

**TOWN BOARD
TOWN OF SULLIVAN
REGULAR MEETING
DECEMBER 6, 2017
7:00 P.M.**

A regular meeting of the Town Board of the Town of Sullivan was convened at the Town Office Building by Supervisor John M. Becker at 7:00 P.M.

Those in attendance for the meeting were: Supervisor John M. Becker; Councilors: Jeff Martin, Kerry Ranger, Thomas Kopp and John Brzuszkiewicz; Attorney for the Town John R. Langey; Highway Superintendent Andy Busa; Code Enforcement Officer Phil Costanzo; Deputy Code Enforcement Officer Larry Ball; Comptroller Beth Ellis; and Town Clerk Charlotte A. Ferstler.

Also in attendance were: Bridgeport Fire Chief, Jerry Honors and Members of the Public.

Pledge to the flag was led by Supervisor Becker.

APPROVAL OF MINUTES OF MEETING

A motion was duly made by Councilor Martin, seconded by Councilor Brzuszkiewicz and unanimously passed by the Board to approve the minutes of the Town Board meeting of November 1, 2017 and November 8, 2017. It was noted that the November 15, 2017 meeting was cancelled.

**AUTHORIZING THE PROCUREMENT OF
A 2019 MODEL YEAR MACK GRANITE 6X4R/M-DRIVE
WITH HENDERSON BODY AND PLOW EQUIPMENT**

The following resolution was offered by Councilor Martin, who moved its adoption, seconded by Councilor Ranger, to wit:

WHEREAS, the Town of Sullivan Highway Department has previously advised the Town Board of the Town of Sullivan of its continuing need to repair, replace and update its fleet of heavy equipment; and

WHEREAS, previously the Town of Sullivan Highway Department advised of its desire to acquire a new 2019 Model Year Mack Granite 6x4R/M-Drive with Henderson body and plow equipment; and

WHEREAS, the Town has investigated the procurement of the Mack Granite 6x4R/M-Drive with Henderson body and plow equipment and has determined that such equipment is available for acquisition and purchase through the Onondaga County Heavy Truck Class 8 Statewide Contract #7823 from retailer Beam Mack Sales Service, Inc. for a total purchase price of Two Hundred Twenty-Two Thousand Seven Hundred Seventy and 37/100 Dollars (\$222,770.37), being more particularly described as a 2019 Mack Granite 6x4R/M-Drive with Henderson body and plow equipment; and

WHEREAS, it has been determined by the Town of Sullivan that the contract price for sale of the equipment specified herein meets the requirements of General Municipal Law §103 and the Town of Sullivan Procurement Policy as the specific contract was issued in accordance with the equivalent provisions of General Municipal Law §103; and

WHEREAS, such procurement constitutes a Type II action for purposes of State Environmental Quality Review and, as a result, no environmental impact is anticipated.

NOW, THEREFORE, BE IT RESOLVED by the Town Board that the Town of Sullivan Town Supervisor is hereby authorized to purchase by order a 2019 Model Year Mack Granite 6x4R/M-Drive with Henderson body and plow equipment, at a total price not to exceed Two Hundred Twenty-Two Thousand Seven Hundred Seventy and 37/100 Dollars (\$222,770.37) from the Onondaga county Heavy Truck Class 8 Statewide Contract #7823 through a cash purchase upon delivery of said equipment from Beam Mack Sales Service, Inc. for payment and delivery no earlier than June 2018.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

| | | | |
|---------------------------|-------------------|--------------|------------|
| Kerry Ranger | Councilor | Voted | Aye |
| Jeffrey Martin | Councilor | Voted | Aye |
| Thomas Kopp | Councilor | Voted | Aye |
| John Brzuszkiewicz | Councilor | Voted | Aye |
| John M. Becker | Supervisor | Voted | Aye |

The foregoing resolution was thereupon declared duly adopted.

DATED: DECEMBER 6, 2017

CERTIFICATE

STATE OF NEW YORK)
COUNTY OF MADISON)

I, the undersigned Town Clerk of the Town of Sullivan, Madison County, New York,
DO HEREBY CERTIFY:

That I have compared the foregoing Resolution with the original thereof on file in the Office of the Town Clerk of the Town of Sullivan, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting and that, pursuant to Section 103 of the Public Officers Law, said meeting was open to the general public.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town on December 6, 2017.

CHARLOTTE A. FERSTLER
Town Clerk

(SEAL)

**PERMISSION TO BID FUEL
FOR HIGHWAY DEPARTMENT FOR YEAR 2018**

A motion was duly made by Councilor Kopp, seconded by Councilor Martin and unanimously passed by the Board authorizing Highway Superintendent Busa to bid for fuel for the Year 2018 and approving the following Bid Notice to be published in the Official Newspaper:

**NOTICE TO BIDDERS
TOWN OF SULLIVAN
SPECIFICATIONS FOR DIESEL & GASOLINE
FOR THE YEAR 2018**

| | | |
|--------------|------------------|----------------------|
| Requirement: | <u>Tank Size</u> | <u>Approx. Usage</u> |
| | 3,500 Gasoline | 8,000 Gallons |
| | 6,000 Diesel | 25,000 Gallons |

Diesel and Gasoline fuel to be delivered to the Town of Sullivan Highway Department located is at 7500 Bolivar Road Chittenango, New York.

Contract Terms: One Year Following Bid Date

Bids will be received at the office of the Town Clerk, 7507 Lakeport Road Chittenango, New York until 9:00 A.M. on December 20, 2017.

Bids will be open at a public meeting on December 20, 2017 at 9:00 a.m.

A Non-Collusive Bid Certificate must accompany all Bids.

The right is reserved to reject any and all bids.

By order of the Town Board, Town of Sullivan.

**Charlotte A. Ferstler
Town Clerk
Town of Sullivan
December 6, 2017**

2018 CANAL LEASE AGREEMENT

A motion was duly made by Councilor Kopp, seconded by Councilor Brzuszkiewicz authorizing Supervisor Becker to enter into a Lease Agreement with the Chittenango Landing Canal Boat Museum for the year 2018 for space used by Historian Michael Beardsley. The Lease Agreement price is in the amount of \$5,000.00 per Year.

Supervisor Becker informed the Board that Historian Beardsley has indicated that the new office location is working out very well and that he and the public are very happy with the new location.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

| | | | |
|---------------------------|-------------------|--------------|------------|
| Kerry Ranger | Councilor | Voted | Aye |
| Jeffrey Martin | Councilor | Voted | Aye |
| Thomas Kopp | Councilor | Voted | Aye |
| John Brzuszkiewicz | Councilor | Voted | Aye |
| John M. Becker | Supervisor | Voted | Aye |

The foregoing resolution was thereupon declared duly adopted.

DATED: DECEMBER 6, 2017

**TOWN OF SULLIVAN
TOWN BOARD RESOLUTION**

**(A Resolution Establishing the Standard Workday and Reporting Days
for Appointed Town Officials)**

December 6, 2017

Councilor Martin introduced the following resolution, and made the following motion, which was seconded by Councilor Brzuszkiewicz, to wit:

WHEREAS, the Office of the State Comptroller New York State and Local Employees' Retirement System requires that a Standard Work Day and Reporting Resolution be established for retirement credit reporting purposes for elected and appointed official; and

WHEREAS, on July 7, 2010 the Town Board of the Town of Sullivan duly adopted a Standard Work Day and Reporting Resolution for such purposes; and

WHEREAS, subsequently the Town of Sullivan has been notified of the need to amend, modify and revise said resolution; and

WHEREAS, the adoption of this resolution is a Type II action for purposes of environmental review under SEQRA thus concluding the environmental review process.

NOW, THEREFORE, it is

RESOLVED AND DETERMINED, that the Town of Sullivan hereby establishes the following as standard work days (as amended and modified from the previous July 7, 2010 resolution) for the specified elected officials and will report the following days worked to the New York State and Local Employees' Retirement System based on the record of activities maintained and submitted by the officials listed below to the Clerk of the Board:

| TITLE | NAME | STANDARD WORK DAY (HRS/DAY) | TERM BEGINS/ENDS | PARTICIPATES IN EMPLOYER'S TIMEKEEPING SYSTEM (Y/N) | DAYS/MONTH (BASED ON RECORD OF ACTIVITIES) |
|-----------------------|------------------|--|-----------------------------|--|---|
| Highway Department | Carl Magdziuk | 8 | | N | |
| Highway Department | Peter Compoli | 8 | | N | |

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

| | | | |
|---------------------------|-------------------|--------------|------------|
| Kerry Ranger | Councilor | Voted | Aye |
| Jeffrey Martin | Councilor | Voted | Aye |
| Thomas Kopp | Councilor | Voted | Aye |
| John Brzuszkiewicz | Councilor | Voted | Aye |
| John M. Becker | Supervisor | Voted | Aye |

The foregoing resolution was thereupon declared duly adopted

DATED: December 6, 2017

CERTIFICATE

STATE OF NEW YORK)
COUNTY OF MADISON)

I, the undersigned Clerk of the Town of Sullivan, Madison County, New York, **DO HEREBY CERTIFY:**

That I have compared the foregoing Resolution with the original thereof on file in the Office of the Town Clerk of the Town of Sullivan, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting and that, pursuant to Section 103 of the Public Officers Law, said meeting was open to the general public.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town on December 6, 2017.

CHARLOTTE A. FERSTLER
TOWN CLERK

(SEAL)

NAME CHANGE FOR WAGNER HILL ROAD

Highway Superintendent Busa informed the Town Board Members that he has received a request from a representative of Madison County 911 System asking that the Town consider changing the name of Wagner Hill Road to Ridge Road. Superintendent Busa stated that Councilor Martin is the only property owner on that road and that it will be easier to change the name for the road than it would be for Councilor Martin to change his address. Thereafter, the following action occurred:

**TOWN OF SULLIVAN
TOWN BOARD RESOLUTION**

December 6, 2017

**AUTHORIZING THE RE-DESIGNATION OF A PORTION
OF "WAGNER HILL ROAD" TO "RIDGE ROAD"**

The following resolution was offered by Councilor Brzuszkiewicz, who moved its adoption, seconded by Councilor Ranger, to wit:

WHEREAS, Madison County Emergency Services has advised the Town of Sullivan that for purposes of 911 Emergency Response, it is desirable and appropriate that a portion of the current "Wagner Hill Road" be renamed by the Town of Sullivan as "Ridge Road"; and

WHEREAS, as part of the name change, the Town of Sullivan's road inventory will be corrected to reflect said change; and

WHEREAS, the name change will allow for the installation of a new road sign depicting the area in question as "Ridge Road 5974-5980", where no current road sign exists; and

WHEREAS, such name change constitutes a Type II action for purposes of State Environmental Quality Review and, as a result, no environmental impact is anticipated.

NOW, THEREFORE, BE IT RESOLVED that the Town of Sullivan Town Board hereby authorizes the above-referenced road name changes and modifications and further authorizes the Highway Superintendent to make the necessary changes to the road inventory and to signage along this portion of the former "Wagner Hill Road" consistent with this resolution; and be it further

RESOLVED that notification of this name change shall be appropriately provided to the New York State Department of Transportation and any other applicable agencies as necessary.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

| | | | |
|------------------------------|-------------------|--------------|----------------|
| John E. Brzuszkiewicz | Councilor | Voted | Yes |
| Thomas J. Kopp Jr. | Councilor | Voted | Yes |
| Kerry Ranger | Councilor | Voted | Yes |
| Jeffrey Martin | Councilor | Voted | Abstain |
| John M. Becker | Supervisor | Voted | Yes |

The foregoing resolution was thereupon declared duly adopted.

DATED: December 6, 2017

CERTIFICATE

**STATE OF NEW YORK)
COUNTY OF MADISON)**

I, the undersigned Town Clerk of the Town of Sullivan, Madison County, New York,
DO HEREBY CERTIFY:

That I have compared the foregoing Resolution with the original thereof on file in the Office of the Town Clerk of the Town of Sullivan, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting and that, pursuant to Section 103 of the Public Officers Law, said meeting was open to the general public.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town on December 6, 2017.

CHARLOTTE A. FERSTLER
Town Clerk

(SEAL)

WILLIAM BLANDING - RE-APPOINTMENT TO BOARD OF ASSESSMENT REVIEW

A motion was duly made by Councilor Kopp, seconded by Councilor Brzuszkiewicz and unanimously passed by the Board approving the re-appointment of William Blanding to the Board of Assessment Review for a term of five (5) years, beginning January 1, 2018 and ending December 31, 2023.

BUDGET MODIFICATIONS FOR DECEMBER 6, 2017

Budget Modifications for December 6, 2017

- 1) Transferring 5,000.00 from Contingent A1990.4 to Historian A7510.405 for canal rent not known at budget time.
- 2) Transferring 5,000.00 from Contingent A1990.4 to Cemeteries A8810.464 to pay for the removal of trees.
- 3) Transferring 10,660.00 from Contingent A1990.4 to Buildings A1620.421 to pay for the Smart Watt upgrade lighting fixtures in the Town Office Building.
- 4) Transferring 48,481.07 from Contingent A1990.4 to Buildings A1620.426 to pay for water hookup that OCWA did on Burlingame Rd.
- 5) Transferring 15,160.00 from A1189 Other Non-Property Tax Items to A1220.4 Supervisors Expenses. This is to pay for the weather station out of the OIN Funds for 2017.

A motion was duly made by Councilor Martin, seconded by Councilor Kopp to approve the Budget Modifications as read.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

| | | | |
|------------------------------|-------------------|--------------|------------|
| John E. Brzuszkiewicz | Councilor | Voted | Yes |
| Thomas J. Kopp Jr. | Councilor | Voted | Yes |
| Kerry Ranger | Councilor | Voted | Yes |
| Jeffrey Martin | Councilor | Voted | Yes |
| John M. Becker | Supervisor | Voted | Yes |

The foregoing resolution was thereupon declared duly adopted.

DATED: DECEMBER 6, 2017

APPROVAL OF APPLICATION FOR MEMBERSHIP IN THE FIRE COMPANIES COMPRISING THE TOWN OF SULLIVAN FIRE DISTRICT

The Board, acting as the Board of Fire Commissioners, received one application for membership in the Bridgeport Fire Company.

Tyler McCarthy, currently a member of Chittenango Fire Department, submitted an application for membership in the Bridgeport Fire Company as a transfer from the Chittenango Fire Company. A motion was duly made by Councilor Brzuszkiewicz, seconded by Councilor Ranger and unanimously passed by the Board, acting as the Board of Fire Commissioners, approving Tyler McCarthy as a member in the Bridgeport Fire Company.

DELPHI FALLS PARK POSSIBLE PURCHASE BY MADISON COUNTY

Supervisor Becker stated that an anonymous donor has committed to donating \$750,000.00 to Madison County for the purpose of purchasing Delphi Falls Park, which has come up for sale. Madison County would have to put \$150,000.00 with the \$750,000.00 in order to make the purchase.

Supervisor Becker stated that the Park has two falls and 60 acres of land. The County Board of Supervisors wants to make this purchase and Supervisor Becker is asking for residents of the County to go online and submit their comments, both for and against this purchase.

Supervisor Becker is not in favor of or against the idea, however, he wants to know what the actual cost will be to make the Park safe and the cost of maintaining the Park for years to come.

**HEARING: ALLEGATIONS OF PROPERTY MAINTENANCE VIOLATIONS
AT 825 FYLER ROAD, KIRKVILLE, NEW YORK**

Deputy Code Enforcement Officer Larry Ball approached the Board with ongoing complaints he has received from residents living near the property owned by Jeffrey Mulcahy, specifically 825 Fyler Road, Kirkville, New York 13082. Deputy CEO Ball stated that Mr. Mulcahy has built a "berm" from discarded construction materials, including concrete sections, rebar and piping, on the property line of his residential rental property at 825 Fyler Road. Deputy CEO Ball read a timeline of the events leading up to Mr. Mulcahy attending this meeting which was read as follows:

First Complaint: February 27th. 2017

Junk and Rubbish surrounding yard at 825 Fyler Rd

Second Complaint: March 13, 2017

Same – more Trash and Rubbish at 825 Fyler Rd.

Third Complaint: October 23, 2017

Owner started bringing in large amounts of concrete material

ORDER TO REMEDY ISSUED ON OCTOBER 24, 2017 AND SENT BY CERTIFIED MAIL
– RECEIVED BACK – NOVEMBER 14, 2017

NEW STONE BROUGHT IN – NEW PICTURES TAKEN – NOVEMBER 16, 2017

NEW ORDER TO REMEDY ISSUED ON NOVEMBER 17, 2017 AND SENT BY
CERTIFIED MAIL – NOTE RECEIVED FROM JEFFREY MULCAHY REQUESTING A
HEARING BEFORE THE TOWN BOARD – RECEIVED NOVEMBER 28, 2017

TOWN BOARD SET WEDNESDAY, DECEMBER 6, 2017 AT 7:00 P.M. FOR JEFFREY
MULCAHY TO ATTEND TOWN MEETING FOR HEARING PURSUANT TO CHAPTER 192
OF THE TOWN OF SULLIVAN CODE.

EXHIBITS SUBMITTED: A-5 BEFORE THE COVERUP
A-4 RIGHT HAND SIDE OF HOUSE
A-1 PICTURES TAKEN ON DECEMBER 6, 2017
A-2 PICTURES OF WATER BACKUP
A-3 PICTURES OF SURVEYORS POLES
A, B, C, D, E, F, - PICTURES OF FILL BROUGHT IN

EXHIBITS SUBMITTED: 1 PICTURES OF JUNK AND RUBBISH TAKEN (2/27/27)
2 ORDER TO REMEDY FROM OCTOBER 24, 2017
3 MORE PICTURES TAKEN NOVEMBER 15, 2017

- 4 ORDER TO REMEDY FROM NOVEMBER 17, 2017
- 5 HEARING REQUEST FROM JEFFREY MULCAHY
FOR JANUARY 3, 2017
- 6 REQUEST DENIED BY TOWN BOARD FOR JANUARY
HEARING AND SET FOR DECEMBER 6, 2017 AT 7:00
P.M.

Mr. Jeffrey Mulcahy spoke to the Board, stating his intentions were to form this "berm" along the side of his rental property as a problem exists between him and the owner of the adjacent rental property, along with the renters. He stated that he was not happy with the Town Board denying his request to postpone his hearing until the January meeting, at which time he could have his Attorney (Daniel Mathews III, Esq.) with him for representation at the hearing.

Mr. Mulcahy advised that he has removed all metal, such as re-bar, from the concrete fill that was brought in and that the entire "berm" will be covered with soil. He stated that he is always doing things to improve the looks of the property and that the property has been in his family since 1950. Mr. Mulcahy stated that since he resides two houses away from this rental property and his sister lives across the road from it, he would never try to bring down the value of said property.

Mr. Mulcahy stated that the tenants in his rental unit have asked for the berm as they do not get along with the neighbors in Mr. Gondeck's rental unit and he thought this would create a barrier for both of them. He stated that the concrete came from a site that was being cleared on Kirkville Road and the rest came from a neighbor's patio. He said the drain pipe has been removed and that all of the large concrete has been piled in the driveway to be removed by this weekend.

When he is finished, Mr. Mulcahy will have covered the entire berm with dirt and then an Ivy Fern to make it look nice. Mr. Mulcahy stated that his tenants told him that one of the neighbors has been seen looking at their children while they are outside playing. He said that this man is an accused pedophile and they have him on video watching the kids play outside. Mr. Mulcahy has a 5 and 12-year old that have reported the neighbors were swearing at the kids outside.

Supervisor Becker stated that the Board is not going to listen to accusations that do not involve the Town Board. Attorney Langey stated that this Board is only dealing with the Code Violations that have been mentioned.

Mrs. Tammy LaRosa and her daughter, 829 Fyler Road, and Mrs. Valerie Brown and her daughter, 829 1/2 Fyler Road, are both tenants of Richard Gondeck's rental property and appeared to speak against what Mr. Mulcahy has created as a "berm" and want it removed. They are concerned with where the concrete came from and what is inside the large slabs. Mrs. LaRosa stated that Mr. Gondeck was unable to attend this meeting but she is reporting to the Board that Mr. Mulcahy has also caused severe flooding onto Mr. Gondeck's property by building this hill of debris and disguised building materials between the properties. She stated that Mr. Mulcahy did remove some of the concrete and debris; however, she stated that he has covered the remainder. Mrs. LaRosa submitted several pictures to the Board

which were marked as Exhibit-A by Attorney Langey. Her pictures also show the stoppage of water flow this berm has caused and the drainage pipe that Mr. Mulcahy said has been removed.

Mrs. Brown stated that Mr. Mulcahy brought all of the concrete and fill from a gas station that was being torn down at the corner of Fly Road and Kirkville Road in East Syracuse. The two neighbors stated that they followed the dump truck to the tear-down site and back to Mr. Mulcahy's dumping site on Fyler Road. She stated that she was almost arrested for trying to stop the dumping by standing behind the dump truck.

Councilor Martin asked Mr. Mulcahy if all of the concrete was removed and Mr. Mulcahy stated that he could not get all of it and had covered some, but it is mostly on the driveway with only small pieces in the pile.

Attorney Langey informed the Board of the legalities and manner in which this matter should be handled by the Town Board. At this time, Supervisor Becker stated that the Board wanted to go into Executive Session for advice of Counsel. Attorney Langey stated that he could give the Board legal advice without going into Executive Session but could only give legal advice. The Board decided they would go into Executive Session for legal advice at this time.

A motion was duly made by Councilor Kopp, seconded by Councilor Martin and unanimously passed by the Board to go into Executive Session to obtain legal advice at 8:00 P.M.

A motion was duly made by Councilor Brzuszkiewicz, seconded by Councilor Martin and unanimously passed by the Board to close the Executive Session at 8:02 P.M.

Supervisor Becker asked the Board Members for any further comments. Councilor Martin asked Mr. Mulcahy for any additional information on this matter. He stated that he can't believe that what he has done and corrected is still illegal. He wants his Attorney to address this matter further.

Councilor Ranger asked Mr. Mulcahy if he knows where the fill material is being dumped now. Mr. Mulcahy said it was being dumped on Kirkville Road in the Town of Manlius which is where he ordered his fill from.

Councilor Brzuszkiewicz told Mr. Mulcahy that he should be entitled to build this berm if it is done legally with approved fill; however, he does not like the fact that Mr. Mulcahy disregarded the violation and Stop Work Orders that were served upon him.

Councilor Kopp stated that it is his feeling that this matter was caused by malice and spite between neighbors. He further stated that Mr. Mulcahy is entitled to have a berm if done with proper materials and legally.

Fire Inspector William Pindle spoke to the Board and stated that if any future work is done on this property, he wants to be assured that Mr. Mulcahy maintains the proper clearance around the fire hydrant in case it has to be used for Emergency Services.

Ernie Houghtaling, 873 Marsh Mill Road, Kirkville, New York, questioned the Board as to why the same safety measures were not applied to a Town demolition project as no one was wearing masks while they were removing asbestos from the building and no environmental impact was done by the Town. Supervisor Becker stated that this subject is a totally different situation and it will be brought up at a later time. The hearing was then concluded and, thereafter, the following action occurred:

**TOWN OF SULLIVAN
TOWN BOARD RESOLUTION**

December 6, 2017

**JEFFREY T. AND SAMANTHA MULCAHY
825 FYLER ROAD, KIRKVILLE, NEW YORK (TAX MAP NO. 23.-2-34.1)
ALLEGED PROPERTY MAINTENANCE VIOLATIONS**

The following resolution was offered by Councilor Ranger, who moved its adoption, seconded by Councilor Martin, to wit:

WHEREAS, in accordance with Chapter 192 (Local Law No. 12-2014) of the Town of Sullivan Code ("Property Maintenance"), the Town of Sullivan Codes Enforcement Office has received complaints relative to the conditions existing at 825 Fyler Road (Tax Map No. 23.-2-34.1) in the Town of Sullivan; and

WHEREAS, the Town of Sullivan Codes Enforcement Office has responded to said complaints; and

WHEREAS, upon observation of the conditions existing at said site, on or about March 13, 2017 through December 6, 2017, the Codes Enforcement Office did issue an "Order to Remedy" to the property owners of said premises, Jeffrey T. and Samantha Mulcahy, on or about November 17, 2017 and previously on October 23, 2017; and

WHEREAS, said "Order to Remedy" advised the property owners, Jeffrey T. and Samantha Mulcahy, of numerous complaints with regard to alleged illegal dumping along the property line of said property; and

WHEREAS, said "Order to Remedy" alleges violations of §192-4(A) of Chapter 192 ("Property Maintenance") insofar as said Code provision provides:

"It shall be a violation of this chapter for the owner of any real property in the Town of Sullivan to permit, maintain, deposit, keep, accumulate or scatter . . . rubbish on his or her lands"; and

WHEREAS, the term "Rubbish" is defined pursuant to §192-3 as:

"Useless, worthless, unwanted or discarded matter or objects . . .

A. Junk, trash, debris, building materials, or any other deleterious materials; . . ." (emphasis added); and

WHEREAS, pursuant to said November 17, 2017 "Order to Remedy", Jeffrey T. and Samantha Mulcahy were directed and ordered to remove completely from the site within five (5) days of said notification all rubbish, as defined in said notice; and

WHEREAS, said notification was provided by Certified Mail and regular First-Class Mail to the property owners pursuant to Chapter 192; and

WHEREAS, said "Order to Remedy", in addition to being sent by Certified Mail and regular First-Class Mail, was personally served and has been posted in a conspicuous place in or about the premises; and

WHEREAS, in response to receipt of said "Order to Remedy" the property owners made a written request for a hearing before the Town Board pursuant to §192-8 of the Code; and

WHEREAS, the Town Board of the Town of Sullivan has provided the owners of the premises, Jeffrey T. and Samantha Mulcahy, with a hearing pursuant to Chapter 192 on this 6th day of December, 2017; and

WHEREAS, the Town of Sullivan Codes Enforcement Office, through Code Enforcement Officer Lawrence Ball ("CEO Ball"), has provided to the Town Board verbal testimony and photographic evidence of the conditions existing on the Mulcahy premises, including the presence of rubbish, which rubbish includes large chunks and pieces of building materials, deleterious materials, trash and debris in the form of large sections of concrete, brush, metal and plastic construction material, all as evidenced in said photographs and as described by CEO Ball; and

WHEREAS, further testimony of the Codes Enforcement Office has indicated that Jeffrey T. Mulcahy had previously been contacted in person by the Codes Enforcement Office relative to the removal of said construction materials, other deleterious materials and rubbish; and

WHEREAS, Jeffrey T. Mulcahy has failed to entirely remove said materials; and

WHEREAS, the Town Board has heard testimony from Mr. Mulcahy relative to the intent and purpose of the construction materials and rubbish, themselves; and

WHEREAS, the Town Board has heard testimony from surrounding neighbors (with photographs depicting the conditions adjacent to their premises) relative to the nuisance caused by the presence of the rubbish, building materials and other deleterious materials placed along the Mulcahy and neighboring property line; and

WHEREAS, the Town Board deems said materials to be unhealthful, hazardous and dangerous by their accumulation on the Mulcahy premises and present a danger to health, life and property.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Town of Sullivan Town Board hereby affirms the "Order to Remedy" of the Town of Sullivan's Codes Enforcement Office dated November 17, 2017; and it is further

ORDERED that Jeffrey T. and Samantha Mulcahy are determined to have violated the provisions of this Chapter (Local Law No. 12-2014) and that the Codes Enforcement Office is authorized to commence a proceeding pursuant to §192-12 of the Town of Sullivan Code at the Code Enforcement Office's discretion; and it is further

ORDERED that the Town Board has determined, based upon the evidence presented, along with the testimony provided to the Board, that the conditions existing at 825 Fyler Road as described by the Codes Enforcement Officer and as depicted in the

submitted photographs are hereby determined to be an unhealthful, hazardous and dangerous condition to residents of the Town, including surrounding property owners and potential first responders and others; and it is further

ORDERED that the property owners are deemed to be in violation of Chapter 192 (Local Law No. 12-2014) as alleged in the "Order to Remedy" referenced herein; and it is further

ORDERED that the removal of said materials from the premises, as referenced in said "Order to Remedy", occur within thirty (30) days of the date of this Resolution; and it is further

ORDERED that in the event the property owners, Jeffrey T. and Samantha Mulcahy fail to fully remove such rubbish, building materials and other deleterious materials, as described herein and shown in the photographs presented at this hearing within such thirty (30) day period, the Town Codes Enforcement Officer is hereby authorized to cause the removal and work to be done and to pay the cost thereof; and it is further

ORDERED that in the event of said removal by the Town and the incursion of such costs, that Jeffrey T. and Samantha Mulcahy shall reimburse the Town of Sullivan for the costs of the work performed and/or services rendered at the direction of the Codes Enforcement Officer as provided in Chapter 192 of the Code of the Town of Sullivan (Local Law No. 12-2017) §192-9 and that said costs shall be assessed and levied upon the lots or parcels of land whereupon such work was performed and such services were rendered in the amount of the actual and complete costs of such work and that such charges shall be assessed and collected in the same manner and at the same time as provided by law for the collection of delinquent taxes.

The question of the adoption of the foregoing resolution was duly put to a vote and upon roll call, the vote was as follows:

| | | | |
|------------------------------|-------------------|--------------|------------|
| John E. Brzuszkiewicz | Councilor | Voted | Yes |
| Thomas J. Kopp Jr. | Councilor | Voted | Yes |
| Kerry Ranger | Councilor | Voted | Yes |
| Jeffrey Martin | Councilor | Voted | Yes |
| John M. Becker | Supervisor | Voted | Yes |

The foregoing resolution was thereupon declared duly adopted.

DATED: December 6, 2017

CERTIFICATE

STATE OF NEW YORK)
COUNTY OF MADISON)

I, the undersigned Town Clerk of the Town of Sullivan, Madison County, New York,
DO HEREBY CERTIFY:

That I have compared the foregoing Resolution with the original thereof on file in the Office of the Town Clerk of the Town of Sullivan, and that the same is a true and correct copy of said original and of the whole of said original so far as the same relates to the subject matters therein referred to.

I FURTHER CERTIFY that all members of said Board had due notice of said meeting and that, pursuant to Section 103 of the Public Officers Law, said meeting was open to the general public.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said Town on December 6, 2017.

CHARLOTTE A. FERSTLER
Town Clerk

(SEAL)

Supervisor Becker addressed Ernie Houghtaling's questions prior to going into executive session to obtain the attorney's opinion on pending legal questions.

EXECUTIVE SESSION

A motion was duly made by Councilor Ranger seconded by Councilor Kopp and unanimously passed by the Board to go into executive session to seek legal advice and invited Attorney Langey into the session at 8:32 P.M.

A motion was duly made by Councilor Martin, seconded by Councilor Kopp and unanimously passed by the Board to close the executive session at 8:58 P.M.

ADJOURNMENT

A motion was duly made by Councilor Brzuszkiewicz, seconded by Councilor Ranger and unanimously passed by the Board to adjourn the meeting at 8:59 P.M.

Respectfully Submitted,
Charlotte A. Ferstler, Town Clerk