

Presiding Supervisor Donalty called the Regular Town Board Meeting, Town of Walworth, County of Wayne, State of New York, held at 3600 Lorraine Drive, Walworth, New York to order at 6:34 PM. Supervisor Donalty led those present in the recitation of the Pledge of Allegiance.

**PRESENT:**

|                 |                        |
|-----------------|------------------------|
| Michael Donalty | Supervisor             |
| Alex Kelly      | Councilman             |
| Amber Linson    | Councilwoman           |
| Jim Harden      | Councilman             |
| Rick Johnson    | Councilman             |
| Kevin Switzer   | Highway Superintendent |
| Aimée Phillips  | Town Clerk             |

**ABSENT:** No members of the Town Board were absent.

**OTHERS PRESENT:** Two (2) members of the public.

**MINUTES**

Motion by Councilwoman Linson that the minutes of July 20, 2023 Regular Meeting are approved as submitted by the Town Clerk. Seconded by Councilman Kelly.

|                 |                     |     |
|-----------------|---------------------|-----|
| Roll call vote: | Councilwoman Linson | Aye |
|                 | Councilman Kelly    | Aye |
|                 | Councilman Harden   | Aye |
|                 | Councilman Johnson  | Aye |
|                 | Supervisor Donalty  | Aye |

Motion carried.

**ELECTED OFFICIALS’ REPORTS:**

**TOWN CLERK** – No report.

**HIGHWAY SUPERINTENDENT**

Superintendent Switzer shared that the Bills Road culvert project had been completed, and paving on Swadling Road had taken place.

**COUNCILMAN KELLY** – No report.

**COUNCILWOMAN LINSON** – No report.

**COUNCILMAN HARDEN** – No report.

**COUNCILMAN JOHNSON** – No report.

**SUPERVISOR DONALTY** – No report.

**RESOLUTIONS:**

**RESOLUTION 123-23: AUTHORIZE TOWN SUPERVISOR TO SIGN AND EXECUTE THE STORM WATER CONTROL FACILITY MAINTENANCE AGREEMENT WITH LEHRWOOD ESTATES**

Councilwoman Linson offered the Resolution and moved its adoption. Seconded by Councilman Johnson to wit:

The following was submitted:

**STORM WATER CONTROL FACILITY  
MAINTENANCE AGREEMENT**

Whereas, the Town of Walworth, having an address of 3600 Lorraine Drive, Walworth, NY 14568 ("Municipality") and Lehrwood Estates, having an address of 1112 E. River Rd. Auburn, NY 14414 ("Developer") seek to enter into an agreement (the "Agreement") to provide for the maintenance and continuation of storm water control measures approved by the Municipality for the below named project, and

Whereas, the Municipality and the Developer desire that the storm water control measures, as shown on the approved project plans prepared by Marathon Estyle and last dated 8/19/2023 (the "Plans"), be built in accordance with the Plans and thereafter be maintained, cleaned, repaired, replaced and continued by the Developer for the Term of this Agreement, all in order to ensure optimum performance of the components.

Therefore, the Municipality and the Developer agree as follows:

1. The term of this Agreement (the "Term") shall run until: a) three years from the date of execution of this Agreement by the Town, or b) until the certificate of occupancy is issued for the 83<sup>rd</sup> lot of the associated subdivision (85% of 98 lots), whichever occurs first. The Term of this Agreement shall be automatically extended in accordance with paragraph 5 hereof.
2. This agreement binds the Developer, its successors and assigns, during the Term hereof, to maintain the storm water control measures depicted in the Plans (as the same may be amended) which are attached as Schedule A of this Agreement, all in accordance herewith.
3. The Developer shall maintain, clean, repair, replace and continue the storm water control measures depicted in the Plans as necessary to ensure optimum performance of the measures to design specifications. The storm water control measures may include, but shall not be limited to, the following: rain garden, drainage ditches, swales, dry wells, infiltrators, drop inlets, pipes, culverts, soil absorption devices, detention ponds and retention ponds (collectively, the "Control Measures").
4. The Developer shall be responsible for all expenses related to the maintenance of the Control Measures during the Term.
5. Within nine months of the termination of this Agreement under paragraph (1), the Developer shall complete a final inspection of the Control Measures to determine the condition and integrity of the Control Measures. Such inspection shall be performed by a Professional Engineer licensed by the State of New York (the "Inspecting Engineer"). The Inspecting Engineer shall prepare and submit to the Municipality within 30 days of such inspection, a written report of the findings including recommendations for those actions necessary for the continued maintenance of the Control Measures. Such inspection shall demonstrate to the Town's satisfaction that the Control Measures have been properly maintained and otherwise meet Town specifications. Should such inspection provide otherwise, the Developer shall undertake repairs, maintenance or replacement of the Control Measures at the direction of the Municipality. The Term of this Agreement shall be automatically extended until the Town accepts a final inspection which demonstrates that the Control Measures have been properly

maintained and meet Town specifications.

In addition, the Building Inspector for the Town of Walworth may inspect the Control Measures each year. The Developer shall permit access by the Building Inspector and pay any fees associated with such annual inspection.

6. The Developer shall not authorize, undertake or permit alteration, abandonment, modification or discontinuation of the Control Measures except in accordance with written approval of the Municipality.

7. The Developer shall undertake necessary repairs, maintenance or replacement of the Control Measures at the direction of the Municipality or in accordance with the recommendations of the Inspecting Engineer. Such repairs, maintenance or replacement in accordance with the Plans shall not require further approval of the Municipality so long as in accordance with the Plans.

8. The Developer shall provide to the Municipality within 30 days of the date of this agreement, a security for the maintenance and continuation of the Control Measures in the form of  a Bond,  letter of credit or  escrow account (check the applicable box or remove unused options) for a period of three (3) years.

9. This agreement shall be recorded in the Office of the County Clerk, County of Wayne. If the Control Measures are located on property that is part of a homeowner's or condo association, this Agreement shall be included in the offering plan and/or prospectus.

10. If ever the Municipality determines that the Developer has failed to construct, maintain, clean, repair, replace and continue the Control Measures in accordance with the Plans or has failed to undertake corrective action specified by the Municipality or by the Inspecting Engineer, the Municipality is authorized to undertake such steps as reasonably necessary for the preservation, continuation or maintenance of the Control Measures and to pay for the cost thereof out of the security, or affix the expenses thereof as a lien against the property (including reasonable attorney fees and other administrative costs incurred in executing such a lien).

11. The parties agree and acknowledge that this Agreement shall cover not only the Control Measures set forth on the Plans, but it also shall cover any alterations or modifications to the Plans that may be approved by the Municipality after the execution of this Agreement.

12. This Agreement shall be binding upon, and inure to the benefit of, the respective successors and permitted assigns of the parties.

13. This Agreement shall be governed exclusively by the laws of the State of New York, without giving effect to choice of laws or choice of laws rules or principles.

14. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

15. This Agreement may not be amended, changed, modified, altered or terminated, except by an instrument in writing signed by the parties hereto.

CONTINUED ON NEXT PAGE

16. This Agreement is effective upon full execution by both parties.

The parties have entered into this Agreement on this \_\_\_ day of \_\_\_\_\_ 202\_\_.

TOWN OF WALWORTH, NY

By: \_\_\_\_\_  
 Name:  
 Title: Supervisor

By: Bruce E. Howlett  
 Name: Bruce E. Howlett  
 Title: Member

STATE OF NEW YORK )  
 COUNTY OF WAYNE ) SS.:

On the \_\_\_ day of \_\_\_\_\_ in the year 202\_\_ before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
 Notary Public

STATE OF NEW YORK )  
 COUNTY OF Livingston ) SS.:

On the 21<sup>st</sup> day of June in the year 2023 before me, the undersigned, personally appeared Bruce E. Howlett, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

Tammie Jo Whiteman  
 Notary Public  
 TAMMIE JO WHITEMAN  
 NOTARY PUBLIC-STATE OF NEW YORK  
 No. 01WH6159038  
 Qualified in Livingston County  
 My Commission Expires June 18, 2027

**NOW, THEREFORE BE IT RESOLVED**, that the Board of the Town of Walworth authorizes the Town Supervisor to sign and execute the Storm Water Control Facility Maintenance Agreement with Lehrwood Estates.

Adopted this 3<sup>rd</sup> day of August, 2023, at a meeting of the Town Board.

|                 |                     |     |
|-----------------|---------------------|-----|
| Roll call vote: | Councilwoman Linson | Aye |
|                 | Councilman Kelly    | Aye |
|                 | Councilman Harden   | Aye |
|                 | Councilman Johnson  | Aye |
|                 | Supervisor Donalty  | No  |

Resolution carried.

**COMMUNICATION:**

- Animal Control Officer Report for the month of July 2023
- Walworth Justice Court Monthly Report for July 2023

**TOWN BOARD MEETINGS:**

| DATE               | TIME    | MEETING TYPE |
|--------------------|---------|--------------|
| AUGUST 17, 2023    | 6:30 PM | REGULAR      |
| SEPTEMBER 7, 2023  | 6:30 PM | REGULAR      |
| SEPTEMBER 21, 2023 | 6:30 PM | REGULAR      |

**NEW AND OTHER BUSINESS:**

➤ **Highway Request for Pipeline Drilling Reimbursement Discussion**

**Councilwoman Linson and Highway Superintendent Switzer explained to those present that as a result of the recent Bills Road culvert replacement project, funding is requested for the purpose of boring for water main placement on Bills Road.**

**RESOLUTION 124-23: TO APPROPRIATE FUND BALANCE NOT TO EXCEED \$7,000.00 TO COVER THE COST OF BORING FOR WATER PIPE REPAIR**

Councilwoman Linson offered the following Resolution and moved its adoption. Seconded by Councilman Johnson to wit:

**WHEREAS**, the replacement of a culvert pipe on Bills Road has disturbed a Town-owned water main causing the pipe to be moved; and

**WHEREAS**, the replacement of this pipe will need to be placed deeper into the ground due to the placement of the culvert pipe resulting in the need to bore through stone; and

**WHEREAS**, the cost is not anticipated to exceed \$7,000.00; and

**WHEREAS**, funds are available for this type of project in budget line SW18340.2.

**NOW, THEREFORE BE IT RESOLVED, THAT** the Board of the Town of Walworth authorizes the appropriation of funds not to exceed \$7,000.00 for the purpose of boring for water main placement on Bills Road.

Adopted this 3<sup>rd</sup> day of August, 2023 at the meeting of the Town Board.

|                 |                     |     |
|-----------------|---------------------|-----|
| Roll call vote: | Councilwoman Linson | Aye |
|                 | Councilman Kelly    | Aye |
|                 | Councilman Harden   | Aye |
|                 | Councilman Johnson  | Aye |
|                 | Supervisor Donalty  | Aye |

Resolution carried.

➤ **Employee Handbook/Policies and Procedures Manual Updates**

Councilwoman Linson stated that the committee had met again that day and that they are progressing well aiming for it to be completed in the next few weeks.

➤ **Dolomite Park Update**

Councilwoman Linson shared that the Wayne Youth Lacrosse organization had indicated that it would be moving the stone from the baseball diamond and was no longer interested in building a box lacrosse field at that location. They will be meeting with representatives from the Town to discuss a proposal the following week.

**PUBLIC PARTICIPATION:**

No members of the public wished to address the Town Board.

**ADJOURNMENT:**

Motion by Councilwoman Linson to adjourn. Seconded by Councilman Kelly.

|                 |                     |     |
|-----------------|---------------------|-----|
| Roll call vote: | Councilwoman Linson | Aye |
|                 | Councilman Kelly    | Aye |
|                 | Councilman Harden   | Aye |
|                 | Councilman Johnson  | Aye |
|                 | Supervisor Donalty  | Aye |

Motion carried.

Time: 6:52 PM

Respectfully Submitted,  
Aimée Phillips  
Town Clerk