



The Town of Franklin

P.O. Box 209, Route 3, Vermontville, NY 12989 • 518-891-2189 • Fax: 518-891-6389 • www.townoffranklin.com



The Town of Franklin

P.O. Box 209, Route 3, Vermontville, NY 12989 • 518-891-2189 • Fax: 518-891-6389 • www.townoffranklin.com



The Town of Franklin

P.O. Box 209, Route 3, Vermontville, NY 12989 • 518-891-2189
Fax: 518-891-6389 • www.townoffranklin.com

[Home](#)
[Officials & Contact Info](#)
[Town Clerk/Tax Collector](#)
[Board Meetings](#)
[Town Budget](#)
[Laws & Forms](#)
[Newsletter](#)
[Public Notices & Bid Info](#)
[History, Photos & Maps](#)
[Property Assessments](#)
[Energy](#)
[Events, Recreation & Kate Mtn Park](#)
[Area Businesses](#)
[Town Journals](#)
[Emergency Preparedness](#)

[Menu](#)

Town of Franklin Board Meetings

Regular Board Meeting February 9, 2009 - 7:00 pm

The Town of Franklin Town Board held a regularly scheduled Town Board Meeting on Monday, February 9, 2009 at 7:00 pm at the Franklin Town Hall in Vermontville, NY.

Board members Present:

Supervisor Mary Ellen Keith
Councilman Allen Berg
Councilman Walt Kretser

Board member absent:

Councilwoman Janet Ordway
Councilman Clifford Smalley

Others Present:

Highway Superintendent Jacques DeMars, Assessor Douglas Tichenor, Town Clerk Sandra Oliver, Ann Ruzow Holland, Grant Writer David Holland, Cynthia King, NYS Ofc Real Property Svc. Ray Brook, Frank Karl, Vince Catlin, Dave Whitson, Donald Goff, Brad Merrill, Derek Romeo, Don & Doris Hamm, Jim & Nancy Hauber, Daniel Eble, Jean Baltzly, Glenn Strack, Nathan Brown, Adirondack Daily Enterprise

CALL SPECIAL ORDER

Supervisor Keith called the meeting to order at 7:00 pm. The Pledge of Allegiance was recited; the Town Clerk called the roll and stated the full board was present.

1. AUDIT OF CLAIMS

The following claims were submitted on Abstract #2 of 2009:

General	Claims 30 - 52	\$10,307.12
Highway	Claims 10 - 24	\$10,730.08
Prepay General	Claims 4 - 6	\$1,098.59

The following claims were submitted for payment on Abstract #1 of 2009::

Capital Project Building

Claims 1 - 2

\$32,900.75

Motion to approve claims (W.Kretser-A.Berg m/s/p) ALL AYE

2. MINUTES.

Supervisor Keith reported she had spoken with Robert Freeman, Esq., Committee on Open Government. Mr. Freeman had reviewed the Town's rules of procedures (adopted by resolution at the January 21, 2009 board meeting) and recommended the elimination of item no. 3 concerning public participation at board meetings as the item was confusing. The Board concurred.

Members of the public are invited to bring an issue, questions, or comments before the board in one of the following four ways:

1. by written request to be put on the formal agenda at least five business days before the scheduled regular town board meeting, or
2. by addressing the board at a segment set aside per the Agenda at the end of the meeting specifically for that purpose. The supervisor reserves the right to limit each speaker to three minutes. The speaker may request that the board have a special meeting at a later date to consider that particular issue. At the end of this session, the board will decide if such a meeting is feasible and will set a date and time for it, or
- ~~3. by addressing the board during the meeting regarding agenda items, or~~
4. by addressing the board at the end of the meeting during a questions and answers segment. (change per Feb. 9, 2009 meeting).

Motion for resolution (W.Kretser-A.Berg m/s/p) ALL AYE

RESOLUTION NO. 9: AMEND ORGANIZATIONAL ITEMS "RULES OF PROCEDURE FOR BOARD MEETINGS

WHEREAS, the Board adopted organizational items by Resolution 1 on January 21, 2009; and

WHEREAS, item #3 of Rules of Procedure, public participation, may be misconstrued;

NOW, THEREFORE, the Town Board of the Town of Franklin hereby deletes item #3 "by addressing the board during the meeting regarding agenda items; or"Those voting aye:

Supervisor Mary Ellen Keith
Councilman Walt Kretser
Councilman Al Berg

Those Absent:

Councilperson Janet Ordway
Councilman Cliff Smalley

Those Abstaining:

None

Those Voting nay:

None

The minutes of the Organizational and regular board meeting of January 21, 2009, were then accepted as amended. (A.Berg-W.Kretser m/s/p) ALL AYE

3. SUPERVISOR'S REPORT

Balances as of January 1, 2009

General Fund	CK	\$34,174.78
	SV	\$213,690.86
	CLASS	\$101,664.80
	Historian	\$2,745.03
Highway Fund	CK	\$26,705.62
	SV	\$400,467.84
	CLASS	\$66,672.73
	Cap Proj Hwy	\$16,363.25
Landfill	CK	\$967.17
	CLASS	\$56,341.07
Fire	CK	\$684.93
	CLASS	\$684.62
Cap. Building	CLASS	\$57,508.45

Motion to accept Supervisor's Report (W.Kretser-A.Berg m/s/p) ALL AYE

4. HIGHWAY REPORT

A. SUPERINTENDENT'S REPORT: Highway Supt. Jacques DeMars reported as follows:

1. PROGRESS OF DEPARTMENT

- a. Plowed and sanded as needed;
- b. Pushed back banks with loader
- c. Adirondack Diesel serviced diesel leak
- d. ESE and NYSDEC inspected septic system; portable toilet removed
- e. Grader has leak in transmission
- f. Requested prisoner work crew for 6 weeks this summer
- g. Revised daily fuel usage sheets installed in each vehicle

2. CHIPS FUNDING. The State has proposed a reduction in CHPS funding by 49.4%. Supt. DeMars stated after consulting the Highway Committee, all paving work tentatively scheduled for this summer has been placed on hold, as well as the 284 Agreement. A meeting between various town highway superintendents and State legislators has been scheduled for Wednesday, March 11, 2009 in Albany, and all local elected officials are encouraged to attend. Supt. DeMars has not decided whether he will attend. He requested the Town Board send letters opposing the CHPS cut to State legislators. The Board concurred.

3. COST SAVINGS. Supt. DeMars reported a cost savings in overtime of \$4,070.90 over the same period last year as a result of his instituting shifts. The employees are adjusting well and are pleased that once they leave for home, they can stay home and not worry about being called back in.

4. REPAIRS TO FRONT LOADER. Supt. DeMars indicated he reviewed the 2009 budget and understood that \$20,000 had been set aside for repairs to the front loader. He received a quote from Caterpillar regarding repairs in sum of \$27,000. The vehicle may lose its transmission and the repair bill would be even higher. A new loader will cost \$111,500. Nortrax will look at it and give a quote, as well. He wants Donald Hamm to look at the loader and make recommendations. Coun. Kretser asked the superintendent to gather as much information as possible on repairs to the loader.

Coun. Berg asked Supt. DeMars if he planned to purchase another new tandem, and Supt. DeMars indicated the 2009 budget contains enough funds for a 4-door pickup truck.

Coun. Berg inquired if the purchase of another truck means hiring another driver, and Supt. DeMars indicated it did not.

B. 284 AGREEMENT TO SPEND HIGHWAY FUNDS. Due to potential reduction in CHPS funding and the unknown price of asphalt, this matter was tabled to March 9, 2009 meeting.

C. HIGHWAY COMMITTEE. Coun. Kretser indicated he had received very positive comments from town residents regarding the fine job the Highway Dept. is doing.

D. QUESTIONS AND COMMENTS

You've asked for prison crews to help. While the prisoners are working, what will the rest of the Highway Dept. be doing?

Supt. DeMars replied that over the years ditching of roads had been ignored. While prison crews cut brush and clear weeds, the rest of the employees will be working on ditching. Coun. Kretser suggested Supt. DeMars borrow or rent a specific piece of equipment for this.

NEW BUSINESS

5. ANN RUZOW HOLLAND, GRANT WRITER. Ms. Holland's contract for grant writing had been tabled from the October 2008 meeting.

Coun. Berg asked the percentage of grants awarded of those she prepared applications for all her clients, and Ms. Holland approximated 70 percent. Coun. Berg asked if the Town of Franklin would be able to obtain grants for its project, and Ms. Holland answered that she would apply only for those funding opportunities that "look good". Coun. Kretser asked if the Town signed a contract with her, would the Town be paying and not receiving anything back, and Ms. Holland answered that no grants had been applied for in behalf of the Town in the past year, although she started preparing an application for funding from the Environmental Protection Fund, however, because the recreation survey had not been sent to taxpayers and residents, the grant application was not submitted. If her contract is signed, she will immediately start work on this grant application, which is due June 30, 2009. In 2007 she prepared 2 grant applications, and the Town received funding from one. Grants, she stated, are not proportional. As for her contract fees, she added that because she has enjoyed a long history with the Town, her fees are reduced. Coun. Kretser asked what her strategy is when applying for grant funding. Ms. Holland replied that last summer the Town's emphasis was on the Kate Mountain project and she made contacts with NYS Senate and Assembly leaders. In this way she learns of what funding is available. Coun. Berg inquired whether, since the Kate Mountain project is on hold, the Town should apply for grants for the garage project, and Ms. Holland replied in the affirmative. Supv. Keith added that in 2007 the Town made application for a Smart Growth grant, and in 2006 applied to the Emily Musser Fund. With respect to current grant funding, Ms. Holland said that because she did not have a contract with the Town, she did not feel she had authority to represent the Town; however, she did contact former US Sen. Hillary Clinton's staff. Communities awarded grants must work at it. Coun. Kretser noted that in the current economy it seemed many funding sources have dried up and asked if she thought the Town had a realistic chance of obtaining grant funding, to which Ms. Holland responded positively, that she would apply for as many grants as possible. She added that she had spoken with John Sweeney in US Rep McHugh's office who is an important contact on infrastructure improvements. Coun. Kretser asked if she had heard

anything about dollars coming to the North Country, and Ms. Holland indicated that in order to obtain grant funding "noise" is needed from the Town of Franklin, including letters, telephone calls to representatives, etc. She added that because she did not have a contract with the Town she had not contacted either the engineers or the architects. Coun. Kretser asked which funding sources could be applied to, and Ms. Holland said HUD and Smart Growth funding. She had been in touch with the Adirondack Association of Towns, and they are drafting a resolution encouraging the return of Federal Revenue Sharing. Supv. Keith distributed copies of the contract to Couns. Kretser and Berg for their review. Coun. Kretser said the garage renovation is the Town's primary focus and importance, however if Ms. Holland thought the Town could receive additional funding for other infrastructure improvement projects, it would be very fine. Coun. Berg asked how a grant is applied for, and Ms. Holland rejoined it depended on the funder. For the State Archives grant she had to write a narrative, or summary of why the Town needed the funding, obtain bids, do cost estimates, submit architectural/engineering drawings, fill out the State Archives forms and submit the application by the deadline. All grant applications differ, depending on the size of the project. The old Domtar lands - the Sable Highlands Conservation Easement - could also be used to support grant funding, although the Sable Highlands improvement would be considered a separate project. Supv. Keith stated Ms. Holland cannot submit grant applications without a contract. Couns. Kretser and Berg requested a monthly activity report from her, and she agreed to submit same on a monthly basis. Coun. Kretser suggested the Board authorize execution of the contract, contingent upon approval by absent board members, Couns. Ordway and Smalley.

The Kate Mountain project on hold - what are you writing grants on?

Ms. Holland replied that the Kate Mtn. project was used as a centerpiece to base grant applications on.

\$11,500 for a contract is a lot of money if no funding comes in.

Ms. Holland responded that she only gets paid if grant applications are submitted.

People are concerned that if we obtain grant funding that it only be used for the garage project.

The Board thanked Ms. Holland for her report. She then left the meeting.

Motion for resolution (W.Kretser-A.Berg m/s/p) ALL AYE

RESOLUTION NO. 10 AUTHORIZE SUPERVISOR TO EXECUTE AGREEMENT WITH ANN HOLLAND FOR GRANT WRITING

WHEREAS, the Town plans to submit applications for funding through diverse grant sources; and

WHEREAS, Ann Ruzow Holland has requested a contract with the Town for grant writing services; NOW, THEREFORE,

BE IT RESOLVED, that the Supervisor is authorized to execute said contract, contingent upon the approval of absent Board members, Councilperson Janet Ordway and Councilman Clifford Smalley.

Those voting aye:

Supervisor Mary Ellen Keith
Councilman Walt Kretser
Councilman Al Berg

Those Absent:

Councilperson Janet Ordway
Councilman Cliff Smalley

Those Abstaining:

None

Those Voting nay:

None

6. DOUGLAS TICHENOR, ASSESSOR. Mr. Tichenor reported on the progress of the 2009 assessment update: of the 2009 assessment update: Notices were sent out regarding data collectors visiting residences. Loon Lake resident Bob Weigold is helping, but Mr. Tichenor is waiting for better weather before venturing > out onto properties. Mr. Tichenor reported he had received many responses from taxpayers concerning data collectors entering their properties. Currently Mr. Tichenor is reviewing new construction in the Town. The > equalization rate for the Town of Franklin for July 1 2008 through June 30, 2009 is 60%; next year it will be at around 50%. The reassessment will go into effect for the school taxes in 2010. Taxpayers will receive > their new assessments in March 2010.

EFFECT OF REASSESSMENT. Coun. Kretser inquired if assessments were going to be lowered in this area, and Mr. Tichenor replied they would not. However, because assessments are based on current sales, in the Village of Saranac Lake properties are selling for less than the assessed full market value. State-wide sales are increasing at 2-4% per year. In the Town of Brighton two lots of .90 acres sold for \$55000 each. There are high sales in the Town of Franklin, and our town is assessed at around 50% of value, whether waterfront or not. Mr. Tichenor emphasized the importance of the data collection so assessments can be fairly calculated using up-to-date data.

PROPOSED TAX CAP ON STATE-OWNED LANDS. Coun. Kretser asked what effect the proposed tax cap on State owned lands will have on Town assessments and taxes. Mr. Tichenor responded currently the State of New York pays 20% of the tax levy in the Town of Franklin. If taxes are capped at the 2008 level, there could be a dramatic shift from 20% of the tax burden to 10%. There needs to be some kind of balance baseline. Lyme Adirondack Timberlands, purchaser of the old International Paper lands, has a conservation easement. Lyme pays .33 of the taxes on the land and the State pays the rest. If the tax cap goes into effect, Mr. Tichenor will come to

the Town Board with recommendations, and the Board will not be obligated to accept the reassessment. However, if the public gets involved in protesting the proposed tax cap on State-owned lands, perhaps the State Legislature will not be adopt it. Mr. Tichenor was pleased the Town adopted Resolution #8 of 2009 in opposition to the proposed tax cap. He indicated that nothing had been settled with respect to the proposed tax cap and suggested urged public action. He suggested taxpayers go to adkaction.org where they can sign a letter in opposition which will be forwarded to Governor Paterson. The Albany Times-Union recently published a very good column on this subject. A cap on state land tax has been tried before and will be tried again. It is very important that the public get involved.

QUESTIONS AND COMMENTS

This State land tax cap means that people with exemptions will lose 50% of their exemptions.

Mr. Tichenor agreed and added there are so many different kinds of exemptions, they should all be eliminated.

How much will we lose if the tax cap goes into effect?

The total assessed value of the Town of Franklin is \$135.9 million. The value of State lands is \$28.5 million, or 20% of the Town's value. The State now pays 20% of the tax levy. In dollars they pay \$7 per thousand. If the tax cap goes into effect that \$7 per thousand would be halved. Calculated out, the Town contains 40,900 acres, and the State owns 35% of that, with conservation easements included, the State ownership rises to 45%.

Are the data collectors looking at properties now? Someone with a pair of large field glasses was spotted on Cold Brook Road.

That was for a bird census.

Mr. Tichenor stated data collectors working for the Town of > Franklin would be wearing identification badges. If homeowners do not want anyone coming onto their properties, Mr. Tichenor will send them an inventory form to update and return.

Regarding the state land tax cap, if the legislators have enough unanswered questions, they'll put it off for another year. Then we'll be in a better position because of our reval.

Yes, and then transitional assessments come into effect by the State. For example, if all assessments are up by 50% but the State is only up by 30%, it implements transitional assessments to bring their tax burden in line with the rest of the town. This erodes over time .

The Board thanked Mr. Tichenor for his report. He then left the meeting.

OLD BUSINESS

7. INFRASTRUCTURE UPDATE. Supv. Keith reported the bond resolution had been published.

8. SUBDIVISION UPDATE. Coun. Kretser reported the Citizens Advisory Committee on Subdivisions had held two lengthy meetings in February. The Committee has accomplished 80% of its tailoring the North Hudson Subdivision Law to Town of Franklin specifications. The public is encouraged to attend its meetings. The next will be held on Monday, February 16th and again on February 23rd, 8:30 am to noon.

9. ENVIRONMENTAL MATTERS.

a. Garage Spill re Drainage System. As reported at the last board meeting, this matter has been cleared by NYS DEC and the case closed.

b. Garage Spill re Petroleum in Septic System. This case has been cleared by NYS DEC, and the case has been closed. Supv. Keith stated the reports on both matters had been placed in the Town Clerk's office, and anyone who wished to inspect them, would be welcome to do so.

c. Illegal Dumping at Norman Ridge. Doug Ferris, engineer, will be contacting Don Hamm regarding equipment. There is work to be done at the site, but the work must wait until the snow clears.

10. COMMITTEE REPORTS

a. Recreation. A skating rink has been established at the Rec Park. Cross-country ski tracks have been seen.

b. Cemetery. No report.

c. Celebration. No report.

11. CORRESPONDENCE. The Adirondack Park Agency will be sending out monthly reports of permits issued.

QUESTONS AND COMMENTS

Residents of the town do not want to spend \$800,000 on the garage renovation. We think it's too much money for these economic times. We have collected signatures on a petition demanding a permissive referendum on this subject.

Doris Hamm delivered the petition to the Town Clerk, which reads as follows:

"BONDING FUNDS

PETITION OF TOWN ELECTORS
REQUESTING REFERENDUM
PETITION OF TOWN ELECTORS

In the Matter

**Of
Acquisition of Bonding Funds in the
Amount of \$800,000**

TO THE TOWN BOARD OF THE TOWN OF FRANKLIN; IN THE COUNTY OF FRANKLIN:

WHEREAS, on the 21st day of January, 2009, the Town Board of the Town of Franklin, New York (the "Town") did adopt Resolution No. 6 of 2009, entitled Bond Resolution authorizing the reconstruction and repair and renovation of the Town Highway Garage at an estimated maximum cost of \$800,000 appropriating said amount therefore, and authorizing the issuance of up to \$800,000 of bond anticipation notes and serial bonds of the Town to pay the cost of the project; and

WHEREAS, said Resolution is subject to a permissive referendum; NOW, THEREFORE, the undersigned being duly qualified electors of the Town do protest against such resolution and hereby petition and request the taking of a referendum vote upon said Resolution as provided for by statute. IN WITNESS WHEREOF, we have hereunto set our hands the day and year placed opposite our signatures."

Supv. Keith indicated the petition would be referred to the Town's bond counsel, Theodore Trespaz, Esq., Trespaz & Marquardt, Syracuse, NY.

Robert Freeman, Committee on Open Government, was consulted about the minutes and your rules of procedure. He said an attendee at a meeting could interrupt and he also said the Town Clerk has no business telling anyone he or she is out of order. That should come from the Supervisor.

Noted. However, please observe the rules of procedure as amended. No interruptions except at times indicated on the agenda. This is a business meeting of the duly elected representatives of all the citizens of the Town of Franklin.

Will Ann Holland look for grants for the garage project?

We'll ask her to do that.

When will the referendum on our petition on the bond be held?

The matter will be referred to our bond counsel.

Whatever happened to our petition demanding a referendum on subdivisions? Do you need another ? Why didn't we ever get a response or have a referendum on that?

The Board signed and mailed a letter to each signatory to the petition regarding subdivisions. In the State of New York, a municipality may not use public funds to hold an advisory referendum. The letter sent to petition signatories reads:

"September 24, 2008

Dear Taxpayer,

At the September 15, 2008 Town Board meeting a petition containing your signature was delivered to the Town Board. As you know, the petition asked that a referendum be held on whether taxpayers wanted subdivision regulations. Supervisor Mary Ellen Keith asked James Maher, Esq., attorney for the Town, whether it was legal for the Town to conduct such a referendum. His reply follows; in short, municipalities may not conduct an advisory referendum:

'September 18, 2008

Town of Franklin

Mary Ellen Keith, Town Supervisor

P.O. Box 209, Vermontville, NY 12989

Re: Question concerning request for a referendum on subdivision regulations

Dear Mary Ellen:

You have asked for my opinion concerning a petition submitted to the Town Board which requests that a public vote be conducted on whether the Town should enact subdivision regulations.

There is no law that I know of that requires a referendum to be held before subdivision regulations may be enacted. The procedure for enacting such regulations is through a public hearing being held on a proposed local law that codifies the proposed regulations.

In New York State it is not legal for a town (or a village, city or county) to hold an advisory referendum. As stated by the New York State Comptroller in several opinions, including Opinions 88-79 and 91-58 (copies of which are enclosed),

It has been consistently held in this State that a municipality may not submit a question to a referendum, either advisory or binding, in the absence of express statutory authority. Based upon these cases, we have stated that referenda which are neither authorized nor required by statute are improper and without effect and that municipal monies may not be expended for such purposes.

Based on this authority, it is my opinion that the Town cannot conduct an advisory referendum on whether to enact subdivision regulations.

Please provide a copy of this letter, and of the enclosed Comptroller's opinions, to the individual board members and let me know if you or they have further questions.

Yours very truly,
James E. Maher

Encl.

cc: Town Board members"

OPINIONS OF THE OFFICE OF THE STATE COMPTROLLER

"OPINION NO. 91-58

Referendum-Advisory (site plan approval)

General City Law, 30-a: In the absence of express statutory authority, a city may not submit a question to a referendum, either advisory or binding, in the absence of express statutory authority (McCabe v. Voorhis, 243 NY 401; Mills v. Sweeney, 219 NY 213; Kupferman v. Katz, 19 AD2d 824, 243 NYS2d 773, affd 13 NY2d 932, 244 NYS2d 217; Greene v. Town Board of Town of Warrensburg, 90 AD2d 916, 456 NYS2d 873, lv den 58 NY2d 604, 459 NYS2d 1027; Citizens For An Orderly Energy Policy v. County of Suffolk, 90 AD2d 522, 455 NYS2d 32, appeal dsmd 57 NY2d 1045, 457 NYS2d 787). Based upon these cases, we have stated that referenda which are neither authorized nor required by statute are improper and without effect and that municipal moneys may not be expended for such purposes (1990 Opns St Comp No. 90-64, p 146; 1988 Opns St Comp No. 88-70, p 137; 198 Opns St Comp No. 87-80, p 120; 1986 Opns St Comp No. 86-8, p 14; 1981 Opns St Comp No. 81-344, p 376).

We are aware of no State statute which authorizes or requires an advisory referendum on the granting of site plan approval (cf., General City Law, §30-a[2], relative to public hearings on site plan approvals) or on local waterfront revitalization consistence determinations (see Executive Law, art 42, §910 et seq.; 19 NYCRR part 601). Accordingly, it is our opinion that the city may not conduct an advisory referendum on these questions.

OPINION NO. 88-70

Referendum-Advisory (fluoridation of water)

General City Law 20(2), (7); General Municipal Law 6-c(8); Local Finance Law 34.00: In the absence of express statutory authority, a city may not conduct an advisory referendum on whether to fluoridate city water or whether to improve the city water or sewer systems. However, bond resolutions or expenditures from capital reserve funds in connection with the improvements may be subject to referendum in certain circumstances.

You ask whether a city may conduct a referendum to poll voters on issues such as whether to fluoridate city water or improve the city water or sewer system.

It has been consistently held in this State that a municipality may not submit a proposition to a referendum in absence of express statutory authority (McCabe v. Voorhis, 243 NY 401, 153 NE 849; Mills v. Sweeney, 219 NY 213, 114 NE 65; Greene v. Town Board of Town of Warrensburg, 90 AD2d 916, 456 NYS2d 873, mot for lv to app den 58 NY2d 604, 459 NYS2d 1027; Meredith v. Connally, 68 Misc 2d 956, 328 NYS2d 719, affd 38 AD2d 385, 330 NYS2d 188; Silberman v. Katz, 54 Misc 2d 956, 283 NYS2d 895, affd 28 AD2d 992, 284 NYS2d 836; Adams v. Cuevas, 133 Misc 2d 63, 506 NYS2d 614; Meredith v. Monahan, 60 Misc 2d 1081, 304 NYS2d 638). Based upon these cases, we have stated that referenda which are neither permitted nor required by statute are improper and without effect, and that municipal moneys may not be expended for such purposes (1987 Opns St Comp No. 87-80, pg 120; 1986 Opns St Comp No. 86-8, p 14; 1981 Opns St Comp No. 81-344, pg 376).

We are aware of no statute which authorizes or requires a city to conduct an advisory referendum on whether the city should undertake fluoridation of its water system, or water or sewer capital improvements (see 34 Opns St Comp, 1978, pg 192; General city Law, 20(2), (7), (11); cf., General city Law, 28[2][b], relative to referenda on sale or lease of city real property; Municipal Home Rule Law, 23 and 24, requiring mandatory or permissive referenda, respectively, for certain local laws). However, there may be referendum requirements in connection with financing these improvements if the funding for the improvements is derived from the proceeds of borrowing or capital reserve funds.

Under Local Finance Law 34.00, a city may adopt a local law requiring that, with two exceptions, all bond resolutions or those bond resolutions authorizing the issuance of bonds for such purposes or amounts as may be specified by local law shall be subject to mandatory or permissive referendum. A city may not require a referendum on bond resolutions authorizing the issuance of bonds to pay judgments or claims, or to provide sewage disposal or treatment facilities required by order of the State Departments of Health or Environmental Conservation (Local Finance Law 34.00(b)).

Also, under General Municipal Law, 6-c(8), an expenditure from a capital reserve fund established for a type of, as opposed to a specific, capital improvement is subject to permissive referendum requirements if it is required by law that an authorization to issue obligations for such improvements would be subject to referendum. Thus, the expenditure of moneys from a capital reserve fund for a type of improvement would be subject to permissive referendum if, pursuant to city local law, the issuance of obligations for the improvement would be subject to referendum.

Accordingly, the city may not conduct referenda to poll voters on whether to fluoridate city water, or to improve the city water or sewer system in the absence of State legislative authority. However, bond resolutions or expenditures from capital reserve funds in connection with the improvements may be subject to referendum in certain circumstances. We note that our reference to State legislation is not intended as a recommendation with regard to any such legislation.'

Sincerely,

TOWN OF FRANKLIN TOWN BOARD

/s/ Mary Ellen Keith

/s/ Walter Kretser, Councilman

/s/ Janet Ordway, Councilperson

/s/ Allen S. Berg, Councilman
/s/ Clifford Smalley, Councilman"

Supv. Keith stated that once the Citizens Advisory Committee on Subdivisions completes adapting the North Hudson Subdivision Law to the Town of Franklin a public hearing will be held.

That letter was legalese. Maybe we should form our own committee and use the Town's attorney to advise us.

Supv. Keith stated the Town Supervisor appoints members of all committees, including the Subdivision Committee, and that it would not be permissible for others to use the services of the attorney for the Town. If residents wished to form their own committee they would need to engage their own lawyer.

ADJOURNMENT

As there was no further business to conduct, the meeting adjourned at 8:52 pm. (W.Kretser-A.Berg m/s/p ALL AYE
Respectfully submitted, Sandra J. Oliver, Town Clerk

[Click here to see past minutes](#)

[Newsletter](#) | [Town Events](#) | [History, Photos & Maps](#) | [Board Officials & Contact Info](#) | [Board Meetings](#) | [Town Budget](#) | [Laws & Forms](#) | [Real Property Assessments](#) | [Events, Recreation & Kate Mtn Park](#) | [Area Businesses](#) | [Town Journals](#) | [Emergency Preparedness](#) | [Home](#) | [Email the Town](#)
| [Home](#)

Town of Franklin

P.O. Box 209, Route 3, Vermontville, NY 12989 · Tel: 518-891-2189 · Fax: 518-891-6389 · info@townoffranklin.com

© Town of Franklin · Website Design: Rainbow Graphics

You are the visitor. Thank You for stopping by.