

FCR holds Holiday Choral Concert December 11



Nothing puts you in the Christmas spirit like music, and the Forest City Regional Holiday Choral Concert on Tues., Dec. 11 did the job. Under the direction of Miss Alison Yuravich, the audience in the packed auditorium enjoyed holiday music and singing by the elementary and high school chorus, the 6th grade choir, the high school jazz choir and the high school chamber choir. Congratulations to the more than 100 participating students on such a successful show.

Herrick Twp. Rehab Center

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Ross also said the water supply is adequate to the proposed use.

Attorney Michael O'Brien, representing Endless Mountains Resort, stated that Ross is not the current applicant. He has legal authorization to act on behalf of Bellino within the sale agreement and vice versa. O'Brien asked Ross if he was present at the planning commission meeting in August where it was recorded that his application be denied and Attorney (Michael) Briechele addressed the deficiencies. Ross replied yes. O'Brien said the zoning ordinance requires the facility to have a sewage system that will meet all requirements and the water supply is not adequate for use. O'Brien asked Ross if he was familiar with Bellino's application and participated in it. Ross said yes.

O'Brien asked if the proposed use of the current facility will have to cut off the water supply to Endless Mountain Resort. Ross said, "It is a right that I own. I choose to exercise it." O'Brien said, "But you say the water supply is adequate to the proposed use. How do you show it is adequate?" Ross said he hired an engineering firm. Neyhart told Zelinka, "My client is testifying to hearsay." O'Brien asked Ross, "Have you had to review it with the engineers and do they say there is an adequate supply for water?" Ross replied, "I don't know. It isn't important. My neighbors have their own water supply and I do too. I decided to terminate the agreement from 1993. I have been supplying water to my neighbors for the past 10 years and probably a lot longer." O'Brien asked why Ross would say that. "They have a leaky pool. They pump more water into it. It's based on information I got from people that work there. I am supplying all the water for 35 units and me. In the 1993 contract, I can remove myself from it after 5 years with 180 days notice. February 23 will be the 180 days. I am tired of paying the bill for my neighbors," Ross said. O'Brien responded, "So that's why you are cutting off the water supply. Based on the conditional use." Ross stated, "No. I am terminating it because I don't want the agreement."

O'Brien next asked how many patients the proposed facility will have. Ross said 21 maximum. O'Brien asked, "Will they and the staff create more, even or less need for water? Do you remember that Briechele mentioned use for sewage is different than for a restaurant. Can you address that today?" Ross replied, "My engineer is prepared to do that." O'Brien asked Ross how long he has been a supervisor. Ross said about 33 years. O'Brien asked, "Did you participate in the zoning ordinance? Was it advertised? Did the public speak and adopted by the board of supervisors and part of the township code?" Ross said yes to all questions. O'Brien referenced Section 608 of the Zoning Ordinance, "Do the standards or criteria of the proposed use have to be met for the supervisors to grant the conditional use permit?" Ross said, "I believe yes." O'Brien asked Ross if he drafted the law. Ross said no. O'Brien said Section 608 referenced the conditional use and its effect on the surrounding property, safety

and welfare. O'Brien said, "Did you and Bellino discuss how it would affect it?" Ross said yes. O'Brien said, "The discussion you had is what you point to in satisfying Section 608?" Ross said, "The ordinance doesn't say who should review it. As far as I am concerned, we have satisfied it."

O'Brien said he reviewed the application, photographs, drawings, occupancy permits from 1980 and other permits and asked if topographical and site review information were part of the application. Ross said no. O'Brien next cited Section 608.4 that states a proposed use shall not cause undue burden on services provided by the township or any other agency. If it does, the applicant has to fix it. "Is there anything in the application that the requirements of Section 608.4 have been met by the applicant?" he said. Ross said it isn't in the application. O'Brien asked Ross if he plans to play a role in the facility. Ross said no, just the owner. O'Brien asked, "Is there anything in the agreement that states there will only be 21 patients as stated on the application?" Ross replied, "The number was recorded due to the needs of the facility. The engineer will testify to it." O'Brien said, "The engineer won't determine it, you won't but Bellino will." Ross said yes. O'Brien asked if there would be anything written for exactly how many employees will be working there. Ross said, "State law dictates it." O'Brien replied, "So you don't know?" Ross stated no.

Ed Sandy asked Ross how long he had the property. Ross said since 1993. Sandy asked if Ross has been a supervisor for 33 years. Ross said yes. Sandy asked, "Why now for change of use? It is a resort area. A ski resort area. I bought my home here to retire. You are a supervisor that has upheld it for 33 years." Ross replied, "I don't want to run it as a restaurant anymore." Sandy asked, "Do you remember that I came to you a month ago?" Ross said, "I do. I referred you to my realtor." Sandy said, "We want to keep it as a restaurant." Ross replied, "I had it for sale for three years. This was the only offer I got."

Steve Pendrak asked Ross if he shares water sources with Endless Mountains Resort. Ross replied, "I pump water out of the ground. I don't want to participate any longer." Pendrak asked how many water meters were on the property. Ross said one. Pendrak asked him if he quantified the water use. Ross said no. Pendrak asked if the highway occupancy permit was a PennDOT permit. Ross said yes, it is for a medium volume commercial use. Pendrak asked when the septic system was constructed. Ross said 1980. Pendrak asked if he did maintenance. Ross said yes, he has pumped it and cleaned the grease traps. Pendrak said standards have changed since 1980.

Leo Brunori asked if all the certifications are state certified now. Ross said yes. Brunori asked if the water supply will be inspected. Ross said it is monitored by DEP.

Neyhart had redirect and asked Ross about when he bought the parcel from Sol Hemma. He said he purchased one parcel, Endless Mountains Resort bought one and Robert

E. Lee bought the other. Ross read the agreement and that it can be terminated after 5 years with 180 days written notice. Neyhart replied, "That is the right you have." Ross said, "For any party listed." O'Brien said to Ross, "You provided 180 days when?" Ross said, "180 days prior to February 23." O'Brien said, "The obligation to let the resort access the water supply will cease. What does the agreement provide for water being used at your property and the resort?" Ross said, "At one point, it was owned by one owner. With three owners, it was an easy way to get around plumbing changes. They have a pump and well. They should have enough water. With the agreement, they could turn my water off but they don't provide water." O'Brien said, "What does the agreement provide for? For the resort to access water being drawn from your property?" Ross said yes and vice versa. O'Brien said, "So until February 23, you can't prevent them from taking water? But earlier, you said you didn't know if you needed to or not. Do you need to cut off the water supply off for adequate water use?" Ross replied, "I don't know that." O'Brien said, "So, there won't be adequate water?" Ross said, "I am tired of them sucking water out of my property at my expenses. This is the only way to get them to address their water use." O'Brien said, "Did you advertise for the swimming pool for the resort?" Ross said yes. Pendrak said, "I didn't know there were three interconnected wells. Are there any check valves showing how water will empty or take it?" Ross said he didn't know. Pendrak replied, "You don't know how the water flows or the way the water will run?" Ross said, "I know one well functions on my property. Neyhart said to Ross, "There are two wells on your property and one on the resort's."

William R. Lane, Engineer, Shumaker Consulting Engineering & Land Surveying, D.P.C., Binghamton, NY, was the next to testify. He has 20

Chair Yoga At Susq. County Senior Centers

The Senior Centers of B/S/S/T Area Agency on Aging, Inc. offer many various activities, but for those looking for an easy way to stay fit, chair yoga is often first choice. The Lenoxville Senior Center, located on Route 374 in Lenox Township, holds chair yoga classes with Tiffany Debish on the first Thursday of each month at 10:30am. Tiffany Debish also instructs classes for the Forest City Senior Center, located at 535 Main Street in Forest City, on the second and fourth Mondays of each month at 10:30am. The Montrose Senior Center, located at 145 Church Street in Montrose, holds classes with instructor Charm Giangrieco on the second and fourth Tuesdays every month from 10:00am to 10:45am. Charm Giangrieco also instructs classes on the first and third Mondays on every month from 10:15am to 11:00am at the Lawton Senior Center, located at 54 State Route 3037 in Lawton. For more information, or to register, please call 1-800-634-3746.

The B/S/S/T Area Agency on Aging, Inc. is funded in part by the Pennsylvania Department of Aging; the United Way of Bradford County; the Lycoming County United Way serving Wellsboro and Southern Tioga County; the United Way of Susquehanna County and the Bradford, Sullivan, Susquehanna, and Tioga County Commissioners. For additional information on Area Agency on Aging services, please call 1-800-982-4346.

years of experience in water and septic, with most of his work being done in New York State but said he is familiar with the requirements of DEP (Department of Environmental Protection) in Pennsylvania. He said he studied the waste water use from the existing and proposed facilities. The per capita flow rate is permitted on the current system and the proposed use would allow for 21 patients and 18 staff members per day under the existing permit. The use would be at 125 gallons a day. Everything is based on DEP standards. O'Brien asked if he was a licensed engineer in Pennsylvania. Lane said no. He stated again that 21 residents with 18 staff members would comply with the township and DEP requirements and the system would be just below the required use. O'Brien said, "You came up with 21 patients. Did you have any discussion about more or less patients?" Lane said, "I looked at the amount of patients that could use the facility." O'Brien said, "If the applicant said there could be 30 or more patients, a new conditional use permit would have to be obtained for 30 or more patients?" Lane said yes.

Ralph May of Elk Meadows asked Lane where he came up with the 125 gallon figure. Lane said, "DEP standards for facilities other than hospitals." Pendrak said, "We don't know the conditions of the old system. Your calculations are based on a new system. There was no inspection of the seepage bed?" Lane said he didn't do one.

Supervisor Brian Zembrzycki asked if the figure included everything like cooking, laundry and showers. Lane said yes. Zembrzycki asked, "If you run the system at full capacity, how long will it last?" Lane replied, "I have no way of knowing." Zembrzycki asked, "Could you design something to run at full capacity?" Lane said, "The number is a peak number. The highest it can go if everyone flushed at the same time. Average design flow is half of it. 125 is peak. Actual use is less." Zembrzycki asked if the number took into account visitors. Lane said no.

Kurt Schultz asked, "With the age of the system, is there any way to determine the current capacity at which it is operating?" Lane said not really. Schultz asked if there was any way to know when it will fail. Lane said no.

Sandy asked, "Has DEP done any inspection that you know of?" Lane replied, "Not that I know about. The sewage officer should have." Sandy said, "Should DEP come up and inspect it?" Lane said, "There is no requirement for it." A man in the audience asked how the sewage data is calculated. Lane said, "Depends on what we are talking about." The man asked Lane if he was aware of different soil compositions and absorption rates. Lane said yes. The man asked Lane if he took soil tests. Lane said there was no need to. The man asked Lane if he inspected the site. Lane said, "I

was on the site but didn't do an inspection. I did calculations based on permitted use

Pendrak said, "You have based your calculations on assumptions. Proper engineering analysis would be done on shower head capacity, faucets, etc. Your assumptions could be off by 300%." Lane said, "No. The numbers for the standards tend to be conservative." Pendrak said, "Ross said his place is metered." Lane replied, "Yes, but I would have to come back every month and do it." Pendrak asked, "Did Ross give you any data?" Lane replied, "No, but he doesn't have to."

Neyhart asked Lane, "Is it standard practice for an engineer to rely on DEP tables?" Lane said yes. Neyhart said, "Is there room for a secondary leach field if the first one fails?" Lane said yes.

O'Brien asked Lane, "The second system would have to be constructed?" Lane said yes. O'Brien said, "What is the significance of the designation of the proposed facility other than a hospital? Did Ross say he wanted to open a drug and alcohol rehab facility to DEP?" Lane replied, "Yes and they gave the recommendation of 125 gallons." O'Brien asked, "If the resort was disconnected, then the requirements would be met?" Lane replied, "That's a tough one. We don't have all the data. All the timeshares, condos, etc. O'Brien asked, "If the resort is disconnected, there would be capacity?" So, until it isn't disconnected, there won't be capacity?" Lane said yes. O'Brien said, "You heard Ross say he was sick of his water being used?" Lane said yes. O'Brien said, "So you told Ross what would be needed for adequate water supply?" Lane said no. O'Brien stated, "So, it is clearly based on the applicant's witness there won't be adequate water supply until February 23."

Pendrak asked, "Were you aware that Ross had a meter on his property?" Lane replied, "It wouldn't matter." Pendrak said, "Wouldn't it be more accurate?" Lane said, "It couldn't break it down." Pendrak said, "You are going by assumptions. Wouldn't it be more accurate to use meter data?" Lane said, "Don't have to."

Nancy Ross said, "What I noticed what you are all concerned about is the water system but you need to be concerned about the water system at the resort. They need to get their pump fixed. I am concerned with how much time is spent on it." Zelinka told her to sit down if she didn't have a question.

Next to testify was Jacob Horn, PE, Licensed Civil Engineer. He is licensed in Pennsylvania and is involved in designing parking lots. He has prepared highway occupancy and parking space reports. He said the highway occupancy permit previously filed was for a medium occupancy driveway. Anticipated use would fall into line with it and be adequate. An updated permit would only be needed if upgrades would be done. He said three lots on the property

are broken into different sizes. "There is enough room of existing asphalt to maintain 84 parking spaces. ADA guidelines have four handicap accessible parking spaces with one of them being van accessible. The Herrick Township ordinance requires less than 270 square feet for each space. It meets the requirements." Neyhart asked how it was determined to be the correct measurements. Horn said, "Based on 30 visitors, 30 patients and 20 employees being there at the same time. There would be 80 vehicles max, higher than the intended use." O'Brien asked, "What is your understanding of the proposed use?" Horn said, "It is a drug rehab facility. Patients aren't supposed to have vehicles, but even if they did, it would be okay with visitors, employees and delivery trucks. The layout is appropriate." O'Brien asked if that would include the driveway. Horn said yes. O'Brien asked if there was anything else. Horn said, "Also resort vehicles that use the driveway." O'Brien said, "That includes the resorts vehicles that use it?" Horn said, "Yes. The new facility would be comparable to the use now." O'Brien asked, "What did you consider with the resort use and buildings? How many buildings are there?" Horn replied, "I don't know how many there are." O'Brien said, "You determined a 1980 occupancy permit is still valid?" Horn said, "Correct. It didn't state facilities present at that time" O'Brien said, "So you determined the use is valid without knowing how many buildings were there?" Horn said, "The highway occupancy permit is valid. The way I take it into account is the type of use for the buildings. The resort and hotel is classified as a commercial driveway." O'Brien said, "Did you take into consideration there isn't anything that takes the resort into consideration?" Horn said, "The way occupancy permits are determined is based on use. Commercial use for the resort and the hotel and restaurant. The intended use and existing use are commercial." O'Brien said "Use of the property in 1980 occupancy permit doesn't indicate it contemplated Endless Mountains Resort?" Horn said no. O'Brien said, "You testified you didn't analyze the resort?" Horn replied, "No, I didn't. If there was a change when the resort was put in, they would have to make a change to the highway occupancy permit." O'Brien stated, "But your job was to make the determination based on a 1980 permit but the resort wasn't taken into consideration." Horn replied, "But it wouldn't matter. Both are still commercial. This permit is still the controlling permit. It must be appropriate for what is there."

Testimony finished around 9pm. Zelinka said the hearing would be continued and Horn could be recalled. A date and time will be determined and advertised.

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