

RED HOOK TOWN BOARD SPECIAL MEETING
May 20, 2021

A special meeting of the Town Board of the Town of Red Hook, Dutchess County, New York was convened by Zoom Videoconference due to COVID-19 pandemic stay in place rules at the Town Hall, 7340 South Broadway, Red Hook at 7:30 p.m.

Present: Councilmember Christine Kane
Councilmember William O’Neill
Councilmember Jacob Testa
Town Clerk Deanna Cochran
Also Present: Attorney Christine Chale
Supervisor's Assistant Matt Fenaroli

Deputy Supervisor William O’Neill declared a quorum and opened with the Pledge of Allegiance.

Announcements- Next Town Board Meeting will be Wednesday, May 26, 2021 at 7:30pm.

Resolution of Proposed Easements – Preserves at Lakes Kill

Councilmember Christine Kane explained this Resolution will cover two types of easements on the project. There is a conservation easement which is proposed to be held by Winnakee Land Trust, Inc. The town of Red Hook will have third party enforcement rights on this easement. The second is a drainage easement that will provide the town with the availability of maintaining drainage facilities and infrastructure on town roads. Attorney Christine Chale confirmed the drainage easement would be on the catch basin Feller Newmark Road on the property of the developer. Councilmember Kane mentioned this would give the Highway Department the right to go on the property to maintain the catch basin.

TOWN OF RED HOOK
RESOLUTION NO. 34
DATED MAY 20, 2021

**RESOLUTION AUTHORIZING THE ACCEPTANCE OF PROPOSED
CONVEYANCES REGARDING THE PRESERVE AT LAKES KILL SUBDIVISION**

WHEREAS, the Town of Red Hook Planning Board adopted a resolution on December 7, 2015, entitled, “Resolution Granting Final Subdivision Approval to Preserve at Lakes Kill Subdivision” for an 11 residential lot community development project known as the “Preserve at Lakes Kill” (the “Project”) on certain property at Feller Newmark Road, identified as tax parcel nos. 6372-00-718975, 6372-00-754955, and 6373-00-790095 (the “Property”), which resolution was duly filed in the office of the Town Clerk on December 8, 2015, as extended, with the latest 90 day extension granted April 5, 2021, after adopting a resolution dated December 2, 2013, determining that the Project as proposed would not have a significant adverse impact on the environment and issuing a negative declaration (collectively the “Planning Board Approval”); and

WHEREAS, the Planning Board Approval includes, among other things:

- a conservation easement for the ± 89.02 acre open space parcel, including the requirement that the Town of Red Hook be granted third-party enforcement rights in accordance with § 144-33(E) of the Town Code;
- a drainage easement to the Town of Red Hook for maintenance of the drainage structures that collect drainage from Feller Newmark Road, as required by Highway Specifications § 40-2;
- a performance guarantee or other agreement(s) pursuant to § 120-15 of the Town Code and the applicable provisions of the Highway Specifications for the purpose of guaranteeing or securing performance by the applicant with regards to the construction of all public improvements, including the road opening permit, re-grading Feller Newmark Road and related drainage features, and construction of the retaining wall and guard rail on Feller Newmark Road;
- an escrow of \$3,900 for monitoring and possible removal of the 36" Oak tree located at the west end of the proposed wall;
- an indemnity agreement regarding the proposed road improvements; and

--an inspection escrow for engineering inspections of improvements; and

WHEREAS, pursuant to Section 10-1 and 10-2 of the Town of Red Hook Highway Specifications, a developer is required to deposit with the Town a performance bond of acceptable surety guaranteeing, among other things, completion of construction of all requirement improvements within two years in accordance with approved plans and the Highway Specifications, in an amount determined by the Town Engineer; and

WHEREAS, The Preserve at Lakes Kill, LLC, as fee owner of the Property, and Landmark Properties of Suffolk, Ltd., as developer engaged by the owner (“Developer”), have caused to be submitted a copy of the final subdivision plat as shown on the documents prepared by Hudson Land Design Professional Engineering, P.C., including a subdivision plat entitled “Final Subdivision Plat 1 of 3, 2 of 3 and 3 of 3 – Major Subdivision The Preserve at Lakes Kill,” dated February 11, 2011, last revised September 10, 2020 (collectively the “Subdivision Plat”); and

WHEREAS, the owner has submitted a Conservation Easement providing for the holding of a conservation easement for open space by Winnakee Land Trust with the Town proposed to hold third-party enforcement rights (the “Conservation Easement”); and

WHEREAS, the owner has offered to dedicate drainage easements, as shown on the Subdivision Plat including a drawing entitled “Drainage Easement 4,” and “Drainage Easement 4A” dated February 11, 2011, last revised September 10, 2020, pursuant to an Irrevocable Offer of Cession for a Drainage Structure Easement and Drainage Swale Easement (“Drainage IO”) providing for: (1) an easement to provide the right but not the obligation to maintain storm drainage systems on the Property as depicted on the Subdivision Plat; (2) an easement to discharge stormwater drainage from Feller Newmark Road on to the Property as depicted on the Subdivision Plat; with an attached proposed Grant of Permanent Drainage Easements for said easements; and

WHEREAS, the Developer has submitted a letter of the Town Engineer dated December 17, 2020 regarding the adequacy of estimates of the cost of construction prepared by the Developer’s engineer, providing for a performance bond estimate of \$267,676 for the improvements to Feller Newmark Road and a performance bond estimate of \$335,769 for the construction of Lakes Kill Run, in each case including related improvements required by the Planning Board Approvals and specified in the Subdivision Plat and as required by the Town of Red Hook Town Code, Town of Red Hook Highway Specifications, and any other requirements of permits issued for construction of said improvements (collectively, the “Required Improvements”), with an estimated cost of inspection in the amount of \$4,000; and

WHEREAS, the Developer has submitted a letter of the Highway Superintendent dated December 18, 2020 regarding approval of plans and specifications the Required Improvements, stating that the design of the proposed Required Improvements is approved subject to the issuance of a road opening permit and the conditions therein, including the required fee and posting of the required bond, as well as the required deposit of inspection escrow fees and construction inspection by the Town Engineer as to conformance with the Subdivision Plat, Highway Specifications, and Town Code, and further stating that the construction of the Required Improvements is further subject to the requirements described in §§ 120-14 and 120-15 of the Town Code, including without limitation insurance, performance guarantees, indemnity, maintenance bonds, and inspection escrow; and

WHEREAS, via letter dated February 19, 2021, the Town of Red Hook Highway Superintendent issued a Permit for Improvements to Town Streets and Highways Regarding the Project’s Required Improvements, subject to all provisions and requirements of the Town of Red Hook Highway Specifications, including provisions regarding necessary fees, escrow, and guarantees and/or surety bonds; and

WHEREAS, there is on file with the Town Clerk a proposed form of tree escrow agreement for the Project, a proposed form of hold harmless agreement, a proposed form of development agreement, and proposed form of letter of credit; and

WHEREAS, the acceptance of the Drainage IO and the Conservation Easement described above is in the best interests of the Town subject to the conditions set forth herein; and

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Red Hook as follows:

1. Acceptance of the Drainage IO, is authorized subject to the conditions noted below; provided, however, that the Town reserves the right to determine whether to accept said easement in its sole discretion upon completion thereof, and the acceptance of said easement shall be subject to the final approval of acceptance thereof by the Town Highway Superintendent.
2. Acceptance of the third-party enforcement rights and execution of the Conservation Easement by the Town is hereby approved subject to the conditions noted below.
3. The acceptance and execution of the Drainage IO and the Conservation Easement are subject to the following:
 - a. Delivery to the Town Clerk of a development agreement assuring the completion of the Required Improvements together with one or more performance bonds or letters of credit, in form and substance satisfactory to the Attorney for the Town and in the aggregate amount of \$603,445.00, as reviewed and recommended by the Town Engineer, in full force and effect, conditioned on completion of the Required Improvements in accordance with the Subdivision Plat, all required plans, conditions and specifications, which bond or letter of credit shall be for an initial period of not less than 2 years renewable in one year increments, and subject to delivery of a maintenance bond pursuant to Town Code § 120-16 and the Highway Specifications;
 - b. Delivery of the hold harmless agreement and evidence of a general liability insurance policy in final form satisfactory to the Attorney for the Town in consultation with the Town's insurance agent, consistent with and in the amounts specified in the requirements of Highway Specifications § 10-2;
 - c. Delivery of the final executed form of the Drainage IO including an easement description conforming to the plat finally approved by the Planning Board and in form and substance approved by the Attorney for the Town;
 - d. Delivery of the final executed form of the Conservation Easement including a deed description and conservation easement map with respect to the Conservation Easement conforming to the plat finally approved by the Planning Board and in form and substance approved by the Attorney for the Town;
 - e. Delivery of the oak tree escrow agreement and escrow in accordance with the Subdivision Plat and the Planning Board approval in form and substance on file with the Clerk;
 - f. A policy of title insurance, or commitment therefor with policy to be delivered at the time of acceptance, with respect to the interests of the Town in the proposed conveyances, from a title company which is a member of the New York Board of Title Underwriters, to the effect that the title company will be willing to approve and insure the interests of the Town in accordance with their standard form of title policy, without special premium and without material exception, together with an undertaking for proper recording thereof, subject to only to such exceptions as shall be approved by the Attorney for the Town and as shall be consistent with the Planning Board Approvals;
 - g. Receipt by the Town of payment for any and all outstanding consultant invoices included estimated costs, bringing the escrow account for development review costs fully up to date;
 - h. Deposit with the Town Clerk of the escrow for inspection fees for the Required Improvements in the amount of \$4000 as specified in the Engineer's approval letter referred to above;
4. Subject to the conditions set forth in Section 3, the Supervisor, or in his absence or unavailability the Deputy Supervisor, is authorized and directed to execute and deliver the Drainage IO, the Conservation Easement, the oak tree escrow agreement and the development agreement in substantially the forms on file with the Town Clerk, with such changes as shall not materially affect the substance thereof.
5. The Supervisor, Town Engineer, Attorney for the Town and the Superintendent of Highways may take all steps reasonable and necessary in consultation with the Attorney for the Town to implement the intent of this resolution.

EXTRACT OF MINUTES

A special meeting of the Town Board of the Town of Red Hook, Dutchess County, New York, was convened in public session via videoconference and/or teleconference pursuant to Executive Order 202.1, as amended, on May 20, 2021 at 7:30 p.m., local time. A live transmission was available to the public as described in the notice of meeting attached hereto. The meeting was recorded, and a full transcript is required to be prepared to the extent required by such Executive Order.

The meeting was called to order by Deputy Supervisor William O’Neill, and, upon roll being called, the following members were (Note: Where members are marked Present, specify whether In Person at the Town Hall, 7340 South Broadway, Red Hook, NY, via Videoconference, or via Teleconference):

	Present	Absent
Supervisor Robert McKeon		X
Councilmember William Hamel		X
Councilmember Christine Kane	VIA videoconference	
Councilmember William O’Neill	VIA videoconference	
Councilmember Jacob Testa	VIA videoconference	

The following persons were ALSO PRESENT:

Christine M. Chale, Esq., Attorney for the Town, VIA Videoconference

The following resolution was offered by Councilmember Kane, seconded by Councilmember Testa, to wit.

**TOWN OF RED HOOK
RESOLUTION NO. 34
DATED MAY 20, 2021**

**RESOLUTION AUTHORIZING THE ACCEPTANCE OF PROPOSED
CONVEYANCES REGARDING THE PRESERVE AT LAKES KILL SUBDIVISION**

The question of the adoption of the foregoing resolution was duly put to vote on a roll call, which resulted as follows:

Councilmember Christine Kane	VOTING <u>Aye</u>
Councilmember William O’Neill	VOTING <u>Aye</u>
Councilmember Jacob Testa	VOTING <u>Aye</u>

The foregoing resolution was thereupon declared duly adopted.

Public Comment – Councilmember Kane talked about a possibility of a grant opportunity regarding Covid-19 funding. Councilmember O’Neill indicated there will be a discussion about this at the next Town Board Meeting.

On a motion of Deputy Supervisor William O’Neill seconded by Councilmember Kane to adjourn the meeting.

Adopted	Ayes	3	Kane, O’Neill, Testa
	Nays	0	

Respectfully submitted,

Deanna Cochran, Town Clerk