



The Town of Franklin

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Town of Franklin Board Meetings

**Special Town Board Meeting
June 24, 2009 - 7:00 PM**

Board members present:

Supervisor Mary Ellen Keith
Councilman Allen Berg
Councilwoman Janet Ordway
Councilman Clifford Smalley
Councilman Walt Kretser

Others Present:

Town Clerk Sandra Oliver, Doug Ferris - Earth Science Engineering, Brian Burke - Architect, Richard Jarvis, Donald Goff, Brad Merrill, Ed Martin, Carol Lavigne, Frances Oliver, Mark Kurtz

1. CALL TO ORDER

Supervisor Keith called the meeting to order at 7:00 pm. The Pledge of Allegiance was recited; the Town Clerk called the roll, introduced guests and stated the full board was present. Supv. Keith stated the purpose of the meeting was to discuss and act upon proposed subdivision regulations and the Town's infrastructure needs.

2. SUBDIVISION REGULATIONS UPDATE.

A. CONTRACT WITH TIM SMITH, ESQ: Resolution No. 24 of 2009, adopted June 10, 2009 authorized Supervisor Keith to execute an agreement with Tim Smith, Esq. for his review of and recommendations on the proposed subdivision regulations. Supv. Keith announced she would execute the agreement and pay his fee of \$1,950.

B. DRAFT PROPOSED LAW: Coun. Smalley reviewed the progress of the Citizens Advisory Committee on Subdivisions and its recommendations to the Town Board for the steps necessary to enact a law: (1) schedule a public hearing, (2) appoint a knowledgeable individual as hearing officer, (3) enact a second law for creation of a 5-member planning board of appointed residents, and (4) continue with the SEQR process. Coun. Smalley read into the record the resolution regarding the proposed "Town of Franklin Major Subdivision Law". Supervisor Keith requested a motion for a resolution.

(M.Keith-W.Kretser m/s/p) ALL AYE

RESOLUTION NO. 25: FOR PROPOSED LOCAL LAW #1 OF 2009 - 'TOWN OF FRANKLIN MAJOR SUBDIVISION CONTROL LAW'

WHEREAS, the Town of Franklin town board and town residents experienced a lack of consideration in the review of a subdivision through an APA process, noting that the town also lack established standards and guidelines for review of subdivisions, recognizing the APA does not review all major subdivisions in the town due to limited jurisdiction is hamlet and low intensity use classified private lands, recognizing the desirability of a local law that would guide applicants in subdivision design and provide opportunities for residents to review and provide input in subdivision design, all at fair process at the town level, and

WHEREAS, the Town of Franklin Town Board appointed a Citizen's Advisory Committee ("CAC") to assist with the drafting of a major subdivision control law on May 19, 2008, and

WHEREAS, the CAC reported regularly to the town board with progress in the drafting of the law, and the board provided advise and consent as necessary, and

WHEREAS, the community survey of March 2009 demonstrated 2 to 1 town taxpayer/ landowner support for a subdivision law, including slight favoritism for use of a town board appointment of town residents to a planning board as the decision board to implement the local law, and

WHEREAS, the town board would retain the authority to solicit interested and qualified town residents and to appoint town residents to staggered year terms, provide for opportunities for the appointment planning board members and alternates to obtain the state required annual training, maintain the authority to appoint the town Code Enforcement Officer to assist with the administration of the law and the decision whether to accept the dedication of new town roads or other public facilities, and establish the fees for subdivision applications and the annual budget for the planning board; and

WHEREAS, the CAC has advised that the advantages of a planning board include an independent board making decisions and recommendations based on professional and common sense judgment following the specific standards, guidelines and procedures in the local law, and the town board would have time to deal with the other matters of town business without the burden of additional responsibilities and review timeframes established in the law, and

WHEREAS, the CAC, upon request of the town board, sought the professional advice of Adirondack Park Agency Officer Brian Grisi and special legal counsel Timothy Smith, Esq. and their appropriate advice has been incorporated in the draft for the public hearing, and

WHEREAS, the costs of implementing the law can be addressed by the annual budget, assignment of duties to the shared code enforcement officer, assessment of reasonable and appropriate fees on the subdivision applicants/developers, use of State Environmental Quality Review (SEQR) charge-back provisions for necessary professional advice, requiring training of planning board members as to proper procedures to avoid lawsuits, and

WHEREAS, the proposed law must be subject to public review and a public hearing per established town hearing rules, conducting the hearing during a period when year round and seasonal residents are generally available, and the town board has reviewed the draft notice of public hearing, and

WHEREAS, the public should have a fair opportunity to express its opinions on an important issue with significant impact on the town and its residents, and all board members should be able to focus on the comments presented; NOW, THEREFORE, BE IT RESOLVED, that the town board will issue the Notice of Public Hearing on Proposed Local Law Number 1 of 2009, Town of Franklin Major Subdivision Control Law, for official publication twice, with the hearing to be held at 7:00 PM on Monday, July 27, 2009 at the Franklin Town Hall, Vermontville, NY; AND BE IT FURTHER RESOLVED, the Board will issue a press release to announce the date, place and rules of the public hearing and the availability of the hearing rules and the draft law at the town hall and on the town website; and BE IT

FURTHER RESOLVED, the Supervisor is empowered to and has designated Jack Drury, an independent and qualified presiding officer is hereby appointed to chair the public hearing, at a cost not to exceed \$500; AND BE IT

FURTHER RESOLVED, the draft proposed law and rules of the public hearing will be made available to any interested party at the Franklin Town Hall and the Town's website; AND BE IT

FURTHER RESOLVED, the Town Board requests Citizens Advisory Committee on Subdivision Regulation, per advice of special counsel Tim Smith, Esq. to make recommendations for the creation of a 5-member and 2-alternate planning board of qualified residents with staggered annual appointment dates; AND BE IT

FURTHER RESOLVED, the Town Board will continue the State Environmental Quality Review process, including consideration of any comments on the Environmental Assessment Form and request to be lead agency, and make an appropriate determination of significance prior to any legislative action.

Those voting aye:

Supervisor Mary Ellen Keith
Councilman Walt Kretser
Councilman Al Berg
Councilperson Janet Ordway
Councilman Cliff Smalley

Those Absent:

None

Those Abstaining:

None

Those Voting nay:

None

Coun. Smalley then read into the record the draft public notice to be published in the Adirondack Daily Enterprise: "PLEASE TAKE NOTICE that the Town of Franklin Town Board will hold a public hearing on a proposed 2009 Local Law, "Town of Franklin Major Subdivision Control", for the purposes of regulating any division of a given tract of land into five (5) or more lots, parcels or sites over any consecutive ten (10) year period following the date of enactment of the law, or any division of any number of lots, parcels or sites which includes a new public road. The public hearing will be held at 7:00 p.m., Monday, July 27, 2009, at the Franklin Town Hall, Vermontville, N.Y. The complete text of the proposed major subdivision control law is available for public inspection at the Vermontville Town Hall, Monday through Thursday, during regular business hours (9:00am-3:00pm), and on the town website townoffranklin.com. The conduct of the hearing will follow the established rules of procedure for public hearings by the town board; a copy of the hearing rules will also be available for review at the town hall and town website. At the hearing, any member of the public must sign the sign-in speaking sheet and be heard regarding the provisions of the proposed subdivision control law. Hearing rules require that all in attendance are treated in a respectful and courteous manner. Due to the expected public interest, oral comments will be limited to a maximum of __ minutes. Anyone unable to attend the hearing may submit written comments to the town clerk; all written comments must be submitted and received by the close of the hearing."

C. QUESTIONS AND COMMENTS

Q/C: The Citizens Advisory Committee worked very hard on these regulations, and appreciation goes to Walt Kretser and Cliff Smalley for their participation.

Q: This draft looks pretty standard to most towns in the area

Q: We don't need this.

Q: This draft should be mailed to each property owner and voter in the Town.

3. INFRASTRUCTURE MATTERS

A. BUILDING COMMITTEE. Supv. Keith reported a meeting of members of the Building Committee, including herself, Engineer Doug Ferris, Walt Kretser, Town Justice Roger Symonds and Jennifer VanBenschoten, Grant Writer Ann Holland's liaison for Office of Court Administration grant funding. Engineer Ferris was asked to draw up a revised plan for repair of the Town Garage as well as for reorganization of office space in the Town Hall.

B. TOWN HALL. The Town was awarded grant funding for a new furnace and in order to comply with mandates of the NYS Unified Court System, some of the Town Hall problems should be addressed. Justice Symonds suggested he change offices with Supervisor Keith (the Court System requires judges to have an exit door at the rear of their bench and that the Judge's bench itself be placed on a raised platform). The electrical system would be brought up to code, drainage issues would be resolved, and some construction in the reconfigured space was proposed. The Town Hall serves many purposes - office space, meetings and community gatherings, so kitchen will remain as is. The cost estimate for this project is \$153,316. Engineer Doug Ferris indicated the ballpark costs included replacement of windows, doors, addition of insulation and upgrade of the electrical system.

Supv. Keith commented people can see the widening crack between the door and the frame, the wet basement and leaking roof in winter.

Mr. Ferris continued, stating to remedy the water flooding the basement, exterior grading was recommended. The \$153,000 cost estimate would not be sufficient to bring the Town Hall up to code and that additional funding, hopefully from grants, would be necessary. If additional funds can be found, even the lighting issues might be corrected. He added the Town Hall is a great old building, that the foundation is strong.

Coun. Ordway asked whether the plans include the removal of the kitchen; if not, that would be good news indeed. Mr. Ferris replied there are no plans to alter the kitchen.

C. REPAIR OF TOWN GARAGE Engineer Doug Ferris distributed copies of the reduced cost estimate for repair of the Town Garage, for a total of \$531,498, or \$89 per square foot. The project would address safety issues in the building, heating and ventilation only. The Garage would not be reconfigured or enlarged. Work proposed to be done would bring the Garage up to code. It is important that safety issues be resolved. The repair includes all repair work minus the expansion.

- East end of slab will be repaired
- New footings installed at east end
- Attic reinsulation
- Roof drainage issues fixed
- Heating and ventilation improved
- Radiant in-floor heating in service bay
- Electrical brought up to code

Q/C: Supv. Keith asked if the \$531,489 included grant funding, and

A: Mr. Ferris responded it did not; therefore, if grant funding becomes available, the amount actually paid for the repair would be lower.

Q: Coun. Smalley asked if interior drainage for the large equipment storage at rear of building would be addressed, and if not, would it cause mold, etc.

A: Mr. Ferris replied it would not, that it would stay as is because the roof drainage issue will be resolved. Mold problems will be handled by improved ventilation.

Q: Coun. Berg inquired whether the estimated 10% contingency is adequate and also whether the revised project will correct all problems concerned with safety in the building.

A: Mr. Ferris said he would like more, as it provides a better cushion. As to whether the safety hazards will be corrected, Mr. Ferris explained the revised project is the same as the first, but with the building enlargement and reorientation removed from it. In addition, like the first project, the cost savings in heat and energy will be substantial.

A: Brian Burke, Architect, stated the most cost-effective thing you can do to improve any building is to improve its insulation.

Q: Coun. Smalley queried as to the expected life of the building, if the repairs are made.

A: Messrs. Ferris and Burke both responded the Town could anticipate another 30 years.

Q: Coun. Berg asked about the nature of insulation in the roof.

A: Mr. Ferris responded atop the current insulation, an additional 8" of packed insulation will be installed

A: Mr. Burke stated the goal is to raise it to R38.

Q: Coun. Smalley inquired whether added ventilation would need to be installed for the roof

A: Mr. Ferris answered added ventilation would not be necessary as there would be adequate space above the added insulation to allow for natural ventilation.

Coun. Kretser stated the Town Garage is the priority, and rather than bond for nearly \$700,000 for two repair projects, he recommended the Town focus solely on the Town Garage repairs or \$531,498. Couns. Berg, Smalley and Ordway concurred.

Coun. Smalley stated his preference was to keep the two projects separate. Coun. Kretser said the Building Committee and Grant Writer Ann Holland would begin grant research again, although the Town could not be guaranteed any additional funds from grants.

Mr. Ferris added that the longest term of any municipal bond is 20 years.

Supv. Keith stated the Town Board is obligated to maintain its buildings especially where employee health and safety are concerned. Because of its northern location, the Town has a short construction season, and municipalities must advertise for bids. She continued that the April 21, 2009 permissive referendum only voted down the manner in which repairs to the Garage would be paid for; it did not vote down the repairs. She noted that the public could vote down another, lower bond for \$531,498, but the repairs will still have to be effected one way or another, and the other way is for the entire amount to be budgeted in 2010 and added to 2010 tax bills. She asked for a motion for a resolution to pursue financing options and to proceed with the Garage project.

(C.Smalley-A.Berg m/s/p) ALL AYE

RESOLUTION NO. 26: PROCEED WITH PLANS FOR GARAGE REPAIR

WHEREAS, the Town Board and its committees have studied and discussed its infrastructure (buildings) needs for several years; and WHEREAS, the Board has determined the Town Garage renovation to be first priority; and WHEREAS, Architects Brian Burke and Beverly Eichenlaub and Earth Science Engineering have submitted plans and drawings and price estimates for the repair of the Town Garage estimated at \$531,498; NOW, THEREFORE, BE IT RESOLVED, that the Town Board will continue to pursue accomplishment of the repair of the Town Garage for the health and safety of its employees and so as to conserve energy; AND BE IT FURTHER RESOLVED, the Town Board will research and pursue additional financing through grants and donations

Those voting aye:

Supervisor Mary Ellen Keith
Councilman Walt Kretser
Councilman Al Berg
Councilperson Janet Ordway
Councilman Cliff Smalley

Those Absent:

None

Those Abstaining:

None

Those Voting nay:

None

Supv. Keith indicated she would contact the Town's bond attorney and a resolution might be offered at the July 8th regular board meeting.

D. QUESTIONS AND COMMENTS. In conformance with procedure, the Town Clerk polled each individual attending the meeting for questions or comments.

Q/C: On the Garage repair, is the heating and ventilation figure for the current footprint of the building or does it reflect the now-discarded idea of building enlargement?

A: Mr. Ferris replied that those figures are from the first estimate of the Garage repair, so provided construction costs do not rise, those figures may be lower.

Q: Generally in favor of Garage repair, but what is term of bond?

A: Mr. Ferris answered that the most a municipality can bond is for 20 years.

Q: What is the percentage increase of 2010 budget if this goes through?

A: Supv Keith replied the budget estimate will be based on assessed value, revenues and unexpended fund balances plus expenses. Unfortunately, cannot give you an answer to that this evening.

4. STATUS OF NORMAN RIDGE ILLEGAL DUMPING.

Engineer Doug Ferris (Earth Science Engineering) reported the test holes excavated at the Norman Ridge site contained 90% soil and 5% trash. ESE uncovered 6 loads of metal (which the Town can sell), 2 loads of trash and a single load of tires (disposal of which will be paid by the Town) NYS Dept. Environmental Conservation officials Becker and Hyuck examined the results, agreed the matter disposed of did not constitute much of a threat to the environment and agreed to close the investigation. Mr. Ferris noted the Town addressed the matter ahead of NYS DEC schedule. Large boulders will be placed at the entrance to the site, and the area will be reseeded. Supv. Keith added that the barricaded site will be mowed each fall, as is the official Town closed landfill in Onchiota. The Town is also researching a surveillance system for the Town Garage which will also monitor the Norman Ridge site. Coun. Smalley inquired if additional NYS DEC monitoring of the Norman Ridge site would be mandated, and Mr. Ferris responded the matter is closed. ESE will send the Town a brief report, and NYS DEC will also send a report.

5. REVISE RESOLUTION NO. 19 ACCEPTING REQUEST FOR HIGHWAY "FILL" AND MINUTES OF MAY 18, 2009 SPECIAL MEETING.

On the recommendation of James Maher, Esq., attorney for the Town, the wording of the agreement accepted by Resolution No. 19 of 2009, should be changed. The title should read "Request for Excess Highway Materials". Highway Superintendent Jacques DeMars was consulted, and he is amenable to the change. Supv. Keith requested a motion for a resolution amending Resolution No. 19 and the minutes of the May 18, 2009 meeting.

(W.Kretser-J.Ordway m/s/p) ALL AYE

RESOLUTION NO. 27: AMEND RESOLUTION NO. 19 ACCEPT REQUEST FOR FILL AGREEMENT BETWEEN HIGHWAY DEPT. AND LANDOWNER

WHEREAS, on May 18, 2009 by Resolution No. 19, an agreement was accepted by the Town Board pending approval by the Town Attorney; and WHEREAS, the Attorney for the Town recommended changing certain phraseology; NOW, THEREFORE, BE IT RESOLVED that Resolution 19 is hereby amended as follows:

"RESOLUTION NO. 19: WHEREAS, taxpayers and property owners of the Town have expressed the need for excess dirt and materials ("fill") collected by the Town's Highway Department; and WHEREAS, it is necessary that the Town be held harmless from any and all liability by requesting property owners regarding the final placement of said fill; NOW, THEREFORE,

BE IT RESOLVED that the Town Board of the Town of Franklin hereby accepts the following contract for fill, contingent upon legal review and approval, as follows:

"REQUEST FOR EXCESS ROAD MATERIALS ('FILL') FROM HIGHWAY DEPT. Dear Property Owner, You have requested *excess road materials* ("fill") from the Town of Franklin Highway Department when it is available from highway maintenance near your property. The highway department will provide this fill to you at no cost, providing the following are met: your property is close to the site of operation, the trucks and/or equipment will be driving over solid ground, there will be no problems getting in and out of the property, and you agree to the following terms:

(1) The Town of Franklin Highway Dept. will exercise due care when on your property and will cease dumping upon request, however, we will not be responsible for any damages to your property such as tire rutting, or the collapse of unallocated pipes or other underground structures. The Town of Franklin Highway Dept. will not be responsible for the fill material after it is dumped on your property.

(2) You, the property owner, verify that there are no designated wetlands on your premises and that no fill material shall be requested to be dumped within 100 ft of any waterway.

(3) Also, you agree to defend, indemnify and save harmless the Town of Franklin Highway Dept. from any and all claim(s) arising out of services performed hereunder, including those specifically arising out of negligent acts or omissions of the Town of Franklin Highway Dept.'s employees and agents (if applicable) including any costs for legal services and defense of any said claims. Please sign both copies of this letter which indicates you have read it and agree to its terms. Keep one copy and return the second copy to this office. Sincerely, Jacques J. DeMars, Highway Superintendent

To the Town of Franklin Highway Department: I/we certify that I/we are the property owners of record and agree to the terms and conditions indicated above relative to the dumping of requested fill material on my/our property located at _____. (Please indicate complete address where fill is to be delivered). The number of loads requested is _____ (1,2,3, etc. or unlimited). The type of fill requested is _____ Daytime phone number _____. Date _____ Signature _____ Print Name _____ Witness #1 _____ Witness #2 _____."

(changes per June 24, 2009 Board meeting)

Those voting aye:

Supervisor Mary Ellen Keith
Councilman Walt Kretser
Councilman Al Berg
Councilperson Janet Ordway
Councilman Cliff Smalley

Those Absent:

None

Those Abstaining:

None

Those Voting nay:

None

6. HIGHWAY DEPT. CELL PHONES

Supv. Keith reported the Highway Dept. had turned over its cell phones to her as they assert they no longer require them. To break the agreement with Verizon will incur a charge. She recommended the telephones, which are charged to a General Fund account, central communications, be given to the Town Custodian and to the Director of the Summer Youth Program. The Board concurred.

7. QUESTIONS AND COMMENTS

In conformance with procedure, the Town Clerk polled each individual present for questions or comments.

Q/C: Regarding the illegal dumping at Norman Ridge Road, were test holes dug all over the area?

A: Mr. Ferris replied the test excavations were dug in a large area identified as the problem in 2008.

Q: Who told you where to dig? Was nothing done in the center of the site?

A: Mr. Ferris answered the scope of the investigation was centered on new debris, per NYS DEC instructions. As for the center of the site, Mr. Ferris indicated he would check.

Q: Who do the residents contact about erosion?

A: Mr. Ferris indicated he would inspect the area subject to erosion.

Q: Does the Highway Dept. now have procedures in place for handling waste?

A: Supv. Keith responded yes, they do. Any waste materials are tracked for source and disposal. Scrap materials are sold when possible.

8. ADJOURNMENT.

There being no further business to discuss or conduct, the meeting adjourned at 8:12 PM.

Respectfully submitted, Sandra J. Oliver, Town Clerk

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