

Minutes of the regular monthly meeting of the Jerusalem Town Board held on August 15, 2007 at 7:00 P.M. at the Branchport Fire Hall. PRESENT were: Supervisor Jones, Councilpersons Folts, Hopkins, Stewart, Highway Superintendent Payne, Town Engineer Ackart, Town Clerk McMichael.

GUESTS: Kathy & Mike Morton, Max Parson, Bill Pringle, June Hathaway, Steven & Jane Smith, John Payne, Loujane Johns, Chronicle Express Reporter, Cynthia Geertson, Bob Evans, Howard DeMay, Peg Thompson, Dundee Observer Reporter, John Atkinson, Susan Austin, Linda Barkley, Carolyn & Dick Clouser, Jim Bird, Leonard & Dolores Lang, Gary & Jan Molyneaux, Don & Priscilla Erickson, Tom Metasko, Charles Boyer, Jorgen Overgaard, Linda Smith, Richard Dever, Thomas Hines, Cookie & Ed Webb, Anne & Kent Salisbury, Conrad Tunney, and other unidentified guests.

EXCUSED: Councilperson Barden.

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

RESOLUTION #112-07

OPEN PUBLIC HEARING - WATER DISTRICT CONSOLIDATION

On a motion of Councilperson Hopkins, seconded by Councilperson Stewart, the following was

ADOPTED	Ayes	4	Folts, Hopkins, Jones, Stewart
	Nays	0	

With proof of notice having been duly published and posted, the Public Hearing on the Water District Consolidation was opened at 7:03 P.M.

RESOLUTION #113-07

POSTPONE PUBLIC HEARING - PROPOSED WATER DISTRICT CONSOLIDATION

On a motion of Councilperson Hopkins, seconded by Councilperson Stewart, the following was

ADOPTED	Ayes	4	Folts, Hopkins, Jones, Stewart
	Nays	0	

Resolved that the Public Hearing on the water district consolidation be postponed as the mass mailing from the Town to the Keuka Park water district and extensions property owners and water customers incorrectly stated the time of the public hearing as 7:30 P.M.

RESOLUTION #114-07

APPROVAL OF MINUTES

On a motion of Councilperson Folts, seconded by Councilperson Hopkins, the following was

ADOPTED	Ayes	3	Folts, Hopkins, Jones
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Nays 0  
Abstain 1 Stewart

Resolved that the minutes of the July 18, 2007 meeting be approved as read.

RESOLUTION #115-07

APPROVAL OF AUDIT NOTES

On a motion of Councilperson Hopkins, seconded by Councilperson Stewart, the following was

ADOPTED Ayes 3 Hopkins, Jones, Stewart  
Nays 0  
Abstain 1 Folts

Resolved that the notes of the August 1, 2007 review of the 2006 audit be approved as read.

RESOLUTION #116-07

AUDIT OF CLAIMS

On a motion of Councilperson Stewart, seconded by Councilperson Hopkins, the following was

ADOPTED Ayes 4 Folts, Hopkins, Jones, Stewart  
Nays 0

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

General: \$ 8,512.44  
Highway DA: \$ 2,574.49  
Highway DB: \$38,610.84  
Sewer: \$33,205.65  
Water: \$12,308.72

July Utilities: General: \$ 42.35  
Water: \$106,098.55  
Sewer: \$ 9,482.68

RESOLUTION #117-07

SUPERVISOR REPORT

On a motion of Councilperson Hopkins, seconded by Councilperson Folts, the following was

ADOPTED Ayes 4 Folts, Hopkins, Jones, Stewart  
Nays 0

Resolved that the Supervisor's Report on the Town's finances for the month of July 2007 be accepted as presented.

REPORT OF TOWN OFFICIALS

HIGHWAY SUPERINTENDENT

Written report of roadwork done in July 2007 on file in the Office of the Town Clerk. Highway Superintendent Payne reported things are going well and the good weather has allowed us to get a lot of gravelling done, noting the 2006 gravel pit purchase was a good investment for the Town.

#### TOWN ENGINEER

- Town Engineer Ackart reported in response to our request for information on the Penn Yan Sewer Treatment Plant costs and budget, a meeting was held August 2<sup>nd</sup> with the Penn Yan Municipal Board; Ed Balsey, Director of Public Works; Bob Elliott from Lu Engineers, and the Town of Milo. We are anticipating considerable expenses related to the Sewer Plant. Sewer rates are increasing 10% for the Village's 2007-2008 fiscal year.
- We completed the Vulnerability Assessment and Emergency Response Plan for Sewer District #2 and submitted the Certificate of Completion to USDA Rural Development as requested.
- We experienced our first plugged Sewer District #2 lateral after five years of operation. Water Maintainer Dinehart made a device which we can use to pressurize the lateral from a compressor.
- Progress continues on the Pulteney Water District.

#### COUNCIL

- Councilperson Stewart stated the Summer Youth Recreation Program ended August 9<sup>th</sup>. The final report will be presented at the September Town Board meeting.
- Councilperson Stewart spoke with Councilperson Barden who is recuperating following his recent hospitalization.
- Councilperson Folts reported candidates for the alternate position on the Zoning Board will be interviewed. At the August 9<sup>th</sup> Zoning Board meeting, an area variance was granted and two other matters tabled. The special use permit for Keuka College to convert the structure at 132 Central Avenue from office space into student housing was granted.
- Councilperson Hopkins stated the Planning Board approved the Keuka College matter at their August 2<sup>nd</sup> meeting and forwarded it on to the Zoning Board for their consideration, as previously reported. Bill Sutherland's preliminary proposal to build a 5-unit townhouse for rental in Keuka Park was approved, pending the return to the Planning Board next month with detailed plans. The Planning Board also discussed their 2008 budget request and Board training requirements.

#### SUPERVISOR

Supervisor Jones received a letter from the Village of Penn Yan notifying the Town that our 2002 Sewer #2 Agreement Addendum payments are in arrears. The Village has stated unless the sums

due are paid current on or before August 31, 2007, litigation to enforce the Addendum Agreement is likely. The Village was notified by legal counsel of the Town's position that the 40-year term of the 2002 Addendum to the Sewage Disposal Agreement for Sewer #2 is subject to a 5-year statutory limitation on the duration of inter-municipal agreements, therefore the term of the Addendum expired February 12, 2007. The Town Board determined renewal of the Addendum was not necessary by Resolution #59-07.

SUBCOMMITTEE REPORTS

- Wind Farm Subcommittee member Bill Pringle stated the bus trip to see the wind farm in the Town of Fenner has been rescheduled to September 13. We need a minimum of 20 people to sign up. He may be contacted at 536-2663 to reserve a spot on the bus.
- Councilperson Folts reported the Slopes Subcommittee held two meetings this month and will meet again in September. Proposed regulations have been drafted and the Subcommittee has asked that Rick Ayers, Yates County Soil & Water be given permission to contact Town Attorney Bailey for legal opinion on a couple matters related to the proposed regulations.
- Councilperson Folts reported the Subdivision Subcommittee held a lengthy meeting with Consultant Andy Raus. Draft regulation will be forthcoming from the consultant for review and consideration by the Subcommittee. The consultant has advised the Subcommittee that a considerable amount of work will need to be done on the Town's zoning code once subdivision regulation is adopted.
- Adult Entertainment Subcommittee member Bob Evans stated the proposed amendments to our adult entertainment regulations are out of the hands of the Planning Board and their Subcommittee as they are currently under legal review.

RESOLUTION #118-07

AUTHORIZE LEGAL EXPENSE - SLOPES SUBCOMMITTEE REQUEST

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

ADOPTED	Ayes	4	Folts, Hopkins, Jones, Stewart
	Nays	0	

Whereas the Slopes Subcommittee has been established to research and recommend proposed regulations regarding development on sloped lands in the Town of Jerusalem; and

Whereas the Slopes Subcommittee has questions on said proposed regulations and is seeking legal opinion on those matters; now, therefore, be it

Resolved that Rick Ayers, as a member of the Slopes Subcommittee be authorized to contact Town Attorney Phil Bailey for the legal consultation services needed.

Discussion - Alconero Open Development Application

Councilperson Hopkins stated the Alconero Open Development Area Application is still under review by the Planning Board. Planning Board Chair, Bob Evans added various Town, County and DEC officials have met with the Alconero's to discuss issues related to their application.

RESOLUTION #119-07

OPEN PUBLIC HEARING - PROPOSED WATER DISTRICT CONSOLIDATION

On a motion of Councilperson Stewart, seconded by Councilperson Hopkins, the following was

ADOPTED	Ayes	4	Folts, Hopkins, Jones, Stewart
	Nays	0	

With proof of notice having been duly published and posted, the Public Hearing on the proposed water district consolidation was opened at 7:30 P.M.

Supervisor Jones outlined the rules for speaking at the Public hearing. He read letters of support from Thomas Yost, Donald Hunt, Frank Strong. Gerald Garren submitted written comments, but did not state his position on the matter. Supervisor Jones also read an e-mail from Gene Mitchell stating he was not sure which district he was located in and he disagreed with some of the "Pros" provided in the Town's mass mailing as he views them as "Cons". Supervisor Jones received three phone calls from Jeff Crans, Tom Brown and William Brookner supporting the consolidation.

Town Engineer Wayne Ackart reviewed the mailing from the Town on the comprehensive plan designed to lower costs and to provide more efficient operation of our water system. Major elements are:

- Reduction of the water rate from \$6.59 to \$5.95/1,000 gallons.
- Reduction of the Minimum Purchase from 48,000 to 40,000 gallons/year.
- Consolidation of Keuka Park Water District and Extensions #1, #2 and #3.
- Creation of Reserve Funds for future capital projects.
- Capital Charge collection on the Annual Property Tax Bill.

The mailing also provided eight reasons why the Town is able to propose the Rate and Minimum reductions, the Pro's and Con's of the Consolidation and a water district analysis of the current 2007 rate structure compared to proposed 2008 rate structure should the plan be implemented.

It was noted depending on the district you are located in, the pros and cons as provided by the Town could be argued as not being in the right category as pointed out by Mr. Mitchell's in his e-mail. Although a lot of people put thought into this list, it does bear review. Town Engineer Ackart reviewed the Pro's and Con's list on the consolidation.

**PRO'S**

1. Consolidation would significantly simplify administration, budgeting, accounting and billing.

2. The consolidated capital charge may be placed on the annual January tax bill instead of the current practice of collection on periodic water bills during the year. Water fund cash flow would be improved, assuring that funds are on hand for principal and interest payments which must be made during each year.

3. Consolidation would satisfy recommendations by the Town's auditors concerning segregation and reconciliation of water accounts.

4. Consolidation would facilitate funding of a common reserve fund to partially or fully defray future capital projects.

5. KPWD and Extension #1 currently have \$2,536,000 in bonded indebtedness which will be retired in 2032. Extension #2 has \$1,609,000 in bonded indebtedness which will be retired in 2038. Extension #3 has \$2,820,571 in bonded indebtedness which will be retired by 2034. The combined consolidated debt would be fully satisfied by 2038.

6. All future capital expenses of the Consolidated KPW District would be spread over a much larger base, minimizing the cost that would be incurred by the original KPWD or Extension(s) individually. The following are significant future capital projects facing KPWD and and/or the Extensions individually:

- Replacement of original water mains in Keuka Park and the State Park
- Maintenance and replacement of water tanks in Keuka Park(1) and State Park(2), total 3 tanks.
- Re-chlorination, pumping, instrumentation and control systems.

**CON'S**

1. Loss of individual fiscal and administrative autonomy for KPWD and and/or the Extensions.

2. Perception that a current separate District or Extension(s) may be subsidizing others after consolidation.

The Town Board engaged the services of Bernard P. Donegan, Inc. to assist with the rate study. Financial Consultant Chuck Bastian was present to review the principle points of the rate study. He explained consolidating water districts is allowed by Town Law 206. It is a normal process for Towns to consider consolidation once they obtain critical mass or have created enough districts; the Town then needs to determine if it would be feasible to consolidate. A long range planning analysis was done using different scenarios of water rates and minimums to project out fund balances that would allow us to manage into the future.

Mr. Bastian commented on the water rate analysis included in the mailing. The analysis provides the proposed rate structure for 2008 resulting in an overall savings for all districts. The analysis either kept rates steady or helped build up the fund balance or reserve amount. He noted the importance of continuing to build reserves so that when any work (minor or major) needs to be done, the costs can be offset, even if bonding the project is necessary. The budgeting process in future years will take into account the actual Debt Service that needs to be raised, plus whatever additional amount is needed for Fund Balance (or Reserve contribution). This will then be divided by the current number of Equivalent Dwelling Units (EDU's) to establish the annual rate. The water rate and minimum purchase would then be adjusted at year end as a part of the annual budgeting process.

Mr. Bastian explained how the consolidation is seen as a benefit to all water customers. Specifically in District 1 with their aging lines, their benefit would be the additional near-term potential liability of their system being spread to the other districts. Therefore, the gain for District 1 customers is from a long range planning approach, whereas Districts 2 and 3 customers readily see a financial gain because of their proposed rate reduction. Eventually Districts 2 and 3 will also realize the long-range gain like District 1. Therefore, the Town believes it would be in the public's interest to assess all expenses of the consolidated district, including all extensions hereafter established, as a charge against the entire area of the consolidated district.

Currently, minor water maintenance is commonly funded within the district and extensions. However any major maintenance, replacement or capital project would be the responsibility of a particular district or extension(s).

Town Attorney Bailey explained the legal process involved. If the Town Board adopts a resolution to consolidate the water districts, it would be subject to permissive referendum. A notice of the adoption of the resolution must be published in the newspaper. The public will have 30 days to submit a petition to the Town Clerk. The petition can only be signed by the property owners of parcels within the water district. There are three possible totals of qualified electors, any one of which would require a referendum, if they sign a petition:

1. 25 electors from each district (i.e. a total of 100)
2. 200 electors from the entire area of the consolidated district without regard to which district they come from.
3. 50% of the electors in any one district.

The Town Clerk will tabulate the signatures to determine if any of the three thresholds have been met and a special election would be held. If the voters approve, the formation of the single district would be effective December 31.

Town Attorney Bailey clarified qualified petitioners. It is the owner of the property, not the person living there, i.e. leased land. If there is more than one owner, each person can vote. Land in trust is one vote. The College is one vote.

All persons desiring to speak either on behalf of or in opposition to said proposed consolidation were afforded an opportunity to do so.

Dick Bank, John Payne, Priscilla Erickson, Walt Peek, John Atkinson and Ernie Pinneo posed questions related to the administration, budgeting, accounting and billing aspects of the consolidation. It was explained that the analysis provided is strictly on current debt for 2008. The Town will need to look at fund balance and determine reserves to help fund or totally fund future projects. Adjustments in the water rate and minimum purchase are part of the annual budget process to realize a balanced budget. The Town is proposing to reduce both the water rate and the minimum purchase at this time. The impact of additional residences in the districts as new houses are being built was questioned. This issue has been discussed by Town personnel. There are associated fees to connect to the water system, but we have never determined how to capture that "catch-up" capital charge.

The \$24 transmission fee in Districts 1 and 2 was questioned. The Board will also consider eliminating the transmission fees should the consolidation occur. The transmission fee noted in the analysis was a carryover from our current practice which is another administrative nightmare as inter-fund transfers from one district to another are done.

John Payne stated placing the capital payments on the annual January tax bill could create a financial hardship. This would only be the capital charge, not usage.

Lawrence Muscarella asked if there was a 10-year capital plan by district. Town Engineer Ackart provided further detail on the anticipated water system upgrades. Repainting and improvements to the Keuka Park water tank are expected in 7-10 years at an estimated cost of \$100,000. New York State regulation now requires mixers to be installed in the tanks at a cost of \$300,000. The State Park water mains are 40 years old and the Keuka Park mains are over 70 years old. The Town took over the original Keuka Park system from the College in the 1980's, consisting of over 11,000 feet of mains that range from 50-70 years old. Replacement of some of those original water mains in the next 10-30 years will cost an estimated \$1 million. We are anticipating the need to replace the main on Cedar Street within two years. Expenses will increase as the system ages, because of inflation and increased state and federal regulations. However, we plan to minimize the effects thereof by realizing increased efficiencies through the consolidation.

The current bonded indebtedness received comment from Bill Pringle who felt the information provided was very vague and the residents need more education. This proposal does not seem fair to the residents in the original Keuka Park District and District 1. Howard DeMay stated he has been through every water district formation. He questioned the Board's authority to consolidate because these figures were set in stone when the districts were formed. He noted District 2 will realize the biggest break, while KPWD and District 1 will see an increase in their capital charge and pay six years longer. Conrad Tunney, Jorgen Overgaard, and Max Parsons also spoke to the current bonded indebtedness by district.

Priscilla Erickson, Lawrence Muscarella, Steve Smith, John Atkinson commented on the noted significant future capital projects and their associated expense. Several residents questioned assuming the potential \$1M project that will be needed in District 1 to repair the original water mains. Town Engineer Ackart explained that if the districts do not consolidate, District 1 customers will stand alone on the total cost of the project. There are no water projects or District 4 planned at this time.

Don and Priscilla Erickson clarified that when the Pulteney district comes on line, those funds will go in reserve.

Questions were also posed regarding the Indian Pines water system the Town assumed from the Village of Penn Yan by Linda Barkley. Priscilla Erickson questioned the difference in the cost of water from the Village to the Town versus what the Town charges its customers. The cost difference is the Town's operating and maintenance costs. The Town now has fund balance to put in reserve funds.

Councilperson Folts stated we have fund balance and that needs to be passed on to the customers. Supervisor Jones reiterated now that we are operating in the black, we are able to propose reducing the rate and also reducing the minimum.

The Board will consider public comment and the proposed consolidation will be on the September 19 Town Board meeting agenda.

RESOLUTION #120-07

CLOSE PUBLIC HEARING - WATER DISTRICT CONSOLIDATION

On a motion of Councilperson Stewart, seconded by Councilperson Hopkins, the following was

ADOPTED	Ayes	4	Folts, Hopkins, Jones, Stewart
	Nays	0	

Resolved that the Public Hearing be closed at 9:03 P.M. and that the Board return to the Regular Town Board meeting.

RESOLUTION #121-07

TABLE PROPOSED MORATORIUM - ISSUANCE OF CERTAIN BUILDING PERMITS

On a motion of Councilperson Hopkins, seconded by Councilperson Folts, the following was

ADOPTED	Ayes	4	Folts, Hopkins, Jones, Stewart
	Nays	0	

Resolved that the proposal moratorium on the issuance of certain building permits be tabled and placed on the September 19, 2007 Town Board meeting agenda.

RESOLUTION #122-07

STATE ENVIRONMENTAL QUALITY REVIEW (SEQR) LAW DETERMINING THE ENVIRONMENTAL NON-SIGNIFICANCE OF THE PROPOSED CONSOLIDATION OF THE KEUKA PARK WATER DISTRICT AND EXTENSIONS NOS. 1, 2, AND 3 OF THE KEUKA PARK WATER DISTRICT OF THE TOWN OF JERUSALEM INTO ONE CONSOLIDATED WATER DISTRICT TO BE DESIGNATED AS THE KEUKA PARK CONSOLIDATED WATER DISTRICT

On a motion of Councilperson Hopkins, seconded by Councilperson Stewart, the following was

ADOPTED	Ayes	4	Folts, Hopkins, Jones, Stewart
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Nays 0

The Town Board of the Town of Jerusalem, duly convened in regular session, does hereby resolve as follows:  
Pursuant to, and in accordance with, the provisions of section 617.6 (Initial Review of Actions and Establishing Lead Agency) of the New York State Environmental Quality Review Regulations (6 NYCRR part 617), the Town Board of the Town of Jerusalem hereby makes the following determinations and classifications with respect to the proposed consolidation of the Keuka Park Water District and Extensions nos. 1, 2, and 3 of the Keuka Park Water District of the Town of Jerusalem into one consolidated water district to be designated as the Keuka Park Consolidated Water District (hereinafter referred to as the "Action").

1. The Town Board of the Town of Jerusalem (hereinafter referred to as "Town Board") hereby determines that the Action is subject to SEQR.
2. The Town Board hereby determines that the Action does not involve a Federal agency, and does not involve other agencies.
3. The Town Board hereby classifies the Action as an Unlisted Action.
4. The Town Board hereby finds and determines that: (a) it has considered the Action, reviewed the short environmental assessment form, reviewed the criteria set forth in 6 NYCRR section 617.7(c), thoroughly analyzed the relevant areas of potential environmental concern, and has duly considered all of the potential environmental effects and their magnitude in connection with the proposed Action; (b) the Action will not result in any large and important environmental impacts, and, therefore, is one which will not have a significant impact on the environment; and (c) the reasons supporting this determination are set forth on the attached Notice of Determination of Non-Significance with respect to this Action (a copy of which is on file in the Office of the Town Clerk of the Town of Jerusalem).
5. The Town Board hereby: (a) adopts a negative declaration pursuant to 6 NYCRR section 617.7 with respect to the Action, (b) authorizes the Supervisor of the Town of Jerusalem to sign a negative declaration determination of non-significance with respect to the Action, and (c) authorizes the Town Clerk of the Town of Jerusalem to forward a copy of said negative declaration determination of non-significance to the New York State Department of Environmental Conservation.
6. This Resolution shall take effect immediately.

RESOLUTION #123-07  
KPSW TRUCK PURCHASE

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

ADOPTED    Ayes            4        Folts, Jones, Hopkins, Stewart  
              Nays                0

Whereas the Keuka Park Sewer and Water (KPSW) 2004 club cab truck with 44,000 miles has been replaced as included in the 2007 budget; and

Whereas the Code Enforcement Officer's (CEO) 2001 single-cab truck has 106,000 miles and needs brakes and tires, now, therefore, be it

Resolved that because of the condition of the CEO's truck, the KPSW 2004 truck be transferred to the CEO; and, be it further

Resolved that funds be transferred from general to water and sewer, along with the monies received for the sale of the CEO's 2001 truck.

RESOLUTION #124-07

SUPPORT OF TOWN JUSTICE COURTS

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

ADOPTED    Ayes            4        Folts, Hopkins, Jones, Stewart  
              Nays                0

Whereas, there has recently been negative press coverage by the *New York Times* and local papers within Yates County suggesting that the Town court system is flawed and more specifically, alleging that the three hundred year tradition of non-lawyer judges presiding over and within the local municipalities should be eliminated, and

Whereas, there has always been a Town Court within the Town of Jerusalem, conveniently located and accessible to our citizens; and

Whereas, there are two (2) town Judgeships established within the Town of Jerusalem; and

Whereas, there are presently two (2) non-attorney Town Justices and no (0) attorney Town Justice within the Town of Jerusalem; and

Whereas, with their civil and criminal jurisdiction, the Town Justices in the Town of Jerusalem handled many hundreds of cases in the past year; and

Whereas, the Town Court of Jerusalem in the past year collected \$30,808 statutory fines, fees and surcharges on behalf of the State of New York, the County of Yates and the Town of Jerusalem, to help fund essential public services; and

Whereas, the Town Board of the Town of Jerusalem recognizes and appreciates the professionalism, diligence, intelligence and integrity of the non-attorney or lay justices within our town who bring a specialized experience to the bench particularly with issues unique to our community who elected them; now, therefore, be it

Resolved, that the members of the Town Board of the Town of Jerusalem support the continuation of the three hundred year tradition of non-lawyer or lay justices presiding in Town Courts; and it is further

Resolved, that the members of the Town Board of the Town of Jerusalem hereby oppose any requirement that Town Justices be attorneys; and it is further

Resolved, that the members of the Town Board of the Town of Jerusalem oppose any efforts to eliminate local and convenient access to justice by our citizens and find that the local presence of the Town Court of Jerusalem provides a meaningful and necessary presence within our community for judicial resolution of conflicts, continued public safety of our citizens and the protection of constitutional guarantees for all of our citizens; and it is further

Resolved, that a copy of this resolution be forwarded to our State Representatives, the Governor and to the Association of Towns.

With there being no further business, on a motion of Councilperson Hopkins, seconded by Councilperson Stewart, the meeting was adjourned at 9:35 P.M.

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Sheila McMichael, Town Clerk