

ACR right of way issue to be weighed in "highway" court

By Dan McClelland

The developers of the Adirondack Club and Resort project will make application in the days ahead to make sure one of its new "great camp" lot owners has the right to cross a narrow section of the Follensby Road at a point where a woods road on Oval Wood Dish Corp. land intersects it.

The issue was raised when three ACR representatives addressed the town and village planning board Wednesday night.

Prompted by a question from Board Member Eric Shaheen about a pending right of way issue at the point where the Lake Simond Road extension crosses a narrow section of the Follensby Road, also known as the old McCormick Road, Attorney Robert Sweeney said a proceeding will commence soon to get the issue resolved.

The right of way issue affects only one of three new great camp lots eyed by the ACR developers in the eastern section of the project.

Mr. Sweeney, an ACR attorney from the Albany firm of Whiteman, Osterman and Hanna LLP, said the right of way is needed, to give the owner of one of the new great

camp lots the ability to cross the Follensby Road to get to their land.

He said it is a town proceeding, supervised by the town highway superintendent.

Mr. Shaheen asked if the town was somehow liable and was told it wouldn't be. "The town's responsibility is overseeing the proceeding," Mr. Sweeney told him.

Historically the Lake Simond Extension Road was used primarily for logging purposes on the O.W.D. lands. The members of the Teachers' and Springhill hunting clubs also used it periodically to access their camps on the O.W.D. property.

River Road Resident Randy Bedore asked if the town might somehow be open to a suit by the environmental groups.

"You can't stop someone from suing you, but the right of way issue is clearly detailed in the New York Constitution- in Section 300 of the state highway law," Mr. Sweeney told him.

"We'll follow every step of the proceeding very carefully," he promised.

Mr. Shaheen said he felt there could be lawsuits against the town if proper procedures aren't followed.

He worried about legal costs to the town in any lengthy legal proceeding.

"If a suit occurs, the developer is in 110%," Mr. Sweeney told him. He admitted the town may incur some minor legal expenses as an overseer of the process.

"-But the developer will be the one making the case, however!"

Town Attorney David Johnson said this week the state law allows for a private taking of a right of way if an area will be landlocked.

"It's a very old, old law that permits a landowner to go to court to obtain a right of way to cross a neighbor's land or road," he explained.

"It's not a matter of whether a person has the right to take it. State law allows a person access to their property."

The existing right of way between the two land owners is for logging use only, he said. A new agreement needs to be made to extend the same privileges to any new great camp lot owner.

He said the issue will be settled in local justice court, under the direction of the town highway superintendent, who is now Rick Dattola. A jury of 12 people will be struck to rule

on the issue. Mr. Johnson said there will be only two points for the jury to deliberate on: is the property actually landlocked and what value should be paid to the owner of the Follensby Road by the filing party for the right to cross.

The Follensby or McCormick Road is now owned by the Nature Conservancy, which purchased the vast Follensby tract from the McCormick family last year. The road runs all along the river from the Follensby Bridge to the Follensby Park, intersecting Oval Wood Dish Corp. lands for miles.

According to Attorney Johnson, the Nature Conservancy officials have only just recently learned of the pending right of way action.

He said Monday he believes there is still time for the parties to negotiate an agreement, before the issue goes to local court. "I'm hoping negotiations can get this solved!"

Town Highway Superintendent Rick Dattola has not yet set a hearing date on the issue, and is expected to canvass the parties this week to find an mutually agreeable date.

Mr. Sweeney, although he is the ACR attorney, would actually be

representing the Oval Wood Dish Liquidating Trust, since it is still the owner of those lands. The ACR developers

have a purchase agreement with the landowner to acquire the 5,000+ acres if the ski development project wins an APA permit.



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Village spending plan, a little lower, approved

After some finalizing of numbers this week, the village board approved a \$2.395 million financial plan yesterday morning for the new village year which begins next month.

Village property owners, when they receive their tax bills in June, will see their tax rate grow by \$0.425 per \$1,000 of assessed valuation or 2.7%.

Spending in the new budget, however, is down by \$66,445.96 from this current year or by 2.7%.

In its budget motion yesterday, the board also authorized a re-levy of \$63,353 on the taxes of the owner of the apartment building at 29 Main Street that was razed by the village this past year. If the taxes aren't paid by the owner, the county will reimburse the village for that money plus interest and sell the property at an upcoming tax auction in an attempt to cover the taxes owed on it.

In other village business yesterday, the board:

-approved a water and sewer re-levy of \$82,633 on village properties that had delinquent sewer and water bills as of the end of April. Those bills will show up on the new village tax bills. That figure is down from a combined re-levy figure of \$96,364 at this time last year.

-accepted the resignations of two part-time police dispatchers: Shannon Maroun and Jessica St. Hilaire.

-appointed Haymeadow Resident Norm Sovey to the village's zoning board of appeals to fill one of the current vacancies. Although Mr. Sovey is a town resident, by village law he can still serve on that volunteer village board.

-proclaimed that this week is Children's Mental Health Week in Tupper Lake. A village official will be present at a brief ceremony this afternoon to present the proclamation to Karen Pioli and other organizers.

-approved a negative declaration of environmental impact in an upcoming State Environmental Quality Review of a proposal by Verizon to erect communications towers on each of the village's two water tanks. The company is currently seeking a permit from the Adirondack Park Agency and will commence at some point this summer once the permit is approved.

-reminded the community that the annual village "Clean-Up Day" is Saturday, May 15 from 9a.m. to 2p.m. Spearheading the effort this year will be high school students, and particularly the members of the school's SADD group. Many of the students will be out during their physical education classes on May 13 and 14, picking up debris around the village.



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