

Town of Tully
December 14, 2016

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

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

Others present: Financial Officer Thomas Chartrand, Town Attorney Steven Primo, Highway Superintendent John Herold, Ambulance Captain Bryan Ramsay, *The Tully News* editor Ben Bibik, Parks & Rec Board Member Gary Heymann, Fire Commissioner Ed Wortley, and residents Michael Vaccaro and John McMahon

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

MOTION TO ACCEPT THE MINUTES OF THE NOVEMBER 9TH MEETING. Motion by Councilor Snavlin. Second by Councilor Masters. Motion carried 5 ayes (Lund, Masters, Snavlin, Speziale, Chapman) 0 naves.

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

Financial Report

Mr. Chartrand reviewed the Monthly Statement of Supervisor for November and reported on the following: town clerk fees exceeded budget; court fines have also exceeded budget, so we're in great shape there, too; on the general fund, we did receive the bond proceeds for the Certiorari case; we also received the host community fee; ambulance recoveries are up about \$21,000. On the main report, the general fund spending is about 90% of our budget; highway is about 77%; ambulance is about 94%.

RESOLUTION 95-16

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

RESOLUTION 96-16

MOTION TO AUTHORIZE THE TOWN SUPERVISOR TO APPROVE THE END OF THE YEAR TRANSFERS AND APPROPRIATION OF AMBULANCE RECOVERIES SURPLUS. Motion by Councilor Speziale. Second by Councilor Snavlin. Motion carried 5 ayes (Lund, Masters, Snavlin, Speziale, Chapman) 0 naves.

RESOLUTION 97-16

MOTION TO SET THE DATE FOR THE ORGANIZATIONAL MEETING WHICH WILL BE ON JANUARY 11, 2017 AT 7PM AND AUTHORIZE THE TOWN CLERK TO PUBLISH THE NOTICE IN THE POST STANDARD. Motion by Supervisor Lund. Second by Councilor Masters. Motion carried 5 ayes (Lund, Masters, Snavlin, Speziale, Chapman) 0 naves.

RESOLUTION 98-16

MOTION TO APPROVE TRAINING BY THE ASSOCIATION OF TOWNS IN FEBRUARY 2017 FOR CERTAIN TOWN OFFICIALS NOT TO EXCEED BUDGET. Motion by Councilor Speziale. Second by Councilor Masters. Motion carried 5 ayes (Lund, Masters, Snavlin, Speziale, Chapman) 0 naves.

RESOLUTION 99-16

MOTION TO APPOINT SARAH RANDALL (PANZARELLA) TO THE PARKS AND REC BOARD FOR A TERM OF 7 YEARS TO FILL THE SEAT VACATED BY RYAN DANDO WHEN HE BECAME PARKS AND REC DIRECTOR. Motion by Councilor Masters. Second by Supervisor Lund. Motion carried 5 ayes (Lund, Masters, Snavlin, Speziale, Chapman) 0 naves.

Town of Tully
December 14, 2016

Parks and Recreation

Parks and Rec Board Member Gary Heymann reported on the following activities:

- ✚ We are bringing back the Moo Run this year which is scheduled for June 10th
- ✚ We've started an archery program this year down at Legends of the Fall
- ✚ Starting a K through 4 wrestling program
- ✚ New member of the Parks & Rec Board, Sarah Randall (Panzarella), has coached in our programs, and she also has an art background, so we're hoping to bring back the summer art program

Supervisor Lund, as part of the Parks & Rec report, talked about money available from the County for repairing and repaving the walking trail. Brief discussion followed. Also, Mr. Lund advised he had spoken to Ralph Lamson about putting up signs warning residents to stay out of the box lacrosse area until it's repaired.

Highway

John Herold reviewed highway activities as follows:

- ✚ Discussed replacement of the overhead garage doors in the old highway barn
- ✚ This month is going well
- ✚ We've been out plowing, once in October, eight times in November and 14 times so far in December
- ✚ Budget wise we're in good shape, had some minor repairs
- ✚ It would cost \$3450 to replace two heaters in the shop. Lengthy discussion followed.

RESOLUTION 100-16

MOTION TO AUTHORIZE THE HIGHWAY SUPERINTENDENT TO SPEND UP TO \$3500 FOR TWO HEATERS FOR THE SHOP SUBJECT TO FOLLOWING THE TOWN'S PROCUREMENT POLICY. Motion by Councilor Masters. Second by Supervisor Lund. Motion carried 5 ayes (Lund, Masters, Snavlin, Speziale, Chapman) 0 naves.

Ambulance

Captain Bryan Ramsay reported on the following:

- ✚ EMS calls for November totaled 43
- ✚ Ambulance #1 responded to a multivehicle crash on I-81 a short time ago and while at the scene was hit by a vehicle skidding out of control. Then a second vehicle came skidding into the ambulance and hit it in the same place as the first which was the rear bumper. Ambulance was taken out of service, insurance company was called. Lengthy discussion followed.
- ✚ Bryan also reported that he had received a call from the director of Marcellus Ambulance that he had been contacted by Town of Otisco who would like them to take the Otisco fire district portion of the town and cover that for ambulance service because they received the letter from our attorney saying that we would no longer be providing service to them effective December 31 at 12 noon. Again, lengthy discussion followed.

Fire

Ed Wortley reported that the department is applying for a grant for a tanker. Brief discussion followed.

Agenda Item No. 10

RESOLUTION 101-16

MOTION TO APPOINT MILLIE ELGAWAY TO THE GRIEVANCE BOARD OF ASSESSMENT REVIEW FOR A TERM OF FIVE YEARS BEGINNING 10/1/2016. Motion by Councilor Snavlin. Second by Councilor Chapman. Motion carried 5 ayes (Lund, Masters, Snavlin, Speziale, Chapman) 0 naves.

Agenda Item No. 11

RESOLUTION 102-16

MOTION TO APPOINT BRIAN ALBRO TO THE ZONING BOARD OF APPEALS FOR A TERM OF FIVE YEARS BEGINNING JANUARY 1, 2017. Motion by Councilor Masters. Second by Councilor Chapman. Motion carried 5 ayes (Lund, Masters, Snavlin, Speziale, Chapman) 0 naves.

Floor

John McMahon asked about the solar public hearing that was scheduled for the planning board on November 30th. Members and residents showed up, but it did not go forward and no one was notified in time. The hearing has been adjourned to February 28th if certain conditions are met. Brief discussion ensued.

Town of Tully
December 14, 2016

Legal

Mr. Primo addressed the board and asked them to consider an amended resolution he had drafted and presented relative to documenting the Village and Town's intermunicipal sharing/cooperation agreement for purposes of the Village SAM grant which includes funding for improvements to the town-owned municipal building and highway garage, and it was discussed how this would be noted in the Town Clerk's minutes since amending and rescinding two resolutions adopted at the October 12, 2016 regular meeting.

RESOLUTION 103-16
MOTION TO RESCIND RESOLUTION 86-16 AND AMEND RESOLUTION 85-16 TO CONFORM TO THE FOLLOWING RESOLUTION AS WRITTEN. Motion by Supervisor Lund. Second by Councilor Masters. Motion carried 5 ayes (Lund, Masters, Snavlin, Speziale, Chapman) 0 nays.

RESOLUTION

(RE: VILLAGE SAM GRANT AND AMENDING 85-16 AND RESCINDING 86-16)

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 December 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, the Village of Tully, on its behalf and that of the Town of Tully, has applied for an improvement grant as more specifically described below ("Grant") through the State and Municipal Facilities Program administered by the New York State Dormitory Authority ("DASNY"); and

WHEREAS, said Grant is for the reimbursement of capital costs of construction, improvements or rehabilitation of municipal owned infrastructure, a grant amount of \$500,000 having been secured for the rehabilitation of the Tully Municipal Building and Highway Garage ("DASNY Funded Project"); and

WHEREAS, DASNY having indicated an issue in approval of the Grant, although otherwise advisable and favorable, due to the infrastructure being solely owned by Town and not the Village and requesting clarification on the relationship; and

WHEREAS, the Mayor of the Village in attempting to work out a resolution resulting in approval of the Grant has indicated to DASNY that while the Village does not own the infrastructure, the Village and Town have a long history of municipal cooperation with respect to the sharing of infrastructure and services, more specifically, the Village maintains its offices within the Town owned municipal building and relies on the Town to plow many Village streets using Town personnel and equipment; and

WHEREAS, DASNY has indicated that DASNY may favorably consider same but is requesting the Town and Village respective Boards clarify several matters such as its intent to continue sharing its municipal infrastructure and plowing services/equipment for at least the next five (5) years and the Town's authorization permitting such improvements, replacements and repairs as comprise the entire project of which the DASNY Funded Project is part; and

WHEREAS, sometime commencing with discussions prior to and in late 2009-10, the Village and Town having discussed numerous intermunicipal sharing and cooperation opportunities, were advised by legal counsel of the State Comptroller's requirement that all such arrangements regardless of their scope, must be reflected in a duly

approved (by resolution), intermunicipal cooperation agreement; counsel also suggesting that in order to avoid having to draft and incur legal counsel fees and a lengthier review and approval process, the entering into of a Master Intermunicipal Agreement ("Agreement") pursuant to General Municipal Law, Article 5-G agreeing to cooperate with each other in supporting and providing various services and projects to and for each other and to coordinate with each other regarding the provision of, and performance of materials, labor, equipment and/or personnel toward such services and projects, including the periodic loaning, sharing and use of Town and Village, DPW, highway, non-highway, non-DPW and specialty equipment and personnel and/or equipment materials and labor at the discretion of the respective Mayor, Supervisor and/or Superintendents on an as needed and as available basis. Such usage to be compensated for on an in kind and equitable basis and except where involving a nominal/minimal exchange be reflected in a signed and dated one page Schedule of Services and/or Agreed Cost(s) in form appended to the Agreement as Schedules; and

WHEREAS, it is believed that both the Town and Village Boards approved same at or about that time, Town Attorney having expressed that he was relatively certain that the Town Board formally adopted same but that also being Village Attorney he had missed several meetings during the January-July period and cannot be certain as to formal adoption by the Village, but that in fact the parties proceeded to adopt and perform under the Schedules contemplated and detailed in the following paragraphs and thus **de facto** had adopted same;

WHEREAS, three Schedules were thereafter adopted by the respective Boards and were to be attached to the Agreement, one for the sharing of a postage meter, another regarding allocation of the Town and Village Joint Planning Board revenue expenses, and a third regarding the preexisting relationship relative to the Town plowing of certain Village streets; and

WHEREAS, the respective Town and Village Clerks having been unable to locate executed copies of the Agreement and the aforementioned schedules, the Town Board having therefore ratified the adoption of same in general terms at their October 12, 2016 Town Board meeting and further approving and authorizing by duly adopted resolution the DASNY Funded Project to be performed on such Town owned premises and facilities, and the adoption of a Schedule to be attached to the Master Intermunicipal Agreement covering this authorization of the DASNY Funded Project; and

WHEREAS, the Town Board having also, on such date having also ratified in general terms adoption of the Agreement and approve the adoption of a new schedule to be attached covering the shared services subject of this grant application – the DASNY funded Project; and

WHEREAS, the Village Board, having also previously adopted a resolution on April 6, 2016 as to the foregoing but not having expressly indicated the Village Board's intent to and request of the Town Board, or the Town Board's authorization and approval as to permitting the making of such repairs, replacements and improvement as contemplated hereunder and specified in the grant application for funding under the DASNY Funding Project; and

WHEREAS, the Town and Village having the power, authority and responsibility to enter into municipal cooperation agreements as aforementioned and amendments thereto, and pursuant to New York General Municipal Law Article 5-G; §119-o, the Village Board desires to do so and to authorize a duly certified copy of such resolution be delivered to DASNY for purposes of such consideration; and

WHEREAS, more specifically, the Village Board, having in order to address the foregoing, adopted Resolutions numbered 85-16 and 86-16 on October 12, 2016 at its regular meeting in general terms, and however thereafter being provided more specific information, as aforementioned, now desiring to amend Resolution 85-16 to consist of the within premises and resolutions, and to rescind in its entirety Resolution 86-16 since the same subject matter is covered in this amended Resolution 85-16:

NOW THEREFORE, BE IT RESOLVED that The foregoing premises are hereby made a part of these resolutions as if fully set forth herein and in order to effect the foregoing and the following:

1. The Town of Tully confirms its commitment to permit the Village of Tully to maintain its municipal offices within the Town owned municipal building located at 5833 Meetinghouse Road, Tully, New York for at least the next five (5) years at minimum; and
2. The Town of Tully Highway Department shall continue plowing Village of Tully owned roads located within the Village boundary lines, using Town owned equipment, for the next five (5) years at minimum; and
3. Acknowledging that the Town Board has duly authorized performance of all components of the renovation project at the Municipal Building and Highway Garage subject to the parties entering into an agreement ensuring that the necessary contractual indemnification and insurance coverages under the respective contractors cover both the Town and Village, such conditions and agreement are hereby accepted and agreed to; and
4. Resolution 85-16 is hereby amended to the resolutions adopted herein effective from the date of adoption, October 12, 2016, to the extent necessary, and Resolution 86-16 is hereby rescinded in its entirety; and it is further

RESOLVED, that the Master Intermunicipal Agreement between the Town of Tully and Village of Tully will be as necessary fully executed appended with such Schedules as aforementioned reflecting this resolution, the agreements heretofore that now exist, and as well those now agreed to be entered into; and it is further

RESOLVED, the Town Supervisor, Town Clerk and/or Attorney for the Town is/are hereby authorized to perform such acts and to execute and deliver such documents as are necessary to effect the foregoing resolutions.

Motion by Supervisor Lund, and seconded by Councilor Masters, 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 December 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 December 14, 2016.

IN WITNESS WHEREOF, I have set my hand and affixed the seal of said Town this 5th day of January, 2017.

Susan Vaccaro, Town Clerk
Town of Tully

Town of Tully
December 14, 2016

Break

RESOLUTION 104-16

MOTION TO MOVE INTO EXECUTIVE SESSION TO DISCUSS THE DOLLAR GENERAL CERTIORARI CASE. Motion by Councilor Speziale. Second by Councilor Masters. Motion carried 5 ayes (Lund, Masters, Speziale, Snavlin, Chapman) 0 naves.

8:20 PM EXECUTIVE SESSION

MOTION TO MOVE OUT OF EXECUTIVE SESSION AT 8:30. Motion by Councilor Masters. Second by Councilor Snavlin. Motion carried 5 ayes (Lund, Masters, Speziale, Snavlin, Chapman) 0 naves.

RESOLUTION 105-16

MOTION TO APPROVE PAYMENT OF THE SWEET BASIL VOUCHER FOR THE CHRISTMAS MEETING REFRESHMENTS UPON RECEIPT. Motion by Councilor Speziale. Second by Supervisor Lund. Motion carried 5 ayes (Lund, Masters, Speziale, Snavlin, Chapman) 0 naves.

RESOLUTION 106-16

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 December 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
Steven J. Primo, Primo & Hills Law Firm, Attorneys for the
Town

The following resolution as proposed by counsel, and with relevant supporting facts as follows was moved, seconded and adopted:

WHEREAS, the Town Board having entered into an executive session earlier this date for the purpose of discussing pending litigation, more specifically the real property tax assessment certiorari proceedings pursuant to Real Property Tax Law Article 7 regarding premises known as tax parcel 107.-02-03.7 known as 495 SR281, Tully, New York, the same pending in Supreme Court Onondaga County entitled "Angel Mountain, LLC d/b/a Dollar General vs. the Town of Tully Assessment Review Board et al" including previous years proceedings pending and affecting tax years 2011-12 through 2016-17 and the Town Attorney having advised the Board that the Petitioner seeks a reduction in assessed value to \$400,000 for each such year; the premises were sold as 1.25 acres of vacant land in 2004 for \$65,000, constructed upon in 2005 as a Dollar General store, and sold to Petitioner for \$632,500 in July, 2005; the assessment was \$390,000 for 2006, increased to \$550,225 in 2007 and to \$632,500 in 2008 presumably based upon the 2005 purchase price of the premises; the property has stayed at that assessed value to date; the purchase price was likely based on a capitalization rate applied to a new or near new Dollar General lease in place for at least a ten (10) year term and more likely a fifteen (15) year term, and in each case with five (5) year renewal options; thus the lease under either scenario is likely to be nearing the original term or first renewal term expiration in 2019; the land assessed value is at \$40,000 under the current assessment; the only comparable shown in County assessment records is the Royal Pool property, located nearby also fronting on SR281 sold in 2000 for \$180,000 as an improved parcel with the same approximate acreage as the Dollar General and improved with buildings (no square footage or for that matter is listed for any components of this comparable on County Assessment records) but per visual observation being app. 60% of the total square footage of the Dollar General store (app. 8100 sq.) and such land and improvements assessed at \$190,000-235,000 through 2004, and now at \$250,000; the Assessment records indicate this is not a reliable comparable because not based upon an arm's length transaction, however, no other comparables are shown; the buildings on both properties are rated as average, in

normal condition, and rating a "3" on the desirability scale i.e. average. Attorney Primo also advised that the value of the subject property was likely based on a purchase price valued on the premises at the time being newly or near newly leased premises to a "credit tenant" and the product of the lease net operating income capitalized at a relatively favorable rate for "Dollar Store" type credit tenant chains, in some stronger metropolitan markets as low as 7%. In the Tully market, even with a strong current gross sales history, as with many markets below a 20,000 population, a store can be so adversely affected by a competitor, and not necessarily a dollar store (since retail drugstore/pharmacies and convenience stores all now compete with "front end" products that are competitively priced store branded products); as such and given the probable remaining lease terms as aforementioned there is a legitimate concern that appraised value might include as a component thereof, a substantial discount based upon probability of this Tenant not further extending a lease, extending only for a limited period, or extending only pursuant to a renegotiated reduced rental; credit tenants often utilize their bargaining power at the outset to leverage restrictions on future use (i.e. after lease expiration) of the property by a variety of competitors including drugstore pharmacies and convenience stores; the subject lands are improved by basically a shell structure with reasonably enhanced exterior facade improvements, interior improvements consisting of the usual retail store tenant type shelving, aisles, counter areas and the like, relatively minor (valuation wise) in nature, a single or male/female bathrooms and plumbing and water supply fixtures and fittings; the value of even well maintained structures like this, in effect, "pole barns" as a resale or lease to a non-retail credit tenant is drastically reduced; and

WHEREAS, Special Counsel for the Town, Ted Williams, Esq. of Harris Beach, PLLC has negotiated a proposed settlement whereby the assessment would be reduced such that reimbursement for refunds due for prior years would be substantially reduced versus that if the valuations for each petition year were adjusted within the settlement range and refunds calculated on that basis were required to be paid; this is especially significant in light of the fact that the Court has required that trial ready appraisals be delivered within six weeks of today's date and the appraisal quote is for \$7500.00 plus \$1,000.00-\$2,000.00 for each additional (i.e. beyond three years) assessment year. The proposed settlement is as follows:

Petition year assessment-	2011 withdrawn by Petitioner; no refund due;
	2012 withdrawn by Petitioner; no refund due;
	2013 withdrawn by Petitioner; no refund due;
	2014 assessment modified to \$607,500; refund due
	2015 assessment modified to \$582,500; refund due
	2016 assessment modified to \$557,500; refund due
	2017 assessment shall be \$532,500; no refund due;

WHEREAS, the statutory effect of RPTL Section 727 on future assessments per special counsel shall likewise fix the assessments for 2018-19 and 2019-20 at \$532,500;

WHEREAS, in light of the foregoing, and based on the Town Attorney and special counsels recommendation and in particular that this proposed settlement is the best negotiated settlement the Town can reach without expending immediately at minimum \$10,500.00 for a trial ready appraisal,

NOW THEREFORE, BE IT RESOLVED that the foregoing premises are hereby made a part of these resolutions as if fully set forth herein, and in order to effect the foregoing and the following:

1. Those pending actions above described shall be settled and discontinued upon the foregoing terms of settlement, and thereby withdrawn and/or discontinued as the case may be, and;
2. Upon receipt of same and approval of its form by the Attorney for the Town and Special Counsel, the Town Supervisor shall execute and cause to be delivered a Stipulation of Settlement according to the foregoing, and is also authorized to upon request for refund by Petitioners counsel, pay the refunds due plus any requested accrued statutory interest and account for same in its next due Supervisors report and the Town Clerk shall deliver a copy of the

stipulation and any attached order once received, to the Town Assessor and any other Respondents required to be notified by the Town;

RESOLVED, the Town Supervisor, Town Clerk and/or Attorney for the Town is/are hereby authorized to perform such acts and to execute and deliver such documents as are necessary to effect the foregoing resolutions.

Upon motion by Supervisor Lund, and seconded by Councilor Snavlin, 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 December 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 December 14, 2016.

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

Susan Vaccaro, Town Clerk
Town of Tully

Councilor Speziale had a question regarding a handicapped person struggling to get in the door of the town hall during an election and whether the town is obligated to install automatic doors. Mr. Primo responded to the question and referred to a similar issue in the Village of Cazenovia. But the cost was so prohibitive that it was decided not to do the installation, but rather they adopted a policy where a physically challenged person is helped into the building by another person. Brief discussion followed.

MOTION TO ADJOURN THE MEETING AT 8:40PM. Motion by Councilor Speziale. Second by Councilor Snavlin. Motion carried 5 ayes (Lund, Masters, Speziale, Snavlin, Chapman) 0 naves.

Respectfully submitted,

Susan Vaccaro,
Town Clerk