

Town of Franklin  
December 12, 2018  
Monthly Town Board Meeting  
5:30pm

Board Members Present: Supervisor Art Willman, Councilman Tom Bartiss, Councilman Pete Woodcock, Councilman Cliff Smalley and Councilman Don Hamm

Others Present: Paul Blaine-Code Officer, Doris Hamm, Dot Brown—Deputy Supervisor, Julie Woodcock, Rhonda Swinyer, Leo Law, Ed Martin, Brad Merrill, Alan Hadley, Glenn Swinyer, Matt Jackson, Doe Smalley, Jacques DeMars—Highway Superintendent and Lauren LeFebvre--Town Clerk

**CALL TO ORDER**

Supervisor Willman called the meeting to order at 5:30pm. The Pledge of Allegiance was recited and the Town Clerk called the roll, noting a quorum was present.

**PUBLIC COMMENT**

Glenn Swinyer requested to be heard at the end of the meeting.

**REVIEW/APPROVAL OF November 14 & 27 MEETING MINUTES**

The minutes of November 14 & 27, 2018 were approved as presented. (C.Smalley-T.Bartiss m/s/p) All Aye

**APPROVAL OF CLAIMS**

The board audited and approved payment of the following:

General Fund	Abstract 12	Claims 204-229	\$30,835.80
Highway Fund	Abstract 12	Claims 173-197	\$84,069.19
Pre-Pay General	Abstract 12	Claims 48-51	\$793.63
Landfill	Abstract 2	Claims 2-3	\$2,948.00

(P.Woodcock-T.Bartiss m/s/p) all aye

**SUPERVISOR'S REPORT**

Balances on hand as of November 30, 2018

*General Fund*

Checking	\$27,907.41
Savings	\$87,347.94
Historian	\$3,039.25
Kt. Mt SRF	\$1,702.56
Cemetery RF	\$4,903.60
CLASS	\$243,082.02
Kt. Mt. CLASS	\$45,73.18

*Highway Fund*

Checking	\$72,768.03
Savings	\$61,175.28
Cap Proj. HW	\$47,798.71
CLASS	\$399,563.68

*Landfill Clos. CR*

Checking	\$968.32
CLASS	\$19,610.51

*Fire Protection*

Checking	\$13,830.00
CLASS	\$21,150.58

*Capital Proj Bldg*

CLASS	\$67,027.52
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(T.Bartiss-P.Woodcock m/s/p) All Aye

**HIGHWAY SUPERINTENDENT'S REPORT**-Superintendent DeMars reported the following:

Hauled sand

Plow and sanded when needed

Shouldered where paved on: Fletcher Farm and Cold Brook, Alder Brook, and Pine Grove Lane with assistance of Franklin County, Town of Tupper Lake and Town of St. Armand.

Assisted Town of Tupper Lake with paving

Assisted Village of Tupper Lake with paving

Assisted the Town of Malone with paving

Cut brush and ditched section of Rock Street

Limbed many trees on Rock Street

Patched sections on Muzzy Rd where rocks were pulled previously

Patched sections of Rock Street where rocks were pulled and where culvert had been changed

Graded and added gravel on McManus Rd

Cut downed trees several time due to high winds

Ongoing beaver problems

Gas, fuel and maintenance logs given to Highway Committee

**CODE OFFICER'S REPORT November 2018**-Permits Issued-2, Violations-0, Certificates of Occupancy-0, Inspections-4, Fees Collected \$595.00

**NEW BUSINESS**

A. Justice Audit-Supervisor Willman reported he audited the Justice Court financial records on November 19, 2018.

**Resolution #47 ACCEPT JUSTICE COURT ACCOUNTING**

WHEREAS, Town Justice Roger Symonds, in compliance with NYS Comptroller guidelines, requested an audit of his accounts; and

WHEREAS, Town Supervisor Arthur P. Willman inspected said records on November 19, 2018 bank statements and accounts, inclusive, and found them to be in good order; NOW, THEREFORE,

**BE IT RESOLVED**, that the Town of Franklin Town Board hereby accepts and approves of the accounting records maintained by Town Justice Roger Symonds.

Those Voting Aye: Supervisor Arthur Willman  
Councilman Peter Woodcock  
Councilman Clifford Smalley  
Councilman Tom Bartiss  
Councilman Donald Hamm

Those Voting No: None

B. Landfill-Supervisor Willman reported Tisdell Associates has performed the required annual testing at the former landfill site in Onchiota. All results were within the normal parameters.

C. Resolution #48 Adirondack Association of Towns and Villages Cell Phone Coverage Resolution of Support

On a motion by Councilman Bartiss, second by Councilman Woodcock, BE IT RESOLVED that the Town of Franklin Town Board does hereby support the Adirondack Association of Town and Villages Resolution #5 of 2018 calling upon all local governments to stand together, individually and their their associations to insist that now is the time for New York state to move ahead of the nation for the development and implementation of a plan to provide cell phone coverage to all NYS residents and visitors.

Those Voting Aye: Supervisor Arthur Willman  
Councilman Peter Woodcock  
Councilman Clifford Smalley  
Councilman Tom Bartiss  
Councilman Donald Hamm

Those Voting No: None

The Town Clerk will forward a copy of this resolution to Governor Cuomo, Senate Majority Leader Flanagan, Senate Minority Leader Stewart-Cousins, Assembly Speaker Heastie, Adk. Legislators, Adk. Intercounty, NYSAC, AOT, NYCOM, APA, Adk. Towns & Villages and, DEC.

D. **RESOLUTION #49 LOON GULF ASSESSMENT OFFER OF SETTLEMENT**

On a motion by Councilman Cliff Smalley, second by Councilman Tom Bartiss, BE IT RESOLVED

WHEREAS, Loon Gulf, Inc. has initiated special proceedings against the Board of Assessors of the Town seeking judicial reduction of the final 2013 through 2017 assessments fixed on certain parcels of real estate which it owns in the Town; and

WHEREAS, the Town engaged David R. Murphy, Esq. of E. Stewart Jones Hacker Murphy LLP to act as its defense counsel and advise to the Board in all pending proceedings; and

WHEREAS, on the advice of Attorney Murphy, the Town engaged Francis & Company, Charles I. Francis, Principal, to undertake valuation analyses of several of the contested parcels and offer his advice to the Town and its counsel concerning same; and

WHEREAS, extensive negotiations between Attorney Murphy and Loon Gulf, Inc.'s counsel were conducted under the auspices of the Franklin County Supreme Court; and

WHEREAS, Attorney Murphy, in consultation with Mr. Francis, has recommended approval of a tentative, partial settlement resolving the valuation disputes as to fourteen (14) of the fifteen (15) total parcels in suit, and which settlement adjusts and revises eight (8) of those parcels as set forth in the annexed summary schedule; and

WHEREAS, the recommended partial settlement will save the Town further extensive litigation costs and avoid unforeseen adverse results and appears to be a fair compromise of the Town's differences with Loon Gulf, Inc. consistent with the advice of the Town's attorney and its expert appraiser;

NOW IT BE RESOLVED, that Attorney Murphy is authorized to finalize the proposed assessment revisions on eight (8) parcels owned by Loon Gulf, Inc. for all years for which each such parcel's assessment has been contested and to further confirm that six (6) of the challenged assessments will remain unchanged; and be it,

FURTHER RESOLVED, that Attorney Murphy is authorized and directed, with the express authorization and consent of the Franklin Town Board, to do all things, and execute all documents, necessary to finalize this settlement and see to its due recordation consistent with the list of parcel changes attached to this Resolution.

<b><u>Year</u></b>	<b><u>Tax Map No.</u></b>	<b><u>Original Assessment</u></b>	<b><u>Revised Assessment</u></b>	<b><u>Reduction</u></b>
2013	294.3-1-1	\$807,200	\$425,000	(\$382,200)
	294.3-1-101	\$431,500	\$220,000	(\$211,500)
	309.-1-2	\$79,300	\$79,300	(\$0)
	309.-1-7	\$75,000	\$75,000	(\$0)
	309.-2-1	\$271,700	\$256,000	(\$15,700)
	309.-2-5	\$57,500	\$57,500	(\$0)
	309.1-2-5	\$660,200	\$175,000	(\$485,200)
	309.4-1-6	\$178,200	\$128,000	(\$50,200)
	309.4-1-23	\$549,600	\$240,000	(\$309,600)
	324.-1-3	\$172,500	\$140,000	(\$32,500)
	324.-1-8	\$245,000	\$245,000	(\$0)
	324.-1-2	\$62,500	\$62,500	(\$0)
	325.-1-1	\$90,500	\$90,500	(\$0)
2014	294.3-1-1	\$807,200	\$425,000	(\$382,200)
	294.3-1-101	\$431,500	\$220,000	(\$211,500)
	309.-1-2	\$79,300	\$79,300	(\$0)
	309.-1-7	\$75,000	\$75,000	(\$0)
	309.-2-1	\$271,700	\$256,000	(\$15,700)
	309.-2-5	\$57,500	\$57,500	(\$0)
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	324.-1-8	\$245,000	\$245,000	(\$0)
	324.-1-2	\$62,500	\$62,500	(\$0)
	325.-1-1	\$90,500	\$90,500	(\$0)
2015	294.3-1-1	\$807,200	\$425,000	(\$382,200)
	294.3-1-101	\$418,900	\$220,000	(\$198,900)
	309.-1-2	\$79,300	\$79,300	(\$0)
	309.-1-7	\$75,000	\$75,000	(\$0)
	309.-2-1	\$271,700	\$256,000	(\$15,700)
	309.-2-5	\$57,500	\$57,500	(\$0)
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	324.-1-3	\$172,500	\$140,000	(\$32,500)
	324.-1-8	\$245,000	\$245,000	(\$0)
	324.-1-2	\$62,500	\$62,500	(\$0)
2016	294.3-1-1	\$807,200	\$425,000	(\$382,200)
	294.3-1-101	\$418,900	\$220,000	(\$198,900)
	309.-1-2	\$79,300	\$79,300	(\$0)
	309.-1-7	\$75,000	\$75,000	(\$0)
	309.-2-1	\$271,700	\$256,000	(\$15,700)
	309.-2-5	\$57,500	\$57,500	(\$0)

	309.1-2-5	\$660,200	\$175,000	(\$485,200)
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	309.4-1-23	\$549,600	\$240,000	(\$309,600)
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	294.3-1-101	\$418,900	\$220,000	(\$198,900)
	309.-1-2	\$79,300	\$79,300	(\$0)
	309.-1-7	\$75,000	\$75,000	(\$0)
	309.-2-1	\$271,700	\$256,000	(\$15,700)
	309.-2-5	\$57,500	\$57,500	(\$0)
	309.1-2-5	\$660,200	\$175,000	(\$485,200)
	309.4-1-6	\$171,200	\$120,000	(\$51,200)
	309.4-1-23	\$549,600	\$240,000	(\$309,600)
	309.4-2-10.200	\$367,000	\$150,000	(\$217,000)
	324.-1-3	\$172,500	\$140,000	(\$32,500)
	324.-1-8	\$245,000	\$245,000	(\$0)

BE IT SO RESOLVED:

Dated: \_\_\_\_\_, 2018

VOTING AYE:

Supervisor Arthur Willman  
 Councilman Pete Woodcock  
 Councilman Don Hamm  
 Councilman Tom Bartiss  
 Councilman Cliff Smalley

VOTING NO: None

**OLD BUSINESS**

- A. Solar Project Update-Supervisor Willman reported the transformer has to be upgraded and we are awaiting National Grid to do that. It is estimated the cost will be approximately \$5,000 which will be part of the solar grant award. Because of this necessary upgrade, there may not be sufficient grant funds remaining for the proposed landscaping around the array.
- B. Waterfront and Hamlet Revitalization Grant-Awaiting response to final draft submitted by Town of Franklin, Town of Black Brook and Town of Schuyler Falls.
- C. Community Building Update-No update.
- D. 2019 Municipal Insurance-Supervisor Willman reported insurance for 2019 is in place and the cost is approximately \$300 less than budgeted.
- E. 2019-2021 Teamster's Contract-Negotiations continue.
- F. 2019 Grounds Keeping Bids-Motion made by Councilman Hamm to accept the bid from Glenn Swinyer in the amount of \$11,395 for 15 mowings and 2 annual clean-ups. There was no second. Councilman Smalley moved to table this decision until the next meeting. (C.Smalley-T.Bartiss m/s/p) All Aye
- G. RESOLUTION #50 ADOPTION OF SEXUAL HARASSMENT POLICY  
 On a motion by Councilman Smalley, second by Councilman Woodcock, BE IT RESOLVED that Town of Franklin Town Board does hereby adopt the following Sexual Harassment Policy and said policy is in effect immediately:

# SEXUAL HARASSMENT PREVENTION POLICY

## I. POLICY STATEMENT

Town of Franklin is committed to maintaining a workplace free from sexual harassment. Sexual harassment, which includes harassment on the basis of sex, self-identified or perceived sex or gender, sexual orientation, gender identity, gender expression or transgender status, is a form of workplace discrimination. Sexual harassment is considered a serious form of employee misconduct. All employees, interns, volunteers, and non-employees are required to work in a manner that prevents sexual harassment in the workplace. Any employee, intern, volunteer, or non-employee in the workplace who engages in sexual harassment or retaliation will be subject to remedial and/or disciplinary action, up to and including termination. This Policy is one component of the Town of Franklin's commitment to a discrimination-free work environment. <sup>1</sup>

Sexual harassment is against the law. All persons have a legal right to a workplace free from sexual harassment. This right can be enforced by filing a complaint internally with the Town of Franklin, and/or with a government agency or in court under federal, state or local antidiscrimination laws.

Sexual harassment is offensive, is a violation of our policies, is unlawful, and may subject the Town of Franklin to liability for harm to targets of sexual harassment. Harassers may also be individually subject to liability. Those covered by this Policy who engage in sexual harassment, and managers and supervisors who engage in sexual harassment or who knowingly allow such behavior to continue, will be subject to remedial action or discipline in accordance with law or an applicable Collective Bargaining Agreement.

This Policy also prohibits retaliation against individuals who report or complain of sexual harassment or participate in the investigation of a sexual harassment complaint, as further described herein.

Complaints of sexual harassment must be submitted to the Compliance Officer: Personnel Officer. In the event that the Supervisor is the subject of the complaint, complaints must be made to the Deputy Supervisor. Franklin County will conduct a prompt, thorough and confidential investigation that ensures due process for all parties, whenever Town of Franklin or its supervisory or managerial personnel receives a complaint about sexual harassment or retaliation, or otherwise knows of possible sexual harassment occurring. The Town will keep the investigation confidential to the extent possible. Effective corrective action will be taken whenever sexual harassment or retaliation is found to have occurred. All persons covered by this Policy, including managers and supervisors, are required to cooperate with any internal investigation of sexual harassment.

All employees, interns, volunteers, and non-employees are to report any harassment or behaviors that violate this Policy. Town of Franklin will provide a complaint form for the reporting of harassment and to file complaints. Managers and supervisors are **required** to report **any** complaint that they receive, or any harassment that they observe or become aware of in the workplace. Such reporting must be in written form to the Supervisor. Confronting the harasser is not required but is encouraged if the complainant feels it is possible and safe to do so. Anyone covered by this Policy has the right to file a good faith complaint without first communicating with the offender.

Note that other forms of discrimination, as well as harassment based on protected classes or characteristics other than those covered under this policy, are covered separately under the Town of Franklin's Discrimination and Harassment Policy.

## II. SCOPE

- A. Who is covered by this Policy?** This Policy applies to all employees, applicants for employment, interns, whether paid or unpaid, volunteers, non-employees and persons conducting business with Town of Franklin
- B. Who can be a target of sexual harassment?** Sexual harassment can occur between any individuals, regardless of their sex or gender. New York Law protects employees, paid or unpaid interns, and non-employees who provide services in the workplace. This Policy also protects volunteers of the Town.
- C. Who can be a sexual harasser:** A harasser can be a superior, a subordinate, a coworker or anyone in the workplace including an independent contractor, contract worker, vendor, client, customer or visitor, or anyone with whom the person interacts while conducting their job duties.
- D. Where can sexual harassment occur?** Unlawful sexual harassment is not limited to the physical workplace itself. It can occur while employees, interns and/or volunteers are traveling for business or at employer sponsored events or parties. Calls, texts, emails, and social media usage can constitute or contribute to unlawful workplace harassment, even if occurring away from the workplace premises or not during work hours.

## III. DEFINITIONS OF PROHIBITED CONDUCT

### A. What is sexual harassment?

Sexual harassment is a form of sex discrimination and is unlawful under federal, state, and (where applicable) local law. Sexual harassment includes harassment on the basis of sex, self-identified or perceived sex or gender, sexual orientation, gender identity, gender expression or transgender status.

Sexual harassment includes unwelcome conduct which is either of a sexual nature, or which is directed at an individual because of that individual's sex when:

- Such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive work environment, even if the complaining individual is not the intended target of the sexual harassment;
- Such conduct is made either explicitly or implicitly a term or condition of employment; *or*
- Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual's employment.

A sexually harassing hostile work environment consists of words, signs, jokes, pranks, intimidation or physical violence which are of a sexual nature, or which are directed at an individual because of that individual's sex, self-identified or perceived sex or gender, sexual orientation, gender identity, gender expression or transgender status. Sexual harassment also consists of any unwanted verbal or physical advances, sexually explicit derogatory statements or sexually discriminatory remarks made by someone which are offensive or objectionable to the recipient, which cause the recipient discomfort or humiliation, and/or which interfere with the recipient's job performance.

<sup>2</sup> Non-employees, as defined by law, includes contractors, vendors and consultants or those who are employees of the contractor, vendor or consultant.

Sexual harassment also occurs when a person in authority tries to offer job benefits for sexual favors. This can include hiring, promotion, continued employment or any other terms, conditions or privileges of employment. This is also called “quid pro quo” harassment.

Anyone subject to and/or covered by this Policy who feels harassed should complain so that any violation of this policy can be corrected promptly. Any harassing conduct, even a single incident, can be addressed under this policy.

## **B. Examples of sexual harassment**

Sexual harassment under the law and prohibited by this Policy may include, but is not limited to, the following prohibited conduct:

- Physical assaults of a sexual nature, such as:
  - Touching, pinching, patting, grabbing, rape, sexual battery, molestation or attempts to commit these assaults (which should be reported to local authorities as promptly as is possible).
- Unwanted sexual advances or propositions, such as:
  - Requests for sexual favors accompanied by implied or overt threats concerning the target’s job performance evaluation, a promotion or other employment benefits or detriments; subtle or obvious pressure for unwelcome sexual activities.
- Sexually oriented gestures, noises, remarks, jokes or comments about a person’s sexuality or sexual experience, which create a hostile work environment.
- Sex stereotyping, which occurs when conduct or personality traits are considered inappropriate or treated negatively simply because they may not conform to other people’s ideas or perceptions about how individuals of a particular sex should look or act.
- Sexual or discriminatory displays or publications anywhere in the workplace, such as:
  - Displaying pictures, posters, calendars, graffiti, objects, promotional material, reading materials or other materials that are sexually demeaning or pornographic. This includes such sexual displays on workplace computers or cell phones and sharing such displays while in the workplace or in a work-related gathering or setting.
- Hostile actions taken against an individual because of that individual’s sex, self-identified or perceived sex or gender, sexual orientation, gender identity, gender expression or transgender status, such as:
  - Interfering with, destroying or damaging a person’s workstation, tools or equipment, or otherwise interfering with the individual’s ability to perform the job;
  - Sabotaging an individual’s work;
  - Bullying, yelling, name-calling.

## **C. Retaliation**

In addition to sexual harassment, retaliation for opposing or complaining of sexual harassment or participating in investigations of sexual harassment is prohibited by law and prohibited under this Policy. No person covered by this Policy shall be subjected to such unlawful retaliation. Unlawful retaliation can be any adverse employment action, including being discharged, disciplined, discriminated against, or any action that would keep or discourage anyone covered by this Policy from coming forward to make or support a sexual harassment claim. Adverse action need not be job-related or occur in the workplace to constitute unlawful retaliation.

## Franklin County Sexual Harassment Prevention Policy

The New York State Human Rights Law and this Policy protect any individual who has engaged in “protected activity.” Protected activity occurs when a person has:

- made a complaint of sexual harassment, either internally or with any anti-discrimination agency;
- testified or assisted in a proceeding involving sexual harassment under this Policy, the State Human Rights Law or other anti-discrimination law;
- opposed sexual harassment by making a verbal or informal complaint to Town of Franklin (including a supervisor or manager) or by simply informing a supervisor or manager of harassment;
- reported that another employee, intern, volunteer or non-employee covered by this Policy has been sexually harassed; or
- encouraged a fellow employee, intern, volunteer and/or non-employee covered by this Policy to report harassment.

Employees, interns, volunteers, and non-employees who believe they have been subjected to retaliation should report this conduct in accordance with the same reporting procedures as are outlined below. These complaints of retaliation will be investigated in accordance with the same procedures utilized to investigate a complaint of sexual harassment. Individuals also may file complaints of retaliation with the federal or state enforcement agencies (EEOC or New York State Division of Human Rights.) Any individual found to have engaged in retaliation as defined in this Policy may be subject to disciplinary action up to and including termination, and/or other corrective or remedial action as necessary.

### IV. REPORTING PROCEDURES AND RESPONSIBILITIES

#### A. Reporting Procedures

**Preventing sexual harassment is everyone’s responsibility.** The Town cannot prevent or remedy sexual harassment unless it knows about it. Any employee, intern, volunteer or non-employee who has been subjected to behavior that may constitute sexual harassment is strongly encouraged to report such behavior to the Compliance Officer set forth below. Anyone who witnesses or becomes aware of potential or perceived instances of sexual harassment should also report such behavior to the Compliance Officer.

- Compliance Officer: Town Supervisor
- In the event that the Compliance Officer is the subject of the complaint, complaints are to be made to the Deputy Town Supervisor.

Although encouraged, note that neither this Policy nor state or federal law requires that an individual tell an alleged harasser to stop his/her actions. Failure to do so does not preclude the individual from filing a complaint of sexual harassment. Individuals should feel free to keep written records of any actions which may constitute sexual harassment, including time, date, location, names of others involved, witnesses (if any), and who said or did what to whom.

Reports of sexual harassment may be made verbally or in writing. If made verbally, the Complaint must be reduced to writing by the individual who it was reported to. The written report must be given to the Compliance Officer. A form for submission of a written complaint is attached to this Policy, and all employees, interns, volunteers, and non-employees conducting business in the workplace are encouraged to use this complaint form. Individuals who are reporting sexual harassment on behalf of employees, interns, volunteers or non-employees should use the complaint form and note that it is on another person’s behalf.

Employees, interns, volunteers or non-employees who believe they have been a target of sexual harassment may also seek assistance in other available forums, as explained below in the section on Legal Protections.

## **B. Supervisory Responsibilities**

All managerial and supervisory personnel of the Town of Franklin shall be responsible for enforcing this Policy and shall have particular responsibility for ensuring that the work environment under their supervision is free from sexual harassment and retaliation. In addition to being subject to discipline or other remedial action if they engaged in sexually harassing conduct themselves, **all supervisors and managers who receive a complaint or information about suspected sexual harassment, observe what may be sexually harassing behavior or for any reason suspect that sexual harassment is occurring, are required to report same in writing, to the Compliance Officer.** Supervisors and managers will be subject to discipline (or other remedial and appropriate action) for failing to report suspected sexual harassment or otherwise knowingly allowing sexual harassment to continue.

Supervisors and managers will also be subject to discipline or other appropriate remedial action for engaging in retaliation.

## **C. Town of Franklin Responsibilities**

The Town will be responsible for ensuring that this Policy is provided to employees, interns, and volunteers, and that training on this Sexual Harassment Prevention Policy is conducted annually.

## **V. INVESTIGATION AND RESPONSE PROCEDURES**

*All* complaints or information about suspected sexual harassment will be investigated, whether that information was reported in verbal or written form. Investigations will be conducted in a timely manner and will be confidential to the extent possible.

An investigation of any complaint, information or knowledge of suspected sexual harassment will be prompt and thorough, commencing immediately and completed as soon as possible. The investigation will be confidential to the extent possible. All persons involved, including complainants, witnesses and alleged harassers will be accorded appropriate due process to protect their rights to a fair and impartial investigation.

Any employee, volunteer, intern or non-employee may be required to cooperate as needed in an investigation of suspected sexual harassment. As further set forth herein, the Town will not tolerate retaliation against those who file complaints, support another's complaint, or participate in the investigation of complaint.

All investigations will be conducted by the Compliance Officer or their designee. The nature of an investigation may vary on a case by case basis dependent upon the circumstances and extent of the allegations. Generally, investigations should be conducted by the Compliance Officer or their designee in accordance with the following steps:

- Upon receipt of complaint, the Compliance Officer or their designee will conduct an immediate review of the allegations, and take interim actions, as appropriate. If the complaint is oral, encourage the

individual to complete the “Complaint Form” in writing. If he or she refuses, prepare a Complaint Form or other write up of the complaint based on the oral reporting.

- If documents, emails or phone records are relevant to the allegations, take steps to obtain and preserve them.
- Request and review all relevant documents, including all electronic communications.
- Interview all parties involved, including any relevant witnesses;
- Create (at a minimum) written documentation of the investigation (such as a letter, memo or email), which contains the following:
  - A list of all documents reviewed, along with a detailed summary of relevant documents;
  - A list of names of those interviewed, along with a detailed summary of their statements;
  - A timeline of events;
  - A summary of prior relevant incidents, reported or unreported; and
  - Recommendation(s) for the final resolution of the complaint, together with any recommendations for corrective or remedial actions to be taken.
- Keep the written documentation and associated documents in the employer’s records.

Once the investigation is completed, the Compliance Officer or their designee will make a Final Determination as to whether the Policy has been violated.

The Compliance Officer or their designee shall promptly notify the complainant of the Final Determination, and also inform the complainant of their right to file a complaint or charge externally as outlined below.<sup>3</sup>

If a complaint of sexual harassment or retaliation is determined to be founded, Town of Franklin may take disciplinary and/or corrective action. The Compliance Officer will be responsible for overseeing the implementing of any corrective or remedial actions deemed necessary.

## **VI. REIMBURSEMENT**

Any employee who has been subject to a judgement of personal liability for intentional wrongdoing in connection with a claim for sexual harassment shall reimburse the Town for any monies it paid to a complainant for what was found to be the employee’s proportionate share of said judgement. These reimbursements must be made within ninety (90) days from payment by the Town to the Complainant. A failure to reimburse will result in the sum being withheld directly from the employee’s compensation or through enforcement of a money judgement.

## **VII. FURTHER CONFIDENTIALITY AND DISCLOSURE**

In recognition of the personal nature of discrimination complaints and the emotional impact of alleged discrimination, Town of Franklin shall keep complaints as confidential as is consistent with a thorough investigation, applicable collective bargaining agreements, and other laws and regulations regarding employees and the workplace setting. For the protection of all individuals who make complaints or are accused of prohibited discrimination, every witness interviewed during an investigation under this Policy will be advised of the confidentiality requirement and instructed not to discuss the complaint, the investigation, or

<sup>3</sup> Where a complaint was filed regarding sexual harassment against an individual other than the person making the written complaint, the person against whom the harassment was directed will be treated as the complainant for purposes of this Policy.

the persons involved. To the extent complaints made under this Policy implicate criminal conduct, the Town may be required by law to contact and cooperate with the appropriate law enforcement authorities.

The terms of any settlement or other resolution are subject to disclosure UNLESS the Complainant seeks confidentiality. This request for confidentiality may be revoked within a certain time period in accordance with State law.

### **VIII. FALSE REPORTS**

Reporting of a false complaint is a serious act. In the event it is found that an individual bringing the complaint has knowingly made false allegations, Town of Franklin may take appropriate remedial action and/or disciplinary action in accordance with the provisions of applicable collective bargaining agreement and/or state law.

### **IX. LEGAL PROTECTIONS AND EXTERNAL REMEDIES**

Sexual harassment is not only prohibited by Franklin County but is also prohibited by state, federal, and, where applicable, local law.

Aside from the internal process at the Town of Franklin, individuals may also choose to pursue legal remedies with the following governmental entities **at any time**.

#### **A. New York State Division of Human Rights (DHR)**

The Human Rights Law (HRL), codified as N.Y. Executive Law, Art. 15, § 290 et seq., applies to employers in New York State with regard to sexual harassment, and protects employees, interns and non-employees. A complaint alleging violation of the Human Rights Law may be filed either with Division of Human Rights or in New York State Supreme Court. Complaints with DHR may be filed any time **within one year** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged discrimination. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to Franklin County does not extend the time for filing a complaint with DHR or in court. The one year or three years is counted from date of the most recent incident of harassment.

An individual does not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate the complaint and determine whether there is probable cause to believe that discrimination has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If discrimination is found after a hearing, DHR has the power to award relief, which varies but may include requiring the employer to act to stop the harassment, or redress the damage caused, including paying monetary damages, attorney's fees and civil fines.

Contact DHR at (888) 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR's regional offices across New York State.

#### **B. United States Equal Employment Opportunity Commission (EEOC)**

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (codified as 42 U.S.C. § 2000e et seq.). An individual can file a complaint with the EEOC anytime within **300 days** from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint, and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief, but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred.

If an individual believes that he/she has been discriminated against at work, he/she can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 (1-800-669-6820 (TTY)), visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov)

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

### **C. Local Protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

### **D. Contact the Local Police Department**

If the harassment involves physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Contact the local police department.

**TOWN OF FRANKLIN HARASSMENT COMPLAINT FORM**

**(Submit to Supervisor or Deputy)**

This form may be used to file a complaint of harassment which is a form of discrimination prohibited by federal law, the New York State Human Rights Law, and Town of Franklin Policy.

Filing this complaint form with Town of Franklin in no way deprives you of the right to file a complaint with the US Equal Employment Opportunity Commission, New York State Division of Human Rights, and/or the Federal/State courts.

(PLEASE PRINT OR TYPE)

1. Name \_\_\_\_\_  
Phone Number \_\_\_\_\_  
Residence \_\_\_\_\_  
Mailing Address (if different from residence) \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_

2. Department \_\_\_\_\_

3. Have you filed this charge with a Federal, State or local government agency?  
YES/NO: \_\_\_\_\_ When \_\_\_\_\_ Where \_\_\_\_\_  
(Month/Day/Year)

Have you instituted a suit or court action on this charge?  
YES/NO: \_\_\_\_\_ When \_\_\_\_\_ Where \_\_\_\_\_  
(Month/Day/Year)

(AN AFFIRMATIVE REPLY TO THIS QUESTION WILL IN NO WAY STOP A REVIEW OF YOUR COMPLAINT)

4. Alleged Discrimination Occurred on or about:  
Month: \_\_\_\_\_ Day: \_\_\_\_\_ Year: \_\_\_\_\_ Time: \_\_\_\_\_

Is this alleged discrimination continuing: YES \_\_\_\_\_ NO \_\_\_\_\_?

Are you personally the subject of the alleged harassment? YES \_\_\_\_\_ NO \_\_\_\_\_?

If not, please state the name of the person(s) who are the subject of the alleged harassment:  
\_\_\_\_\_

Describe the alleged act of harassment. **Use additional sheets if**  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



Procurement Policy is in effect immediately:

TOWN OF FRANKLIN

PROCUREMENT POLICIES AND PROCEDURES

1. PURPOSES OF THE POLICIES AND PROCEDURES. Goods and services and public work subject to these policies and procedures shall be procured in a manner that—

(a) Assures the prudent and economical use of public moneys in the best interests of the taxpayers of the Town,

(b) Reflects an advance and ongoing planning process to permit the Town Board and other affected Town officers and personnel to anticipate likely procurement needs and the costs associated with them,

(c) Facilitates the acquisition of goods and services and public work of maximum quality at the lowest possible cost under the circumstances,

(d) Guards against favoritism, improvidence, extravagance, fraud and corruption, and

(e) Ensures adequate documentation of actions taken in connection with each method of procurement under these policies and procedures.

2. PROCUREMENTS COVERED BY THE POLICIES AND PROCEDURES. These policies and procedures apply to all Town procurements of goods and services valued at less than the thresholds for competitive bidding contained in these policies and procedures and any other general, special, or local law.

3. DEFINITION OF “PURCHASER.” As used in these policies and procedures, the term “Purchaser” means every Town officer, board, department head, or other personnel with the requisite authority to make purchases of goods and services subject to these policies and procedures.

4. PROCUREMENT PLANNING AND MONITORING.

(a) IN GENERAL. Each Purchaser shall estimate the amount of goods and services and public work to be procured in a given fiscal year. The estimate shall include the canvass of other Town departments and an analysis of past procurement history to determine the likely value of the goods and services and public work to be acquired.

(b) USE OF ESTIMATES. The estimates:

(1) Shall be presented on a cumulative basis for the fiscal year, and shall be broken down into such categories and subcategories, shall cover such time periods, and shall meet such other criteria as the Town Board may determine,

(2) Shall be provided for use in the preparation of the annual Town budget, or at such other times as the Town Board may determine, and

(3) Shall be subject to such periodic or other reviews during the fiscal year as the Board may determine.

(c) DOCUMENTATION. The information gathered and conclusions reached with respect to the estimates prepared under this Section shall be documented and filed in such place or places as the Town Board deems appropriate.

(d) MONITORING. The Town Board shall take such steps as it deems appropriate to ensure that the Town’s procurement activity complies with these policies and procedures and with other applicable law and authority, including the Town’s approved budget.

(e) SPECIAL PROVISIONS FOR THE HIGHWAY SUPERINTENDENT. Subdivision 3 of Highway Law Section 142 contains the following special provisions for the Town Highway Superintendent:

(1) WRITTEN INVENTORY. The Superintendent must annually make a written inventory of all machinery, tools, implements, and equipment used for highway purposes. The inventory must indicate each article, and state its value and the estimated cost of all necessary repairs to it. The Superintendent must deliver this material to the Town Board by September 30 in each year.

(2) PURCHASE RECOMMENDATIONS. The Superintendent must at the same time file with the Town Board written recommendations as to what machinery, tools, implements, and equipment should be purchased for the use of the Town, and their probable cost.

5. PURCHASE ORDER FORMS.

(a) REQUIREMENT FOR A PURCHASE ORDER NUMBER. Except in the case of an emergency under section 13, no procurement subject to these policies and procedures may be made without assignment of a Purchase Order Number, irrespective of the dollar amount involved.

(b) ASSIGNMENT OF PURCHASE ORDER NUMBERS BY TOWN SUPERVISOR. Except as provided in paragraph (c), Purchase Order Forms are to be submitted to the Town Supervisor's office for assignment of a Purchase Order Number.

(c) ADVANCE ASSIGNMENT OF PURCHASE ORDER NUMBERS BY TOWN BOARD. The Town Board may approve, on an advance basis, the assignment of Purchase Order Numbers for items or classes of items that the Town routinely purchases. For example, the Town Board could approve assignment of a single Purchase Order Number for all purchases throughout the year for motor oil used in the Town's highway vehicles and equipment. The Number could be used to purchase such oil throughout the year, without the necessity of obtaining another Number.

(d) NECESSITY FOR PURCHASE ORDER NUMBERS. Vendors will not honor purchase requests without a Purchase Order Number assigned under this Section. The Town Board shall take such steps as may be necessary to ensure that vendors are aware of this requirement.

## 6. PURCHASE OF ITEMS AND CLASSES OF ITEMS THROUGHOUT THE YEAR.

(a) PROCUREMENTS PURSUANT TO SECTION 4. As provided by Section 4, procurement estimates are to be presented on a cumulative basis for the fiscal year. Purchases pursuant to these estimates may be made at such time or times during the year as the Town Board may approve. Each such purchase shall be subject to the requirements of these policies and procedures that apply to the dollar amount of the purchase.

(b) SPLITTING PROCUREMENTS TO AVOID APPLICATION OF THE POLICIES AND PROCEDURES. No Purchaser may split what is essentially a single procurement into more than one portion in order to avoid the otherwise applicable requirements of this document. For example, if a Purchaser proposes to buy three tools that cost \$1,500 each at the same time or contemporaneously, he or she must treat the procurement as a single purchase, using the appropriate procurement policies and procedures for a purchase between \$1,000 and \$1,999. The Purchaser may not avoid these policies and procedures by turning the transaction into two or more separate purchases.

## 7. PURCHASE OF GOODS OR SERVICES THROUGH OGS CONTRACTS.

### (a) PROCUREMENTS OVER \$1,000.

#### (1) DETERMINATION OF AVAILABILITY THROUGH OGS CONTRACTS.

(i) Before beginning any procurement of goods or services under GML Section 103, or any procurement for goods or services in excess of \$1,000 under Section 10 or 11 of these policies and procedures, the Purchaser shall determine whether the goods or services are available for purchase through State contracts negotiated by the New York State Office of General Services (OGS contract).

(ii) If they are not available through OGS contract, sufficient documentation of this fact shall be preserved and filed with the documentation supporting the procurement involved, and the Purchaser may proceed with the procurement under the succeeding Sections of these policies and procedures.

(2) MAKING THE PURCHASE. If a procurement of goods or services in excess of \$1,000 is determined to be available through OGS contract, the Purchaser may either:

(i) Purchase the goods or services through the OGS contract, without further solicitation; or

(ii) Solicit bids/RFPs in accordance with GML Section 103, or Sections 10 and 11 of these policies and procedures, as applicable.

**IF BIDS/RFPs ARE SOLICITED AS PROVIDED BY THIS SUBSECTION, THE PURCHASE SHALL BE MADE THROUGH THE OGS CONTRACT, UNLESS THE BID/RFP FROM A PRIVATE VENDOR IS MADE ON THE SAME TERMS, CONDITIONS, AND SPECIFICATIONS, AT A LOWER PRICE.**

(3) EXCEPTION FOR EMERGENCIES. Notwithstanding this subsection, the procurement of goods and services with respect to an emergency as defined in Section 15(b)(2)) may be made through private vendors, if the procurement through OGS contract cannot be made in time to address the emergency. Sufficient documentation to support this decision shall be preserved and filed with the documentation supporting the procurement involved.

(b) PROCUREMENTS FOR \$1,000 OR LESS. The Purchaser is encouraged (but not required) to purchase goods and services for \$1,000 or less through OGS contract.

8. ROLE OF TOWN BOARD IN PROCUREMENTS OVER \$1,000.

(a) IN GENERAL. Before a procurement over \$1,000 is made under Section 10 or 11 of these policies and procedures, the Town Board shall obtain complete and accurate information with respect to the procurement.

(b) SPECIFICATIONS FOR PROCUREMENTS OVER \$1,000.

(1) REVIEW BY TOWN BOARD. In the case of procurements referred to in subsection (a), the Town Board shall take an active role in reviewing specifications for the procurement before advertising for bids/RFPs. Among other things, the Board shall endeavor to prevent inclusion of any unduly restrictive language in the specifications that could discourage competition.

(2) SPECIFICATIONS SUPPLIED BY VENDORS. If a proposed bid/RFP contains specifications provided by a private vendor, the Purchaser shall report this to the Town Board. The Town Board shall take special care to ensure that such specifications do not contain unduly restrictive language that could discourage competition.

(c) DECISIONS REGARDING OUTSIDE FINANCING. In the case of procurements that require outside financing sources, the Town Board shall determine the source that is the most economical, and shall demonstrate compliance with all regulatory and statutory requirements. (See, for example, Title 2, Part 39, of the New York Codes, Rules, and Regulations, for requirements with respect to installment sales.)

9. ALL PROCUREMENTS—DETERMINING WHETHER THE COMPETITIVE BIDDING REQUIREMENTS OF THESE POLICIES AND PROCEDURES APPLY. Every prospective purchase of goods or services or public work shall be evaluated to determine whether the competitive bidding requirements of these policies and procedures apply. The information gathered and conclusions reached shall be documented and retained with the file or other documentation supporting the purchase activity.

10. PROCUREMENT OF PUBLIC WORK AND AND PURCHASE CONTRACTS OVER \$10,000.

(a) GENERAL RULE. All contracts for public work and purchase contracts OVER \$10,000 shall be subject to the competitive bidding requirements of GML Section 103. These procurements are not as a legal matter subject to GML Section 103, but the Town has voluntarily adopted the procedures of Section 103 to govern such procurements.

(b) DOCUMENTATION. Sufficient documentation to show compliance with GML Section 103 shall be preserved and filed with the documentation supporting the procurement involved.

11. PROCUREMENT OF GOODS AND SERVICES BETWEEN \$2,000 AND \$10,000.

(a) GENERAL RULE. All contracts for public work and purchase contracts between \$2,000 and \$10,000 shall require:

- (1) A written request for proposal (RFP), and
- (2) Written or FAX proposals from at least three vendors.

(b) REQUEST FOR PROPOSALS. All RFPs shall be in writing, and shall describe the desired goods, quantity, particulars of delivery, and any other relevant information, with sufficient clarity and specificity to ensure receipt of responsive proposals.

(c) EFFORT TO OBTAIN PROPOSALS. A good faith effort shall be made to obtain the number of proposals required under this Section. In no event, however, shall the inability to obtain the proposals be a bar to the procurement.

(d) DOCUMENTATION. The Purchaser shall compile a list of all vendors from whom proposals have been requested and the proposals offered. This information, along with the originals or copies of all proposals offered and all other information relevant to the procurement, shall be preserved and filed with the documentation supporting the procurement involved. If the Purchaser is unable to obtain the required number of proposals, the Purchaser shall document the attempts made at obtaining the proposals.

12. PROCUREMENT OF GOODS AND SERVICES BETWEEN \$1,000 AND \$1,999.

(a) GENERAL RULE. All contracts for public work and purchase contracts between \$1000 and \$1,999 shall require:

- (1) A written or oral solicitation, and
- (2) Oral, written, or FAX proposals from at least three vendors.

(b) SOLICITATIONS. All solicitations under this Section—whether oral or written—shall describe the desired goods, quantity, particulars of delivery, and any other relevant information, with sufficient clarity and specificity to ensure responsive proposals.

(c) EFFORT TO OBTAIN PROPOSALS. A good faith effort shall be made to obtain the number of proposals required under this Section. In no event, however, shall the inability to obtain the proposals be a bar to the procurement.

(d) DOCUMENTATION. The Purchaser shall compile a list of all vendors from whom proposals have been requested and the proposals offered. All oral solicitations and vendor proposals shall be reduced to writing. This information, along with the originals or copies of all proposals offered and all other information relevant to the procurement, shall be preserved and filed with the documentation supporting the procurement involved. If the Purchaser is unable to obtain the required number of proposals, the Purchaser shall document the attempts made at obtaining the proposals.

13. PROCUREMENT OF GOODS AND SERVICES BELOW \$1000.

(a) GENERAL RULE. All contracts for public work and purchase contracts below \$1000 shall be at the discretion of the Purchaser.

(b) DOCUMENTATION. Information sufficient to identify the purchase, including any receipt indicating the cost of the purchase and the identity of the vendor, shall be preserved and filed with the documentation supporting the procurement involved. If bids are solicited, the Purchaser shall compile a list of all vendors from whom proposals have been requested and the proposals offered. All oral solicitations and vendor proposals shall be reduced to writing. This information shall also be preserved and filed with the documentation supporting the procurement involved.

14. EXCEPTIONS TO GENERAL RULES FOR PROCUREMENT BY THE TOWN.

(a) NATURE OF EXCEPTIONS. Unless otherwise directed by the Town Board, the policies and procedures governing contracts for public work and purchase contracts OVER \$10,000 under Section 10, and the procurements a between \$1000 and \$10,000 under Sections 11 through 13, shall not apply to:

- (1) Acquisition of professional services;
- (2) Emergencies;
- (3) Sole source situations;
- (4) Goods purchased from agencies for the blind and severely handicapped;
- (5) Goods purchased from correctional facilities;
- (6) Goods purchased from another governmental agency, including OGS (as provided by Section 7); and
- (7) Goods purchased at auction.

(b) DEFINITIONS. For purposes of these policies and procedures:

(1) PROFESSIONAL SERVICES. The term “professional services” means services that require the use of professional judgment, or a high degree of creativity, in the performance of the contract, and often involve a relationship of personal trust and confidence.

2. EMERGENCY. The term “emergency” means a situation that:

- Arises out of an accident or unforeseen occurrence or condition;
- Affects public buildings, public property or the life, health, safety or property of the inhabitants of the Town; and
- Requires immediate action, which cannot await competitive bidding.

(3) SOLE SOURCE SITUATION. The term “sole source situation” means the situation in which the Town, in the public interest, requires particular goods or services which uniquely serve the public interest, for which there is no equivalent, and which are available from only one source so that there is no possibility of competition.

(c) DOCUMENTATION. The following information shall be preserved and filed with the documentation supporting any procurement under the Section:

[1] Information sufficient to indicate that the procurement fits within one or more of the exception categories under Subsection (a), and, if appropriate, meets each of the relevant definitional elements of the definitions contained in Subsection (b);

[2] Information sufficient to identify the purchase, including any receipt indicating the cost of the purchase and the identity of the vendor; and

[3] Any other information relevant to the procurement involved.

15. CONTRACT AWARD.

(a) GENERAL RULE. Procurement contracts shall be awarded to the lowest responsible bidder or through OGS

contract, as provided by Section 7. If a private bidder is not deemed responsible, facts supporting that judgment shall also be documented and filed with the record supporting the procurement.

(b) EXCEPTION. Except as provided by Section 7 (procurement through OGS contract), procurement contracts may be awarded to a responsible private bidder, other than the lowest responsible private bidder, if the Purchaser prepares a written justification providing reasons why it is in the best interests of the Town and its taxpayers to make an award to other than the lowest bidder. [For example, the second lowest responsible bidder is a business in the Town, paying Town real property taxes, and its quote was within 5% of the lowest bidder, which is an out-of-State business supplier.]

16. SPECIAL PROVISIONS GOVERNING THE AWARD OF CONTRACTS BY THE HIGHWAY SUPERINTENDENT.

1. PURCHASE OF MATERIALS AND SUPPLIES.

- The Highway Superintendent has the authority to award contracts for the purchase of materials and supplies for the repair and improvement of highways and bridges and for the control of snow and ice, without prior approval by the Town Board.
- The amount of such contracts must be within the amounts appropriated therefor in the annual budget and as provided in the Section 284 agreement.

(b) PURCHASE OF HIGHWAY EQUIPMENT. The award of contracts for the purchase of highway equipment is subject to approval of the Town Board, except where the Board has authorized the Superintendent to purchase the equipment up to a specified dollar amount without its prior approval.

2. AWARD OF CONTRACTS.

- Where the Town Board has provided that the construction or improvement of a highway or bridge be done under a contract, award of the contract is made by the Highway Superintendent.

3. COMPLIANCE WITH PROCUREMENT POLICIES.

- All such purchases and contract awards under this Section must comply with the NYS General Municipal Law and the Town's Procurement Policies and Procedures.

17. OBLIGATIONS AND EXPENDITURES FROM THE TOWN'S GENERAL FUND. The Town Highway Superintendent may not obligate or expend amounts chargeable to the Town's General Fund without the approval of the Town Board.

18. ANNUAL REVIEW OF PROCUREMENT POLICIES AND PROCEDURES. The Town Board shall review these policies and procedures annually at its organizational meeting or as soon thereafter as practicable. The Town Board may also review these policies and procedures whenever it determines such review to be appropriate.

19. FAILURE TO COMPLY WITH PROCUREMENT POLICIES AND PROCEDURES. Unless the Town Board (in its sole discretion) determines that special circumstances warrant otherwise, the Board shall not approve for payment from Town monies any procurement that does not comply with the policies and procedures specified in this document. If the Board does not approve payment, disposition of the matter shall be the responsibility of the Purchaser involved.

20. SUPERSEDURE. The policies and procedures contained in this document supersede any other procurement policies and procedures previously adopted by the Town of Franklin.

<p>1. 2.</p> <p style="text-align: center;">AMOUNT</p>	<ul style="list-style-type: none"> <li>•</li> <li>•</li> </ul> <p style="text-align: center;">PROCESS</p>	<ul style="list-style-type: none"> <li>•</li> <li>•</li> </ul> <p style="text-align: center;">DOCUMENTATION</p>
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<p><b>1. All procurements</b></p>	<p>Except in the case of emergencies under section 8, each procurement must be assigned a Purchase Order Number before any purchase, irrespective of the dollar amount involved.</p> <p>Purchase Order Forms must be submitted to the Supervisor for assignment of a Number, except where Town Board approves Numbers in advance for routine purchases.</p> <p>As provided by Section 4 of the Procurement Policies and Procedures, procurement estimates are to be presented on a cumulative basis for the fiscal year. Purchases pursuant to these estimates may be made at such time or times during the year as the Town Board may approve. Each such purchase shall be subject to the requirements of these policies and procedures that apply to the dollar amount of the purchase. No Purchaser may split what is essentially a single procurement into more than one portion in order to avoid the otherwise applicable procurement requirements.</p>	<p>File copy of the approved Purchase Order Form and Number with the documentation supporting the procurement</p>
<p><b>2. All procurements</b></p>	<p>Each procurement must be reviewed to see if public bidding rules of Section 103 GML apply (over \$10,000 for public work contracts; over \$10,000 for purchase contracts)</p>	<p>File information gathered and conclusions reached with the documentation supporting the procurement</p>
<p><b>3. Contracts for public work and purchase contracts OVER \$10,000</b></p>	<p>Competitive bidding rules of Section 103 GML. Special rules for procurement through OGS contract apply (see note 1, below).</p>	<p>File documentation showing compliance with Section 103 with the documentation supporting the procurement</p>
<p><b>4. All procurements between \$2,000 and \$10,000</b></p>	<p>Each covered procurement must include —</p> <p>(1) A written request for proposal (RFP)*AND</p> <p>(2) A written or FAX proposal from at least 3 vendors</p> <p>If a good faith effort fails to obtain 3 bids, procurement may proceed.* All RFPs must be in writing, and describe the desired goods, quantity, particulars of delivery, and any other relevant information, with sufficient clarity and specificity to permit receipt of responsive proposals.</p> <p>Special rules for procurement through OGS contract apply (see note 1, below).</p>	<p>File the following information with the documentation supporting the procurement:</p> <p>(1) A list of all vendors from whom proposals have been requested and the proposals received,</p> <p>(2) The originals or copies of each RFP and all proposals received under the RFP,</p> <p>(3) If unable to get 3 bids, attempts at getting them, and</p> <p>(4) All other information relevant to the procurement.</p>

<p><b>5. All procurements between \$1,000 and \$1,999</b></p>	<p>Each covered procurement must include —</p> <p>(1) A written or oral solicitation* AND</p> <p>(2) Oral, written, or FAX proposals from at least three vendors</p> <p>If a good faith effort fails to obtain 3 bids, procurement may proceed</p> <p>*All solicitations—whether oral or written—shall describe the desired goods, quantity, particulars of delivery, and any other relevant information, with sufficient clarity and specificity to permit responsive proposals.</p>	<p>File the following information with the documentation supporting the procurement:</p> <p>(1) A list of all vendors receiving solicitations and the proposals received,</p> <p>(2) In the case of written solicitations and/or proposals, the originals or copies of the solicitation and all proposals received,</p> <p>(3) In the case of oral solicitations and/or proposals, a written statement describing the solicitation and all proposals received,</p> <p>(4) If unable to get 3 bids, attempts at getting them, and</p> <p>(5) All other information relevant to the procurement.</p>
<p><b>6. All procurements below \$1,000</b></p>	<p>At the discretion of the purchaser</p>	<p>File the following information with the documentation supporting the procurement:</p> <p>(1) In all cases, information sufficient to identify the purchase, including any receipt indicating the cost of the purchase and the identity of the vendor</p> <p>(2) In the case of solicited bids, a list of all vendors receiving solicitations and the proposals received,</p> <p>(3) In the case of written solicitations and/or proposals, the originals or copies of the solicitation and all proposals received,</p> <p>(4) In the case of oral solicitations and/or proposals, a written statement prepared by the Purchaser describing the solicitation and all proposals received, and</p> <p>(5) All other information relevant to the procurement.</p>

<p><b>7. Exceptions to general rules for procurement by the Town.</b></p>	<p>Any procurement meeting the following exceptions does not have to comply with the otherwise applicable bidding requirements for the dollar amounts involved:</p> <ul style="list-style-type: none"> <li>(1) Acquisition of professional services;</li> <li>(2) Emergencies;</li> <li>(3) Sole source situations;</li> <li>(4) Goods purchased from agencies for the blind and severely handicapped;</li> <li>(5) Goods purchased from correctional facilities;</li> <li>(6) Goods purchased from another governmental agency, including OGS; and</li> <li>(7) Goods purchased at auction.</li> </ul> <p>Note that in all cases the Purchase Order and the Section 103 GML requirements still apply.</p> <p>Definitions of “professional services,” “emergencies,” and “sole source situations:”</p> <p>“Professional services” means services that require the use of professional judgment, or a high degree of creativity, in the performance of the contract, and often involve a relationship of personal trust and confidence.</p> <p>“Emergency” means a situation that:</p> <ul style="list-style-type: none"> <li>(1) Arises out of an accident or unforeseen occurrence or condition;</li> <li>(2) Affects public buildings or public property, or the life, health, safety or property of the inhabitants of the Town; and</li> <li>(3) Requires immediate action, which cannot await competitive bidding.</li> </ul> <p>“Sole source situation” means the situation in which the Town, in the public interest, requires particular goods and services:</p> <ul style="list-style-type: none"> <li>(1) Which uniquely serve the public</li> </ul>	<p>File the following information with the documentation supporting any procurement qualifying for an exception:</p> <ul style="list-style-type: none"> <li>(1) Information sufficient to indicate that the procurement fits within one or more of the exception categories, and, if appropriate, meets each of the relevant definitional elements of the definitions;</li> <li>(2) Information sufficient to identify the purchase, including any receipt indicating the cost of the purchase and the identity of the vendor; and</li> <li>(3) Any other information relevant to the procurement involved.</li> </ul>
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## SUMMARY OF AMENDMENTS

1. Amendment Adopted by Resolution of the Town Board on May 12, 2003. The amendment raised from \$100 to \$250 the amount that could be procured at the discretion of the Purchaser under Section 14. Formerly, such procurements were subject to approval of the Supervisor. A conforming change to Section 13 specified that the approval of the Supervisor is required for procurements between \$250 and \$500.
2. Amendment Adopted by Resolution of the Town Board on March 16, 2004. The amendments inserted special procurement provisions for highway purchases in Sections 4(e) and 17, clarified Section 5's requirements for Purchase Order Numbers and added a new Section 18 to make clear that the Town Highway Superintendent may not obligate or expend amounts chargeable to the Town's General Fund without the approval of the Town Board.
3. Amendments Adopted by Resolution of the Town Board on March 14, 2005. The amendments made clear that no Purchaser may split what is essentially a single procurement into more than one portion in order to avoid the otherwise applicable requirements of this document (Section 6(b)). They also make that unless the Town Board determines that special circumstances warrant otherwise, it will not approve for payment from Town monies any procurement that does not comply with the requirements of this document (Section 20).
4. Amendments Adopted by Resolution of the Town Board on August 8, 2005. The amendments added new Sections 7 and 8. Section 7 contains requirements for procurements through OGS contract. Section 8 makes clear the role of the Town Board in the bid/RFP for procurements over \$1,000.
5. Amendment Adopted by Resolution of the Town Board on March 11, 2015. Deleted section 13, raised threshold required approval to up to \$1000.
6. Amendment Adopted by Resolution December 12, 2018 Required Sealed Bids be solicited for all purchase and public works contracts over \$10,000.

### 1. NOTES

#### 1. PURCHASE OF GOODS AND SERVICES OVER \$1,000 THROUGH OGS CONTRACT

1. Before beginning any procurement of goods or services or public work for the Town), the Purchaser shall determine whether they are available for purchase through State contracts negotiated by the New York State Office of General Services (OGS contract). ITEM stricken--not needed
  2. If they are not available through OGS contract, sufficient documentation of this fact shall be preserved and filed with the documentation supporting the procurement involved, and the Purchaser may proceed with the procurement under the Procurement Policies and Procedures.
  3. If they are available through OGS contract, the Purchaser may either:
    - (a) Purchase the goods or services through the OGS contract, without further solicitation; or
    - (b) In addition to the OGS contract, solicit bids/RFPs in accordance with law and the Procurement Policies and Procedures.
  4. If bids/RFPs are solicited, the purchase must by law be made through the OGS contract, unless the bid/RFP from a private vendor is made on the same terms, conditions, and specifications, at a lower price.
  5. As an exception, the procurement of goods and services with respect to an emergency (as defined in the Procurement Policies and Procedures) may be made through private vendors, if the procurement through OGS contract cannot be made in time to address the emergency. Sufficient documentation to support this decision shall be preserved and filed with the documentation supporting the procurement involved.
  6. The Purchaser is encouraged (but not required) to purchase goods and services for \$1,000 or less through OGS contract.
- #### 2. ROLE OF TOWN BOARD IN PROCUREMENTS OF GOODS AND SERVICES FOR THE TOWN OVER \$1,000
1. Before a procurement over \$1,000 is made, the Town Board shall obtain complete and accurate information with respect to the procurement.
  2. In the case of such procurements, the Town Board shall take an active role in reviewing specifications for the procurement before advertising for bids/RFPs. Among other things, the Board shall endeavor to prevent inclusion of any unduly restrictive language in the specifications that could discourage competition.
  3. If a proposed bid/RFP contains specifications provided by a private vendor, the Purchaser shall report this to the Town Board. The Town Board shall take special care to ensure that such specifications do not contain unduly restrictive language that could discourage competition.

4. In the case of procurements that require outside financing sources, the Town Board shall determine the source that is the most economical, and shall demonstrate compliance with all regulatory and statutory requirements. (See, for example, Title 2, Part 39, of the New York Codes, Rules, and Regulations, for requirements with respect to installment sales.)

## 2. 3. SPECIAL PROVISIONS FOR TOWN HIGHWAY SUPERINTENDENT

### A. Planning and Estimates

(1) WRITTEN INVENTORY. The Superintendent must annually make a written inventory of all machinery, tools, implements, and equipment used for highway purposes. The inventory must indicate each article, and state its value and the estimated cost of all necessary repairs to it. The Superintendent must deliver this material to the Town Board by September 30 in each year.

(2) PURCHASE RECOMMENDATIONS. The Superintendent must at the same time file with the Town Board written recommendations as to what machinery, tools, implements, and equipment should be purchased for the use of the Town, and their probable cost.

### B. Award of Contracts

#### 1. PURCHASE OF MATERIALS AND SUPPLIES.

- The Highway Superintendent has the authority to award contracts for the purchase of materials and supplies for the repair and improvement of highways and bridges and for the control of snow and ice, without prior approval by the town board.
- The amount of such contracts must be within the amounts appropriated therefor in the annual budget and as provided in the Section 284 agreement.

#### 2. PURCHASE OF HIGHWAY EQUIPMENT.

- The award of contracts for the purchase of highway equipment is subject to approval of the Town Board, except where the Board has authorized the Superintendent to purchase the equipment up to a specified dollar amount without its prior approval.

#### 3. AWARD OF CONTRACTS.

- Where the Town Board has provided that the construction or improvement of a highway or bridge be done under a contract, award of the contract is made by the Highway Superintendent.

#### 4. COMPLIANCE WITH PROCUREMENT POLICIES.

- All such purchases and contract awards under this Section must comply with the NYS General Municipal Law and the Town's Procurement Policies and Procedures.

### C. Obligations and Expenditures from the Town's General Fund

The Town Highway Superintendent may not obligate or expend amounts chargeable to the Town's General Fund without the approval of the Town Board.

#### 4. FAILURE TO COMPLY WITH PROCUREMENT REQUIREMENTS

Unless the Town Board (in its sole discretion) determines that special circumstances warrant otherwise, the Board shall not approve for payment from Town monies any procurement that does not comply with the policies and procedures specified in this document. If the Board does not approve payment, disposition of the matter shall be the responsibility of the Purchaser involved.

Those Voting Aye:

- Supervisor Willman
- Councilman Hamm
- Councilman Smalley
- Councilman Bartiss
- Councilman Woodcock

I. Attorney for the Town-Supervisor Willman received three proposals to provide legal services for the Town of Franklin as Ed Murphy has informed the board he does not wish to be reappointed in 2019. Proposals are as follows:

Pease and Gustafson, Massena NY \$150 hr

Fischer, Bessette, Muldowney & McArdle, Malone NY \$200 hr

Flink Maswick, Lake Placid NY \$200 hr

The board will review the proposals and appoint an Attorney for the Town at the January 9, 2019 board meeting.

#### COMMITTEE REPORTS

- A. Facilities-no report
- B. Cemetery-no report
- C. Celebration-no report
- D. Recreation-no report

PUBLIC COMMENT

Glenn Swinyer proposed the board consider hiring him on a part-time basis for mowing and cleaning. Supervisor Willman requested Mr. Swinyer submit a proposal for the board to consider.

Rhonda Swinyer announced she is 100% disabled, unemployed, has a heart condition and has chosen not to submit medical bills to the town for injuries suffered from a fall at the Town Hall in June 2018 while recovering from shoulder surgery.

ADJOURNMENT

There being no further business before the board, Supervisor Willman adjourned the meeting at 6:40pm.

Town of Franklin  
December 27, 2018  
Year-End Board Meeting

Board Members Present: Supervisor Art Willman, Councilman Cliff Smalley, Councilman Tom Bartiss and Councilman Don Hamm

Board Members Absent: Councilman Pete Woodcock

Other Present: Doris Hamm, Ed Martin, Alan Hadley, Rhonda Swinyer and Town Clerk Lauren LeFebvre

**CALL TO ORDER**

Supervisor Willman called the meeting to order at 6pm. The Pledge of Allegiance was recited, the Town Clerk called the roll noting Councilman Woodcock absent and a quorum present.

**APPROVAL OF CLAIMS**

The board audited and approved payment of the following:

Pre-Pay General	Abstract 13	Claim 52	\$504.94
General	Abstract 13	Claims 230-237	\$1,506.54
Highway	Abstract 13	Claim 198	\$437.00

(C. Smalley-D. Hamm m/s/p) all aye

**ATTORNEY FOR THE TOWN**

The board reviewed the proposals received earlier this month. It was agreed upon that the proposal from Pease and Gustafson (\$150 hr) would be accepted at the organizational meeting on January 9, 2019.

**TEAMSTER'S UNION 2019-21 CONTRACT**

**RESOLUTION #52-APPROVAL OF 2019-21 TEAMSTER'S UNION CONTACT**

On a motion by Councilman Smalley, second by Councilman Hamm, **BE IT RESOLVED** that the Town of Franklin Town Board does hereby accept the proposed 2019-21 Teamster's Union Contract and does hereby **FURTHER RESOLVE** that the Supervisor be authorized to sign the agreement between the union and the Town of Franklin.

Those voting Aye: Supervisor Willman  
Councilman Hamm  
Councilman Smalley  
Councilman Bartiss

Those voting No: None

**ADJOURNMENT**

There being no further business, Supervisor Willman adjourned the meeting at 6:03pm.

Lauren LeFebvre, Town Clerk