

Minutes of the regular monthly meeting of the Jerusalem Town Board held on June 19, 2013 at 7:00 P.M. PRESENT were: Supervisor Jones, Councilors Folts, Killen, Parson, Steppe, Town Attorney Bailey, Deputy Town Clerk Goebel, Highway Superintendent Martin, Town Engineer Ackart, Ray Stewart, Deputy Supervisor, John Phillips, Code Enforcement Officer.

GUESTS: David Specksgoor; *Dundee Observer* Reporter, Donna Gridley, Jim Creveling, Bob Evans, Gary Dinehart and other unidentified attendees.

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

RESOLUTION #97-13

APPROVAL OF MINUTES

On a motion of Councilor Killen, seconded by Councilor Steppe, the following was

ADOPTED	Ayes	5	Folts, Jones, Killen, Parson, Steppe
	Nays	0	

Resolved that the minutes of the May 15, 2013 meeting be approved as amended – Section V of the Right To Farm local law – Duty of Town Boards – Minutes should read Section IV.

RESOLUTION #98-13

AUDIT OF CLAIMS

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

ADOPTED	Ayes	5	Folts, Jones, Killen, Parson, Steppe
	Nays	0	

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

General:	\$19,120.03
Outside Village	\$326.51
Highway DB:	\$92,480.97
Sewer:	\$2,974.09
Water:	\$10,269.44
Branchport Light	\$248.15

May Utilities/Debt Payments:

General:	\$1,059.91
Outside Village:	\$27.88
Sewer:	\$857.44
Water:	\$264.76

RESOLUTION #99-13

SUPERVISOR REPORT

On a motion of Councilor Killen, seconded by Councilor Parson, the

following was

ADOPTED Ayes 5 Folts, Jones, Killen, Parson, Steppe
 Nays 0

Resolved that the Supervisor's Report on the Town's finances for the month of May 2013 be accepted as presented.

TOWN OFFICIALS

HIGHWAY SUPERINTENDENT

- Written Budget Highway report on file in the Office of the Town Clerk.
- Dust oiling is complete on East Bluff and West Bluff Drive. Glen Herbert was amazed how quickly the highway dept. completed the job.
- The delivery date for the tractor is July 31, 2013. The mower should be in two weeks ahead of the tractor.
- The Finger Lakes Challenge Bike Ride will be running July 20 and 21. No roads in the town will be closed on Saturday. On Sunday it will be coming up Skyline, Pepper Road, and East Valley Road.

RESOLUTION #100-13

TO MODIFY RESOLUTION NO. 85-13 REGARDING THE PURCHASE OF A TRACTOR WITH TWO MOWERS

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

ADOPTED Ayes 5 Folts, Killen, Jones, Parson, Steppe
 Nays 0

WHEREAS, by Resolution No. 85-13 adopted on May 15, 2013 this Town Board authorized the Highway Superintendent to purchase one new John Deere 5100M tractor with Diamond side and rear flail mowers from Lakeland Equipment in Hall NY for the sum of \$94,890.94 to be paid with \$79,890.94 in cash and the trade in of one 2003 New Holland tractor with Alamo mowers for the amount of \$15,000.00; and

WHEREAS, after the adoption of that resolution, the said Lakeland Equipment informed the Highway Superintendent that it had incorrectly calculated the price of the mowers and was mistaken in its bid, in that the price should have been \$82,829.29 with the trade in remaining the same at \$15,000.00, bringing the cash required down to \$67,829.29; and

WHEREAS, Lakeland Equipment has offered to sell the John Deere 5100M tractor with Diamond side and rear flail mowers to the town for the corrected price of \$82,829.29 as stated above; and

WHEREAS, modifying the price by lowering it does not prejudice the other parties that submitted bids for the transaction;

NOW, THEREFORE, BE IT RESOLVED:

1) That the Highway Superintendent is authorized to purchase one new John Deere 5100M tractor with Diamond side and rear flail mowers from Lakeland Equipment of Hall, New York for the total price of \$82,829.29, to be paid by cash in the amount of \$67,829.29 and the balance of \$15,000.00 by trading in one 2003 New Holland tractor with Alamo mowers; and

2) That the cash amount for this purchase, being \$67,829.29, shall be taken from Highway 2013 appropriation, Machinery Account DB5130.2; and

3) That all inconsistent provisions of Resolution 85-13 are hereby nullified; and

4) That this Resolution shall take effect immediately.

TOWN ENGINEER

- Written June KPSW Committee notes on file in the Office of the Town Clerk.
- The 4th of July weekend is traditionally the highest consumption of water for the year.

COUNCIL

- Councilman Killen reported all employees received a memo the Staff Meeting will be held August 1st at 2 p.m. They have been asked to submit their written concerns to Supervisor Jones by July 15th.
 - o Suggested agenda items include:
 - Communications
 - Leave Request Forms
 - Time Clock
 - Others to be added per concerns.
 - o A new agenda will be circulated after concerns are submitted.
- Councilor Parson submitted the Assessor's Monthly Report. He questioned the tax on the seven Nicolo properties that are now owned by the Federal Government. Attorney Bailey stated that if the property is owned by the Federal Government, the Town cannot tax.
- Councilor Steppe will contact the company regarding the WAGsys computer system that John Phillips and Elaine Nesbit have been researching and report on his research next month. Supervisor Jones asked any information received be copied to Town Clerk McMichael.

- Councilor Parson met with the Code Enforcement Officer, it was noted that there are some discrepancies in our zoning code. Many of these have been reviewed, but there are more that need to be reviewed.

SUBCOMMITTEE REPORTS:

CDB Grant Steering Subcommittee

Renee Bloom, Director Keuka Housing was unable to attend, so less was accomplished than they had hoped. A meeting is set up for June 25 at 7 p.m. They discussed different businesses who could apply for grants, so that they could get the minimum number so they could apply for the grant. They talked about filling in the ditch by the fire dept.

AGR/Zoning Review Subcommittee

A meeting was held on May 20th. There was a lot of good input. Subcommittee Chair Crevelling said that they have been preparing a rough draft. They will not be meeting for the summer.

Water Front Revitalization Subcommittee

Will have reports beginning at the July Board Meeting.

Personnel Committee

- See Staff Meeting under Council.
- Upgrades to the Phone System - Councilor Killen has been working with Verizon Wireless. There needs to be more research for the use of the Fax and DEC machines. Councilor Killen will relay information as he receives updates. They are looking into a couple of technical issues for the FAX and DEC machines. They may be able to get a solution from a third party.
- Upgrade the Salary scale; it is not ready to be presented. They are hoping to have a formulated pay scale structure.

RESOLUTION #101-13

REMOVE PROPOSED LOCAL LAW I-2012 RIGHT TO FARM FROM THE TABLE

On a motion of Councilor Steppe, seconded by Councilor Killen, the following was

ADOPTED Ayes 5 Folts, Jones, Killen, Parson, Steppe
 Nays 0

Resolved that proposed Local Law I-2012 Right To Farm Law be removed from the table.

RESOLUTION #102-13

AMEND PROPOSED LOCAL LAW I-2012 RIGHT TO FARM

On a motion of Councilor Killen, seconded by Councilor Steppe, the following was

ADOPTED Ayes 5 Folts, Jones, Killen, Parson, Steppe
 Nays 0

Resolved the following amendments be made to proposed Local Law I-2012:

1. To change the title to Farm Viability and Neighbor Relation Policy (Right To Farm Law)
2. Section IV, Line 4 - Such Town officer and/or board shall give to the parties to the application the same Notice as is set forth in the Article VI of this law and obtain a written acknowledgement of receipt for it.
3. Section V - The committee shall have no authority to incur any expense without permission from both parties. No expense will be paid by the Town of Jerusalem.

RESOLUTION #103-13

RESOLUTION TO ADOPT TOWN OF JERUSALEM LOCAL LAW NO.2 of 2013
entitled "A Local Law to establish the Town of Jerusalem Farm
Viability and Neighbor Relation Policy (Right-to-Farm Law)"

On a motion of Councilor Steppe, seconded by Councilor Killen, the following was

ADOPTED BY ROLL CALL VOTE:

Councilor Steppe	Aye
Supervisor Jones	Aye
Councilor Parson	Aye
Councilor Killen	Aye
Councilor Folts	Aye

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Jerusalem for a public hearing to be held by said Town Board on May 15, 2013, at 7:05 P.M. at the Town Hall at 3816 Italy Hill Road, Branchport, New York, to hear all interested parties on proposed Local Law I of 2012, entitled "A Local Law to establish the Town of Jerusalem Farm Viability and Neighbor Relation Policy (Right-to-Farm Law)", and

WHEREAS, notice of said public hearing was duly advertised in the Chronicle Express, the official newspaper of said Town, on May 1 and 8, 2013, and

WHEREAS, said public hearing was duly held on May 15, 2013, at 7:05 P.M. at the Town Hall at 3816 Italy Hill Road, Branchport, New York, and all persons 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, pursuant to paragraphs (c) (3) and (c) (27) of part 617 of the implementing regulations pertaining to article 8 State Environmental Quality Review Act (SEQRA) this Town Board has determined that adoption of this proposed Local Law is not subject to SEQRA review, and

WHEREAS, referral to the Yates County Planning Board pursuant to section 239-m of the General Municipal Law is not required, and

WHEREAS, the Town Board of Jerusalem ought to affirm its support for farmers and agriculture in the town by adopting a local version of the NYS Right-to-Farm Law - which is found in Yates County and New York's Agricultural Districts Law, and

WHEREAS, this Local Law will provide an informal local process for dealing with farmer-neighbor conflicts so that nuisance disputes can be resolved quickly and locally, and

WHEREAS, the Town Board of the Town of the Town of Jerusalem, after due deliberation, finds it to be 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 the Town of Jerusalem hereby adopts said Local Law No. 2 of 2013 entitled "A Local Law to establish the Town of Jerusalem Farm Viability and Neighbor Relation Policy (Right-to-Farm law)", a copy of which is attached hereto and made a part of this resolution, 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 Jerusalem, and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

TIME CLOCK

The Time Clock will be discussed at the Staff meeting. See Council report above

ZONING BOARD APPOINTMENT

Supervisor Jones has received one application. A recommendation will be made at the next meeting, after an interview by Councilor Folts and Zoning Board Chair Herbert.

ZONING BOARD TRAINING

Jim Crevelling gave basic training course 101. Councilor Killen asked for a curriculum list for the State. Mr. Crevelling said he

had made up the course by summarizing items from "Everything you wanted to know about Zoning". This will be discussed at the next Town Board Meeting. We need to document what training is received.

RESOLUTION #104-13

RESOLUTION OF THE TOWN BOARD OF THE TOWN OF JERUSALEM TO APPROVE BECOMING AN AMICUS CURIAE IN ACTIONS INVOLVING MUNICIPAL HOME RULE IN THE COURT OF APPEALS OF THE STATE OF NEW YORK

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

ADOPTED Ayes 5 Folts, Jones, Killen, Parson, Steppe
Nays 0

WHEREAS, the Towns of Middlefield and Dryden have recently revised their zoning laws to prohibit heavy industrial uses (including natural gas drilling) in their communities and such laws were challenged in court by opponents claims that the Towns did not have the power to regulate natural gas drilling as a land use through zoning; and

WHEREAS, the Town of Ulysses filed an amicus curiae or "friend of the court" brief in both lawsuits in support of its sister Towns in order to reassert the right of each municipality throughout New York State to determine what land uses are appropriate in its community through municipal home rule law powers granted by the NYS Constitution and the NYS Municipal Home Rule Law; and

WHEREAS, the Town of JERUSALEM joined with the Town of Ulysses and a coalition of over 50 other municipalities from across the State to file these amicus curiae briefs in the Appellate Division, Third Department in 2012; and

WHEREAS, the Appellate Division, Third Department, ruled in favor of the Towns of Dryden and Middlefield in the matters of Norse Energy Corporation USA v. Town of Dryden et al., and Cooperstown Holstein Association v. Town of Middlefield; and

WHEREAS, the Norse Energy Corporation and the Cooperstown Holstein Association ("Appellants") recently filed motions for leave to appeal each decision to the Court of Appeals - the State's highest court; and

WHEREAS, if the Appellants are granted leave to appeal to the Court of Appeals, the Town of Ulysses will seek leave to file amicus curiae brief(s) with the Court and will file such brief(s) if leave is granted; and

WHEREAS, the Town of Ulysses has requested that other municipalities in the State consider joining the municipal coalition supporting the Ulysses' amicus brief(s) to send a powerful statement to the Court of Appeals, the NYS Department of Environmental Conservation and the NYS Legislature about the importance of protecting municipal home rule in New York State and a municipality's right to decide, for itself, whether natural gas drilling - or any other land use - is appropriate for its citizens.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Town of JERUSALEM hereby determines that it is in the public interest of the citizens of the Town to support municipal home rule by joining in the amicus brief(s) being filed in the Court of Appeals by the Town of Ulysses and a coalition of municipalities from across the State.

2. The Town Board of JERUSALEM will complete or cause to be completed any and all such further documents and papers it deems necessary or appropriate to carry into effect the foregoing resolution.

3. The Town Clerk will promptly send a certified copy of this adopted resolution to the Town of Ulysses, 10 Elm Street, Trumansburg, NY 14886.

NYSDOS Waterfront Revitalization Grant Consultant

The grant is in the process being written and should be ready to be presented next month

RESOLUTION #105-13

UNIFORM NOTICE OF CLAIM ACT

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

ADOPTED Ayes 5 Folts, Jones, Killen, Parson, Steppe
Nays 0

WHEREAS General Municipal Law, §53 requires towns to file a certificate with the Secretary of State designating the Secretary of State as an agent for service of a notice of claim; and

WHEREAS, General Municipal Law, §53 requires the certificate to include the applicable time limit for filing the notice of claim and the name, post office address and electronic mail address, if available, of an officer, person, for the transmittal of notices of claim served upon the Secretary as the town's agent; and

WHEREAS, pursuant to General Municipal Law, §50-e(1)(a), the applicable time limit for the filing of a notice of claim upon a town is 90 days after the claim arises, or in the case of a wrongful death action, 90 days from the appointment of a representative of the decedent's estate; Now therefore Be It

RESOLVED, that the Town Board of the Town of Jerusalem, County of Yates designates Sheila McMichael, in her capacity as Town Clerk, to receive notices of claims served upon the Secretary of State by mail at 3816 Italy Hill Road, Branchport, New York 14418.

BE IT FURTHER RESOLVED, that the Town Board hereby directs the Town Clerk to file the required certificate with the Secretary of State informing him or her of the town's designation and applicable time limitation for filing a notice of claim with the town on or before July 14, 2013.

RESOLUTION #106-13

STANDARD WORK DAY AND REPORTING RESOLUTION

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

ADOPTED Ayes 5 Folts, Jones, Killen, Parson, Steppe
Nays 0

Be it resolved, that the Town of Jerusalem hereby establishes the following as standard work days for elected officials and will report the following days worked to the New York State and Local Employees' Retirement System based on the record of activities maintained and submitted by these officials to the Clerk of this body:

Title	Name	Standard Work Day (Hrs/day)	Term	Employer Record of Time Worked	Days/Month
Highway Superintendent	Robert Martin	8	1/1/2013-12/31/2015	Y	20

The Town Clerk is hereby directed to post this resolution on the Town of Jerusalem website for a minimum of 30 days; to file a certified copy of this resolution and affidavit of posting with the Office of the State Comptroller within 45 days of adoption; to retain records of work activities for ten (10) years; and to provide complete copies of the NYS Comptroller upon request.

PUBLIC COMMENT:

Mike Sullivan, Education Director for Finger Lakes Museum:

- June 23, 2013 will be the last day for free Kayaking
- There will be Branchport Wildlife program, they are looking for a venue, and this will be on July 9th.
- We received a list of activities that will take place in Branchport on July 4th.

With there being no further business, on a motion of Supervisor Jones, seconded by Councilor Steppe, the meeting was adjourned at 8:40 P.M.

Carol Goebel, Deputy Clerk