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RESOLUTION #52 -2026 OF THE TOWN BOARD, TOWN OF NEWFANE, NY

RESOLUTION DECLARING AN EMERGENCY AND RATIFYING AND AUTHORIZING THE EMERGENCY REMOVAL OF A FALLEN TREE FROM 18-MILE CREEK

WHEREAS, the Town of Newfane (the “Town”) became aware of a fallen tree extending across and obstructing a portion of 18-Mile Creek within the Town of Newfane; and

WHEREAS, the fallen tree constituted an unforeseen condition affecting a waterway and municipal property and presented a potential hazard to public safety, persons using or accessing 18-Mile Creek, watercraft, and other property, and impeded the normal flow and use of the creek; and

WHEREAS, the condition required immediate action to remove the fallen tree in order to eliminate the potential hazard, prevent further obstruction or deterioration of the waterway, and protect the health, safety and welfare of the inhabitants of the Town; and

WHEREAS, the Town Board finds that the condition was of such an immediate nature that the work could not reasonably await the Town's normal competitive bidding or procurement process; and

WHEREAS, New York State General Municipal Law §103(4) provides that, notwithstanding the normal competitive bidding requirements, in the case of a public emergency arising out of an accident or other unforeseen occurrence or condition whereby circumstances affecting public buildings, public property, or the life, health, safety or property of the inhabitants of a political subdivision require immediate action which cannot await competitive bidding or competitive offering, contracts for public work may be let by the appropriate officer, board or agency of the political subdivision; and

WHEREAS, Guideline 7(b) of the Town’s Procurement Policy provides that no solicitation of written proposals or quotations shall be required in the event of an emergency; and

WHEREAS, the Town Board has determined that the fallen tree and resulting obstruction of 18-Mile Creek constituted such an unforeseen condition and public emergency within the meaning of General Municipal Law §103(4) and Guideline 7(b) of the Town’s Procurement Policy, requiring immediate action; and

WHEREAS, the Town utilized the services of **John M. Murphy of Murphys Tree** to perform the emergency tree removal work necessary to address the condition and remove the fallen tree from 18-Mile Creek; and

WHEREAS, prior to the work being performed, the Town provided Mr. Murphy with the applicable **New York State Department of Environmental Conservation (“NYSDEC”) guidance concerning the removal of fallen trees and woody debris from streams and waterways**, and Mr. Murphy was instructed that all work was to be performed in accordance with applicable NYSDEC requirements, guidance, permits, and environmentally appropriate removal techniques; and

WHEREAS, **John M. Murphy of Murphys Tree has completed the emergency tree removal work** necessary to address the hazardous condition; and

WHEREAS, the cost of the emergency tree removal work shall **not exceed Three Thousand Dollars (\$3,000.00)** without further authorization of the Town Board; and

WHEREAS, the Town Board finds that the emergency work performed was necessary to protect public safety, municipal interests, and the proper functioning and use of 18-Mile Creek and that delaying the work to follow the normal competitive bidding process could have unnecessarily prolonged the hazardous condition;

NOW, THEREFORE, BE IT

RESOLVED, that the Town Board of the Town of Newfane hereby declares that a **public emergency existed with respect to the fallen tree obstructing 18-Mile Creek**, pursuant to New York State General Municipal Law §103(4) and Guideline 7(b) of the Town’s Procurement Policy; and

BE IT FURTHER RESOLVED, that the Town Board hereby **ratifies and authorizes the emergency tree removal work performed by John M. Murphy of Murphys Tree** in response to the emergency condition in 18-Mile Creek; and

BE IT FURTHER RESOLVED, that the Town Board has determined that the emergency work constitutes a Type II action under the State Environmental Quality Review Act (“SEQRA”) (6 NYCRR § 617.5[c][42]);

BE IT FURTHER RESOLVED, that the Town Board authorizes payment for the emergency tree removal work performed by John M. Murphy of Murphys Tree in an amount **not to exceed \$3,000.00**, subject to receipt and approval of appropriate documentation and invoice for the work performed; and

BE IT FURTHER RESOLVED, that the emergency work performed was required to be conducted in accordance with all applicable federal, New York State, NYSDEC, environmental, safety, and other applicable requirements, including the NYSDEC guidance provided to the contractor concerning the proper removal of fallen trees and woody debris from waterways; and

BE IT FURTHER RESOLVED, that the Town Supervisor and appropriate Town officials are hereby authorized to execute any necessary documentation, purchase order, voucher, or other instrument necessary to process payment for the emergency work authorized and ratified by this Resolution; and

BE IT FURTHER RESOLVED, that the Town Clerk and appropriate Town officials shall maintain documentation of the emergency condition, the basis for the emergency determination, the contractor utilized, the work performed, the applicable NYSDEC guidance, and the final cost of the emergency work for the Town's procurement, financial, and audit records; and

BE IT FINALLY RESOLVED, that this Resolution shall take effect immediately upon adoption.

By Order of the Town Board
Town of Newfane, Niagara County, New York
Adopted this ____ day of _____, 2026

Town Board Member

Vote

Supervisor John Syracuse

☐ Aye ☐ Nay

Councilman Paul Conrad

☐ Aye ☐ Nay

Councilman Robert Horanburg

☐ Aye ☐ Nay

Councilwoman Jessica Reinhardt

☐ Aye ☐ Nay

Councilman Peter Robinson

☐ Aye ☐ Nay

DATED: _____