

Minutes of the regular monthly meeting of the Jerusalem Town Board held on February 16, 2011 at 7:00 P.M. PRESENT were: Supervisor Jones, Councilors Folts, Parson, Simmons, Stewart, Town Clerk McMichael, Highway Superintendent Payne, Town Attorney Bailey.

GUESTS: Pat Orcutt, Vaughn Baker, Peter Gamba, Vincent Bedient, Bill Pringle, Nicole Landis, Bill Orcutt, Jeff Hulse, Taylor Fitch, John Christensen; Chronicle Express reporter, Ed Seus, Joe Hoff, Carolyn Clouser, Richard Clouser, George Sproule, Art Hunt, Joyce Hunt, Melanie Steinberg, Dennis Karalow, Debbie Koop, Robert Gillespie.

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

RESOLUTION #46-11
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 January 12, 2011 Organizational meeting be approved as read.

RESOLUTION #47-11
APPROVAL OF MINUTES

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

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

Councilor Simmons requested the following comment be added to the elections discussion on page 5:

Councilman Simmons expressed concern that Jerusalem is paying 31.365% of the total Yates County cost or \$78,033 and we should be half of that.

Resolved that the minutes of the January 19, 2011 regular meeting be approved as amended.

RESOLUTION #48-11
APPROVAL OF MINUTES

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

ADOPTED Ayes 4 Jones, Parson, Simmons, Stewart
Nays 0
Abstain 1 Folts (did not attend)

Resolved that the minutes of the January 25, 2011 special meeting be approved as read.

RESOLUTION #49-11

AUDIT OF CLAIMS

On a motion of Councilor Simmons, seconded by Councilor Folts, 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:	\$	9,165.81
Outside Village	\$	842.80
Highway DB:	\$	15,897.86
Sewer:	\$	121,150.39
Water:	\$	3,599.26
Branchport Light:	\$	283.69
Trust:	\$	2,702.00
January utilities:	General:	\$ 1,982.12
	B'port Light	\$ 363.86
	Sewer:	\$31,539.14
	Water:	\$ 388.06
	Trust:	\$55,317.25

RESOLUTION #50-11

SUPERVISOR REPORT

On a motion of Councilor Stewart, seconded by Councilor Folts, 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 January 2011 be accepted as presented.

RESOLUTION #51-11

PUBLIC HEARING - PROPOSED LOCAL LAW B OF 2011 - IMPOSING A ONE-YEAR MORATORIUM ON DRILLING FOR NATURAL GAS WITHIN THE MARCELLUS SHALE

With proof of notice having been duly published and posted, Supervisor Jones opened the Public Hearing at 7:08 P.M., asking for comments on the proposed local law imposing a one-year moratorium on drilling for natural gas within the Marcellus shale.

The Town Board received written comments from Pat Orcutt and John May in support of the moratorium.

Supervisor Jones stated the moratorium would allow the Town time to establish a committee to draft regulations to present to the Town

Board effective upon the expiration of the Governor's executive order for a moratorium on drilling. The State will be issuing their report following completion of their exploration on the matter regarding the regulatory conditions that are necessary to include in oil and gas well permits to protect public health and the environment. The goal is to result in well-founded regulations developed around a plan.

Joe DeGeorge posed several questions which were answered as follows: There are no applications for permits at the Town. The proposed moratorium would be in place for one year following the expiration of the Governor's executive order for a moratorium on drilling. There are four wells in the Town. Town Attorney Bailey drafted the proposed local law. Mr. DeGeorge offered to have his lawyer review the proposed local law to make it iron-clad at no charge to the Town. Legislators in Albany can be contacted requesting support of the moratorium.

Vince Bedient stated our efforts are a waste of time as there will be no answers until the Department of Environmental Conservation (DEC) study is complete and that will then be immediately challenged in Court by the green movement. It will be months or years before there is any drilling here. The Board should pursue regulations to protect the Town using model regulations from others who already have regulations in place. He provided copies of a December 16, 2010 *Wall Street Journal* and February 15, 2011 *Finger Lakes Times* articles for any interested in reading them.

Pat Orcutt commended Attorney Bailey for drafting a well-done law. As stated in her letter, we need to do all we can to preserve the Finger Lakes.

Marcia English stated we should not wait to start drafting regulations to protect the Town, noting some area counties support hydrofracking. It was noted Yates County and all its towns have signed the Road Use Agreement. Town Attorney Bailey explained that the Town of Jerusalem can not prohibit travel on State and County Roads as the Town Board only has jurisdiction within our Town over travel on the Town roads.

Rodgers Williams questioned waste water and drilling regulations. The State, via DEC, has the ultimate regulatory authority over gas drilling and those regulations have not been promulgated yet. If a drilling platform is located in our Town, our local ordinance will protect the land through zoning. The Road Use Agreement currently in place will regulate heavy truck traffic on our roads, but not what material they are hauling. The Agreement ensures repairs to

the roads will be funded by the drilling companies traveling the roads.

Art Carcone asked about the environmental impact study, noting the potential harm to our aquifers from drilling. Attorney Bailey responded DEC is completing the SEQR SGEIS that is to be released in June. Peter Gamba stated there will probably then be a period for community comments that will allow an opportunity for feedback.

Marcia English asked if the Road Use Agreement takes care of just the roads or does it include the toxins that spill? Supervisor Jones stated if the trucks are licensed properly by the State, we can not stop the trucks from driving on the roads.

Councilor Simmons stated the Town currently has an ordinance entitled, "Transportation of Radioactive Waste" in the Town Code book.

Art Hunt stated his support of the moratorium. He has read and studied Marcellus shale hydrofracking along with our long term comprehensive plan.

Melanie Steinburgh stated her support of an outright ban on hydrofracking. There are a number of other municipalities going that way in both Pennsylvania and New York.

Ed Seus stated agriculture is our future and we need to protect our soils by restricting industrial uses in our Town.

Supervisor Jones has been provided with a list containing approximately fifteen actions in New York State banning or restricting hydrofracking.

Joe DeGeorge questioned why the Town is considering a moratorium versus a ban on hydrofracking. Councilor Stewart stated the moratorium will give us time to develop regulations that may be to either allow or ban.

Joe Hoff thanked the Town Board for their initiative. The moratorium will give time to carefully conduct a prudent study to be done on the effect and impact on our pristine area and protect the health, safety and welfare of our community. He encouraged the passage of the moratorium.

Marcia English questioned the financial resources available to the Town and suggested we reach to the public and get the educated people in the community to help in our effort.

Peter Gamba is the Jerusalem representative on the Yates County Task Force. Such discussions are underway with a number of talented people willing to address this issue who would be willing to do it as a public service.

Melanie Steinburgh stated there are environmental law firms and public service law firms available. She does not see this as a problem and the Town needs to pursue our course.

Deb Koop commended the Board for their work and stated her support of the moratorium. The Town needs to buy time and get the proper ordinance passed. Hydrofracking should be banned. We are the largest area of organic farming and could stand to lose our certification. Yates County Planner Shawna Bonshak has asked we identify our Critical Environmental Areas that may help redirect hydrofracking to other areas.

Joe Hoff stated the moratorium send a powerful statement to the community, but also a message to drillers. We may influence other Town Boards in the area. He displayed a poster inviting everyone to the Hydrofracking & Agriculture - the Promise & the Reality forum on March 15 at the Penn Yan Middle School.

Philip Kuhn, St. Luke's minister stated Yates County is against hydrofracking, but Steuben County is leaning in favor. He encouraged cross-county line discussions.

Supervisor Jones emphasized a desire to coordinate efforts among all Towns surrounding the Keuka watershed. The Town of Pulteney had an issue related to this last year.

Art Hunt stated the Keuka Lake Association (KLA) sponsors the KWIC organization composed of three towns in Steuben County, along with Yates County townships. Southern Steuben County is in the Chesapeake watershed while Keuka Lake drains into the St. Lawrence watershed. KLA will be meeting with State representatives in March and will have an opportunity for dialogue with Steuben legislators.

Marcia English stated the Marcellus shale thins out in our area so we may escape drilling as it will not be profitable, but are area could be looked at for storage. We could ban drilling, but we also need to address concerns related to not accepting waste.

Art Carcone noted the situation in Dimock, Pennsylvania where water wells have been contaminated. If contaminants get in the aquifer, we will have problems if our water is not potable. We will not be able to sell our properties.

Peggy Hoff noted with the Town's past success with the enactment of the "Transportation of Radioactive Waste" law, we might be able to draw from that.

Joe Hoff cautioned when addressing dumping in landfills, we need to be prudent and include cuttings.

Councilor Simmons stated by taking the process slow, we may find that learning from others' experiences can be to our advantage.

Donna Gridley stated while there has been mention of the waste water, she questioned where these companies get the water for hydrofracking as a tanker was recently seen drawing from Sugar Creek. There was no DOT number or company name on the vehicle.

RESOLUTION #52-11

CLOSE PUBLIC HEARING - PROPOSED LOCAL LAW B OF 2011 - IMPOSING A ONE-YEAR MORATORIUM ON DRILLING FOR NATURAL GAS WITHIN THE MARCELLUS SHALE

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

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

Resolved that the Public Hearing be closed at 8:05 P.M. and that the Board return to regular session.

RESOLUTION #53-11

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:

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

MARCELLUS SHALE MORATORIUM SUBCOMMITTEE:

Supervisor Jones stated the Board has enacted a One Year Moratorium on hydrofracking drilling of natural gas in the Township of Jerusalem, Yates County, New York. Said moratorium will go into affect when the final New York State Department of Environmental Conservation report is finalized and accepted into law.

In order to prudently prepare the Township for the elements of the D.E.C. report an advisory committee will be formed to study, analyze and draft recommendations, for Town Board approval, regarding the implementation of a plan to respond to the report.

Members of the Marcellus Shale Moratorium Subcommittee include Peter Gamba, Joe Hoff, Art Carcone, Melanie Steinburgh, Ed Seus, Rodgers Williams, Deb Koop, Jim Barre and Donna Gridley (upon completion of the Zoning/54A Subcommittee).

RESOLUTION #54-11

PUBLIC HEARING - PROPOSED LOCAL LAW C OF 2011 - CHANGING FROM ELECTED TO APPOINTED ASSESSOR

With proof of notice having been duly published and posted, Supervisor Jones opened the Public Hearing at 8:10 P.M., asking for comments on the proposed local law changing from elected to appointed Assessor.

The sole elected Assessor resigned his position as of December 31, 2010; therefore the position is currently vacant. Alan Comstock is the Acting Assessor. Two resumes have been submitted to date.

The Town Board has the option to change from the present method of election by the voters to an assessor who is appointed by the town board. The local law can be adopted with or without a permissive referendum. The petition must be signed by 154 voters and received by April 2, 2011, protesting the resolution and requesting a referendum. The referendum would be held at the next general election, unless the petition also requests the town board to adopt a local law providing for the referendum at a special election held at least 60 days later. The cost for a special election is estimated at \$3,000.

Both the appointed and elected positions are a six-year term with the elected term beginning 1/1/2014 and the appointed term beginning 10/1/2013. These terms are dictated by New York State law and apply to all assessor positions statewide. Currently, three assessors in Yates County are covering multiple municipalities, so there could be an opportunity for Jerusalem to

proceed toward county-wide assessing. The need for a full-time Assessor needs to be further reviewed.

The Yates County Real Property Tax Director submitted a summary of pros and cons for an elected Assessor as follows:

Advantages of a Sole Appointed Assessor:

- Elected assessors who must run every six years are not as insulated from political pressure as appointed assessors.
- An appointed assessor is more likely to have chosen his/her field as a career and is thereby a professional.
- More time could be spent on improving assessments. Fair distribution of the tax burden is the objective.
- Reduced turnover. Since 1989 the statewide turnover rate for elected assessors is 40% greater than for appointed assessors.
- Enables further efficiencies to be achieved by sharing an assessor between municipalities.
- Possibility for additional aid payments.
- Alleviates some of the difficulty in finding qualified, willing people to do the job.

Consistent approach to assessing:

- Real Property Tax Law
- Opinions of counsel
- Rules for Real Property Tax Administration
- Assessment procedures
- Exemption administration
- Recent court decisions

Longer term of office-six years:

- Time to become acquainted with and keep up with the Real Property Law which is constantly changing.
- Time to become acquainted with all real property in the town.
- Time to become proficient at appraising all forms of real property including the more difficult properties.
- Basic course of training required PLUS continuing education courses.

For Jerusalem in particular:

- Can hire someone with experience, and familiarity with computer programs designed for valuation and assessment administration. (hit the ground running)
- Would be possible to hire an experienced assessor that could be capable of a conversion to new software if needed, or to perform a town-wide update.
- An experienced assessor would give the town more options for training existing personnel, or for a succession plan.

The risk of elected assessor that is not up to the job, or does not complete training:

- Would further jeopardize the chances of a timely update (a negative for an equitable roll). The town last updated in 2008. If town were to be on a three or four year cycle, 2011 (already missed) or 2012 values should be addressed.
- An inexperienced elected assessor could put this process out another 4 years or more.
- Would have serious impact on a conversion to newer software, and the accuracy of that conversion.

Marcia English clarified that there are training requirements for an appointed Assessor, but not an elected Assessor. It is estimated to take 6-12 months to become a qualified appointed Assessor. An elected Assessor must be 18 years old and a resident of the Town.

J.C. Smith relayed a similar situation that occurred with local government in Wayne County that worked out well, noting this could be an opportunity for a younger person to become involved in local government.

Art Carcone requested confirmation that we currently have an Acting Assessor.

RESOLUTION #55-11

CLOSE PUBLIC HEARING - PROPOSED LOCAL LAW C OF 2011 CHANGING FROM ELECTED TO APPOINTED ASSESSOR

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

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

Resolved that the Public Hearing be closed at 8:27 P.M. and that the Board return to regular session.

RESOLUTION #56-11

RESOLUTION AUTHORIZING ADOPTION BY THE TOWN BOARD OF THE TOWN OF JERUSALEM OF LOCAL LAW NO. 3 (PROPOSED) CHANGING FROM ELECTED TO APPOINTED ASSESSOR

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

ADOPTED BY ROLL CALL VOTE:

Councilor Stewart	Aye
Supervisor Jones	Aye
Councilor Folts	Aye
Councilor Simmons	Aye
Councilor Parson	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, 2011, at 7:05 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 to change from elected to appointed Assessor", 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 8:10 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 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. 3 of 2011 entitled "A Local Law changing from elected to appointed Assessor", 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. Purposes:

A. The Town Board of the Town of Jerusalem deems it to be in the best interest of the inhabitants of the town for the office of Town Assessor to be filled by appointment of the town board rather than by election.

B. Recognizing, however, that there may be opposition in the community to this change, the Town Board has decided that it may become the subject of a referendum by the electors of the town if sufficient persons present their petition for that purpose as provided by law.

SECTION 2. Authority:

This Local Law is enacted pursuant to the provisions of Section 328 of the Real Property Tax Law of the State of New York.

SECTION 3. Single Appointed Assessor:

- A. Sections 5-1 and 5-2 of the Code of the Town of Jerusalem are hereby repealed.
- B. From and after January 1, 2012 there shall be but one assessor for the Town of Jerusalem to be appointed by the Town Board.

SECTION 4. Permissive Referendum:

This Local Law shall be subject to a referendum on petition as provided by Section 24 of the Municipal Home Rule Law of the State of New York.

SECTION 5. Effective Date:

Provided that it has not been disapproved by the electors at a referendum as provided in section 4 herein, this local law shall take effect as soon as it is filed by the Secretary of State.

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.

LAND USE LEADERSHIP ALLIANCE (LULA) FOLLOW-ON COMMITTEE:

Deb Koop is a Jerusalem representative to the Land Use Leadership Alliance (LULA) Follow-On Committee established to implement the goals and objectives as outlined in the Keuka Lake Planning Guide adopted by the Town Board in 2009. The Keuka Lake Watershed Vision Statement is to provide Keuka Municipalities with a Watershed Land Use Planning Guide that represents a cooperative Lake Community effort promoting environmental stewardship and open space land use practices. Guide content encourages all municipalities toward actions representative of "smart development" and preservation of the areas' much desired "rural character". Daryl Jones, Tom Close and Jim Barden are also Jerusalem Committee members.

An Inter-municipal Shared Service Training seminar on Municipal Actions for Land and Water Protection is scheduled March 28, 2011, 6:00-8:00 P.M. at the Yates County Auditorium. The training will provide municipal officers with valuable perspectives on how municipalities can work individually and together to protect their invaluable land and water resources. Participants receive three hours of municipal training credits.

RESOLUTION #57-11

AUTHORIZE PURCHASE OF TOPCON GRS-1 MAPPING SYSTEM

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

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

Whereas the water and sewer department has requested authority to purchase a Topcon GRS-1 Mapping Grade Handheld Data Collector System;

Whereas; the Water and Sewer Department will utilize the device to locate, map, and inventory water and sewer mains and appurtenances and subsequently re-locate same

Whereas; the software is compatible with the current ArcGIS Software that is currently being utilized by Yates County and the Town Of Jerusalem;

Whereas; the water and sewer department has received a quote for the Topcon GRS - Mapping Grade System; including the Post Processing Office Software Module, Gardner Rod Rest, and Lithium - Ion Battery, in the amount of \$8168.50 from Admar Supply Company Inc.;

Therefore be it resolved that the Topcon GRS-1 Mapping Grade Handheld Data Collector System be purchased by the water and sewer department and half the expense \$4084.25 be funded by 8120.4 and the other half \$4084.25 be funded by 8340.4.

OFFICIALS

- Councilor Simmons would like to review our bonds due to current low interest rates.
- The Zoning Board granted Bill Sutherland's Special Use application for a five unit rental apartment.

An application was denied due to excessive lot coverage.

SUBCOMMITTEE REPORTS:

SIGN SUBCOMMITTEE:

The Sign Subcommittee modeled their proposed sign law after the Town of Barrington's. They will submit their proposal to the Planning Board at the March meeting.

54A ZONING SUBCOMMITTEE:

The possibility of using the same consultant is being looked at due to the amount of duplicated efforts by the 54A Zoning Subcommittee and the Community Development Block Grant Steering Committee.

Public meetings are also being coordinated with the Finger Lakes Cultural Museum.

YATES COUNTY MARCELLUS SHALE TASK FORCE:

Yates County Marcellus Shale Task Force representative Peter Gamba reported their planning sessions will focus on community benefit agreements.

COMMUNITY DEVELOPMENT BLOCK GRANT STEERING COMMITTEE:

No report.

ASSESSMENT COMMITTEE:

No further report.

OPEN SPACE & RENEWABLE ENERGY SUBCOMMITTEE:

Subcommittee Chair Debbie Koop reported Art Carcone has joined the Subcommittee. They have formed a working partnership with both the Finger Lakes Cultural Museum and the Finger Lakes Land Trust to achieve our town's conservation goals. Ms. Koop is also a guest to the CDBG Steering Committee.

The open space inventory was adopted in 2010 as part of the Open Space Plan. Locations suitable for Critical Environmental Area designation will be identified due to their exceptional or unique character based on established criteria, such as the bluff and Sugar Creek.

RESCHEDULE PUBLIC HEARING - REIMBURSEMENT OF PROFESSIONAL FEE LOCAL LAW

Supervisor Jones stated the public hearing on the Reimbursement of Professional Fee local law will be March 16, 2011 at 7:00 P.M.

HIGHWAY EMPLOYEE

Highway Superintendent Payne hired Chad McMinn as a temporary employee effective December 1, 2010.

RESOLUTION #58-11

RATIFY CODE ENFORCEMENT OFFICER'S OVERTIME COMPENSATION

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

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

WHEREAS on January 25, 2011 four members of the Town Board met and approved the terms of settlement of a claim by John Philips, Code Enforcement Officer, for overtime pay accrued but not paid, and

WHEREAS notice of the meeting was not given strictly in accordance with law,

NOW THEREFORE BE IT RESOLVED:

- 1) That the action of the four members of the Town Board taken on January 25, 2011 is hereby ratified and approved; and
- 2) That the settlement of the claim of John Philips, Code Enforcement Officer, for overtime pay accrued but not paid is hereby approved and agreed to in the amount of \$5000.00.

RESOLUTION #59-11

RETAIN LAW FIRM OF OSBORN, REED & BURKE, LLP

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

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

Whereas, the Town Board of the Town of Jerusalem previously appointed David W. Lippitt, Esq., a sole practitioner, as legal counsel for labor and employment matters at the rate of \$165 per hour; and

Whereas, Mr. Lippitt will be joining the law firm of Osborn, reed & Burke, LLP on March 1, 2011 in an "of Counsel" relationship; now, therefore, be it

Resolved that the Town Board of the Town of Jerusalem hereby appoints the law firm of Osborn, Reed & Burke, LLP, David W. Lippitt, Esq., of Counsel, as legal counsel labor and employment matters at the rate of \$165 per hour effective March 1, 2011.

RESOLUTION #60-11

RETAIN LAW FIRM OF MILLER, MANNIX, SCHACHNER & HAFNER, LLC

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

ADOPTED Ayes 3 Jones, Simmons, Stewart
 Nays 2 Folts, Parson

This Agreement is entered into between the Town of Jerusalem (hereinafter "Town") and Miller, Mannix, Schachner & Hafner, LLC (hereinafter "MMSH") for the provision of legal services to the Town of Jerusalem.

WHEREAS, the Town of Jerusalem requires legal representation with respect to the Harbor View Townhomes Sewage Work Corporation; and

WHEREAS, the Town Board has agreed by Resolution to engage the services of MMSH on behalf of the Town; and

WHEREAS, MMSH has agreed to provide legal services to the Town of Jerusalem and to work closely with the Town Attorney as Special Counsel;

NOW THEREFORE, the Town and MMSH hereby agree as follows:

1.

Subject of Agreement - MMSH shall advise and represent the Town and render legal services relating to the Harbor View Townhomes Sewage Work Corporation and any other matters (such as drainage issues) as requested by the Town Supervisor or the Town Attorney.

2.

Term and Renewal - The Term of this Agreement shall be from date of execution until December 31, 2011, or until this matter is complete. This Agreement may be renewed for subsequent years under the same provisions or as modified by Agreement between the Town and MMSH.

3.

Compensation - The Town will pay MMSH for Legal Services as described above at hourly rates not to exceed One Hundred Sixty Dollars (\$160.00) per hour. MMSH will invoice the Town on a monthly basis and the Town will pay all invoices within thirty (30) days, or as practicable. In addition, MMSH shall be reimbursed for reimbursable expenses it incurs during the course of this representation.

TOWN JUSTICE BOOKS

A report will be made at the March meeting as the Justice has been on vacation.

RESOLUTION #61-11

TIME CLOCK - SECTION 504 AMENDMENTS

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

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

Resolved that section 504 Time Records of the Employee Handbook and the Time Record Verification and Authorization Procedure be adopted as follows (Amendments notated (additions - underlined; deletions - strike through)):

504 Time Records

Policy Statement - All FLSA non-exempt employees are required to complete an individual time record showing the daily hours worked. ~~Employees in the Highway Department must punch a time card.~~

An FLSA exempt employee is not required to record daily attendance but must account for authorized paid leave taken by completing a time record indicating such.

Procedures - An employee required to complete a time record or punch a time card must comply with the following procedures:

- Our workweek, for payroll purposes, begins at 12:01 a.m. on Sunday and ends at 12:00 a.m. on the following Saturday. Overtime hours, if any, are paid after forty hours of work in any one week. (See 702 Overtime/Compensatory Time);
- Time records must be completed by the close of each workday;
- All time worked, including the beginning and ending time, must be recorded. Overtime hours are punched on the back of the time card;
- All paid and unpaid leaves of absence must be recorded;
- Employees must complete their own time record or punch their own time card;
- Hourly employees may not clock in any earlier than 10 minutes before the start of the shift, or stay more than 10 minutes after their scheduled stop time per the posted hours for the department unless authorized to do so by their supervisor;
- Sign the time record to certify the accuracy of all time recorded;
- The time record must be submitted to the Department Head at the time specified;
- The time record must be verified and signed by the Department Head;
- Department Heads must submit time records to the Bookkeeper no later than 12:00 noon on Tuesday of payroll weeks.

Correction of Errors - An employee must immediately bring errors in time records to the attention of the employee's Department Head who will investigate the matter and make and initial the correction once the error has been verified.

Unauthorized "Flex-Time" - Unless prior approval has been obtained from the Department Head, arriving early or leaving late for the employee's own convenience is not to be included in working time, provided that the employee performed no pre-approved authorized duties for the Town during such intervals.

Falsification of Time Records - An employee who, after investigation, is found to have falsified or altered a time record, or the time record of another employee, or completed a time record for another employee, will be subject to disciplinary action up to and including termination. In extenuating circumstances where an employee is not able to complete the employee's own time record, the Department Head may complete the time record on behalf of the employee.

TIME RECORD VERIFICATION AND AUTHORIZATION PROCEDURE

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

- Acting Assessor
- Board of Assessment Review Secretary
- Bookkeeper
- CEO
- CEO Clerk
- Court Clerk
- Deputy Court 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:

- Budget Officer
- Historian
- Planning Board Secretary
- Planning Board Committee Secretary
- Recreation Program
- Town Engineer

RESOLUTION #62-11

APRIL TOWN BOARD MEETING DATE

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

ADOPTED	Ayes 3	Folts, Parson, Simmons
	Nays 2	Jones, Stewart

Whereas two councilors will be out of town for the regular scheduled April Town Board meeting, now, therefore, be it

Resolved the April Town Board meeting date be changed from April 20, 2011 to April 13, 2011.

Discussion: The need to change the meeting date was questioned as there will still be a quorum to conduct Town business. It was

explained a member could become ill and there would not be a quorum. Supervisor Jones stated changing the meeting date allows minimal time for him to prepare for the meeting as he returns from vacation on April 12, 2011.

RESOLUTION #63-11

BRANCHPORT HAMLET MASTER PLAN CONSULTING AGREEMENT

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

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

Whereas Resolution #121-10 the Town Board authorized the submission of a 2010 New York State Community Development Block Grant Application for a Branchport Hamlet Master Plan; and

Whereas the town of Jerusalem has been awarded a Community Planning Grant through the 2010 New York State Community Block Grant program; and

Whereas the Steering Committee contacted three consulting firms to submit proposals for community planning; and

Whereas two proposals were returned and reviewed by the Hamlet Steering Committee; and

Whereas the Steering Committee recommends Ingall's Planning and Design for approval; now, therefore, be it

Resolved the Supervisor be authorized to execute the Agreement between Ingall's Planning and Design of Fairport, New York and the Town of Jerusalem for the drafting of a Branchport Hamlet Master Plan for the Town of Jerusalem.

MUNICIPAL SERVICES AGREEMENT

A special Town Board meeting will be held in conjunction with the March 8th KPSW Committee meeting to interview three engineering firms asked to submit a Statement of Qualifications to provide engineering, planning and environmental consultation and advice to the Town on an as needed/authorized annual basis.

With there being no further business, on a motion of Councilor Stewart, seconded by Councilor Simmons, the meeting was adjourned at 9:25 P.M.

Jerusalem Town Board
February 16, 2011

Sheila McMichael, Town Clerk