

**PLANNING BOARD MEETING  
September 24, 2015**

**Susan Hawvermale, Chair  
Karen Ellsweig, Steven Budofsky, David Groskin  
Sandi Burke, Planning Board Secretary  
Absent: Robert Sipos**

**Location of meeting:** Forestburgh Firehouse

Planning Board meeting commenced at 7:09 pm.

Pledge of allegiance.

**REVIEW OF THE MINUTES FROM THE AUGUST 25, 2015 MEETING:**

Susan Hawvermale: Do I have a motion to accept the minutes from August 25, 2015.

Karen Ellsweig: I have a request that Sandi Burke make the correction to the August 25, 2015 meeting minutes to reflect that the September meeting was changed due to the Yom Kippur holiday and not Rosh Hashanah.

Susan Hawvermale: Are there any other corrections to the minutes? Steve? For some of the blanks (referring to the minutes) people are just going to have to speak up more. It is hard to hear. Maybe this little mic tonight will help. You think?

Sandi Burke: Yes.

**MOTION** made to approve the minutes by Karen Ellsweig and seconded by Steve Budofsky. All in favor. None opposed. Carried.

Susan Hawvermale: I just want to go over the 3 motions that we passed at the last meeting. The first one was that all letters to be read at meetings and communications must be received 8 days before the meeting. The second motion was when received, the secretary will scan all letters submitted and upload them to the Town website the day after the Planning Board meeting. The third was material sent to the Planning Board by an applicant should be scanned and emailed to Planning Board members and uploaded to the Town website in a section designated for said applicant. So each time we get an applicant and letters, we will make a new section. Sandi, I know there has been some question about the letters. I know that you uploaded.

Sandi Burke: Oh I know that I did too. They're there. They are there. They are absolutely there because Sally Jasuta came down and scanned them and I uploaded them and put them in.

Sally Jasuta: Took me 4-1/2 hours.

Susan Hawvermale: Thank you Sally.

Sally Jasuta: Your welcome.

Sandi Burke: Yes, thanks again Sally for all your hard work.

Richard Robbins: Its just not accessible from the internet. The links are dead. The links that identify them are dead.

Sandi Burke: That's not a true statement.

Susan Hawvermale: Well, we will check into that.

Sandi Burke: They absolutely are there. I have pulled them up and other people have pulled them up on multiple occasions. I was on there today and they were all there.

### **COMMUNICATIONS:**

Sandi Burke: We only have one communication to be read from David Wallace Law Offices that states: Attention Forestburgh United and attention Merriewold Membership, Re: ASTI application to Forestburgh Planning Board.

*Dear Neighbors:*

*Forestburgh United has some big victories in opposing the ASTI application before the Forestburgh Planning Board. It may have won the war. Now it needs to win the peace. Merriewold club is full of gracious people. As a force in Forestburgh United, it is exactly this attribute that is now most beneficial to Forestburgh United and the Town at large. Victories can have consequences. A weaker, divided Forestburgh is the risk here. There is always another battle coming. Strong allies for the future and good working relationships go hand in hand with the best kind of victory. Forestburgh United can influence development in Forestburgh for years to come. One of the first considerations is what the future of land development might be. Over the years, good projects will compete with less attractive projects. Good business is attracted by fair play in Planning Board practice. By contrast, severe political division makes weak Towns where opportunistic beneficial projects have a harder time. Residential development can be opportunistic and a tax base disaster. Multi-family housing, as permitted on the subject property is the most burdensome of all because of school taxes. Towns like Bloomingburg have already lost that war. Forestburgh faces similar developmental pressure based upon demographics alone. Now is the time to plan for smart growth. Refusing growth at all costs is not planning. The place to begin is in cementing victories before the Planning Board. ASTI conceded 2 huge issues: There will be no loud gas vehicles and no bullets, if they receive approval. Bullets will be replaced by Airsoft, not live rounds. Airsoft uses small plastic beads. Your children can shoot each other with Airsoft all day long. It is safe and quiet. The Planning Board is positioned to put these exact concessions into a specific Resolution, when and if approval is given to ASTI. These concessions would thus be given the force of law this is a big victory. Cementing victor means giving proper credit for the victory. Proper credit means lasting working relationships. Forestburgh United deserves credit. So do the Planning Board and local politicians. So does ASTI. At the moment, however, there is considerable division, if not resentment between these factions. Now is the time to say quite simply that all deserve credit, including Susan Hawvermale, the Planning Board Chairwoman. Now is a great time to meet with Town officials, buy them a beer or 2 and discuss how to work better for win-win. Dialing back the accusations against my friend Susan will help. I am a litigator and a land use attorney, but I write here out of friendship only. In my experience, planning boards are supposed to be composed of local property owners with a stake in the process. One can have too much of a stake in some cases, but this case is not one of them. The Planning Board attorney has a similar conclusion. At a minimum, respect is due where reasonable minds may differ on the alleged "conflict of interest" or "appearance of impropriety". There are times to go slowly with tenuous arguments and this is a time to go slowly, at best. You want allies and you are dealing with family. Generally, divisiveness is very expensive. It costs money to litigate. It squanders*

*influence. Working relationships are precious. Respect is an investment. I cultivate these Planning Board relationships whenever I can in my practice. There is nothing better in the legal world. The best investors want to develop properties in towns that have good working relationships. Shady developers eschew unified, organized, careful and business-like opposition. The right opposition to a project takes time and patience. This one needs both. The Board deserves it. they are citizens not full-time board members, by design. Frankly, the applicant deserves time and patience. When they receive it, you send the right message about the Town. This particular applicant does have inconsistencies that must be vetted. Forestburgh United is equal to the task, as is the Board. The achievements to date prove both. Inconsistencies, however, are generally not sufficient to defeat well-tailored land use applications. When the zoning conditions are met, credibility challenges are weak. They are poor grounds for litigation. Well-tailored resolutions that limit the permitted use are a far better tool. There are no good shortcuts here. Intimidation is a poor formula for victor. People never work as effectively under such circumstances. ASTI may or may not be entitled to an approval. ASTI may be good for the town or not. One way to find out is to sit with them informally. Merriewold is full of people that can balance strength with graciousness. The latter is not an abstraction. It is a force in these matters. It is an investment in the future. Being right and especially being more powerful is no substitute for having people on your side and working relationships. Now would be a great time to make sure that people recognize that this community places a premium on these attributes and is ready to use them to make these communities tranquil, peaceful and truly united.*

*Respectfully,  
S. David Wallace.*

Sandi Burke: The end.

Susan Hawvermale: Thank you Sandi.

### **REVISION OF PLANNING BOARD APPLICATION:**

Susan Hawvermale: The next item on the agenda is the review of the planning board application. There were a couple of things, pages 9-11, the SEQR pages really do not belong in this application, so I would suggest we take them out because they really don't belong here.

Sandi Burke: You want to just take it out completely? Because Karen Ellsweig had mentioned putting on the bottom of it "For Planning Board use only", so you just want them taken out completely?

Susan Hawvermale: It really doesn't have anything to do with it.

Karen Ellsweig: Excuse me, but I did mean it was only for our use, so it can come out.

Susan Hawvermale: Yes, so take them out and I have to give this to you Sandi. We have the owner's telephone and I would also like the owner's email and you would attach the short form EAF, which is good.

Sandi Burke: Which I downloaded from the website.

Susan Hawvermale: Right.

Tim Gottlieb: Susan, I think you need to put something in there because they have to fill that out online. They have to get the information online and then complete it.

Susan Hawvermale: Yes, you're right. I was gonna get to that that they have to go online. Did you get that Sandi? They need to fill these out online. They didn't used to. They need to fill print them out and put them with the application.

Sandi Burke: So, they have to fill it out online before they print it?

Tim Gottlieb: Yes. They have to fill it out online. What happens is that when they go through the processing, they fill out the address, the county, the town and section, block and lot and once you locate the section, block and lot, then you hit another button that says "short form EAF" or long form. Pick the short form if you're doing a short form and then it will generate the application and then you can fill out the EAF as well.

Sandi Burke: Because when I went to the website today to print out the ones that I have included here, which are the short forms, I just went to Google and typed in "SEQR form" and it brought me to the New York State website where I could fill out the SEAF, which is the short form and then the other one, which was the FEAF? But I didn't see that, perhaps I missed it.

Tim Gottlieb: There is an EAF mapper. You can download the copy from the website, but when you are doing your application process, you have to go through the EAF mapping.

Sandi Burke: Ok, so I will make sure those instructions are in there.

Susan Hawvermale: And we also need the website in there too, a link.

Sandi Burke: And do you want me to upload this entire application on our website under the Planning Board heading.

Susan Hawvermale: We have to accept them first.

Sandi Burke: Okay and that won't be until the next meeting right?

Susan Hawvermale: Well, lets talk about it. The only other thing I had in here was the meeting dates and going back to June 2013 and obviously the need to start in October if we agree to this and then I think Sandi it could go all the way through December 2016. And I already have this for you, it says schedule 2015 monthly meetings, but its really 2015 and 2016. Oh, the other thing too is we have the old escrow fees. Tim had sent us some of the ones from some other towns, which I sent you tonight, which is going to be absolutely no help to you tonight, but just for comparison, these were the ones that were done at a Planning Board meeting and are just a little over a year ago. Tim are they good? I mean, are these acceptable to you in terms of what we should be asking.

Tim Gottlieb: Yeah, its good for a start, as long as everybody understands that that is not the total escrow, I mean that's not your total review. It may be more. It depends on the project.

Susan Hawvermale: Right, but this is the starter escrow basically.

Sandi Burke: Do you want me to include these fees on this page with these fees?

Susan Hawvermale: What does the Board think? Do you want to include these April 2014 fees.

Sandi Burke: Its the last page in your packets Karen, page 6. Do you want me to incorporate them?

Karen Ellsweig: I would recommend having them all together in one spot.

David Groskin: I think that it should go below this in a completely separate section so people don't think that they have to actually pay this while they are submitting their application.

Sandi Burke: Right. I can bunch this up a little bit so that its more and then make room for that and make sure that its quite clear that these are escrow fees and that these pertain to escrow.

David Groskin: So, when an applicant comes and they are not using an attorney or an engineer and they are just gonna come in front of us by themselves, does the town offer them any help or guidance or does the Planning Board because this is tough.

Susan Hawvermale: It is and there are times that I have met with applicants. We suggest that Tim Gottlieb and I meet with them ahead of time to go over the application.

David Groskin: So, when a person walks into the Town Hall and they say "So I'm looking to build a garage on my property, what kind of information do I need", do we just hand them a

packet and say "Fill this out"? Or do we say "So here's the packet and if you have any questions, this is who you should call"?

Susan Hawvermale: It depends on what they ask whether Joanne Nagoda is particularly helpful with this. She is very customer friendly.

David Groskin: Because 90% of the Forestburgh residents are not engineers and this is already looking like a daunting process and I was just wondering whether we offer help to encourage people to build in our town.

Susan Hawvermale: Absolutely, they are not in the dark.

David Groskin: Okay.

Sandi Burke: Joanne Nagoda is awesome. She used to be the Building Inspector. She is very good. Do you know Joanne?

David Groskin: Yes, I know Joanne.

Susan Hawvermale: Well, Ken and Tim, is it appropriate to put the escrow fees with the application with the understanding that this is basically what they have to look forward to in the future.

Ken Klein: I have no problem with it. They should know up front what they might be stepping in.

Susan Hawvermale: Yes, I think more information is better. So, if we approve the escrow tonight, would you like to approve the application as amended?

Karen Ellsweig: I also had some minor edits, nothing major, but an overall thing would be to take anywhere we refer to "you" in this application, I think it should be changed to "applicant" and I marked this up Sandi so I can give it to you. And the other thing that I would suggest is on page 4 where it says "the number of submissions required for the next mailing", instead of putting people's names in there with the positions that they hold, which can change over time, if we just put their positions alone. Those were my only major editing things. A lot of mine were crossing T's and dotting I's and stuff.

Tim Gottlieb: I've got one, on page 2, section F where it says "applicant will be so advised and any escrow fund to be returned to the applicant", I think it should say "any unused escrow".

Susan Hawvermale: Ken did you have any comments?

Ken Klein: No.

Susan Hawvermale: Steve?

Steve Budofsky: Yeah, well I just think that there were just a few changes now it seems to be enough maybe to mull it over one more time to have everything in place before we make sure that everything is right before voting on amended?

Susan Hawvermale: That's what I'm asking. Do you wanna see this one more time? I would like to see it for our October meeting.

Sandi Burke: No problem.

Susan Hawvermale: If you want to send your corrections down to Sandi (everybody passes corrections down to me).

Sandi Burke: Do you want me to make these last 3 pages just separate?

Susan Hawvermale: Yes. Tim, can you comment on the special use permit checklist.

Tim Gottlieb: Okay, its basically a compilation of what's in the zoning code.

Susan Hawvermale: When do we give this to the applicant?

Tim Gottlieb: In the beginning.

Susan Hawvermale: With the application?

Tim Gottlieb: Yes.

Susan Hawvermale: Alright, so this should be attached to the application also.

Tim Gottlieb: Some towns require a professional that's preparing it to sign it and date it because most of the time, a professional is gonna prepare the plans.

**INAUDIBLE as 4 people speaking at once here.**

Ken Klein: Under the Forestburgh zoning law, there is no distinction, either it is a special use and they all require site plan review. There are zoning laws that do differentiate and have a lesser standard for special use permit, the highest standard was where we require it to be upgraded to a site plan. There is no distinction on the Forestburgh zoning laws at present.

Karen Ellsweig: That's where I became confused. So, we could just rename this an application checklist and put this as page 9-11 at the very end of our packet.

Steve Budofsky: You wouldn't refer to it as a site plan checklist?

Sandi Burke: Do you have this in a word document by any chance? (asking Tim Gottlieb)

Tim Gottlieb: I do.

Sandi Burke: If you could send me that in word that would be awesome, so that I can manipulate it.

Susan Hawvermale: So we will just call this a "site plan checklist". Okay, any other questions regarding the site plan checklist? No? Alright, lets go into the rules for public comment period.

Ken had sent us some from the Town of Delaware in Sullivan County. You all received them?

Sandi, if you, I know its really long, would you please read these so that we can all hear them?

Sandi Burke: Why certainly.

Susan Hawvermale: Just read the resolution for the Town of Delaware Sullivan County for rules and regulations of public comment period.

Sandi Burke: Okay, you want me to read 1 through 16 right Susan?

Susan Hawvermale: Yes.

Sandi Burke: Okay, as follows:

1. Except for public hearings duly designated as such by action of the Town Board, public participation at meetings of the Town Board shall be limited to the public participation segment of the agenda of regular Town Board meetings, once a month and not at Town Board workshops or special meetings.
2. Public comment, whether during the public participation segment of the Town board meeting or during a duly designated public hearing, shall be limited to three (3) minutes per person. An individual's time may not be given or traded to other speakers or reserved for other portions of the meeting.
3. Any person wishing to speak at a public meeting during the public participation segment or during a public hearing must sign the sign-in sheet upon entering the room, when such sign-in sheet is available, indicating his or her intention to speak, which sheet shall be used by the Supervisor or the presiding officer to recognize speakers.
4. Any person wishing to speak at a public meeting during the public participation segment or during a public hearing, when a sign-in sheet is not available, shall raise his or her hand. When recognized by the Supervisor or presiding officer, the individual must stand and state his or her name and, if appropriate, group affiliation and must state the subject he or she will be addressing.
5. Comments must relate to the purpose of the public hearing or to legitimate town business.
6. The Supervisor or the presiding officer shall act as timekeeper or shall designate another elected officer as timekeeper.

7. Members of the Town Board, speakers and audience members must observe proper decorum. Any statements made during the meeting or during a public hearing by the Supervisor, members of the Town Board, town officials or employees or member of the general public shall not involve personal, impertinent or slanderous attacks on individuals, regardless of whether the individual so attacked is an elected official, a town official or employee or a member of the general public.
8. The Supervisor or the presiding officer shall control the meeting. The use of profane, vulgar, inflammatory, threatening, abusive or disparaging language or racial or ethnic slurs directed at the supervisor, members of the general public or statements by a person attending the meeting which are not made during the public participation segment of the agenda or during a public hearing shall not be tolerated.
9. It is inappropriate to utilize a public meeting for the purpose of making political speeches, including threats of political action and the same will not be tolerated.
10. Comments by speakers must be addressed to the Town Board. Attendees may not address the Town Board unless recognized by the Supervisor.
11. Discussion between speakers and attendees of the public meeting or hearing are prohibited. A speaker may disagree with or support prior speakers in comments directed to the Town Board. No person attending a meeting or public hearing shall engage in booing, handclapping or otherwise disrupt the formality of the proceedings.
12. Banners, flyers or other signs are not permitted in the meeting room. Distribution of flyers in the meeting room is also not permitted.
13. If the supervisor or presiding officer fails to enforce the rules set forth herein, any member of the Town Board may move to require him or her to do so and an affirmative vote of a majority of the Town Board shall require him or her to do so. Any decision relating to enforcement of the rules set forth herein may be appealed and overturned by a vote of a majority of the Town Board members.
14. Any person who disregards the directives of the Supervisor or presiding officer in enforcing the rules or generally conducts himself or herself in a boisterous or inappropriate manner while addressing the Town Board or otherwise during a meeting disturbs the peace at a meeting and will be barred from further participation and lose any balance of time remaining for his or her comments.
15. If a speaker who violates these rules refuses to step down, the Supervisor or the presiding officer may ask the individual to be removed from the meeting room and charged with disorderly conduct in accordance with the Penal Law.
16. The above rules shall become effective immediately.

David Groskin: Number 12 regarding banners, flyers and signs, etc., does that include clothing?

Ken Klein: It wouldn't include clothing, something printed on a shirt.

David Groskin: When they say banners, would this be what you would see at like rally's?

Ken Klein: Any physical things you wave that would disrupt the process.

Karen Ellsweig: I am very much in favor of something like this for our meetings. I think it will help not only us, but any attendees and allow us to have proper decorum when we are discussing these issues.

Kathryn Barnhart: Interrupts from the audience and asks "Susan, could you just explain what it is that was read, excuse me, I don't understand".

Susan Hawvermale: Sure. This is a resolution from the Town of Delaware. These are rules and regulations for the public comment period. This happens to be for the Town, it can also be for a Planning Board and for any body that meets whatsoever. Does that explain it Kathryn?

Kathryn Barnhart: Shakes head, says thanks.

Steve Budofsky: These are fairly extensive. I don't know that we would need something like this. I have no problem with having a general set of rules. Number 2 in public comment, limited to 3 minutes, I know we ran into problems with that. I know its not unheard of to run 3 to 5. Maybe you could extend that to a 5 minute limit? Uh, I don't have a problem with somebody's time being traded or given to somebody else, as long as its not run on, in other words so that a dozen people don't give all their time to one person.

Susan Hawvermale: How do you set that criteria then?

Steve Budofsky: By limiting it to one so one person can give their time to somebody else, but not keep trading it off down the line so you have half a dozen people.

Karen Ellsweig: I don't agree.

David Groskin: I don't agree.

Susan Hawvermale: I don't agree.

David Groskin: I would say that 4 minutes is ok.

Steve Budofsky: Its not uncommon to run 3-5 for that, you know we've had some, maybe the issue if we made it 5 minutes we wouldn't have the issue of having to trade off or people getting cut off. Its only 2 minutes more.

Karen Ellsweig: But if there are lots of people who want to address the board, it could be a long time and I think sometimes forcing it into a shorter period of time is an incentive for people to have their thoughts very well thought through so that they are expressing the heart of the matter and not politicizing.

Steve Budofsky: I hear your point. Ya know, not everyone that is allotted 5 minutes will use the entire 5. Somebody might, we had a couple of speakers that used only a minute or two. Other people might need the entire 5. Its also not unheard of for the board to or certain boards to extend the time if somebody is not finished. So maybe by offering 5 minutes, you also avoid that issue. Because then how do you allow one person to extend their time and not another. So this way, I think its a fair compromise to extend it to 5. That's my perspective.

Susan Hawvermale: I do a lot of speaking engagements and the most that most people are going to listen to is about 8 minutes. So, 5 to me, if your going to have your thoughts together in 3, you can really ramble in 5 and I know it sounds arbitrary, but 3 minutes has been the standard that we have used for Town Board, we've used it for previous Planning Board and I think that you can say alot in 3 minutes.

Steve Budofsky: Yeah, but given how many times we have to clock out on people that wanted to speak, that happened fairly often where somebody was called on their time and they weren't done. I mean, at least in this instance.

Susan Hawvermale: Well, with this kind of heads up, I think they can probably make their thoughts more concise.

David Groskin: If we do something like this, if someone signs the sheet up there, are they going to be given a list of the rules and that they can only speak for 3 minutes?

Susan Hawvermale: Well, they already know that they can only speak for 3 minutes.

David Groskin: How would they know that?

Susan Hawvermale: Because it says on the agenda that they can only speak for 3 minutes.

David Groskin: What about the random person that walks in the door and wants to speak?



Steve Budofsky: Well, on the sign-in sheet, it has a heading here, maybe before the actual signatures go in, you could put the time allotted so people could see it right there?

Susan Hawvermale: Comment? Other public discussion? Ken, do you have anything?

Ken Klein: No, I just gave you something to work with. Its written on paper, not in stone and you can massage it to fit what you want it to be as your policy. I can certainly modify it to turn it into a Planning Board and then review again and make some final conclusions.

Susan Hawvermale: Do we want to use all of these. I mean these are some really good rules and regs.

Sandi Burke: If you want to just call out the number that you want to use so that I have it on record, I can put it into the minutes and I can also for the next meeting do a separate set of rules for just the ones that you identify.

Susan Hawvermale: Kenny is going to do a resolution first and then we can extract the resolution. So how does the Board feel?

Karen Ellsweig: I think I would go with what is on here. I think that its fair, comprehensive and it gives some boundaries and foundation to what we expect and what the public can expect with regards to public comment in one of our meetings and we can always modify it at a later date if these rules wouldn't work out to our satisfaction, but I think now I really thought this was really well done.

David Groskin: And subsequently they can always write letters to the Planning Board.

Susan Hawvermale: Yes, speaking at public comment is not the only way to get the attention of the Board. I mean, there are other ways as well. Steve?

Steve Budofsky: I still think they're over done. I think there are too many rules and I think some of them run into others in terms of decorum. I think they could be simplified. Having something in place as a structure is fine, I just think this is just over done. It needs to be consolidated, maybe that's a good word and then like the last one, you having somebody removed from the meeting and then charged with disorderly conduct in accordance with the penal law.

Susan Hawvermale: Believe it or not, its happened.

Steve Budofsky: Yeah, but I would imagine only in the most extreme case and then you open yourself up to the whole ball of wax.

Susan Hawvermale: It would be in the extreme circumstance.

Karen Ellsweig: But if its not in there....

Steve Budofsky: Well, I think something like that is a given that if somebody is out of control, throwing chairs or what I mean is if you don't have a rule that says disorderly conduct to that level where somebody would be escorted out, wouldn't you do it anyway? You know what I mean? If someone starts throwing chairs or starts threatening with an object or starts I don't know whatever context would be at that level where you would have to have them escorted out, who would do the escorting anyway?

Ken Klein: The reality Steve is you would call 911 and you ask for the Sherriff's Department or the Police Department because nobody here, not one of the five of you and certainly not Tim or me and I don't imagine anybody in the public at large would sit there and try to control someone. We are just not going to do that.

Steve Budofsky: So my point is that if this were the circumstance you are dealing with without the rule, wouldn't you do that anyway?

Ken Klein: You know what Steve, the penal law is implied in the circumstances either way.

Steve Budofsky: Okay, because its just a little bit antagonistic to have it in the rules and I think it would be a given that people are expected to act with a certain level of decorum as they most always do, especially in Forestburgh where we've never experienced anything close to that.

Susan Hawvermale: Yes we have.

Steve Budofsky: Okay, so what did you do when that occurred? Did you call the police?

Susan Hawvermale: The police were called, yes.

Karen Ellsweig: We all know that we have to live by rules and I don't think that this is antagonistic at all. I think its just stating a fact that if something should happen and hopefully that anyone reading this would realize that that would be under the most extreme of circumstances, but I think its better to have more information out to us to work with and more information for the public so that there's not any question about what would happen if there would be a disturbance at a meeting.

Susan Hawvermale: What I would like to motion is the 16 rules and regs and have Ken Klein put them into a resolution for approval at the next meeting.

David Groskin: Can I ask one more question?

Susan Hawvermale: Of course.

David Groskin: So, I just want to know what else Steve doesn't like. What else are you seeing that I might be missing? Not that I'm trying to put you on the spot.

Steve Budofsky: No, you're not putting me on the spot at all. I think its a good idea maybe if we use this as an outline and maybe incorporate some of the rules into other rules that are already in here rather than have... Like you made a good point when you asked the question, who exactly is gonna read and understand 16 rules regarding public comment other than coming in and signing in and seeing that you have a 3 minute or a 5 minute time.

David Groskin: So you think that we should just kind of take these 16 rules and kind of whittle them down to like a one paragraph that makes sense.

Steve Budofsky: Well no, I mean even if you have half a dozen rules, but just incorporating some of the other things in those half a dozen, make them simpler.

David Groskin: So you don't necessarily agree with anything that's stated in there?

Steve Budofsky: No, I don't disagree with the intent. I mean here when you have such as in #8 "profane, vulgar, inflammatory, threatening, abusive, disparaging language, racial ethnic slurs" you know, again these types of things again to me those are expected not to occur. Doesn't all of that come under decorum? Do you have to specifically say every single act that you do would be an offense under these rules?

David Groskin: So, when I was at a public hearing for a Planning Board and a guy got up and he was very vulgar, saying things like "those people" and "I don't want those people here" this and that. I actually don't think there is anything wrong with calling out very specific disparaging language very specific to this, but I know that it can be simplified down to "we don't want to hear any racist language" or something like that, but to call it out a little bit more specifically I think when we enforce it is to everybody's knowledge so that they understand exactly what we are talking about.

Steve Budofsky: Okay, even with that I still think there's room to consolidate some of these just to make it more user friendly.

Karen Ellsweig: I don't think these necessarily have to be more user-friendly because this would be a resolution. These are rules for our Board, so they are as much for our use as they would be for the public.

Steve Budofsky: Okay, but then you're gonna have to call out because your gonna have to stop somebody from doing something in violation to these rules, you're gonna have to refer to, you know, #9 in our rule or under #13.

Karen Ellsweig: Absolutely.

Steve Budofsky: That type of thing.

Karen Ellsweig: Yes and whatever format becomes a rule of our Board, we can have it available to hand out to people.

Sandi Burke: And I can put it on the website.

Karen Ellsweig: To be on the website.

Susan Hawvermale: Ken, how did Delaware handle that?

Ken Klein: They adopted the rules and then abide by them. Actually, since they adopted the rules, they really haven't had any problems. There were a lot of heated meetings that brought about the desire on their part to adopt them and a lot of the things that were going on in the meetings were addressed in this. This wasn't invented for the Town of Delaware. There are a number of other towns that have the same set of rules. That's how the Town of Delaware came up with them. They searched around and found them and adopted very similar rules. They were tweaked and massaged a little bit to meet their needs for the Town of Delaware just as you guys can tweak and massage them to whatever extent you feel is appropriate for the Town of Forestburgh Planning Board.

Steve Budofsky: Have we ever had a set of rules like this in Forestburgh or is this the first time?

Susan Hawvermale: Not to my knowledge, but I've only been here on the Planning Board for 7 years. I like them just the way they are. It spells it out. Its very specific and its very clear as to what we expect during public comment.

Jim Steinberg: Susan, I have a question. I set on the zoning board for Town Hall. Are you gonna pass a resolution stating that these are your rules or the Town of Forestburgh Town Board has to pass these here because you have 2 or 3 different boards now. Each board is gonna set their own rules or the Town is the one who sets policy and procedure not each individual board.

Susan Hawvermale: Ken?

Ken Klein: The board is gonna make its own policy Jimmy. If the Town Board wishes to establish a uniform set of rules that govern all bodies in town, that's within their prerogative to do, but unless and until that happens, your ZBA and the Planning Board can establish their own rules, practices and procedure.

Jim Steinberg: Each board can establish their own rules?

Ken Klein: Sure.

Jim Steinberg: I don't think so. Is that right?

Ken Klein: Sure.

Susan Hawvermale: Past Planning Board's here in Forestburgh have had their own rules and regs. They do not apply to succeeding Planning Board's, but they have them because Joanne has found some from the 1970's.

Jim Steinberg: Well my thing is you have two different boards plus the Town Board, you should make a recommendation that these rules here get sent to the Town Board and let the town set the policy and procedure for all boards because you have people coming to the Planning Board meeting for a public hearing and you have one set of rules, then they go to the Zoning Board and have a public hearing and have a different set of rules. I think you should send these recommendations to the Town Board and have them set rules for everybody so its all uniform across the board.

Susan Hawvermale: That's up to the Town Board and the ZBA to establish that. I mean, once we establish our rules, if we decide to go ahead with the resolution, the Town Board and the ZBA will know about it.

Jim Steinberg: I think your putting the cart before the horse.

Susan Hawvermale: Not according to our counsel.

Jim Steinberg: Well, its my thing. I sit on the Zoning Board. We got 2 sets of rules in town. We have 5 people on the Zoning Board, we gotta set our own set of rules? We have a public hearing and people are not gonna know what set of rules to follow.

David Groskin: It doesn't bother me if there are different rules for different things. I think if the town wants to implement an overall rule for all of its committees, then the town should do that, but until they do, for us establishing our own rules that can then be superseded by the town once they come up with a set of blanket rules for everyone.

Jim Steinberg: So why don't you just send these rules and make a recommendation that these are the rules that you would like the Town Board to pass.

David Groskin: Why don't we implement these rules and if they don't like them they can overrule us, that way we at least have rules instead of waiting for a whole bunch of other boards to take their time and review everything.

Jim Steinberg: I think its wrong.

Susan Hawvermale: Okay, someone want to make a motion to have Ken draft these.

**MOTION** made by Karen Ellsweig that Ken Klein, the Planning Board attorney draft the sample that we were given as is, 1 through 16 for our review at next meeting. Seconded by David Groskin. All in favor, aye. Opposed none. Carried.

Steve Budofsky: I just have one question. In that draft when we review it next month, is that open for changes at that time?

Susan Hawvermale: Yes, of course. Okay, on our agenda, we have public comment. It is for agenda items only.

**PUBLIC COMMENT:**

**Richard Robbins:** Restart the clock. My name is Richard Robbins. I am here to speak about items on the agenda. The first I will speak to is a communication, which I am going to let you know that I will respond to that in writing. I'm glad that after 10 months of the boards existence that you are finally undertaking to create rules and procedure. It seems to me that the very lack of those rules is what has lead to the very friction and resistance to public comment that we are hearing in the application and in the request to change the rules as it relates to public comment. I agree with Jimmy wholeheartedly that there should be uniformity in this town and I imagine we will be hearing more about that from the town board. The absence of procedures was particularly stark at the last meeting. I think we all remember the audience member who was referred to in the minutes without a name and the name of that audience member was Aileen Gunther, our local assemblyman who has a great deal of familiarity with public procedures and she seemed nothing less than appalled at how there really weren't adequate procedures that were being followed. I encourage your adopted procedures and I hope you do so with the idea in mind that this board should in fact be user friendly. You are a board that is representing this town. The town are the users. Your not users, the town are the users. Input from the public is mandatory and its well intentioned. The idea of the open meetings law that governs the entire

states is that the public is entitled to make comments on matters that are before the board. They should receive notification of what's going to be discussed. If there is a rule that's being proposed and a draft of the rule is before you that is being kicked back and forth that has happened tonight, there was no notification to anybody that you were gonna consider adopting or modifying another towns rules. It would have been nice to have an opportunity to take a look at them before the meeting so that they could have been commented on. I'm sure there are plenty of people in this room who will have lots of comments to make in respect to the proposals that you discussed here tonight. Public comment at a meeting is good. Judge Kane offered very good sense about a motion that you actually adopted and then unadopted and then readopted with his changes at the last meeting. If he had that in advance of the meeting, he could have commented on it before it was voted, that would have been helpful. The public has useful things to say. It seems to me that what's occurring here is the reaction to the friction that's been created under the very controversial application that has been pending and is a reaction to that as opposed to invoking good public policy and I hope you seriously consider...

Sandi Burke: Time. Sheldon Pasternack.

Sheldon Pasternack: Hi, I'm Sheldon Pasternack and I would just like to say that the last meeting we had here we said that these 40 people who rush to get their letters in to be read, they weren't read and then they said you would have them in 3 days and then I attending the Town Board meeting and then they said you would have them in another few days and I still can't find them and Richard Robbins can't find it on the website. If I'm wrong, I'm sorry, but I tried, he tried and I find that totally appalling. This is ridiculous. These people put their time and effort in and rushed to get it in. Okay. And another thing is that basically the comprehensive plan is probably one of the most important things you should be looking at when you have a special use permit. Everything should be in reference to that because then that would solve a whole bunch of problems that we had previously with the past applicant we're talking about. Okay. I even talked with the Town Board and they said "well its really just a guideline, its not really something you have to adhere to", this is what was said by our Town Board. So what I'm trying to say is that these I think are the most important things to Forestburgh because they outline the best things for the people in Forestburgh to live their life in enjoyment and this should be their #1 goal.

Sandi Burke: Kathryn.

Kathryn Barnhart: Yeah, with regard to rules for public comment. I think that we should be able to comment in the beginning and the end. I don't think we should have to sign in at the beginning because for example tonight, there was no agenda, you don't know as your going through the meeting if you want to comment at the end because of something that happened in the meeting, so having something at the beginning doesn't make any sense. Also, I would like to point out that the county legislature allows for a 3 minute time limit, but allows for the yield. Someone can yield their time and certainly they are a larger body, they have more people, more issues. It works well.

Sandi Burke: That's it for public comment.

David Groskin: One thing I would like to say is that I don't know anyone's name, but what the last lady said about the sign in sheet at the front of the room at the beginning of the meeting, maybe we would be better off putting the sign in sheet in the back of the room and collecting it right before the public hearing starts and then reading off the names so they could speak.

Susan Hawvermale: Where would you put it?

David Groskin: In this particular room, like put it back by that back shelf or something or I don't know. I guess the thing is that they're free to sign in while we're talking.

Sandi Burke: Yes, Kathryn just did that. And even at the last meeting, Susan still let people speak when they didn't sign in.

Susan Hawvermale: Yes, we did.

David Groskin: Well, I think in those set of 16 rules, it states people have to sign in to speak.

Susan Hawvermale: Well we will let Ken go ahead and draft them and we can discuss them when we have them in front of us at the next meeting.

Steve Budofsky: I don't remember anybody being turned down for public comment because they haven't signed in.

Sandi Burke: That's right and unless somebody identifies themselves, I don't know who they are.

Susan Hawvermale: Yes, we need identification.

Jim Steinberg: Why do we have to sign in for public comment? The only time you should sign in is at a public hearing. If you have a public comment before the meeting and after the meeting, if I have something to say at the meeting I should be able to speak without signing in.

Susan Hawvermale: You're allowed to speak. You just did.

Jim Steinberg: Well now your saying you have to sign in.

Susan Hawvermale: We've always done this at the Planning Board. It was in effect at the other Planning Board years ago. Its something we've always done. Its easier for the secretary to put the names into the minutes and also make sure its more orderly and able to call people in order to be able to speak.

Jim Steinberg: So in other words if I come to the meeting late, I can't come up and have a public comment?

Susan Hawvermale: Sure you can.

Jim Steinberg: But you already have the sheet up there?

Susan Hawvermale: People come up late all the time and pick up the agenda, last months minutes, sign the sheet.

Sandi Burke: Didn't you just see Kathryn sign?

Steve Budofsky: I think Susan makes a good point that its orderly, not that somebody can't additionally speak, but if you have an additional 5 or 6 people that want to speak and they're all raising their hands at the same time, then you have to pick one out and you don't remember who you called on before. So, it gives us an idea of how many people would like to, its orderly.

Susan Hawvermale: I was at the Town of Crawford Planning Board last night and you had to stand there and spell both of your names and it just seems easier to sign in. Its sure easier for Sandi and easier process.

Richard Robbins: Why not make it a permissible? People may sign in so that you don't have to then start violating your own rule by observing people who haven't signed in that they get to speak?

Susan Hawvermale: We haven't done any rules yet. We've discussed it. We are going to draft a resolution. We've already done the motion for the resolution to include every single point that's in the Town of Delaware resolution.

Gene Riponi: Prior to being on the Town Board, I was on the Planning Board and I have yet to see a time where people had to come up and sign in only (inaudible). Now, what your trying to propose here is overkill. You're really being ridiculous. The Town Board has a set of rules. Did you ever look at the Town Board rules? Why would you look at the Town of Delaware rules when you didn't even look at the Town Board rules?

Susan Hawvermale: My understanding is the Town Board doesn't have any rules in regards to public comment here in Forestburgh.

Gene Riponi: So this is all because of public comment? And that was the Town of Delaware's Town Board rules and regulations, correct?

Susan Hawvermale: Yes.

Gene Riponi: Not even the Planning Board, but the Town of Delaware's Town Board rules and regulations.

Susan Hawvermale: This is correct. The motion has been made. We are going to have a draft resolution brought forth at the next meeting. We will discuss it at that particular point to see if there are any things we want to change. You (Gene Riponi) and I were not on the Planning Board at the same time.

Gene Riponi: Correct.

Susan Hawvermale: You preceded me.

Gene Riponi: Of all the times I was on that Planning Board, never did we ever not allow somebody to speak. As long as I've been on the Planning Board and the Town Board, I've not seen that happen. It was always allowed in this town. Now all of the sudden you want to stop that. Why don't you go by past practices.

Susan Hawvermale: We are making our own way here.

Gene Riponi: Oh okay, that's why they got rid of the last Planning Board.

Sally Jasuta: My husband and I moved here in 2006. We picked Forestburgh because we thought it was a town that got along. It was peaceful and tranquil. However, what has been going on here in the last 5 months is beyond the pale and everyone in this room is an adult. Everyone that is at every other meeting are adults and there is a lot of bickering going on because of this political season. People are bitter because they were taken off a committee and someone else was put on a committee. Get over it. Get over it. Its 2015, its a new century. You're gonna chase the people out that want to live here. We are already looking to move. We pay our taxes. We're peaceful. We keep our house up. Its really shameful. The way that people speak to them (the Planning Board) is disgusting. If you have something to say, say it nicely. Bring it up nicely. Its not like its their fault that they purposely did it to you. I mean, I just can't stand it anymore.

Susan Hawvermale: Any other public comment? Alright, I am closing public comment.

### **OTHER BUSINESS:**

Susan Hawvermale: Steve, you had something you wanted to mention?

Steve Budofsky: Yes, I do have a followup issue that I brought up a couple of months ago at the Planning Board meeting. I recently got some information from the New York State Attorney General's Office who has advised and encouraged that an official complaint be submitted by this Planning Board for the purpose of initiating an investigation of ASTI's activity regarding the potential for false advertising and consumer fraud and this is based upon the fact that with no evidence.

Susan Hawvermale: We said because its not on the agenda... Ken?

Ken Klein: Uh, its up to you guys, but I don't know where Steve's going with this.

Steve Budofsky: Okay, I will just read it and then we can....this is based upon the fact that with no evidence of a lease or a title to the property at 80 Tannery Road that the potential for false advertising and consumer fraud does indeed exist. ASTI has so confirmed to this board and has advertised to the public for months that they have a field office located at 80 Tannery Road here

in Forestburgh. No such field office exists and no permit has been issued to ASTI, which would allow them to conduct business at a field office at that site. They have been advertising their field office location at 80 Tannery Road as part of a campaign to sell memberships with costs of up to \$20,000.00. Consumers are therefore vulnerable to being persuaded into a commercial transaction that they might otherwise avoid. When I questioned ASTI at a prior Planning Board meeting regarding their legal right to advertise 80 Tanner Road as their business office location, the issue was dismissed. No evidence was provided to this board in order to show that they had a legal interest in the property that would allow them to claim it was theirs. So, I move that if no evidence exists that ASTI has a legal interest in the property at 80 Tannery Road, Forestburgh New York by September 30, 2015, that we declare the application from ASTI as denied on October 1, 2015.

Susan Hawvermale: Ken?

Ken Klein: I don't know what the legal basis would be to do that.

Richard Robbins: How can they have an application before the board if they don't hold the property?

Ken Klein: People do it all the time. Most people don't even close on a property until they know they can build.

Richard Robbins: But the agreement would be they would expire on September 30, 2015...

David Groskin: Their false advertising has absolutely nothing to do with this board.

Steve Budofsky: How can you say that it has nothing to do with us if its part of their application, which it is and the AG's office has confirmed that that is an issue of concern.

Karen Ellsweig: How are we harmed?

Steve Budofsky: Well the fact that you have an applicant that is potentially committing fraud that's part of the application, does that not reflect on the Planning Board?

David Groskin: That has nothing to do with us.

Ken Klein: Steve, if you feel that they are committing an illegal act, then I suggest that you refer that to the appropriate authorities that would have enforcement power over it. The Planning Board doesn't have enforcement power to deal with any act of false advertising that you claim or assert they might be engaging in.

Steve Budofsky: Well the recommendation was that the Planning Board file the complaint. This was someone at that office.

Ken Klein: Based upon what? The Planning Board never said they talked to the Attorney General's office, at least as far as I was concerned.

Steve Budofsky: Well now that's what I'm asking.

Ken Klein: Well, who communicated with the Attorney General's office?

Steve Budofsky: I did.

Ken Klein: On your own?

Steve Budofsky: Based upon that.

Ken Klein: Well, if you want to pursue that on your own, you do it on your own.

Karen Ellsweig: Not as a Planning Board member.

Sheldon Pasternack: He's a representative of the Planning Board and the Planning Board has a huge issue with this because if they are advertising.

David Groskin: No, no, no, no, no, public comment is over.

Susan Hawvermale: Your right. ASTI is not here. They are not on the agenda. We have no viable application in front of us. They are tabling their application. They're attorney is not here to defend them.



Steve Budofsky: They had an opportunity to defend it when I brought up the issue and they dismissed it, so that's why I called. (inaudible, more than 3 people speaking at once).

Susan Hawvermale: At this point, it is invalid.

Steve Budofsky: Okay, I just wanted to bring up the issue and relay what information was passed on to me from that office.

Susan Hawvermale: Any other business? Motion to adjourn?

**ADJOURNMENT:** Meeting adjourned at 8:48 p.m.

**UPCOMING MEETINGS:**

- October 27, 2015
- November 24, 2015
- December 22, 2015

Respectfully submitted by

Sandi Burke  
Planning Board Secretary