

Intrigue and infighting

Awosting document
details quiet land deals,
leadership conflict
and need for
clustering approval

Fierce public opposition has apparently caused the partners proposing to build the Awosting Reserve gated community on the Shawangunk Ridge to triple original company estimates on completing the permit approval process, from two years up to six years, and appears to have led to an acknowledgment that the project cannot be built as originally proposed. There also appears to be a rift among the

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INTRIGUE AND INFIGHTING

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partners, according to an internal document written by Roger Beck, the president of the limited liability corporation, and the apparent clash among principals may come at a bad time for the controversial proposal.

The document is an "update letter" written by Beck for Jim Chaffin and Jim Light, of Chaffin Light Associates, a Colorado-based development company, to provide a "frank look at where the Awosting Development Plan is in the local and environmental approval processes." The document was mistakenly sent by e-mail to a reporter on May 22. During extensive off-the-record discussions of the matter, both the employee who sent the material and Beck requested the material not be used. Beck says use of the material for a newspaper article is "unethical." (See sidebar)

The company could also be facing a key legal blockade. The document states that the Gardiner town planner believes town law does not permit a private sewage treatment on the Awosting Reserve (AR) property, where they propose to build some 349 large houses as part of a gated community on the southeastern slopes of the fragile Shawangunk Ridge.

If the town planner's interpretation stands, it could force drastic reduction of the controversial project.

But the company is taking steps to keep the project on track. The AR document says an unnamed town attorney believes a sewage treatment plant would be legal if the project were to be reviewed as a cluster subdivision, a supposition that may put a different context on the disputed recommendation by the town planning board that the Awosting Reserve proposal be reviewed as such. That recommendation was tabled by the town board June 3, after overwhelming opposition was expressed to the idea by town residents. But it could be enacted at any future meeting.

Beck denied that there was a rift among the partners.

The AR document appears to reveal a serious clash among principals of the Awosting Reserve (AR) plan. John Bradley, the principal land owner of the 2,600 acres, which he spent decades acquiring, decided in April that he must "take over management of Awosting Reserve" from Chaffin Light Associates, according to the document. CLA is a national development firm that has built upscale communities in locales around the

country and have partnered with Bradley on the AR proposal.

Beck, in a subsequent phone interview, said the disagreements over leadership of the project have been smoothed over. "John [Bradley], as all partners do, disagreed with some of our approaches, but we've worked through those problems and it's not an issue that is still present. We're getting along fine." He said disagreements among partners on major projects are "not uncommon."

John Bradley did not return calls for comment.

The document appears to show that AR officials were surprised by opposition to their plan. Terming opposition "very strong and very well organized," Beck writes. He continues and says later in the document, "Perhaps a smaller plan can prevail - but not one with 349 residential units."

In the phone interview, Beck said that a number of units allowed for a conventional plan "has not been finalized."

A harsh reception

Awosting Reserve LLC (AR) is a limited partnership that is seeking to build a 349-home gated community on approximately 2,600 acres along the southeastern slopes of the Shawangunk Ridge, immediately adjacent state preserve land and one of New York's state parks. The Shawangunk Ridge was recently deemed one of the 75 "Last Great Places on Earth" by the Nature Conservancy, partly due to extensive stands of rare dwarf pitch pine and other rare and endangered species.

The AR plan would include homes sized up to 4,500 square feet on parcels sized up to nearly five acres spread in a conventional subdivision layout. Plans include a private 18-hole golf course and a private beach on Tillson Lake, and other amenities. Though touted by company officials as environmentally progressive, the

AR proposal has drawn overwhelming opposition from local groups under the umbrella organization Save the Ridge, and is being opposed by the Mohonk Preserve and such national environmental organizations as the Sierra Club.

In the phone interview, Beck said the company is continuing to analyze the project on an ongoing basis, but has not changed its approach due to the strength of opposition, nor to the revised estimates on how long the process will take. "The process itself requires you to analyze the plan as you go along. The opposition is greater than we anticipated, yes, but that has not in and of itself required any changes. Certainly we are rethinking the plan as part of the review process."

The document reveals that AR hurriedly put forward a development plan last December in an attempt to thwart opposition to any development on the ridge, after quietly acquiring "a key land parcel that was necessary to connect the mountain lands to the Tillson Lake lands."

Also, "we were advised that we should not talk publicly about the plan so that it did not become a campaign issue during the election for governor."

But the company felt opposition was growing quickly as word of their intentions leaked out and the plans were rushed to public officials to pre-date a proposed moratorium in Gardiner. "John Bradley, Jim Chaffin, Jim Light, and I were concerned that Gardiner would approve a moratorium so we worked hard to get the plan submitted," Beck wrote.

The letter cites the "harsh reception" the Awosting reserve development plan received from local and regional citizens and environmental groups. "While the climate for approval is very difficult, we are still hopeful that a modification of the plan will ultimately be approved," wrote Beck.

The state Department of Environmental Conservation is the designated Lead Agency under the state

environmental quality review act (SEQRA) laws that govern permitting of projects in New York State. The AR document said that instead of a state approval process of some two years, as originally anticipated, the approval process will likely last "between three and six years."

The document suggests the project has already proven costly. "The Founding Partners subscription agreements have all been funded for a total contribution of \$13,500,000. Approximately \$3.9M of cash remains," wrote Beck. The document does not provide any details beyond that statement.

Beck would not comment on funding for the project. "It's inappropriate for me to be talking publicly about any of the financial numbers of a privately held company. It was never intended for your eyes or your reader's eyes."

The document discusses the view of AR officials that deed restrictions that would limit the extent of clearing homeowners could do on their property, and requiring natural colors for homes, as well as CLA's reputation as progressive developers, would aid their cause. "We now believe we were far more optimistic than was warranted," Beck writes.

The document discusses efforts by Beck and Bradley over the course of last winter to agree on a public relations firm. The issue has apparently sparked other contention.

"John Bradley insisted we contract for a situational analysis by a firm he recommended. He indicated that after that analysis he would be in a better position to determine which [public relations] firm he would support. Reluctantly CLA agreed. That analysis was completed in April. Based on that analysis, John Bradley became convinced that no public relations/public affairs firm should be hired and that he, John Bradley, should take over management of Awosting Reserve from CLA."

In a different section of the document, Beck notes, "The absence of a cohesive public relations effort has allowed the opposition to set the agenda. In truth, however, it is unlikely that even a great public relations effort would have overcome this opposition. Perhaps a smaller plan can prevail - but not one with 349 residential units."

"Clustering" to the rescue?

"In order to achieve the residential unit count called for in the Cluster Plan, the unit count must be justified in the Conventional Plan. To achieve that justification, our Conventional Plan includes a sewage treatment plant (STP)..." Beck writes, but also cites a major snag. "The Town of Gardiner planner has taken the position that because sewage treatment plants are not listed as a specific land use in our area, a sewage treatment plant cannot be permitted on AR property."

That view is supported by a series of detailed documents submitted to Gardiner town officials by engineer

David Clouser on behalf of the Shawangunk Valley Conservancy, one of the groups opposed to the AR plan. Clouser notes that Gardiner's master plan and zoning law specifically prohibit sewage treatment plants outside the hamlet at the town's center.

But Beck cites company hopes that their attorney can prevail by challenging Gardiner law in court, and wrote, "The town's attorney has not weighed in with his opinion on this matter. (He does believe we can consider a STP in the Cluster Plan after the residential lot count is established.)" [parentheses in original]

Beck said that in the document, the comments he attributes to an unnamed attorney for Gardiner should have been attributed to the town planner, James Freiband.

"What the document should have said was it was Jim Freiband who said that a sewage treatment plant probably could be considered in the cluster plan and not in the conventional plan."

That parenthetic clause may put a new perspective on the controversial May 21 recommendation from the planning board to the Gardiner town board that they support the concept of cluster development on AR lands. The recommendation may be at odds with town laws requiring that a firm number be established on how many units can be built under a standard subdivision model, before any concepts for clustering is considered by town officials. And it may also violate state environmental laws, which prohibit any town from making such key determinations as considering a cluster development, until the final environmental impact statement (EIS) is completed.

As noted in the AR document, that SEQRA process

could take some six years. Thus, opponents to the project have questioned why town officials are even considering a declaration of AR as a cluster development at this point, saying such a designation would be improperly premature.

Last week, town planning board chairman Mike Boylan said, "No comment," when asked by a reporter if a sewage treatment plant is permitted or prohibited on the ridge. He said that AR has not finalized any conventional plan but declined additional comment at this time.

"Because they are not on our agenda, we will not discuss them right now," said Boylan. "Without them being back in front of us with their plan, we have nothing to review and nothing to come up with a number [of housing units] on."

In the interview, Beck said that he is uncertain when AR will return to the Gardiner planning board. "I don't know. It could be in July, but it may be later than that."

- Jim Gordon

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The ethics at hand

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Do you write a story based on, and quoting from, a document that has been mistakenly sent to you? An internal company document that contains information about the strategies and tactics of that corporation as it wends its way through a public approval process? What happens when the company asks you not to use it? What is the obligation of the news organization?

Reporter Jim Gordon found himself in that predicament. He had been the unwitting recipient of a sensitive company e-mail from Awosting Reserve, the limited liability corporation seeking to build a 349-home gated community on approximately 2,600 acres along the southeastern slopes of the Shawangunk Ridge.

Gordon received a call about 6 p.m. on May 22, from a woman who works with Roger Beck, president of Awosting Reserve.

"She told me she had just mistakenly e-mailed me an internal company document and asked me to delete it without reading it." Gordon, who was on the way out the door for a week-long vacation, put off the decision.

"When I returned from my trip, I read the document closely and decided that it contained information that needed to be made public," writes Gordon. "The obligation to bring important information to the public outweighed my reluctance to use material received from an employee who made a mistake. But it was not an easy call, and I vacillated a while longer."

Conversations with the editor ensued as Gordon's position firmed.

"On June 9 I sent an e-mail to Awosting Reserve informing them I would use the document and offering to discuss the matter with them," says Gordon. "On June 11, I met with Roger Beck for a 90-minute off-the-record discussion of the matter, in which he again asked the document not be used. On June 13, I reiterated to him my decision to use the document."

Finally, on June 23, as the story was being prepared for publication, Gordon and Beck had an on-the-record conversation, the relevant quotes from which are in the article, including Beck calling the use of the document "unethical."

While Gordon wrestled with the story, editors also had some work. First, we had a couple of conversations with our attorney, who checked the penal codes and assured us that there was no legal liability on our part for using the document.

The next call was to the ethics hotline at the Society of Professional Journalists. The response was from Gary Hill, of KSTP television in Minneapolis, a 29-year veteran broadcast journalist, who confirmed that the public's need to know is the overriding concern.

Hill pointed out that we did nothing deceitful to obtain the information.

He then ran the question through the four principles of the society's Code of Ethics.

Seek the truth and report it - "you are doing that."

Minimize harm - "you should consider the potential harm to the organization, and to the person who mistakenly sent (the document) and that might argue against using it, but the obligation is to the larger community, not this organization."

Act independently - "you are certainly doing that."

Be accountable - "With the sidebar explanation you are doing that. You should clarify the issue and explain it. You should disclose and invite comments as to whether it was an appropriate ethical choice."

"I think you're headed the right way and have a strong ethical basis for what you are doing," Hill said. "If you suppress information that is valuable to the public at the behest of the company, you would not be acting independently of this company. Servicing the public is your highest ethical obligation. I'd come down with publishing the truth."

- Brian Hollander



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