

FLEMING TOWN BOARD MEETING
MONDAY, JULY 12, 2010
7:00 P.M.

Call To Order by Gary B. Searing, Supervisor with the Pledge of Allegiance at 7:00 p.m.

Roll Call by Town Clerk Charleen Dygert found the following board members present:

Supervisor Gary B. Searing
Councilman Arthur Fritz
Councilwoman Ellen DelloStritto
Councilman Ronald LaVarnway
Councilman Gerald Dudek

Also present: Dale Yates, Attorney
Paul Chipman, Superintendent

Approval of Minutes: Councilwoman DelloStritto made a motion to approve the minutes of 6/14/10 as presented by Town Clerk Charleen Dygert, seconded by Councilman Fritz.
APPROVED AYES 5 NAYS 0

Public Hearing: Yantch PDD

David Yantch explained what he and his brother Chris are planning on doing. Open up one barn as a winery for wine tasting. They will not be producing wine on the spot but buying the wine from existing NYS winery and label it themselves. They will grow the grapes and fruit trees. He said the other section of the PDD is the Celebration Hall to have weddings.

Tom Carpenter of Clark Patterson spoke. Reviewed the SEQR form. Does not see anything different. Did very detail review of the storm water. Applicant is doing the storm water management in accordance with DEC requirements.

Andy Leja gave a quick overview what the board hopes to accomplish. He said there are two processes running parallel, the SEQR process and the PDD process. The SEQR must be completed before thing else can be done. The board is the lead agency and is conducting the SEQR review. The board is the only legislative board that can approve the PDD because it constitutes a change in zoning. There has been some changes made to the application since the applicants presented it to the board. The information has been passed along to Clark Patterson for review purposes. They have come back with an initial letter for Mr. Carpenter and to the applicant explaining what they found. Mr. Buhl has written a letter dated July 12th responding to the each of the items that were pointed out by Clark Patterson. Hopefully there should be one more letter from Clark Patterson stating if there are anymore issues or not.

He explained to the board that since there are still matters to be worked out between the applicant and the engineers and the board has just received updated plans, the board

could open the Public Hearing, receive comments from the public and keep the public hearing open until next meeting at which time you would close the public hearing. The board could send the updated materials to the Planning Board for their recommendation.

Supervisor Searing opened the hearing to the public and anyone who wanted to speak would be allowed 3 minutes.

Kathryn Hankins had a question for Andy Leja. After he answered her question she said that her concerns are with following zoning code. In a Plan Development District it requires a zoning change. This is an agriculture district says that you should be able to have open space. Based on the law a PDD must achieve 8 objectives. There has been no discussion on rather this proposal meets those 8 objectives. When the Bed & Breakfast was approved as a Special Use Permit they said that they would use all 16 acres. Our Zoning Code says that you need 10 acres each for an orchard winery, Bed & Breakfast, and Celebration Hall. Supervisor Searing told her that she had used up her 3 minutes to speak.

Sharon Nelson a resident on West Lake Road said that she has lived here for 13 years and when it rained the mud that came down their stream past their house was horrific. Since the Yantchs have put the dam in their pond there has been an improvement with the sediment that comes past their house.

Paul Chipman of West Lake Road spoke in favor of the Yantch PDD.

Norma Leone suggested that the time limit to speak be posted on the website. Supervisor Searing confirmed with Andy Leja that it is local rule and does not need to be posted. She stated that she is speaking for herself and 3 other members of her family who own property in Fleming and have lived here between 20 – 50 years. She said that none of them are opposed to development but concerned that the development in Fleming follow the established process for submitting plans and for following the zoning code that has been established. The plans for the PDD have not been completed before tonight. The PDD application requests several uses; Celebration Hall, Bed & Breakfast, and 8 to 10 acres of grapes. How are these going to work together? These uses require a total of 30 acres. The plan has 18 acres. There are many questions about this proposal. She said that what she is asking that questions be answered and reviewed carefully by the Town Board. She is also concerned that the Planning Board did not recommend these plans for approval for the town board. She said that they that all building proposals are submitted according to law and all required documents are available for public review prior to the Public Hearing.

Lou Vasile of Owasco Terrace said that he has known the Yantchs for many years and anything they have been involved in they do the right way. He said that business wise nothing stays the same. You have to go with the change and do it the best way you can.

Anthony Leone West Lake Road said he is not against development but in favor of applying existing zoning. He said the site plan needs to be reviewed to insure the

proposal fits the zoning law. Sewer system needs to be reviewed as to how it will impact the environment. He said that he is a little confused about ownership of property. The property is owned by one of the Yantchs yet both Yantchs signature appears from time to time on the proposal.

Andy Leja said that the applicant does not have to be the owner but has to have permission from the owner.

Sarah King asked the Town Board to be careful in passing a plan that does not follow code and legality of the code.

Dave Ross of West Lake Road said that he worked on the Comprehensive Plan. He said that this kind of development was discussed and this fits right in.

Jim Applebee of West Lake Road spoke in favor of the PDD. He said that he lives the closest and that he is confident that his property value will go up and we need this type of business in Fleming.

Peter Bergan of West Lake Road spoke against the PDD. He is not against the Bed & Breakfast or the Winery. He opposes the Celebration Hall. If the Town Board approves this there should be a set of rules. He said that he worked on the committee for the Comprehensive Plan and there was no plan for commercial establishments on West Lake Road except those already there.

Supervisor Searing announced that this hearing for the PDD is adjourned and will remain open until the next scheduled meeting, Monday August 9th at 7:00 p.m.

Supervisor Searing asked if there were any comments on proposed Local Law #1, Retirement incentive for eligible employees.

There were no comments.

Councilman LaVarnway made a motion to close the Public Hearing for Local Law #1, seconded by Councilman Fritz. APPROVED AYES 5 NAYS 0

Regular meeting was reconvened.

Councilman LaVarnway made a motion to adopt Local Law #1, Retirement incentive for eligible employees, seconded by Councilman Fritz. Approved by the following roll call vote:

Supervisor Searing	Yes
Councilman Fritz	Yes
Councilwoman DelloStritto	Yes
Councilman LaVarnway	Yes
Councilman Dudek	Yes

Building Code Enforcement Officer-Don Bowen gave his report for the month of June and asked the board for input on permits for roofs and/or windows. He said that replacing these is maintenance and most towns do not issue permits for these. If the board is in agreement there should be something in writing to this effect. The board agreed and Don will put something in writing.

He also asked how the fee of \$30.00 be handled for the inspection on rental properties. There was some discussion.

Zoning Code Enforcement Officer – Alan Kozlowski said there was a variance hearing on 2 issues. Someone wanted to put a pond in and the other someone wanted to build a garage in front of his house. The pond was approved on the owner must put a fence around it. The garage was approved. He said there was a discussion on existing ponds should have a fence. He spoke on applying the zoning law and the quality of the lake.

Assessor – Fred Farrell gave his report for June. He said the final roll is done but exemptions have to be corrected on the county level.

Planning Board- Jamie Moore reported on the July meeting.

Councilman LaVarnway made a motion to send all the new information received for the Yantch PDD to the Planning Board, seconded by Councilman Fritz. APPROVED AYES 5 NAYS 0

New Business:

- (a) Purchase cemetery software: On motion by Councilwoman DelloStritto, seconded by Councilman Fritz, the following resolution was

ADOPTED by ROLL CALL VOTE

Supervisor Searing	Aye
Councilman Fritz	Aye
Councilwoman DelloStritto	Aye
Councilman LaVarnway	Aye
Councilman Dudek	Aye

Resolved to purchase Cemetery Software from Ramaker & Associates, Inc. – Option A \$4,645 plus \$950 full day training.

- (b) Hire Christopher Czolowski: On motion by Councilman LaVarnway, seconded by Councilman Dudek the following resolution was

ADOPTED Ayes 5 Searing, Fritz, DelloStritto, LaVarnway, Dudek
Nays 0

Resolved to hire Christopher Czolowski as Constable PT (substitute) @ \$17.00 per hour.

- (c) Councilman Dello Stritto made a motion, seconded by Councilman LaVarnway, the following resolution was

ADPOPTED Ayes 5 Searing, Fritz, DelloStritto, LaVarnway, Dudek
Nays 0
Resolved to establish a standard work day for elected and appointed officials.

(d) On motion by Councilman Fritz, seconded by Councilwoman DelloStritto the following resolution was

ADOPTED Ayes 5 Searing, Fritz, DelloStritto, LaVarnway, Dudek
Nays 0

Resolved to renew yearly sewer generator contract with Cummins Northeast at a cost of \$3,766.01.

(e) On motion by Councilman LaVarnway, seconded by Councilwoman DelloStritto the following resolution was

ADOPTED Ayes 5
Nays 0

Resolved to hire Cheryl Wawrzaszek as Clerk PT to be trained for the Justice Court at a rate of \$12.75 per hour.

Public To Be Heard: Town Clerk Charleen Dygert read the Public Be Heard Forum.

Sarah King said there were a few incidents tonight of terrible decorum. That this should take place at a public meeting that people who come here as taxpayers are treated in a matter that does not follow that decorum. She said it is absolutly wrong and very unethical and she hopes it does not happen in the future.

Supervisor Searing said that he gave her 6 minutes.

Fred Farrell 5394 West Lake Road asked if the town could write Paul Pinckney or Soil and Water Conservation District to see if they could get the weed machine in his area. There was some discussion.

With no more comments Supervisor Searing closed the Public To Be Heard.

Requests and Comments of the Board:

Councilman Dudek spoke on a special that he saw on HBO on Hydrofracking and he said the board should look into this and write a letter to our representative. He said that it is really scary stuff.

Supervisor Searing said that an ad for recycling attendant was published in the paper.

Councilman LaVarnway made a motion to substitute Myer Bookbinding instead of the previous one approved, seconded by Councilwoman DelloStritto. APPROVED AYES 5 NAYS 0

The board discussed an issue that Dale Cunningham has about being charged 2 units on a house that is no longer there.

Budget Transfers: Councilman LaVarnway made a motion to approve the budget transfers, seconded by Councilman Dudek. APPROVED AYES NAYS 0

Town Clerk's Report: Councilman LaVarnway made a motion to approve the Town Clerk's report as presented by Town Clerk Charleen Dygert, seconded by Councilwoman DelloStritto. APPROVED AYES 5 NAYS 0

Supervisor's Report: Councilman LaVarnway made a motion to approve the Supervisor's report as presented by Supervisor Searing, seconded by Councilman Fritz. APPROVED AYES 5 NAYS 0

Approval of Bills For Payment #381 – 439 were approved for payment on the following motions and seconds:

<u>FUND</u>	<u>AMOUNT</u>	<u>MOTION BY COUNCILOR:</u>	<u>SECONDED BY COUNCILOR:</u>
General	\$10,655.87	DelloStritto	LaVarnway
Highway	6,460.10	LaVarnway	Fritz
Water	22,681.14	DelloStritto	Fritz
Sewer	35,697.26	Fritz	Dudek
Refuse	1,784.59	DelloStritto	LaVarnway
Lighting	180.00	DelloStritto	LaVarnway

Adjournment: Councilman LaVarnway made a motion to adjourn, seconded by Councilwoman DelloStritto. APPROVED AYES 5 NAYS 0 The time was 9:30 p.m.

Respectfully submitted,

Charleen V. Dygert
Town Clerk