



The Town of Franklin

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Town of Franklin Board Meetings

Minutes of the Workshop On Assessing and Special Board Meeting January 13, 2010 - 7:00 pm

Board members present:

Supervisor Arthur P. Willman, Jr.
Councilman Allen Berg
Councilman Clifford Smalley
Councilman Donald Hamm
Councilman Bradley Merrill

Others Present:

Assessor Douglas Tichenor, Cynthia King, Ofc. Real Property Services - Ray Brook, Town Clerk Sandra Oliver, Floyd John, Karen Smalley, Bruce Young

WORKSHOP ON ASSESSMENT MATTERS

1. CALL TO ORDER

Supervisor Arthur P. Willman, Jr. called the workshop to order at 6:00 pm. The Pledge of Allegiance was recited, the Town Clerk called the roll, introduced guests and declared the full board was present.

2. WORKSHOP

Assessor Douglas Tichenor distributed copies of a synopsis to the Board on assessment procedures entitled "What New Municipal Officials Need to Know". He referred the Board to the ORPS website www.orps.state.ny.us for further information. He reiterated that the Town of Franklin's assessment update has been postponed until 2010-11.

1. Coun. Berg asked how the delay will affect taxes in the town. Mr. Tichenor replied everyone's assessment will remain the same unless there is new construction or a building has been demolished. Although the last assessment update was performed in 2003, the Town's equalization rate will remain at 58%.
2. Cynthia King, a representative of the NYS Office of Real Property in Ray Brook, stated responsibility for assessing in New York State, unlike other states, remains with the municipality. Mr. Tichenor must track all

exemptions which are numerous. Under New York State law, every property must be assessed at the same level. With respect to other towns in Franklin County, the Town of Franklin is only lagging slightly:

Franklin 58%	Brighton 84%	Harrietstown 100% (by 07-01-10)
Santa Clara 90%	Bombay 3%	

(The Town of Bombay has been in process of revaluation for a number of years.)

1. The State apportions property tax: full value divided by total assessed equals the equalization rate. An equalization rate of less than 100% indicates that the town's total market value is greater than its assessed value. An equalization rate of greater than 100% means that the total assessed value for the town is greater than its total market value. There would be no need for equalization if all towns assessed all property at 100% of market value every year, however, as seen from above table, towns do not.
2. Equalization rates are used, among other things, to establish tax and debt limits, determine the level of STAR exemptions and to apportion sales tax revenues, etc.
3. The assessor may not "spot assess". He must evaluate all properties at the same time. New properties must be put on the assessment roll at the same level.

Assessment timetable:

March 1st: Taxable status date

May 1st: Tentative assessment roll filed

Grievance Day: 1st Tuesday in June (Town of Franklin only)

July 1st: Final assessment roll filed and valuation date

1. March 1st - Taxable Status Date. Deadline for individuals and entities to file exemption applications. During revaluation years, all change notices are mailed at this time.
2. Coun. Smalley asked why the assessment update had been postponed again. It was originally scheduled to take place in 2008-09, and because of the lack of data collectors, it was postponed until 2009-10. Why had it been postponed a second time, to 2010-11? Mr. Tichenor responded it is important for the three new board members to be educated about assessments so they can answer questions from the public. Coun. Smalley queried whether the Town taxpayers would suffer as a result of the postponement. Mr. Tichenor answered that the Town will remain at 58% equalization rate. He must review all properties in town to cross-check the data collectors, and although properties vary, they do not vary much. When last done in 2003, all assessments rose fairly concurrently. However, waterfront in town is at 50% while residential property is about 47%.
3. Coun. Berg asked what is considered "waterfront", and Mr. Tichenor replied lakes but not rivers. He looks at sales of riverfront selling at higher prices than landlocked parcels.
4. Coun. Smalley asked about the lack of comparable sales, and Mr. Tichenor responded that Town of Franklin is very different than Harrietstown or Brighton, so those water/river front sales are not used as comparables for Franklin. He can use comparable sales from Duane, Bellmont or Black Brook. For comparables in the hamlet of Onchiota, he can use Brighton sales. However, because the real estate market is flat, there are insufficient sales, so Mr. Tichenor indicated he might even use sales from parts of Essex or Clinton Counties.
5. Ms. King commented that professional appraisers face the same issue.
6. Assessor Tichenor assured the Board that the assessment update will be performed next year. All the data has been collected, and mailers will be sent out to property owners next year. He wants to delay so he can photograph properties in the town. In addition, the amount of time and work involved in the Harrietstown reval will consume more time than he estimated. The Town of Franklin will not be hurt by postponing its reval for another year. Everything, including the equalization rate, will remain the same.
7. Coun. Smalley stated at present the Town of Franklin is not in synch with other municipalities in the same school district, and asked how it will affect us.
8. Mr. Tichenor replied that the school district has a data base divided by respective values of each town. They take taxable value and total assessed value and divide by 58%, equaling full value. The more value the town has in the pie chart, the greater the school tax burden. He admitted he has had difficulty in calculating a fair land value for the Town of Franklin. It is unlike any other town in the County.
9. Ms. King stated there is no "punishment" involved in postponing the update.
10. Coun. Berg commented that the State has each residence categorized by APA classifications, i.e., 1 house for 43 acres in rural residence density and 1 house on 1 acre in medium density in hamlets. How can a determination be made on the same level of assessment?
11. Mr. Tichenor said the market should indicate where assessments should go, but so far, it hasn't. He does not value a large parcel with road frontage at the same price. The first 10 acres will be valued at perhaps \$2,000 per acre, the next 10 acres at \$1,500 per acre, then on down. Each building on a parcel is added to the calculation. He has created a computer model valuing a residence based on other sales.
12. Mr. Tichenor recalled that he used to perform data collection and valuation by hand, then send his raw data to Albany, and Albany performed the modeling function. The State has now stopped assisting local assessors, so this function is performed by local ORPS division offices. Ms. King added that she assists local assessors and writes software as well. All data must be entered into a NYS database and software program known as RPS.
13. Mr. Tichenor continued, relating that a few years ago there was a move for counties to assume assessing responsibilities but because of the recent economic downturn, counties are unwilling to do so. Therefore, the State has decreased its technical support to assessors, the County Real Property Office basically is a tax mapping organization, so more and more of the assessment responsibility will fall on municipalities.
14. For the future, Mr. Tichenor plans to consolidate assessing for all the towns in the Saranac Lake Central School District into one unit. By 2012 he wants to have all 4 towns (Brighton, Franklin, Harrietstown and

- Santa Clara) at 100% and keep them there.
15. Coun. Berg asked what part the Town plays in determining the total assessed value, and Ms. King replied by the amount of the budget.
 16. Coun. Smalley asked if when the assessment update is completed whether each taxpayer will be taxed equitably, and Ms. King responded that some will be higher and some lower. ORPS recommends annual updates. Mr. Tichenor indicated he did not recommend annual assessing, that he prefers 3 or 4 year cycles. When property values rose 12 to 14% per year it was very hard to capture when annual updates are performed because nothing ever rises at the same rate.
 17. Coun. Merrill commented that with APA classifications some property, such as 50 acres on Norman Ridge must be valued differently than 43 acres in resource management. Ms. King agreed that prices should reflect the values. The Assessor really determines whether a sale is valid and can be used. Sales must be arm's-length transactions - no sales to relatives or related entities or executor's deeds.
 18. Mr. Tichenor noted in Clifton Park, outside Albany, 18 or 20 houses in the same development can sell perhaps at different prices, but up here in the Adirondack Park, everything is unique. Right now the market is static, and properties are selling the same as in 2006. In order to obtain comparable sales, he must use 4-year-old sales. In 2006, property values increased at a steep slope, but not now. It is a trend - therefore, a 2006 sale can be trended to current to develop a comparable sale. Lack of sales information is another reason to delay the update. There is concern that sales may dry up.
 19. Coun. Hamm asked if the Town is at 58%, will the State and County lose funds, and Ms. King responded they would not. Coun. Hamm then recounted that the school board complains about losing federal and state funds because towns are undervalued. Ms. King indicated she would investigate that allegation. ORPS puts value on Town of Franklin. Part of State aid formula and takes into account the level towns are at. Coun. Hamm asked what the agency function is, and Ms. King answered they encourage reassessment, support RPS software and basically perform background work.
 20. Coun. Smalley stated there are no penalties re funds from state or federal government, but what if towns are not in equity. Ms. King described the reassessment performed in Tupper Lake which waited 6 years before performing it. When the values were published, there was a backlash, so the assessor finally brought the equalization rate down from 100% to 70%.
 21. Mr. Tichenor indicated his preference for 100%.
 22. Coun. Merrill inquired why he just didn't bring everyone up to 100% using the 58% factor, and Mr. Tichenor replied that tax bills contain a statement that "assessor says full market value of your property is \$dollar amount". If you paid \$200,000 for your house and fair market value is higher then the tax will rise. 100% is best choice because it's easier to explain.
 23. Mr. Tichenor recounted that in 1990 Santa Clara performed its first assessment valuation. They decided to go to 10%. Property owners got the same shift as if the valuation were at 100%. The next update went at 100%. However, if he followed Mr. Merrill's advice, using the 58% factor and increasing all to 100% it would cause more problems than not. He preferred doing as market determines, as it is more equitable. (change per 3/10/10 meeting.)
 24. Mr. Tichenor described the difference between valuing residential properties vs. commercial as they are assessed differently. For instance, Chateaugay residentials are at 82% while commercials are at 90%. The market for commercial properties is flat. Brandon has one commercial, Duane's commercial property burned down, so it has none. Equity must be across all similar properties.
 25. Coun. Merrill questioned the valuation of State land, and Mr. Tichenor replied that historically, the NYS Land Unit in Ray Brook assigns value to State owned parcels. Within the Adirondack Park, the State pays Town, County and School taxes, while outside the Park, the State does not pay County tax. In addition, the values of State land differ from town to town; State land in Franklin is not worth what it is in Harrietstown. The State has been straightforward in their values and is very concise; they factor in tree type, stumpage, etc. Ms. King added that the State is treated like any other property owner. Mr. Tichenor noted the State can even file a grievance which is what happened in one municipality. The assessor(s) placed a higher value on State land, and the State sued the town, which prompted an assessment revaluation.
 26. With respect to conservation easements: Domtar sold its property to the Nature Conservancy, and the State took title, sharing it with Chateaugay Woodlands at a 70-30 split. Chateaugay pays 70% of property taxes with a forestry exemption, and the State pays 30% but without the forestry exemption.
 27. Coun. Smalley asked whether a private owner obtaining conservation easement status would also receive an exemption, and Mr. Tichenor replied he would not. 500 acres go to forest management plan and obtains forestry exemption. A forest manager plots the land and DEC approves. Assessor puts \$1,000 per acre as a value on the parcel, and with the exemption, the taxpayer would pay \$800 per acre.
 28. Mr. Tichenor considered that residents of the Adirondacks are surrounded by forest, but because we are rural, we have no voice in Albany. He cautioned that each year Albany will attempt to put through a payment in lieu of taxes arrangement for State taxes, so Park residents must be vigilant in fighting these attempts to lower State's tax payments of its own land in order to balance its budget.
 29. The southern end of Franklin County carries a disproportionate share of the tax burden because of high dollar sales of waterfront properties. Harrietstown actually pays 26% of entire County tax.
 30. Mr. Tichenor assured the Board that the assessment update would not be delayed again.
 31. The Franklin Town Board needs to be knowledgeable about assessment matters.

ADJOURNMENT

Supv. Willman thanked Mr. Tichenor and Ms. King and made a motion to adjourn, seconded by Coun. Smalley at 7:25 PM. ALL AYE

SPECIAL TOWN BOARD MEETING

The Pledge of Allegiance and roll having been called, Supv. Willman called the special board meeting to order at 7:32 PM.

NEW BUSINESS

1. AMEND JANUARY 13 MEETING MINUTES.

Because the previous Town Board adopted a resolution declaring negotiations with the Union at an impasse, a resolution of this Board should be adopted. Supv. Willman read the following resolution into the minutes and requested a motion therefor.

Motion for resolution to insert Resolution 7A amending Jan 13, 2010 Minutes. (C.Smalley-A.Berg m/s/p) ALL AYE

RESOLUTION 21: AMEND JANUARY 13, 2010 MINUTES BY INSERTING RESOLUTION 7A RESCINDING RESOLUTION NO. 59 OF 2009; REOPENING NEGOTIATIONS WITH TEAMSTERS UNION AND AUTHORIZING NEGOTIATING PARTIES WHEREAS, Resolution No. 59 of 2009 declared negotiations with Teamsters Union at an impasse; and WHEREAS, the newly-installed Town Board wishes to reopen negotiations; NOW, THEREFORE, BE IT RESOLVED, that Resolution 59 of 2009 is hereby rescinded; and BE IT FURTHER RESOLVED, that Supervisor Arthur P. Willman, Jr. and Councilman Allen Berg are hereby authorized to represent the Town of Franklin in negotiations with the Teamsters Union.

Those voting aye:

Supervisor Arthur P. Willman, Jr.
Councilman Allen Berg
Councilman Clifford Smalley
Councilman Donald Hamm
Councilman Bradley Merrill

Those Absent:

None

Those Abstaining:

None

Those Voting nay:

None

2. REVIEW APPLICATION OF AND APPOINT KEVIN RANSOM AS TOWN HISTORIAN

The Town published two legal ads requesting applications for the position of Town Historian. Only one application was received, from Kevin Ransom. Copies of his letter and resume were distributed to the Board and were reviewed. Supv. Willman requested a motion for a resolution appointing Mr. Ransom as Town Historian.

(B.Merrill-A.Berg m/s/p) ALL AYE

RESOLUTION NO. 22: APPOINT KEVIN RANSOM AS TOWN HISTORIAN WHEREAS, a vacancy occurred in the appointed position of Town Historian; and WHEREAS, the Town published requests for applications to the position; and WHEREAS, Kevin Ransom applied, is interested and is willing to serve in the position; NOW, THEREFORE, BE IT RESOLVED, that Kevin Ransom is appointed Town Historian (term February 17, 2010 to December 31, 2010).

Those voting aye:

Supervisor Arthur P. Willman, Jr.
Councilman Allen Berg
Councilman Clifford Smalley
Councilman Donald Hamm
Councilman Bradley Merrill

Those Absent:

None

Those Abstaining:

None

Those Voting nay:

None

3. SEQR PART I

Supv. Willman declared after reviewing the Major Subdivision Control Law many times in an attempt to revise it and agonizing over the decision, he determined that the law should be repealed, a committee of volunteers recruited to develop an inventory of land available for development. After the inventory is completed, at that time a determination will be made what, if any, land use regulation should be drafted. Mr. Willman had a conversation with Les Parker who opined that 80% of the provisions of the subdivision law could be cut. However, Mr. Willman expressed concern that if 80% of the provisions were cut from the law, it would lead to a mess. He reiterated the need to repeal the law and start over, rewriting a new law based on need rather than want. To that end he has had conversations with both APA and DEC which advised that a new SEQR (State Environmental Quality Review)

process was necessary requesting the Town as lead agency. The form will be forwarded to APA, DEC, Dept. of Health and at the suggestion of Coun. Smalley, will also mail to the adjoining towns of Black Brook, Brighton, Duane, St. Armand, Saranac and Wilmington. Supv. Willman read the proposed resolution into the record and requested a motion therefor.

Motion for resolution (B.Merrill-D.Hamm m/s/p) 4 AYE, 1 NAY

RESOLUTION NO. 23: AUTHORIZE SUBMISSION OF SEQR FORM, PART I, IN CONTEMPLATION OF REPEAL OF LOCAL LAW #1 OF 2009, MAJOR SUBDIVISION CONTROL LAW WHEREAS, decisions by local governments which may effect the environment are subject to Article 8 of the Environmental Conservation Law and its implementing regulations 6 NYCRR Part 617, known as State Environmental Quality Review Act (SEQR), and WHEREAS, legislation or adoption of rules, regulations or procedures by a government agency or decisions on policies such as land use plans are deemed type I actions (section 617.4), and WHEREAS, the town board is undergoing review of Local Law #1 of 2009; and WHEREAS, SEQR requires that the agency proposing a type I action is normally the lead agency and there is a process to establish lead agency, and WHEREAS, the lead agency should circulate a letter, Part 1 of the Environmental Assessment Form (EAF), and appropriate supporting information, to other potentially involved agencies, before it makes a determination of significance, and WHEREAS, the town board has completed and reviewed Part 1 of the EAF dated February 17, 2010; NOW, THEREFORE, BE IT RESOLVED, that the Town of Franklin Town Board directs the Supervisor to formally submit the appropriate information to other potentially involved agencies advising repeal of Local Law #1 of 2009 - Major Subdivision Control Law - as a type I action, requesting that the Town Board become lead agency for purposes of SEQR, requesting the all other involved agencies to state their interests and concerns regarding the designation of lead agency and potential impacts of the overall action. The letter should note that an agency's failure to respond within 30 days of the date of the letter will be interpreted as having no interest in the choice of lead agency and having no comments on the action at that time.

Those voting aye:

Supervisor Arthur P. Willman, Jr.
Councilman Allen Berg
Councilman Donald Hamm
Councilman Bradley Merrill

Those Voting nay:

Councilman Clifford Smalley

Those Absent:

None

Those Abstaining:

None

QUESTIONS AND COMMENTS.

Q/C: If Ed Martin is so interested in land use, why didn't he participate in meetings of the Citizens Advisory Committee on Subdivisions?

A: Supv. Willman referred the speaker to Mr. Martin. However, he added, that process was to enact a law, not discover if the law was necessary or even what land is available for development. The subdivision law specifies eight copies of everything. To obtain sufficient copies of drawings with overlays may cost upwards of \$1,200. For a retired landowner who only wants to subdivide 6 lots for his family, the cost of those copies would prove prohibitive at \$30 per.

Q/C: Consider the cost to the Town of poorly constructed and drained houses.

A: APA regulates that. The subdivision law is a duplication of service. Q/C: The reason it was written in the first place was because the Stickney Point subdivision got APA approval without input from the Town

A: APA did get involved. They listened to Town residents' concerns but APA was not mandated to act on them. In fact, the Stickney Point developer listened to residents' concerns and downsized the project and increased setbacks from the water. He made lots of concessions to his neighbors. It's the right way to do things.

Q/C: You say you were concerned about actual and potential costs of administering the subdivision law. It wouldn't have cost the Town any money

A: Supv. Willman replied it would have cost potential land developers quite a bit in engineering and legal fees. In addition, the Town would have to bear the cost of ongoing training and reimbursements for planning board members as well as legal fees for defense of the law. Q/C: I'm frustrated because 18 months of diligent work went into the subdivision law. A survey was mailed to taxpayers last March, and the majority wanted a subdivision control law

A: But the voters do not want it. The survey was not accurate. The questions asked were slanted in favor of the subdivision law and there were no names on the survey. There is no proof that one pro-land regulation individual did not photocopy 100 of the surveys fill them out and mail them back. The results are statistically insignificant. You received a 25% return with 17% of those returns in favor of the law.

Q/C: What would make it legal or significant?

A: Supv. Willman responded that the results of the November 2009 election proved voters do not want land use controls. Coun. Smalley stated the outcome of the November 2009 election was more than a referendum on the subdivision law; there were other issues, like the garage bond. Supv. Willman replied the Democratic

candidates ran exclusively on the subdivision law and said that Republicans didn't understand it. The Republican platform included planks that promised review, revise or repeal OF the subdivision law. He stated he made 800 or so copies of that platform and handed all of them out. The voters had a clear choice, and they chose to elect candidates who opposed the law. 60% voted for Republicans and against the law. These new board members and the Supervisor have a mandate to act as voters chose. There was no demonstration of need for the law and no empirical evidence to support it.

Q/C: Why don't you like the subdivision law? How would it have affected you personally?

A: Supv. Willman said the law created an unnecessary layer of bureaucracy. Further, large landowners with potential for development found the law more restrictive than APA regulations. A developer would first have to obtain Town approval, then APA, then DEC, and finally Dept. of Health.

Coun. Merrill commented that the data to support the law was not there. He repeated what he said during the campaign: What's going to be better with the law, and what's it going to cost. You have to show why you need the law.

Coun. Smalley declared the law would have covered non-APA jurisdiction areas of the town; it would have filled in unregulated gaps in regulations, including stormwater management. If a property owner subdivides his non-APA-regulated property, he can make a multitude of curb cuts with inadequate drainage for individual driveways. You have to look at the big picture. The Town also loses financial guarantees required of developers. Under the law developers must bond. If a developer runs out of money, the Town may end up stuck with the expense of having to complete the project. This just happened in Saranac Lake. It's interesting that now you view the APA as good, but in fact we are losing home rule.

Supv. Willman opined that if APA disappeared right now, that would demonstrate a need for the subdivision law, but the APA still exists, and the law is duplicative.

Coun. Smalley maintained the law is necessary because of loopholes in APA regulations, that the Town will face financial liability due to poor construction.

Supv. Willman opined the law as it is will open the Town to liability from litigation. All municipalities with subdivision regulations have huge legal bills.

Coun. Hamm commented that had the previous Board put the matter on the ballot, the outcome would be the same, but the previous board didn't act.

Coun. Berg stated the matter is moot and time to move past the issue. The subdivision law is dead in the water.

Supv. Willman declared it a good exchange of views.

4. INFRASTRUCTURE UPDATE.

A. Town Hall Furnace. Supv. Willman stated he received good news from NYS Power Authority, which granted funds for 2 new furnaces. When he spoke with them this afternoon he received permission to use the funds for asbestos abatement and a new front door for the Town Hall. and they approved. The appendix to the grant application must be amended. In addition, Highway Supt. DeMars has a contact for asbestos removal. The request for bids on the new furnace will be published next week.

B. Overhead Doors at Garage. Coun. Hamm reported Overhead Door of Plattsburgh will inspect the problem which occurred because the garage floor sank, creating a 3" gap through which wind blows. The remedy is to remove a rubber seal and replace it at a cost of \$150 to \$200. Supv. Willman stated North Country Overhead Door indicated it would reset the cables, but Coun. Hamm replied they never showed.

ADJOURNMENT

. There being no further business to conduct, the meeting adjourned at 8:30 PM

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

Respectfully submitted, Sandra J. Oliver, Town Clerk

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