

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

**PUBLIC HEARING UPON
CHARTER COMMUNICATIONS FRANCHISE AGREEMENT WITH THE TOWN OF FORESTBURGH
TOWN OF FORESTBURGH,
STATE OF NEW YORK, COUNTY OF SULLIVAN**

March 3, 2022

Supervisor Hogue opened the public hearing at 6:00 p.m.

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

Absent – None

Recording
Secretary – Joanne K. Nagoda, Town Clerk

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

Supervisor Hogue introduced Mr. Alex Carmada of Spectrum/Charter Communications who a brief overview of the franchise agreement with the Town of Forestburgh.

Sheldon Pasternack – Spectrum is a multimillion-dollar corporation and your depending on the government for your welfare. Aileen Gunther has been fighting with you for years and years about your service and lack of cell towers and now you want us to wait for the government. So you are telling us that basically everything will stay the same until you get money from the government. You will go to a town that is heavily populated and give them cable because it doesn't really cost you anything but yet, here where its more rural we have to wait because you won't make as much money here as from a heavily populated area.

Gifford Shriver – I have a question about the franchise fee – are those fees that are collected from the customers and passed directly back to the town or are they paid and funded by Spectrum? Mr. Carmada explained they are paid by the paying subscribers. It is paid by participating residents of the town who use Spectrum.

No one else spoke in favor or against the franchise agreement.

MOTION by Supervisor Hogue, seconded by Councilman Budofsky to close the public hearing at 6:12 p.m. Vote: 5 ayes – 0 nays. Motion carried.

Respectfully submitted,

Joanne K. Nagoda, RMC. CMC
Town Clerk

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

The Town of Forestburgh held their regular monthly meeting on **Thursday, March 3, 2022**, at the town hall.

Supervisor Hogue called the meeting to order at 6:12 P.M.

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

Absent – None

Recording
Secretary – Joanne K. Nagoda, Town Clerk

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

PUBLIC COMMENT – None

MINUTES – Clerk Nagoda submitted minutes of the October 14, 2021, Budget workshop for review. MOTION by Councilwoman Landis, seconded by Councilman Budofsky to accept the minutes as presented. Vote: 4 ayes – 0 nays. Councilman Galligan abstained.

GENERAL FUND VOUCHERS - #35 – 61 in the sum of \$18,940.74 as set forth in abstract # 3 were audited for payment. MOTION by Councilwoman Landis, seconded by Councilman Budofsky to accept the general fund vouchers. Vote: 5 ayes – 0 nays. Motion carried.

HIGHWAY FUND VOUCHERS - #20 – 31 in the sum of \$21,368.27 as set forth in abstract # 3 were reviewed for payment. MOTION by Councilwoman Landis, seconded by Councilwoman Ellsweig to accept the highway fund vouchers. Vote: 5 ayes – 0 nays. Motion carried.

ESCROW FUND VOUCHERS - #1-2 in the sum of \$1,390 AS SET FORTH IN ABSTRACT # 1 were reviewed for payment. MOTION by Councilman Budofsky, seconded by Councilwoman Landis to accept the Escrow Fund Vouchers. Vote: 5 ayes – 0 nays. Motion carried.

CORRESPONDENCE –

First, we have that the New York State Burn Ban is in effect from March 16 through May 14, 2022. There is to be no open burning of brush or anything. For a full list of rules, please visit the DEC's website.

Next, is a letter from the County on their Hazardous mitigation plan. We adopted in 2021 and we have to adopt it again if we wish to try to get money from FEMA. Supervisor Hogue has requested a hard copy from the County before we adopt anything, and he is waiting for the hard copy. Matter tabled.

Next, is a letter from Al Hilber who lives on Plank Road, this letter has already been forward to the highway department for action with regard to the condition of the road in front of his home and the condition thereof.

We also received an email from Sandra Weiss who is a property owner in Lost Lake and who also owns property directly opposite the entrance to Lost Lake. She has observed the following: underground electric has been installed, underground cable has also been installed, constant work on the site itself and this past summer they ran hoses of water all over which directly effected the water availability to my farm. We are now wondering if there are others who still own lots within Lost Lake and how can we get in touch with them. They have also heard about a lawsuit and would like some further information on this matter. Lost Lake has now denied we owners access to our property, even though we pay the taxes, and we are unable to use the land or know what is going on. We, like others ask questions and receive no answers. They have now installed an electric gate and will not provide us with the access code to get to our property. I am available to meet in person or by Zoom but I would appreciate some answers and access to my property.

Next, is a packet that was received from Laura Smiros who lives in Lake Joseph. She has serious questions on the assessment of her home and met with Assessor Dennis Ketcham who attempted to bully and intimidate her when she inquired why her home was the highest assessed in Lake Joseph. She is attempting to alleviate a problem as professional and is happy to pay her fair share of taxes. She is confident that the board will act to correct this problem.

Lastly, is a letter of interest in the open seat vacancy on the Planning Board from Arthur Leaney-Levenson who is a resident on Rod & Gun Club Road. He thanks the board for their time.

Before we go any further, we have two speakers this evening, first is Heather Jacksy with the County Planning Department to discuss the expansion of the Sullivan County Rails to Trails program and their future expansion into the Forestburgh Rail Trail. Secondly, is Heather Guinin who is speaking to us about a new program called Bridge Back to Life Center which is a mobile treatment unit for mental health and psychiatric assessments and substance abuse treatments.

Heather Jacksey took the floor first, along with Freda Eisenberg the Director of the County Planning Department. They explained in detail the rails to trails program and how they are anxious to begin working on the Forestburgh Rail Trail along with further expansion of the trails through the county. Jack Gold of Lost Lake introduced himself and stated that Lost Lake is anxious to help and get started o the rail trail.

Heather Guinan requested use of the town hall parking lot for use for their program and their mental health treatment unit which is a large fully equipped large trailer.

UNFINISHED BUSINESS

PLANNING BOARD VACNACY – Now that there is a letter of interest, and Mr. Levenson is here, Supervisor Hogue recommended holding this over for executive session. All were in favor.

NY GRANT FUNDING – Councilwoman Ellsweig announced we made it through the first level of the grant application for a new roof, generator and generator for the highway department. We are moving on to the next round.

NEW BUSINESS –

SPECTRUM FRANCHISE AGREEMENT – Tonight we held our public hearing this agreement and are ready to move forward. MOTION by Councilwoman Ellsweig, seconded by Councilman Budofsky to enter into the franchise agreement with Charter/Spectrum communication with the agreement having a lifespan

of ten (10) years and rate remain at 3%. Vote: 5 ayes – 0 nays. Motion carried. The formal resolution will be enacted in April.

LOCAL LAW # 2 – AMENDING ESCROW DEPOSITS –

Town of Forestburgh

RESOLUTION 2022-2

ADOPTING LOCAL LAW 2 OF 2022 REGARDING

Amendments to Escrow Deposits Code of the Town of Forestburgh

Dated: March 3, 2022

At a meeting of the Town Board of the Town of Forestburgh, Sullivan County, New York, held at the Town Hall, 332 King Road, Forestburgh, N.Y., on the 3rd day of March, 2022, there were:

Supervisor Daniel S. Hogue, Jr.	Present
Councilmember Steven Budofsky	Present
Councilmember Karen Ellsweig	Present
Councilmember Vincent Galligan	Present
Councilmember Susan Parks-Landis	Present

Councilperson Budofsky offered the following resolution and moved for its adoption:

WHEREAS, the Town Board of the Town of Forestburgh determined that the Town's local laws, code, rules and regulations related to professional fees incurred by the Town in connection with certain applications did not adequately provide for the proper administration and enforcement of the Town Code of the Town of Forestburgh and directed that a draft local law amending the Town Code be prepared for the Town Board's consideration;

WHEREAS, local law 1 of 2022 was adopted providing for a moratorium temporarily prohibiting the acceptance, review, and approving building and land use project applications requiring escrows within the Town of Forestburgh for a period of up to three months to provide the Town Board adequate time to review and, if necessary, amend applicable Town Code provisions;

WHEREAS, proposed local law ____ of 2022 was developed with the assistance of the Town's consultants and was distributed to and reviewed by the Town Board members;

WHEREAS, the local law was referred to the Sullivan County Planning Board, and, as necessary to the clerks of the abutting towns;

WHEREAS, the comments, if any, of the Sullivan County Planning Board were considered by the Town Board;

WHEREAS, a duly noticed public hearing was held on February 3, 2022 (attached is the newspaper notice of the public hearing) and any public comments were carefully considered by the Town Board members;

WHEREAS, the Town Board is the only involved agency for this Type II action under NYS Environmental Quality Review Act (SEQRA)—the adoption of a local law amending the Town Code;

NOW THEREFORE BE IT RESOLVED that the Town Board declares itself lead agency pursuant SEQRA for the required environmental review of this action.

BE IT RESOLVED that the Town Board has carefully considered the SEQRA Environmental Assessment Form (EAF) Part 1 and has determined that the adoption of proposed local law 2 of 2022 is a Type II action under 6 NYCRR 617.5 (c) (33) for which no further environmental review is required;

BE IT RESOLVED that the Town Board hereby adopts Local Law No. 2 of 2022, entitled “Amendments Escrow Deposits Code of the Town of Forestburgh.” and directs that the Local Law be filed as required by NYS Municipal Home Rule Law.

On a motion by Councilperson Budofsky, seconded by Councilman Galligan, the resolution was adopted on a roll call vote, the results which follow:

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

Adopted this 3rd day of March 2022.

By Order of the Forestburgh Town Board

COMMITTEE REPORTS

Planning Board – We had our regular meeting with Birchwood Estate on the agenda. We held a public hearing on their three-lot subdivision. It has been adjourned pending the receipt of additional information for the March meeting.

Zoning Review – We meet on March 8 from 7 – 9 p.m. via zoom and we are in the process of reformatting.

Fire Department – Annual Corned Beef Dinner on March 19 which will be a drive through only and the cost is \$15.00 from 4 -7 pm.

PUBLIC COMMENT –

Jim Steinberg – Nice weather is coming, and everybody knows that Billy has maintained the Memorial Triangle and I would like to carry on his 23-year legacy on. I will mow the triangle for nothing with your permission. MOTION by Supervisor Hogue, seconded by Councilwoman Ellsweig accept the offer of Mr. Steinberg to carry on his son's legacy of mowing the triangle at no cost. Vote: 5 ayes – 0 nays. Motion carried.

Sheldon Pasternack – You have the no=negotiate specifics with Spectrum. Now they are in the driver's seat.

Jack Gold – I'm going to respond to something that should be a private matter, but you had correspondence from Sandra Weiss about property access and codes. Ms. Weiss now has her access codes to the gate and full access to her property within Lost Lake. Additionally, we would like to know who the members of the zoning committee are. Councilman Budofsky stated we did open our meeting up and there were a few people who signed on but did not identify themselves. Mr. Gold replied he knew nothing of that and just wanted to know who the members of the zoning committee are, both past and present. Who was in the past, do we know? Councilman Budofsky replied that Chairpersons are Katherine Barnhart and Steve Budofsky. The zoning meetings have always been open to the public. Councilman Budofsky asked why he would want the names of prior (2017) members as well as current. Mr. Gold failed to respond.

EXECUTIVE SESSION – MOTION by Supervisor Hogue, seconded by Councilman Budofsky to enter into executive session and invite Arthur Leaney-Levenson and Attorney Troy Johnstone into said session. Vote: 5 ayes 0 nays. Motion carried.

MOTION by Councilman Budofsky, seconded by Councilwoman Ellsweig to reconvene at 8:15p.m. Vote: 5 ayes – 0 nays. Motion carried.

MOTION by Supervisor Hogue, seconded by Councilman Budofsky to appoint Arthur Leaney-Levenson to fill the Planning Board vacancy. Vote: 5 ayes – 0 nays. Motion carried.

MOTION by Councilwoman Ellsweig, seconded by Councilman Galligan to adopt the following tax resolutions to settle the grievances.

RESOLUTION CONFIRMING SETTLEMENT OF TAX CERTIORARI PROCEEDINGS AGAINST THE TOWN OF FORESTBURGH

WHEREAS, Petitioners have instituted proceedings under article 7 of the Real Property Tax Law to review the assessments of certain parcels, and which proceedings are pending in the Supreme Court of the State of New York, County of Sullivan, under Index Numbers E2021-1161; and

WHEREAS, the parties herein have appeared through counsel, to wit, Troy J. Johnstone, Esq., for the Assessor and Town of Forestburgh and Walter Garigliano, Esq., on behalf of petitioners Justin and

Justine Evans; and

WHEREAS negotiations by and between the parties hereto have produced a proposed settlement of the issues and matters of dispute; and

WHEREAS, the proposed settlement will also result in a fair and equitable resolution of the petition, as set forth below:

<u>Year/SBL</u>	<u>Assessed Value/Full Value</u>	<u>Amended Value</u>
2021		
1.-1-1.2	\$87,400.00	\$45,400.00
1.-1-1.4	\$74,200.00	\$33,240.00
1.-1-1.5	\$82,500.00	\$40,500.00

WHEREAS, refunds, if any, are to be made within 30 days of service of a demand for a refund, and the assessments shall be subject to the statutory moratorium (RPTL 727(1)) for future assessment rolls as per the statute, absent a statutory exception.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Forestburgh that the settlement of the above reference proceedings be and hereby is all respects approved and confirmed, and the attorney for the Town of Forestburgh is authorized, empowered and directed to enter into and execute a formal written stipulation of settlement and to bind the town thereto, such stipulation to be in the form approved by the said attorney.

MOTION BY: Councilwoman Ellsweig

SECOND BY: Councilman Galligan

VOTE: 5 ayes – 0 nays.

Motion carried.

RESOLUTION CONFIRMING SETTLEMENT OF TAX CERTIORARI PROCEEDINGS AGAINST THE TOWN OF
FORESTBURGH

WHEREAS, Petitioners have instituted proceedings under article 7 of the Real Property Tax Law to review the assessments of certain parcels, and which proceedings are pending in the Supreme Court of the State of New York, County of Sullivan, under Index Numbers E2020-1025, and E2021-1154; and

WHEREAS, the parties herein have appeared through counsel, to wit, Troy J. Johnstone, Esq., for the Assessor and Town of Forestburgh and Walter Garigliano, Esq., on behalf of petitioners The Residuary Trust of the Feliciano Colista, Jr. Rev. Living Trust Dated July 26, 1978, as restated July 20, 1989 under the Second Amendment to the Trust Agreement and any Amendments Thereof; and

WHEREAS negotiations by and between the parties hereto have produced a proposed settlement of the issues and matters of dispute; and

WHEREAS, the proposed settlement will also result in a fair and equitable resolution of the petition, as set forth below:

<u>Year/SBL</u>	<u>Assessed Value/Full Value</u>	<u>Reduced Value</u>
2020		
4.-1-10.5	\$144,800.00	\$84,000.00

2021

4.-1-10.5

\$144,800.00

\$84,000.00

WHEREAS, refunds, if any, are to be made within 30 days of service of a demand for a refund, and the assessments shall be subject to the statutory moratorium (RPTL 727(1)) for future assessment rolls as per the statute, absent a statutory exception.

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Forestburgh that the settlement of the above reference proceedings be and hereby is all respects approved and confirmed, and the attorney for the Town of Forestburgh is authorized, empowered and directed to enter into and execute a formal written stipulation of settlement and to bind the town thereto, such stipulation to be in the form approved by the said attorney.

MOTION BY: Councilwoman Ellsweig

SECOND BY: Councilman Galligan

VOTE: 5 ayes – 0 nays.

Motion carried.

ADJOURNMENT – MOTION by Councilman Landis to adjourn at 8:30 p.m.

Respectfully submitted,

Joanne K. Nagoda, RMC, CMC
Town Clerk