

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

PUBLIC HEARING UPON

ADOPTING LOCAL LAW # 2 of the Year 2023, entitled "Amendments to Chapter 153-26 of Taxation (Elimination of Subsection D & E).

July 6, 2023

Supervisor Hogue called the public hearing to order at 5:50 p.m.

Roll Call: Present – Daniel S. Hogue, Jr., Supervisor
Karen Ellsweig, Councilwoman
Steven Budofsky, Councilman

Absent – Susan Parks Landis, Councilwoman
Vincent Galligan, Councilman

Recording Secretary – Teresa Collins, Deputy Town Clerk

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

No one spoke in favor or against the proposed local law.

§ 153-26. Qualifying conditions.

- A. In accordance with § 487, Subdivision 9, of the Real Property Tax Law, an owner of real property upon which a large-scale ground-mounted solar energy system is to be constructed must enter into an agreement with the Town to make payments in lieu of taxes (PILOT agreement). Such contract may require annual payments in an amount not to exceed the amounts which would otherwise be payable but for the exemption under Real Property Tax Law § 487, Subdivision (2).
- B. The PILOT agreement shall not operate for a period of more than 15 years, commencing in each instance from the date on which the benefits of such exemption first become available and effective.
- C. Upon filing an application to construct a large-scale ground-mounted solar energy system upon real property located in whole or in part in the Town of Forestburgh, the owner of the property, developer or agent or representative thereof must file written notice with the Town Supervisor, providing that an application to construct a large-scale ground-mounted solar energy system has been filed with the Town and that the owner is ready to enter into a PILOT agreement with the Town subject to the ultimate construction of such system.
- D. Repealed.

E. Repealed.

MOTION by Councilwoman Ellsweig, seconded by Councilman Budofsky to close the public hearing at 6:00 p.m.

Respectfully submitted,

Teresa Collins
Deputy Town Clerk

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

The Town of Forestburgh Town Board held their regular monthly meeting on **Thursday, July 6, 2023**, 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

Absent- Susan Parks-Landis, Councilperson
Vincent C. Galligan, Jr., Councilperson

Recording Secretary – Teresa Collins, Deputy Town Clerk

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

PUBLIC COMMENT – Liz Regan

Members of the board

In researching more about business in Forestburgh I came across information about a proposed project called Sho Fu Den from 2007. A garden inn, spa, and restaurant that would have been available to the public. A 25 million dollar investment, an increase to the local population in workers, and an increase in income to Forestburgh.

It didn't happen, residents in the private community of Merriwold objected to the Sho Fu Den project, as it was neighboring their properties. The following quotes were extracted from the times herald record 10/10/2007. "We're a small private community and don't want this" "We're deeply concerned about the environmental impact on Merriwold and what our community stands for" Residents in Merriwold were also "concerned about negative impacts on their privacy." They had these concerns even though keeping the property natural with a minimal clearing of trees was part of the The Japanese Heritage foundation plan.

It appears that the **same people** of the private communities that challenged the development of Sho Fu Den in 2007 are attempting to pressure the

board to approve additional commercial zoning other than what was previously approved . All of these properties are not near or adjacent to anyone's property who is supporting this overdevelopment. You have to ask yourself why? What is the motivation now?

Overdeveloping our neighborhoods by insisting the board add too many lots for commercial development is, as we have heard from environmental professionals during public comments, detrimental to our environment, waterways and quality of life. We are expressing some of the same exact concerns about negative impacts on our quality of life as the private community members did in 2007. Private communities are not above the rest of the rural communities in the area that live on the brook. The hypocrisy and lack of concern for the issues we presented in great detail are disturbing and very suspicious.

A private community that is restricted, protected from commercial zoning, fought against a project that would have had very little environmental impact, makes one wonder why they would not be opposed to protecting all lands around the brook and not just their own. We have to rely on you, the town board, to represent us and protect the environment, our privacy, and keep our rural community safe! We are not opposed to commercial business as long as our community is safe from the negative impacts that have been noted. Additionally, the DEC has confirmed that the B1 district can only support limited commercial development.

Town Board members please vote to retain the amendments you already made and do not be politically pressured into sacrificing our quality of life for the interests of those who won't be negatively affected by commercial overdevelopment. There are still plenty of lots slated for commercial development which will be more than enough to satisfy the need for additional business, should they want to develop in Forestburgh. Neighbors should stick together whether you live in a private or non-private community in Forestburgh. I am disappointed and saddened that others would flip sides of the battle for what appears to be personal gain when we should be working together for our homes and the economic betterment of Forestburgh.

Jim Steinberg – Requested that Katherine Barnhart be removed from the zoning board regulation committee. In his opinion he feels that Katherine’s interest is not best for the town.

Yehuda Miller – The minutes should reflect exactly what was said on his part. Also, the minutes did not reflect that there were residents that claim there was no notification of the public hearing on the website calendar.

MINUTES – May 4, 2023, Minutes

MOTION by Councilperson Budofsky, seconded by Councilperson Ellsweig

Vote: 3 ayes – 0 nay. Motion carried.

MINUTES – June 6, 2023, Minutes

MOTION by Councilperson Ellsweig, seconded by Councilperson Budofsky

Vote: 3 ayes – 0 nay. Motion carried. With a request from Supervisor Hogue to double check the recording for June 6, 2023, as per Mr. Miller remarks that there were public comments missing in the minutes.

GENERAL FUND VOUCHERS - # 118-146 in the sum of \$41,101.27 as set forth in abstract #7 were audited for payment. MOTION by Councilperson Budofsky, seconded by Councilperson Ellsweig, to pay the General Fund Vouchers. Vote: 3 ayes – 0 nay. Motion carried.

HIGHWAY FUND VOUCHERS - # 67-75 in the sum of \$15,626.31 as set forth in abstract # 7 were reviewed. MOTION by Councilperson Ellsweig, seconded by Councilperson Budofsky to accept the highway fund vouchers. Vote: 3 ayes - 0 nays. Motion carried.

ESCROW FUND VOUCHERS – None

CORRESPONDENCE – None

UNFINISHED BUSINESS

LL#1 Zoning regulations – Comments, regarding logging 20 acres versus a less acreage for logging. Mining, reduction of mining size. Agreement from the board to move forward with everything they have with all the amendments up to this point including solar. The final draft of the proposed zoning code will sent to the county for review.

MOTION by Councilperson Budofsky, seconded by Councilperson Ellsweig to move forward for local law #1. Vote: 3 ayes - 0 nays. Motion carried.

LL#2 Sec 153 town law amendments – MOTION by Councilperson Ellsweig, seconded by Councilperson Budofsky to move forward for local law #2. Vote: 3 ayes - 0 nays. Motion carried.

NEW BUSINESS

Pool – Pool will be closed this season due to no lifeguards.

Community Yard Sale – Forestburgh will have a community yard sale on July 22 at town hall.

Dog Shelter Contact –Councilperson Budofsky is presenting a second shelter contact that offers the same services. It offers emergency services to owners and their dogs if the need arises. It is also \$50 less per dog if the dog is transferred. It is also a no kill shelter. MOTION by Supervisor Hogue, seconded by Councilperson Ellsweig to move to expand our dog contact. Vote: 3 ayes - 0 nays. Motion carried.

AGREEMENT

THIS AGREEMENT made this _____ day of _____ pursuant to the provisions of Article 7 of the Agriculture and Markets Law, by and between the **Town of FORESTBURGH**, a municipal corporation organized under the laws of the State of New York, party of the first part, address 332 King Road, Forestburgh, NY 12777 (hereinafter referred to as the "Town", and The Humane Society of Port Jervis/Deerpark, Inc., a not-for-profit corporation duly organized and existing under the Not-For-Profit Law of the State of New York, and having its office and principal place of business at 202 Route 209, Port Jervis, New York, 12771, party of the second part (hereinafter referred to as the "Society").

WITNESSETH:

WHEREAS, the Society owns and operates a shelter for the care of dogs and the Town requires a facility suitable for such shelter and care, and

WHEREAS, the Town desires to utilize the services of the Society and access to said shelter,

NOW, THEREFORE, in consideration of the mutual covenants, promises and agreements contained herein, the Society and the Town do hereby agree as follows:

1. The Society shall maintain a shelter for dogs seized within the Town by an authorized Dog Control Officer in accordance with Article 7 of the Agriculture and Markets Law. The Society's duties with respect to said dogs shall be performed at the cost and expense of the Society, and are as follows:

- a) To properly shelter, care, feed, and water such dogs for the minimum redemption period required by the Agriculture and Markets Law;
- b) To make such dogs available for redemption by their owners for a period of time equal to or greater than the minimum redemption period.
- c) To make such dogs available for adoption for a period of time equal to or greater than the minimum redemption period if at the end of the appropriate redemption period, said dog has not been redeemed by its owner, provided that the dog's temperament and health makes it suitable for adoption, which is to be determined solely by the Society's Director.
- d) To determine that the appropriate license has been issued and the appropriate fees paid to the Town before the dog is released to the owner. The Society shall have no obligation to return the dog to the owner until satisfactory proof of such has been provided to the Society.

e) Any sick or injured animal picked up by the Dog Control Officer shall receive appropriate veterinarian care prior to delivery to the shelter. At the time of delivery to the shelter, the Dog Control Officer shall provide the shelter, in writing, the veterinarian's diagnosis, treatment protocol, and necessary medication to treat the dog. Any subsequent additional expense related to the dog shall be billed directly to the Town.

f) To arrange for a veterinarian or a New York State licensed technician to humanely euthanize any dog for which euthanasia is necessary and legally authorized, and to arrange for the cremation of any dogs so euthanized.

g) To prepare, retain, and make available to the Town complete and accurate records concerning the care and disposition of all dogs cared for by the shelter hereunder as well as any expenses incurred and any fees collected.

2. The Society shall **NOT** accept for impoundment any dogs which:

a) Are in need of veterinary services, except in accordance with paragraph 1(e), or

b) Are not accompanied by the appropriate Dog Control Officer's seizure report

3. The Society shall accept from the Town Dog Control Officer(s) any homeless stray and abandoned which are picked up by the Dog Control Officer(s) in the Town. The Society will allow the Dog Control Officers(s) of the Town access to its shelter at reasonable times. Nothing herein shall obligate the Town to deliver to the Society any minimum number of dogs or all of the dogs seized in the Town by the Town Dog Control Officer(s).

a) In consideration for the above mentioned services, the Town shall remit to the Society, within 20 days after the Town Board has audited and approved for payment the Society's voucher, the sum of \$ **250.00 per dog** to be paid quarterly.

4. Nothing contained herein shall limit the Society's rights under Section 183 of the Lien Law, or pursuant to Section 373 of the Agriculture and Markets Law, or as derived from any other general or special law, or by means of any civil action or proceeding to recover from the owner thereof any necessary or reasonable costs and expenses incurred by the Society in providing pound and shelter for any Town dogs.

Nothing contained herein shall limit the Town's rights under applicable provisions of the law, or by means of any civil action or proceeding, to recover from the owner of any dog delivered by the Town to the Society's shelter any fees, charges or outstanding fines or penalties owned by such owner of the Town.

Nothing herein shall obligate the Town to deliver to the Society any minimum number of dogs or all of the dogs seized in the Town by the Town Dog Control Officer(s).

6. The term of this agreement is from **January 1, 2023**, through **December 31, 2023**, unless earlier terminated pursuant to the provisions of paragraph 8. In the event that the parties fail to fully renew this Agreement upon the termination of same, this Agreement shall be deemed to

be self-perpetuating, unless the same is formally terminated as hereinbefore provided by either party.

7. The Society shall not commence services under this contract unless it has obtained all insurance required under this paragraph and such insurance has been approved by the Town.

a) **Compensation Insurance** - The Society shall take out and maintain during the life of this contract Workers' Compensation insurance for its employees to be assigned to the work hereunder.

b) **General Liability and Property Damage Insurance** - The Society shall take out and maintain during the life of this contract such general liability and property damage insurance as shall protect it from claims for damages for personal injury, as well as from claims for property damage which may arise from operations under this contract. The amounts of such insurance shall be as follows: **(See attached Certificate of Insurance)**.

c) The Society shall furnish the above insurances to the Town and shall also name the Town as an additional named insured in said policies.

d) Any significant incident involving a dog after it has been delivered to the shelter shall be reported to the Office of the Supervisor of the Town as soon as possible and not later than twenty-four hours from the time of such incident. A detailed written report must be submitted to the Town as soon thereafter as possible but not later than three (3) days after the date of such incident.

8. The Town shall have the right to cease performing (except for payment for past services rendered) or terminate the contract if:

a) The Society is adjudged bankrupt or makes an assignment for the benefit of creditors; or

b) A receiver or liquidator is appointed for the Society or for any of its property and is not dismissed within twenty (20) days after such appointment or the proceedings in connection therewith are not stayed on appeal within the said twenty (20) days, or

c) The Society fails or refuses to comply with all applicable laws or ordinances; or

d) The Society is guilty of substantial violation of any provision of this contract;

e) In any event, either party, may, without prejudice to any other rights or remedy it may have, with fourteen (14) days written notice to the other party, terminate this Agreement.

9. The Society shall have the right to ease performing or terminate the contract if the Town is guilty of a substantial violation of any provisions of this Contract.

10. It is hereby mutually covenanted and agreed that the relation of the Society to the services to be performed by it under this Contract shall be that of an independent contractor. As an independent contractor, it will be responsible for all damage, loss or injury to persons or

property that may arise in or be incurred during the conduct and progress of said services, whether or not the Society, its agents, or employees have been negligent. The Society shall hold and keep the Town free and discharged of and from any and all responsibility and liability of any sort or kind. The Society shall assume all responsibility for risks or casualties of every description, for loss or injury to persons or property arising out of the nature of the services, from the action of the elements, or from any unforeseen or unusual difficulty. The Society shall assume all blame, loss and responsibility of any nature by reason of neglect or violation of any federal, state, county or local laws, regulations or ordinances.

11. The Society agrees to defend, indemnify and save the Town, its officers, agents and employees, harmless from any and all liability imposed on the Town, its officers, agents and/or employees arising from the negligence, active or passive, of the Society, and the Town agrees to defend, indemnify and save the Society, its officers, agents and employees, harmless from any and all liability imposed on the Society, its officers, agents and/or employees arising from the negligence, active or passive, of the Town.

12. In accordance with the provisions of Section 109 of the General Municipal Law, the Society is hereby prohibited from assigning, transferring, conveying, subletting or otherwise disposing of this Agreement, or of its right, title or interest in this Agreement, or its power to execute this agreement, to any other person or corporation without the previous consent in writing of the Town.

13. Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to have been inserted herein. If any such provision is not inserted through mistake or otherwise, then upon the application of either party this contract shall be physically amended to make such insertion. In particular, the Society shall, amongst other things, fully comply with:

a) Labor Law Section 220-e and Executive Law Sections 291-299 and the Civil rights Law relating to prohibition against discrimination and equal opportunity.

b) Affirmative action as required by the Labor law

14. Should any dispute arise between the Town and the Society regarding the manner or sufficiency of the performance of the services to be rendered hereunder, the disputed matter shall be settled by arbitration in accordance with the laws of the State of New York. There shall be three arbitrators, one of whom shall be selected

by each of the parties hereto, and the third by two arbitrators so selected. If the selection of any arbitrator is not made within fifteen

(15) days of the time that either party has notified the other of the name of the arbitrator it has selected, then the arbitrator or arbitrators not selected shall be appointed in a manner provided by the laws of the State of New York. The work shall not be interrupted or delayed pending such decision.

15. The Supervisor has executed this Agreement pursuant to a Resolution adopted by the Town Board of the **Town of FORESTBURGH**, at a meeting thereof held on _____. The Supervisor of the **Town of FORESTBURGH**, whose signature appears hereafter, is duly authorized and empowered to execute this instrument and enter into such an agreement on behalf of the Town. The Society represents that the officer of the Society, whose signature appears hereafter, is duly authorized and empowered to execute

this instrument and enter into such an agreement on behalf of the Society. The instrument shall be executed in duplicate. At least one copy shall be permanently filed, after execution thereof, in the office of the Town Clerk.

16. Any and all notices and payments required hereunder shall be addressed as follows, or to such other address as may hereafter be designated as follows, or to such other address as may hereafter be designated in writing by either party hereto:

To: **Town of FORESTBURGH**
332 King Road
Forestburgh, NY 12777

To: **The Humane Society of Port Jervis/Deerpark, Inc.**
202 Route 209
Port Jervis, New York 12771

17. No waiver of any breach of any condition of the Agreement shall be binding unless in writing and signed by the party waiving said breach. No such waiver shall in any way affect any other term or condition of this Agreement or constitute a cause or excuse for a repetition of such or any other breach unless the waiver shall include the same.

18. This Agreement constitutes the complete understanding of the parties. No modifications of any provisions thereof shall be valid unless in writing and signed by both parties.

19. This Agreement is governed by the laws of the State of New York.

IN WITNESS WHEREOF, the **Town of FORESTBURGH** has caused its corporate seal to be affixed hereto and these present to be signed by _____, its Supervisor duly authorized to do so, and to be attested by _____, Clerk of the **Town of FORESTBURGH**, and the Society has caused its corporate seal to be affixed hereto and these presents to be signed by its President, the day and year first above written.

(Seal of the Town)

TOWN OF FORESTBURGH

Supervisor

Attest:

Town Clerk

DASNY GRANT – Councilperson Ellsweig received a \$125,000 grant, for which the town has three years to spend that money. The funds will be used for two generators, one for the town hall and one for the highway dept and a gazebo for the town hall. Generators and gazebo will need to be presented out for bid. Councilperson Ellsweig suggests that deputy town clerk Teresa, Wendy town bookkeeper and Joe highway superintendent will assist in the project. Supervisor Hogue will also assist in the RFP'S with the town engineer.

REPORTS – BOARD MEMBER COMMENTS

Town of Forestburgh Highway Department

July 2023 Highway Report

Members of the Board

Summer

- Road Repair – Asphalt plants are currently open and we will be out checking roads for repair.
- Seasonal Roads have been reopened as of April 30th.
- Road Ditching – We have started ditching. If residents need ditch dirt have them contact the highway department.

Paving

We will be chip sealing the roads we have just paved ,that will be toward the end of the month for a day or two . I will post what days we will chip seal also thank's to the residents for being patient while paving was going on

New Hire

We looking for new hire ,its been put in the Democrat and posted on line

Any questions contact the Hwy Dept at (845)794-8069

Thank you


Joseph Ruggeri
Highway Superintendent

VACANCIES – We are currently still looking for a ZBA Secretary.

PLANNING BOARD – Richard Robbins – Planning Board did not have a June meeting but there will be a July meeting for a Lot line improvement.

Fire Department – Jim Steinberg – Any action taking on 466.A for tax exemption or 911 signs. Supervisor Hogue has not been able to contact the state as of yet. Fire department present a letter to be place in the newsletter for free smoke detectors for residents, it will be first come and first serve.

EXECUTIVE SESSION – MOTION by Supervisor Hogue, to enter into executive session, for the purpose of Litigation and would like to invite Richard Robbins Planning Board Chair and Troy Johnstone, Attorney for the Town, at 6.40 P.M.

EXECUTIVE SESSION – NO action taken.

ADJOURNMENT – MOTION by Councilwoman Ellsweig to adjourn at 7:45 p.m.

Respectfully submitted,

Teresa Collins
Deputy Town Clerk