

Supervisor James Schmitt opened the regular meeting of the town board of the Town of Pawling at 6:00 PM August 11, 2021 at the Pawling Town Hall, 160 Charles Colman Blvd., Pawling, New York. Present were Councilmen McCarthy, DeRosa, Councilwoman Snow, town attorney Nancy Tagliaferro, and approximately 15 interested citizens. Councilman Johnson was absent.

COMMENDATION/TERRY ARIANO

Supervisor Schmitt said this month, the board is presenting a commendation to Terry Ariano, Executive Director of the Pawling Resource Center, for her work at the Pawling Resource Center, particularly during the pandemic. She has served the community above and beyond what she was required to do and he thanked her for everything she has done. He read the following proclamation:

COMMENDATION

Terry Ariano

Whereas, Terry Ariano has selflessly served Pawling as Executive Director of the Pawling Resource Center for 7 years, and

Whereas, Terry Ariano has improved the lives of countless Pawling residents through her passionate dedication to service, and

Whereas, the hard work and leadership of Terry Ariano has inspired so many in our community to serve our fellow neighbors and improve our community, and

Whereas, the lengths Terry Ariano went to through the pandemic to help those who needed it is immeasurable and beyond laudable, and

Whereas, Terry Ariano has demonstrated that she cares deeply for others and will leave an indelible mark on all who she has encountered, therefore, be it

Resolved, that the Town of Pawling, by its elected town board, hereby recognizes the extraordinary commitment to service displayed by Terry Ariano presented this 11th day of August, 2021.

Councilman McCarthy thanked Ms. Ariano for everything she has done for everyone, including his family and friends. He said she will be sorely missed.

Councilman DeRosa thanked Ms. Ariano for all of her work in the community, it has been a blessing.

Councilwoman Snow said Ms. Ariano would be leaving her position as the director of the Pawling Resource Center at the end of September. She thanked Ms. Ariano for all of the work she has done and for her perseverance, especially during the pandemic. It was a testimony to Ms. Ariano. She was at the Resource Center every day during the pandemic and the community, especially the seniors, were blessed to have her. She was grateful for all Ms. Ariano has done and grateful to call her a friend.

Reverend Mark Allen, Chair of the Board of Directors of the Pawling Resource Center, said Ms. Ariano has been an amazing person to work with. The slogan at the Resource Center is “neighbors helping neighbors”. Those three words capture what we do and Ms. Ariano lives that, she always has. In the seven years she has been there, the ability to help people in the community has gone through the roof. Ms. Ariano’s abilities through the pandemic really shined and they have been amazed at her abilities. She leaves very big shoes to be filled, it has been an honor to work with her and she has made a difference in this community. He is grateful to be chairman and represent all of the board of directors and all of their clients in saying thank you to Ms. Ariano.

Lauri Taylor, Village Mayor, thanked the town board for giving her the opportunity to also thank Ms. Ariano for the Village. She thanked Ms. Ariano for all of the efforts she has made, especially during the pandemic. She was there to give a helping hand all the way through the pandemic.

Terry Ariano said she was overwhelmed. It has been a pleasure serving the community. She said she gets back as much as she gives.

MINUTES

Supervisor Schmitt made a motion to accept the minutes of July 14, 2021, seconded by Councilman McCarthy, motion passed unanimously.

PUBLIC COMMENT ON AGENDA ITEMS

Supervisor Schmitt opened the meeting for public comment on agenda items and there were none.

PRESENTATION/35 DODGE ROAD

Jay Erickson, resident of 42 Old Route 55, Pawling, wanted to give the board a quick overview of the proposal for West Mountain Woods, and then he would answer questions. Across from Lakeside Park, across Dodge Road, is a 163 acre parcel. He is part of the project and the plan is to purchase the property, they are under contract, and as part of due diligence, something came up on the title that they would like to clear before they proceed. Their intentions of the project, and he is interested in land conservation in general, the goal is to purchase the property and subdivide into eight large lots, one of them being a one hundred acre common lot. They would like to create a pathway and work on trying to build a connector trail from Lakeside to the Appalachian Trail, which would be a big community benefit. The parcel is 163 acres in an R3 zone so theoretically you could have fifty lots under the regulations. They are proposing to put conservation easements on those eight lots, so there would be no further subdivision of the eight lots, which is a strong conservation angle. The development group needs to determine what will happen with the one hundred acre community lot. They are not sure yet, it might have a commercial aspect but it would be a permitted use under a special use permit.

Councilman DeRosa said when he was on the planning board many years ago, he was involved with the original subdivision of this parcel. This parcel is 160+ acres in an R3 zone. A natural restraints map would need to be done to designate wetlands, steep slopes and other environmental features. This parcel was inspected many times during the original subdivision process. There are many sensitive environmental areas on this property, such as stands of trees and rock outcroppings. When the project design was finished, all of the roads and intrusions were kept out of the sensitive areas. The lot count will depend on what environmental areas get discounted out. He asked if they had looked at the maps from the previous subdivision. He asked if this project would work within the scope of the previous subdivision.

Mr. Erikson said yes, they had. There are some constraints, some steep slopes and wetlands. They have a preliminary sketch of a lot layout and it accounts for all of that, including all of the zoning. They would all be conforming lots. They would need to go through the process once they close, which will be very in depth. The way they have the plan now, it would work.

Councilman DeRosa explained that the YMCA, when they sold the parcel, added the covenants for no commercial/industrial on that lot.

Mr. Erikson said the YMCA owned the property and in 1999, they sold this lot to a group called A Foundation for a Course in Miracles, and they put this covenant on the deed. What the covenant says is that, "the premises here and above described shall not be used for industrial or commercial purposes of any kind without written approval from the grantor. This restriction shall run with the land and be binding upon the grantee, it's successor's and assigns". So, it doesn't exclude those uses per se, it just says there has to be written approval by whoever holds the covenant. Their position is that the town has a rigorous zoning and planning process, he is very familiar with it, and let those processes control the land use. The covenant is a potential risk and complication for them as a project at this point.

Councilwoman Snow asked if there had been an environmental study done on this parcel.

Mr. Erickson said they have done a review of the site to see if there is anything there, and everything cleared. As part of the planning process, they would at minimum be doing a short form EAF and they will see how that proceeds. There will be some part of an environmental review.

Councilwoman Snow asked if there would be any impact to residents that are near Dodge Road? She asked if the residents had been talked to about this idea?

Mr. Erickson said the closest resident is him, and the approach and design is that it is R3 zoning and the lots will be conforming lots. There will be two five acre lots and the rest are ten acres. They are large lots and they would have privacy and would be set back. The other closest

neighbor is Don and Claudia Jiskra and they are aware of the project and support it. The town and Deerfield Ponds are the other closest neighbors.

Councilwoman Snow asked if anyone at Deerfield Ponds had been talked to about this? Full disclosure, she lives in Deerfield Ponds and she hadn't heard about it.

Mr. Erickson said that is a mandated part of the subdivision process and there will be opportunities to discuss it. He personally felt the trail component was a benefit to the residents, to be able to walk to the base of the mountain and go to the cat rocks.

Councilwoman Snow asked if they had gone before the planning board.

Mr. Erikson said they had not gone before the planning board. The first step is to close on the property, then they would do more detailed plans and do a subdivision application.

Councilman DeRosa said in the R3 zone, there are special use permit allowances. This semi commercial endeavor that would be on the one hundred acre piece, are there any categories listed in the current regulations that would pertain to this parcel? Commercial would not be allowed in the R3 zone. He wouldn't want to change anything that would make it possible that it could be in there. He suggested putting a covenant to allow one of the special uses on the one hundred acre parcel without striking those covenants.

Nancy Tagliafierro, town attorney said she felt that was what they were saying they want to do. They want to limit whatever use they decide to do to one of the specially permitted uses already in the town code. That language could be added into the resolution should the board decide to release the restrictive covenant. She asked if they only needed the restriction released for the one hundred acre lot that would be used for the common purpose.

Mr. Erickson said according to the title company, part of the worst case scenario planning was that someone could argue theoretically that the act of subdivision is a commercial act, under someone's interpretation, not from town code. That's the concern, that just the act of subdivision could be construed as commercial activity. It is a risk they are trying to eliminate. They are saying they should be bound to the existing code for that zone.

Councilman DeRosa felt the town attorney needed to digest this and the board needed to discuss their questions with her before they approve something like this tonight. It was just presented to the board today. He would want to sit down and talk to the attorney about some of the questions and zoning issues.

Supervisor Schmitt said if someone were to say that the act of subdividing is considered commercial, this could potentially hold up the applicant closing on the property.

Ms. Tagliafierro said this is not something she has heard of before and she has never looked into it.

David Daniels said the title company agreed that this is a cloud on the title because the wording is ambiguous. They are looking to close by August 31st. The subdivision will be subject to town zoning, this will not exempt them from the town's rules and regulations. This would only allow them to close on the property.

Councilman DeRosa said in the previous subdivision process, a lot of studies were done and they should look at the files for the previous subdivision.

Mr. Erikson said the resolution states that the property would be subject to all applicable subdivision, zoning and other requirements.

Councilman McCarthy asked who the partners/investors in the project were.

Mr. Erikson said he and his wife are investors, David Daniels, Nathaniel Zilca, Josh Morris, Don & Claudia Jiskra and Ryan & Rachael Keen.

Councilman DeRosa asked what the basic idea of the large one hundred acre parcel was

Mr. Erikson said he was not sure exactly what it would fall under in the special use list in town code, but there is an institute of higher education and the possibility of camp. The idea is to create a retreat center that would be oriented to bringing groups together to do collaborative, strategic, creative work and learning.

Councilwoman Snow said it seems that when people come to the town board for certain things, some people think the town board has just made the decision to go ahead with this. The town board understands Mr. Erikson hasn't been before the planning board yet. Obviously, the work is going to be with the planning board. This is just to change what was on the deed. Mr. Erikson is not asking for a rezone and the town board will only be approving the removal of the covenant.

Mr. Erikson said there would be two processes they would have to move through if they purchase the property. Initially, there would be the subdivision process and then if they proceeded with the second project, there would be a special permit process. There would be two rigorous processes before they would be able to do anything to keep the best interest of the town aligned. Public hearings and notices would be part of those processes.

Councilman DeRosa said Mr. Erikson has said a zone change is not being requested or discussed.

Supervisor Schmitt asked Ms. Tagliaferro if she had any concerns with this resolution tonight, as it is proposed right now.

Ms. Tagliaferro said she did not have any concerns personally about it. She did not know if the board felt they had enough information.

Supervisor Schmitt said the applicant is under a time crunch and he did not know that there was any additional information to be brought to the board.

Ms. Tagliaferro said their deadline is August 31st.

Supervisor Schmitt thanked Mr. Erikson for his presentation. He said the board can discuss further when the resolution comes up for discussion.

PRESENTATION/JESSICA DICKENSON-RECREATION DIRECTOR

Jessica Dickenson, recreation director presented the board with a packet of information. She stated that the Town of Pawling recreation department made the front cover and a full page spread in the NYS Recreation & Parks Society magazine, featuring the community weekend, youth race, and triathlon, which was super exciting. She gave the board an update on what has happened over the summer in the park, including community weekend, the triathlon, summer camp, side walk sales, and she went over memberships with the board, saying there are a lot of exciting things happening. She is happy to be able to function and have activities in the park.

Councilman DeRosa said he has had conversations with a few residents and some people who came to town for vacation. They had a problem with no daily passes being available like they used to be. He asked that when the fees are done for next year, if that could be looked at.

Ms. Dickinson said she would be looking at that for next year.

Supervisor Schmitt thanked Ms. Dickinson for the update.

RESOLUTIONS

Resolution 2021120 Payment of Bills for the Town of Pawling

Whereas, the Town of Pawling bookkeeper has reviewed and prepared the vouchers for and has offered them for review, and

Whereas, the vouchers have been approved in accordance with the Town of Pawling policy, and

Whereas, the vouchers have been numbered 20210845 through 20210976, now therefore, be it

Resolved, that the Pawling town board hereby accepts the vouchers as prepared and on the recommendation of the bookkeeper and hereby authorizes payment of said vouchers for the Town of Pawling on this date in the amount of \$372,884.79.

MOTION: Supervisor Schmitt

SECOND: Councilwoman Snow

ROLL CALL VOTE:

Councilman Johnson – “ABSENT”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

Resolution 2021121 Inspection Fee Refund - Cinquemani

Whereas, Carl Cinquemani applied for an area variance for his property at 1354 Route 292 , and

Whereas, Mr. Cinquemani submitted payment of \$800.00 for the area variance and \$125 for staff review for a total of \$925.00, and

Whereas, Mr. Cinquemani has decided not to move forward with the area variance and requests a refund of fees paid, and

Whereas, planning and zoning board secretary Joanne Daley confirms that no inspection was performed on Mr. Cinquemani's property at 1354 Route 292, therefore, be it,

Resolved, that the town board hereby approves a refund of \$925.00 in area variance and staff review fees to Carl Cinquemani for his property at 1354 Route 292.

MOTION: Supervisor Schmitt

SECOND: Councilman DeRosa

ROLL CALL VOTE:

Councilman Johnson – “ABSENT”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**Resolution 2021122
Facilities Use Request**

Whereas, the Town of Pawling operates facilities that from time to time will be used by the public for events other than the town's own usage, and

Whereas, the recreation director will periodically receive request for special considerations once all application and insurance requirements are met, and

Whereas, the town board sets the fees for the use of facilities, now, therefore, be it

Resolved, that the following waiver(s) have been authorized by the town board:

Ryan McGrath – Alcohol Waiver

Alcohol Control Plan submitted and approved by insurance

MOTION: Supervisor Schmitt

SECOND: Councilwoman Snow

ROLL CALL VOTE:

Councilman Johnson – “ABSENT”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

**Resolution 2021123
ACCEPTING QUOTE FOR PRELIMINARY APPRAISAL In the Matter of 158 Route
22 LLC v. Town of Pawling Index Nos. 2020-52120 and 2021-52625**

WHEREAS, in connection with its defense of a certain tax certiorari proceeding entitled *In the matter of 158 Route 22 LLC v. Town of Pawling* currently pending in the Supreme Court, State of New York, County of Dutchess as Index Nos. 2020-52120 and 2021-52625 the Town of Pawling deems it necessary to obtain professional appraisal services to determine the fair market value of the property which is the subject of said proceeding; and

WHEREAS, consistent with the Town's Procurement Policy, the Town requested three quotes for the appraisal service; and

WHEREAS, Faughnan Appraisal, LLC (the “Corporation”) submitted the sole and therefore lowest quote for appraisal services (the “Quote”) for a sum not to exceed Four Thousand Five Hundred (\$4,500) Dollars for a preliminary appraisal report.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Pawling hereby accepts the Quote of Faughnan Appraisal, LLC; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Pawling hereby authorizes and directs the Supervisor to execute any and all documents in such form as is satisfactory to the Town Supervisor and the Town Attorney, and to take whatever other actions may be necessary to give effect to this resolution.

MOTION: Supervisor Schmitt

SECOND: Councilman DeRosa

ROLL CALL VOTE:

Councilman Johnson – “ABSENT”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

Resolution 2021124

ACCEPTING QUOTE FOR PRELIMINARY APPRAISAL In the Matter of Iron Mountain Inc. et al v. Town of Pawling Index Nos. 2020-52196 and 2021-52684

WHEREAS, in connection with its defense of a certain tax certiorari proceeding entitled *In the matter of Iron Mountain Inc. v. Town of Pawling* currently pending in the Supreme Court, State of New York, County of Dutchess as Index Nos. 2020-52196 and 2021-52684 the Town of Pawling deems it necessary to obtain professional appraisal services to determine the fair market value of the property which is the subject of said proceeding; and

WHEREAS, consistent with the Town’s Procurement Policy, the Town requested three quotes for the appraisal service; and

WHEREAS, Faughnan Appraisal, LLC (the “Corporation”) submitted the sole and therefore lowest quote for appraisal services (the “Quote”) for a sum not to exceed Four Thousand Five Hundred (\$4,500) Dollars for a preliminary appraisal report.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Pawling hereby accepts the Quote of Faughnan Appraisal, LLC; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Pawling hereby authorizes and directs the Supervisor to execute any and all documents in such form as is satisfactory to the Town Supervisor and the Town Attorney, and to take whatever other actions may be necessary to give effect to this resolution.

MOTION: Supervisor Schmitt

SECOND: Councilman DeRosa

ROLL CALL VOTE:

Councilman Johnson – “ABSENT”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

Resolution 2021125
AUTHORIZING RELEASE OF RESTRICTIVE COVENANT

WHEREAS, West Mountain Woods LLC (“WMW”) has entered into a real estate contract to purchase the premises located at 35 Dodge Road, Pawling, New York bearing Tax Identification Number 6957-00-595634; and

WHEREAS, the Property is located across Dodge Road from Lakeside Park, and consists of approximately 163 acres and is located in the R3 Zoning District; and

WHEREAS, WMW intends to apply to the Town Planning Board for approval to subdivide the Property into no more than eight (8) lots, one of which will be a common lot of more than 100 acres; and

WHEREAS, WMW also intends to enter into conservation easements which will prohibit further subdivision of the lots and to pursue creation of a trail from Dodge Road through the Common Lot which will continue north to the Appalachian Trail; and

WHEREAS, the Property is subject to a restrictive covenant contained in a 1999 deed from the Young Men’s Christian Association of Greater New York (“YMCA”) to Foundation for a Course in Miracles, Inc., which restrictive covenant prohibits the use of the Property for industrial or commercial purposes of any kind without written approval from the grantor; and

WHEREAS, as the current owner of Lakeside Park, the Town of Pawling may be the successor in interest to any rights that the YMCA has to enforce the restrictive covenant; and

WHEREAS, WMW has therefore requested the Town’s release of its rights under the restrictive covenant, and the Town Board believes it to be in the best interests of the Town to release said rights, if any; and

WHEREAS, the release of the Town’s rights is subject to the condition that the Property will remain subject to all applicable subdivision, zoning and other federal, state and town laws and regulations;

NOW THEREFORE, BE IT RESOLVED, the Town Board of the Town of Pawling hereby authorizes and approves the release of its rights under the restrictive covenant, to subdivide the property into eight (8) lots as stated hereinabove; and

BE IT FURTHER RESOLVED, that the Town Supervisor is hereby authorized and directed to execute any and all agreements and other documents necessary to give effect to this Resolution, consistent with the terms hereof.

MOTION: Supervisor Schmitt

SECOND: Councilman DeRosa

Councilman McCarthy said he previously worked for one of the partners but he does not work for him now.

ROLL CALL VOTE:

Councilman Johnson – “ABSENT”

Councilman DeRosa – “AYE”

Councilman McCarthy – “AYE”

Councilwoman Snow - “AYE”

Supervisor Schmitt – “AYE”

ETHICS CODE

Councilwoman Snow said she has been working on the ethics code for a while. After checking with the county, other towns and looking through the town’s ethics code, she realized one of the

areas that was not in the past ethics code was information about recusal. The board received a draft of a proposed update to the ethics portion of the code. The board will be talking about this once they review it. At that point, it can be discussed by the board and a public hearing can be scheduled.

TOWN BOARD DISCUSSION

MCCARTHY

Councilman McCarthy thanked the residents for supporting the fire department carnival, it was one of the most successful carnivals they have had. He thanked everyone who helped at the carnival.

DEROSA

Councilman DeRosa congratulated Chief Everett White and the fire department for an excellent carnival. It was one of the best carnivals ever. Councilman DeRosa said as a member of the Dutchess County planning board, he attended a tour of five projects in the county where farmlands are being saved. He said the Lyons Club roof project at Murrow Park is moving ahead. He was at the Whaley Lake dam this morning, and the water was right up to the top of the weir boards. He asked that residents email the board to let them know what they think about the water level of the lake this summer.

SNOW

Councilwoman Snow said the Pawling Community Foundation's gala will be October 2, 2021. The rotary will be doing their big fundraiser on Saturday, September 25th. She thanked the community and the many sponsors who are participating. There will be lots of things for kids to do, and there is no charge.

SCHMITT

Supervisor Schmitt thanked the fire department and everyone who worked on the carnival. The carnival was a huge success. The Pawling Resource Center walkathon is September 18th at 11:00 AM.

PUBLIC COMMENT

Brian Avery, Director of the Pawling Free Library, invited everyone in the community to the Library's Wizard of Oz block party at Lakeside Park on August 28th. There will be many things for families to do and a good way to end the library's summer reading program. It begins at 12:30 PM.

Tela Cook said she represented the Pawling Community Foundation and asked if the alcohol control permit was approved for the October 2, 2021 gala.

Supervisor Schmitt said that was approved in resolution 2021122.

EXECUTIVE SESSION

The motion to enter into Executive Session to discuss personnel matters was made by Supervisor Schmitt at 7:10 PM, seconded by Councilman McCarthy, motion passed unanimously.

The Board returned from Executive Session at 8:01 PM and adjourned the meeting. No action was taken.

Town Clerk