

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

GUESTS: Bill Pringle, Bob Evans, Mary Coriale, Taylor Fitch, Dwight Simpson, Peter Gamba, J.C. Smith, Mike Steppe, Richard Ackerman, Gary Dinehart, and several other unidentified guests.

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

RESOLUTION #64-11

APPROVAL OF MINUTES

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 minutes of the February 16, 2011 regular meeting be approved as read.

RESOLUTION #65-11

AUDIT OF CLAIMS

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 bills be paid as presented in the following amounts:

General:	\$ 9,232.33
Outside Village	\$ 3,923.41
Highway DB:	\$14,294.11
Sewer:	\$ 3,210.13
Water:	\$ 7,044.18
Trust:	\$ 1,950.00
February utilities: General:	\$ 159.66
Sewer:	\$30,562.70
Water:	\$39,147.70
Trust:	\$31,070.29

RESOLUTION #66-11

SUPERVISOR REPORT

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

RESOLUTION #67-11

PUBLIC HEARING - PROPOSED LOCAL LAW A OF 2011 - ADMINISTRATIVE FEE REIMBURSEMENT

With proof of notice having been duly published and posted, Supervisor Jones opened the Public Hearing at 7:03 P.M., asking for comments on the proposed local law providing for reimbursement of professional consultation fees.

George Sproule asked if there was any control on the amount of consultation the Town could request on a project. Maximum hours are not defined in the law. The required hours will depend upon the project before them. Councilor Folts added if someone believed the request was unreasonable, they could bring the matter to the Town Board.

Art Carcone requested the types of consultation needs this law would apply to. The law would require reimbursement for costs incurred by the Town for any professional reviews deemed necessary on a project, such as engineering or legal services.

George Sproule asked how the developer would know up front what is needed for a project. The law includes a formula to calculate the escrow amount based on the project, but is there an ultimate amount that will be charged for consultation? He noted the law includes a provision to replenish the escrow amount when it is depleted to a certain level. Attorney Bailey responded there is no upper limit defined, but the Town intends to minimize these costs by sharing consulting services between boards as needed. We will be prudent.

The public hearing was left open.

PRESENTATION - BOARD OF ELECTIONS

Amy Daines, Republican Commissioner and Bob Brechko, Democratic Commissioner have been visiting municipalities to present changes in the elections law and to address any concerns and questions.

With the change to computerized voting machines, the Towns will determine how the previously used voting machines will be disposed of, i.e., historical display, scrapping. The School District has requested use of some of the newer machines through 2012.

Councilor Simmons has been questioning the allocation of election expenses to Towns based on assessed value. He thanked Ms. Daines for supplying figures to him and noted his concern with Jerusalem's expense, which represents 31.3% of the elections budget. It was

explained there was a substantial increase in the elections budget related to the initial change to the computer voting machines that we will see level off now that the new machines have been piloted. This matter was turned over to County Legislator Fitch for consideration by the County Government Operations Committee, noting this has become more of an issue as lakeshore values have increased substantially in recent years compared to the rest of the County.

REPORT OF TOWN OFFICIALS:

HIGHWAY:

- Written Budget Highway report on file in the Office of the Town Clerk. Highway Superintendent Payne was commended for keeping within budget.
- Resident Lawrence McMinn assisted the Highway Department by drilling holes needed to restore the sander hangers at no charge to the Town. Supervisor Jones will send Mr. McMinn a letter thanking him for his service and generosity on behalf of the Board and the Town.

TOWN ENGINEER

- Town Engineer Ackart noted the proposed local law for Reimbursement of Professional Fees is an equitable and fair document to defray costs to the Town.
- Ackart participated in the special Town Board meeting held March 8 to interview three engineering firms.
- A conference call is scheduled March 18 with Attorney Hafner, special counsel; to discuss the sewage works corporation for the Harborview Townhouse project.
- The fourth meeting of the Jerusalem Sewage Disposal Committee with the Village of Penn Yan to discuss the 1995 sewer contract will be held March 18.
- Our financial advisor will be asked to review our bonds for possible refinancing due to current low interest rates.

COUNCIL

- Councilor Stewart took the opportunity to remember past Town Justice and Town Board member John Flohr who recently passed. Mr. Flohr was instrumental in the success of our Keuka Park Water & Sewer Department (KPSW) through his guidance and technical support.
- KPSW Water Maintainer Gary Dinehart has stated his intentions to retire next year to allow the Board time to develop a plan of action to fill his position in light of the required training and licensing for the position. The matter was referred to the KPSW Committee for presentation at the April Town Board meeting.
- The Planning Board will discuss draft sign regulations at their April meeting.

SUPERVISOR

Mary Kay Stine, 3391 Guyanoga Road stated she has a drainage issue at her residence related to the slope of the sidewalk installed by the Town as part of the Water #3 project. Highway Superintendent Payne will coordinate a meeting with Code Enforcement Officer John Phillips to look into the matter.

RESOLUTION #68-11

RESOLUTION TO ALLOCATE \$6,000 FOR PROFESSIONAL CONSULTATION SERVICES FOR THE ZONING REVIEW SUB-COMMITTEE

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

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

WHEREAS; the Town of Jerusalem Planning Board's Zoning Review Sub-Committee, henceforth "the Committee", was established to examine the Town of Jerusalem's zoning regulations in each of its districts and recommend revision if appropriate. In anticipation of increased traffic and tourism associated with the future Finger Lakes Cultural and Natural History Museum, the Town of Jerusalem's Planning Board has directed the Committee that its current priority, must be the examination and potential revision of the zoning of the 54A corridor between the Hamlet of Branchport and the Indian Pines Business District; and

WHEREAS; the Committee has: conducted in in-depth analysis of the corridor; identified potential issues and complexities associated with altering the current zoning; developed a *Statement of Intent* for a potential rezoning; identified potential uses that may be requested and associated anticipated degree of zoning oversight of such uses to adhere to the *Statement of Intent*; notified the public of their progress and of upcoming public workshop/s; and

WHEREAS; the Committee has recommended that due to the complexity of the current project it is necessary to employ professional consultation services to complete the undertaking. This consultant would: guide the Committee work; develop and conduct two public meetings/workshops to solicit public input; analyze community input data and image preference survey results; provide zoning recommendations based on public input; and

WHEREAS; the Committee has received unanimous approval from the Town of Jerusalem Planning Board to utilize the professional services of Matt Ingalls of Ingalls Planning and Design; and

WHEREAS; the Planning Board authorized at their March 3, 2011 meeting, the use of the \$4,000 allocated in the Town Budget for specific Planning Board purposes; and

WHEREAS; the Committee asks the Town Board to reallocate \$2,000 of the \$10,000, that was originally budgeted for the Hamlet of Branchport Master Plan Grant Project, but is not needed, and allow for its use for professional consultation services towards this project, giving a total of \$6,000 for professional consultation services to assist the Zoning Review Sub-Committee with its designated current priority.

NOW THEREFORE LET IT BE RESOLVED; the Town Board of the Town of Jerusalem hereby authorizes the use of \$6,000 from appropriation code 8020.4 to be used towards professional consultation services by the Zoning Review Sub-Committee and reallocates the appropriate amounts in the 2011 fiscal year budget as prescribed above.

#### SUBCOMMITTEE REPORTS

##### YATES COUNTY MARCELLUS SHALE TASK FORCE

Yates County Marcellus Shale Task Force representative Peter Gamba reported community benefit agreements related to bonds and escrows will be shared with the Board in April.

##### MARCELLUS SHALE SUBCOMMITTEE:

Supervisor Jones presented the following charge to the Marcellus Shale Subcommittee:

The Town of Jerusalem Board charges a committee of volunteer citizens with the study of natural gas drilling within the Township.

Said analysis will be an objective look at both the industry's position and the anti drilling interests in the formulation of a set of recommendations to be presented to the Town Board based on this analysis. The study will take into active consideration the N.Y.S.D.E.C. report, which will be developed later this year. The committee will be formed in March 2011, with an organizational meeting to be held by the end of March.

A one year Moratorium of all hydrofrack drilling will go into effect when the State report is completed and submitted.

##### PRESENTATION - NYMIR RENEWAL

John Kuehn of Sprague Insurance provided an overview of the New York Municipal Insurance Reciprocal (NYMIR) proposal. The 2011-2012 renewal premium is \$36,491.74; an approximate \$1,750.00 savings over last year's cost.

The NYMIR Board of Governors initiated a program to return a portion of the original capitalization payment of \$11,191 over a three-year period. Upon renewal, the Town will receive our third installment of \$2,797.98.

JUSTICE BOOKS

The Justice Committee conducted the annual accounting of the Town Justice's books.

RESOLUTION #69-11

AMEND RESOLUTION #61-11 TIME CLOCK - SECTION 504 TIME RECORD VERIFICATION AND AUTHORIZATION PROCEDURE

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

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

Whereas the Town Justice has stated that Jerusalem Town Court business is conducted outside of the Town Hall by the Court Clerks resulting in a problem with his Court Clerks utilizing the time clock; now, therefore, be it

Resolved that Resolution #61-11 be amended as follows:

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
- 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
- Court Clerk
- Deputy Court Clerk
- Historian
- Planning Board Secretary
- Planning Board Committee Secretary
- Recreation Program
- Town Engineer

DISCUSSION:

MUNICIPAL SERVICES AGREEMENT

Councilor Folts stated he was on vacation during the March 8<sup>th</sup> meeting when the Town Board interviewed three firms, but he was filled in by two Board members on that meeting and would be voting on the matter tonight.

RESOLUTION #70-11

APPROVE LARSON DESIGN GROUP MUNICIPAL SERVICES AGREEMENT

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

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

Whereas a Special Town Board meeting was held on March 8, 2011 to interview engineering firms following submission of a Statement of Qualifications to provide engineering, planning and environmental consultation and advice to the Town on an as needed/ authorized annual basis; and

Whereas proposal were requested from and submitted by Clough Harbour & Associates of Syracuse; Clark Patterson Lee of Rochester and Larson Design Group of Williamsport, Pennsylvania; now, therefore, be it

Resolved that the Supervisor be authorized to execute the 2011 Municipal Consulting Agreement with Larson Design Group to provide consulting engineering service to the Town, if needed.

DISCUSSION:

MUNICIPAL SERVICES AGREEMENT:

Supervisor Jones stated he was opposed to Larson Design Group because he does not feel they will represent the Town given they currently represent 19 gas companies. Also, only 27% of Larson revenues are from municipalities as compared to 90% of Clark revenues and approximately 80% of Clough revenues. Clough worked on the Town's water and sewer districts. Clark was contracted to assist us with our Comprehensive Plan. Councilor Stewart stated he

did not want to hire the fox to watch the hen house. Councilor Simmons said he supported hiring Larson because they have experience with the gas companies. The agreement is only through December 31, 2011 at which time we can let them go if we desire. He feels Larson can answer a lot of our questions. Also, a large part of their presentation focused on grants which he feels is important to the Town. Councilor Parson liked Larson being employee-owned. He believes they will have a lot of knowledge to share because of their involvement with the gas companies. Larson will work with the Town Board to address our THM issue. The Town of Milo just hired Larson.

In response to a question, Attorney Bailey responded that while Councilor Folts' son is employed by Larson, according to law, there is no conflict of interest because his son is not a minor.

RESOLUTION AUTHORIZING OVERTIME

Councilor Simmons presented the following resolution as a result of a recent Highway situation whereby our current regulations only pay overtime for hours worked over forty.

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).

The resolution was referred to legal counsel for review. To be fair to all employees it should be town-wide, not just the highway department.

RESOLUTION #71-11

CLOSE PUBLIC HEARING - PROPOSED LOCAL LAW A OF 2011 - ADMINISTRATIVE FEE REIMBURSEMENT

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

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

Resolved that the public hearing on proposed Local Law A of 2011 - Administrative Fee Reimbursement be closed at 9:04 P.M.

RESOLUTION #72-11

RESOLUTION AUTHORIZING ADOPTION BY THE TOWN BOARD OF THE TOWN OF JERUSALEM OF LOCAL LAW NO. 2-2011 PROFESSIONAL CONSULTATION FEE REIMBURSEMENT (PROPOSED)

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

ADOPTED BY ROLL CALL VOTE

Councilor Folts	Aye
Councilor Simmons	Aye
Supervisor Jones	Aye
Councilor Parson	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 January 19, 2011, 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 to Provide for Reimbursement of Professional Consultation Fees", and

WHEREAS, notice of said public hearing was duly advertised in The Chronicle Express, the official newspaper of said Town, on January 12, January 19, March 2 and March 9, 2011, and

WHEREAS, said public hearings were duly held on January 19, 2011 at 7:06 P.M. and March 16, 2011, at 7:03 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 Providing for Reimbursement of Professional Consultation Fee", 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. Professional Fees

A. In the Town of Jerusalem (herein called the "Town"), the Town Board, the Town Planning Board or the Town Zoning Board of Appeals,

in the review of any application pending before it, may refer the application to such engineering, planning, legal, fiscal, accounting, technical or environmental consultant employed by the Town as such Board shall deem reasonably necessary to enable it to review the application as required by law and to observe a project following its initial approval, as during or after construction for inspections and administration.

B. The applicant shall reimburse the Town for the cost of such consultant's services, except for the following:

1. Review by the Town Engineer of the initial design plans for water, sewage, drainage or roads (public or private) submitted by the applicant.
2. Attendance by the Town Engineer at one or more meetings prior to the submission of an application for the purpose of discussing the project, identifying applicable rules and regulations, and anticipating technical concerns.
3. Preparation by the Town Attorney of any required public notices regarding said application.
4. Review by the Town Engineer and Attorney of any Environmental Assessment Form and supporting documents in connection with the determination of Environmental Significance pursuant to the New York State Environment Quality Review Law. Environmental Assessment Form does not include Environmental Impact Statement or the process known as scoping.
5. Attendance by the Town Engineer and Attorney at any regular or special public meetings of the Town Planning Board or the Town Zoning Board of Appeals.

C. Charges made by consultants who are not regular employees of the Town shall be in accord with charges usually made for such services in the Yates County, New York region or pursuant to an existing contractual agreement between the Town and the consultant.

D. Charges made for consultants who are regular employees of the town shall be in accord with the hourly rates upon which the employee's actual salary is based plus fringe benefits and reasonable overhead costs.

E. At such time as the project is completed or the application is denied by the Board or Boards having jurisdiction, the Town Clerk shall refund to the applicant the deposit required pursuant to section 2, less any sums expended by the Town for the services of such consultants but excluding those services referred to in subparagraphs (1), (2), and (3) of paragraph C of this section. A copy of the computation of said sums so expended shall be provided to the applicant at the time that the Town Clerk shall calculate the refund, if any, due the applicant hereunder.

F. In the event that an application is required to be reviewed by more than one board, then to the extent practicable, both boards

shall use the same consultant, who shall to the extent practicable, prepare one (1) report providing data, information and recommendations requested. In all cases, duplication of consultants' reports or services shall be avoided wherever practicable in order to reduce the cost of such consultants' reports or services to the applicant.

G. The above charges are in addition to any and all other fees required by any other law, rule or regulation.

Section 2. Escrow Accounts

A. At the time of submission of any application, or thereafter, an escrow account shall be established, from which withdrawals shall be made to reimburse the Town for the costs of consultant services as described in Section 1. The applicant shall then pay to the Town for deposit into such account in an amount to be determined by the reviewing board with the advice and recommendation of the Town Engineer and Building Inspector based on the Board's evaluation of the nature and complexity of the application, using the following schedule as a general guideline, the decision of the reviewing board to be final and conclusive on the applicant. The following amounts were derived from fees suggested by SEQR regulations:

1. For projects involving no more than two residences, no fee shall be charged and therefore no escrow deposit shall be required.
2. For projects involving three or more residences, the total project value shall be calculated based on the actual purchase price of the land or the fair market value of the land (determined by assessed value divided by equalization rate), whichever is higher, plus the cost of all required site improvements, not including the cost of buildings and structures as determined with reference to a current cost data publication in common use. For such projects, the escrow deposit shall be two percent of the total project value.
3. For non-residential construction projects, the total project cost shall be calculated on the actual purchase price of the land or the fair market value of the land (determined by assessed value divided by equalization rate), whichever is higher, plus the cost of supplying utility service to the project, the cost of site preparation and the cost of labor and material as determined with reference to a current cost data publication in common use. In the case of such projects, the escrow deposit shall be one-half of one percent of the total project value.
4. For projects involving the extraction of minerals, the total project value shall be calculated on the cost of site preparation for mining. Site preparation cost means the cost of clearing and grubbing and removal of over-burden for the entire area to be mined plus the cost of utility services and

construction of access roads. Such costs are determined with reference to a current cost data publication in common use. The escrow deposit shall be two percent of the total project value. For those costs to be incurred for phases occurring three or more years after issuance of a permit, the project value shall be determined using a present value calculation.

B. The applicant shall be provided with copies of each voucher for such services as it is submitted to the Town.

C. The consultant shall report monthly to the Town Clerk the monetary value of his or her services rendered on each project.

D. When the balance in such escrow account is reduced to one-third (1/3) of its initial amount, the Town Clerk shall advise the applicant and furnish a statement of the account and the applicant shall deposit additional funds into such account to bring its balance up to the amount of the initial deposit. If such account is not replenished within thirty (30) days after the applicant is notified, in writing, of the requirement for such additional deposit, the reviewing board may suspend its review of the application. An application shall be deemed incomplete if any amount shall be outstanding.

E. A building permit or other permit being sought shall not be issued unless all professional review fees charged in connection with the applicant's project have been reimbursed to the Town from said escrow account.

F. All charges required by this Local Law shall be collected by the Town Clerk.

G. This Local Law shall apply to applications pending at the time it shall become effective, unless the reviewing board shall determine that to do so would be impracticable, unfair or unjust in the particular circumstances. When this Local Law shall be applicable to such a pending application, the applicant shall be required to pay only for consultant's fees for services rendered after the law shall have become effective.

### Section 3. Separability

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town of the Town hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

### Section 4. Effective Date

This Local Law shall take effect immediately upon filing 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 #73-11  
MOVE TO EXECUTIVE SESSION

On a motion of Councilor Parson, seconded by Councilor Folts, 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 the employment of the Assessor.

The Executive Session convened at 9:05 P.M.

RESOLUTION #74-11  
RETURN TO REGULAR SESSION

On a motion of Supervisor Jones, seconded by Councilor Simmons, 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 9:59 P.M.

RESOLUTION #75-11  
ESTABLISH SALARY AND PAYROLL PROCESS FOR ACTING ASSESSOR

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

WITHDRAWN

Resolved that the Acting Assessor be paid \$300/week for hours worked; and be it further

Resolved the Acting Assessor will submit an itemized time sheet for said hours worked every two weeks according to the payroll schedule.

RESOLUTION #76-11

ESTABLISH SALARY AND PAYROLL PROCESS FOR ACTING ASSESSOR

- W/O ITEMIZED TIME SHEET

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

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

Resolved that the Acting Assessor be paid \$300/week for hours worked; and be it further

Resolved the Acting Assessor will submit a time sheet noting the dates worked every two weeks according to the payroll schedule.

With there being no further business, on a motion of Councilor Stewart, seconded by Councilor Parson, the meeting was adjourned at 10:12 P.M.

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Sheila McMichael, Town Clerk