

# 10-20-2021 Town Council Meeting

## Responses to Council Questions

### **ITEM #3: Review of Town Stormwater Regulations**

#### **Council Question:**

Could the presentation on stormwater please include an analysis around determining responsibility for stormwater and its impacts, taking into account any legal, regulatory, and public relations considerations? In thinking about who pays for infrastructure and/or remediation for flooding that impacts homeowners, businesses, public spaces, town-owned property (like public housing), rental housing... I would imagine there are different considerations and factors that impact each category?

#### **Staff Response:**

*Staff can include information on this in the presentation.*

*Here is some additional information: **Section 5.4.8** of the Land Use Management Ordinance requires Stormwater management facilities that are constructed on privately-owned land and that are not within a public easement to be maintained by the owner of the subject property. Stormwater management facilities that are constructed on public land, within public rights-of-way, and/or within public easements shall be maintained by the public body with ownership/jurisdiction.*

*Owners of stormwater management facilities are required to record a maintenance easement and covenant agreement with Orange County Register of Deeds. The easement agreement provides for access to the facility at reasonable times for periodic inspection by the town. The covenant agreement is an operation and maintenance plan that the property owner must follow to ensure the perpetual maintenance of the stormwater management facility.*

*The cost of mitigating flooding that impacts private properties (i.e., homeowners, businesses etc.) are normally paid by the private property owner. If the impact of flooding is a result of upstream private property, Stormwater Management Division considers the issue as a civil case between the two properties.*

**Sec. 23-44 of the Town Code of Ordinance states that “Drainage across private property is primarily the responsibility of the owner of the property”.**