

*******DRAFT*******

The Town of Forestburgh Town Board held its regular monthly meeting on **Thursday, January 7, 2010** at the Town Hall.

Supervisor Galligan called the meeting to order at 5:30 p.m.

Roll Call: Present – James P. Galligan, Supervisor
John W. Galligan, Councilman
Eugene D. Raponi, Councilman
Michael Creegan, Councilman

Absent – William B. Sipos, Councilman

Recording
Secretary – Joanne K. Nagoda, Town Clerk

EXECUTIVE SESSION – MOTION by Councilman Creegan, seconded by Councilman Galligan to enter into executive session for the purpose of union negotiations. Vote: 4 ayes – 0 nays. Motion carried.

MOTION by Councilman Raponi, seconded by Councilman Galligan to reconvene at 7:00 p.m.

Roll Call: Others Present – Dan Hogue, Highway Superintendent,
William D. Bavoso, Attorney for the Town
Richard Lorino, Code Enforcement Officer

REPORTS –

Supervisor Galligan submitted the monthly financial report for December 2009.

Town Clerk, Joanne Nagoda submitted a monthly report of clerk fees and activities for December 2009.

Justice Carroll submitted a justice court activity report for November and December 2009. Justice Olesnycky submitted a justice court activity report for December 2009.

PUBLIC COMMENT – None.

MINUTES – Town Clerk, Joanne Nagoda submitted minutes for the regular monthly meeting of December 3, 2009, a special meeting of December 14, 2009 and the year end meeting of December 28, 2009 for review. MOTION by Councilman Creegan, seconded by Councilman Raponi to accept all three sets of minutes. Vote: 4 ayes – 0 nays. Motion carried.

GENERAL FUND VOUCHERS - # 418 – 424 in the sum of \$3,491.99 as set forth in abstract # 14 for 2009 were audited for payment. Vouchers # 1 – 6 in the sum of \$3,980.19 as set forth in abstract # 1 of 2010 were audited for payment. MOTION by Councilman Raponi, seconded by Councilman Creegan to pay all general fund vouchers for 2009 and 2010. Vote: 4 ayes – 0 nays. Motion carried.

HIGHWAY FUND VOUCHERS - # 1 – 4 in the sum of \$970.74 as set forth in abstract # 1 of 2010 were reviewed. MOTION by Councilman Raponi, seconded by Councilman Galligan to accept the highway fund vouchers. Vote: 4 ayes – 0 nays. Motion carried.

ESCROW FUND VOUCHERS - #1 – 3 in the sum of \$4,133.73 as set forth in abstract # 1 were audited for payment. MOTION by Councilman Raponi, seconded by Councilman Creegan to pay escrow fund vouchers. Vote: 4 ayes- 0 nays. Motion carried.

COMMUNICATIONS –

Town Clerk, Joanne Nagoda read a letter from Margaret Abdo offering five dollars for the computer desk that was deemed surplus equipment in November. MOTION by Councilman Galligan, seconded by Councilman Raponi to accept Mrs. Abdo's payment of five dollars for the computer desk. Vote: 4 ayes – 0 nays. Motion carried.

Joanne also read a letter from Planning Commissioner, Luiz Aragon to Planning Board Chair, Susan Hawvermale thanking her for her participation in the Economic Development Charrette held at Bethel Woods.

An e-mail was received from Justice Olesnycky outlining how he will handle the prosecution of Vehicle and Traffic Law tickets since the District Attorney's Office will no longer prosecute them.

Joanne then read the outline of the schedule of events for the Annual Meeting of the Association of Towns being held in Manhattan on February 14 -17, 2010.

Lastly, a notice of Public Hearing was read that will be held on Wednesday, January 13, 2010 at 7:30 p.m. in the Town of Thompson Town Hall for the proposed Birchwood Estates for a 70 Unit cluster development with related recreational facilities on Sackett Lake Road and Rod & Gun Club Road.

UNFINISHED BUSINESS

FALLS AT BLACK CREEK – Planning Board Chair, Susan Hawvermale stated that she had seen Shalom Lamm, the developer for the Falls at Black Creek at the charrette at Bethel Woods, and he informed her that Tannery Road would not work as an entrance to the Falls at Black Creek, and that we have not heard from them because they are re-doing their plans and they don't know when they are going to have another entrance option for them to present to the Town Board.

DOUBLE DIAMOND/LOST LAKE – We are waiting for the re-submission of their Draft Environmental Impact Statement (DEIS), it is our understanding that we should have it sometime around the middle of this month.

BILLECI BARN - Attorney Bavoso stated that he had spoken to Mr. Billeci's attorney today, as the last thing in Attorney Bavoso's file is dated November 30. Discussion was held to give Mr. Billeci more time, as we have quotes to remove the barn. Councilman Galligan reiterated that he is not in favor of tearing the barn down. Attorney Bavoso will send a letter to Mr. Billeci's attorney telling them to do something before the February meeting. Matter tabled.

TOWN GARAGE ENERGY AUDIT – Superintendent Hogue asked if Engineer Gottlieb has reviewed the energy audit report, since he would be the one to draw up the specs for the project. Engineer Gottlieb has not reviewed the report. Joanne Nagoda will forward the report to Engineer Gottlieb for review and discussion. Matter tabled.

RIGHT TO FARM LAW – Attorney Bavoso had presented to the Board a proposed copy of the Local Law # 1 of 2010 repealing the Right To Farm law. Supervisor Galligan requested a public hearing date to hear what the public has to say with regard to this legislation. MOTION by Councilman Galligan, seconded by Councilman Raponi hold a public hearing on February 4, 2010 at 7:00 p.m in the Town Hall. Vote: 4 ayes- 0 nays. Motion carried.

CATSKILL COUNTRY ESTATES – In everyone's file is a letter from Engineer Gottlieb to the DEC with regard to the deck that was built. Councilman Galligan asked what the protocol is and why the Town Board was not aware that this correspondence was being sent. He questions if the Planning Board requested/directed Gottlieb to write to the DEC, he wondered if the Town Board should have seen it before it was sent. Attorney Bavoso agreed that since the Town Board holds the bond on this issue, they should have been aware of this.

NOISE ORDINANCE – Supervisor Galligan stated that this ordinance was requested by several people, but they are extremely difficult to enforce, and we can't enforce ordinances for or in other towns. Discussion was held with regard to enforcement and if we in fact really need one. Matter tabled.

TREE REMOVAL CONTRACT – Attorney Bavoso has previously sent contracts to On Time Landscaping for removal of the tree in the cemetery, the contracts have never been signed or returned. Supervisor Galligan contacted

Mr. Howell who stated he can't do the job until the end of April. MOTION by Councilman Galligan, seconded by Councilman Raponi to have Attorney Bavoso send a new amended contract to Mr. Howell giving him until May 31, 2010 to remove the tree from the Forestburgh Cemetery. Vote: 4 ayes – 0 nays. Motion carried.

FEES AND FINES – We are still reviewing those, we received fee schedules from other towns and are still reviewing them. Matter tabled.

JUSTICE COURT RENOVATIONS – Supervisor Galligan stated that we have received another bid for the Justice Court renovations, from his nephew. Town Clerk, Joanne Nagoda stated she had the bid and was not accepting it. This renovation had been published and posted twice, and a quote was received according to those guidelines. The Board must either accept the previously received bid or throw all of them out and re-bid the project. Matter tabled.

EMERGENCY SERVICES CONSULTANT – Supervisor Galligan stated that our consultants, C.T. Male are putting together a meeting with the emergency services consultant. We would like to make this a joint meeting with both the Planning Board and Town Board, when we have more information, we will schedule this. Matter tabled.

INSURANCE – Supervisor Galligan stated that we are joined by two individuals representing two insurance companies, as our insurance expires in February. We have a representative from Gersten-Hillman Agency, our current insurance broker and Scott Liebert of CLG Insurance. We will not be making a decision tonight as there is a lot of information to review.

Scott Liebert thanked the Board and introduced himself to the Board. Mr. Liebert gave a brief overview of his company and the other municipalities that they insure. Mr. Liebert distributed to the Board a list of other municipalities insured by CLG Insurance and then provided the Board a proposal from New York Municipal Insurance Reciprocal (NYMIR). Mr. Liebert proceeded to review the proposal from NYMIR.

Anne Backlund of Gersten Hillman Agency greeted the Board and stated that she had submitted the proposals earlier via e-mail, which Joanne has printed and distributed to the Board. Ms. Backlund reviewed her proposal with the Board leading with our current carrier, Selective Insurance and a new aggressive quote from Houston Casualty. MOTION by Councilman Galligan, seconded by Councilman Creegan to hold a special meeting on Wednesday, January 13, 2010 at 4:00 p.m. in the Town Hall subject to review insurance coverage's and any other matter that may come before the Board. Vote: 4 ayes – 0 nays. Motion carried.

NEW BUSINESS

FORESTBURGH CEMETERY – Supervisor Galligan informed the Board that in their files, they have copies of a letter from former Supervisor Sipos, with regard to the Forestburgh Cemetery. Mr. Sipos has been in touch with Joe Kenny and the Cemetery Division of the State. Discussion was held on if we are in fact the owner of the cemetery, solely by our virtue of maintaining it, and available plots, forming a cemetery committee, ground availability. Matter tabled for review of options.

TAX BILLS – SOLID WASTE USER FEE – All Board members have received a copy of a voucher in the amount of \$1,500.00 total for solid waste user fees. Everyone also has a press release from the County outlining some of the “glitches” in the new user fee/solid waste program. They will be exempting cemeteries and other things from the fee. We will have to see how the County gets this fixed. Matter tabled.

REQUEST FOR PROPOSALS – ZONING CONSULTANTS – Previously we received quotes to re-write our zoning and subdivision regulations. After a review, we really just need some corrections and to compare these to the new code for conflicts. MOTION by Councilman Galligan, seconded by Councilman Creegan to advertise a Request for Proposals to review and review our zoning and subdivision regulations with proposals received by February 3, 2010. Vote: 4 ayes – 0 nays. Motion carried.

RETIREMENT REPORTING REGULATIONS – Everyone has in their packet the new regulations for the new reporting regulations for the retirement system. Those who are members of the system have to document for three months the amount of hours you work. The Board will have to establish a work day and the retirement system will determine the amount of credit you will receive. Matter tabled.

PLANNING BOARD VACANCY – We have finally received the actual letter of resignation from Anthony Griffin from the Planning Board. Supervisor Galligan will advertise for the vacancy in the newsletter. Matter tabled.

BANKING RESOLUTION – Since we are changing banks and have a new bookkeeper, we need a resolution to permit both the Deputy Supervisor and the Bookkeeper as signers on the accounts. The Deputy Supervisor is able to sign check and the bookkeeper is solely for the purpose of opening and closing certificates of deposit. MOTION by Councilman Raponi, seconded by Councilman Creegan to authorize Deputy Supervisor Galligan and Tara Buckstad, as bookkeeper to sign on bank accounts in all banking institutions. Vote: 4 ayes – 0 nays. Motion carried.

SNOW AND ICE CONTRACT MONEY – At our year end meeting, Highway Superintendent Hogue informed everyone that we still had not yet received our funds for the snow and ice contract that should have been in our possession by October 1 and there was issue if we would in fact receive the funds. The County has in fact paid all of the towns the monies owed to them under the snow and ice contract.

HEALTH INSURANCE FOR M. HYLAS – As we all know, Maureen Hylas, our bookkeeper has been sick and has applied for disability. Discussion was held to continue her coverage or cancel it pending her disability application. MOTION by Councilman Galligan, seconded by Councilman Creegan to carry health insurance on Maureen Hylas until April 1, 2010 at which time we will revisit this issue depending upon the status of her disability. Vote: 4 ayes – 0 nays. Motion carried.

COMMITTEE REPORTS

Planning Board – Their first meeting of the year will be on Tuesday, January 26, 2010 and please note, their meetings will now start at 7:00 p.m. instead of 7:30 p.m. to be more in line with the other Town meetings.

Historian – Report filed.

Building Inspector – Report filed.

Seniors – No activity until April.

Recreation – Ski program begins on Tuesday, January 12

Green Committee – No activity

Forestburgh Day – No activity yet, the date is set for August 14, 2010.

PUBLIC COMMENT

Nick Kass – In reading the minutes of December 3rd, I was not here, but it says that in discussing Right to Farm, that we have no active farms in Forestburgh. Not only is Stuart Salenger's an active farm, he receives a tax benefit from this town for the fact that he has a working farm. He also has been approved by the State for the Ag District, so we do have an active farm. Now, for Mr. Bavoso, the question is this, since we do have a farm, the farm was created during the period where there was a right to farm, anything that repeals this right and effects Mr. Salenger's property could be taken as an ex post facto law and open the Town up to a federal law suit. Now this is something that is a federal lawsuit and the firm that I use to handle federal cases is out of White Plains, charges \$550.00 an hour and in federal court they are entitled to their attorney's fees. This could open the Town to a million dollar claim. These guys bill like crazy and I think this should be noted so that Mr. Bavoso can take this back into his consideration of what the action is. Secondly, the minutes of the December 28th meeting about the dog incident report. The Town is once again opening itself up to a lawsuit. The fact is that I want to question Mr. Burger at this time. The fact is I have had an expert from the Bronx Zoo giving me a report that a coyote will attack an animal to eat. A dog will attack an animal just to attack. These animals were not eaten they were attacked by dogs that bit and were not eaten. A coyote will stay with its prey and eat until it's full. Secondly, he relies on Mr. Wechsler. The dog was taken by the Sheriff. The Sheriff came to the scene and took the dog to Mr. Wechsler. The dog had a collar, it was identified. If this dog, I'm using a little CSI information. If this dog did not attack the alpacas why wasn't a DNA test done on the dog's collar to rule out the alpacas. The fact is it's been in Mr. Wechsler's possession since the days, hours after the incident. The Sheriff's took the dog and all of these statements are made by Mr. Burger, who is again, opening up the Town to a lawsuit because it's incorrect and its false information. This is the whole thing and Mr. Wechsler is using this information in another lawsuit and basically Mr. Burger has fallen in to the fact of being an unpaid and incorrect advocate for Mr. Wechsler.

EXECUTIVE SESSION –MOTION by Councilman Galligan, seconded by Councilman Creegan to enter into executive session and invite Attorney Bavoso and Code Enforcement Officer Richard Lorino into the session to seek the advice of counsel on possible litigation. Vote: 4 ayes – 0 nays. Motion carried. Councilman Galligan recused himself from executive session and left the Town Hall. Remaining members of the Board , the attorney and the code enforcement officer went into executive session at 9:00 p.m. MOTION by Councilman Creegan, seconded by Councilman Raponi to reconvene at 9:37 p.m.

MOTION by Councilman Raponi, seconded by Councilman Creegan Mr. David Turick, as representative of Louis Turick and individually, had made assurances to the Town Board regarding delivery of documentation to the Town's Building Inspector/Code Enforcement Officer relating to the Turick property located on Route 42 in the Town. Documentation from an engineer as well as plans for the renovation of the aforesaid property were to be delivered to the Building Inspector/Code Enforcement Officer shortly following a meeting that the Town Board had with Mr. Turick in December, 2009; and since no documentation, plans, fire underwriter's certification, Department of Health permits or any other required and requested information has been delivered to the Town by the Turicks, the Town Board has determined that certified, stamped engineering plans for the renovations at the Turick property; proper applications for permits as requested by the Building Inspector; fire underwriter's certification regarding electrical inspections; Department of Health permits; and any and all other documentation requested by the Building Inspector/Code Enforcement Officer of the Town must be delivered to the Building Inspector/Code Enforcement Officer of the Town of Forestburgh no later than January 31, 2010. In the event that said documentation is not received as aforesaid by January 31, 2010, the attorneys for the Town are authorized to take whatever action may be necessary to enforce State and local statutes and regulations dealing with the repair, renovation, construction, operation and use of the Turick property on Route 42 in the Town of Forestburgh. Vote: 3 ayes – 0 nays. Motion carried.

ADJOURNEMENT – Motion by Councilman Raponi to adjourn at 9:40 p.m.

Respectfully submitted,

Joanne K. Nagoda,
Town Clerk