to ensure that hauling and road use by the applicant is consistent with the statutory purpose of New York Vehicle and Traffic Safety Law Section 385 and provisions of this Local Law relating to an applicant’s obligation to repair or replace any damage to Town Roads occasioned by use of the Permit contemplated by Section 2 of this Local Law.

Section 5. Multiple Permits. Should an applicant or one or more related applicants or one or more applications related to the same project or purpose apply for more than one (1) Permit under the terms of this Local Law, such applicant(s) must

execute a Road Maintenance Agreement acceptable to the Town Highway Superintendent substantially in a form approved by the Town Highway Superintendent and made part of the application form referred to in Section 1 herein.

Section 6. Permit and Road Maintenance Agreement Conditions. The Town Highway Superintendent is authorized to attach appropriate conditions to any Permit issued under this Local Law and/or to the Road Maintenance Agreement so as to ensure that hauling and road use by the applicant is consistent with the statutory purposes of the New York Vehicle and Traffic Law Section 385, New York Vehicle and Traffic Law Section 1650 and the provisions of this Local Law relating to the operation of motor vehicle exceeding the weight and dimensions standards set forth in New York Vehicle and Traffic Law §385 and the applicant's obligation to repair or replace any damage to Town Roads established by this Local Law and New York State Law.

Section 7. Duration and Term. Permits under this Local Law shall be issued for a period of one (1) year and are subject to renewal for one (1) year periods provided the applicant has complied with the conditions of the Permit and, if applicable, the Road Maintenance Agreement.

Section 8. Revocation of Permit and Stop Orders. The Town Highway Superintendent is authorized to suspend any Permit issued under the terms of this Local Law upon the issuance of a written notice of Permit violation issued to the Permit holder. Upon the issuance of a notice of Permit violation, which may contain an Order immediately suspending the Permit, the Permit holder shall have an opportunity to correct any violation of the Permit or shall have an opportunity to be heard by the Town Highway Superintendent within five (5) days of the notice of Permit violation. Should the applicant fail to correct any violation of an issued Permit as specified by the Town Highway Superintendent, said Permit may be revoked on ten (10) day's written notice to the applicant.

Section 9. Security Bond. Any applicant(s) for Permits under this Local Law which may be subject to the requirement of a Road Maintenance Agreement shall fully comply with the indemnity, insurance and security provisions contained in said Road Maintenance Agreement.

Section 10. Additional Requirements.

a. Any Permit holder shall provide the Town Highway Superintendent with a minimum of seventy-two (72) hours notice of a Permit holder's intent to commence use of the Permit on Town Roads and further said applicant shall be required, upon request by the Town Highway Superintendent, to provide the Town Highway Superintendent with detailed information regarding the locations and duration of the truck routing activity authorized by the Permit.

b. The Town Highway Superintendent may waive the requirements of this Local Law for publicly owned vehicles, those vehicles owned by a public utility and emergency vehicles.

Section 11. Fee. The annual Permit fee shall be the maximum fee provided by New York State Vehicle and Traffic Law Section 385, according to weight schedule.

Section 12. Violation and Penalties.

a. Any person who shall operate or move a vehicle or a combination of vehicles, the weights and dimensions of which exceed the limitations provided in Section 385 on Town Roads or highways without obtaining the Permit required hereunder shall be guilty of a violation, which shall be punishable by a fine not exceeding five hundred and no/100 (\$500.00) dollars per occurrence for the first violation and not to exceed one thousand and no/100 (\$1000.00) dollars per occurrence for each subsequent violation.

b. The Town is specifically authorized to institute a civil action in New York Supreme Court to compel compliance with this Local Law.

Section 13. Severability. If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part of provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of Castile hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 14. This Local Law shall take effect upon the filing with New York State Secretary of State.

Dated at Castile, New York

Sup Tarbell stated that the Ag and Lake District Surveys are ready to be mailed. Several representatives from the Town of Castile has been working with representatives

REGULAR TOWN BOARD MEETING, cont'd JUNE 13, 2013 7PM

from the Town of Perry to gather information for these surveys to be compiled for the Comprehensive Plan that hasn't been updated since 1969. Sup Tarbell feels that a survey should be mailed to each person in the Town/Village so that everyone has their say.

Coun Hurst stated that he would like to see the surveys mailed out in early July.

A motion was made by Coun Vitagliano, seconded by Coun Klein to accept the surveys as written and mail to all Town of Castile residents.

Polled:Ayes:Monteleone, Vitagliano, Hurst, Klein, Tarbell

Noes:NoneCarried

A motion was made by Coun Monteleone, seconded by Coun Hurst to adopt the Uniform Notice of Claims as follows:

Polled:Ayes:Monteleone, Vitagliano, Hurst, Klein, Tarbell

Noes:NoneCarried

Resolution No. 1 2013, Town of Castile

WHEREAS General Municipal Law, §53 requires towns to file a certificate with the Secretary of State designating the Secretary of State as an agent for service of a notice of claim; and

WHEREAS, General Municipal Law, §53 requires the certificate to include the applicable time limit for filing the notice of claim and the name, post office address and electronic mail address, if available, of an officer, person, for the transmittal of notices of claim served upon the Secretary as the town's agent; and

WHEREAS, pursuant to General Municipal Law, §50-e(1)(a), the applicable time limit for the filing of a notice of claim upon a town is 90 days after the claim arises, or in the case of a wrongful death action, 90 days from the appointment of a representative of the decedent's estate; *Now therefore Be It *

*RESOLVED, that the Town Board of the Town of Castile, County of Wyoming designates /Vickie Draper/**/,**in his/her capacity as /Town Clerk/**/, /**to receive notices of claims served upon the Secretary of State by mail at 53 North Main Street, PO Box 179 Castile, NY 14427 and email at/townofc1@rochester.rr.com/**/.

*BE IT FURTHER RESOLVED, that the Town Board hereby directs the Town Clerk to file the required certificate with the Secretary of State informing him or her of the town's designation and applicable time limitation for filing a notice of claim with the town on or before July 14, 2013. *

/(Please note that applicable time limit for the filing of a notice of claim upon a town is 90 days after the claim arises, or in the case of a wrongful death action, 90 days from the appointment of a representative of the decedent's estate General

Municipal Law, §50-e(1)(a))/
/

*General Municipal Law, §53 *

Alternative service of notice of claim upon the secretary of state

1. In lieu of serving a notice of claim upon a public corporation as provided for in section fifty-e of this article, a notice of claim setting forth the same information as required by such section may be served upon the secretary of state in the same manner as if served with the public corporation. All the requirements relating to the form, content, time limitations, exceptions, extensions and any other procedural requirements imposed in such section with respect to a notice of claim served upon a public corporation shall correspondingly apply to a notice of claim served upon the secretary of state as permitted by this section. For purposes of this article, the secretary of state shall be deemed to be the agent for all public corporations upon whom a notice of claim may be served prior to commencement of any action or proceeding subject to the requirements of this article.

2. All public corporations entitled to have served upon them a notice of claim as a condition precedent to commencement of an action or proceeding shall, no later than thirty days after the date upon which this section shall take effect, file a certificate with the secretary of state designating the secretary as the agent for service of a notice of claim and shall in such statement provide the secretary with the name, post office address and electronic mail address, if available, of an officer, person, or designee, nominee or other agent-in-fact for the transmittal of notices of claim served upon the secretary as the public corporation's agent. Any designated post office address or electronic mail address to which the secretary of state shall mail transmit a copy of the notice of claim served upon him or her as agent shall continue to be the address to which such notices shall be transmitted until the public corporation sends a notice to the secretary informing him or her of a new post office address or electronic mail address to which such notices shall be transmitted. The initial filing with the secretary of state shall also contain the applicable time limit for filing a notice of claim upon that public corporation, or if later changed by statute, a new filing shall be made detailing the new time limit. Any public corporation that does not have a current and timely statutory designation filed with the secretary of state shall not be entitled to the portion of the fee to which it would otherwise be entitled pursuant to subdivision four of this section. Failure of the public corporation to so file with the secretary of state will not invalidate any service of a notice of claim upon the public corporation which has been received by the secretary of state.

3. The secretary of state is hereby empowered to accept properly transmitted notices of claims on behalf of a public corporation, with the same effect as if served directly upon a public corporation. The secretary of state shall accept such service upon the following terms and conditions:

(a) the secretary of state shall set and notify the public, on his or her website of times, places and manner of service upon him or her of notices of claims necessary to comply with the provisions of this section;

(b) upon receipt of a notice of claim, the secretary of state shall issue a receipt or other document acknowledging his or her receipt of such notice, and such receipt shall contain the date and time of receipt of the notice, an identifying number or name particular to the notice received, and the logo or seal of the department of state embossed upon it. Such receipt shall be prima facie evidence of service upon the secretary of state for all purposes;

(c) nothing in this section shall be deemed to alter, waive or otherwise abrogate any defense available to a public corporation as to the nature, sufficiency, or appropriateness of the notice of claim itself, or to any challenges to the timeliness of the service of a notice of claim. Timely service upon the secretary of state shall be deemed timely service upon the public corporation for purposes of instituting an action or proceeding or other requirement imposed by law.

4. The secretary of state may impose a fee upon any person who serves a notice of claim with the department. Such fee shall not exceed two hundred fifty dollars for each such notice filed. One-half of the fee imposed shall be retained by the secretary of state as payment for its services provided in accordance with this section. The remaining one-half of such fee shall be forwarded to the public corporation named in the notice of claim provided, however, if more than one such public corporation is named, each named public corporation shall be entitled to an equal percentage of the one-half amount.

5. The secretary of state shall within sixty days after the effective date of this section post on the departmental website a list of any public corporation, including any public authority, public benefit corporation or any other entity entitled to receive a notice of claim as a condition precedent to commencement of an action or proceeding, and that has filed, pursuant to this section, a certificate with the secretary of state designating the secretary as the agent for service of a notice of claim. The list should identify the entity, the post office address and electronic mail address, if available, of the public corporation to which the notice of claim shall be forwarded by the secretary of state, and any statutory provisions uniquely pertaining to such public corporation and the commencement of an action or proceeding against it.

6. The secretary of state is authorized to promulgate any rules or regulations necessary to implement the provisions of this section.

A motion was made by Coun Vitagliano, seconded by Coun Monteleone to advertise for a joint meeting with the Town of Castile and Village of Perry on July 2, 2013 at 6PM at the Village of Castile Fire Hall to award bids for the construction of the new building.

Polled:Ayes:Monteleone, Vitagliano, Hurst, Klein, Tarbell

Noes:NoneCarried

REGULAR TOWN BOARD MEETING, cont'dJUNE 13, 20137PM

A motion was made by Coun Monteleone, seconded by Coun Klein to allow Sup Tarbell to sign the Settlement Stipulation regarding the Houseknecht property.

Polled:Ayes:Monteleone, Vitagliano, Hurst, Klein, Tarbell

Noes:NoneCarried

A motion was made by Coun Vitagliano, seconded by Coun Monteleone allowing the following transfers:

Polled:Ayes:Monteleone, Vitagliano, Hurst, Klein, Tarbell

Noes:NoneCarried

*TOWN OF CASTILE *

*PLEASE MAKE THE FOLLOWING TRANSFERS AT YOUR 6/13/13 MEETING: *

GENERAL FUND - TOWNWIDE

/Transfer From: /

A2190

Sale of Cemetery Lots

\$761.00

A2680

Insurance Recovery

\$6,391.00

TOTAL:

\$7,152.00

/Transfer To: /

//

A1220.4

Supervisor Contr

\$254.00

//

A1620.2

Buildings Equipment

\$4,995.00

//

A1950.4

Taxes & Asses on Property

\$503.00

//

A4189.4

Water Pollution contr

\$1,400.00

TOTAL:

\$7,152.00

SILVER LAKE SEWER DISTRICT

/Transfer From: /

SS9060.8

Hosp/Med Ins

\$2,166.00

\$2,166.00

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/Transfer To: /

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SS8110.1

Admin Pers Svc

\$2,166.00

\$2,166.00

CEMETERY FUND

/Transfer From: /

H2401

Grace Cemetery Interest

\$68.19

TOTAL:

\$68.19

/Transfer To: /

Interfund Transfer - Grace Cem

\$68.19

TOTAL:

\$68.19

Sup Tarbell stated that he has spoke with personnel at Public Sector HR Consultants LLC to put together Employee Handbooks.He stated that Coun Hurst has already compiled a lot of information and that by having doing so will most likely reduce our cost.He stated that it should be under \$5,000 but will get in touch with them again to see if they can come to one of the Board Meetings to discuss this further.

At 7:51PM a motion was made to go into Executive Session regarding our contract with the Village of Perry.

Polled:Ayes:Monteleone, Vitagliano, Hurst, Klein, Tarbell

Noes:NoneCarried

At 8:59PM a motion was made by Coun Vitagliano, seconded by Coun Hurst to come out of Executive Session.

Polled:Ayes:Monteleone, Vitagliano, Hurst, Klein, Tarbell

Noes:NoneCarried

No Action Taken

At 9PM a motion was made by Coun Klein, seconded by Coun Vitagliano to adjourn the meeting.

REGULAR TOWN BOARD MEETING, cont'dJUNE 13, 20137PM

Polled:Ayes:Monteleone, Vitagliano, Hurst, Klein, Tarbell

Noes:NoneCarried

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Vickie Draper Town Clerk 585-493-2440-Office 585-493-5058-Fax