

Matter of Western Wayne Ambulance, Inc v Town of Walworth, N.Y.
2026 NY Slip Op 32092(U)
June 29, 2026
Supreme Court, Wayne County
Docket Number: Index No. CV09416
Judge: Arthur B. Williams
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SUPREME COURT
STATE OF NEW YORK COUNTY OF WAYNE

In the Matter of the Application of

WESTERN WAYNE AMBULANCE, INC
d/b/a WALWORTH AMBULANCE
Petitioner,

DECISION & ORDER
Index No. **CV094163**

- against -

TOWN OF WALWORTH, New York and the
WALWORTH TOWN BOARD
Respondents,

Before the Court is a Hybrid Proceeding filed pursuant to CPLR §7803 and §3001 wherein Petitioner, Western Wayne Ambulance, Inc. (WWA) requests a finding by the Court that Respondents, Town of Walworth and the Walworth Town Board acted in an arbitrary and capricious manner when it adopted a resolution on November 6, 2025 recognizing Wayne County Emergency Medical Services as the Town's primary provider of emergency medical services effectively removing Petitioner from that role. Petitioner seeks to annul and set aside Respondents' decision and seeks declaratory judgment.

Petitioner's moving papers consist of its Petition and Amended Petition. The Amended Petition includes a request for a declaratory judgment declaring that Petitioner has a valid enforceable and exercisable continuing contract right to serve as the primary emergency medical services (EMS) provider for the Town of Walworth based on certain material representations made by town officials that were relied upon by Petitioner to its reputational and financial detriment. In support of their respective arguments, the Court has before it various affirmations and memorandums of law.

Historically, Petitioner, Western Wayne Ambulance, Inc. (formerly "Walworth Ambulance") has been providing emergency medical services to the Town of Walworth since 1949. Petitioner claims that it was the "primary" provider of EMS for the Town for many years. Respondent asserts that the Town never adopted a resolution establishing WWA as its

primary ambulance provider. Petitioner has not submitted any documentation to support its assertion of being the primary provider of EMS for the Town of Walworth however, it is not disputed that WWA operated as the only ambulance provider for basic life support (BLS) services in the Town for an extended period of time.

The issue of “primary” coverage becomes important because of needing to be able to respond to a volume of calls for service which then results in the ambulance provider being able to bill a patient for its services. It is undisputed that the expense of providing EMS is substantial and being able to bill for services is a necessity in order to help mitigate the cost of operations. For the year 2024 and several years prior the Town resolved to pay \$33,000.00 to WWA to help offset its operating costs. Petitioner argues that by not being the primary provider of EMS calls for service would go to other providers to the financial detriment of WWA. By the Town’s actions, Petitioner foregoes the opportunity to bill for service and in addition thereto was denied a renewal of the contract wherein it received money from the Town to offset its expenses.

Petitioner argues that it should be entitled to rely upon assertions made and actions taken by Respondent over several years that led it to believe that Petitioner would continue to be the primary provider of EMS for the Town. Respondents argue that they acted lawfully and that their decision was a culmination of factors stemming from 2018 when WWA notified the Town that it would be increasing the fees charged for its services. At that time the Town agreed to partially fund WWA in lieu of residents having to bear the burden of the increased cost of EMS services.

Respondents state that between 2022 and 2025 they were made aware of numerous complaints of exorbitant bills submitted to individuals receiving services from WWA. The Town further states that they repeatedly requested certain detailed financial information from WWA which was only partially provided. Petitioner asserts that at a regular Town Board meeting it did provide information regarding WWA’s coverage statistics, payments and staffing. Petitioner claims that on multiple occasions it was assured that the Town would continue to support WWA. During this time there was also discussion regarding the costs and rationale for WWA expanding its services from providing basic life support services (BLS) to include advanced life support services (ALS). In 2023 WWA approached the

Walworth Town Board for the purpose of seeking approval for construction of an addition to the ambulance base which was approved by the Town and funded exclusively by WWA. All during this time there was discussion throughout Wayne County regarding the establishment of a county-wide EMS service. Wayne County EMS became operational during 2023. Thereafter on October 17, 2024 citing a lack of information from WWA, the Town Board voted to not provide financial support for WWA for the year 2025. On November 6, 2025, the Town Board resolved to recognize Wayne County EMS as the primary provider of emergency medical services for the Town of Walworth. It was noted at that meeting that WWA could still provide services within the Town of Walworth.

Petitioner asserts in the first instance that Respondents failed to abide by the requirements of GML §103 and §104-b for violating its own procurement policy in selecting Wayne County EMS as its primary ambulance provider. It is not disputed that the providing of ambulance services falls within the professional services exemption to Section 103 ‘Competitive Bidding Requirements’ in that such a service requires special skill or training. GML §104-b, in pertinent part mandates that:

“Goods and services which are not required by law to be procured by political subdivisions or any districts therein pursuant to competitive bidding must be procured in a manner so as to assure the prudent and economical use of public moneys in the best interests of the taxpayers of the political subdivision or district, to facilitate the acquisition of goods and services of maximum quality at the lowest possible cost under the circumstances, and to guard against favoritism, improvidence, extravagance, fraud and corruption. To further these objectives, the governing board of every political subdivision and any district therein, by resolution, shall adopt internal policies and procedures governing all procurements of goods and services which are not required to be made pursuant to the competitive bidding requirements of section one hundred three of this article or of any other general, special or local law.”

Petitioner claims that the Respondent did not follow its own procurement policy and Respondent argues that the designation of a primary ambulance service provider is neither a contract for “public work” nor is it a “purchase contract” and therefore does fall within the ambit of GML §104-b requiring municipalities to adopt such policies for otherwise Section GML §103 exempt goods and services. *See, Amherst Columbia Ambulance Service, Ltd v. Gross, 80 A.D. 2d 719, 437 N.Y.S. 2d 137 (Fourth Dept. 1981).* The Town’s procurement

policy specifically references “goods and services” not otherwise required to be competitively bid under GML §103 and further states that proposals or quotations for the acquisition of professional services are not required.

Town Board Resolution 183-24 adopted October 17, 2024, discontinued funding for Petitioner for 2025. Said resolution was silent as to WWA’s ability to continue to provide ambulance services for 2025. WWA went on record stating that they would continue to provide its services to the Town with or without Town funding. Town Board Resolution 168-25 adopted on November 6, 2025, named Wayne County Emergency Medical Services as the primary provider of emergency medical services for the Town of Walworth. At the Board meeting of November 6, 2025, it was discussed that WWA would still be available to provide second call out ambulance services.

Respondents maintain that designating Wayne County EMS as its primary service provider was not an award of a contract for goods and services, but merely a designation and thus not subject to the mandates of the General Municipal Law §103 or §104-b. Likewise, Respondents contend that the Town’s procurement policy does not apply to its decision to discontinue funding for, or to not renew a funding agreement with WWA.

On this issue the Court finds that the actions taken by Respondent Town Board with regard to Resolution 183-24 to discontinue funding for WWA and to Resolution 168-25 naming Wayne County EMS as its primary emergency services provider were not violative of General Municipal Law §103 or §104-b nor were they made in violation of the Town of Walworth’s Procurement Policy.

Turning now to Petitioner’s argument that Respondents’ designation of Wayne County EMS as its primary service provider fails rational basis review and was arbitrary and capricious and that replacing Petitioner absent the competitive process was an error of law.

Review under CPLR §7803(3) is limited to whether a determination was made in violation of lawful procedure, was affected by error of law or was arbitrary and capricious or an abuse of discretion. Here Petitioner suggests that the decision of the Town Board to identify Wayne County EMS as its primary emergency service provider was done in the absence of any record based determination, without solicitation of bids, or request for proposals (RFPS) and that the decision of the Town Board was pre-determined without

regard to the best interest of the Town and its residents. The cornerstone case in which administrative decision making is addressed is *Pell v Board Of Educ.*, 34 N.Y. 2d 222, 313 N.E. 2d 321, 356 N.Y.S. 2d 833 (1974) wherein determinations of such boards will be upheld unless arbitrary, capricious or an abuse of discretion.

Petitioner argues that Respondents decision to recognize Wayne County EMS as its primary ambulance provider is in violation of GML §104-b in that the Town Board did not consider the relevant facts in which to make its determination. Petitioner further argues that the Town Board's decision lacks rational basis where the record lacks findings to support its decision, *See, Pell v. Board of Educ. Supra*). Here, Petitioner argues that the Town Board failed to solicit bids or requests for proposals and that the Board's decision was already pre-determined rather than a decision based on factual findings. Similarly, Petitioner claims that the Board's decision not to renew WWA's funding for 2025 was arbitrary and capricious, unsupported on the record, motivated by favoritism and in violation of lawful procurement requirements.

The Town Board minutes reflect discussions with regard to both the funding renewal and decision to recognize Wayne County EMS as the Town's primary provider of ambulance services. As it pertains to the funding authorization the Board minutes in regard to that resolution read as follows:

Discussion between Board Member regarding Western Wayne Ambulance and the contract for 2025. It was advised that Western Wayne was supposed to provide the Town Board Members with justification for the amount being requested with the 2025 Contract. Western Wayne was to give any information to the Town Board by October 16, 2024. No information was provided to the Town Board. It was then discussed that the Walworth Toan [sic] Board will not provide financial support to Western Wayne Ambulance.

Likewise, at the Town Board meeting held on November 6, 2025, wherein the Board named Wayne County EMS as the primary ambulance provider discussion was had in support of the Board's decision. The relevant minutes read as follows:

Discussion – Councilman Kelly stated that we have been having conversations for a couple of years now with our ambulance provider and the county is opening on November 15th, it's going to be the best choice for the Town and the protection of our citizens. But just so everyone knows Western Wayne is not going away, they are still an ambulance agency within the Town of Walworth, they will still be providing

services, they will just be second out. So if there is a second emergency with the Town of Walworth and they are available they will come and assist you.

There was also public discussion at the November 21, 2024, Town Board meeting wherein the difference in the fee structure between WWA and Wayne County EMS was considered as reflected in the following minutes:

Councilman Linson wanted to discuss Western Wayne Ambulance and their charges. She would like to see an Ambulance provide quality service to our residents. Councilman Kelly received some information regarding pricing for Western Wayne charges around \$2,000 whereas the County charges around \$400.00 for basic services.

The case at bar involves documentary evidence that is part of the administrative record that is before the Court. The administrative record as referenced in Respondents' pleadings provides the backdrop from which the Town Board made its decisions and may be considered by the Court. A determination of a municipal board "is arbitrary and capricious when it is taken without sound basis in reason or regard to the facts." *Matter of Peckham v Calogero*, 12 N.Y. 3d 424, 911 N.E. 2d 813, 883 N.Y.S. 2d 751 (2009). The absence of material evidence demonstrating that the Town considered the relevant facts to make a rationally supported determination that the resulting determination was arbitrary and capricious and must be voided. *See, Pell v. Board of Educ. Supra*. The Court is of the opinion that the Town Board had sufficient evidence and information before it to render its decisions as to denial for the funding renewal and as to the designation of Wayne County EMS as its primary service provider. Municipal boards have broad discretion in considering matters before them; *See generally, Ifrah v. Utschig* 98 N.Y. 2d 304 (2002) and their decisions will be affirmed if supported by a rational basis. *Matter of Peckham v Calogero*, 12 N.Y. 3d 424, 911 N.E. 2d 813, 883 N.Y.S. 2d 751 (2009).

The Court finds that the decisions of the Town Board regarding continued funding for WWA and the designation of Wayne County EMS as a primary ambulance service provider were rationally determined on the facts and were thus not arbitrary and capricious.

Petitioner argues that it has a valid enforceable and exercisable continuing contract right to serve as the primary EMS provider for the Town of Walworth, based on the facts contained in the record and seeks a declaratory judgment to that effect.

The sum and substance of Petitioner's argument in this regard is that Petitioner always acted in good faith and based on various statements made and actions taken by the Town Board that Petitioner could justifiably rely on those actions and statements and therefore had a continuing contract right to serve as the primary EMS provider for the Town.

The record reflects that the Petitioner and Respondent entered into a written agreement for calendar year 2024 wherein the Town agreed to pay \$33,000.00 to Petitioner to help offset its operating expenses. That agreement expired at the end of 2024 and was not renewed. Petitioner continued to provide ambulance services for the almost eleven months of 2025.

Funding issues between WWA and Respondent had been an issue known to both parties for some time. Petitioner argues it has a continuing contract right to continue to provide ambulance services and to be compensated for those services based on past history and its reliance on statements of individuals. Petitioner was aware of the Town Board as the entity responsible for considering the annual funding request having appeared before the Town Board numerous times on that and other ambulance issues. Petitioner was also aware of the newly formed Wayne County EMS. Given the issues leading up to the Town Board's decisions in this matter, albeit abrupt, the Court does not find that the actions of the Town Board give rise to a prospective enforceable contract right nor does it find a basis for which declaratory judgment can be granted.

For the reasons aforesaid Respondent's motion to dismiss the Petition and amended Petition is in all respects granted without costs.

Dated: June 29, 2026
Lyons, New York

ENTERED:



Honorable Arthur B. Williams
Supreme Court Judge