

Town of Tully
September 14, 2016

6:00 to 7:15 Open Forum -- Baseball Field

Questions and comments by residents for possible use of town property as a baseball field

7:20 Public Hearing --Local Law No. 2 -- Flood Damage Prevention

PUBLIC HEARING ON PROPOSED
LOCAL LAW NO. TWO (2) OF THE YEAR 2016
ENTITLED "FLOOD DAMAGE PREVENTION"

Supervisor Lund declared the public hearing open at 7:20pm. Notice of this public hearing was published in the Post-Standard on September 1, 2016 and posted on the sign boards at the town hall and the Tully post office.

Town attorney Steven Primo asked for a motion to waive the reading of the public hearing notice.

RESOLUTION 69-16

MOTION TO WAIVE READING OF THE PUBLIC HEARING NOTICE. Motion by Supervisor Lund. Second by Councilor Speziale. Motion carried 5 ayes (Lund, Masters, Snavlin, Chapman, Speziale) 0 nays

Mr. Primo advised the board that FEMA completed the revised floodplain mapping for Onondaga County, and for the town to stay within the program that permits flood insurance to be subsidized by the Federal government, this local law has to be adopted. After a brief explanation by our town attorney, and questions from the floor and the board, there came the following motion:

RESOLUTION 70-16

MOTION TO CLOSE THE PUBLIC HEARING ON LOCAL LAW NO. 2 at 7:25pm. Motion by Councilor Speziale. Second by Councilor Snavlin. Motion carried 5 ayes (Lund, Masters, Snavlin, Chapman, Speziale) 0 nays

REGULAR TOWN BOARD MEETING
TOWN OF TULLY
TOWN HALL
5833 MEETING HOUSE RD TULLY NY

Members Present: Supervisor William A. Lund, Jr.
Councilor John Snavlin
Councilor John Masters
Councilor Christopher Chapman
Councilor Frank Speziale

Others present: Financial Officer Thomas Chartrand, Town Attorney Steven Primo, Highway Superintendent John Herold, *The Tully News* editor Ben Bibik, Parks & Rec Director Ryan Dando, Gary Heymann, Mayor Beth Greenwood, Fire Commissioner Anthony Battle, Bruce Steele, John McMahon, Mike Vaccaro, Coach Don Mohat, Coach Doug Clay, Steve Breitzka, Jody Crawford, Joyce Snavlin, Sara Payne, Art & Barb Berg

7:30pm Supervisor Lund called meeting to order and led in Pledge of Allegiance.

Agenda Item No. 1 -- Baseball Resolution

Supervisor Lund called for the board members' opinions on passing the baseball resolution. Councilor Masters asked for clarification on passage of the resolution and what that would mean. Councilor Chapman had comments as to whether it should go forward at this point. Mr. Primo reviewed each clause of the actual resolution.

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Next, John McMahon read briefly from his letter submitted to the board. (The complete text of the letter is included at the end of the minutes.)
Coach Don Mohat spoke in favor of the board passing the baseball field resolution.

RESOLUTION 71-16

MOTION APPROVING THE BASEBALL RESOLUTION AND TREATING IT AS A SPECIAL USE PERMIT WITH RECOMMENDATIONS BY THE PLANNING BOARD AND FINAL APPROVAL BY THE TOWN BOARD. Motion by Councilor Masters. Second by Councilor Chapman. Motion carried 5 ayes (Lund, Masters, Snavlin, Chapman, Speziale) 0 naves.

(The resolution is included at the end of these minutes.)

MOTION TO ACCEPT THE MINUTES OF THE AUGUST 10TH MEETING AS WRITTEN. Motion by Councilor Snavlin. Second by Councilor Masters. Motion carried 5 ayes (Lund, Masters, Snavlin, Chapman, Speziale) 0 naves.

MOTION TO ACCEPT THE VOUCHERS. Motion by Councilor Masters. Second by Councilor Chapman. Motion carried 5 ayes (Lund, Masters, Snavlin, Chapman, Speziale) 0 naves.

Financial Report

Mr. Chartrand reviewed the Monthly Statement of Supervisor for August and reported on Court fines which were fairly strong; ambulance recoveries which continue to come in strong, but we are over budget on ambulance overtime.

On the expense side, Tom referred to a transfer sheet for tonight which is as follows:

TOWN OF TULLY

September 14, 2016

To: Town Board

From: Tom Chartrand

Re: Budget Transfers

General From:	Townwide		Amount
A5132.2	Garage	Equipment	3,700.00
A5133.4	Garage(OLD)	Contractual	2,000.00
A9040.8	Employee Benefits	Workmens Comp	5,000.00
		Total	<u>\$10,700.00</u> =====

To:			
A1355.4	Assessor	Contractual	8,000.00
A1420.4	Attorney	Contractual	1,000.00
A1950.4	Taxes	Contractual	1,500.00
A5010.1	Supt of Highways	Personal Services	200.00
		Total	<u>\$10,700.00</u> =====

AMBULANCE

From:			
SM4540.1	Ambulance(FT/FF/EMT)	Personal Services	\$6,000.00
		Total	<u>\$6,000.00</u> =====

To:			
SM4543.1	Ambulance(Overtime)	Personal Services	\$6,000.00
		Total	<u>\$6,000.00</u>
			=====

MOTION TO ACCEPT THE FINANCIAL REPORT FOR AUGUST 2016. Motion by Councilor Snavlin. Second by Councilor Chapman. Motion carried 5 ayes (Lund, Masters, Snavlin, Chapman, Speziale) 0 naves.

MOTION TO ACCEPT THE TRANSFER SHEET. Motion by Councilor Masters. Second by Councilor Speziale. Motion carried 5 ayes (Lund, Masters, Snavlin, Chapman, Speziale) 0 naves.

Parks and Recreation

Ryan Dando reported that they have started a soccer program; started a kindergarten program as well and have almost half the kindergartners signed up; branched out with the older levels; purchased new rope and goals for all levels to improve on what they had; have plenty of coaches, so they're in good shape.

Highway

John Herold reviewed highway activities as follows:

- ↓ We had a good month; a few small repairs
- ↓ Stockpiled sand and salt for the winter
- ↓ Closed up Green Lake
- ↓ Finished up most road repairs for the year
- ↓ We're going to need a resolution by the board for Assembly Park and Banner Road; since they are considered private roads, we don't get CHIPS funding for them
- ↓ Cleanup Day is October 8th; no TVs or computer monitors will be allowed; and it starts at 9am

Mr. Primo explained to the board regarding highway law which includes "highway by use" as it concerns Assembly Park and Banner Road. Afterwards, the following motion was made:

RESOLUTION 72-16 (NYSDOT INVENTORY – CHIPS FUNDS)

The Town Board Members of the Town of Tully, in the County of Onondaga, State of New York, met at a regular meeting held in the Municipal Building, located at 5833 Meetinghouse Road, Tully, on the 14th day of September, 2016 at 7:30pm.

William Lund, Supervisor, and the following board members were present:

John Masters
Chris Chapman
Frank Speziale
John Snavlin

Absent: None

Also present: Susan Vaccaro, Town Clerk
Steven J. Primo, Primo & Hills Law Firm, Attorneys for the Town

The following resolution as drafted and proposed by the Supervisor, was moved, seconded and adopted:

WHEREAS, pursuant to federal statute, states are required to submit public road mileage annually to the Federal Highway Administration ("FHWA"), and in August 2012, the FHWA expanded the requirement to include that the data be submitted in a geospatial

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format to use in a Geographic Information System ("GIS"); and

WHEREAS, addressing this new requirement necessitated a comprehensive review of the roadways and their lengths in the Local Highway Inventory ("LHI") to be completed by the New York State Department of Transportation ("NYSDOT"); and

WHEREAS, as the NYSDOT Region 5 inventory review was completed, the Town of Tully Highway Department was provided an opportunity to review the preliminary results of the LHI, and was notified that once the review process was completed statewide the apportionment of CHIPS funding would be based thereon; and

WHEREAS, after review of the preliminary results, the Town Board has been made aware that two Town roads historically included in the LHI have now been removed and identified as private roads, specifically those Town roads identified as Assembly Park Road and Banner Road; and

WHEREAS, the Town Board has further determined that such roads have been for all purposes used and treated as Town highways; and

WHEREAS, via letter dated July 11, 2016 the NYSDOT advises that if the Town Board provides a resolution indicating that such roads are actually unrestricted and the Town accepts full legal liability and maintenance responsibility, the NYSDOT will restore the roads to the LHI; and

WHEREAS, the Town Board desires to address such preliminary review results as required by NYSDOT in order to have both roads restored to the LHI, in order for CHIPS funding to be apportioned accordingly; and

WHEREAS, NYS Highway Law Section 189 provides for the determination of a highway by use through a determination that certain roads are public (Town) highways provided certain criteria are met; and

WHEREAS, the Town Board has determined such criteria under NYS Highway Law Section 189 are satisfied/met as to both Assembly Park Road and Banner Road;

NOW, THEREFORE, BE IT HEREBY RESOLVED, that the above paragraphs and acknowledgements are hereby incorporated in these resolutions as if fully set forth hereinafter, and it is

FURTHER RESOLVED that both Assembly Park Road and Banner Road are public roads as follows:

1. The public has traveled upon both Assembly Park Road and Banner Road without interruption for at least ten (10) years or more;
2. The Town has accepted full legal liability and maintenance responsibility of Assembly Park Road and Banner Road without interruption for at least ten (10) years or more, and will continue to do so;
3. Assembly Park Road and Banner Road are open to the public and have access to a public right-of-way;
4. Neither road serves as sole access to a public facility, other properties, or is restricted by signs or gates, and, therefore, are not public driveways or access roads.

Motion by Councilor Masters, and seconded by Councilor Snavlin, the foregoing resolution was put to a roll call, which resulted as follows:

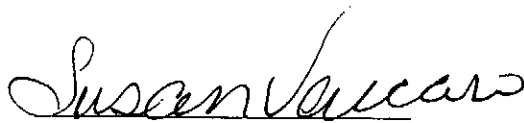
<u>VOTE</u>	
Supervisor William Lund	Aye
Councilor John Snavlin	Aye
Councilor John Masters	Aye
Councilor Christopher Chapman	Aye
Councilor Frank Speziale	Aye

Resolution was adopted on September 14, 2016.

CERTIFICATION

I, the undersigned Town Clerk of the Town of Tully, Onondaga County, State of New York, do hereby certify that the above is a true copy of the original resolution passed at a meeting of the Tully Town Board on September 14, 2016.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of said Town this 30th day of September, 2016.



Susan Vaccaro, Town Clerk
Town of Tully

Ambulance

No report this evening.

Fire

Sonny Battle reported that the fire district had received the new fire truck. Brief discussion followed.

AGENDA ITEM NO. 9 – MOVE ON LOCAL LAW NO. 2

RESOLUTION 73-16

Upon motion by **Councilor Snavlin**, second by **Councilor Masters**, and approved by Supervisor Lund, Councilors Chapman and Speziale, the Town Board determines that the action is a Type II action pursuant to the State Environmental Quality Review Act, assumes lead agency status, elects to conduct an uncoordinated review, hereby issues a negative declaration of significance and adopts Local Law No. 2 of 2016 in the form proposed.

(The complete text of this local law is included at the end of the minutes.)

Floor

Resident Bruce Steele asked about the possibility of the Town plows plowing Route 80 instead of the County plows which are usually an hour or so behind our Town plows. But our highway superintendent, John Herold, responded that the County would probably not want to give up the money they make for plowing our roads. Brief discussion followed.

Mayor Beth Greenwood raised an issue regarding the highway barn as it relates to a grant being applied for. Discussion followed.

Mayor Greenwood also expressed some concerns about upfront costs for the proposed baseball field as well as long term maintenance costs and operational costs. Other than that, she is in favor of our children playing sports and having positive activities to engage in.

Supervisor Lund announced that the money for Cornerstone Park is in the works. The Dormitory Authority will be sending the \$50,000 check shortly. Brief discussion followed.

Legal

Town Attorney Steve Primo reported on the Bond Resolution with respect to the settlement on the Certiorari case. Last month, the amount of \$200,000 was discussed. However, Mr. Primo would like to amend that amount to \$210,000 just as a precaution to make sure all costs are covered.

RESOLUTION 74-16


MOTION TO PASS A RESOLUTION ADOPTING THE BOND RESOLUTION PREPARED BY TRESPASZ & MARQUARDT IN THE FORM PROPOSED. Motion by Supervisor Lund. Second by Councilor Snavlin. Motion carried 5 ayes (Lund, Masters, Snavlin, Chapman, Speziale) 0 nays.

(The text of the bond resolution is included at the end of the minutes.)

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MOTION TO ADJOURN THE MEETING AT 8:30PM. Motion by Councilor Speziale.
Second by Councilor Snavlin. Motion carried 5 ayes (Lund, Masters, Snavlin,
Chapman, Speziale) 0 nays.

Respectfully submitted,



Susan Vaccaro,
Town Clerk

RESOLUTION
(BALLFIELD)

The Town Board Members of the **TOWN OF TULLY**, in the County of Onondaga, State of New York, met at a regular meeting held in the Municipal Building, located at 5833 Meetinghouse Road, Tully, on the 14th day of September, 2016 at 7:30 p.m.

William Lund, Supervisor, and the following board members were present:

John Masters
Chris Chapman
Frank Speziale
John Snavlin

Absent: None

Also present: Susan Vaccaro, Town Clerk
Courtney M. Hills, Primo & Hills Law Firm, Attorneys for the Town

The following resolution as drafted and proposed by the Supervisor, was moved, seconded and adopted:

WHEREAS, a Resolution of the Town Board adopted on February 8, 1988 subject to permissive referendum was duly adopted authorizing the purchase of approximately 42 acres of vacant real property from William Underwood to be used for town purposes specifically "for public parks, playgrounds and recreational areas and for necessary town buildings" and the same upon filing of the required petition of town electors was approved at a special town election held on March 22, 1988; such premises generally described in the proposition approved by Town electors as located and bounded on the east by former Roessler and other Village residences, on the north by the former College of Forestry and Tully Central School properties, on the south by Lake Road and to the west by NYS Route 281 (see attached); and

WHEREAS, subsequent thereto, certain of such lands have been improved and are utilized as the Town and Village municipal offices, with the remainder of same remaining vacant and unimproved except for certain minor recreational facilities and a walking trail area along the perimeter of same;

WHEREAS, upon recommendation of the then Town Parks and Recreation Director, a proposal and presentation was made to the Town Board at its regular meeting held on August 12, 2015 by Doug Clay, Tully High School varsity baseball coach together

with Don Mohat, junior varsity coach and a well recognized volunteer in the Tully Parks and Recreation Programs; amongst other relevant issues, it was noted that the existing varsity baseball field located on school district property, had frequent and significant maintenance issues, its location resulting in errant balls into neighboring yards, that parking was inadequate and no restroom facilities existed; and

WHEREAS, as a result, a detailed proposal for a newly constructed ball field on a portion of the Town property referenced herein was made to be constructed at no cost whatsoever to the Town and with moneys raised by Town of Tully volunteer organizations and individuals;

WHEREAS, discussions included acknowledgement that any improvements to the property would be and remain Town property and exclusively under the control of the Town Board, that any such plans for construction and ongoing use shall not result in destruction of the existing tree line, not interfere with use or enjoyment of the walking trail and in consideration of use by the varsity baseball team might also benefit from additional landscape improvements through the horticulture programs and classes at the high school; and

WHEREAS, it was also acknowledged that as public lands intended for recreational and parklands use, any standardized use arrangements would be subject to the provisions of a written priority use agreement establishing scheduled times and usage by various parties, detailing maintenance and repair responsibilities, respective liabilities and insurance requirements, and preserving the rights of the general public to such use based upon fairly imposed and applied rules, all as required by law; and

WHEREAS, in order to minimize any potential adverse environmental impacts, and notwithstanding any sovereign exemption from its own local zoning and land use requirements,

the Town Board nevertheless has been advised by legal counsel that such use as proposed is permitted within the proposed zoning, and also agrees to conduct a review pursuant to the State Environmental Quality Review Act and at regular or duly noticed and scheduled Town Board meetings for the purpose of keeping residents totally informed and minimizing any potential adverse environmental impacts;

WHEREAS, the Town Board shall retain all jurisdiction and authority over final approvals and future operations of said project and shall without further requirement of documentation have sole ownership of any improvements to the premises and no right to lien or encumber same shall vest in any party improving or maintaining same;

NOW THEREFORE, BE IT HEREBY RESOLVED, that the above paragraphs and acknowledgements are hereby incorporated in these resolutions as if fully set forth hereinafter, and it is

FURTHER RESOLVED, that subject to the foregoing conditions, the Town Board hereby elects to permit the proposed project to proceed and further subject to execution of a written agreement reflecting the foregoing and any other terms and conditions as legally or otherwise required by the Town Board prior to commencement of any work at the premises.

Upon a motion by Councilor Masters, and seconded by Councilor Chapman, the foregoing resolution was put to a roll call, which resulted as follows:

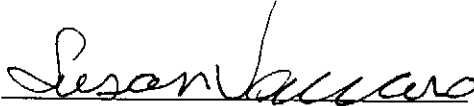
William Lund, Supervisor	Aye
Frank Speziale, Councilperson	Aye
Chris Chapman, Councilperson	Aye
John Masters, Councilperson	Aye
John Snavlin, Councilperson	Aye

Resolution was adopted on September 14, 2016

CERTIFICATION

I, the undersigned, Town Clerk of the Town of Tully, Onondaga County, New York, do hereby certify that the above is a true copy of the original resolution passed at a meeting of the Tully Town Board on September 14, 2016.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of said Town this 14th day of September, 2016.


Susan Vaccaro, Town Clerk
Town of Tully

374 Strong Rd.
Tully, NY 13159
September 14, 2016

Members of the Town Board
Town of Tully
Meeting House Rd.
Tully, NY 13159

Re: Proposed Baseball Field on Town Property

Dear Tully Town Board:

This letter consist of two parts. One is a general request related to process. The other is a list of considerations for deciding what to do about baseball field proposal before any formal support by the Town Board is rendered.

1) In light of what may a contentious hearing prior to the official Town Board meeting on September 14, 2016, I respectfully suggest that the Board delay any final action on the decision to support the baseball field until the next meeting of the Town Board on October 12, 2016.

Putting off a Board decision would allow for passions on either side to subside, so that any additional opinions (either pro or con) aired at the 9/14 meeting could be entertained by the Board in a less contentious environment. This could be especially important if some Town residents might only have heard specific information for the first time at the meeting and may wish to air their opinions in a more formal manner. It would also permit all parties to further research or refine any details of the proposal as presented at the 9/14 meeting.

2) In my opinion there are several aspects of the proposal that the Board should consider prior to a vote on the current resolution. I present these as questions with some additional explanatory information.

a) Should not the work on the project be delayed until after the renovation of the existing fields? Is taxpayers' money currently being efficiently used by the Tully Central School District to improve existing fields? In short, the need for a new field should be contingent upon how well the existing fields can be improved.

b) What will the project eventually look like? Is this a suitable project aesthetically for the Town to support in terms of its appearance (signage, lighting)?

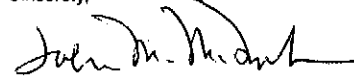
c) What will the maintenance of the field entail as far as chemicals and fertilizers are concerned? Will any non-field landscaping need herbicides and/or pesticides? Is the Town willing to support the use of such methods on its property when there are none used there now and when they are generally very limited in other Town maintenance activities?

d) What is the role of the Town in conserving open space, particularly when that open space is Town property that supports important natural processes (as opposed to purely human activities)? The delay of haying the existing acreage to allow for nesting grassland birds to complete their cycle is a good example. Moreover, if the project does go forward, at the very least it is the responsibility of the Town to ensure that any nesting species would not be disturbed by the initial excavation/grading of the area. In other words, the demolition phase should start either earlier than nesting or subsequent to the departure of any species that has completed fledging their young. That, of course, will be the last generation to do so once the field is completed.

Please consider looking into these issues further before rendering any decision.

Thank you.

Sincerely,


John M. McMahon

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated
and do not use italics or underlining to indicate new matter.

Town of Tully

Local Law No. Two (2) of the year 2016.

A local law repealing Chapter 162 of the Town of Tully Code entitled “Flood Damage Prevention”, and replacing same with a new Chapter 162 entitled “Flood Damage Prevention.”

Be it enacted by the Town Board of the Town of Tully, as follows:

Section 1. PURPOSE AND INTENT

The Town of Tully’s existing local law for flood damage prevention contains language that complies with the floodplain management requirements of the National Flood Insurance Program (NFIP) contained in federal regulations 44 CRF 60.3 through 44 CFR 60.6. These requirements are minimum requirements for participation in the NFIP. The Federal Emergency Management Agency (FEMA) has calculated that buildings built to these standards suffer 70% less flood related damage than unprotected buildings. However, they can still suffer damage, so higher protection levels are warranted in most instances. For example, floods can be higher than the base flood elevation for various reasons, including larger storms, downstream obstructions, increased watershed development and floodplain filling. Setting higher standards protects against these risks.

As such the Town of Tully Town Board desires to amend its local law to decrease its community’s flood risk.

Section 2. Chapter 162 of the Code of the Town of Tully entitled “Flood Damage Prevention” is hereby repealed in its entirety and a new Chapter 162 entitled “Flood Damage Prevention” is hereby adopted with the following language:

CHAPTER 162

**ARTICLE 1
STATUTORY AUTHORIZATION AND PURPOSE**

§162-1. Title

This Chapter shall be known and may be cited as the “Town of Tully Flood Damage Prevention Law”.

§162-2. FINDINGS

- A. The Town Board of the Town of Tully finds that the potential and/or actual damages from flooding and erosion may be a problem to the residents of the Town of Tully and that such damages may

include: destruction or loss of private and public housing, damage to public facilities, both publicly and privately owned, and injury to and loss of human life. In order to minimize the threat of such damages and to achieve the purposes and objectives hereinafter set forth, this local law is adopted.

B. STATEMENT OF PURPOSE

It is the purpose of this local law to promote the public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- (1) regulate uses which are dangerous to health, safety and property due to water or erosion hazards, or which result in damaging increases in erosion or in flood heights or velocities;
- (2) require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (3) control the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters;
- (4) control filling, grading, dredging and other development which may increase erosion or flood damages;
- (5) regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands, and;
- (6) qualify and maintain for participation in the National Flood Insurance Program.

C. OBJECTIVES

The objectives of this local law are:

- (1) to protect human life and health;
- (2) to minimize expenditure of public money for costly flood control projects;
- (3) to minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- (4) to minimize prolonged business interruptions;
- (5) to minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special flood hazard;
- (6) to help maintain a stable tax base by providing for the sound use and development of areas of special flood hazard so as to minimize future flood blight areas;

- (7) to provide that developers are notified that property is in an area of special flood hazard; and,
- (8) to ensure that those who occupy the areas of special flood hazard assume responsibility for their actions.

ARTICLE II DEFINITIONS

§162-3. Definitions.

Unless specifically defined below, words or phrases used in this local law shall be interpreted so as to give them the meaning they have in common usage and to give this local law its most reasonable application.

“Accessory Structure” shall mean a structure used solely for parking (two-car detached garages or smaller) or limited storage, represent a minimal investment of not more than 10 percent of the value of the primary structure, and may not be used for human habitation.

"Appeal" means a request for a review of the Local Administrator's interpretation of any provision of this Local Law or a request for a variance.

"Area of shallow flooding" means a designated AO, AH or VO Zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood hazard" is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. This area may be designated as Zone A, AE, AH, AO, A1-A30, A99, V, VO, VE, or V1-V30. It is also commonly referred to as the base floodplain or 100-year floodplain. For purposes of this Local Law, the term “special flood hazard area (SFHA)” is synonymous in meaning with the phrase “area of special flood hazard.”

"Base flood" means the flood having a one percent chance of being equaled or exceeded in any given year.

"Basement" means that portion of a building having its floor subgrade (below ground level) on all sides.

"Building" see "Structure"

"Cellar" has the same meaning as "Basement".

"Crawl Space" means an enclosed area beneath the lowest elevated floor, eighteen inches or more in height, which is used to service the underside of the lowest elevated floor. The elevation of the floor of this enclosed area, which may be of soil, gravel, concrete or other material, must be equal to or above the lowest adjacent exterior grade. The enclosed crawl space area shall be properly vented to allow for the equalization of hydrostatic forces which would be experienced during periods of flooding.

“Critical facilities” means:

- (1) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic and/or water-reactive materials;
- (2) Hospitals, nursing homes, and housing likely to contain occupants who may not be sufficiently mobile to avoid death or injury during a flood;
- (3) Police stations, fire stations, vehicle and equipment storage facilities, and emergency operations centers that are needed for flood response activities before, during, and after a flood; and
- (4) Public and private utility facilities that are vital to maintaining or restoring normal services to flooded areas before, during, and after a flood.

"Cumulative Substantial Improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure that equals or exceeds 50 percent of the market value of the structure at the time of the improvement or repair when counted cumulatively for 10 years.

"Development" means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, paving, excavation or drilling operations or storage of equipment or materials.

"Elevated building" means a non-basement building (i) built, in the case of a building in Zones A1- A30, AE, A, A99, AO, AH, B, C, X, or D, to have the top of the elevated floor, or in the case of a building in Zones V1-30, VE, or V, to have the bottom of the lowest horizontal structure member of the elevated floor, elevated above the ground level by means of pilings, columns (posts and piers), or shear walls parallel to the flow of the water and (ii) adequately anchored so as not to impair the structural integrity of the building during a flood of up to the magnitude of the base flood. In the case of Zones A1-A30, AE, A, A99, AO, AH, B, C, X, or D, "elevated building" also includes a building elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of flood waters. In the case of Zones V1-V30, VE, or V, "elevated building" also includes a building otherwise meeting the definition of "elevated building", even though the lower area is enclosed by means of breakaway walls that meet the federal standards.

"Federal Emergency Management Agency" means the Federal agency that administers the National Flood Insurance Program.

"Flood" or "Flooding" means a general and temporary condition of partial or complete inundation of normally dry land areas from:

- (1) the overflow of inland or tidal waters;
- (2) the unusual and rapid accumulation or runoff of surface waters from any source.

"Flood" or "flooding" also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in (1) above.

"Flood Boundary and Floodway Map (FBFM)" means an official map of the community published by the

Federal Emergency Management Agency as part of a riverine community's Flood Insurance Study. The FBFM delineates a Regulatory Floodway along water courses studied in detail in the Flood Insurance Study.

"Flood Elevation Study" means an examination, evaluation and determination of the flood hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of flood- related erosion hazards.

"Flood Hazard Boundary Map (FHBM)" means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been designated as Zone A but no flood elevations are provided.

"Flood Insurance Rate Map (FIRM)" means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

"Flood Insurance Study" see "flood elevation study".

"Floodplain" or "Flood-prone area" means any land area susceptible to being inundated by water from any source (see definition of "Flooding").

"Floodproofing" means any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

"Floodway" - has the same meaning as "Regulatory Floodway".

"Functionally dependent use" means a use which cannot perform its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, and ship repair facilities. The term does not include long-term storage, manufacturing, sales, or service facilities.

"Highest adjacent grade" means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a structure.

"Historic structure" means any structure that is:

- (1) listed individually in the National Register of Historic Places (a listing maintained by the Department of the Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or

- (4) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - (i) by an approved state program as determined by the Secretary of the Interior or
 - (ii) directly by the Secretary of the Interior in states without approved programs.

"Local Administrator" is the person appointed by the Town Board to administer and implement this local law by granting or denying development permits in accordance with its provisions. This person shall be the Code Enforcement Officer or in his absence, inability or other failure to so serve, the Town Clerk. The Town Supervisor only (but not the Code Enforcement Officer) may direct where necessary, and subject to §162-5C hereof, that assistance to be provided to the Local Administrator from the Town's Consulting Engineer, or employee of an engineering department.

"Lowest floor" means lowest floor of the lowest enclosed area (including basement or cellar). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this Local Law.

"Manufactured home" means a structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term does not include a "Recreational vehicle"

"Manufactured home park or subdivision" means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

"Mean sea level" means, for purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929, the North American Vertical Datum of 1988 (NAVD 88), or other datum, to which base flood elevations shown on a community's Flood Insurance Rate Map are referenced.

"Mobile home" - has the same meaning as "Manufactured home".

"New construction" means structures for which the "start of construction" commenced on or after the effective date of a floodplain management regulation adopted by the community and includes any subsequent improvements to such structure.

"One hundred year flood" or "100-year flood" has the same meaning as "Base Flood".

"Principally above ground" means that at least 51 percent of the actual cash value of the structure, excluding land value, is above ground.

"Recreational vehicle" means a vehicle which is:

- (1) built on a single chassis;

- (2) 400 square feet or less when measured at the largest horizontal projections;
- (3) designed to be self-propelled or permanently towable by a light duty truck; and
- (4) not designed primarily for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

"Regulatory Floodway" means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management Agency in a Flood Insurance Study or by other agencies as provided in Section 162-5(D)(2) of this Law.

"Start of construction" means the date of permit issuance for new construction and substantial improvements to existing structures, provided that actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement is within 180 days after the date of issuance. The actual start of construction means the first placement of permanent construction of a building (including a manufactured home) on a site, such as the pouring of a slab or footings, installation of pilings or construction of columns.

Permanent construction does not include land preparation (such as clearing, excavation, grading, or filling), or the installation of streets or walkways, or excavation for a basement, footings, piers or foundations, or the erection of temporary forms, or the installation of accessory buildings such as garages or sheds not occupied as dwelling units or not part of the main building. For a substantial improvement, the actual "start of construction" means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

"Structure" means a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

"Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. Substantial damage also means flood-related damages sustained by a structure on two separate occasions during a 10-year period for which the cost of repairs at the time of such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

"Substantial improvement" means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the "start of construction" of the improvement. Substantial improvement also means "cumulative substantial improvement." The term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

- (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement

official and which are the minimum necessary to assure safe living conditions; or

- (2) any alteration of a "Historic structure", provided that the alteration will not preclude the structure's continued designation as a "Historic structure".

"Variance" means a grant of relief from the requirements of this local law which permits construction or use in a manner that would otherwise be prohibited by this local law.

"Violation" means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations.

ARTICLE III GENERAL PROVISIONS

§162-4 General Provisions.

A. LANDS TO WHICH THIS LOCAL LAW APPLIES

This local law shall apply to all areas of special flood hazard within the jurisdiction of the Town of Tully, Onondaga County.

B. BASIS FOR ESTABLISHING THE AREAS OF SPECIAL FLOOD HAZARD

The areas of special flood hazard for the Town of Tully, Community Number 361296 are identified and defined on the following documents prepared by the Federal Emergency Management Agency:

- (1) Flood Insurance Rate Map Panel Numbers: 36067C0454F, 36067C0456F, 36067C0457F, 36067C0458F, 36067C0459F, 36067C0465F, 36067C0470F, 36067C0477F, 36067C0479F, 36067C0480F, 36067C0486F, 36067C0490F, whose effective date is, November 4, 2016, and any subsequent revisions to these map panels that do not affect areas under our community's jurisdiction.
- (2) A scientific and engineering report entitled "Flood Insurance Study, Onondaga County, New York, All Jurisdictions" dated November 4, 2016.

The above documents are hereby adopted and declared to be a part of this Local Law. The Flood Insurance Study and/or maps are on file at: Office of the Town Clerk, Town of Tully, 5833 Meetinghouse Road, Tully, New York 13159.

C. INTERPRETATION AND CONFLICT WITH OTHER LAWS

This Local Law includes all revisions to the National Flood Insurance Program through October 27, 1997 and shall supersede all previous laws adopted for the purpose of flood damage prevention.

In their interpretation and application, the provisions of this local law shall be held to be minimum requirements, adopted for the promotion of the public health, safety, and welfare. Whenever the requirements of this local law are at variance with the requirements of any other lawfully adopted rules, regulations, or ordinances, the most restrictive, or that imposing the higher standards, shall govern.

D. SEVERABILITY

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstances is adjudged invalid, illegal or unconstitutional by any court of competent jurisdiction, such order or judgment shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its 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. Further, in adjudging such invalid, illegal or unconstitutional provision, the court shall attempt to modify same to a provision which is not invalid, illegal or unconstitutional and which best achieves the intent of the invalid provision.

E. PENALTIES FOR NON-COMPLIANCE

No structure in an area of special flood hazard shall hereafter be constructed, located, extended, converted, or altered and no land shall be excavated or filled without full compliance with the terms of this local law and any other applicable regulations. Any infraction of the provisions of this local law by failure to comply with any of its requirements, including infractions of conditions and safeguards established in connection with conditions of the permit, shall constitute a violation. Any person who violates this local law or fails to comply with any of its requirements shall, upon conviction thereof, be fined no more than \$250 or imprisoned for not more than 15 days or both. Each day of noncompliance shall be considered a separate offense. Nothing herein contained shall prevent the Town of Tully from taking such other lawful action as necessary to prevent or remedy an infraction. Any structure found not compliant with the requirements of this local law for which the developer and/or owner has not applied for and received an approved variance under Article VI of this Chapter 162 will be declared non-compliant and notification sent to the Federal Emergency Management Agency.

F. WARNING AND DISCLAIMER OF LIABILITY

The degree of flood protection required by this local law is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased by man-made or natural causes. This local law does not imply that land outside the area of special flood hazards or uses permitted within such areas will be free from flooding or flood damages. This local law shall not create liability on the part of the Town of Tully, any officer or employee thereof, or the Federal Emergency Management Agency, for any flood damages that result from reliance on this local law or any administrative decision lawfully made there under.

ARTICLE IV ADMINISTRATION

§162-5 Administration

A. DESIGNATION OF THE LOCAL ADMINISTRATOR

The Code Enforcement Officer is hereby appointed Local Administrator to administer and implement this local law by granting or denying floodplain development permits in accordance with its provisions.

B. THE FLOODPLAIN DEVELOPMENT PERMIT

- (1) Purpose. A floodplain development permit is hereby established for all construction and other development to be undertaken in areas of special flood hazard in this community for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to flooding. It shall be unlawful to undertake any development in an area of special flood hazard, as shown on the Flood Insurance Rate Map enumerated in Section 162-4B, without a valid floodplain development permit. Application for a permit shall be made on forms furnished by the Local Administrator and may include, but not be limited to: plans, in duplicate, drawn to scale and showing: the nature, location, dimensions, and elevations of the area in question; existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing.
- (2) Fees. All applications for a floodplain development permit shall be accompanied by an application fee of \$ 50.00, however subject to modification of the Town Fee Schedule by duly adopted resolution of the Town Board. In addition, the applicant shall be responsible for reimbursing the Town of Tully for any additional costs necessary for internal administrative and/or professional engineering review, inspection and approval of this project. The Local Administrator may require a deposit of no more than \$1,620.00 to cover these additional costs except under extraordinary or similar complex circumstances, and not more than \$1,000.00 if the applicant is also utilizing the Town's Consulting Engineer under §162-5C hereof.

C. APPLICATION FOR A PERMIT

The applicant shall provide the following information as appropriate. Additional information may be required on the permit application form.

- (1) The proposed elevation, in relation to mean sea level, of the lowest floor (including basement or cellar) of any new or substantially improved structure to be located in Zones A1-A30, AE or AH, or Zone A if base flood elevation data are available. Upon completion of the lowest floor, the permittee shall submit to the Local Administrator the as-built elevation, certified by a licensed professional engineer or surveyor.
- (2) The proposed elevation, in relation to mean sea level, to which any new or substantially improved non-residential structure will be floodproofed. Upon completion of the floodproofed portion of the structure, the permittee shall submit to the Local Administrator the as-built floodproofed elevation, certified by a professional engineer or surveyor.

- (3) A certificate from a licensed professional engineer or architect that any utility floodproofing will meet the criteria in Section 162-6B(3), UTILITIES.
- (4) A certificate from a licensed professional engineer or architect that any non-residential floodproofed structure will meet the floodproofing criteria in Section 162-6D, NON-RESIDENTIAL STRUCTURES.
- (5) A description of the extent to which any watercourse will be altered or relocated as a result of proposed development. Computations by a licensed professional engineer must be submitted that demonstrate that the altered or relocated segment will provide equal or greater conveyance than the original stream segment. The applicant must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 162-4B, when notified by the Local Administrator, and must pay any fees or other costs assessed by FEMA for this purpose. The applicant must also provide written and acknowledged assurances signed by the applicant or his engineer or architect that the conveyance capacity of the altered or relocated stream segment will be maintained.
- (6) A technical analysis, by a licensed professional engineer, if required by the Local Administrator, which shows whether proposed development to be located in an area of special flood hazard may result in physical damage to any other property.
- (7) In Zone A, when no base flood elevation data are available from other sources, base flood elevation data shall be provided by the permit applicant for subdivision proposals and other proposed developments (including proposals for manufactured home and recreational vehicle parks and subdivisions) that are greater than either 50 lots or 5 acres.
- (8) Subject to waiver of any claim of conflict of interest, or dual representation by the applicant, the Town's Consulting Engineer and Town, the applicant may request the Town's Consulting Engineer to provide the certifications and analysis required of applicant hereunder, also subject to §162-5B(2) hereof.

D. DUTIES AND RESPONSIBILITIES OF THE LOCAL ADMINISTRATOR

Duties of the Local Administrator shall include, but not be limited to the following.

- (1) PERMIT APPLICATION REVIEW. The Local Administrator shall conduct the following permit application review before issuing a floodplain development permit:
 - (a) Review all applications for completeness, particularly with the requirements of subsection 162-5C, APPLICATION FOR A PERMIT, and for compliance with the provisions and standards of this law.
 - (b) Review subdivision and other proposed new development, including manufactured home parks to determine whether proposed building sites will be reasonably safe from

flooding. If a proposed building site is located in an area of special flood hazard, all new construction and substantial improvements shall meet the applicable standards of Section 162-6, CONSTRUCTION STANDARDS and, in particular, sub-section 162-6A(1) SUBDIVISION PROPOSALS.

- (c) Determine whether any proposed development in an area of special flood hazard may result in physical damage to any other property (e.g., stream bank erosion and increased flood velocities). The Local Administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination. If the proposed development may result in physical damage to any other property or fails to meet the requirements of Section 162-6, CONSTRUCTION STANDARDS, no permit shall be issued. The applicant may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application.
- (d) Determine that all necessary permits have been received from those governmental agencies from which approval is required by State or Federal law.

(2) USE OF OTHER FLOOD DATA

- (a) When the Federal Emergency Management Agency has designated areas of special flood hazard on the community's Flood Insurance Rate map (FIRM) but has neither produced water surface elevation data (these areas are designated Zone A or V on the FIRM) nor identified a floodway, the Local Administrator shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other source, including data developed pursuant to paragraph 162-5C(7), as criteria for requiring that new construction, substantial improvements or other proposed development meet the requirements of this law.
- (b) When base flood elevation data are not available, the Local Administrator may use flood information from any other authoritative source, such as historical data, to establish flood elevations within the areas of special flood hazard, for the purposes of this law.
- (c) When an area of special flood hazard, base flood elevation, and/or floodway data are available from a Federal, State or other authoritative source, but differ from the data in the documents enumerated in Section 3.2, the Local Administrator may reasonably utilize the other flood information to enforce more restrictive development standards.

(3) ALTERATION OF WATERCOURSES

- (a) Notification to adjacent communities and the New York State Department of Environmental Conservation prior to permitting any alteration or relocation of a watercourse, and submittal of evidence of such notification to the Regional Administrator, Region II, Federal Emergency Management Agency.
- (b) Determine that the permit holder has provided for maintenance within the altered or relocated portion of said watercourse so that the flood carrying capacity is not diminished.

(4) CONSTRUCTION STAGE

- (a) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, upon placement of the lowest floor or completion of floodproofing of a new or substantially improved structure, obtain from the permit holder a certification of the as-built elevation of the lowest floor or floodproofed elevation, in relation to mean sea level. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same. For manufactured homes, the permit holder shall submit the certificate of elevation upon placement of the structure on the site. A certificate of elevation must also be submitted for a recreational vehicle if it remains on a site for 180 consecutive days or longer (unless it is fully licensed and ready for highway use).
- (b) Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The Local Administrator shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.

(5) INSPECTIONS

The Local Administrator and/or the developer's engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable said developer's engineer or architect to certify, if requested, that the development is in compliance with the requirements of the floodplain development permit and/or any variance provisions.

(6) STOP WORK ORDERS

- (a) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found ongoing without a development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 162-4E of this local law.
- (b) The Local Administrator shall issue, or cause to be issued, a stop work order for any floodplain development found non-compliant with the provisions of this law and/or the conditions of the development permit. Disregard of a stop work order shall subject the violator to the penalties described in Section 162-4E of this local law.

(7) CERTIFICATE OF COMPLIANCE

- (a) In areas of special flood hazard, as determined by documents enumerated in Section 162-4B, it shall be unlawful to occupy or to permit the use or occupancy of any building or premises, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its use or structure until a certificate of compliance has been issued by the Local Administrator stating that the building or land conforms to the requirements of this local law.

- (b) A certificate of compliance shall be issued by the Local Administrator upon satisfactory completion of all development in areas of special flood hazard.
- (c) Issuance of the certificate shall be based upon the inspections conducted as prescribed in Section 162-5D(5), INSPECTIONS, and/or any certified elevations, hydraulic data, floodproofing, anchoring requirements or encroachment analyses which may have been required as a condition of the approved permit.

(8) INFORMATION TO BE RETAINED

The Local Administrator shall retain and make available for inspection, copies of the following:

- (a) Floodplain development permits and certificates of compliance;
- (b) Certifications of as-built lowest floor elevations of structures, required pursuant to sub-sections 162-5D(4)(a) and 162-5D(4)(b), and whether or not the structures contain a basement;
- (c) Floodproofing certificates required pursuant to sub-section 162-5D(1) and whether or not the structures contain a basement;
- (d) Variances issued pursuant to Section 162-7, VARIANCE PROCEDURES; and,
- (e) Notices required under sub-section 162-5D(3), ALTERATION OF WATERCOURSES.

ARTICLE V CONSTRUCTION STANDARDS

§162-6 Construction Standards.

A. GENERAL STANDARDS

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 162-4B.

(1) SUBDIVISION PROPOSALS

The following standards apply to all new subdivision proposals and other proposed development in areas of special flood hazard (including proposals for manufactured home and recreational vehicle parks and subdivisions):

- (a) Proposals shall be consistent with the need to minimize flood damage;

- (b) Public utilities and facilities such as sewer, gas, electrical and water systems shall be located and constructed so as to minimize flood damage; and,
- (c) Adequate drainage shall be provided to reduce exposure to flood damage.

(2) ENCROACHMENTS

- (a) Within Zones A1-A30 and AE, on streams without a regulatory floodway, no new construction, substantial improvements or other development (including fill) shall be permitted unless:

[1] the applicant demonstrates that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any location, or,

[2] the Town of Tully agrees, at the sole discretion of the Town Board, to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Tully for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Tully for all costs related to the final map revision.

- (b) On streams with a regulatory floodway, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in Section 162-4B, no new construction, substantial improvements or other development in the floodway (including fill) shall be permitted unless:

[1] a technical evaluation by a licensed professional engineer demonstrates through hydrologic and hydraulic analyses performed in accordance with standard engineering practices that such an encroachment shall not result in any increase in flood levels during occurrence of the base flood, or,

[2] the Town of Tully agrees, at the sole discretion of the Town Board, to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM and floodway revision, FEMA approval is received and the applicant provides all necessary data, analyses and mapping and reimburses the Town of Tully for all fees and other costs in relation to the application. The applicant must also provide all data, analyses and mapping and reimburse the Town of Tully for all costs related to the final map revisions.

- (c) Whenever any portion of a flood plain is authorized for development, the volume of space occupied by the authorized fill or structure below the base flood elevation shall be compensated for and balanced by a hydraulically equivalent volume of excavation taken from below the base flood elevation at or adjacent to the development site. All such

excavations shall be constructed to drain freely to the watercourse. No area below the waterline of a pond or other body of water can be credited as a compensating excavation.

- (d) In Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, if any development is found to increase or decrease base flood elevations, the Town of Tully shall as soon as practicable, but not later than six months after the date such information becomes available, notify FEMA and the New York State Department of Environmental Conservation of the changes by submitting technical or scientific data in accordance with standard engineering practice.

B. STANDARDS FOR ALL STRUCTURES

The following standards apply to new development, including new and substantially improved structures, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 162-4B.

(1) ANCHORING

New structures and substantial improvement to structures in areas of special flood hazard shall be anchored to prevent flotation, collapse, or lateral movement during the base flood. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

(2) CONSTRUCTION MATERIALS AND METHODS

- (a) New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to flood damage.
- (b) New construction and substantial improvements to structures shall be constructed using methods and practices that minimize flood damage.
- (c) For enclosed areas below the lowest floor of a structure within Zones A1-A30, AE, AO or A, new and substantially improved structures shall have fully enclosed areas below the lowest floor that are use- able solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding, designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood - waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

[1] a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding; and

[2] the bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices provided they permit the automatic entry and exit of floodwaters. Enclosed areas sub- grade on all sides are considered basements and are not permitted.

(3) UTILITIES

- (a) New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at least two feet above the base flood elevation, or at least three feet above the highest adjacent grade in a Zone A without an available base flood elevation, or be designed to prevent water from entering and accumulating within the components during a flood and to resist hydrostatic and hydrodynamic loads and stresses. Electrical wiring and outlets, switches, junction boxes and panels shall also be elevated or designed to prevent water from entering and accumulating within the components unless they conform to the appropriate provisions of the electrical part of the Building Code of New York State or the Residential Code of New York State for location of such items in wet locations;
- (b) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (c) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters. Sanitary sewer and storm drainage systems for buildings that have openings below the base flood elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and,
- (d) On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during flooding.

C. RESIDENTIAL STRUCTURES

(1) ELEVATION

The following standards apply to new and substantially improved residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 162-6A(1), SUBDIVISION PROPOSALS, and 162-6A(2), ENCROACHMENTS, and Section 162-6B, STANDARDS FOR ALL STRUCTURES.

- (a) Within Zones A1-A30, AE and AH and also Zone A if base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated to or above two feet above the base flood elevation.
- (b) Within Zone A, when no base flood elevation data are available, new construction and substantial improvements shall have the lowest floor (including basement) elevated at least three feet above the highest adjacent grade.

- (c) Within Zone AO, new construction and substantial improvements shall have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in Section 162-4B (at least two feet if no depth number is specified).
- (d) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.

D. NON-RESIDENTIAL STRUCTURES

The following standards apply to new and substantially improved commercial, industrial and other non-residential structures located in areas of special flood hazard, in addition to the requirements in sub-sections 162-6A(1), SUBDIVISION PROPOSALS, and 162-6A(2), ENCROACHMENTS, and Section 162-6B, STANDARDS FOR ALL STRUCTURES.

- (1) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, new construction and substantial improvements of any non-residential structure shall either:
 - (a) have the lowest floor, including basement or cellar, elevated to or above two feet above the base flood elevation; or
 - (b) be floodproofed so that the structure is watertight below two feet above the base flood elevation, including attendant utility and sanitary facilities, with walls substantially impermeable to the passage of water. All structural components located below the base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (2) Within Zone AO, new construction and substantial improvements of non-residential structures shall:
 - (a) have the lowest floor (including basement) elevated above the highest adjacent grade at least as high as two feet above the depth number specified in feet on the community's FIRM (at least two feet if no depth number is specified), or
 - (b) together with attendant utility and sanitary facilities, be completely floodproofed to that level to meet the floodproofing standard specified in sub-section 162-6D(1)(b).
- (3) If the structure is to be floodproofed, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A Floodproofing Certificate or other certification shall be provided to the Local Administrator that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of Section 162-6D(1)(b), including the specific elevation (in relation to mean sea level) to which the structure is to be floodproofed.

- (4) Within Zones AH and AO, adequate drainage paths are required to guide flood waters around and away from proposed structures on slopes.
- (5) Within Zone A, when no base flood elevation data are available, the lowest floor (including basement) shall be elevated at least three feet above the highest adjacent grade.

E. MANUFACTURED HOMES AND RECREATIONAL VEHICLES

The following standards in addition to the standards in Section 162-6A, GENERAL STANDARDS, and Section 162-B, STANDARDS FOR ALL STRUCTURES apply, as indicated, in areas of special flood hazard to manufactured homes and to recreational vehicles which are located in areas of special flood hazard.

- (1) Recreational vehicles placed on sites within Zones A1-A30, AE and AH shall either:
 - (a) be on site fewer than 180 consecutive days,
 - (b) be fully licensed and ready for highway use, or
 - (c) meet the requirements for manufactured homes in paragraphs 162-6E(2), (3) and (4). A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.
- (2) A manufactured home that is placed or substantially improved in Zones A1-A30, AE and AH shall be elevated on a permanent foundation such that the lowest floor is elevated to or above two feet above the base flood elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
- (3) Within Zone A, when no base flood elevation data are available, new and substantially improved manufactured homes shall be elevated such that the manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than 36 inches in height above grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement.
- (4) Within Zone AO, the floor shall be elevated above the highest adjacent grade at least as high as the depth number specified on the Flood Insurance Rate Map enumerated in Section 162-4B (at least two feet if no depth number is specified).

F. CRITICAL FACILITIES

In order to prevent potential flood damage to certain facilities that would result in serious danger to life and health, or widespread social or economic dislocation, no new critical facility shall be located within any Area of Special Flood Hazard, or within any 500-year flood zone shown as a B zone or a Shaded X zone on the Community's Flood Insurance Rate Maps.

G. ACCESSORY STRUCTURES INCLUDING DETACHED GARAGES

The following standards apply to new and substantially improved accessory structures, including detached garages, in the areas of special flood hazard shown on the Flood Insurance Rate Map designated in Section 162-4(B).

- (1) Within Zones A1-A30, AE, AO, AH, A, accessory structures must meet the standards of Section 162-6(B)(1), ANCHORING,
- (2) Within Zones A1-A30, AE and AH, and also Zone A if base flood elevation data are available, areas below two feet above the base flood elevation shall be constructed using methods and practices that minimize flood damage.
- (3) Within Zones AO, or Zone A if base flood elevation data are not available, areas below three feet above the highest adjacent grade shall be constructed using methods and practices that minimize flood damage.
- (4) Structures must be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters in accordance with Section 162-6(B)(2)(c).
- (5) Utilities must meet the requirements of Section 162-6(B)(3), UTILITIES.”

ARTICLE VI VARIANCE PROCEDURE

§162-7 Variance Procedure

A. APPEALS BOARD

- (1) The Town Board (“Town Board”) or if directed by the Town Board, Zoning Board of Appeals as established by the Town of Tully shall hear and decide appeals and requests for variances from the requirements of this local law. The Town Board may so direct this on a case by case basis or by blanket resolution delegating such authority for a designated period of time. The Town Board or Zoning Board of Appeals acting in such capacity is herein referred to as the “Board of Appeals.”
- (2) The Board of Appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the Local Administrator in the enforcement or administration of this local law.
- (3) Those aggrieved by the decision of the Board of Appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules.
- (4) In passing upon such applications, the Board of Appeals shall consider all technical evaluations,

all relevant factors, standards specified in other sections of this local law and:

- (a) the danger that materials may be swept onto other lands to the injury of others;
 - (b) the danger to life and property due to flooding or erosion damage;
 - (c) the susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
 - (d) the importance of the services provided by the proposed facility to the community;
 - (e) the necessity to the facility of a waterfront location, where applicable;
 - (f) the availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
 - (g) the compatibility of the proposed use with existing and anticipated development;
 - (h) the relationship of the proposed use to the comprehensive plan and floodplain management program of that area;
 - (i) the safety of access to the property in times of flood for ordinary and emergency vehicles;
 - (j) the costs to local governments and the dangers associated with conducting search and rescue operations during periods of flooding;
 - (k) the expected heights, velocity, duration, rate of rise and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site; and
 - (l) the costs of providing governmental services during and after flood conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.
- (5) Upon consideration of the factors of Section 162-7A(4) and the purposes of this local law, the Board of Appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this local law.
- (6) The Local Administrator shall maintain the records of all appeal actions including technical information and report any variances to the Federal Emergency Management Agency upon request.

B. CONDITIONS FOR VARIANCES

- (1) Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size contiguous to and surrounded by lots with existing structures constructed below the base flood level, providing items (a-l) in Section 162-7A(4) have

been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increases.

- (2) Variances may be issued for the repair or rehabilitation of historic structures upon determination that:
 - (a) the proposed repair or rehabilitation will not preclude the structure's continued designation as a "Historic structure"; and
 - (b) the variance is the minimum necessary to preserve the historic character and design of the structure.
- (3) Variances may be issued by a community for new construction and substantial improvements and for other development necessary for the conduct of a functionally dependent use provided that:
 - (a) the criteria of subparagraphs (1), (4), (5), and (6) of this Section 162-7B are met; and
 - (b) the structure or other development is protected by methods that minimize flood damages during the base flood and create no additional threat to public safety.
- (4) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (5) Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- (6) Variances shall only be issued upon receiving written justification of:
 - (a) a showing of good and sufficient cause;
 - (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant; and
 - (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws or ordinances.
- (7) Any applicant to whom a variance is granted for a building with the lowest floor below the base flood elevation shall be given written notice over the signature of a community official that:
 - (a) the issuance of a variance to construct a structure below the base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25 for \$100 of insurance coverage; and

(b) such construction below the base flood level increases risks to life and property.

Such notification shall be maintained with the record of all variance actions as required in Section 162-5D(8) of this Local Law.

Section 3. Illegality/Severability.

If any clause, sentence, paragraph, subdivision, section or part of this local law or the application thereof to any person, individual, corporation, firm, partnership, entity or circumstances is adjudged invalid, illegal or unconstitutional by any court of competent jurisdiction, such order or judgment shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this law or in its 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. Further, in adjudging such invalid, illegal or unconstitutional provision, the court shall attempt to modify same to a provision which is not invalid, illegal or unconstitutional and which best achieves the intent of the invalid provision.

Section 4. Effective Date.

This Local Law shall take effect immediately upon its filing in the office of the Secretary of State.

Section 5. Repeal.

Chapter 162 of the Code of the Town of Tully is hereby repealed.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law No. 2 of 2016 of the (County)(City)(Town)(Village) of Tully was duly passed by the Board of Trustees of the Town of Tully on September 14, 2016 in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective _____ Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of

_____ was duly passed by the _____ on _____, 19____, and was

(approved)(not approved)(repassed

_____) (Name of legislative body)

disapproval) by the _____ and was deemed duly adopted on _____, 1178__

(Elective Chief Executive Officer*)

in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 1178__ of the (County)(City)(Town)(Village) of _____ was duly passed by the

on _____, 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on

_____ 19____. Such local law was _____ (Elective Chief Executive Officer*)

to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 19____, in accordance with the applicable provisions of law.

4. _____ (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the

_____ on _____ 19____, and was (approved)(not approved)(repassed after

(Name of Legislative Body)

disapproval) by the _____ on _____ 19____ Such local law was subject to
(Elective Chief Executive Officer*)

permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)


I hereby certify that the local law annexed hereto, designated as local law No _____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 19____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No _____ of 19____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph one (1) above.


Susan Vaccaro

(Seal)

Date: _____, 2016

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF ONONDAGA

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Signature
Steven J. Primo

Attorney for the Town
Title
County
City of Tully

Date: September 15, 2016

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a countywide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**TOWN OF TULLY
ONONDAGA COUNTY, NEW YORK**

September 14, 2016

The Town Board of the Town of Tully, in the County of Onondaga, State of New York, met in regular session in the Town of Tully, located at 5833 Meetinghouse Road, County of Onondaga, State of New York, on September 14, 2016 at 7:00 p.m.

William Lund, Supervisor, and the following Board Members were present, namely:

Absent:

Also Present:

The following resolution was offered by J. Lund, who moved its adoption, and seconded by C. Snadino to wit:

BOND RESOLUTION OF THE TOWN OF TULLY, ONONDAGA COUNTY, NEW YORK, ADOPTED ON THE 14TH DAY OF SEPTEMBER, 2016, AUTHORIZING SETTLEMENT OF A CLAIM RESULTING FROM PROCEEDINGS BROUGHT PURSUANT TO ARTICLE SEVEN OF THE REAL PROPERTY TAX LAW AT AN ESTIMATED MAXIMUM COST OF \$210,000, APPROPRIATING SAID AMOUNT THEREFOR, AND AUTHORIZING THE ISSUANCE OF UP TO \$210,000 BOND ANTICIPATION NOTES AND SERIAL BONDS OF THE TOWN TO PAY THE COST THEREOF.

WHEREAS, the Town Board of the Town of Tully has determined to settle a claim resulting from proceedings brought pursuant to article seven of the Real Property Tax Law relating to the Aldi warehouse and distribution center located at 300 NY-281 in the Town of Tully, New York; and

WHEREAS, pursuant to Article 8 of the Environmental Conservation Law of the State of New York, as amended, and the regulations of the Department of Environmental Conservation of the State of New York promulgated thereunder (collectively referred to hereinafter as "SEQRA"), the Town is required to make a determination with respect to the environmental

impact of any "action" (as defined by SEQRA) to be taken by the Town and the approval of this resolution constitutes such an action;

WHEREAS, the Town Board of the Town of Tully now desires to authorize the settlement and the financing of the cost thereof.

NOW, THEREFORE BE IT RESOLVED THIS 14th DAY OF SEPTEMBER, 2016 BY THE TOWN BOARD OF THE TOWN OF TULLY, ONONDAGA COUNTY, NEW YORK (by favorable vote of not less than two thirds of said Board), AS FOLLOWS:

Section 1. The Town as "lead agency" (as defined by SEQRA) has reviewed the proposed settlement to be financed with the proceeds of the bonds and notes authorized hereby and hereby determines that said project is a Type II Action in accordance with Section 617.5(c)(20) of the SEQRA regulations and therefore is not subject to review under SEQRA.

Section 2. The settlement of a claim resulting from proceedings brought pursuant to article seven of the Real Property Tax Law relating to the Aldi warehouse and distribution center located at 300 NY-281 in the Town of Tully, New York and the financing of the cost thereof, at a maximum estimated cost of \$210,000, including all professional, legal and financial costs and other necessary appurtenances and all other necessary costs incidental thereto, which is estimated to be the total cost thereof, is hereby approved. It is hereby further determined that the period of probable usefulness of the aforesaid object or purpose is five years pursuant to subdivision 33.(a)(2) of paragraph a of Section 11.00 of the Local Finance Law; the maximum maturity of the bonds authorized is limited to five years, and that the foregoing is not an assessable improvement.

Section 3. The plan for the financing of the aforesaid specific object or purpose is by the application of certain available monies of the Town and the issuance of up to \$210,000, or such lesser amount as may be necessary, of serial bonds or any bond anticipation notes, including renewals of such notes, in anticipation of the issuance and sale of the bonds of said Town, hereby authorized to be issued pursuant to the Local Finance Law and the levy of a tax to pay principal and interest on said obligations.

Section 4. The full faith and credit of the Town is hereby irrevocably pledged for the payment of the principal of and interest on the Bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such years and such debt service payments may be made in substantially level or declining amounts as may be authorized by law.

Section 5. Pursuant to Sections 30.00, 50.00 and 56.00 to 60.00, inclusive, of the Local Finance Law, the power to authorize the issuance of and to sell the serial bonds and any bond anticipation notes in anticipation of the issuance and sale of the bonds herein authorized, including renewals of such notes, is hereby delegated to the Town Supervisor, the chief fiscal officer. Such bonds or notes shall be of such form and contents, and shall be sold in such manner, as may be prescribed by said Town Supervisor, consistent with the provisions of the Local Finance Law.

Section 6. The Town Supervisor is hereby further authorized, at his sole discretion, to execute all agreements and instruments in order to effect the financing or refinancing of the specific object or purpose described in Section 2 hereof, or a portion thereof, by a bond, and/or note issue of said Town.

Section 7. The intent of this resolution is to give the Town Supervisor sufficient authority to execute those applications, agreements, instruments or to do any similar acts necessary to effect the issuance of the aforesaid bonds and/or notes without resorting to further action of this Town Board.

Section 8. The following additional matters are hereby determined and declared:

- (a) Current funds are not required by the Local Finance Law to be provided prior to the issuance of the bonds and any notes issued in anticipation thereof authorized by this resolution; and
- (b) The proposed maturity of the bonds authorized by this resolution shall not exceed five (5) years.
- (c) The Town reasonably expects to reimburse itself for expenditures made for the Project from the Town's General Account with the proceeds of the bonds or notes herein authorized.
- (d) This resolution is a declaration of official intent to reimburse for purposes of Treasury Regulation Section 1.150-2.

Section 9. Such bonds shall be in fully registered form and shall be signed in the name of the Town of Tully, Onondaga County, New York, by the manual or facsimile signature of the Town Supervisor and a facsimile of its corporate seal shall be imprinted or impressed thereon and maybe attested to by the manual or facsimile signature of the Town Clerk.

Section 10. The Town hereby covenants and agrees with the holders from time to time of the Bonds and any bond anticipation notes issued in anticipation of the sale of the Bonds, that the Town will faithfully observe and comply with all provisions of the Internal Revenue Code of 1986, as amended (the "Code"), and any proposed or final regulations issued pursuant thereto unless, in the opinion of bond counsel, such compliance is not required by the Code and regulations to maintain the exclusion from gross income of interest on said obligations for federal income tax purposes.

Section 11. All other matters, except as provided herein relating to such bonds, including determining whether to issue such bonds with a schedule of substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the

printing and delivery of said bonds (and if said bonds are to be executed in the name of the Town by the facsimile signature of its Town Supervisor providing for the manual countersignature of a fiscal agent or of a designated Official of the Town), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Town Supervisor. It is hereby determined that it is to the financial advantage of the Town not to impose and collect from registered owners of such bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in Section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by Section 52.00 of the Local Finance Law, as the Town Supervisor shall determine.

Section 12. The law firm of Trespasz & Marquardt, LLP is hereby appointed bond counsel to the Town in relation to the issuance of the Bonds.

Section 13. The validity of such bonds and bond anticipation notes may be contested only if:

- (1) Such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or
- (2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of publication, or
- (3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 14. Pursuant to paragraph (1) of subsection 2 of paragraph b of Section 35.00 of the Local Finance Law, this resolution is not subject to permissive referendum as the maturity of the bonds and notes authorized hereunder is not more than five years. This resolution shall become effective immediately. The Town Clerk shall cause the publishing and posting of a notice in substantially the form provided in Section 81.00 of the Local Finance Law together with a summary of this Bond Resolution.

WHEREFORE, the foregoing Resolution was put to a vote of the members of the Town Board of the Town this 14th day of September, 2016, the result of which vote was as follows:

	<u>VOTE</u>
Supervisor William Lund	Aye
Councilor John Snavlin	Aye
Councilor John Masters	Aye
Councilor Christopher Chapman	Aye
Councilor Frank Speziale	Aye

DATED: September 14, 2016

NOTICE OF BOND RESOLUTION

The resolution, a summary of which is published herewith, was adopted on September 14, 2016. The resolution was not subject to permissive referendum. The validity of the obligations authorized by such resolution may be hereafter contested only if such obligations were authorized for an object or purpose for which the Town of Tully, New York is not authorized to expend money or if the provisions of law which should have been complied with as of the date of publication of this notice were not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of publication of this notice, or such obligations were authorized in violation of the provisions of the constitution.

Town Clerk

SUMMARY OF BOND RESOLUTION

A Bond Resolution adopted by the Town Board of the Town of Tully, New York (the "Town") on September 14, 2016 authorizes the settlement of a claim resulting from proceedings brought pursuant to article seven of the Real Property Tax Law relating to the Aldi warehouse and distribution center located at 300 NY-281 in the Town of Tully, New York and the financing of the cost thereof, at a maximum estimated cost of \$210,000, including all professional, legal and financial costs and other necessary appurtenances and all other necessary costs incidental thereto, which is estimated to be the total cost thereof. The objects or purposes to be financed pursuant to such bond resolution has a period of probable usefulness of five years. The plan for the financing of the aforesaid specific object or purpose is by the application of certain available monies of the Town and the issuance of up to \$210,000, or such lesser amount as may be necessary, of serial bonds or any bond anticipation notes, including renewals of such notes, in anticipation of the issuance and sale of the bonds of said Town, hereby authorized to be issued pursuant to the Local Finance Law and the levy of a tax to pay interest and principal on said obligations. Such resolution shall be kept available for public inspection in the Town Clerk's Office during regular business hours for twenty days following this publication.