

The Town of Forestburgh Town Board held their regular monthly meeting on **Thursday, July 7, 2011** 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, RMC

Others  
Present – William D. Bavoso - Attorney for the Town  
David Bavoso - Associate Attorney  
Dan Hogue, Jr.- Highway Superintendent  
John Galligan, Jr. – Member of Planning Board

**REPORTS –**

Supervisor Galligan submitted the financial report for the month of June, 2011.

Justice Carroll submitted reports of Justice Court activity for May and June 2011.

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

**PUBLIC COMMENT –**

Kathrine Barnhart – I want to urge you once again to vote against Local Law # 3. It seems to me that you are using a sledge hammer to fix something that could use a taps with a mallet. It sounds to me like you have issues with the Planning Board and instead of dealing with those issues, you are taking control. It’s almost like a power grab. People are upset about this, I have listened to your reason for doing this and it sounds like your reason is that you have worked on this issue for a period of time, and I am referring to Lost Lake. But the Planning Board has specific knowledge of this too. Your job has a whole range of issues that you have to deal with. The Planning Board has specific issues, which are so complicated that they have to take a course, before they are able to serve, which is my understanding. So, it seems to me, that this issue, which is so important to our present and future and the community coming in, it’s critical that we get it right. The more people involved in it and involved in the decision making, I think the better. If you vote for this, I think you are harming the community.

Richard Wallace – My name is Richard Wallace and I am from Goshen. I own property here and my wife, Joyce is a citizen of Forestburgh. Goshen is under pressure from developers for sixty or seventy years now, and they got hot to trot a couple of times and made some terrible mistakes. And now if you read the papers, they are agonizing over how to pay their sewer bills, because they just had to put in an enormous new sewer to take care of all of the new development, which has been forced or accepted by the community leaders and it all comes from not handling things properly and in a sensible order, which I would admonish you to let the Planning Board to do, not the Town Board, which is subject to re-election and all sorts of ideas of grandeur of what they can do in the development of the community, which may not be in the best interest of the community or future citizens.

Richard Feller – My name is Richard Feller and I spoke last time, as other people did as well. The justification in the purpose section on page one allowing for the proposed law change, indicates, as Kathrine had said earlier, actually

your sole reason for doing this is that you have been involved with the Lost Lake project for two years. You state that you have specific knowledge that would allow you or should allow you to make all final SEQRA/PDD and Site Plan determinations, and make the Town Board the sole board for making determinations. You are taking the sole, single event of this one subdivision and your experience with that subdivision and using that as justification for making all of the decisions for every PDD that would come forward, and you are taking that extra knowledge, and the extra eyes that would come in a review away from the Planning Board. Again, having served on this Planning Board several years ago, for either five or seven years, I do have a strong feeling for the use, the knowledge and the expertise of the Planning Board with regard, obviously, to this development and proposal, that you have with Lost Lake. When you take this one thing and try to broaden it and use it for the justification to broaden it, your control over PDD's, quite honestly, I do believe, in all due respect, I believe that is a flawed logic to use because all of you at given times will not be here. I have sat on elected boards, I have resigned from elected boards, there is an ebb and there is a flow. So the justification that you have the knowledge doesn't sit with the board, it sits with you folks who may or may not be sitting there next year or the year after. It's true the same goes with the Planning Board, but they are appointed, they're not seated or unseated in the matter of every couple of years as are people who are subject to elections. So on that position and that point, I would urge you not to adopt the law and allow the Planning Board to do what it needs to do on this any other future PDD's. My other question is that Lost Lake is set to re-zoned from RR-1 to PDD is that on the agenda for tonight? Supervisor Galligan replied that the Board has to set a date to hold a public hearing. Attorney Bavoso added that it is not on the calendar for any action by the Town Board other than to set a date for the public hearing. Mr. Feller continued that you will just set a date and there will be no discussion on content or anything else, to which all replied no.

**MINUTES** – Town Clerk, Joanne Nagoda submitted minutes from the Special Meeting held on May 18, minutes of the Public Hearing on Local Law # 3 held on June 2 and the regular Town Board meeting of June 2. MOTION by Councilman Sipos, seconded by Councilman Galligan to accept all minutes as submitted. Vote: 5 ayes – 0 nays. Motion carried.

**GENERAL FUND VOUCHERS** - # 104 – 139 in the sum of \$9,120.09 as set forth in abstract # 7 were audited for payment. MOTION by Councilman Galligan, seconded by Councilman Raponi to pay general fund vouchers. Vote: 5 ayes- 0 nays. Motion carried.

**HIGHWAY FUND VOUCHERS** - # 104 – 126 in the sum of \$16,379.20 as set forth in abstract # 7 were reviewed. MOTION by Councilman Sipos, seconded by Councilman Creegan to accept highway fund vouchers. Vote: 5 ayes – 0 nays. Motion carried.

**ESCROW FUND VOUCHERS** - # 19 – 21 in the sum of \$12,257.95 as set forth in abstract # 7 were reviewed. MOTION by Councilman Galligan, seconded by Councilman Raponi to pay escrow fund vouchers. Vote: 5 ayes – 0 nays. Motion carried.

**COMMUNICATIONS** – None.

**ADDENDUMS TO THE AGENDA** – Supervisor Galligan stated there are two items that are not on the agenda that all of you have, they came in to late today to be placed on hand out agendas. One, as we just discussed is the date for a public hearing on Lost Lake and the other is speed zone request that was received this afternoon.

**UNFINISHED BUSINESS**

**ZONING REVIEW** – Discussion was held by the Board to not take any action on this matter, and what action should be taken. Councilman Raponi suggested scheduling a special meeting to discuss this and review it. Supervisor Galligan stated that we have to set a public hearing date on a different matter further down on the agenda, maybe we could look at the zoning then. Matter tabled. (See below – condemnation hearing date.)

**OLD TOWN HALL REPAIRS** – Supervisor Galligan asked Historian Mary Ann Toomey if she had any report on this or if she was still looking. Ms. Toomey replied she is estimating the repairs at \$30,000, for the foundation \$18,500 and the roof and to have it scraped and painted. I am not having much luck with grant funding, but I have written to Senator Bonacic and Assemblywoman Gunther and I have contact several historical websites and none so far have responded. Councilman Raponi stated that they can't move the building, to fix the foundation they can only

lift the building, do the repairs and replace it in the same footprint. Discussion was held on the electric to the building and the chimney as well. Mary Ann also added that she attended a NYSERDA meeting and she has checked into the company that does their evaluations through Orange & Rockland to have the light fixtures in the Town Hall redone, but I could also ask them about the old Town Hall as well. Though this program we pay 20% and they pay 80% if the work is done. Joanne added that today the County Office of Sustainability called and requested to be on the August agenda for a ten minute presentation on low cost and/or free programs being offered to homeowners through NYSERDA for energy saving home repairs/improvements.

**JCAP GRANT – AIR CONDITIONING** – As per the “parting gift” of Judge Olesnycky, the justice court grant for the air conditioning, which you are all enjoying right now, has been completed.

**CELL TOWER BUILDING FEES** – Supervisor Galligan stated that we have not yet received anything back from the Planning Board on this matter. As far as the cell tower goes, there are two stories, one as the Supervisor understands it is that they have applied for their bond which has to be in place in the event the tower becomes obsolete and needs to be removed. The other is that the Commissioners have been in touch with A.T. & T. and they are in the process of “prioritizing” their construction schedule.

**LOCAL LAW # 3 – AMENDING THE PDD LEGISLATION** – Supervisor Galligan asked for either discussion or a motion. Clerk, Joanne Nagoda read the 239 report that was received from the County Planning Department, stating that the proposed Local Law is a local determination, but they highly urge the Town Board to seek similar training classes that are mandated for Planning and Zoning Boards to keep current with Planning and Zoning issues, as they would be responsible for knowing these issues when reviewing a PDD. They further suggest amending the PDD legislation further to address guidelines for density bonuses allowable under a PDD. Typical density bonuses don’t usually exceed 75%, so projects generally don’t exceed 175% of the density allowed under the right of zoning. Attorney Bavoso stated that before a vote can be taken to adopt or not adopt the proposed Local Law, there are steps that must be taken to satisfy SEQRA, since the vote will affect the zoning laws.

MOTION by Councilman Sipos, seconded by Councilman Creegan to appoint the Town of Forestburgh Town Board as lead agency for the purpose of SEQRA. Vote: 5 ayes – 0 nays. Motion carried.

MOTION by Councilman Galligan, seconded by Councilman Sipos as lead agency and based upon the review of proposed Local Law # 3 and the 239 review performed by the Sullivan County Division of Planning and Economic Development has determined that the enactment or adoption of this law will not have any adverse environmental impacts under SEQRA, and declare a negative declaration. Vote: 5 ayes – 0 nays. Motion carried.

MOTION by Councilman Galligan, seconded by Councilman Sipos to adopt Local Law # 3 of 2011 entitled Planned Development District Law of 2011. Councilman Raponi stated that he agrees with the Planning Board and all of those who spoke at the public hearing and tonight. He also feels that something has to be done, we don’t need a sledge hammer, but we don’t need a chipping hammer either. This is only for PDD’s and at anytime we can turn this back and that the members of this board need to take all of the classes that the Planning Board takes. Supervisor Galligan stated he has no problem taking the courses and he doesn’t believe any of the other board members do either. At this time a roll call vote was requested.

Vote:

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

Motion carried.

NEW BUSINESS

**CONDEMNATION PUBLIC HEARING** – Supervisor Galligan stated that last month there was a house that the Board condemned. The owner of the property is contesting the condemnation, which entitles them to a hearing.

After speaking with the owner, I would suggest having it a week prior to our next Town Board meeting. Discussion was held on a date and time and the notification of adjoining property owners. MOTION by Councilman Sipos, seconded by Councilman Creegan to hold a public hearing on the condemnation of property at 198 Dill Road on Wednesday, July 27, 2011 at 7:00 p.m. in the Town Hall and upon a MOTION by Councilman Galligan, seconded by Councilman Creegan will review the work of the zoning review committee at 7:30 p.m. or as soon thereafter as may be heard. Vote: 5 ayes – 0 nays. Motions carried.

**MARRIAGE OFFICER REQUEST** – Town Clerk, Joanne Nagoda requested from the Town Board the appointment of marriage officer at no additional compensation. The state is getting ready for the same sex marriage law that takes effect on July 24, 2011, justices by virtue of their office may marry persons anywhere in New York State, however a marriage officer may only marry people within their jurisdiction, i.e. the Town of Forestburgh. This would just be another service that could be provided by the Town Clerk’s office. The appointment would be through December 31, 2011 at which time then it could be re-appointed in January for either one or two years. MOTION by Councilman Galligan, seconded by Councilman Sipos to appoint Joanne Nagoda, Town Clerk as a marriage officer for the Town of Forestburgh for a term ending December 31, 2011, at no additional compensation. Vote: 5 ayes – 0 nays. Motion carried.

**SPEED ZONE REQUEST** – We have a letter from most of the people on Rod & Gun Club Road requesting that the speed limit for that road be set at 30 miles per hour. Right now I believe it’s fifty five. Superintendent Hogue stated that all roads in New York State, unless otherwise posted are fifty five miles per hour. The criteria for a speed zone request by the State of New York, the state just passed a law saying that Town’s can do it now, you can contract with an engineer to do the same study that the state does for free. The Town Board would have to send a letter, probably to the Monticello office of DOT, they would do the study, it would take like a month or so, that road might be close to meeting the criteria. MOTION by Councilman Galligan, seconded by Councilman Creegan authorizing Attorney Bavoso to write to the Monticello Office of the DOT and request a speed zone study on Rod & Gun Club Road. Vote: 5 ayes- 0 nays. Motion carried.

**PDD LEGISLATION PUBLIC HEARING** – Attorney Bavoso explained that under the old law and now under the new law, the section is identical. The Town Board has to request input, by means of a public hearing, on whether or not to designate the parcel that Lost Lake, or any PDD will be seeking to develop as a Planned Development District. Before you can act on that you need to set a date for a public hearing to accept comment. Discussion was held by the board on available dates for the proposed hearing. MOTION by Councilman Sipos, seconded by Councilman Creegan to hold a Public Hearing for the purpose of obtaining public comment on a proposed PDD zone for the Lost Lake project on August 4, 2011 at 7:00 p.m. in the Town Hall with the regular monthly meeting to immediately follow. Vote: 5 ayes- 0 nays. Motion carried.

## REPORTS

Planning Board – Joanne stated that she has information that needs to go under Planning Board. An e-mail was received late today, where a bill has passed the Senate and Assembly and is awaiting the Governor’s signature which mandates that all Town Boards, Planning Boards, ZBA’s, any board within a municipality must make available any and all documentation that you receive in your packets, must be available on our website prior to the date of the meeting. The one catch that has already come about, especially for Planning Boards, are getting the maps that are submitted into a readable format to place on a website. Attorney Bavoso added that the developer would have to provide something we could scan to fit on the website or make them submit things electronically. Councilman Raponi requested that the Right To Farm issue be placed upon the Agenda for the August meeting.

Building Inspector – report filed. Supervisor Galligan added that the State Civil Service is considering mandating that nay building inspector who earns more than \$3,000 per year would come under all civil service rules and regulations and testing. There would be no grandfathering in. Discussion was held on the amount of mandates being handed down from the State and their financial impact to Towns, Schools and the like to meet the mandates with no extra funding.

Historian – Report filed. Ordering the historical marker for Forestburgh Day.

Seniors – Going to the Riverview on Wednesday.

Forestburgh Day – August 20<sup>th</sup>, and everything is pretty well set, there will be a detailed schedule in the next newsletter, there will be a tour, the Rausch Brothers Band, the Chicken Barbecue, John Conway will speak. Don’t forget about the 5K race that morning to benefit Hospice.

## **PUBLIC COMMENT**

John Sundholm – I'm your neighbor from the Town of Highland, I live in Eldred, my name is John C. Sundholm and I would like to tell you that I am running for Sullivan County Legislator, District 2, which is Forestburgh, Highland and a part Mamakating. I hold a Bachelors of Science Degree in Agriculture from Cornell, and MBA from Iona College, I have been in private business in Westchester County and have had a house here since 1973/1974, I am a retired Lt. Colonel with the United States Air Force. In addition, I am a frustrated fisherman and I love to blow the trumpet. I hope to meet more of you in the future, but at least now you have a face to go with a name, and please don't pick on my fishing or trumpet blowing. Thank you.

Mary Ann Toomey – Next year is our 175<sup>th</sup> Anniversary. I have had two people come forward to be on the committee.

Dan Hogue, Sr. – I went down Rod & Gun Club Road the other day, there is a lot of construction going on from the Thompson side. Everything is leaching in, especially when it rains, it's in our ditches, it's a real mess and I want to know if the Town is doing anything about it. Dan Hogue, Jr. replied that the DEC has been contacted, I contacted them myself, it has improved somewhat, we have had some significant rain, it's in the Town of Thompson and I can't tell them what to do. MR. Hogue Sr. asked if they are going to build homes in Forestburgh. Supervisor Galligan replied that there is no application or anything at this time. Mr. Hogue Sr. continued that he heard they upped the amount of homes they were putting in from forty to eighty, or something like that. Councilman Sipos stated that he took a ride in there, just to poke around, and there are homes going up, and according to what's on the building on the left when you pull in, it said seventy homes on the sign. There is a Jose Lima job trailer with a sign on it. They are two story homes with full foundations, I saw three, there are two more foundations and they were digging more, and I believe there are fifteen permits already pulled for that project. Dan Hogue Jr. stated that so far there is no electric on site. Attorney Bavoso added that the discouraging part of that is that the maps are filed in the Town of Thompson, and we requested a copy of drainage plan from the Planning Board, we received nothing and the next thing we know they had approved the project without ever sending us a thing. If it were not for Dan's efforts, we never would have seen the drainage plan and we have only seen that in the last month or so, but it's long past when the project was approved. Dan Hogue Jr. continued that Forestburgh has a significant interest in it because we have three fairly decent sized, large culverts under the roads that are extremely expensive to replace, so I was interested in the increased storm water runoff that might impact our structures, two of which have been replaced through FEMA. But I was concerned about a possible financial impact to the town.

Supervisor Galligan asked to back up a bit, it must be summer, as Chuck Vassallo is sitting in the back and Chuck is our camp/summer program director, s maybe he will give us an update. Mr. Vassallo replied that camp opened this week, the pool is open, in the absence of a full time "maintenance" person, I go to Dan Hogue a lot for stuff that I don't do, like painting the pool numbers and securing the pool sheds, so I do want to thank him publicly for his willingness to help the town and the program. I do want to remind the board that our chlorine crocks are in shaky condition and there has been discussion between Wechsler and the health department about possibly moving the crocks back into the shed, but that creates a safety issue with the floor, I don't know where we are with that, so I am just crossing my fingers that our crocks last the season and don't crack.

Gay DiVirgilio – I want to thank Michael Creegan for letting me know that Double Diamond has agreed to put sprinklers in all of their new structures and I am thrilled about that, but I just want to raise the question that they do have to be tested periodically.

Stuart Salenger – Is the Town Board aware of the dumping situation on St. Josephs Road and that there have recently been some arrests. Dan Hogue Jr. stated that County Route 108 – St. Josephs Road – there has been quite a bit of dumping on there. There were probably a few people in the justice report that you just read, as they were brought to court here. It has now been brought to my attention that within the last two days or so more garbage has been dumped there. It is a County road, when that happens I usually notify the County, because if I pick it up they charge the Town at the landfill and I don't think it's a proper taxpayer charge to us for picking up the garbage on a County road. If it goes long enough, I will pick it up, but the County can dump it for free. If anybody sees any roadside dumping, please let us know and we'll call the Sheriff's Department.

Richard Feller – Also down in that neck of the woods, I have mentioned this to a few members of the Town Board, there is an issue going on down at the gravel banks on Cold Spring Road, and it's dumping of sorts, actually. Every weekend, for years, there are people that are down there shooting firearms on Saturdays and Sundays, and not just sighting in rifles with five or ten shots, but hundreds and hundreds of rounds per hour, have been dispensed down there. I would guess that over the years, there are probably tons of lead that has been deposited in that gravel bank, causing, obviously contamination to the ground and the water supply. Now it's a real concern to all of us who live in that area as it's our water supply, but at the same time, it's the same water supply that Lost Lake is going to use. Supervisor Galligan stated that after Mr. Feller mentioned this to him, about a week later he was driving by and there was a DEC officer there, so I stopped and asked him about it. He said he would look into it, but it was like her never thought about it before I mentioned it all to him. Councilman Galligan also stated that it's used for a garbage pit down there. Mr. Feller stated that the unfortunate part is that in the beginning, when people were just going down there to shoot for target practice, it was almost like it was an acceptable use, but what is going on there now is more than just target practice. It's going to be a contamination issue. Councilman Galligan stated that the DEC allowed it and Mr. Feller replied absolutely and quite a few people on the road are concerned about it. Supervisor Galligan stated that he would write a letter to the DEC about it.

Dan Hogue Sr. – We have the same problem on French Clearing Road, especially in the summer during the mornings. It seems like everyone who comes up here has a shotgun, rifle, 9 mm and has to shoot. While it has to be five hundred feet from a dwelling, but can the Town pass an ordinance limiting the time to shoot firearms. Supervisor Galligan stated its difficult to enforce, but we can check with the DEC and see what we can do. Mr. Hogue stated that the quality of life gets screwed up. Attorney Bavoso stated that he believed the Town could restrict the type of firearm with relation to distance from residences.

Vince Mancuso – Are you talking about the shale pit? That is private property. All responded the gravel pit down on Cold Spring Road.

Richard Robbins – It was interesting to hear Commission Aragon's comments with regard to Local Law # 3, and I am delighted to hear that you guys are going to accept his recommendations, and get the training that is necessary. I was wondering if you were also going to take his recommendation and amend the PDD law further to create defined levels of density as opposed to have a wide open discretionary description of what bonuses will be permitted. Supervisor Galligan replied they would be looking at that.

**ADJOURNMENT** – MOTION by Councilman Sipos to adjourn at 7:55 p.m.

Respectfully submitted,

Joanne K. Nagoda, RMC  
Town Clerk