



The Town of Franklin

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[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](#)

Town of Franklin Board Meetings

Minutes Of The Public Hearing On Proposed Local Law #2 Of 2011 - And Special Town Board Meeting May 25, 2011 - 7:00 pm

PUBLIC HEARING ON PROPOSED LOCAL LAW #2 OF 2011 AQUATIC INVASIVE SPECIES PREVENTION LAW

Board members present:

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

Others absent:

Councilman Allen Berg

Others Present:

Town Clerk Sandra Oliver, Doris Hamm, Ed Martin, Derrick Romeo, Vincent Pagano, Richard Jarvis

1. CALL TO ORDER

Supv. Willman called the meeting to order at 7:00 pm. The Pledge of Allegiance was recited; the Town Clerk called the roll, introduced guests, and declared a quorum was present.

2. REVIEW OF PROCEDURES FOR PUBLIC HEARING.

Supv. Willman displayed the May 17th edition of the Adirondack Daily Enterprise announcing the public hearing and special board meeting. He pointed out the posted Rules of Procedure for Public Hearings posted on the wall of the Town Hall. He then outlined the proposed local law which hopefully will force the State of New York to adopt similar legislation. He requested comments from the public.

3. PUBLIC COMMENTS

VINCENT PAGANO. Speaking as president of the Loon Lake Homeowners Association, Mr. Pagano and the LLHA Board support the adoption of this proposed law. Each year, the LLHA surveys Loon Lake against the proliferation of aquatic invasive plants and animals and if found removes them. If invasives are spotted, they can be removed before they take over. LLHA considers this a positive step to protect the valuable waterways of the Town. It is, however, unfortunate that there is no comprehensive effort to control invasives.

EDWARD MARTIN. Mr. Martin has been involved in environmental concerns for 20 or 30 years. He considers the proposed legislation a very smart move and believes strongly that County of Franklin and State of New York should adopt similar laws. It is a positive action. Upper Saranac Lake spent over \$1 million to remove invasives because that lake is surveyed once every 3 years. If the community waits 3 years, it is generally too late to prevent the spread of invasives. Review should be done annually. LLHA locks the gate access to Loon Lake, however, there are other, ungated accesses to the lake.

RICHARD JARVIS. Mr. Jarvis served as Project Review Officer for the Adirondack Park Agency for 20 years during which time APA which was established to protect shorelines and waters. The patrol programs were expensive, however, this local law is a reasonable effort to prevent the spread of invasives. He stressed the need for public education and suggested revising the proposed law to clarify and expand it. He suggested that any fines collected by the Town be dedicated to a program of public education. As an example, fisherman should not dump unused bait into the water. He encouraged all municipalities to get involved in protecting their waters by adopting this proposed law.

Coun. Smalley, in response to Mr. Jarvis' suggestions, stated the proposed law is identical to legislation adopted by surrounding communities and really did not require additional language or clarification.

Coun. Merrill opined this type of law should be adopted by the State of New York Dept. of Environmental Conservation. He questioned whether the NYS Police would be able to enforce it, as they do not patrol launch sites.

Coun. Hamm reported a private individual can sign an affidavit of witness to a crime. If a private individual or waterway steward-volunteer notices a boater launching without emptying the bilge or with vegetation apparent on the craft and requests the boater to clean the vessel and the boater refuses, that individual can report the refusal to the NYS Police. The reporting individual will then sign a deposition upon which the Police can act. He stated the Police would educate themselves with respect to this proposed law.

Coun. Smalley affirmed the proposed local law would be an administrative tool and Supv. Willman indicated passage would enable local water stewards to report prospective invasive species polluters to the authorities. The proposed local law represents a component of a solution and concurred with Coun. Merrill. The State of New York should adopt this type of preventive legislation.

Coun. Hamm agreed, stating the State of New York and its agencies, APA and DEC, should adopt and enforce regulations protecting the waterways and not rely on local governments to do so.

Supv. Willman stated the Town of Franklin is the last of the surrounding municipalities to pass preventive regulations protecting waters in an effort to pressure the State into adopting similar legislation.

Coun. Merrill asked Mr. Jarvis as a former official of APA why, if DEC has installed ash borer traps in the trees, either DEC or APA have not written and adopted invasive species legislation, and Mr. Jarvis replied it was a matter of money. Coun. Merrill then queried whether the Town of Franklin can afford this law and inquired about the occurrence of brown trout, a non-native species. Mr. Jarvis recommended focusing on the proposed law, and stated it is only a step. His suggestion is to post signage at various water bodies in the Town and stated the more governments and agencies involved in protecting waterways, the better.

Supv. Willman affirmed there would be no cost to the Town. Anyone watching who observes a boater entering watercourse without cleaning his craft can report the offender to the State Police and sign a deposition. Nearly every cell phone has the ability to take photos. No one will be using a microscope to ascertain whether atomic-sized invasive species are present on or in the vessel - only species visible by the naked eye. If the Board adopts the proposed local law, stewards and volunteers will be given some authority.

4. ADJOURNMENT.

There being no further comments or discussion, the public hearing adjourned at 7:28 PM. Motion (C.Smalley-D.Hamm m/s/p) ALL AYE.

SPECIAL TOWN BOARD MEETING

1. CONVENE SPECIAL BOARD MEETING

The Pledge of Allegiance and roll call having been accomplished, Supv. Willman called the special board meeting to order at 7:28 PM.

2. ADOPT LOCAL LAW #2 OF 2011.

Supv. Willman read the text of the proposed law into the record: **"LOCAL LAW #2 OF 2011 The Town of Franklin Aquatic Invasive Species Prevention Law**

ARTICLE A: INTRODUCTION

Section 1. Authority. This local law is adopted pursuant to the authority granted to the municipality in Section 10(1)(ii)(a)(11) of the Municipal Home Rule Law of the State of New York.

Section 2. Title. This local law shall be known as "The Town of Franklin Aquatic Invasive Species Prevention Law."

Section 3. Purpose. The purpose of this local law is to prevent the introduction and spread of aquatic invasive species into and within the waters of the Town of Franklin and thereby to protect aquatic native species populations, biodiversity and aquatic recreational activities for the public good.

Section 4. Applicability. The provisions of this local law shall apply in addition to the provisions of any other local law or ordinance adopted by the municipality. Where there is a conflict, the more restrictive provisions shall apply.

Section 5. Definitions. For the purposes of this local law, the following terms shall have the following meanings:

1. **"Aquatic animals"** shall mean an animal that spends part of its life in water, including, but not limited to, freshwater, estuarine and wetland species.
2. **"Aquatic plants"** shall mean plants living in the water or at the shoreline, and includes roots, rhizomes, stems, leaves or seeds, including freshwater, estuarine and wetland species.
3. **"Boater"** shall mean the operator of the boat or towing vehicle.
4. **"Invasive Species"** shall mean any species listed by the New York State Department of Environmental Conservation as being invasive to the waters of New York State. Such species include, but are not limited to Eurasian water milfoil (*Myriophyllum spicatum*), variable leaf milfoil (*Myriophyllum heterophyllum*), water chestnut (*Trapa natans*), curly-leaf pondweed (*Potamogeton crispus*) Brazilian waterweed (*Egeria densa*), zebra mussels (*Dreissena polymorpha*), and round goby (*Neogobis mealnostomus*).
5. **"Standing water"** shall mean bilge water and other water inside boat compartments that could easily be removed by pump or hand.
6. **"Water body"** shall mean any freshwater or estuarine lake, river, pond, stream or wetland existing in the state, whether publicly or privately owned, including the banks and shores thereof.

ARTICLE B: PROHIBITED ACTS

(a) No watercraft of trailer shall enter or exit a water body of the Town unless the boater removes all aquatic plants and/or animals from inside and outside his/her vehicle, watercraft, trailer or any other equipment that had previously come into contact with any water body. The boater must also remove any standing water that is visible to the unaided eye from the boat and trailer before he/she enters a water body. Removed items must be discarded away from the shoreline, in such a manner as to prevent the removed items from re-entering the water body.

Exceptions:

- 1) Those persons with a permit to do such activities.
- 2) Those persons who legally purchased bait or harvested fish.
- 3) Those persons to have legally taken waterfowl.

(b) No person shall plant, transplant or introduce invasive species into, on or around the shorelines of any water body in the town of Franklin.

ARTICLE C: PENALTY FOR NONCOMPLIANCE

Any person who violates this local law is guilty of a criminal violation, punishable with a maximum fine of two hundred fifty dollars (\$250.00).

ARTICLE D: ADMINISTRATION AND ENFORCEMENT

Section 1. Complaints. Any person may file a complaint that a violation of this law may have taken place with any state, county or local law enforcement officer having jurisdiction.

Section 2. Enforcement. This law may be enforced by the New York State Department of Environmental Conservation, New York State Police, Franklin County Sheriff's Department, or any other law enforcement officer having jurisdiction.

ARTICLE E: ENACTMENT. This local law shall become effective upon its being filed with the New York State Department of State."

He then requested a motion for a resolution adopting the local law. Coun. Merrill stated he wanted to have some input from NYS DEC. It agreed it is a positive step to adopt the law, but it really should be a State law. He opined the State Police will not enforce it. Coun. Hamm responded that the State Police would interview the witness/complainant, take his deposition and then file a complaint. Coun. Merrill stated an eyewitness would have the burden of proof, and Coun. Hamm indicated an eyewitness report is the basis of many criminal contentions; in addition, the Franklin County Sheriff has a water patrol boat. Coun. Merrill contended the Town had only one boat launch, and Coun. Hamm stated there are several smaller launches in the Franklin Falls area. Supv. Willman stated special education efforts are not required in this matter, that if someone sees weeds hanging from a boat, he/she can notify the Police. The proposed law only requires removal of the species from the vessel, and it is worthwhile to enact this legislation, and it no undue hardship will befall the Town. It will encourage boaters to avoid laziness. Coun. Smalley asked if the Town had a "no littering" law, and Coun. Hamm replied the State had enacted that particular law. Coun. Merrill emphasized the need to hear from NYS DEC. The intent of the proposed law is positive, but he was anxious to learn why DEC hasn't passed a regulation to this effect. He further stated the "no invasive species" language should be in the Fishing Regulations syllabus. Supv. Willman replied it is not a law, but is in fact included the syllabus. Further, the State of Vermont has a non-invasive species law on its books, however, the June meeting might be a more appropriate time to vote on passage. Coun. Smalley stated he would like time to address Coun. Merrill's concerns. Tabled. Motion (D.Hamm-C.Smalley m/s/p). ALL AYE.

4. AUDIT CLAIM FOR WINDOW REPLACEMENT.

The Board signed a voucher submitted by Douglas Snickles for replacement of Town Hall windows.

5. AGREEMENT WITH M.A. JERRY.

The Board had previously discussed this matter at the May 11, 2011 Board meeting at which Mr. Mark Jerry described his paperwork dilemma with International and Navistar regarding the 2011 International tandem. When municipalities lease a vehicle, International gives M.A. Jerry a discount because a leased vehicle is generally in better condition at warranty end than a purchased vehicle. M.A. Jerry passed the discount on to the Town when it leased the 2011 International, and the discount was part of the bid submitted. However, the present management of International now demands that the leasing municipality sign a maintenance agreement with the dealer based on mileage. However, International cannot provide Mr. Jerry with the cost per mile of the maintenance agreement, which renders him unable to give a transparent and understandable price to the Town. He proposes that the Town execute a maintenance agreement with M.A. Jerry to fulfill the terms of the International lease (originally financed through Navistar but now through Ideal Leasing). International has back-charged M.A. Jerry a large amount of money because the Town has not executed a maintenance agreement. The Town purchased an extended 8-year warranty separately for \$9,016. The 8-year warranty will not be affected by the proposed maintenance agreement. Mr. Jerry affirmed if the Town were to execute the required maintenance agreement, it will not be obligated to transport the vehicle to Plattsburgh for routine upkeep; the documented care performed by the Town's mechanic will satisfy the terms of the maintenance agreement. Mr. Jerry offered to repay the \$9,016 paid by the town for the 8-year warranty, and would submit a \$3,000 invoice to the Town to cover such warranty, Supv. Willman had expressed dissatisfaction with the proposed arrangement and recommended M.A. Jerry execute an agreement with the town certifying the continuation of the 8-year warranty should M.A. Jerry be sold or transferred. At the May 11th meeting, The Board emphasized the need for written confirmation that the warranty would remain in effect.

Supv. Willman reported he had received the revised maintenance agreement from M.A. Jerry which included language pledging warranty would remain in force should M.A. Jerry change hands. He submitted the agreement to the attorney for the town James Martineau. Supv. Willman reviewed the May 11th discussions and concerns of the Board and conveyed Mr. Martineau's opinion that the proposed agreement would not endanger the Town's 8-year warranty.

Coun. Smalley noted the agreement package did not authorize a substitute vehicle, and Supv. Willman indicated the dealership would not keep a tandem on hand as a substitute. Coun. Smalley inquired if pressed, whether M.A. Jerry would furnish a substitute vehicle if necessary, and Supv. Willman replied they probably would, but would not want to.

Coun. Hamm stated Mr. Jerry presented his case poorly. The dealership is receiving the benefit of the agreement and expressed hesitation at signing the maintenance agreement.

Coun. Merrill indicated he shared Coun. Hamm's concern, and questioned whether International would honor the warranty if maintenance was performed by the Town mechanic and not provided by M.A. Jerry.

Coun. Smalley commented if the attorney for the town thought the agreement assured the Town's warranty, it was fine and encouraged the Board to maintain good relations with M.A. Jerry.

Coun. Merrill stated he wanted to see the actual figures included in the maintenance agreement.

Supv. Willman replied the Town had already paid \$9,013 for the warranty in a separate transaction. The maintenance agreement required by International would be at no charge to the Town.

Coun. Hamm asked whether International would demand proof that M.A. Jerry performed all maintenance work on the vehicle, and Supv. Willman indicated the proof International wants is a signed maintenance agreement with the dealership. In addition, other towns signed the maintenance agreement. Coun. Hamm said he was not happy with all the legal jargon and opined M.A. Jerry must be making a profit on the deal. Tabled to June meeting.

6. ACCEPT AGREEMENT WITH F.X. BROWNE

The closed landfill in Onchiota must be monitored twice a year. Supv. Willman requested a motion for a resolution accepting the annual agreement with F.X. Browne. Motion (C. Smalley-B. Merrill m/s/p) ALL AYE.

RESOLUTION NO. 32: ACCEPT AGREEMENT WITH F.X. BROWNE FOR LANDFILL MONITORING AND AUTHORIZE EXECUTION WHEREAS, F.X. Browne, Inc. monitors the Town's closed landfill; and WHEREAS, a new contract has been prepared by F.X. Browne; NOW, THEREFORE, BE IT RESOLVED, that the Town Board accepts the terms and conditions of the contract with F.X. Browne; and BE IT FURTHER RESOLVED, the Supervisor is authorized to execute same.

Those voting aye:

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

Those Voting nay:

None

Those Absent:

Councilman Allen Berg

Those Abstaining:

None

7. §284 AGREEMENT TO SPEND HIGHWAY FUNDS.

Q/C: Coun. Smalley requested an explanation of the 30% County tax increase to the Town.

8. HIGHWAY SUPERINTENDENT COMPENSATION PACKAGE.

A. REMOVE HEALTH INSURANCE FROM COMPENSATION PACKAGE. The elected Highway Superintendent is the only elected Town official to receive health insurance as part of his/her compensation package. At the May 11, 2011 meeting discussion was held concerning the possible removal of health insurance from the compensation package offered to highway superintendent. After consulting the attorney for the Town, Supv. Willman reported that Mr. Martineau confirmed the health insurance option could be removed from the compensation package for the elected highway superintendent by resolution. Local Law #3 of 2010 which provides for a payout of insurance options, could remain on the Town's books. If a newly-elected highway superintendent needed health insurance, that option could be discussed with him and negotiated. Health insurance costs are extremely high, and removal of the insurance coverage from the compensation package could save the Town a substantial amount of money.

Coun. Merrill stated the 2010 law adopted by the Board mandates the buyout may occur only if the Hwy. Supt. proves he has alternate health insurance. He further stated he did not wish to see the law changed.

Supv. Willman countered an elected official is different than an employee, and as long as compensation is adjusted prior to Town political caucuses, it is legal to remove the option. Supv. Willman continued, that the Board would not be removing coverage for someone who does not already have it. An individual must campaign for the office; the Board would only be adjusting compensation. Coun. Merrill commented the Board adopted the 2010 law only six months ago, and Supv. Willman replied the 2010 law would become moot if insurance coverage is removed from the compensation package, but the attorney for the Town recommended the Board "clean the matter up" by adopting a law repealing the 2010 law.

Coun. Merrill indicated his desire to see the compensation package remain the same.

Coun. Smalley stated the Town needed to take control of costs and asked why health insurance coverage for the Highway Supt. needed to be through the Teamsters Union. He queried whether the Town could request bids for health insurance coverage for one elected official.

Supv. Willman replied health insurance costs are rising at an alarming rate, so even with coverage other than through the Teamsters, the Town would still not be in control of costs. He requested a motion for a resolution removing the health care coverage from the compensation package for the Highway Superintendent. Motion (C.Smalley-D.Hamm m/s/p) AYE: Willman, Smalley, Hamm; NAY: Merrill

RESOLUTION NO. 33: REMOVE HEALTH INSURANCE COVERAGE FROM COMPENSATION PACKAGE FOR ELECTED HIGHWAY SUPERINTENDENT WHEREAS, a previous Town Board adopted a resolution authorizing the inclusion of health insurance benefits to the Superintendent of Highways of the Town as part of the compensation package offered for the position; and WHEREAS, the elected Highway Superintendent is the only elected official to receiving health insurance coverage as part of his/her compensation; and WHEREAS, health insurance premiums are rising at a shocking rate; NOW, THEREFORE, BE IT RESOLVED, health insurance coverage is hereby removed as part of the compensation package offered to the elected highway superintendent.

Those voting aye:

Supervisor Arthur P. Willman, Jr.
Councilman Clifford Smalley
Councilman Donald Hamm

Those Voting nay:

Councilman Bradley Merrill

Those Absent:

Councilman Allen Berg

Those Abstaining:

None

B. INTRODUCE LOCAL LAW #3 OF 2011 - REPEAL LOCAL LAW #3 OF 2010. With respect to the foregoing discussion, Supv. Willman requested a motion for resolution scheduling a public hearing for repeal of Local Law #3 of 2010 - Buyout of Highway Superintendent Health Insurance. The public hearing will be held at 7:00 PM on Wednesday, June 8, 2011. Motion (C.Smalley-D.Hamm m/s/p) ALL AYE

RESOLUTION NO. 34: SCHEDULE PUBLIC HEARING ON LOCAL LAW #3 OF 2011 - REPEALING LOCAL LAW #3 OF 2010 BUYOUT OF HIGHWAY SUPERINTENDENT HEALTH INSURANCE WHEREAS, in 2010 the Town Board adopted Local Law #3 of 2010 authorizing a buyout of the highway superintendent's health insurance in sum of \$6,000; and WHEREAS, by 2011 resolution no. 33 the Board removed health insurance coverage as part of the compensation package for the elected highway superintendent; NOW, THEREFORE, BE IT RESOLVED, a public hearing will be held at 7PM Wednesday, June 8, 2011 on proposed Local Law #3 of 2011 repealing local law no. 3 of 2010; AND BE IT FURTHER RESOLVED, the Clerk is requested to publish notice of said public hearing.

Those voting aye:

Supervisor Arthur P. Willman, Jr.
Councilman Clifford Smalley
Councilman Donald Hamm

Those Voting nay:

Councilman Bradley Merrill

Those Absent:

Councilman Allen Berg

Those Abstaining:

None

9. TOWN CLERK TO RETIRE.

The Town Clerk announced her retirement at the end of the current term, December 31, 2011. Candidates for the office of Town Clerk should possess computer capability, ability to write and communicate clearly. The Town Clerk position incorporates, among many things, tax collection, duties to the Board, dog licensing, marriage licensing, Registrar functions, and most importantly records management. She urged the Board to consider making the position a 4-year term and confirmed a manual would be available for the newly-elected clerk as well as the existence of four former town clerks (George Besaw, Lorna Shene, Lauren LeFebvre and self).

10. COMMENTS AND QUESTIONS

Thanks to Sandy Oliver for doing such a good job.

- Also thanks to all the volunteers who helped pick up the Town roadsides last weekend.
- John Roach lost everything he owned last week in the fire that destroyed his Swinyer Rd. trailer. The Birch Bark Deli has established a money jar to assist him and his family, and they need all the help they can get.
- Sandy Oliver has been an exemplary town clerk. The position is pretty much that of an administrative assistant, correct? Must the candidate reside in the Town of Franklin?
- The clerk responded the position was not that of administrative assistant as a corporate admin. assistant is responsible to the hiring officer; the Town Clerk is responsible to the voters, taxpayers, the County and the State. Any candidate for the position must reside in the Town of Franklin.

11. ADJOURNMENT

There being no further business to conduct, the meeting adjourned at 8:40 PM. Motion (B.Merrill-D.Hamm m/s/p)
ALL AYE.

Respectfully submitted, Sandra J. Oliver, Town Clerk

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