

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

The Town of Forestburgh Town Board held their regular monthly meeting on **Thursday, May 2, 2024**, at the town hall.

Supervisor Hogue called the meeting to order at 6:00 p.m.

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

Recording Secretary – Teresa Collins, Town Clerk
Troy Johnstone, Esq. – Attorney for the town
Javid Afzali – Attorney of the Town
Others Present – Richard Robbins, Planning Board Chair

PUBLIC COMMENT - – **Susan Hawvermale** – questioning the senior expenditures.

MINUTES – April 2024 regular board meeting Minutes are acknowledged receipt.
MOTION by Councilperson Landis, seconded by Councilperson Budofsky.
Vote: 5 ayes – 0 nays. Motion carried.

GENERAL FUND VOUCHERS - #82-99 in the sum of \$12,530.84 as set forth in abstract #4 of 2024 were audited for payment. MOTION by Councilperson Landis, seconded by Councilperson Ellsweig to pay the General Fund Vouchers. Vote: 5 ayes – 0 nay. Motion carried.

HIGHWAY FUND VOUCHERS - #24-31 in the sum of \$34,898.79 as set forth in abstract #3 of 2024 were reviewed. MOTION by Councilperson Landis, seconded by Councilperson Budofsky to accept the highway fund vouchers. Vote: 5 ayes - 0 nays. Motion carried.

ESCROW FUND VOUCHERS –in the sum of \$622.50 as set forth in abstract #3 of 2024 were reviewed. MOTION by Councilperson Budofsky, seconded by Councilperson Landis to accept the escrow fund vouchers. Vote: 5 ayes – 0 nays. Motion carried.

CORRESPONDENCE

Joanne K Nagoda
2752 State Route 42
Forestburgh, New York 12777
845-796-8661

Town Board of the Town of Forestburgh
332 King Road
Forestburgh, New York 12777

Dear Members of the Town Board:

I am writing this address a few matters, first the pool. If you are not going to open it, make it known sooner than later. If you are going to hire lifeguards, call the Town of Liberty and speak with Jim who is the head of the parks and rec department. He will gladly send you a list of lifeguards that were not hired by the Town of Liberty. Just make sure you tell it's for pools, not lakes (they have both). You will be able to pick and choose from list, who meets your criteria. Then Orange and Rockland should be called to turn on the electric and then you can schedule a pool opening ASAP with Wechsler. Be called to turn on the electric

Secondly, my request to be appointed a Marriage Officer for no stipend. Town Law states that any resident of said town and being over the age of 18 may be appointed a Marriage Officer by the board. They may NOT perform marriages out of their jurisdiction i.e. the Town of Forestburgh. Any of you can read this, the full Town Law is in in Clerk Collins office.

Lastly, I warned all of you that the adoption of new zoning will cause a need for re-codification. That is a very expensive journey to take part in. However, I would make sure that it is not deemed unconstitutional by the Attorney General. Perhaps you may want to ask why our zoning is the way it is and how did we come to get zoning. I remember, but some of you are too young and others at that time never knew Forestburgh existed. I remember why and that it was a very quick adoption. You should be doing your homework.

Thank you for time and attention in these matters.

Respectfully,



Joanne K. Nagoda,
Retired Town Clerk

UNFINISHED BUSINESS

EMS Contract- no updates

Short Term Rentals – MOTION by Supervisor Hogue, seconded by Councilperson Galligan to accept a \$25 application fee and \$500 permit fee. Vote: 5 ayes – 0 nays. Motion carried.

With the implementation the timeline will be, all applications must be submitted by July 1st.

Going forward a local law needs to be adopted. An introductory resolution and a proposed local law for the 1000 foot minimum distance between short term rentals. Looking into the fines and certificate of insurance with the application.

911 Numbering – Councilperson Ellsweig - with the original denial letter from the state dated March 2020. Councilperson Ellsweig will pass all documents that were agreed by the committee to attorney Johnstone to draft a proposed law that can be reviewed by a contact from the state.

Pool & Staffing – Councilperson Landis – received only one application. Motion from Supervisor Hogue seconded by Councilperson Budofsky to secure a minimum of two lifeguards by May 15th to proceed with the opening of the pool. If we do not receive a minimum of two lifeguards by May 15th the town will abandon the opening of the pool. Vote: 5 ayes – 0 nays. Motion carried.

RFP for consultant for “town line solar project” subject to ORES fund- Supervisor Hogue – we received one response from Barton & Loguidice we don’t need to sign a contract until an application is submitted.

NEW BUSINESS

Resolution “regarding effect of LL#3 2023 on Lost Lake resort located on Cold Spring Rd.”

Town of Forestburgh

RESOLUTION 2024-02

Regarding Effect of Local Law 3 of 2023 on the Lost Lake Resort Project Located on Cold Spring Road, Town of Forestburgh

Dated: May 2, 2024

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 2nd day of May, 2024:

Supervisor Hogue offered the following resolution and moved for its adoption:

WHEREAS, in September of 2008, Double Diamond Inc. (“Double Diamond”) proposed to develop a planned resort and residential community known as the Lost Lake Resort (“Resort Project”) on approximately 2,100 acres located on Cold Spring Road, Town of Forestburgh (“Project Site”);

WHEREAS, Double Diamond proposed to construct a resort development consisting of a gated community of over 2,600 vacant building lots, an 18-hole championship golf course, a clubhouse, hotel, restaurant, conference center, spa, swimming facilities, tennis facilities, wilderness trails, and other resort amenities;

WHEREAS, in furtherance of the Resort Project, Double Diamond applied for a rezoning of the Project Site from a residential-recreation zoning district (RR) to a planned development district (PDD) created under Local Law 3 of 2008 (adopted July 3, 2008) (“2008 PDD Regulations”);

WHEREAS, under Local Law 3 of 2011 (adopted July 7, 2011) (“2011 PDD Regulations”), the Town Board amended the then existing 2008 PDD Regulations to provide for the additional density allowances that Double Diamond requested;

WHEREAS, after adopting the 2011 PDD Regulations, the Town Board granted PDD approval to the Resort Project by resolution dated August 4, 2011 (“2011 PDD Approval”), thereby rezoning the Project Site from an RR zoning district to a PDD;

WHEREAS, the Town Board granted Double Diamond preliminary site plan and subdivision approval for the first of seven project phases by resolution dated February 28, 2012;

WHEREAS, the Town Board granted conditional final site plan and subdivision approval for the first of seven project phases by resolution on June 25, 2013 (“2013 Conditional Final Approval”);

WHEREAS, under Local Law 2 of 2017 (adopted March 2, 2017), the Town Board amended the 2011 PDD Regulations, which delegated PDD review and approval authority to the Planning Board;

WHEREAS, under Local Law 1 of 2020 (adopted January 9, 2020), the Town Board repealed the PDD laws of 2008, 2011, and 2017, thereby eliminating planned development districts from the Town Zoning Code;

WHEREAS, while Local Law 1 of 2020 eliminated the PDD as a zoning district allowable in the Town, the local law expressly stated that it had “no effect on approvals previously granted with respect to any existing Planned Development Districts” and therefore, all requirements in the 2011 PDD Regulations and amended by Local Law 2 of 2017, continued to remain applicable to the Resort Project;

WHEREAS, in June of 2020, Double Diamond sold the Resort Project and Project Site to Lost Lake Holdings, LLC and Mishconos Mazah, LLC (collectively “Developer”) without having completed the infrastructure improvements;

WHEREAS, under Local Law 3 of 2023 (adopted November 2, 2023) the Town Board enacted a new Zoning Code and adopted Zoning District Map;

WHEREAS, the new Zoning District Map identifies the Project Site as a PDD as defined in § 180-4 of the Zoning Code;

WHEREAS, Zoning Code § 180-4 states:

PDD PDD Planned Development District. Local Law 1 of 2020 repealed the Planned Development District laws of 2008, 2011, and 2017. Planned Development Districts approved prior to the adoption of Local Law 1 of 2020 are deemed prior nonconforming uses as set forth in Article IV herein, and remain subject to all applicable regulations in Local Law 3 of 2011 as amended by Local Law 2 of 2017, and to all conditions and requirements set forth in any approvals or permits;

WHEREAS, Developer commenced an action entitled *Lost Lake Holdings LLC et al., v. Town of Forestburgh et al.*, Case 7:24-cv-00337-VB (SDNY Jan. 16, 2024), alleging, in part, that Local Law 3 of 2023 was adopted to completely block further development of the Resort Project;

WHEREAS, the Town Board maintains that Developer’s interpretation of Local Law 3 of 2023 and its impact to the Resort Project and Project Site is incorrect, as it was not the intent of Local law 3 of 2023 to block further development of the Resort Project and Project Site nor does Local Law 3 of 2023 have such an effect;

NOW THEREFORE BE IT RESOLVED that the Town Board hereby restates and confirms that, regardless of Local Law 3 of 2023, the Resort Project and Project Site:

- (1) is and continues to remain subject to the 2011 PDD Approval and the terms, conditions, and requirements therein;

- (2) is and continues to remain subject to the 2013 Conditional Subdivision Approval and the terms, conditions, and requirements therein;
- (3) is and continues to remain subject to all applicable 2011 PDD Regulations in Local Law 3 of 2011 as amended by Local Law 2 of 2017.

On a motion by Councilperson Ellsweig, seconded by Councilperson Landis, 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 Vincint W. Galligan	Aye
Councilmember Susan Parks-Landis	Aye

Adopted this 2 day of May 2024.

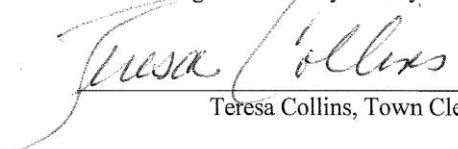
**By Order of the Forestburgh Town Board
Teresa Collins, Town Clerk**

I, **TERESA COLLINS**, Town Clerk of the Town of Forestburgh, Sullivan County, New York, **DO HEREBY CERTIFY** that the foregoing local law was approved by the Town Board of the Town of Forestburgh on **May 2, 2024**, and that the foregoing is a true and correct transcript of the original local law and of the whole thereof and that said original local law is on file in the Town Clerk's office.

I DO FURTHER CERTIFY that each of the members of the Town Board had due notice of the said Town Board meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Town of Forestburgh this 2nd day of May 2024.




Teresa Collins, Town Clerk

Introductory resolution for LL 2 2024 “Amending Zoning Code bulk tables.”

Introductory Resolution for Proposed Local Law 2 of 2024 regarding Amendments to the Table of Use and Bulk Requirements of the Town of Forestburgh

**Town of Forestburgh
RESOLUTION 2024-03**

**INTRODUCING A LOCAL LAW REGARDING
Amendments to the Table of Use and Bulk Requirements of the Town of
Forestburgh**

Dated: May 2, 2024

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 2nd day of May, 2024, there were:

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

Supervisor Hogue offered the following resolution and moved for its adoption:

BE IT RESOLVED that an introductory Local Law entitled “Town of Forestburgh Zoning Code Bulk Table Amendments” (**Attachment 1**) is hereby introduced before the Town Board of the Town of Forestburgh, Sullivan County, New York pursuant to authority under the New York State Constitution, the provisions of § 10 and § 22 of the New York State Municipal Home Rule Law, § 10 of the New York State Statute of Local Governments, and the New York State Town Law;

BE IT FURTHER RESOLVED that copies of the aforesaid proposed local law be laid upon the desk of each member of the Board;

BE IT FURTHER RESOLVED that the Board hold a public hearing on said proposed local law at the Town Hall, 332 King Road, Forestburgh, New York at 6 pm on June, 2024;

BE IT FURTHER RESOLVED that the Town Clerk publish or cause to be published a public notice in the official newspaper of the Town of Forestburgh of said public hearing at least five (5) days prior thereto;

BE IT FURTHER RESOLVED that the Town Supervisor or his designee is authorized to prepare the Short Environmental Assessment Form under the State Environmental Quality Review Act, and its implementing regulations;

BE IT FURTHER RESOLVED that the Town Supervisor or his designee is to provide notice, if required, under GML § 239-m to Sullivan County Planning Board and abutting municipalities under Town Law § 264; and

Introductory Resolution for Proposed Local Law 2 of 2024 regarding Amendments to the Table of Use and Bulk Requirements of the Town of Forestburgh

BE IT FURTHER RESOLVED that the Town Supervisor or his designee is authorized to take any other action required under law in furtherance of this resolution and passage of the proposed local law

On a motion by Councilperson Budofsky, seconded by Councilperson Ellsweig, 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 Jr	Aye
Councilmember Susan Parks-Landis	Aye

Adopted this 2nd day of May 2024.

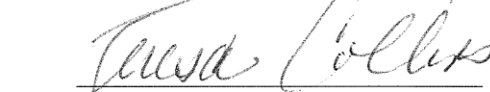
**By Order of the Forestburgh Town Board
Teresa Collins, Town Clerk**

I, **TERESA COLLINS**, Town Clerk of the Town of Forestburgh, Sullivan County, New York, **DO HEREBY CERTIFY** that the foregoing local law was approved by the Town Board of the Town of Forestburgh on **May 2, 2024** and that the foregoing is a true and correct transcript of the original local law and of the whole thereof and that said original local law is on file in the Town Clerk's office.

I DO FURTHER CERTIFY that each of the members of the Town Board had due notice of the said Town Board meeting.

IN WITNESS WHEREOF, I have hereunto set my hand and the seal of the Town of Forestburgh this 2nd day of May 2024.




Teresa Collins, Town Clerk

Response to AG letter

Statement to the Press and Public

When Forestburgh was notified of the Attorney General having received a “report” that Forestburgh’s new zoning code discriminated – we were invited to respond to this complaint, and we have. A copy of our response is available and attached to this statement.

We believe this “report” was made by the owner of most of the property in a zoning district in Forestburgh – the Lost Lake Resort Planned Development District (PDD) which was NOT affected or amended by Local Law 3 of 2023. This new owner has been seeking to develop this district in a way that is inconsistent with the approvals that were granted to the prior owner of the property over 10 years ago, after going through an approval process to amend our Zoning Code that took 5 years of work, input from multiple state and federal agencies, Environmental experts, and public comment and review. Rather than seeking permission to amend the zoning code and requirements for this district, this new developer has sued Forestburgh in 6 separate lawsuits and 6 appeals, which we have defended and to date, have prevailed in. It’s efforts to void the stop work orders and denials of permits have failed and forced the Town to sue the Developer to comply with the requirements of the law. In the most recent denial of the developer’s motion to dismiss our suit, the court held

The Lost Lake Planned Resort Development and the Lost Lake Development are not the same plans, not the same developers, not the same approvals. As (Forestburgh’s) pleadings and affidavits allege that the infrastructure is inextricably intertwined with the development as a whole, and the current development is wholly different than that which was approved, (The Town of Forestburgh) has stated a valid cause of action and this portion of the motion to dismiss is denied.”

The statement issued by the First Deputy Press Secretary of the Attorney General’s office that accompanied the Assistant Attorney General’s letter seriously mischaracterized it and misled a wide variety of media outlets and others. It has been the language and accusations set forth in that press release that have been quoted in the media, not the Attorney General’s letter. It did so in such a way that it elevated the developer’s reported complaint to appear to carry the weight – and legitimacy – of the Attorney General, when, in fact the letter was passing the report on, and asking Forestburgh to review the matter. The press release stated that “Local Law 3 impose(s) unfair zoning restrictions that target and discriminates against the Jewish Community”. The Attorney General’s letter did not make such a sweeping and damning accusation. Nor did it “demand” that Forestburgh make changes, but instead requested that it review the law to assure compliance with applicable

state and federal law. It stated that the setbacks the code required were 200 acres, when, in fact, they were 200 feet. The entire tone of the press release served to legitimize the complaint of a disappointed and frustrated developer by saying that these were the statements of the Attorney General. It injected religion into the discussion to inflame when what is actually the root of the dispute is that this developer wants to use the property it bought for a use that was not part of the approved Master Plan for this resort development, and it refuses to comply with the legal procedures in place to obtain approvals for what it seeks to do.

Not surprisingly, it is the inflammatory language of the Press release that has been repeated in the media and social media. Being falsely accused of religious discrimination is hurtful and dangerous. Forestburgh, its officials and residents have received unwarranted vitriol that were fueled by the First Deputy Press Secretary's inappropriate and, in fact, libelous statements. A public apology is warranted.

Dan Hogue

Supervisor, Town of Forestburgh

April 29, 2024

Resolution Recognizing private road naming

RESOLUTION

E-911 Road Naming- "STURDEVANT WAY"

WHEREAS, The Town Board of the Town of Forestburgh has received a request to name a private driveway/road effecting tax parcels 38.-1-15.1; 38.-1-15.41; and 38.-1-15.1, a copy of a map of said private driveway/road and the common driveway agreement is attached hereto and made a part hereof, and

RESOLVED, that the Town Board of Forestburgh hereby approves the request to name the private driveway/road located off of Hartwood Club Road leading to tax parcels 38.-1-15.1; 38.-1-15.41; and 38.-1-15.1 "Sturdevant Way".

Resolution motion made BY: Councilperson Ellsweig
Seconded BY: Councilperson Landis

ROLL CALL:

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

Dated May, 2, 2024



REPORTS – BOARD MEMBER COMMENTS

MARRIAGE OFFICER APPOINTMENT – MOTION by Supervisor Hogue, seconded by Councilperson Ellsweig to accept Judge Gunther as marriage officer for the town. Vote: 5 ayes – 0 nays.
Motion carried.

VACANCIES – We are currently still looking for a ZBA Secretary

PLANNING BOARD REPORT – Richard Robbins – Regular meeting in April, had one application. On an event space on Forestburgh Road. Application is incomplete. Applicants were outlined with what needed to be completed. The applicant indicated that they would provide us with what is required for our May meeting.

FIRE DEPARTMENT – Pancake breakfast at the Forestburgh Fire Company on Sunday May 19th.

Town of Forestburgh
Highway Department
1401 Sackett Lake Road, Forestburgh, NY 12777
Phone (845) 794-8069 – Fax (845) 794-0360
Email: forestburghhighwaydepartment@gmail.com

May 2024 – HIGHWAY REPORT

SPRING CLEAN-UP

Keep in mind the dates for spring clean- up May 9th, 10th and 11th times Thursday and Friday
7:00 am to 6:00 pm Saturday 7:00 am- 5:00 pm

Summer Hours

June 3rd to start summer hours which is 4 – 10hr days

Roads

Looking to pave road Plank B from the Thompson line to Rod & Gun Rd in the month of June

Mowing

We have already started to mow around the Town

Thank You



Highway Superintendent

ADJOURNMENT INTO EXECUTIVE SESSION – MOTION by Supervisor Hogue, to enter into executive session and invite Richard Robbins Planning Board Chair and Attorney Johnstone, Attorney Javid Afzali and town clerk Teresa Collins for purpose of federal litigation at 6.50 p.m.

No action taken.

ADJOURNMENT – MOTION By Councilperson Ellsweig to adjourn at 8.10 p.m.

Respectfully submitted,

Teresa Collins,
Town Clerk