

RESOLUTION NO. 99

DATED: APRIL 18, 2018

RESOLUTION OF THE TOWN OF BATAVIA, NEW YORK, ADOPTED APRIL 18, 2018, ESTABLISHING OAKWOOD HILLS DRAINAGE DISTRICT IN SAID TOWN, AND PROVIDING THAT SUCH RESOLUTION SHALL BE SUBJECT TO PERMISSIVE REFERENDUM.

Recitals

WHEREAS, the Town Board of the Town of Batavia (herein called “Town Board” and “Town” respectively) in the County of Genesee, New York has heretofore duly caused the Town Engineer, duly licensed by the State of New York, to prepare a map, plan and report for a proposed Oakwood Hills Drainage District (the “District”), in the Town, consisting of the repair and maintenance of improvements have already been completed by the project developer, consisting of concrete gutters, catch basins and pipe that convey storm water runoff to storm water management areas, and other improvements (referred to hereinafter as “storm water improvements”), including land or rights in land; which, map, plan and report have been duly filed in the office of the Town Clerk of the Town for public inspection; and

WHEREAS, pursuant to the Order duly adopted on March 21, 2018, the Town Board has determined to proceed with the proposed establishment of the District and adopted an Order reciting a description of the boundaries of the District in a manner sufficient to identify the lands included therein as in a deed of conveyance, the improvements proposed, the maximum amount proposed to be expended for the construction of water improvements in connection with the District, the proposed method of financing to be employed, the fact that a map, plan and report describing the same are on file in the Town Clerk’s Office for public inspection and specifying April 18, 2018, at 7:15 o’clock P.M. (Prevailing Time) as the time when, and the Batavia Town Hall, located at 3833 West Main Street Road, Batavia, New York, in the Town, as the place where, the Town Board would meet to consider the establishment of the District, and to hear all persons interested in the subject thereof concerning the same, and for such other action on the part of the Town Board in relation thereto, as may be required by Law: and

WHEREAS, certified copies of such Order were duly published and posted pursuant to the provisions of Article 12-A of the Town Law and a Notice of Public Hearing was mailed by first class mail to each owner of taxable real property in the District; and

WHEREAS, the Town Board has given due consideration to the impact that the District may have on the environment and on the basis of such consideration, the Town Board has found that no substantial adverse environmental impact will be caused by such District and a Negative Declaration has been issued; and

WHEREAS, the Town Board and the Town will comply in every respect with all applicable federal, state and local laws and regulations regarding environmental matters,

including compliance with the New York State Environmental Quality Review Act, comprising Article 8 of the Environmental Conservation Law; and

WHEREAS, a Public Hearing in the matter was duly held by the Town Board on said 18th day of April, 2018, commencing at 7:15 o'clock P.M. (Prevailing Time), at such Batavia Town Hall, at which all interested persons desiring to be heard were heard, and

WHEREAS, primary responsibility for maintenance of District improvements will be borne by a third-party homeowner's association, and the District will incur cost only to the extent the homeowner's association fails to maintain the improvements.

NOW, THEREFORE, upon the evidence adduced at such Public Hearing, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF BATAVIA, IN THE COUNTY OF GENESEE, NEW YORK, AS FOLLOWS:

Section 1. It is hereby determined that:

(a) the Order Calling Public Hearing was published and posted as required by Law, and is otherwise sufficient;

(b) the Notice of Public Hearing was mailed by first class mail to each owner of taxable real property in the District;

(c) all the property and property owners included within the proposed District hereinabove referred to in the recitals hereof are benefited thereby;

(d) all the property and property owners benefited are included within the limits of the proposed District; and

(e) it is in the public interest to establish the District.

Section 2. The establishment of the District is hereby approved, as hereinafter described, and said District shall be designated and known as Oakwood Hills Drainage District, in the Town of Batavia, and shall be bounded and described as more particularly described in annexed Exhibit "A".

Section 3. All of the storm water improvements have been constructed and installed pursuant to the specifications of the Town of Batavia at the sole cost and expense of the project developer, with no direct initial capital cost to the residents of the Drainage District, and that funding for any further improvements required in the future, and any costs associated with the repair and maintenance of the district improvements, is to be provided by the levy and collection of special assessments from the several lots and parcels of land within such Benefited Area which the Town Board shall determine to be especially benefited by said Drainage District, so much upon and from each as shall be in just proportion to the amount of benefit which the Drainage District shall confer upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable.

Section 4. The permission of the State Comptroller is not required with respect to the District because the estimated cost of the District to the Typical Property (as defined in the Town Law) is below the Average Estimated Cost to the Typical Properties for the establishment of similar types of districts, as computed by the State Comptroller, and a full application will not need to be submitted to the State Comptroller's Office for approval.

Section 5. This resolution is subject to permissive referendum and the Town Clerk of the Town is hereby authorized and directed within ten (10) days after the adopted resolution, to cause to be published at least once in the "Batavia Daily News" a newspaper having a general circulation in the Town of Batavia, and hereby designated as the official newspaper of the Town for such publication, and posted on the sign board of the Town, a Notice which shall set forth an abstract of said foregoing resolution which shall be in substantially the following form:

LEGAL NOTICE

TOWN OF BATAVIA, NEW YORK

PLEASE TAKE NOTICE that on April 18, 2018, the Town Board of the Town of Batavia, in the County of Genesee, New York, adopted a resolution entitled:

"Resolution of the Town of Batavia, New York, Establishing Oakwood Hills Drainage District, in said Town, and providing that such resolution shall be subject to permissive referendum,"

an abstract of such resolution, concisely stating the purpose and effect thereof, being as follows:

FIRST: RECITING that the Town Board of the Town of Batavia ("Town Board" and "Town", respectively), New York, has heretofore duly caused the preparation of a general map, plan and report for the proposed Oakwood Hills Drainage District, in the Town (the "District") consisting of the repair and maintenance of improvements already completed by the project developer, consisting of concrete gutters, catch basins and pipe that convey storm water runoff to storm water management areas, and other improvements (referred to hereinafter as "storm water improvements"); which map, plan and report have been duly filed in the office of the Town Clerk of Town public inspection; that an Order was adopted on March 21, 2018, reciting a description of the boundaries of the proposed District in a manner sufficient to identify the lands included therein as in a deed of conveyance, the improvements proposed, the maximum amount proposed to be expended therefore, the proposed method of financing, the fact that a map, plan and report describing the same are on file in the Town Clerk's Office for public inspection, and specifying the time and place of a Public Hearing to hear all persons interested in the subject thereof concerning the same; that copies of such Order have been duly published and posted, that all environmental laws and regulations will be complied with, and that such hearing has been duly held on April 18, 2018, at the time and place specified;

SECOND: RESOLVING AND DETERMINING that (a) the Order Calling Hearing was published and posted as required by Law and is otherwise sufficient, (b) the Notice of Public Hearing was mailed by first class mail to each owner of taxable real

property in the District (c) all the property and property owners within the proposed district are benefited thereby, (d) all the property and property owners benefited are included within the limits of the proposed District, and (e) that the establishment of the District is in the public interest.

THIRD: FURTHER RESOLVING AND DETERMINING that the establishment of the District be approved, DESIGNATING such District as Oakwood Hills Drainage District in the Town of Batavia, and DESCRIBING the District by metes and bounds;

FOURTH: FURTHER RESOLVING that the expenditure of funds is not necessary for said District improvements since they are already constructed, with the costs of any repair, maintenance or improvement of same to be provided by a third-party homeowner's association, and the District will incur cost only to the extent the homeowner's association fails to maintain the improvements. The levy and collection of special assessments from the several lots and parcels of land within such Benefited Area which the Town Board shall determine to be especially benefited by said Drainage District, so much upon and from each as shall be in just proportion to the amount of benefit which the Drainage District shall confer upon the same, to pay the principal of and interest on said bonds as the same shall become due and payable.

FIFTH: FURTHER RESOLVING that the permission of the State Comptroller is not required with respect to the District because the estimated cost of the District to the Typical Property (as defined in the Town Law) is below the Average Estimated Cost to the Typical Properties for the establishment of similar types of districts, as computed by the State Comptroller, and a full application will not need to be submitted to the State Comptroller's Office for approval; and

SIXTH: STATING that this resolution is subject to permissive referendum.

By order of the Town Board of the
Town of Batavia, in the County of
Genesee, New York.

Dated: April 18, 2018

Teressa Morasco
Town Clerk

Second by: Deputy Supervisor Underhill
Ayes: Michalak, Underhill, Zambito, White, Post
APPROVED by unanimous vote (5-0)

EXHIBIT A

TOWN OF BATAVIA OAKWOOD HILLS DRAINAGE DISTRICT BOUNDARY DESCRIPTION

The boundary of the proposed Town of Batavia, Oakwood Hills Storm Water District includes all that tract or parcel of land situated in the Town of Batavia, County of Genesee, State of New York, being described as follows:

Beginning at a point which is the southwesterly corner of Tax Parcel number 13.02-1-91; thence,

1. Easterly, along the northerly line of Tax Parcel number 13.-1-107.22, a distance of 3,181 feet, more or less, to the southeasterly corner of Tax Parcel number 13.02-1-96; thence,
2. Northerly, along the easterly line of Tax Parcel number 13.02-1-96, a distance of 450 feet, more or less, to the northwesterly corner of Tax Parcel number 13.-1-4.2; thence,
3. Easterly, along the northerly line of Tax Parcel number 13.-1-4.2 and across Seven Spring Road (49.5 feet wide right-of-way), a distance of 233 feet, more or less, to the intersection of the easterly extension of the northerly line of Tax Parcel number 13.-1-4.2 and the centerline of Seven Springs Road; thence,
4. Northerly, along the centerline of Seven Spring Road, a distance of 343 feet, more or less, to the intersection of the centerline of Seven Springs Road and the easterly extension of the southerly line of Tax Parcel number 13.02-1-28; thence,
5. Westerly, across Seven Springs Road (49.5 feet wide right-of-way) and along the southerly line of Tax Parcel number 13.02-1-28, a distance of 225 feet, more or less, to the southwesterly corner of Tax Parcel number 13.02-1-28; thence,
6. Northerly, along the westerly line of Tax Parcel number 13.02-1-28, a distance of 152 feet, more or less, to the northwesterly corner of Tax Parcel number 13.02-1-28; thence,
7. Westerly, along the southerly line of Tax Parcel number 13.-1-4.121, a distance of 72 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-4.121; thence,
8. Northerly, along the westerly line of Tax Parcel numbers 13.-1-4.121 and 13.-1-4.111, a distance of 350 feet, more or less, to the northwesterly corner of Tax Parcel number 13.-1-4.111; thence,
9. Easterly, along a the northerly line of Tax Parcel number 13.-1-4.111, a distance of 56 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-151; thence,
10. Northerly, along the westerly line of Tax Parcel numbers 13.-1-151, 13.-1-150, and 13.-1-149.1, a distance of 555 feet, more or less, the northwesterly corner of Tax Parcel number 13.-1-149.1; thence,
11. Easterly, along the northerly line of Tax Parcel number 13.-1-149.1 and across Seven Springs Road (49.5 feet wide right-of-way), a distance of 223 feet, more or less, to the intersection of the easterly extension of the northerly line of Tax Parcel number 13.-1-149.1 and the centerline of Seven Springs Road; thence,

12. Northerly, along the centerline of Seven Spring Road, a distance of 100 feet, more or less, to the intersection of the centerline of Seven Springs Road and the easterly extension of the southerly line of Tax Parcel number 13.-1-9; thence,
13. Westerly, across Seven Springs Road (49.5 feet wide right-of-way) and along the southerly line of Tax Parcel number 13.-1-9, a distance of 219 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-9; thence,
14. Northerly, along the easterly line of Tax Parcel number 13.02-1-27, a distance of 151 feet, more or less, to the northeasterly corner of Tax Parcel number 13.02-1-27; thence,
15. Westerly, along the northerly line of Tax Parcel numbers 13.02-1-27, 13.02-1-26, and 13.02-1-92, a distance of 942 feet, more or less, to the southwesterly corner of Tax Parcel number 13.-1-8.121; thence,
16. Northerly, along an westerly line of Tax Parcel number 13.-1-8.121, a distance of 893 feet, more or less, to the northerly corner of the Tax Parcel number 13.02-1-92; thence,
17. Southwesterly, along the easterly line of Tax Parcel number 13.-1-108, a distance of 3,260 feet, more or less, to the point of beginning.

All as shown on a map prepared by the Town of Batavia entitled, "Oakwood Hills Storm Sewer District Map – Oakwood Hills Subdivision," dated 3/2018. The Town of Batavia, Oakwood Hills Storm Sewer District, as described above, contains approximately 105.4 acres of land.