

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

The Town of Forestburgh Town Board held its regular monthly meeting on **Thursday, July 1, 2010** at the Town Hall.

Supervisor Galligan called the meeting to order at 7:00 p.m.

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

Absent – None.

Recording
Secretary – Joanne K. Nagoda, Town Clerk

Others
Present - William D. Bavoso & David Bavoso, Attorneys for the Town
Charles Voss – Zoning & Subdivision Consultant – Barton & Lougiudice
Luiz C. Aragon, Commissioner of Planning
Jennifer Mall, Sullivan County Division of Planning
Legislator Kathy LaBuda
Legislator Leni Binder

REPORTS –

Supervisor Galligan submitted the monthly financial report for June 2010.

Justice Carroll submitted a monthly report of court fines and activity for June 2010.

Town Clerk, Joanne Nagoda submitted a report of clerk fees and activities for June 2010.

PUBLIC COMMENT –

Ben Wechsler – I reserve my right, if you permit me, to speak again at the end of the meeting. The reason I am speaking now is because I think this arrangement creates a very awkward situation. I would like to address an item I see on the agenda, but I have no idea what is going to be said, so of course I would like to speak after I listen, which is a good idea in human discourse. Listen first, than respond. But I don't like the idea of responding an hour later, when everyone else has forgotten what was said and I may have forgotten what has been said. So, I call this to your attention and leave it up to your consideration now, you might wish to open the floor after a controversial issue for that comment period.

MINUTES – Town Clerk, Joanne Nagoda submitted minutes for the regular Town Board meeting of June 3, 2010 and the Lost Lake DEIS Public Hearing of June 16, 2010. **MOTION** by Councilman Sipos, seconded by Councilman Creegan to accept both sets of minutes. Vote: 5 ayes – 0 nays. Motion carried.

GENERAL FUND VOUCHERS - # 166 – 200 in the sum of \$8,941.40 as set forth in abstract # 7 were audited for payment. **MOTION** by Councilman Sipos, seconded by Councilman Galligan to pay the general fund vouchers. Vote: 5 ayes- 0 nays. Motion carried.

HIGHWAY FUND VOUCHERS - # 111 – 122 in the sum of \$8,436.08 as set forth in abstract # 7 were reviewed for payment. **MOTION** by Councilman Sipos, seconded by Councilman Raponi to accept highway fund vouchers. Vote: 5 ayes- 0 nays. Motion carried.

ESCROW FUND VOUCHERS - # 15 – 19 in the sum of \$6,521.02 as set forth in abstract # 7 were reviewed for payment. MOTION by Councilman Galligan, seconded by Councilman Sipos to pay the escrow fund vouchers. Vote: 5 ayes – 0 nays. Motion carried.

COMMUNICATIONS –

Town Clerk, Joanne Nagoda read a letter to the Town Board from Tara Buckstad, bookkeeper for the Town of Forestburgh thanking them for the opportunity to attend the class given by the Office of the Comptroller on municipal bookkeeping and financial management.

UNFINISHED BUSINESS

FALLS AT BLACK CREEK – Supervisor Galligan asked Attorney Bavoso, there has not been much communication with this matter, we don't know what's going on. They have major changes to make, do we have to start over. Attorney Bavoso stated that no one has looked at that application for a long time, conceivably it changes a lot of things, if you want to take a look at it and determine its status and ask them what is their status. Town Board is lead agency. Supervisor Galligan will work with Attorney Bavoso to determine the status of this project.

DOUBLE DIAMOND/LOST LAKE – Supervisor Galligan stated that we held the public hearing at the firehouse, and we received a few written comments on the project.

AG DISTRICTS/RIGHT TO FARM LAW – Supervisor Galligan stated that we had a public hearing on repealing the Right to Farm law and have had many discussions about it. Many of our discussions were with the County, not so much on the Right to Farm law but the manner in which agricultural (ag) districts are granted. Supervisor Galligan introduced Luiz Aragon, Planning Commissioner for Sullivan County, and Charles (Chuck) Voss our zoning/subdivision regulation consultant from the firm of Barton & Loguidice. Commissioner Aragon greeted the board and audience, and stated that in the past three to four months, Councilman Raponi, Supervisor Galligan have met many, many times to discuss this. The Commissioner also thanked Legislator LaBuda for attending every one of those meetings and Legislator Binder for being here tonight. Commissioner Aragon stated that he cannot talk about the Right to Farm law and NOT talk about the entire county. He stressed the three industries within the county that are very important to us, agriculture, health care and tourism. Agriculture alone brings eighty four million dollars in revenue to this county. Without it, we are in a lot of trouble. I have been asked many times why I care if Forestburgh repeals their Right to Farm law. I care and I am here because I respond to my nine bosses, who represent this county. Every town is important to this county, and we need to support agriculture and we need to support this county. I understand there have been issues with this in the past in Forestburgh, and hopefully when I was here last, I heard you loud and clear – what I heard from you is, look at the process that the county went through and let's see if we can make it more inclusive and transparent. I also heard what else can we do, so that we here, in this Town can have more control over the process, which is referred to as home rule. That is very important to all of us in this state. Here is what we have done, after many meetings and debates; we changed the process to make it more inclusive and transparent. We added two steps to the process that we at the county go through in the thirty day window, which is April of every year, when ag district applications come in for review. Step number one is upon receipt of an application we inform all Supervisor's of that application and when we schedule the first field visit to determine if this is an appropriate parcel to be considered. That visit is done by the Farmland Protection Board, of which I am part of. We would notify every Supervisor of that field visit. We also agreed that should there be a conflict during a field visit, or a disagreement between the Town and the Farmland Protection Board, we agreed that the Planning Department would add another step, and act as a mediator to resolve the issues of the conflict, before a recommendation is made by the Farmland Protection Board Committee to the Farmland Protection Board which would then make a recommendation to the legislators. I am glad that we have waited to talk about this, because talk is cheap, however a year is passed and we have gone through a thirty day window process. There were many applications throughout the County for parcels to be included into the ag district and we informed every single Supervisor and every Supervisor either joined us or sent a representative for the field visits. Every filed visit, we went over issues and agreed together, if it was appropriate or not. There was not a single instance where there was a disagreement that could not be resolved. So, if you tell me that it sounds good, but isn't going to work, I can tell you – it worked. We did it, we were transparent, we were honest and did what we said we were going to do. The issue of home rule and control for the Town. There are certain things I have authority over and certain things I don't have authority over. I like to work on the things I can change. I can't change New York State Law, but I can think of

ways that we can change things here on the local level. Let's take a look at the zoning, and it just so happened that Forestburgh has just hired a consultant, Barton & Loguidice to take a look at their zoning law. We sat down with them and debated what can be done, so that a new farming business would have to go to the town and seek permission. By controlling that, you have absolute control over what goes or doesn't go into an ag district. I turn this over to Chuck Voss for his recommendation, as the consultant to the Town is. I can tell you that you have our full commitment to continue to work together to make this as transparent and inclusive as it can be. Chuck Voss thanked Commissioner Aragon and complimented him on the perfect introduction into the next steps. The Town has hired us to take a look at the total zoning code of the town, the subdivisions, the planned unit developments all of the elements of the zoning code. In addition to that, the timing is perfect because this issue of the right to farm law has cropped up, and it's of great concern to the community. The Zoning Review Committee is going to look at comprehensive zoning issues, and there are many, the code is old and outdated, the Town has a relatively new comprehensive plan which will set the tone for those updates, but in addition to that, the committee, which we discussed last night at our meeting will look at this issue. As the commissioner noted, there are some additional ways and avenues to capture some additional home rule. I hate to use the word control, but regulation over agricultural uses. Where they can occur, what are they comprised of, how big are they, can they be in a residential area. All of these types of questions, which cause great concern with certain applications, not only in this county, but in many other counties, can be resolved through some level of land use control. We do bump up against state law, section 305 of the New York State Ag & Markets Law is very specific about how agricultural uses can and can't be regulated. That aside, they also left the door slightly open for local control through zoning. Many communities across the state have written codes or amendments to codes which allow the local authority to reach out and define ag uses, where they can be and so forth. And that is our task with the zoning committee. The timing is perfect, the committee has been named, we have had two meetings so far and we are starting to get into the meat of the code and the zoning issue is going to be incorporated. We will start to produce some suggestions that we want to forward on to the Town Board to look at, and they will be introduced to the public. Zoning will give a level of home rule control, it will also help satisfy the issue of NOT going against state law. Within a few months we should have some solid recommendations forwarded to the Town Board for consideration. MOTION by Councilman Raponi, seconded by Councilman Galligan to open the floor to the public for comment on the right to farm/ag district issue. Vote: 5 ayes- 0 nays. Motion carried.

Mary Ann Toomey – I would like know who is on the Farmland Protection Board please. Commissioner Aragon stated that he is on the board, Bob Kaplan is the Chairman, Willie Hughson, Dan Brey, F. Michelle and one legislator – I apologize, I don't have the list with me, so this is just off the top of my head. Ms. Toomey stated that she is familiar with most of these people and they are from the other end of the county. She further asked if you had to be a farmer to be on it and if the town denies the proposal/request for an ag district, what happens next? Commissioner Aragon stated he didn't believe that you must be a farmer to be on the board, and he is on the board due to his title as commissioner. If the Town states that a request is not viable, the issue would go before the Farmland Protection Board for their final determination before the recommendation is then sent to the legislators for a vote. Supervisor Galligan stated that if we had our zoning in place, and a tree farm wasn't allowed in that area, would it automatically be excluded? Commissioner Aragon replied that would be correct, the first thing they look at is the zoning compliance. That is why I suggested that, that is where you have your control. Mr. Voss added that currently, the Town code doesn't really address or regulate agricultural uses, per se. The definitions aren't there that would define the uses. The districts don't define agricultural uses, what's defined and allowed where. Attorney Bavoso addressed Chuck Voss and stated that he hadn't really looked at the relationship or the issues of the state law and zoning, but is it possible that one tool could be to make those types of districts "floating districts"? Just like we did with the PDD and PUD – if an applicant comes and wants to put an agricultural use, the Town Board would look at it as the first step and say does it meet the criteria and do we want it where it's proposed? If the Town Board says no, then that is the end of the application. If they say yes, it would go on to the Planning Board and the County and State level. Mr. Voss replied that it is a very good point that you raise, communities across the state have done the zoning question in two ways, they have anchored agricultural uses in specific zoning districts, in other words, here is your residential district, are agricultural uses permitted there, no. The other that you mention is the floating overlay zones allows agricultural uses anywhere but it anchors them to specific criteria. If they can meet the criteria, they will be allowed in that certain area. They tend to follow the county/state agricultural check list, prime agricultural soils, location. You can basically structure your criteria to "lead" someone into where it would be appropriate.

Dan Hogue Sr. - Commissioner Aragon you stated that you are also a member of the Farm Bureau, isn't that a conflict of interest? Commissioner Aragon replied that my role is really more of a facilitator than anything else. I am

there to help guide the process and help the farmers make the application. That has been my role, more of a mediator, the common denominator that tries to navigate all of this.

Supervisor Galligan – How many applications were denied this year? Commissioner Aragon replied many, there were many, many applications that were denied this year.

Carol Travis – I am not familiar with the State at all, but can an applicant bypass the Town and County and appeal directly to the State and have them overrule everything? Commissioner Aragon responded that the State has the ultimate say, we do not have control over the state.

Marcia Raponi – With the applications that were denied, what part of the county were they from? Commissioner Aragon replied that they were from all over the county, some were from the Town of Thompson, Mamakating, there were no applications from Forestburgh at all. Mrs. Raponi continued that it seems that most of the people on your farm board are from that part of the county, how are we represented? Commissioner Aragon suggested that he could certainly talk to the farmland board and if there is somebody you know or would like to propose a member to the farm board, I would be more than happy to facilitate that.

Ben Wechsler – You should all know that thanks to the suggestion of Kathy LaBuda, our county legislator, representing us, I had a one and half hour meeting with Commissioner Aragon and we came to complete agreement on one issue that we disagreed on totally, on every aspect of the issues that were raised in that hour and a half. Today, Mr. Aragon said that one of the things that the County would obligate itself to do is to inform the Supervisor as soon as an application for an agricultural district/exemption was placed before the county. I don't like that, we have talked about this before. It's wonderful that the Supervisor will be informed, I would like to see the Town Board advised and not rely upon the Supervisor to spread the information in a timely way, but there are other cases of zoning changes that the law and the custom, that we have all observed here in Forestburgh and throughout the State is to inform the adjoining landowners and I think without that inclusion in the county procedures, we are really begging for trouble. It is the neighborhood owners who understand the difficulties the proposal might make. If they don't know there is a proposal, they can't begin to address it or communicate their concerns to the Town Board. Mr. Aragon said he is powerless to change the State Law, absolutely correct. The state law can be changed sometimes, but it is difficult, long, arduous and unlikely process, called lobbying, which is incidentally is protected in the United States Constitution. We all know that this state's legislation can be passed or vetoed by the speaker of the assembly, Sheldon Silver. We should be giving hard thought to this. There is something we can do that is outside the scope of what Mr. Aragon and that is change the regulations, I think we have been witness to a lot of smoke and mirrors this evening. For instance, the idea that changing the Town's zoning can trump the agricultural district designation is to my certain knowledge, untrue. There are people here who claim to be farmers, who brag, under oath and in writing, that once you have the agricultural zone designation, you are exempt from Town zoning, however, there is a thing called "case law", that is that the agriculture district law was passed, then people did not like some of the outcomes, and went to court and challenged the impact of the law and there is a famous case wherein a town had regulations severely controlling trailer parks and a farmer built slum like trailers to be used as housing for temporary workers and the court upheld that as a necessary ancillary use of proper farming. Now that completely trashed the town zoning law. That is what could happen here. I applaud the idea of updating the current town zoning, as a matter of fact it will be rude of me to remind you that the Planning Board recommended against those changes and the Town Board passed it by a three to two vote. I have always said some changes are necessary, it's good to have some knowledgeable person from the county planning department assist the Planning Board in making these changes, but the changes will be of no avail in this issue. There is something that could be done, and it may be done pretty darn quickly if we all took the time and trouble to do it. That is to get together a group, I will suggest a few people, representatives of the Forestburgh Town Board, Senator Bonacic, Assemblywoman Gunther to ask for a meeting with Commissioner Hooker and Deputy Commissioner Summers and discuss what's happened here, what problems are here and why we think that the Commissioner should pay special attention to a dissenting town. We have, and you have, in your files, letters from Commissioner Hooker and Deputy Commissioner Summers in which they say "it is our practice to always rubber stamp the recommendations of the county and we never examine them". I think that is un-American. The most important thing we have to do is to go on record that we want this law changed so that the Constitution of the State of New York ensures that all zoning power will be in the hands of the town, is not violated by this law that the State legislature passed which whittles away at that constitutional provision until it has become meaningless. Beyond that Mr. Aragon made a number of promises tonight, some of which I think cannot be fulfilled. I think the Town Board should ask for some of these things in writing from the county, so that before we take action that makes payment to county in return for some alleged gift, we know what we are going to get. If the

Town changes the zoning law, nothing that comes from the county to us, and it won't work anyway, in the case of an agricultural district. It might work and be extremely helpful in having the town plan the kind of farming activity it wants at once.

Roger O'Dell – If I wanted to have my property put into an agricultural zone, could I go straight to the County and not go to the Town Board or Planning Board and go straight to the legislature? Supervisor Galligan replied that at the current time you would apply right to the County that is what we are trying to change.

At this time Supervisor Galligan closed the floor to public comment.

Councilman Galligan stated that in his opinion Commissioner Aragon and Mr. Wechsler were not that far apart. He further asked Commissioner Aragon to respond to Mr. Wechsler. Notifying the Town Board of an application shouldn't be that hard.

Commissioner Aragon stated that in terms of writing, as you recall, I submitted this to the board, you have it all in writing. At this time we do not send any notice to any adjoining property owners. Discussion was held about the ability to notify adjoining property owners, getting participation from Town Officials, making the legislature notify everyone. Discussion was also held on process and steps taken to make the recommendations to the legislature. Commissioner Aragon stated that once your zoning is changed you will have recommendations coming from your zoning board and you will have the control of allowing or not that operation to begin. It's not changing the laws, but us working together to give the Town what it seeks, it might not be perfect, but it's pretty close. Attorney Bavoso questioned if the notification goes to just the Supervisor or the Supervisor and Town Clerk? Commissioner Aragon replied that right now it just goes to the Supervisor, but it would not be a problem to notify the Town Clerk as well. Attorney Bavoso continued that take a Town like Forestburgh, there is only one board meeting a month, if it goes to the Clerk's office, the Clerk is here every day and can get that information to the board members. Commissioner Aragon stated he didn't see a problem, but you should know, that because of the short window, we do the formal notification, but what really happens is, a phone call hunting down the Supervisor because we want to do that field visit, we want a representative there. So it really ends up happening by the phone because there is no time for correspondence. Attorney Bavoso stated that could also be expedited by notifying the Town Clerk as well.

Councilman Raponi – You are coming into town and making a decision and the Town doesn't have a say in it at all. To me, that is where our home rule is being eroded.

Commissioner Aragon responded by saying let's talk about the State Law, and I agree, but let me tell you this, repealing the Right To Farm Law is absolutely going to give you no more home rule than you have now. You are not going to be anywhere closer to what you seek by repealing it. Where by doing what we propose to do you are going to be much closer. So I am trying to help you obtain what you seek.

Supervisor Galligan stated that the whole conversation tonight revolves around the agricultural district approval process, nothing to do with the Right to Farm Law. The Right to Farm law is really a warm and fuzzy law, which says yes, we like farming.

Councilman Galligan – I have one more question, we can have all the zoning, and zoned farms here and no farms here, and a applicant had a nice one hundred acre meadow and he wanted to get into an ag district and it was completely zoned out in this town. He still has every right to go to the county and make his application even though it's zoned out in the town? Commissioner Aragon stated it is a free country, believe me, there are so many applications, I can tell you one thing, there are many from people seeking to be in the agriculture district These recommendations are based on fact. Councilman Galligan stated that this is a step in the right direction, right now we have nothing.

Councilman Creegan – I like the idea of working with the County, it opens the lines of communications and we're heading in the right direction. I think we can address a lot of questions and concerns in the zoning changes.

Supervisor Galligan stated that we will continue our discussion on this matter, but I suggest we table our decision making process on the right to farm law. Table it until the zoning gets done, I think we have met with the County

enough. Discussion ensued about the definition of “tabled – meaning we make no decision”, losing ground with the progress that has been made with the County, taking action now.

MOTION by Councilman Galligan, seconded by Councilman Raponi to re-open the floor for comments from the general public. Vote: 5 ayes – 0 nays. Motion carried.

Ben Wechsler – I have two questions, first I suggested to Mr. Aragon yesterday that the thirty day window is unworkable, and we should make an effort to handle this rationally and see if we can’t get this window expanded to ninety days. It’s one of the many defects in this law, which was well intentioned. Now the second question, I asked Mr. Aragon yesterday and I would love to have him comment on it here tonight, is we have on the Hatchery Road, a seven acre wood lot, it has never been a farm. Supervisor Galligan stopped Mr. Wechsler and stated that if we start discussing individual cases, we could be here all night. Discussion was held to allow Mr. Wechsler continuing, returning to the Town Board meeting. Councilman Raponi stated that he would like to hear Mr. Aragon’s response and then take action. Mr. Wechsler stated that he had not yet asked the question and would state it as a rhetorical question. There is a lot on the Hatchery Road of seven acres which has been given agricultural designation in the past, in a procedure that Commissioner Hooker referred specifically to that lot, the agricultural and markets commission simply did not examine the application it rubber stamped the recommendation of the county. That lot had three characteristics: 1. It is not contiguous to an existing farm, 2. It is not itself in a farming activity and 3 it never was a farm. I don’t understand what’s going on around here. Mr. Aragon was talking about those characteristics being necessary, at least in the future, for another new designation. I want to hear him comment on that.

Legislator Kathy LaBuda - Ben, with all due respect, I don’t want to put Luiz on the spot like that. That was long before his time. He has only been here a little over a year. I don’t think it’s fair in this forum, to ask him that question. He doesn’t have the details, and we all know what Ben is talking about. I can get you the information, we can look it up, we can talk about it at a different time, but to put Luiz on the spot, that was before his time and I think that is inappropriate.

Commissioner Aragon stated he can answer the thirty day question. the thirty day window question is very simple. The problem is not with the thirty days at all, Mr. Wechsler. I tried to explain this to you yesterday and obviously did not succeed. The thirty day window is the period for the application to be submitted. Actually, I would love for it to be ten days or five days. We have thirty days to wait for an application to arrive. The problem is not with the thirty days, the problem is with how much time we have following the thirty days. We have one hundred and twenty days to review, visit and recommend.

Katherine Bernhart – If there is a piece of property that has never been farmed and it is brought before the zoning board, and it’s denied – is that the end of it? Supervisor Galligan replied that they can apply to become part of the ag district, but like Mr. Aragon said they would look at is in the zoning, is it a farm operation, if it’s not in the zoning and it’s not a farming operation now it would not be recommended to the legislature for approval.

Chuck Voss – One thing I want to add, just for clarification the law pertains to farming, not as we all traditionally know it, it pertains to agricultural uses, which could be a tree farm, a logging operation, soil cultivation, a sod farm you name it. There is a long list of definitions. The gentlemen up front said it’s never been a farming operation, he may have meant that it’s never been a cow farm, sheep farm or chicken farm, that may be true, but historically they may have had a logging operation there or they may have had a logging operation nearby, so you have to be careful.

Commissioner Aragon – Again, talk is cheap and I like to be transparent. Jennifer from my office is here, and she was with us on every single site visit. She will tell you, every single time, the questions were the same, what is the zoning, is it compatible, is there an agricultural operation there, neighborhoods, are there developments across the street, honestly, you build a beautiful home and you are living there and all of a sudden there comes a guy next door and starts a two hundred pig farm, none of us would be happy. I can tell you that when we went through the process, and this fact, not fiction, all of those questions were answered, there was not a single time that any recommendation was made that went against any of those regs.

Legislator Leni Binder – First let me say that I think that the legislators all assumed that the Supervisors were included all along. We had that discussion after the fact and that is why Luiz is now extending the process formally.

Things that should have come up in the past had not come up, not to change the results, just to change the process. The one thing that came up was the notification of adjacent land owners, and I don't know where this would be. I know that if you go to Planning or Zoning, there is a public hearing and by law you have to notify the adjacent land owners – I would think that maybe in this ag process, the applicant, as part of the application could be encumbered to notify, maybe you could do it by a local law, I don't know – if it's not prohibited by the State, then you should be allowed to say one of our positions is that the applicant, as if we were doing a public hearing, must also in writing, notify the adjacent landowner of his application. Supervisor Galligan stated that he would love it if the County Legislators took this up at their next meeting. Ms. Binder continued that towns could do it because they have planning and zoning, I don't know if we could do it at the County level, it may get thrown out. If it's not prohibited by the State, and I'm not an attorney....Attorney Bavoso stated that he believed it would be on the County level, not the local level. The other municipality I represent is the Town of Deerpark, there was an application for an ag district for a pig farm, that notification went to the Supervisor. The Supervisor did nothing with it, so adjacent property owners, town board didn't even know about it when it was going to the County and the Farmland Protection Bureau and legislature. It was only coincidentally that the local legislator for Deerpark notified the town and asked why aren't you sending anyone to the hearing. Ms. Binder stated that she would make a commitment to the Town right now, that if there is nothing restricting it, I don't see why it shouldn't be part of the application. I think if anyone in any town applies for this exemption – wants to eliminate arguments so that when they get to this final step, we don't get into these issues. Kathy & I as majority and minority leaders will be happy to sponsor it if it's not illegal.

Marcia Raponi – I have a quick question, Mr. Wechsler, I think you said that once there is an ag district, that district is allowed to continue? Did I hear correctly? Commissioner Aragon replied that if it does exist, it may continue. Mrs. Raponi asked if it there already, can it be expanded and added on to? Commissioner Aragon replied they could apply.

Ben Wechsler – I would just like to inform the County Legislator that the Constitution of the United States guarantees the right of each citizen to petition the government. It could never be a state prohibition against information going to citizens.

Supervisor Galligan that speaking for the Town Board, there is no one here that is anti-farming. It was my suggestion to table this matter and continue discussion of it. Councilmen Raponi and Galligan stated they did not want this issue tabled. Councilman Galligan asked what actions could the board take at this point, we have nothing right now and they are working hard to put something together. Commissioner Aragon stated they should vote to end this issue and continue to work. Discussion ensued over the options of the board to vote to repeal the right to farm law, leave the law in place and continue to try and change the State agricultural law, taking no action. Supervisor Galligan stated that we did the ag district law, we did it to get the legislators attention. Leni and Kathy know that I wasn't very happy with the legislature. We've gotten a lot of discussion on the right to farm law, all of our discussion tonight was on the ag district and we have seen movement on the right to farm law and the process of an ag district. I think we should lobby the State, get Bonacic and Gunther and all of the people together, we can do it. I think we got a commitment from the County. Councilman Raponi stated that we got this far because it was on the table and we need to leave it there until it is done. Supervisor Galligan further stated that the ag district is here forever, the right to farm law, and I don't think anybody wants to repeal the right to farm law.

Commissioner Aragon said that he just wanted to repeat something that he said in the beginning. One of the major struggles in this county, and something that I work with everyday, is to try to change the course of the County, in regard to economic development. It is a day to day struggle where we do everything we can in many different arenas. My biggest challenge is agriculture. It's unifying the farmers, talking about agriculture, encouraging agriculture, making sure that the farmers that we have today, and they may not be in this Town today, but the farmers that we have in this County, are closing shop and their families, they are losing everything. It is a constant struggle. I can't tell you, I can't stress enough, the importance of me being able to say that this County, as a whole, supports agriculture. If every time this issue comes up, and the papers say that Forestburgh is considering repealing the Right to Farm law, it undermines every step that I take to help agriculture in this county and help all of us economically. I urge all of you to continue to work with us on the ag district issue, which is so important to you, but repealing the law will not accomplish anything other than maybe some satisfaction. If we could table this indefinitely, we will continue to work with you – you have our commitment, you have mine and most importantly you have the commitment of the legislature. But let's be wise, let's support what is so important to this county.

There are so very few things here that are important to us – let me tell you this, agriculture is at the very foundation of everything we do.

Once again, Supervisor Galligan reiterated that we have three options, to table the matter indefinitely; obviously I think that's a major change, if the county legislature can direct their commission that works with you guys that whenever they get an ag district application, it would be required by local county law to notify all contiguous land owners or people within five hundred feet or something, that would be a major, and we have a commitment from two of the legislators tonight, I think we got your attention. Legislator Binder replied you have nine out of nine on this, it is not controversial to notify every adjacent land owner in a situation like this. Supervisor Galligan continued, that we can table indefinitely, take it off the agenda. Councilman Raponi adamantly disagreed with that. Attorney Bavoso stated that you have local law that was introduced, you held a public hearing on the local law, the motion would be to adopt the local law repealing the Right to Farm law and vote to repeal. Supervisor Galligan questioned that a "yes" vote would be to repeal the law. Attorney Bavoso stated that is correct. Supervisor Galligan stated he was willing to take that route now, we have movement from the County. Attorney Bavoso continued that a majority "no" vote would be to leave the law in place. Councilman Raponi stated we should not table it or get rid of it when we have got this far. Supervisor Galligan stated that he felt that we had the attention of the County at this point, we can still work with them person to person, and part of negotiations is everyone gives a little. We got their attention, we got their commitment to amend/create a local law, which is more than I even thought of – it is a major step, and the Town agrees that we are not anti-farming. Councilman Galligan added this is doing nothing to enforce or enrich home rule. Once again Attorney Bavoso stated that the motion would be to adopt Local Law # 1 of 2010 which is a local law repealing Chapter 89 of the Forestburgh Code which sets forth the Right to Farm law.

MOTION by Councilman Galligan, seconded by Councilman Creegan be to adopt Local Law # 1 of 2010 which is a local law repealing Chapter 89 of the Forestburgh Code which sets forth the Right to Farm law.

Roll Call Vote:

Councilman Creegan voting nay;
Councilman Sipos voting nay;
Councilman Galligan voting nay;
Councilman Raponi voting nay;
Supervisor Galligan voting nay.

All in favor. Motion carried.

At this point Councilman Raponi questioned the language of the motion and asked Attorney Bavoso for a further explanation, at this point Councilman Raponi requested that his vote be changed to a yes vote to in fact repeal the Right to Farm law.

MOTION by Councilman Galligan, seconded by Councilman Creegan be to adopt Local Law # 1 of 2010 which is a local law repealing Chapter 89 of the Forestburgh Code which sets forth the Right to Farm law.

Roll Call Vote:

Councilman Creegan voting nay;
Councilman Sipos voting nay;
Councilman Galligan voting nay;
Councilman Raponi voting aye;
Supervisor Galligan voting nay.

Vote: 4 ayes – 1 nay. Motion carried.

ZONING/SUBDIVISION REVIEW COMMITTEE – Supervisor Galligan asked Chuck Voss of Barton & Loguidice to give an update to the board on the work of the zoning/subdivision review committee. Mr. Voss stated that there are two ad hoc members of the Town Board on the zoning committee. We have met twice so far and essentially what we are doing is making a punch list of known issues within the zoning. Within probably the next

month or two, we will have a check list of items specifically targeted that the committee will make recommendations on. It is my job to come up with the language for that code and then it will be rolled out to the Town Board and to public hearings for your input and review. Hopefully within six months we'll have some good language and definitions.

TREE REMOVAL/FORESTBURGH CEMETERY – Everyone has two proposals from one person to remove the trees in the cemetery. Councilman Galligan spent a lot of time in the cemetery, it is not just a simple matter of removing the trees. It is in desperate need of a lot of work, stones are falling over, you can't mow in the back, there are limbs all over. Councilman Galligan stated now is not the time to accept a proposal, there is an awful lot that needs to be done in there. It is our responsibility, every cemetery has perpetual care – this is a disgrace to the town, and we have to do something besides remove a few trees. Furthermore, Councilman Galligan stated that we have had this cemetery forever, and there is no question we own it. We need to get a deed on record, I did a lot of research on this and so did Councilman Creegan. Councilman Galligan did, at no cost to the town, a full survey of the property including a metes and bounds description, which he present a copy to the Town Clerk and Attorney Bavoso and suggests trying to get a quit claim deed from the Benziens who own all of the surrounding area. Attorney Bavoso will send a letter requesting the deed. With the board's permission, Councilman Galligan will file the maps and description in the County. All were in agreement. Ed Kaufmann questioned the Town taking this over, with great expense and questioned how much it would cost the taxpayer to maintain this, especially after you had Joe Kenny of Van Inwegen-Kenny Funeral Home tell you cemeteries are being abandoned because of the cost of perpetual care. There are other cemeteries in town that are paying for the care they receive. Councilman Galligan stated he believed we have an obligation to take care of this. Discussion ensued with regard to ownership, obligation to maintain and liability and insurance, the availability of plots. Matter tabled.

PLANNING BOARD VACANCY - Supervisor Galligan stated that Attorney Bavoso has done some research because there some applicants who have caused some conflict of interest between three of the Board members, John & I and Bill Sipos – family members have applied for the vacancy. Attorney Bavoso outlined the issues of conflict and the options available to the board. MOTION by Councilman Galligan, seconded by Councilman Sipos to have Councilmen Raponi and Creegan, along with Chairwoman Hawvermale interview the candidates and bring a recommendation to the August meeting. Vote: 5 ayes – 0 nays. Motion carried.

TRAFFIC TICKET ATTORNEY – Supervisor Galligan stated that everyone has two letters of interest from two attorneys interested in prosecuting our traffic tickets. Councilman Galligan stated that he was a committee of one on this matter and have apparently been removed, I have applicants to present here. Matter tabled.

OLD TOWN HALL – There is a committee of Councilman Galligan, Councilman Raponi, Historian Mary Ann Toomey and Dick Gibney, they are meeting next week. Matter tabled.

NEW BUSINESS

FERC LICENSE TRANSFER – Alliance Energy is attempting to sell its Mongaup Reservoir property. They have an interested buyer and are trying to transfer the license. We attended a meeting at the County on this issue, along with the Supervisors from Thompson, Bethel and Lumberland. The biggest concern is water levels in Swinging Bridge and the Toronto Reservoir. They are a major taxpayer in both Forestburgh and Lumberland, we are staying on this matter, before signing off. Ben Wechsler stated this has been an issue as long as he has been here. MOTION by Councilman Galligan, seconded by Councilman Sipos to open the floor to Mr. Wechsler. Mr. Wechsler just wanted to point out there is an extremely complicated interstate compact, approved by the United States Supreme Court that controls the amount and timing of water that flows into the Delaware River that enters Port Jervis or nearby. All of these other lower, that the Federal Government Municipal corporations are powerless to do anything. Councilman Galligan stated that, that was never brought up once at the meeting, they only brought up their petty issues. Mr. Wechsler continued that the last time this happened was when FERC exercised its rights over interested parties, this was 20 years ago and wanted to control the releases and wanted to guarantee the right to kayak. That would come at the expense of other people, and there were months of fighting between the kayakers and the fisherman and in the end nobody, including the DEC could do anything about it, it had to be done by the Feds. You should know this before you get involved in those discussions. Councilman Raponi stated that the DRBC controls the whole river and the amount of water that goes down there, because the flow levels on the lower Delaware have to be a certain levels for the influx of saltwater to not back up.

POOL – HEATERS DONATION - Supervisor Galligan announced that we have a local resident who has offered to pay for the propane to heat the pool. The heaters are not hooked up, but it has generated a lot of discussion. This discussion has brought up about ten other issues. One of the things we could do immediately, at about a five or six hundred dollar cost, is to purchase a solar cover. A lengthy discussion was held over solar pool covers, installing propane tanks and using the heaters, pool use and increased use. Councilman Sipos requested some time on this matter to look into a few things and respond to the donation offer. Matter tabled.

EMERGENCY SERVICES REVIEW – Clerk Joanne Nagoda was in contact with Emergency Vehicle Response, who was recommended from C.T. Male for reviewing the emergency services impact on the proposed three developments. They estimate the cost for a service review and report to be in the area of approximately \$21,000.00 which would be paid for by the developers. They would like to meet with me and the fire department on Wednesday afternoon and gather preliminary information on the developments and the fire department and give us a formal quote. MOTION by Councilman Creegan, seconded by Councilman Galligan to have a primary analysis meeting with Emergency Vehicle Response, provided there is no charge for this meeting. Vote: 5 ayes- 0 nays. Motion carried.

MONTHLY FINANCIAL REPORTS – Supervisor Galligan informed the board members that in front of them is a draft of the new appearances in the monthly financial reports, this is just to give you an idea of what you will be seeing. Look at it and get used to it, and you will receive a true report next month.

COMMITTEE REPORTS –

Planning Board – No report.

Historian – Report filed.

Building Inspector – Report filed.

Seniors – Going to the Lighthouse in White Lake on the 14th.

Green Committee – No report.

Forestburgh Day – The cabaret will perform at Forestburgh Day.

Recreation – The pool was open on time this year, we have passed our inspections. I have been working with the County, the State has changed some of their program directives, so we may be eligible for additional funding for the program.

PUBLIC COMMENT –

Roger O'Dell – Well of course, the pool heaters, I don't think starting them up is as expensive as running them. I believe the cost was about \$1,500, if this comes about, I think you should start charging to use the pool. Councilman Creegan asked if Mr. O'Dell would be against a donation, as he feels it merits looking into to see what the cost would be and if we could use solar power.

Chuck Vassalo – I have been told that we have the heaters in place, but we don't have the tank and the lines. Supervisor Galligan, along with Councilman Sipos stated that the tank and the lines are all that are needed. The heaters are there.

Carol Travis – Questioned if you are going to open the pool earlier and leave it open later, do you even have lifeguards? Supervisor Galligan replied that we can't open the pool without a lifeguard.

Mary Ann Toomey – Going back to the cemetery, I was involved with the tree guy for the one in the middle, and Councilman Galligan made me aware of the other one behind it, there are two others that are on the other side of the stone wall that are leaning and rotted. You are talking about major tree work here, and when the limbs from the one came down, there are several tombstones that need work. It's not just trees.

Councilman Creegan thanked Councilman Galligan for donating his time and energy to survey the cemetery, and asked if he could estimate how much area is not being used. Councilman Galligan estimated, maybe half, but it is hard to tell where the graves are or aren't, on some there are just small stones.

Ben Wechsler – I noticed that we had a different format here tonight and a lot of people from the town were invited and allowed to speak, and lo and behold several of the ideas from the audience were adopted by the Town Board, or at least the board expressed an agreement with them to go forward. I remember meetings from forty years ago where that was the custom at the time. Bit by bit, like many things in the United States those habits which were once thought of as right have been eroded and I would just like to ask the Board members to think about this meeting, and they may come to the conclusion that I have come to, that it was an exceptionally good and profitable meeting for the Town. You may want to consider relaxing the rules.

Gay DiVirgilio – I would greatly appreciate it if the Board could ask the two gentlemen who are going to do the emergency services review, to ask them to consider sprinklers. I hope they will incorporate that in their report.

Carol Travis – I wasn't here last month, what is happening with the store/bar whatever – I can't tell driving by and I'm not going to stop. The door was open the other night when I drove by and you could see lights and people at the bar. Supervisor Galligan stated they do not have a liquor license; there are no building permits out or anything. Councilman Galligan stated there has been a tremendous improvement to the outside of the building. It's been cleaned up a lot. They have no permits to open and we know of no plans to open.

Ed Kaufmann – A couple of things, last week at the planning board meeting, I said I would try to find out more about the vacancy on the planning board. Supervisor Galligan stated that we did it tonight, we set the date and Councilmen Creegan and Raponi are going to do the interviews. Mr. Kaufmann asked when an appointment will be made. Councilman Raponi replied that an appointment will probably be made at the next meeting. Just as a comment to Councilman Sipos, if you wanted to reduce the board to five, if you would have done your homework you had a chance to do that when Tom Berg's appointment was up. You could have done it at that time. The Town Law says in Article 16, Section 271, which Mr. Orisek was kind enough to research, the board has to have five or seven not five and seven. Discussion continued with regard to the resignation of Anthony Griffin and the date of resignation, changes in policy and allowing the Planning Board to interview and make a recommendation, and consideration of candidates due to conflicts. Mr. Kaufmann continued that Sho-Fu-Den continued to appear before the boards when their escrow is down below five thousand dollars, why are they continued permission to appear before any board without replacing their escrow funds. Councilman Creegan stated that Mr. Sipos and Mr. Galligan will be interviewed regardless of the conflicts of family members being on the Town Board.

EXECUTIVE SESSION - MOTION by Councilman Sipos, seconded by Councilman Creegan to enter into executive session for the purpose of a possible contact negotiation and invite Town Clerk Joanne Nagoda and Attorney Bavsos' into session. Vote: 5 ayes- 0 nays. Motion carried.

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

ADJOURNMENT – **MOTION** by Councilman Sipos to adjourn at 9:40 p.m.

Respectfully submitted,

Joanne K. Nagoda,
Town Clerk