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The Town of Forestburgh Town Board held its regular monthly meeting on **Thursday, February 3, 2011** at the Town Hall.

Supervisor Galligan called the meeting to order at 5:00 p.m.

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

Absent – None.

Recording  
Secretary – Joanne K. Nagoda, Town Clerk

Others  
Present: William D. Bavoso, Attorney for the Town  
Daniel S. Hogue, Jr. – Superintendent of Highways  
Tim Gottlieb, Gottlieb Engineering  
Richard Katzman, Planning Board Member  
Ed Kaufmann, Planning Board Member  
Ivan Orisek, Planning Board Member  
Tom Berg, Planning Board Member

Supervisor Galligan thanked everyone for coming and explained that we are starting early to discuss and determine the density requested by Double Diamond for the Lost Lake project. We will open the floor to the public first and hear their comments.

Richard Robbins – I have spoken to you before on the issue of density and just want to reiterate what I’ve said. I guess it goes back to when the PDD law was enacted, it was voiced and it appeared that the Town Board was going to set an absolute cap on the density. Formulas were created and bonuses would be granted for good cause shown by an applicant and the PDD would be governed accordingly. The determination was made by you not to enact an absolute cap, but I think the criteria for granting bonuses still apply. As I read the DEIS and quickly read the FEIS, that has been submitted to you and is before you now, I just don’t believe that they have demonstrated enough good cause for the magnitude of bonus units that they seek. They are tripling the number of units that are sought that would otherwise be permissible under the Town zoning ordinance, although there are very favorable features of this development, for the Towns benefit, I don’t think they come anywhere near the tripling of the bonuses. I hope you don’t lose sight of the fact that this is your decision. They are asking this of you, you are the Town, you speak for the Town and listen for the Town that is why we are here, and that is why this whole process occurs. In the comments that were made at the time of the Draft Environmental Impact Statement, at the time of the public hearing, I didn’t read or see anybody that was advocating this level of density as being consistent with the Town’s master plan, as being consistent with the zoning criteria that would otherwise apply in Forestburgh, I didn’t see anybody saying it would advance the interests of the Town to have a level of density to this extent. Their responses to the comments as contained in the FEIS really don’t respond. When I looked at the response they had to my particular comment, it was “we are a commercial development, and we know what we want”. It really wasn’t much justification in the context of Forestburgh or even in the context of their other developments, where they really didn’t respond to the fact that they have never gone near this level of density that they are seeking here. Whether they got permission or not, they didn’t do it. I think what’s happening here is an attempt at over reaching for density, and I trust and I hope that as a board you recognize that and decide accordingly.

At this time Supervisor Galligan stated he jumped ahead, and introduced John Munsey of C.T. Male, our consultant on the Lost Lake project to provide an overview of the project this far.

Mr. Munsey stated that he wanted to set the context for tonight's meeting, I have a short hand out here that may be helpful. Essentially, what I put here in the SEQRA path, it's a long process to get through the SEQRA process, this is basically to help the board through their determination as lead agency. SEQRA is basically an eleven step process and we are at step 10, assessing the final EIS. Right now the applicant just gave me a paper copy of the second FEIS. Ultimately the FEIS is a document that the Town Board, well, it needs to pass your muster. Whether it's done by them or it's done by us or a combination of both. It's basically how you want to respond to the comments that came up in the public review phase of the project. With the permission of the applicant, we are taking more time than is allowed under SEQRA and the SEQRA findings statement is what is going to follow the FEIS. The findings statement needs to be a logical extension of the FEIS. You can't change the course of the FEIS with the findings statements, while you are working your way through the FEIS, you are thinking of the findings that ultimately the Town Board is going to make. I am assuming a positive recommendation will be found in some way and that means that after consideration of the FEIS and that this document demonstrates that the action chosen as the final action is one that voids or minimizes environmental impacts that have been assessed in the EIS in ways that balances them with social, economic and other social considerations. That is the determination that you are going to be making that everything has been done to minimize those environmental impacts that were identified in the draft environmental impact statement. Considering economic and social considerations and it is the balancing that you have to do coming to that determination. The findings cannot be finalized no sooner than ten days after the FEIS becomes final. You are not in a position tonight to accept the FEIS or the findings statement, we are before that. We are in the evaluation mode of the FEIS. Once that is done and since this is a zoning change at Town level, you will then enact PDD legislation that would be the Lost Lake Planned Development District Local Law # whatever of 2011. You can only do that after SEQRA is finalized. After the FEIS is approved, only then may the applicant seek and obtain the permits for the project, including the Planning Board. The Planning Board - they need to seek site plan approval and subdivision approval. Each and every one of those involved agencies that will be making a permit decision on the project is going to have to adopt their own findings statement for the project. What is common is that they take the findings statement that has been done by the lead agency and they whole heartedly endorse those as their own findings statement or they may tweak them in some minor way, but each agency has to adopt findings. It is my understanding tonight that the focus is on the density issue. It's important to emphasize as well that this project went through a lead agency dispute early on in the project. Ultimately, the Commission of the DEC made a determination that it's not DEC who should be lead agency, no issues of statewide importance were identified with this project. They pretty much said it should be the Town of Forestburgh should be the lead agency for the project because this project primarily going to have local impacts. It is a hard decision you guys are going to have to make, but it is your decision to make as a municipal body.

Again, Supervisor Galligan opened the floor to the public.

Mary Ann Toomey – A year and a half or so ago, there was a meeting at the firehouse, in my opinion there was a cross section of the community there. All of the people who spoke, with the exception of one, who is a major developer in Long Island was for a cap. They were not for major development in the town. Four out of five of the board members decided no cap. I think the people who are residents of the town are not going to be happy if this is allowed to go with 2,700 units.

Bill Mullery – I would just like to say that everything Mr. Robbins stated is exactly what I was going to say to you.

Attorney Bavoso – I just want to emphasize one thing in particular that John mentioned, and that is you are going to have to make a written findings on this FEIS, determining what the impacts are and how the developer needs to address those impacts, to mitigate or improve them or otherwise address them. You are going to have to, by SEQRA requirements, set forth in writing; how you came to the rationale you came to. Whatever decision you make, we need to come to a consensus of how we got to that decision.

Eugene Blabey – Like Mary Ann and others, I was at that meeting at the firehouse and primary concern of the residents of the town was the issue of density. I think permitting a density of 2,700 homes changes the character of the Town forever, and this a concern of the residents and it should be a concern of the Town Board. I urge you to take that issue and the concerns of the town into consideration as you work on this project.

Jim Steinberg – I have lived in this town my whole life and the same people are getting up and complaining here like they did at the public hearing. You hear the same thing, over and over again. It is the same people, why isn't

anybody else here complaining about density and everything else. Mr. Blabey lives in Lake Joseph there was a density problem there, if it wasn't for half of those developments, these people wouldn't be living in this town right now. I don't think its right, half of us won't even see this thing built out. Eagle Rock in Pennsylvania isn't even half built out yet and that has been an eight year project, it's nowhere near being built out. If you don't start letting things go into Forestburgh, you won't be able to afford to live here. I am in favor of this and there are only three people in this room that have been in this town longer than I, and I don't see any problem with this at all.

Supervisor Galligan stated to Mr. Steinberg, that I know you are a fire commissioner, and I know the commissioners had a meeting with Double Diamond, and I see the Chairman of the Fire Commissioners is here also, I have two questions for you. I know that you met with the developer, but can you give a summary of your meeting with them and are the commissioners happy and satisfied with the plans outlined by Double Diamond.

Anthony Carmeci – I am the Chairman of the Fire Commissioners and we touched base on, well, we are pretty happy with what is going on. They were pretty forthcoming in everything we spoke about. We spoke about manpower, equipment, from what I understand they are pretty good about helping out the fire companies in PA, so I don't see any problem with them helping us out. As for the buildings, they are mandating sprinkler systems, which is a big plus for us and the development. It will help us with response time. They have a piece of land put aside for us for emergency services, whether it be ambulance or if we want to post a truck there. They are going to enact a program for the people who live there to join the fire company, some sort of bonus, which would help us as far as manpower is concerned. The state puts a lot of pressure on volunteers these days and becoming a fire fighter is a long process any help we can get will benefit the town and the development. We are happy with what they said.

Supervisor Galligan stated that manpower is a concern of the fire district and asked Mr. Gracy to explain their proposal. Mr. Gracy stated that there would be an incentive program of an increase wages for employees when they join the fire company and additional increments every few years if they remain active. Residents of development would probably be given a reduction in membership fees if they become an active member of the department.

Mr. Carmeci stated that for now response time is not really an issue, as we have other companies that assist us, Monticello, Town of Lumberland, depending what part of town the fire is on, we have help from all over, Cuddebackville, we help them, they help us. As far as getting equipment there, I don't see a problem. Once it starts we'll have access keys to the gates, I don't see a problem getting in and out and the roads will be wide enough for our vehicles. That about sums it up.

Ed Kaufmann – At the last planning board meeting, we discussed this issue at quite some length. We decided to put together a letter which Susan has submitted, and perhaps you would like the planning board secretary to read.

Nancy Kaufmann, Planning Board Secretary – This is a letter to Supervisor James Galligan and members of the board. Double Diamond's FEIS was discussed at our January 25<sup>th</sup> meeting with several concerns. The Planning Board does not believe that the Town can support the additional 2,627 residences that Double Diamond is proposing. We believe that the economic and environmental benefits offered by the applicant do not compensate for such high density, and it is at variance with the Comprehensive Plan because it does not preserve the character of the Town.

The proposal that Double Diamond makes for emergency services is inadequate. Despite the gradual growth that they are predicting, there is no plan for additional emergency service should build out exceed their estimates. This would leave the town short of staff and equipment for these services, requiring the residents beyond Lost Lake to pay for the additional fire, police, and ambulance responders that should be the responsibility of Double Diamond and any other project that comes to Forestburgh. An independent analysis commissioned by the Town and paid for by Double Diamond would determine what additional emergency services and associated costs would be required over the life of the project.

Another concern is the change in golf course access on Saint Josephs Road. Golf carts will now cross the road instead of using a tunnel under it. An additional traffic study should be done to analyze the impact of this new crossing.

The financial accuracy of Double Diamond's FEIS is skewed towards full build out. If the projected 12% home building over ten to twelve years that Double Diamond states is the norm from their experience, the taxes garnered by Forestburgh will fall far short of expected revenues.

In view of the additional studies and analyses and the fact that the applicant is changing an entrance, but has not presented any proposal for carrying this change out, this FEIS is not complete. Representatives from the Planning Board will be in attendance at the February 3rd Town Board meeting. We would like to see this project move forward, but we want to be sure the Town Board addresses our concerns.

Ed Kaufmann stated that the lateness of this letter is due to the fact that the planning board meeting was last week and we got input from the members and then Susan drafted the letter.

Ivan Orisek – I would like to make a few comments to expand on the letter that you have received because the planning board discussed more than that. On the issue of density, let me remind you that the Town Board passed a local law a few years ago by which the comprehensive plan has been changed, and the phrase “the developer must be offered density bonuses” – which should be changed to may offer density bonuses. At any rate, we feel that the proposed 2,600 -2,700 residences are (inaudible) with the comprehensive plan and furthermore when we had the old PUD regulation. The maximum density according to that regulation was 1.1 unit per acre. That was a source of great concern for the Town Board and the Planning Board and that gave rise to the new PDD regulation, because we wanted to preserve the character of the town. Under the old regulation we had 1.1 unit per acre and now the applicant is proposing 3 units per acres with those 2,600-2,700 units. Under conservation zoning, which is what the PDD regulation is, the concept is you take the base number of units and put them on one part of the property and leave the rest as it is, open space. Now that is not what the applicant is doing. The applicant put those base units in one part of the property, but came back with almost another 2,000 units and covered with them with open space which was previously created by him and what they call open space is really commercial active space which is the golf course, which under normal town planning is never qualified as open space. I want to point out that the views that we have, which are consistent with just about anybody who expressed opinion about the density, it's not just the residents, but there is a letter dated June 16 from the Sullivan County Department of Planning and Environmental Management which clearly states that the 2,600 - 2,700 units are excessive and the environmental benefits offered by the applicant do not compensate for such extremely high density. There is a letter from the town consultant dated July 2, 2010 which states that the density bonus should be reduced by fifty percent. But most importantly you gentlemen have a letter from the New York State Department of Environmental Conservation dated July 1, which states clearly that “only the base 755 units or the base density with moderate bonuses, resulting in 1,235 units would likely result in a positive finding statement for permitting which will be required by this department. Which in other words what the DEC is telling us is that they are not going to issue any permits for anything over 1,235 units. I want to emphasize that I am entirely in favor of this project. I think the developers who want to come to Forestburgh and spend money and build something like this should be encouraged and get the required support. I think that it will have to be proposed a little differently than what is proposed as the favorite alternative by the applicant. On the emergency services we strongly feel there should be an independent study. I don't think that you should expect the fire district and the fire company to conduct a study which will extend over a period of the next 30-40 years that might be done by a paid consultant, and in our opinion the applicant should pay for a study like that. Traffic analysis that is the same situation. The applicant states there will be thousand of vehicle trips into town, but curiously only a few of them will go on the St. Josephs Road. This may be disputed, but the fact is that since the applicant has changed the concept, namely that there will no longer be the access to the southern portion of the property and golf course through the tunnel but across St. Josephs Road, the traffic studies go out the window and they need to be re-done and we would suggest that the Town commissions an independent study and that the applicant pays for that. On the economic analysis, not much has been said about it, and yet, gentlemen, it's important and I think there should be a hard look taken at that economic analysis which is used for justifying the number of units. I don't think the consultant spent much time on that but if you look at these numbers the applicant states that the development has 2,600 -2,700 units will amount to 208 million dollars. That is over \$79,000 per unit. In order to earn the expected profit of 18.8 or 20% on this project, the applicant is assuming that he will be able to sell the building lots for at least \$80,000 and as high as \$350,000 dollars. Ladies and gentlemen, that is not going to happen . I think the applicant and the consultants need to take a second look at these numbers. I am quite sure that the development costs and the envisioned revenue for these lots need to be revised significantly down in my opinion. Currently the lots in Forestburgh sell for \$40,000 - \$50,000 if they are two and a half acre and if they are grandfathered smaller lots, like the ones the applicant envisions, a quarter of an acre may cost as little as \$20 to \$30,000. We don't believe that the

purchasers are going to pay premium for the fact there are facilities attached such as the golf course. We know from visits to similar developments, which we have conducted together, that in many instances the purchasers are people on a fixed income and some do not purchase membership in the golf club and all of these developments as far as we know are actually soliciting membership from the outside of the development. The applicant, and we, have a real (inaudible) here. If we want to see this project happen, and I personally do, this project is a land sales scheme. The applicant makes no bones about the fact he has no interest in building houses. They'll build them if somebody asks them, but this is a land sales scheme. In order to proceed with the project, they need to have a certain number of building lots approved and in order to that in this documentation the applicant is talking about millions of dollars of tax revenues which will flow to the town. The problem is that because this is a land sales scheme, it is envisioned that 10% of the lots will have houses on them in the next ten years, the actual tax revenue flowing into the town, particularly will be nowhere close to those millions of dollars which are stated in this proposal because the actual revenue from vacant building lots is merely 5 -10% of the total. These figures that are mentioned between 600 and 1.1 million dollars net tax proceeds going to the town will be just a few tens thousands of dollars. Instead of the applicant mentioning millions of dollars that may happen in thirty or forty years, when all of the houses are built, if ever, they should show the tax flow to the town on a year by year basis, based upon the projected sales of those building lots. Lastly, I would like to comment on the SEQRA procedure, permits for over 1,255 units, I would very much suggest that this issue is discussed and worked on hand in hand by the town board and the involved agencies. It would be futile for the town board to approve 2,600 -2,700 units and then the applicant will never be able to get the permits from the DEC. As we heard here, the DEC will issue their own findings. It would be in our best interest, if we want to see this project come to fruition, that the Town work closely with the DEC and the applicant, and works out an acceptable plan including the number of units which will be acceptable to everybody. SEQRA mandates and was designed that way. It mandates that if the lead agency knows there are other agencies that have significant environmental concerns, so again, I would ask you gentlemen on the town board to work with DEC rather than decide on your own and the applicant goes to the DEC and the project never gets built.

Rick Katzman – I would like to add two other thoughts to what has been said already, first of all this \$15,000 for one bonus unit, you are setting a precedent. There is nothing in any of the zoning laws that I have read that gives us this equation and I know it's up to the town board to decide how much of a bonus density lots you are going to give but accordingly the developer states that it's going to be \$15,000 for one bonus lot – is that what a bonus lot goes for today...\$15,000 – what is it going to be tomorrow when another developer comes in. It's a problem, I don't particularly care for it. I like the developer, I like the project, I think it's a good development, we've been out to Pennsylvania, we saw it, it's put together very nicely the only other problem that bothers me is that at our last meeting on January 20<sup>th</sup>, we found out they don't plan on building the green standards of Leeds or the NAHN – so whose standards are they building to. Who's going to certify these green standards, there are things going on here I don't like, they are using the term “green” and for all intensive purposes, it's not. It's their idea of green, but it's not what has been set up by the two agencies and certifications given for those types of buildings. If you are going to build green, then do it according to Leeds or NAHN, do it the right way. It's a very expensive way to build, but if you are going to do it, do it right. I just don't like the bonus density. I don't like the equation, I don't like the green idea – their green idea and the standard green idea. I don't even like the idea of using the term “green”.

Ivan Orisek – I just want to comment quickly on two things. There is a statement in the EIS that Forestburgh already has as many firemen as needed for the full build up of this project, this is obviously inaccurate. Secondly, in the economic analysis there are several variants; one is a conventional subdivision of 491 units just for comparison and we know that we have never considered that alternate for this project, it is only there for comparison. However, the applicant states in the economic analysis, shows the benefits of various number of units, the applicant states that the conventional subdivision of 491 units on two and a half acre lots would result in a net tax loss to the town of some \$700,000 per year. That is impossible, that is a mistake, it's based upon the applicants desire to show this project in the best possible light and the applicant made certain assumptions in conducting this economic analysis, which led him to make this erroneous statement that an actual conventional subdivision would cost us to lose \$700,000 a year in taxes.

John Munsey – This is the second meeting where I have attended that C.T. Males' work product has been misrepresented and I would like to correct the record. C.T. Male did not make the comment that the density bonus should be 50% of what is being proposed by the applicant. C. T. Male made the statement that, in our July 1, 2010 correspondence that the one density bonus based upon the green building standards where the applicant was asked

was said they were justified 100% , so 748. C.T. Male made the comment that one density bonus, more realistic in our opinion, would be 50%, on that one.

Randy Gracy – For one thing, for what we are proposing, it is not inconsistent, the way I view it, with what the Town of Forestburgh would like to see in their town. We are talking a high end, rural residential development with high end amenities. Light commercial activities, which would be the hotel, restaurant and pro shop. Increasing the value of that real estate tremendously and that is what the tax base is based on. It's not a fact that there's no structure on it, it is the fact that we are increasing the value of a residential lot compared to tax value of a lot right now. This is where everyone around here, especially the school district will see the tax advantage. When the homes go up, that is just going to further increase the value of the real estate, just the development activity alone, is what we do. We are not primarily home builders; we told you that from the beginning. We are land developers and we sell residential land within resort communities. Will we build people their homes, yes, but they are at liberty to choose their own builders. We are not a land scheme. What we have proposed in my view, in being an asset to the community. I think it appears dense, but when you are talking two thousand acres and we have already set aside over one thousand to be preserved as open space, per the PDD law that you have adopted, we have done that. That is an awful lot of real estate. We have gone through an awful lot of trouble to determine if there are going to be any environmental impacts based upon the plan that I have put before you. I think that we have been successful in proving that there aren't going to be any environmental impacts and we are going to be able to sustain and permit what we propose.

Councilman Galligan asked for a proposed build out for five or ten years. They keep talking about 2,500 – 2,700 units, what is your take on five to ten years from now. Mr. Gracy stated as far as homes in ten years, I would be surprised if there are 260 new homes. I think that the build out ratio during the first two, three, four years is going to be very slow. There won't be a house in the first year, and then there will be a few in the second and then progressively more and more each year. It's not until it matures in its sixth, seventh and later years, based upon the economy that you might see twenty five homes per year, possibly fifty. Do I ever see a hundred homes per year going up in this place, no, just because of the type of resort community that it is. The people we sell to are not looking for a permanent residence, they are looking at it as a getaway. A lot of people are going to build and they are going to be weekenders and others will choose to build later in life. We have thirty five years of history to back that up and that is what we have shared with you. Every development we have done is virtually what we are proposing here and to think this is different from what we have done in our other developments is wrong. This is smallest development that I have done in over twenty years in terms of density. It's a large project, don't misunderstand me. It's a huge investment on our part and it's a huge risk on our part. In order to make it work, you have to take that risk – you have to look at the numbers ahead of time. The numbers that we have shared with you are actual costs that I have experienced not more than two hours from here. Construction costs, materials costs is not that much different two hours from here than here. We may have a discussion if we were comparing here to my developments in Texas, but the numbers, the tax values, the tax revenues all of that stuff is all based on our development not two hours from here. I stand behind the numbers that I have provided and they are all based upon my recent actual costs, and the quality of the amenities as stated in there, it will be identical to what we have done elsewhere. The golf course in Pennsylvania is an Arnold Palmer design, the one in Texas is a Jack Nicklaus. We have decided, or at least 99% decided that this will probably be another Jack Nicklaus at Lost Lake. With the information we have received from the Nicklaus group that is the way we are leaning, which makes this that much more of a high end development.

Councilman Galligan inquired if the roads would all be private, that the Town would not be responsible for plowing and maintaining them, the same thing with the water and sewer operations. Mr. Gracy replied that is correct. Supervisor Galligan reinforced that fact that all roads would be constructed to the specifications of the Town. Again Mr. Gracy agreed and stated that all would be inspected and approved by the Highway Superintendent.

Bill Mullery – I wonder what the average buildable lot in Forestburgh is being taxed today, and I wonder what your lots are going to be taxed with these large amenities, the golf course, restaurant and the other things. Are they going to have a comparable value for the lot next to the Town Hall, being taxed at the same rate? Supervisor Galligan replied that he can't speak for our assessor, but he would assume the location of the lot and any accessory amenities would be included in the value of your property. Mr. Mullery continued that if you took a lot on Forestburgh Road, and it was two and a half acres and buildable and you have a quarter acre lot that is buildable, but it has attached to it a golf course, restaurant, pro shop and fishing and hunting and all the good things they promise, are they going to be taxed equally because they are both buildable lots? Supervisor Galligan replied that he would assume yes, but that is

up to the assessor. Mr. Mullery stated that the board should take this into consideration before you go and approve a bunch of quarter acre lots. Attorney Bavoso stated that is not how assessments are done. Assessments are done based upon comparable values. The assessor has to take into account market value and market value has a lot of things that need to be considered in, location, amenities, the type of roads, surrounding properties I don't think there is a way to say that one lot would be the same as the other. I'm just worried about the folks who live in Forestburgh now and how this will affect the value of their property and how those lots will be equated.

Dan Hogue, Jr. – I'm not an assessor, but it will have to be based upon comps and the amenities and sewer and water and therefore, I believe the lot would be assessed higher than just a lot out in the woods. Road frontage has a lot to do with it, I don't know what the factor is if it's a private road or a public road, I don't know if that affects assessment or not. The build out on the infrastructure, would be phased, I assume the first phase would be to get the roads, septic and water and such, what is your time frame for that because a road has to sit for a year before anything can be done with it. I know for the construction phase all of your water and sewer and such has to be in before a lot can be sold. How long will that be? Mr. Gracy replied obviously I have to have permits in place before I can get plat approval, so I can't construct any roads or water and sewer lines without a permit. Let's assume I get my permits and my plat approval, then we go to work. We clear the right of way, we put in the utilities, we get the road ready to pave, at the same time we are building the water plant and sewer plant and once that infrastructure is finished from the utility side and the roads are paved, the property owner at that time would be able to obtain a building permit. I think with the construction season it would be about a year or so. Mr. Hogue continued the one thing he worries about is should a project of this size get to a point and fail, and I know you guys have a great track record, you have 50-60 homes in there and you get 50 – 60 homeowners at a Town Board meeting saying they want those roads to be town roads, the town board is going to vote to make them town roads. I have all the faith that you will build them to the proper specs and such. If it does come to a failure point, and I would hope that it wouldn't, the town is liable for septic, not water, water can be private, but sewer would have to be municipally owned because it is a health issue, at this point Mr. Hogue was corrected that it is both water and sewer, the town would then have to create a district. My big concern as highway superintendent is to make sure that the highways and infrastructure are suitable for town use, should it ever come to that in the future. It is extremely expensive to maintain roads around here in the winter, we have some of the worse frost heaves in the country here, plowing snow is expensive and I'm not sure a lot of people from other parts of the country realize this until they spend five or six winters in the north east.

Mary Ann Toomey – When are you planning on building the hotel and the cabins? Mr. Gracy replied they are listed in the phase, I don't know. Fred Wells of Tim Miller Associates stated they are in the sixth or seventh phase and the cabins are in two different phases, either two and three or three and four. John Munsey added that one of the recommendations that C.T. Male made was that the applicant actually create the water and sewer districts right away so that if an issue ever does come up in the future, then the water and sewer districts are already established. That is another mitigation measure that we are proposing.

Ivan Orisek - Bill, I am not sure what you were after, but I want to be sure that it is understood that there will be a significant and separate tax assessment for the amenities. Mr. Mullery stated that is just saying that a lot on Forestburgh Road and a lot in this development, both buildable, and the lot on Forestburgh Road doesn't have water and sewer, and the other lot is going to have all of these amenities. Now is the building lot there going to be taxed at the same rate as the lot on Forestburgh Road? And is it going to be worth the same as the lot on Forestburgh Road. Supervisor Galligan replied that again, that is up to our assessor. I have heard people complain from Forestburgh, who live in private communities and argue that they get assessed more because they live in a private community and yet receive no services from the Town. Mr. Mullery replied that you are probably right, but the concern is real for the existing Forestburgh citizens and the Forestburgh citizen is going to lose money because they can't sell their lot because they don't have these amenities. Supervisor Galligan suggested Mr. Mullery meet with our assessor and get correct answers from him on this issue.

Councilman Raponi stated that he has been to the Planning Board meetings and the Town Board meetings and he has listened to the Planning Board and their remarks and I pretty much agree with the Planning Board when it comes to density. Because we have a concern for density, and what we are concerned about is the amount taking away from the character of the Town, nobody can predict what's in the future. All I know is that I feel the density is too high and it will have an adverse effect in the future. That 's how I feel, but it's going to be discussed.

Shirley Blabey – At the first hearing that was held, and I did speak to you personally afterwards, I was concerned that there were not enough wells at that point. In good weather, I have since walked some of the property, so I would like to know now, have you found enough water and how many wells do you have now or how many have you tested to give you enough water. Fred Wells responded yes, we have seven production wells we have identified and tested and there was a water supply report that was submitted to all of the agencies, the Dept. of Health, and they looked at it in their initial review of things and we have enough water.

Councilman Creegan asked John Munsey if he has any comments about the statement that no permits would be issued by the DEC with this density. Mr. Munsey stated that he believed that amount was based upon the water at that point and time. They were supposed to make a demonstration that there is enough water for the full build out of the site. The DEC permits for this project are going to be on water supply, speeds direct discharge, speeds construction activity, freshwater wetlands permit. That is their regulatory jurisdiction on those narrow facets of the project, which are important. I thought that the DEC made that analytical estimation of the number of units based on the amount of water at that point and time had been identified by the applicant. In saying they would not issue a water supply permit. Councilman Creegan stated that would all be changed at this stage in the game. Mr. Munsey stated they are in direct contact with the DEC. The Supervisor is in direct contact with Willie Janeway, I am in direct contact with John Petronella. Starting out on this project I would agree that water supply was the largest technical problem out there. The applicant and I think their hydro geologist would agree, they didn't make a definitive argument that they had enough water for the whole and complete build out of the project. Maybe they envisioned that the project will never be fully built out it will only be partially built out. So we only have to make a partial determination for what we think will be built out. That is not how SEQRA works, you have to make a demonstration that there is enough water for the complete build out of the site. The Department of Health correspondence basically states that on a phase by phase basis they will issue permits for the project. So come to phase 7, if they don't have enough water at that point and time they are not going to get permits from the Dept. of Health for a public water supply or DEC for a water supply taking permit.

Ivan Orisek – With this explanation, I think it would be of value to hear what the DEC actually said in that letter that keeps being referred to. It says in the last two paragraphs of that letter of July 2, 2010 “based upon review of the information provided by the DEIS, it is the position of the department that the preferred project design does not avoid impact to the maximum extent practicable nor are social, environmental or social needs balanced. The preferred alternative for 2,557 single family residential units on two thousand plus acres, makes little or no attempt to balance these matters. It appears that the current project design maximizes density development with elimination of most upland habitat. Several alternatives are offered in the DEIS, PDD based density plans at 775 lots and PDD based density plus bonus at 1,235 lots that avoid and minimize impacts to natural resources beyond the preferred alternative while still allowing for a substantial development and large areas of contiguous open space. Both of these alternatives would likely allow for a positive finding statement should permits be required from the department. I would say this goes far beyond just talking about just issuing permits based on water resources.

Councilman Creegan – Planning Board, generally speaking, as was pointed out is in favor of this project, correct? Mr. Orisek responded as he has stated several times before the Planning Board is very in favor of this project and would like that to happen. The second part of this answer is that we feel that 2,700 units is excessive.

Councilman Galligan – I feel that benefits of this project far outweigh the negatives. I don't think that you will ever see the build out of 2,500 – 2,700 homes in the next 30 - 40 years, or anything near that. The fact that they build their own sewer system, their own roads, their own water is not a great impact on the Town. I think of other alternatives for the property and they are terrible, there could be groups of tax exempt or drillers and I think this is a golden opportunity for the Town. I want to see it move ahead as fast as possible.

Councilman Sipos – I am a little concerned about the build out. I think because I live in somewhat of a development and it's still not built out. There is only twenty some odd homes there. I believe there are still two or three lots available. I do know of Merriewold Park and I believe there are still 600 lots available there, if I am correct. Richard Robbins stated that you are incorrect. There is no property for sale in Merriewold Park for development. Councilman Sipos continued that he felt that the benefits and the change, the economic change, employment, tax revenue, the different phases that will be brought to the attention of the board, before approval to the next phase, the DEC permits, the wetland permits, I think it is extremely well controlled. If we have to approve this phase by phase, well 400 is the first phase. From the documentation I have read, it is extremely well thought out and planned.



Supervisor Galligan – I tend to agree, it is a well planned project. People want to keep Forestburgh what it was, I would still like to see it the way it was when my father was Supervisor, but that is never going to happen. There was a time when there were over 800 residents just in Oakland Valley, we were an industrial town. It's going to change, there is no doubt about that.

Vince Mancuso – I am curious, it seems to me that all of a sudden this new development is allowed to proceed in phases. What happened to the criticism of segmentation that was imposed on the recent failed development of Lake Joseph where the Planning Board and the Town Board insisted that, that developer had to present the entire plan, it had to be all presented and not granted approval as he went along. Supervisor Galligan responded that whatever we approve is for the whole project, golf courses, houses, hotels, whatever. The developer can't go in tomorrow and start building a hotel and a golf course, roads and a sewer system. We don't want him doing that, we don't want him building a house up here and something else down here. So phase one is 400 homes, after he gets approval for the whole project, he has to go before the Planning Board and get approval for phase one, based upon what is going to go on there. We are not looking at just one phase right now, we are looking at the whole project. If we were looking at just 400 homes right now, it would be a lot easier, but we are looking at the whole project.

Richard Robbins – When do you move from phase one to phase two and does that have any relationship to the amount of density in phase one. Does one have to be completely built out before you apply for phase two and then seek approvals for phase two? Supervisor Galligan stated it would not have to be completely built out to start asking for approval for phase two. Mr. Robbins asked if there were criteria that would determine when the developer is eligible to begin phase two and then when he is eligible to begin phase three? Supervisor Galligan responded that is up to the developer, they have to have all of the infrastructure in place and lots sold and have inventory before they move on to the next phase. Mr. Robbins inquired that it is based upon the developers needs and desires, not yours. Supervisor Galligan stated they would have to have the amenities built before applying to move forward, but have every lot sold, no. They have to have constructed what they said they would construct in phase one, if it is the first nine holes of the golf course or whatever else was laid out in phase one before you let them move on to the next phase. At this point, Mr. Munsey stated this is a good discussion and perhaps the board should consider putting some conditions on the phasing. Councilman Sipos stated that in the last meeting, Mr. Gracy gave us an outline or an example. You said that after you have a percentage of the first phase, that you would come back to the board to start working on the second phase, am I wrong on that? Mr. Gracy replied no, the first phase that is proposed is to be about 400 homes. We all know that the approval process and permitting process for phase two doesn't happen overnight and I can't wait until the last lot is sold to come and see you guys. We will be working on the road construction and the phasing of two and get that started before the Planning Board at a point and time when we are fifty percent sold out in phase one. That way I will have the approval of phase two in plenty of time for our sales force to maintain the necessary amount of inventory they need. The phased approach was outlined early to you in the plan, the utilities and the infrastructure that is associated with phase one will be built in phase one. The early utilities that were outlined for phase two that are going to be needed to provide service to those lots and the next set of amenities associated with the phase will be substantially constructed or well under way if not 100% complete, when we commence with the second. I am probably going to be back in here with phase two before the golf course is 100% complete. I can tell you that because it takes about two years to build nine holes of golf. It is a struggle to get the tees and the greens to where they need to be in one year's time. The progress that you will see in that first year on the golf course will alleviate any concerns you will have about whether or not there will be a golf course. It will look like a golf course, you just won't be able to tee it up just yet. The other amenities whether it be a swimming pool, a boathouse, a restaurant, those will all be built in the time frame. Mr. Munsey added that phase two is the second nine holes to the eighteen of the golf course. Mr. Gracy stated you get the biggest amenity up front in the first two phases.

Fred Wells stated that he has supplied Mr. Munsey and others with copies of the tweaks that have been done as they have been moving along and he anticipates getting a full document to Mr. Munsey fairly soon.

At this point, the meeting was recessed and the public hearing on Local Law # 1 of 2011 was held. The meeting reconvened at 7:11 p.m.

**REPORTS -**

Supervisor Galligan submitted the monthly financial report for January 2011.

Judge Olesnycky submitted a report of justice court activity and fees for January 2011.

Town Clerk, Joanne Nagoda submitted a report of monthly fees and activity for January 2011.

**PUBLIC COMMENT** – None.

**MINUTES** – Town Clerk, Joanne Nagoda submitted minutes of the December 2010 year end meeting, the January reorganizational meeting and the regular January meeting for review. MOTION by Councilman Sipos, seconded by Councilman Galligan to accept all minutes. Vote: 5 ayes – 0 nays. Motion carried.

**GENERAL FUND VOUCHERS** - # 5 – 32 in the sum of \$37,198.27 as set forth in abstract # 2 were audited for payment. MOTION by Councilman Raponi, seconded by Councilman Sipos to pay general fund vouchers. Vote: 5 ayes- 0 nays. Motion carried.

**HIGHWAY FUND VOUCHERS** - # 1 – 21 in the sum of \$61,389.46 as set forth in abstract # 2 were reviewed. MOTION by Councilman Raponi, seconded by Councilman Sipos to accept highway fund vouchers. Vote: 5 ayes – 0 nays. Motion carried.

**ESCROW FUND VOUCHERS** - # 3 – 5 in the sum of \$7,201.29 as set forth in abstract # 2 were audited for payment. MOTION by Councilman Sipos, seconded by Councilman Creegan to pay escrow fund vouchers. Vote: 5 ayes – 0 nays. Motion carried.

**COMMUNICATIONS** – None.

**UNFINISHED BUSINESS**

**DOUBLE DIAMOND/LOST LAKE PROJECT** – Supervisor Galligan asked if anyone was here who was not here at 5:00 p.m., to which Mr. Salenger responded he was not here at five. Supervisor Galligan stated that there was a lengthy discussion reviewing the density issue of 2,700 homes and there was plenty of input, and there is still no final approval on the FEIS. Supervisor Galligan asked since Mr. Salenger lives nearby if he had any comments on the project, to which he responded no, he would like to see the project open. Supervisor Galligan continued that tonight a decision must be made on the density issue of the project to allow the applicant to complete his plans. MOTION by Councilman Galligan, seconded by Councilman Sipos to approve the requested density of Double Diamond for the Lost Lake project as proposed. Councilman Raponi stated that again he would bring up the fact that many people have asked for a density cap, not just for Double Diamond, but for the entire regulation. Double Diamond is high ranking and every town in Sullivan County would love to have this project., I have no problem with the project, I am just concerned about the level of density. Supervisor Galligan asked Mr. Munsey and Attorney Bavoso that making a determination on the density will have no impact on matters that the Board and himself still have questions about, such as the tunnel, the green/Leeds certification and other matters. Mr. Munsey replied that a motion or decision on the density would have no impact on the completion of the FEIS or the SEQRA process. Attorney Bavoso added that the developer has asked for a determination on the density issue to assist him in preparing plans and phasing aspects of the project. As long as you are giving the developer an honest opinion on how this is going, that is what you are doing in this type of resolution.

Vote:

Councilman Raponi voting aye;  
Councilman Galligan voting aye;  
Councilman Sipos voting aye;  
Councilman Creegan voting aye, and  
Supervisor Galligan voting aye.

5 ayes – 0 nays.

Motion carried.

Mr. Gracy stated that they have been supplying additional information directly to C.T. Male for their review on the FEIS regularly, and they are confident that the FEIS is almost ready for approval. Mr. Gracy requested a special meeting two weeks from tonight to review the final comments of C.T. Male and to hopefully have the FEIS approved. Mr. Munsey stated that the board, as lead agency, will need to ensure they have adequate time to review the FEIS additions. MOTION by Councilman Galligan, seconded by Councilman Sipos to hold a special meeting for further review of the Lost Lake FEIS on February 24, 2011 at 7:00 p.m. in the Town Hall. Vote: 5 ayes – 0 nays. Motion carried.

**FORESTBURGH CEMETERY** – Supervisor Galligan announced that we may finally remove this from our agenda. The deed was recorded on January 14, 2011. This matter is completed.

**EMERGENCY SERVICES REVIEW** – Supervisor Galligan has spoken to the Commissioners and the Chairman of the Commissioners and it has been determined that there is no need to spend the money on an analysis. This matter can be removed from the agenda.

**LOCAL LAW # 1 OF 2011 – TAX COLLECTOR POSITION** – The proposed Local Law # 1 of 2011 holding a special election to see if the position of tax collector should return to an elected position or remain the duties of the Town Clerk at an election to be held on May 3, 2011 was introduced to the board. MOTION by Councilman Galligan, seconded by Councilman Sipos to accept the proposed local law and hold a special election on May 3, 2011. Vote: 5 ayes – 0 nays. Motion carried.

**BARTON & LOGUIDICE CONTRACT REVIEW** – Supervisor Galligan stated that we still have the invoice that we withheld payment of for the zoning review project, what does the board wish to do with this project? Discussion was held again on the completion of the project and the amount expended thus far. MOTION by Councilman Raponi, seconded by Councilman Sipos to pay the outstanding invoice and review what has been completed. Vote: 5 ayes – 0 nays. Motion carried.

**STATUTORY INSTALLMENT LOAN – JEFF BANK** – Attorney Bavoso stated that we had a resolution at the last meeting to take a statutory installment loan from another institution, with the rates being given verbally, when the actual bids were received in writing, the original amount was almost a point more than we were told. MOTION by Councilman Sipos, seconded by Councilman Creegan to rescind the motion made at the January meeting to enter into a statutory installment agreement with Catskill Hudson Bank and accept the rate quoted by the First National Bank of Jeffersonville, being 2.25%. Vote: 4 ayes – 0 nays, Councilman Galligan abstained.

#### NEW BUSINESS

**WAIVER PROVISION REQUEST OF PLANNING BOARD** – The Planning Board has been requesting that we adopt a waiver provision for minor subdivisions. The board requested Attorney Bavoso draft legislation as per the request of the Planning Board. Matter tabled.

**FUEL OIL/GASOLINE/DIESEL AND PROPANE EXTENSION** – Supervisor Galligan stated that all of our current suppliers for fuel oil, gasoline, diesel and propane gas have agreed to extending the accepted price for a period of one year in place of putting the items out for public bid. MOTION by Councilman Galligan, seconded by Councilman Sipos to accept the extension of all fuel products. Vote: 5 ayes – 0 nays. Motion carried.

**EXECUTIVE SESSION** – Supervisor Galligan stated that the executive session listed on the agenda is not necessary. We have a tax Certiorari with Orange and Rockland for their taxes, everyone has a settlement summary. Attorney Bavoso summarized that it reduces the amount taxed on their equipment and there is no pay back from the town of current funds. It was determined that the settlement is in line with other settlements for other utilities. MOTION by Councilman Galligan, seconded by Councilman Sipos to accept the settlement agreement as proposed by our assessor and attorney with Orange & Rockland Utilities. Vote: 5 ayes – 0 nays. Motion carried.

#### COMMITTEE REPORTS

Planning Board – No report.  
Historian – Report filed.

Building Inspector – Report filed.

Seniors – Will meet again in April.

Green Committee – No report.

Forestburgh Day – August 20, 2011 – committee meeting on February 14 at 7:00 in the Town Hall.

**PUBLIC COMMENT -**

Mary Ann Toomey – I don't know if they still do it, but if the prisons still allow work detail, someone told me they had prisoners do work on their cemetery, and clean it up and would like permission to contact the prisons and see if they still do work release.

Mary King – I was wondering what the latest information is on the cell tower and the solid waste fee. Supervisor Galligan replied that the Planning Board had their meeting and public hearing on the cell tower and there was no opposition and they are moving forward. There is nothing I can do about the solid waste fee, there are a lot of complaints, but there is nothing we can do.

**ADJOURNMENT** – MOTION by Councilman Sipos to adjourn at 7:45 p.m.

Respectfully submitted,

Joanne K. Nagoda,  
Town Clerk