

# Warren County Board of Supervisors

## RESOLUTION NO. 102 OF 2016

**Resolution introduced by Supervisors Simpson, Conover, Dickinson, Frasier, Merlino, Sokol, Vanselow, Wood and MacDonald**

### **AUTHORIZING AN EXCHANGE OF EASEMENTS IN CONNECTION WITH 1000 ACRE RANCH RESORT PROPERTY AND WARREN COUNTY RAILROAD PROPERTY**

WHEREAS, by deed dated July 1, 1996, Warren County acquired certain real property located near County Road No. 3 in the Town of Stony Creek comprising a portion of the former Delaware & Hudson Adirondack Branch, on which the County has licensed the Saratoga and North Creek Railway to operate certain railroad facilities (the “Railroad Property”); and

WHEREAS, the County acquired the Railroad Property, in part, in order to license operation of a railroad to promote and improve tourism and economic development in the area; and

WHEREAS, John J. Arehart and Polly A. Arehart (the “Areharts”) are the owners and operators of a business commonly known as the 1000 Acre Ranch Resort (the “Resort”) located on certain real property in the Town of Stony Creek, New York adjacent to the Railroad Property (the “Resort Property”), which they own in part in their individual capacities, and in part, in their capacity as shareholders of certain business corporations, including Sit – N – Bull Ranch and Country Club, Inc. (the “Resort Corporation”), and

WHEREAS, the Resort has historically played a significant role in the County’s tourism economy and in particular as an attraction for the passenger trains that have run on the Railroad Property, but is presently in bankruptcy following a period of extended financial distress, leaving in excess of Two Hundred Thousand Dollars in County, Town and School District real property taxes unpaid; and

WHEREAS, pursuant to an order of the bankruptcy court, the Resort Property has been ordered to be sold, which sale will be conditioned upon the payment of the aforesaid unpaid real property taxes; and

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WHEREAS, pursuant to the aforesaid bankruptcy court order the Resort Property is now under contract to be sold, but the sale has been delayed due to title issues concerning certain at-grade crossings of the Railroad Property needed in order to operate the Resort; and

WHEREAS, the Areharts acquired that portion of the Resort designated as Tax Map Parcel Nos. 247.-1-14 and 247.-1-27 consisting of the main buildings for the Resort and a 6 acre landlocked portion of an undeveloped parcel adjoining the Hudson River, and the predecessor to the Resort Corporation acquired that portion of the Resort designated as Tax Map Parcel No. 235.-3-3 upon which there is partially situated the golf course portion of the Resort; and

WHEREAS, certain railroad valuation maps prepared by The Delaware and Hudson Company dated June 30, 1916, sheets 16 and 17, depict the existence of an at-grade crossing on the Railroad Property at each of two locations which approximate the present main entrance to the Resort Property and a cart crossing on the golf course portion of the Resort Property, both of which have been in use for decades; and

WHEREAS, the two crossings of the Railroad Property described above are indispensable to the operation of the Resort because other practical access is unavailable; and

WHEREAS, historical use of the Resort Property has included the crossing of the Railroad Property by pedestrians and horses to access tax parcel 247.-1-27, which is otherwise land-locked;

WHEREAS, diligent searches have, to date, not revealed a record source of the title to or rights for use of the aforementioned crossings; and

WHEREAS, the County owns and maintains a small loading platform on the Railroad Property adjacent to the Resort Property in support of the Saratoga and North Creek Railway, and the Areharts have

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previously granted the County access and utility easements across the Resort Property needed in connection with the use and operation of the loading platform; and

WHEREAS, the County has requested, and the Areharts have agreed, to grant to the County an additional easement on the Resort Property in the vicinity of the loading platform for two handicapped parking spaces and access across a parking lot on the Resort Property to use the parking spaces; and

WHEREAS, the Areharts have requested that the County affirmatively grant three railroad crossing easements at the locations described above, as a matter of expediently resolving the title issues which are holding up the bankruptcy-ordered sale; now, therefore, be it

RESOLVED, that this Board of Supervisors hereby finds that the conveyance of the three requested easements to the Areharts and/or the Resort Corporation is supported by fair and adequate consideration, consisting of the affirmative granting by the Areharts of the handicapped parking space easement, and be it further

RESOLVED, that this Board hereby determines that it is additionally and otherwise in the best interest of the County to affirmatively grant the three requested easements in order to (a) resolve any claim to crossing rights at the aforementioned locations as a means of avoiding litigation to establish or confirm such rights, (b) avoid terminating access to and destroying the viability of the business on the Resort Property, and (c) accelerate the payment of delinquent real property taxes owed; and be it further

RESOLVED, that the Chairman of this Board is hereby authorized and directed to execute appropriate instruments granting three private at-grade crossing easements to the Areharts and the Resort Corporation (as applicable) across the Railroad Property at the locations and with the qualities consistent

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with recent historical use, subject to terms and conditions ordinarily imposed upon similar at-grade private crossings, in a form approved by the County Attorney; and be it further

RESOLVED, that the granting of the aforementioned easements by the County is expressly conditioned upon the granting to the County of an easement on the Resort Property in the vicinity of the County's loading platform for two handicapped parking spaces and access across the parking lot on the Resort Property to access the parking spaces.