

Minutes of the regular monthly meeting of the Jerusalem Town Board held on April 13, 2011 at 7:00 P.M. PRESENT were: Supervisor Jones, Councilors Folts, Parson, Simmons, Stewart, Town Attorney Bailey, Town Clerk McMichael, Town Engineer Ackart.

GUESTS: Taylor Fitch, Elden Morrison, William Pringle, Art Carcone, Richard Ackerman, Dwight Simpson, John Christensen; Chronicle Express reporter, Patrick Killen, Gary Dinehart, Richard J. Curbeau.

Supervisor Jones called the meeting to order with the Pledge to the Flag at 7:00 P.M.

RESOLUTION #77-11

APPROVAL OF MINUTES

On a motion of Councilor Stewart, seconded by Councilor Simmons, the following was

ADOPTED Ayes 5 Folts, Jones, Parson, Simmons, Stewart
Nays 0

Resolved that the minutes of the March 8, 2011 special meeting be approved as read.

RESOLUTION #78-11

APPROVAL OF MINUTES

On a motion of Councilor Simmons, seconded by Councilor Stewart, the following was

ADOPTED Ayes 4 Folts, Jones, Simmons, Stewart
Nays 1 Parson

Resolved that the minutes of the March 16, 2011 regular meeting be approved as read.

Councilor Parson opposed as Supervisor Jones read a prepared statement following the vote on Resolution #70-11 which should have been done during discussion. This comment was so noted by Supervisor Jones.

RESOLUTION #79-11

AUDIT OF CLAIMS

On a motion of Councilor Parson, seconded by Councilor Stewart, the following was

ADOPTED Ayes 5 Folts, Jones, Parson, Simmons, Stewart
Nays 0

Resolved that the bills be paid as presented in the following amounts:

General:	\$49,056.10
General OV:	\$ 648.19
Highway DA:	\$ 3,190.27

Highway DB:	\$10,886.58	
Sewer:	\$ 5,095.69	
Water:	\$110,810.75	
Branchport Light:	\$ 250.59	
March utilities:	General:	\$ 3,014.81
	Sewer:	\$31,047.14
	Water:	\$ 457.54
	Outside Village:	\$ 36.94

RESOLUTION #80-11
SUPERVISOR REPORT

On a motion of Councilor Stewart, seconded by Councilor Parson, the following was

ADOPTED Ayes 5 Folts, Jones, Parson, Simmons, Stewart
Nays 0

Resolved that the Supervisor's Report on the Town's finances for the month of March 2011 be accepted as presented.

REPORT OF TOWN OFFICIALS:

HIGHWAY:

- Written Budget Highway report on file in the Office of the Town Clerk. Expenses are being monitored as diesel is now \$3.42/gallon and was budgeted at \$2.60/gallon.
- Yates County Highway removed signs while working on roads in the Keuka Park area. Replacement signs will be put up in 1-2 weeks.
- Additional drainage will be placed by Yates County Highway to redirect water in response to issues raised by Mary Kay Stine, 3391 Guyanoga Road at the March 16, 2011 meeting.

ENGINEER:

- Notes of the April 5, 2011 meeting have been e-mailed.
- A procedure to reduce our THM levels by flushing into a 36" culvert at the end of the East Bluff Drive waterline is being coordinated between KPSW and the Highway Department.
- We are addressing ways to reduce our pump station electric usage at the Keuka Lake State Park.
- The contract received from Larson Engineering has been sent to Attorney Bailey for review.
- A considerable amount of action has occurred on the townhouse project. Town Engineer Ackart will be submitting his written report to the Town Board as required by the process.
- Our financial advisor informed us there are no options for refinancing our bonds to take advantage of the current low interest rates.
- Councilor Stewart took the opportunity to commend Mr. Ackart for the work he does. During a recent conversation with special counsel on the town house project, Attorney Hafner stated Mr.

Ackart has identified issues and is asking appropriate questions on behalf of the Town.

COUNCIL

- A concerned group of residents continues to meet regarding wind farm regulations. Proposed regulations will be presented to the Planning Board and then to the Town Board.
- Councilor Simmons provided a summary of election costs, noting his concern with the 31.2% currently paid by Jerusalem and suggested alternative methodologies to allocate costs to the towns that could result in an estimated \$28,298 savings to Jerusalem.
- Workman's Compensation costs to the towns are also being reviewed. County Legislator Fitch is awaiting data on the towns' costs. Costs are allocated based on both the assessment and experience.

SUBCOMMITTEE REPORTS

YATES COUNTY MARCELLUS SHALE TASK FORCE:

No report.

HYDROFRACKING IMPACT STUDY SUBCOMMITTEE:

The newly formed Hydrofracking Impact Study Subcommittee initiated their meetings, but has no report for the Board yet. Supervisor Jones was asked to let Peter Gamba know that the phone number he left for Councilor Folts has been disconnected so he has been unable to contact Mr. Gamba.

ASSESSMENT COMMITTEE:

Councilor Parson stated May 22nd will be Acting Assessor Comstock's last day to work. No petition was filed forcing the referendum so the Assessor position will now be appointed by the Town Board.

CONSERVATION/RENEWABLE ENERGY SUBCOMMITTEE:

The Subcommittee will meet April 19th.

RESOLUTION #81-11

RESOLUTION AUTHORIZING ADOPTION BY THE TOWN BOARD OF THE TOWN OF JERUSALEM OF LOCAL LAW NO. 2-2011 (PROPOSED) IMPOSING A ONE-YEAR MORATORIUM ON DRILLING FOR NATURAL GAS WITHIN THE MARCELLUS SHALE

On a motion of Supervisor Jones, seconded by Councilor Stewart, the following was

ADOPTED BY ROLL CALL VOTE:

Supervisor Jones	Aye
Councilor Parson	Aye
Councilor Simmons	Aye
Councilor Stewart	Aye
Councilor Folts	Aye

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Jerusalem for a public hearing to be held by said Town Board on February 16, at 7:00 P.M. at the Town Hall at 3816 Italy Hill Road, Branchport, New York, to hear all interested parties on a proposed Local Law entitled "A Local Law of the Town of Jerusalem imposing a one-year moratorium on drilling for natural gas within the Marcellus Shale", and

WHEREAS, notice of said public hearing was duly advertised in The Chronicle Express, the official newspaper of said Town, on February 2 and February 9, 2011, and

WHEREAS, said public hearing was duly held on February 16, 2011, at 7:08 P.M. at the Town Hall at 3816 Italy Hill Road, Branchport, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof, and

WHEREAS, the Yates County Planning Board recommended approval of the proposed Local Law on March 24, 2011, pursuant to section 239-m of the General Municipal Law, and

WHEREAS, the Town Board of the Town of the Town of Jerusalem, after due deliberation, finds it in the best interest of said Town to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Jerusalem hereby adopts said Local Law No. 2 of 2011 entitled "A Local Law imposing a one-year moratorium on drilling for natural gas within the Marcellus Shale", a copy of which is attached hereto and made a part of this resolution,

Be it enacted by the Town Board of the Town of Jerusalem as follows:

Section 1. Purpose and Intent

Pursuant to the statutory powers vested in the Town of Jerusalem (the "Town") to regulate and control land use and to protect the health, safety and welfare of its residents, the Town Board of the Town hereby declares a one year moratorium on the drilling for or extraction of natural gas within that subterranean area known as the Marcellus Shale by the process commonly known as high-volume hydraulic fracturing.

The Town Board is aware of the current controversy surrounding the process of high-volume hydraulic fracturing. It realizes that

there are a number of reasons to support the use of that process, but that many questions have been raised by persons opposed to it. The opponents assert that use of that process could create permanent damage to the environment arising from the use of dangerous chemicals near the source of supply of drinking water supply, volume or water required and the proper disposal of that water, as well as vastly increased truck traffic on our country roads.

The Town Board is also aware that the State of New York is currently evaluating this process and its effect on the environment. The Governor issued Executive Order Number 41 on December 13, 2010 requiring the Department of Environmental Conservation to report to him subsequent to June 1, 2010 on the status of the Final SGEIS and the regulatory conditions that are necessary to include in oil and gas well permits to protect public health and the environment. The Board knows that a determination of the policy that should be in effect in Jerusalem concerning this issue will involve reconciliation of scientific and engineering information not within the usual expertise of the Board. This policy may involve the affect of increased truck traffic on the roads in the Town of Jerusalem and the question of whether the extraction of natural gas by the process of high-volume hydraulic fracturing within the Town is compatible with the Comprehensive Plan of the Town.

The Town Board of the Town desires to address, in a careful manner, the question of whether the process of hydraulic fracturing should be allowed at all in this Town and if so under what circumstances.

The Town Board is now in the process of considering various options relating to this issue. The Town Board finds and determines that it needs the period of time covered by the moratorium imposed hereby in order to carefully study the question, draft proposed amendments to the Town Code, make appropriate changes to the draft, schedule and hold the required public hearing on the Local Law, perform an appropriate environmental review of the Local Law, comply with applicable provisions of law, adopt the Local Law, and file a copy of the Local Law, as adopted, with the Secretary of State of the State of New York.

Section 2. Scope of Controls

- A. During the effective period of this Local Law:
1. The Town Board of the Town shall not grant any approvals that would have as the result the drilling for or extraction of natural gas within the Town of Jerusalem from that subterranean

area known as the Marcellus Shale by the process known as hydraulic fracturing.

2. The Town Planning Board shall not grant any preliminary or final approval to a subdivision plat, site plan, special use permit or other permit that would have as a result the drilling for or extraction of natural gas within the Town of Jerusalem from that subterranean area known as the Marcellus Shale by the process known as hydraulic fracturing.

3. The Town Zoning Board of Appeals shall not grant any variance or other permit for any use that would result in the drilling for or extraction of natural gas within the Town of Jerusalem from that subterranean area known as the Marcellus Shale by the process known as hydraulic fracturing.

4. The Code Enforcement Officer of the Town shall not issue any permit that would result in the drilling for or extraction of natural gas within the Town of Jerusalem from that subterranean area known as the Marcellus Shale by the process known as hydraulic fracturing.

B. Notwithstanding the foregoing, this local law does not affect the drilling for or extraction of natural gas within the Town of Jerusalem from other subterranean areas using means that have previously used within the town; provided that if hydraulic fracturing has been previously used in Jerusalem, it may not be used with the volume or intensity now proposed for use within the Marcellus Shale.

Section 3. No Consideration of New Applications

No applications for permits prohibited by this Local Law or for approvals for a site plan, subdivision, variance, special use permit or other permit prohibited by this Local Law shall be considered by any board, officer or agency of the Town while the moratorium imposed by this Local Law is in effect.

Section 4. Term

The moratorium imposed by this Local Law shall be in effect for a period of one year from the time when the Supplemental Generic Environmental Impact Statement (SGEIS) relating to the extraction of natural gas by the process of high-volume hydraulic fracturing now under review by the New York State Department of Environmental Conservation is final and permits for such extraction may be issued so far the New York State Environmental Conservation Law is concerned.

Section 5. Penalties

Any person, firm or corporation that shall establish, place, construct, enlarge or erect any structure within the Town for the purpose of engaging in the extraction of natural gas by the process of high-volume hydraulic fracturing in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be subject to:

A. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules, regulations of the Town for violations; and

B. Injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction that may have taken place in violation of this Local Law.

Section 6. Validity

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

Section 7. Hardship

A. Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner of said property may apply to the Town Board of the Town in writing for a variation from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. For the purposes of this Local Law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special permit, site plan, subdivision, or other permit during the period of the moratorium imposed by this Local Law.

B. Procedure. Upon submission of a written application to the Town Clerk by the property owner seeking a variation of this Local Law, the Town Board shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days' written notice in the official newspaper of the Town. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this Local Law. If the Town Board determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board shall vary the application

to this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

Section 8. Effective Date

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

;and, be it further

RESOLVED, that the Town Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of the Town of Jerusalem, and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

RESOLUTION #82-11

AMEND RESOLUTION #69-11 TIME CLOCK - SECTION 504 TIME RECORD VERIFICATION AND AUTHORIZATION PROCEDURE

On a motion of Councilor Stewart, seconded by Councilor Simmons, the following was

ADOPTED Ayes 4 Folts, Parson, Simmons, Stewart
 Nays 1 Jones

Whereas Resolution #76-11 established the payroll process for the Acting Assessor whereby a time sheet noting the dates worked every two weeks according to the payroll schedule would be submitted; and

Whereas said procedure does not comply with the Time Record Verification and Authorization Procedure established under Resolution #69-11; now, therefore, be it

Resolved that the Time Record Verification and Authorization Procedure be amended as follows:

TIME RECORD VERIFICATION AND AUTHORIZATION PROCEDURE

TIME CARDS are completed by the following employees and verified by the Supervisor:

- Board of Assessment Review Secretary
- Bookkeeper
- CEO
- CEO Clerk
- KPSW Department Head
- KPSW Water Maintainer
- KPSW Clerk
- ZAP Clerk

TIME CARDS are completed by the following employees and verified by the Highway Superintendent:

- All Highway employees

TIME CARDS are completed by the following employees and verified by the Town Clerk:

- Deputy Town Clerk
- Deputy Tax Collector

TIME SHEETS are completed by the following employees:

- Acting Assessor
- Budget Officer
- Court Clerk
- Deputy Court Clerk
- Historian
- Planning Board Secretary
- Planning Board Committee Secretary
- Recreation Program
- Town Engineer

RESOLUTION #83-11

OVERTIME PAY FOR PART-TIME EMPLOYEE FOR HIGHWAY

On a motion of Councilor Simmons, seconded by Councilor Parson, the following was

WITHDRAWN

Whereas, in a situation where part-time or temporary personnel are brought in for snow removal or emergency work situation the Highway Superintendent is authorized to approve overtime pay for hours worked beyond the normal workday.

Now, Therefore, Be It Resolved that the Town Superintendent of Highways is authorized to approve highway personnel overtime for hours worked over the normal work day for snow removal or emergency situation.

Also, Be It Resolved that a copy of this Resolution be added to the Employees Handbook under the title (702) Overtime/compensation Time).

DISCUSSION:

After a lengthy discussion, the matter was referred back to the Highway Committee to develop options.

ADVERTISE ASSESSOR

The Assessment Committee will draft an advertisement for the Assessor position.

RESOLUTION #84-11

RECOGNIZING THE IMPORTANCE OF COUNTY SHERIFF'S MARINE PATROL AND STATE NAVIGATION FUNDING FOR SERVICES

On a motion of Supervisor Jones, seconded by Councilor Stewart, the following was

ADOPTED Ayes 4 Folts, Jones, Parson, Simmons, Stewart
Nays 0

WHEREAS, the Town of Jerusalem has approximately 20 miles of shoreline on Keuka Lake; and

WHEREAS, the New York State Office of Parks and, Recreation and Historic Preservation Marine Services Division designates the County Sheriff to be the point of contact for marine patrols, safety, law enforcement, boat operator education, salvage operations, inspections, and issuance of hull identification numbers as well as review and approval of floating object and regatta permits; and

WHEREAS, the Sheriff's Marine Patrol provides the residents of Jerusalem the services of responding to emergencies on our lake ie: boating accidents, vessel fires, reckless operation, drowning, search, rescue and recovery operations, to mention only a few, and makes Keuka Lake a safe environment for our residents, and all recreational boaters, and

WHEREAS, the funding for a portion of the Marine Patrol was reimbursed by the State, and

WHEREAS, the Governor's proposed funding cuts reimbursement for Marine Patrols, will now require our residents to bear the cost,

NOW, THEREFORE, BE IT RESOLVED, that the Town of Jerusalem urges the Governor to reconsider the removal of this important financial aid, and

RESOLVED, that the Clerk forward a copy of this resolution to Gov. Andrew M. Cuomo, Lt. Gov. Robert Duffy, our Assembly and Senate representatives and Sheriff Ronald G. Spike.

RESOLUTION #85-11

RESIGNATION - BOARD OF ASSESSMENT REVIEW

On a motion of Councilor Folts, seconded by Supervisor Jones, the following was

ADOPTED Ayes 5 Folts, Parson, Jones, Simmons, Stewart
Nays 0

Resolved the resignation of Mary St. George from the Board of Assessment Review be accepted.

RESOLUTION #86-11

APPOINTMENT - BOARD OF ASSESSMENT REVIEW

On a motion of Councilor Stewart, seconded by Councilor Simmons, the following was

ADOPTED	Ayes	5	Folts, Parson, Jones, Simmons, Stewart
	Nays	0	

Whereas a letter of interest in serving on the Board of Assessment of Review from Edward Webb is on file with the Town Clerk for future vacancies; now, therefore, be it

Resolved Edward Webb be appointed to the Board of Assessment Review to fill the unexpired term of Mary St. George through September 30, 2013.

RESOLUTION #87-11

APPOINTMENT - DEPUTY COURT CLERK

On a motion of Councilor Folts, seconded by Councilor Stewart, the following was

ADOPTED	Ayes	5	Folts, Parson, Jones, Simmons, Stewart
	Nays	0	

Whereas Justice Davison has informed the Town that Deputy Court Clerk Diane Caves is no longer able to assist him due to the demands of her current occupation; now, therefore, be it

Resolved Patricia Powers be appointed Deputy Court Clerk at an hourly rate of \$11.88 effective April 13, 2011; and, further, be it

Resolved that a letter be sent to Ms. Caves thanking her for her years of service to both the Planning Board and Court.

RESOLUTION #88-11

TABLE PROPOSED LOCAL LAW AMENDING CHAPTER 131 SEWERS

On a motion of Councilor Folts, seconded by Councilor Parson, the following was

ADOPTED	Ayes	5	Folts, Parson, Jones, Simmons, Stewart
	Nays	0	

Resolved the proposed local law amending Chapter 131. Sewers be tabled for further review.

RESOLUTION #89-11

SCHEDULE TOWN CLEAN-UP DAY

On a motion of Councilor Parson, seconded by Councilor Folts, the following was

ADOPTED	Ayes	5	Folts, Parson, Jones, Simmons, Stewart
	Nays	0	

Resolved Town Clean-Up Day be scheduled and advertised for June 11, 2011, 900 A.M. - 3:00 P.M. at the Highway Department.

PUBLIC COMMENT

Councilor Simmons asked Yates County Legislator Fitch to provide an update on the County's request for proposals sent to certified home health agency service providers.

RESOLUTION #90-11

MOVE TO EXECUTIVE SESSION

On a motion of Councilor Folts, seconded by Councilor Simmons, the following was

ADOPTED	Ayes	5	Folts, Parson, Jones, Simmons, Stewart
	Nays	0	

Resolved that this meeting be interrupted to go into Executive Session to discuss pending litigation.

The Executive Session convened at 8:57 P.M.

RESOLUTION #91-11

RETURN TO REGULAR SESSION

On a motion of Councilor Stewart, seconded by Councilor Folts, the following was

ADOPTED	Ayes	5	Folts, Parson, Jones, Simmons, Stewart
	Nays	0	

Resolved that the Board return to regular session.

The Board reconvened in regular session at 9:25 P.M.

PUBLIC CONCERN

Elden Morrison addressed the Board regarding comments in his recent letter to the editor about Councilor Folts' vote on Resolution #70-11 approving the Larson Design Group Municipal Services Agreement and instituting the use of a time clock at the Town Hall.

Attorney Bailey stated that he had advised Councilor Folts last month that his vote would be a judgment call as New York State law states there is only an interest when the child is a minor. In this particular situation, as an employee of Larson Design Group this law did not apply and there was no conflict.

Mr. Morrison stated a 3-2 vote by the Town Board to purchase a time clock for the Town Hall seemed odd. He questioned the number of employees utilizing it. The time clock at the Town Office is currently used by six full-time and two part-time employees.

Mr. Morrison spoke to his personal experience with a time clock finding it to be dehumanizing and he does not like it. He added usually advocates of a time clock want someone else to use it, and not themselves. He is not convinced by the statement that the Highway Department uses a time clock; therefore one is needed at the Town Hall. It is a different deal. If the Board is concerned with a level playing field, they should remove the time clock from the Highway Barn. He read Councilor Simmons' editorial on the potential \$28,000 savings. However, the editorial did not state the time period associated with this savings, i.e., day, month or year. He questioned what problem the time clock purchase solved, noting the Town Office has functioned for several decades without one.

Councilor Folts clarified the \$28,000 savings is related to election costs, not the time clock.

Councilor Parson stated the Town is one entity that includes both the office and the highway. He spoke to the Highway employees and using a time clock is not an issue in the Highway department. He believes over time everyone will get used to punching the time clock as part of their daily routine.

Gary Dinehart questioned why the Acting Assessor does not have to use the time clock. Councilor Parson stated Supervisor Jones can take disciplinary action outlined in the Employee Handbook, but Mr. Comstock will be leaving soon. Councilor Folts stated there have been complaints from the Highway Department that they have to use a time clock so why doesn't the Town Hall.

Councilor Parson stated other departments working four days/week like the Highway can be discussed by the Town Board.

With there being no further business, on a motion of Councilor Stewart, seconded by Councilor Folts, the meeting was adjourned at 9:42 P.M.

Sheila McMichael, Town Clerk