

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

PUBLIC HEARING UPON
PROPOSED LOCAL LAW # 1 OF 2022 ENTITLED
“A LOCAL LAW ESTABLISHING A TEMPORARY LAND USE MORATORIUM ON ACCEPTING, REVIEWING AND
APPROVING BUILDING AND LAND USE APPROVAL APPLIATION REQUIRING ESCROWS WITH INT THE
TOWN OF FORESTBURGH”
TOWN OF FOROESTBURGH, SULLIVAN COUNTY, STATE OF NEW YORK

FEBRUARY 3, 2022

Supervisor Hogue opened the public hearing at 5:45 p.m.

Roll Call: Present – Daniel S. Hogue, Jr., Supervisor
Karen Ellsweig, Councilwoman
Vincent C. Galligan, Jr., Councilman
Steve Budofsky, Councilman

Absent – Susan Parks Landis, Councilwoman

Recording
Secretary – Joanne K. Nagoda, Town Clerk

Others
Present – Richard Robbins, Planning Chair
Troy Johnstone Esq. – Attorney for the Town

Supervisor Hogue gave a brief overview of the proposed Local Law and opened the floor for public comment.

Steve Barshov – I am the attorney representing Lost Lake Holding the obvious object of this moratorium. He gave a statement as to why the moratorium is bias and targeted towards his client. In addition, statements, comments, and suggestions were offered by over twenty-three persons in attendance. Those in attendance ranged from persons wishing to purchase property and reside within Lost Lake, contractors employed by Lost Lake, as well as surveyors for the project. Current Forestburgh residents spoke both in favor and against the project, all with the similar outcome of do the project correctly and follow the rules. A full list of speakers is available in the town clerk’s office and will be attached to this document.

Councilman Budofsky is speaking in terms not on the project tonight, but personally, and I think I can speak for my fellow board members, I find it very disturbing, and hurtful that you would in anyway suggest that you quoted “hate, bias and bigotry”, so I know for a fact that is absolutely not the case in any part of this procedure from my perspective and I speak for the board as well. Every bit of good will that you bring to our town, which hopefully will be your town is returned by this board. I would like everybody to focus on the project issues itself. Please do not think for a moment that any of this has to do with hate, bigotry and trying to stop the project, because it is not, that I guarantee you.

MOTION by Supervisor Hogue, seconded by Councilman Budofsky to close the public hearing at 6:43 p.m. Vote: 5 ayes – 0 nays. Motion carried.

Respectfully submitted,

Joanne K. Nagoda, RMC, CMCM
Town Clerk

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

The Town of Forestburgh Town Board held their regular monthly meeting on **Thursday, February 3, 2022**. At the town hall.

Supervisor Hogue called the meeting to order at 6:44 p.m.

A moment of silence was held for resident/ Assistant Fire Chief William “Billy” Steinberg who passed away in a line of duty death. Condolences are offered to his family and the Forestburgh Fire Company.

Roll Call: Present – Daniel S. Hogue, Jr., Supervisor
Karen Ellsweig, Councilwoman
Vincent C. Galligan, Jr., Councilman
Steve Budofsky, Councilman

Absent – Susan Parks Landis, Councilwoman

Recording
Secretary – Joanne K. Nagoda, Town Clerk

Others
Present – Richard Robbins, Planning Chair
Troy Johnstone Esq. – Attorney for the Town

PUBLIC COMMENT - Steve Barshov asked the board about the zoning committee, he sees reference to it, but it is not listed on the website nor is any information pertaining to it. When and where does it meet? Is it public? What is it doing? Supervisor Hogue replied it is a committee of Forestburgh Citizens who have been working for 5 years on the town’s zoning. They are looking to address and update our zoning code. Mr. Barshov asked if there is a meeting location, he can attend that meeting? Councilman Budofsky stated that he and Katherine Barnhart are co-chairs of that committee, there are other residents and an attorney, and we are working with County Planning. The committee meets among itself and everything that is put together is being worked on and modified on a monthly basis. When the zoning is completed, it will be presented to the town board for their review. Discussion was held on a sanctioned committee are subject to the open meetings law.

MINUTES – Clerk Nagoda submitted minutes of the October 13, 2021, meeting for review. MOTION by Councilman Budofsky, seconded by Councilwoman Ellsweig to accept the minutes as submitted. Vote: 3 ayes – 0 nays. Councilman Galligan abstained. Motion carried.

GENERAL FUND VOUCHERS - #8 – 34 in the sum of \$13,475.71 as set forth in abstract # 2 were audited for payment. MOTION by Councilman Budofsky, seconded by Councilwoman Ellsweig to pay the general fund vouchers. Vote: 4 ayes – 0 nays. Motion carried.

HIGHWAY FUND VOUCHERS - # 2 -20 in the sum of \$63,337.76 as set forth in abstract # 2 for 2022 were reviewed. MOTION by Councilman Budofsky, seconded by Supervisor Hogue to accept highway fund vouchers. Vote: 4 ayes – 0 nays. Motion carried.

CORRESPONDENCE – First is a letter from Monticello School District requesting use of the town hall for voter registration and school budget voting to be held on May 10, from 4-8 P.M. (registration) and May

17, 2022, from 8:00 a.m. to 8:00 p.m. for voting. MOTION by Supervisor Hogue, seconded by Councilman Budofsky to permit the Monticello School District use of the facilities on the requested dates. Vote: 4 ayes – 0 nays. Motion carried.

Second is a letter from Senator Mike Martucci to the board, he urges the board to reject the moratorium and approve or deny applications based on the laws already on the books.

Lastly is a letter from the Sullivan County Planning Department on tonight's proposed action of Local Law # 1 has been determined to be a matter for local determination.

UNFINISHED BUSINESS

PLANNING BOARD VACANCY – We are still seeking an individual to fill this vacant seat.

SPECTRUM PUBLIC HEARING – We have to postpone this until March 3, 2022, at 6:00 p.m. MOTION by Supervisor Hogue, seconded by Councilman Budofsky to postpone the Spectrum/Charter Communication Public Hearing until March 3, 2022, at 6:00 p.m. in the town hall. Vote: 4 ayes – 0 nays. Motion carried.

NEW BUSINESS

LOCAL LAW # 1 OF 2022 – This is the Local Law to Enact the Moratorium. MOTION by Supervisor Hogue, seconded by Councilman Budofsky to adopt Local Law # 1 as presented. Vote: 4 ayes – 0 nays. Motion carried.

TOWN OF FORESTBURGH

LOCAL LAW NO. 1 of 2022A LOCAL LAW ESTABLISHING A TEMPORARY LAND USE MORATORIUM ON ACCEPTING, REVIEWING AND APPROVING BUILDING AND LAND USE APPROVAL APPLICATIONS REQUIRING ESCROWS WITHIN THE TOWN OF FORESTBURGHBE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF FORESTBURGH AS FOLLOWS: SECTION 1. PURPOSE AND INTENT.

This local law is intended to temporarily prohibit accepting, reviewing, and approving building and land use approval applications requiring escrows within the Town of Forestburgh for a period of up to three months from the effective date herein. The purpose of this moratorium is to provide the Town adequate time to review and, if necessary, amend applicable Town Code provisions in order to assure compliance with requirements related to establishment of project escrows and payment of consultant fees / expenses incurred by the Town undertaking review of such applications. During the term of the moratorium, the Town of Forestburgh shall work to review and/or adopt amendments to the Town Code to provide for the benefit, health, and general welfare of the residents of the Town of Forestburgh. Moratoria are useful in controlling or temporarily inhibiting development until satisfactory final regulations are adopted.

For these reasons, the Town Board finds that temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to further develop and

adopt necessary zoning and land use changes to the Forestburgh Town Code, thus protecting and furthering the public interest, health and safety.

SECTION 2. TEMPORARY MORATORIUM.

- A. There is hereby adopted in the Town of Forestburgh a three month moratorium on the consideration, receipt, review, or granting of building permits, land use applications, site plan approval, and zoning changes or amendments to permits that require establishment of an escrow to pay for outside consultants.

- B. During the term of the moratorium the Town Board intends to review Town Code provisions related to project escrows for consistency with applicable law and if necessary, develop, consider and adopt changes to the Town Code to regulate the same. Said moratorium shall be effective as of the date set forth below.

- C. While the moratorium is in effect, no applications shall be accepted, and no permits issued or approvals given by any department, board, agency or official of the Town of Forestburgh for any permit or approval that requires establishment of an escrow.

SECTION 3. APPLICABILITY.

The provisions of this local law shall apply to all real property within the Town of Forestburgh.

SECTION 4. RELIEF FROM APPLICABILITY OF MORATORIUM.

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this local law following a noticed public hearing before the Town Board, at which hearing the Town Board shall consider:

- 1. Hardship on the applicant.

- 2. Compatibility of the proposed application with the recommendations of any administrative body charged with such review by the Town of Forestburgh.

- 5. The written opinion of the Town of Forestburgh Planning Board and the Town of Forestburgh Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium is expired.

- 6. Such other reasonable considerations and issues as may be raised by the Town Board.

An application for relief from the moratorium shall be accompanied by a fee of \$500, together with the applicant's written justification for why it is entitled to a variance from the moratorium.

In making a determination concerning a proposed exemption or grant of relief from the moratorium, the Town Board may obtain and consider reports and information from any source it deems to be consistent with review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the property owner which is unique to the property owner, and a finding that the grant of an exemption will be in harmony with and will be consistent with all applicable laws.

SECTION 5. STATUTORY AUTHORITY; SUPERCESSION.

This local law is promulgated and adopted pursuant to Municipal Home Rule Law and the State Environmental Quality Review Act, and its implementing regulations. It expressly supersedes any provisions of the Town Code of the Town of Forestburgh, and sections 267, 267-a, 267-b, 267-c, 274-a, 274-b and 276 of the Town Law of the State of New York.

This local law shall supersede and suspend those provisions of the Town Code and New York state law which require the Planning Board and the Town Code Enforcement officer to accept, process, and approve land use applications within certain statutory time periods.

SECTION 6. SEQRA DETERMINATION

The Town Board hereby determines that the adoption of this local law is a Type II action under 6 NYCRR 617.5(c)(36) and that environmental review under the NYS Environmental Quality Review Act (SEQRA) is not required.

SECTION 7. CONFLICTS.

For and during the stated term of this legislation, unless the stated term thereof shall be modified or abridged by the Town Board, this moratorium shall take precedence over and shall control over any contradictory local law, ordinance, regulation or Code provision.

SECTION 8. SEVERABILITY.

The invalidity of any word, section, clause, sentence, paragraph, part or provision of this local law shall not affect the validity of any other part of the law which can be given effect without such invalid part or parts.

SECTION 9. EFFECTIVE DATE.

The effective date of this local law shall be immediate upon its filing with the Secretary of State, or upon actual submission of a copy of the adopted local law to any individual, person or applicant.

Supervisor Daniel S. Hogue, Jr.	Aye
Councilwoman Karen Ellsweig	Aye
Councilman Steven Budofsky	Aye
Councilman Vincent Galligan Jr.	Aye
Councilwoman Susan Parks-Landis	Absent

Adopted this 3rd day of February 2022.

By Order of the Forestburgh Town Board

UPDATING PLANNING BOARD APPLICATION FEES – The Planning Board had sent us a recommendation of new/updated fees we would like the board to adopt an application fee of \$250. For planning board activities such as lot line changes, minor subdivisions. Major subdivision would be increased to \$1,000 and \$100 for each additional lot. MOTION by Supervisor Hogue, seconded by Councilwoman Ellsweig to accept the changes to the Planning Board fees as presented. Vote: 4 ayes – 0 nays. Motion carried.

COMMITTEE/BOARD REPORTS

Planning Board – January we had an application for a three-lot subdivision at Birchwood Estates. We have scheduled a public hearing for February – it is a zoom meeting, and the link is part of the notice.

Zoning Review – Our next meeting is February 8, from 7 – 9:00 p.m. via zoom. We are almost ready to submit the document for formatting.

Fire Department – Jim Steinberg thanked everyone for what was done for his son, Billy. This Saturday at 10:30 at the Forestburgh Fire House, Senator Martucci is doing a press release, trying to get the bail reform changed around so it does not happen again. This gentleman who started these three fires was back on the street before the paperwork was even finished and maybe my son would still be here today. If everyone could come down this Saturday and show support for Senator Martucci and my son. Thank you.

PUBLIC COMMENT – Steve Barshov requested the zoom link for the next zoning committee meeting. It will be forwarded once it is set up.

EXECUTIVE SESSION – Motion by Supervisor Hogue, seconded by Councilwoman Ellsweig to enter into executive session for the purpose of personnel (performance of a certain employee) and invite Attorney Johnstone into said session. Vote: 4 ayes – 0 nays. Motion carried.

MOTION by Councilwoman Ellsweig, seconded by Councilman Budofsky to reconvene into regular session at 7:50 p.m. Vote: 4 ayes – 0 nays. Motion carried.

ADJOURNMENT – MOTION by Supervisor Hogue to adjourn at 7:51 p.m.

Respectfully submitted,

Joanne K. Nagoda, RMC, CMC

Town Clerk