

**\*\*\*\*DRAFT\*\*\*\***

The Town of Forestburgh Town Board held their regular monthly meeting on **Thursday, January 5, 2012** at the Town Hall.

Supervisor Sipos called the meeting to order at 7:32 p.m.

Roll Call: Present – William B. Sipos, Supervisor  
Eugene D. Raponi, Councilman  
John W. Galligan, Councilman  
Michael Cregan, Councilman

Absent – None

Recording  
Secretary – Joanne K. Nagoda, Town Clerk

Others  
Present – William D. Bavoso, Attorney for the Town  
Daniel Hogue, Highway Superintendent

**REPORTS –**

Supervisor Sipos submitted the financial report for the month of December 2011.

Justice Carroll submitted a report of court fines and activity for November 2011.

Town Clerk, Joanne Nagoda submitted a report of clerk fees and activity for the month of December 2011.

**PUBLIC COMMENT –**

Mary Ann Toomey – There are several senior citizens who are upset about the burglaries and some of them are way up in age. Supervisor Sipos stated he has information about this which he will share when we get that far on the agenda.

Dan Hogue, Sr. – A few months ago you asked to be told if any street lights were out, well the one right here in front of the town hall is out. Supervisor Sipos thanked Mr. Hogue.

Peggy Abdo – I just wondered about this waste fee on the bills? What is that? It was responded that it was the county tax bill - \$350.00 each for two buildings – the solid waste fee for the landfill.

Rich Feller – Just a quick comment/question on the Lost Lake Transportation Corporation and the firearms local law, what's your plan of action – just so I know if comment should be made. Supervisor Sipos stated that we are currently reviewing the documentation on Transportation Corporation and our consultant has not given us his comments yet. As for the firearms local law, I brought this up at the last meeting. There was an individual that attended a public hearing, the one for Lost Lake Phase One, and a hand gun fell out of the individuals pocket and landed on the floor. That is where that is coming from.

Jim Steinberg, Sr. – What are you going to do about that? The firearms law? Supervisor Sipos stated they would like to adopt a local law where hand guns would be banned on all town properties. Mr. Steinberg asked if that meant he couldn't have his gun in his car and travel the town roads? Attorney Bavoso stated no, it would be all town buildings/facilities. Mr. Steinberg countered that you are taking away everyone's second amendment rights. Even if they are legally licensed? You are taking away our second amendment rights. Attorney Bavoso stated that the town has the right under the laws of the State of New York, to have custody and control of town property and can ban fire arms except for law enforcement officers, judges. Councilman Galligan stated there will be a public hearing and everyone will have their say.

Dan Hogue, Jr. – I drive the town pick up and I deem that as town property, correct? Attorney Bavoso replied yes. Mr. Hogue continued that occasionally I get nuisance permits from the DEC to eradicate beavers that are creating things that block drainage pipes and such. With a DEC permit and a legally licenses hand gun holder, would that be subject to it? Attorney Bavoso stated the town board could make that an exception.

**MINUTES** – Town Clerk, Joanne Nagoda submitted minutes of the regular November 3, 2011 town board meeting, the budget workshop of November 9, 2011, the Public Hearing on the budget of November 15, 2011, the November 21, 2011 Public Hearing on Lost Lake Phase One and the December 1, 2011 regular town board meeting for review. MOTION by Councilman Creegan, seconded by Councilman Raponi to accept all sets of minutes. Vote: 4 ayes – 0 nays. Motion carried.

**GENERAL FUND VOUCHERS** - #309 – 312 (2011) and # 1 – 6 (2012) in the sum of \$4,584.60 as set forth in abstract # 1 of 2012 were audited for payment. MOTION by Councilman Galligan, seconded by Councilman Creegan to pay general fund vouchers with the exception of the voucher for \$700.00 to the tax collector for the Sullivan County Solid Waste User Fee. Vote: 4 ayes – 0 nays. Motion carried. MOTION by Councilman Galligan, seconded by Councilman Creegan to authorize the Supervisor to appeal the solid waste user fee with the County of Sullivan. Vote: 4 ayes – 0 nays. Motion carried.

At this point Councilman Raponi stated that we are dealing with matters that a full town board should be dealing with. MOTION by Councilman Raponi to appoint Lynn McDonald to the Town Board to fill the vacancy created by now Supervisor Sipos.

Supervisor Sipos asked for a second from the board and repeated Councilman Raponi’s motion. Discussion was held for the length of the term. It was determined that the appointment would be until the end of this calendar year and the person appointed would have to run for election for the remainder of the term. They would run this November for the unexpired term and then again next November for a full term.

Councilman Galligan made the statement that he was never a part of any deal with any person or group to appoint anybody to anything. Never has and never will. Supervisor Sipos stated that he attested to that and he’s made it quite clear. However, we are sitting here with a seat that needs to be filled.

No second to Councilman Raponi’s motion was received.

At this point, Councilman Creegan stated that he has somebody in mind to fill the vacancy. It has nothing to do with party lines at all. This person is involved in the community and is here tonight, and someone I think would be a great asset to the board.

MOTION by Councilman Creegan, seconded by Councilman Galligan to appoint Susan Parks Landis to fill the vacancy created by the election of Councilman Sipos to Supervisor.

Vote:

Councilman Raponi voting nay;

Councilman Galligan voting aye;

Councilman Creegan voting aye;

Supervisor Sipos voting aye.

Vote: 3 ayes – 1 nay. Motion carried.

At this time, Mrs. Parks-Landis took her seat on the dais, took her oath of office and Supervisor Sipos returned to the meeting in progress.

**HIGHWAY FUND VOUCHERS** – None submitted.

**ESCROW FUND VOUCHERS** – None submitted.

**COMMUNICATIONS** –

Clerk, Joanne Nagoda read a letter to the town board stating that there is the possibility of the town planning board being dissolved and a new board appointed in six months. They want it to be known that as Forestburgh residents, it is their desire to see a board made up of a diverse group of people. They understand that the town has various interests to consider, those of the both developers and those who want to retain a measure of small town feel. They

want to make sure that all points of view are considered by the new planning board so that thoughtful and fair decisions will be made that have the best interest of Forestburgh at heart. They dearly love Forestburgh and treasure the friendships they have made here and plan on being around for a very long time and look forward to the next phase of the town's planning and growth. Sincerely, Chuck Vassallo and Gifford Booth.

#### UNFINISHED BUSINESS

**ZONING REVIEW** – Attorney Bavoso stated that there was never a vote by the town board to continue or extend the contract, so I don't see how the town can pay the bill of Barton & Loguidice. Discussion was held with regard to what exactly the town was being billed for and discussed having Mr. Voss attend a meeting to clear this matter up. MOTION by Councilman Creegan, seconded by Councilman Galligan to authorized the Supervisor to invite Mr. Chuck Voss of Barton & Loguidice to attend the February 2<sup>nd</sup>, 2012 Town Board meeting. Vote: 5 ayes – 0 nays. Motion carried.

#### NEW BUISNESS

**SMOKE FREE PLAYGROUND/GROUNDS** – Supervisor Sipos stated that we received from the Rural Health Network on behalf of the Tobacco Coalition of Sullivan County requesting that all towns that have a community park or playground make them smoke free.

#### Young Lungs At Play 2011 Resolution

WHEREAS, smoking is responsible for the premature deaths of over 400,000 Americans EACH YEAR from lung cancer, heart disease, respiratory illness and other diseases and

WHEREAS, to help role model non-smoking behavior to children and youth of our town and to provide the youth and their families with a safe, smoke-free environment

WHEREAS, secondhand smoke is responsible for over 50,000 deaths among nonsmokers each year and 2006 Surgeon General's report states that evidence indicates there is no risk free level of exposure to secondhand smoke

WHEREAS, everyday and estimated 4,000 young people under the age of 18 try their first cigarette and one third will die prematurely from tobacco related illnesses and

WHEREAS, smoking kills more Americans each year than alcohol, illegal drugs, AIDS, car accidents and murders and suicides COMBINED

WHEREAS, cigarette filer litter is not bio-degradable (plastic cellulose) and litter clean up costs taxpayer money, has environmental consequences and litter in the community decreases property values 7%

THEREFORE, FROM THIS DAY FORWARD THE PLAYGROUND AREAS LOCATED AT 332 KING ROAD under the direction and oversight of the Town of Forestburgh are duly designated as a TOBACCO FREE ZONE.

MOTION by Councilwoman Landis, seconded by Councilman Raponi to adopt the smoke free playground resolution and include the entire town hall area, pool and playground except within personal vehicles. Vote: 5 ayes – 0 nays. Motion carried.

Richard Feller stated that if you are going to adopt a policy there is usually an enforcement policy and a penalty for violation. Supervisor Sipos stated they will start by placing signs. Attorney Bavoso stated if you adopt this as a local law with the other policy he provided this evening; we can add a penalty section. For now this resolution is fine, we can add everything to the policy local law including firearms, alcohol and other things not permitted on town property.

**LOST LAKE TRANSPORTATION CORPORATIONS** – Supervisor Sipos introduced Dominic Cordisco, Attorney for Lost Lake. Mr. Cordisco stated that they have submitted documents to the town creating “back up”

water and sewer districts, solely for the Lost Lake property. It would be there to enable the town to collect taxes and fees in connection with the water and sewer districts only in the event that the town would take over the water and sewer treatment plants. That is not the plan, the intent, that is not how we set it up. It's here and it avoids a great deal of heartache and troubles to try to create districts in the future when you actually have residents out there. It's just the creation of a district that is not used because there are no expenses to the town for running those systems while Double Diamond is running them. The process entails scheduling a public hearing and the purpose of that public hearing is typically to hear from people that could be affected by the district. In the unlikely event that the town had to take over the systems in the future, and I think that is highly unlikely, the only people that would end up paying for water and sewer service would be the residents of Lost Lake. That is the purpose of all of this, so that no other resident of the town has any increased cost to anything for the Lost Lake project. We are asking you to schedule a public hearing so that we may go through the legal steps we have to go through to put these districts in place. Superintendent Hogue stated that he hasn't seen any detailed drawings, but if they propose any sort of curbing in there or if it's going to be a basic roadway with shoulders and ditches, If curbing is included, I would ask the board to consider a curbing district. They can be expensive to maintain if the town has to take them over. Possibly even a drainage district if there is anything there that the town could have to take over in the future. You never know what is going to happen fifty or sixty years down the road. The town could be liable for all of the roads and everything in there. I don't know if you can do a highway district, but I know you can do a curbing and drainage district. Mr. Cordisco stated he didn't know, but the town can certainly request those districts as well. Jim Steinberg added that there should also be a lighting district also. If the town does take it over, why should all of the taxpayers pay for the street lighting in that district also.

**MOTION** by Councilman Creegan, seconded by Councilman Raponi to schedule a public hearing for the Lost Lake Transportation Corporation on Thursday, February 2, 2012 at 7:00 p.m. in the town hall. Vote: 5 ayes – 0 nays. Motion carried.

**DEFERRED COMPENSATION** – Clerk, Joanne Nagoda explained to the board the deferred compensation plan must be overseen by the Supervisor, in light of the fact that we have a new Supervisor, I need a resolution authorizing him to oversee the plan. **MOTION** by Councilman Creegan, seconded by Councilman Galligan authorizing William B. Sipos as Supervisor to oversee the deferred compensation plan along with Town Clerk, Joanne Nagoda. Vote: 5 ayes – 0 nays. Motion carried.

**HIGHWAY MATTERS** – Superintendent Hogue stated that has been past practice, a small sand pile has been placed outside of the gate at the highway department for residents to use for non-commercial use during inclement weather. Secondly, I ask to not be re-appointed as the director of house and grounds for the upcoming year. My primary title as Highway Superintendent takes precedent over all else. I find it difficult to dedicate the time and coordinate the resources for the proper upkeep and maintenance of house and grounds that I feel it requires to provide the best for the taxpayers. I will continue to lend a helping hand when I can.

**APPOINTMENTS** – In error, Carl Amaditz's appointment to the Board of Assessment Review ended in September, it was an oversight that he was not reappointed. Town Clerk, Joanne Nagoda and Supervisor William Sipos request being appointed marriage officers for the town of Forestburgh with no additional compensation. **MOTION** by Councilman Raponi, seconded by Councilman Galligan to appoint Carl Amaditz to the Board of Assessment Review, and further appoint Joanne Nagoda and William Sipos marriage officers with no additional compensation for a term ending December 31, 2012. Vote: 5 ayes – 0 nays. Motion carried.

**LOCAL LAW # 1 OF 2012** – Attorney Bavoso presented to the town board a proposed local law, Local Law # 1 of 2012, a local law abolishing the Planning Board in the Town of Forestburgh and authorizing the members of the Town Board of the Town of Forestburgh to assume the functions, power and duties of the town planning board. Discussion was held to procedure for adoption and available dates for a public hearing. **MOTION** by Councilman Creegan, seconded by Councilwoman Landis to hold a public hearing on Local Law # 1 of 2012, abolishing the Town of Forestburgh Planning Board on Monday, January 23, 2012 at 7:00 p.m. in the Town Hall. Vote: 4 ayes – 1 nay. Motion carried.

**FIREARMS – LOCAL LAW** – Attorney Bavoso stated he did not feel that the town board should do anything with this, because you haven't seen it yet. This is a proposed Local Law that would encompass certain restrictions

the use of town property. You may wish to add to it, such as the smoking ban, or anything else you may want to add or delete. Matter tabled.

**DIRECTOR OF PURCHASING** – Attorney Bavoso stated that is a resolution that we had proposed because the state law permits you to do this by resolution, what this does is, it establishes the position. You would have to create a job description and make an appointment to the position. Superintendent Hogue stated this is the fourth time this has come up in my seventeen years. I have done loads and loads of research on it. First of all from August to November this board said we had no money to do anything. This was not a budgeted item in the budget, there are no appropriations for it. You read all over the state they are downsizing government, this is adding another layer. Have any of you reviewed the job description of purchasing agent or director of purchasing? Well, I did. It's pretty intense, here are the highlights they have the authority to find the cheapest price, not what gets purchased. This is from New York State Civil Service law which the town is subject to, and so is the County, and the county certifies our payroll. Some titles are competitive some are not. If it's competitive, it's a tested position. People take the civil service test and the town is obligated to choose from the list of those who have passed the test of the top four. For a purchasing agent is a good knowledge of practices and procedures for large scale purchasing. Forestburgh doesn't even qualify for large scale purchasing. Must be able to write specifications and have a good knowledge of business, arithmetic and English. The ability to supervise and work with others, ability to compile information and bid specifications. Minimum qualifications: graduation from a NYS or regionally accredited college or university with a bachelor's degree in business administration, accounting or related field AND one year full time paid experience which shall have involved large scale purchasing activity. Those are the qualifications for this job. The Town of Forestburgh is not exempt from hiring someone with those qualifications. It is a competitive position. There is no town or county in New York State that has the title of non-competitive purchasing director. If you create the position this is what you must go by. In order to create a non-competitive position, so someone wouldn't have to take the test, the town would have to request from the county a non-competitive position and they would have to send it to Albany. Albany would review it, hold a public hearing and make a determination whether or not to create the position. I don't know if the board was aware of any of this. I am totally opposed to it, it's another layer of government. If any board member thinks something is wrong or inappropriate going on in town, I'd like to hear about it. Ninety percent of the stuff we buy is off of State, County or Town bid. We can't afford it. That's just my opinion. Councilman Galligan asked Attorney Bavoso to comment on the specifications. Attorney Bavoso stated that the resolution that was prepared was to create the position pursuant to Section 23(e) of the Town Law of the State of New York. The resolution also provides that after this is passed to create the position, the town board will create a job description with will set forth his or her duties. If you create the position, you would then, I assume, go to the director of personnel for the county to see what job descriptions they have. Using Dan's research, if you want to get it as a non-competitive position, you would have to decided if you want to petition the State for that determination. Once you have all of that in place, you would then make an appointment. The third alternative would be to withhold passing the resolution at this point until you reviewed the job description and spoke with the director of personnel for the county. Councilman Raponi stated that he is opposed it. Councilman Galligan stated that he has been in favor of this for quite some time. Councilman Creegan stated that in light of what Dan brought up, I think we should table this matter and do more research into this. I'm not sure what position I am taking on this right now. Councilwoman Landis stated that she agreed with Councilman Creegan. Matter tabled.

**BURGLARIES** – As you are all aware, most of us were stopped today going to and coming from town. The Sheriff's Department and the State Police have informed us that there is a rash of burglaries in the area. It is a little blue-ish/grey small car with an exhaust that hangs. The other one is a tan-ish in color suburban type vehicle, so if you see anything, please take down a plate number, call the Sheriff's Department or the State Police. Most of the burglaries, from what they have told me, are occurring during the day time. We will put this on the website and in the newsletter.

**BOARD VACANCY** – That has been filled, however, Councilwoman Landis, you will have to submit a formal written resignation from your seat on the Zoning Board of Appeals.

**COMMITTEE REPORTS** –

Planning Board – no report.

Historian – filed.

Building Inspector – no report.

Seniors – no activities until April.

Green Committee – lighting upgrade is now complete.

Forestburgh Day – August 11, 2012 – there is a meeting Monday night, January 9<sup>th</sup> at 7:00 p.m. in the town hall.

#### **PUBLIC COMMENT –**

Richard Feller – With regard to the firearms, and not with what is happening here, with the first and second amendment, there are restrictions, they are not open ended. The one thing that I have raised in the past and there are new people on the town board and they need to be made aware of this also. The “shoot ‘em up” that is continuing at the gravel bank on Cold Spring Road. Besides it being a noise nuisance to the residents in that area, it has been, still is and is only going to get worse, with regard to an environmental issue, with the amount of rounds and the amount of lead that is being deposited in that place. I urge you again, do what you can with the DEC because they are in control of that property, I spoke with a DEC officer who lives down that way months ago, he said all he can do, they created regulations where people were bringing in microwave ovens and everything else to shoot at, so they created a regulation that you can only shoot at paper targets. But that is not enough, there is still pounds and pounds of lead that is left some evenings and most weekends. It’s even going on this time of year, and I thought it would stop. In the last couple of years, I would guess that there are tons of lead that has been deposited in that gravel bank, only to the detriment of the aquifer, the creek and while we are talking about it, this is the aquifer that Lost Lake is tapping into. This is a real problem that the DEC needs to resolve. Anything you can do or get them to move on will be greatly appreciated. Superintendent Hogue stated that it sounded to him like the DEC authorized a rifle range down there. Ask the DEC for a copy of their management plan for their shooting range. Attorney Bavoso stated that a meeting with the DEC should be requested to find out what is going on. Mr. Feller stated that if you asked the DEC how much lead are people allowed to dump there, I’m sure their response would be they aren’t allowed to dump any lead there. Councilman Galligan stated the property is a disgrace, someone picked up about five bags of garbage from around there and left them there and I picked it up. When I was there, I walked down there the place is an absolute disgrace. It’s a garbage pit besides lead. Supervisor Sipos asked Attorney Bavoso to write a letter to the DEC and schedule a meeting so we can walk through this together and see what we can do.

Mary Ann Toomey – Several months ago I delivered a stack of papers to Susan, who in turn gave them to Bill about fire arms on St. Josephs Hill. Nothing happened about that either. Supervisor Sipos stated he wasn’t aware of anything on the hill. Attorney Bavoso stated that he would check his records, but he has nothing about St. Josephs Hill. Ms. Toomey continued that it was about fire arms being fired at people’s houses. Attorney Bavoso stated yes, he did have paperwork on that. Councilman Galligan stated that has been going on for thirty years. Attorney Bavoso stated that there are DEC regulations on fire arms and penal law on the discharge of fire arms. It’s not something the town can enforce, we don’t have a police department. Superintendent Hogue stated that he believed that is a registered range. Ms. Toomey stated if it’s registered then it has to have standards. Discussion was held to post the regulations in the newsletter.

Dan Hogue, Sr. – With this planning board thing. You are going to have a public hearing on the 23<sup>rd</sup> or the 24<sup>th</sup>, why so quick? Why don’t you let the public get a chance to find out about it. A lot of people might want to come down here and comment on it and you are not giving them time to even find out about it. I’d like to see a hearing in February and a vote on it in the March meeting. I know it’s not going to go anyplace, but that is my feeling. There are a lot of people in town who think the planning board should be kept in place. The second thing is, with this purchasing agent, I asked you last meeting if you had to hire somebody, and you said you were looking into it. Well, as of tonight, you’re going to have to hire somebody. I heard, like everybody else from August to September that there was no money anywhere, and then you’re talking about security measures where you’re going to get camera’s and lights, which I feel very strongly about because you have employees who are unprotected and female. With what’s going on in the country today, it’s not safe for them. But, what’s the reason to have a purchasing agent? With such a small budget, you don’t need it – why do you want it? Can you tell me that? Councilman Galligan stated that our budget is 900,000.00 and that is a lot of money to spend. Mr. Hogue asked is somebody stealing in this town? Councilman Galligan stated of course not, they can get better buys that’s all. Councilman Hogue asked Clerk Nagoda if she purchases off of state bid, to which she replied no. Mr. Hogue asked if we were getting “kick back” from Kristt. Clerk Nagoda replied that we usually order through Quill, and no, no “kick back’s” are being received. Mr. Hogue then asked Supervisor Sipos why do you need it? Supervisor Sipos replied that we are just looking into it. Mr. Hogue stated that’s a good answer.

George Baran – When you look at a purchasing agent, look at what you are going to pay him to offset your savings. Remember, there are people that didn't get raises in town this year.

**EXECUTIVE SESSION** – MOTION by Councilman Creegan, seconded by Councilman Galligan to enter into executive session for the matters of personnel and invite Superintendent Hogue and Attorney Bavoso into said executive session. Vote: 5 ayes – 0 nays. Motion carried.

MOTION by Councilman Galligan, seconded by Councilman Creegan to reconvene into regular session. Vote: 5 ayes – 0 nays. Motion carried.

**ADJOURNMENT** – MOTION by Councilman Creegan to adjourn at 9:07 p.m.

Respectfully submitted,

Joanne K. Nagoda,  
Town Clerk