

Minutes of the regular monthly meeting of the Jerusalem Town Board held on February 20, 2008 at 7:00 P.M. PRESENT were: Supervisor Jones, Councilpersons Folts, Hopkins, Simmons, Stewart, Highway Superintendent Payne, Town Engineer Ackart, Town Clerk McMichael.

GUESTS: Max Parson, Bill Pringle, Tom Close, Sue Close, Cynthia Geertson, David Geertson, Ed Pinneo, Bob Evans, Taylor Fitch, Debbie Koop.

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

RESOLUTION #33-08  
APPROVAL OF MINUTES

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

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

Resolved the minutes of the January 16, 2008 meeting be approved as read.

RESOLUTION #34-08  
AUDIT OF CLAIMS

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

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

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

General:	\$ 11,912.12
Highway DA:	\$ 4,556.27
Highway DB	\$ 27,279.64
Sewer	\$ 1,659.24
Water:	\$118,219.90

January Utilities:	General:	\$ 788.53
	Sewer:	\$31,165.01
	Water:	\$76,633.50

RESOLUTION #35-08  
SUPERVISOR REPORT

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

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

Resolved that the Supervisor's Report on the Town's finances for the month of January 2008 be accepted as presented.

REPORT OF TOWN OFFICIALS  
HIGHWAY SUPERINTENDENT

Written report of roadwork and plowing for the month of January 2008 on file in the Office of the Town Clerk. In response to a question, Highway Superintendent Payne stated he is hoping our salt supply will get us through the remainder of winter weather. All our equipment is holding up this winter.

RESOLUTION #36-08

AUTHORIZE PURCHASE OF HIGHWAY DEPARTMENT PICK-UP TRUCK

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

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

Whereas, Robert Payne, Highway Superintendent for the Town of Jerusalem asked the Jerusalem Town Board for the purchase of one, Ford F350 pick-up as specified in vehicle proposal from VanBortal Ford, Victor, New York; and

Whereas, said proposal is based on New York State Bid Contract Item 14., with a total purchase price not to exceed \$19,735.25. Pick-up would be ordered from VanBortal Ford with delivery to take place in approximately 16-20 weeks; now, therefore, be it

Resolved the Town Board authorizes the purchase of said pick-up truck for the Highway Department as included in the 2008 budget account number DA5130.2.

TOWN ENGINEER

- Town Engineer Ackart reported now that the water districts have been consolidated, the KPSW Committee is working on several associated housekeeping matters.
- A budget amendment resolution will be presented tonight for the consolidated district based on the new fees, reduced rate and minimum. A second budget amendment will be done when the Town receives the water rate from the Village based on their 2008-2009 budget.
- Town Attorney Bailey is drafting necessary resolutions to establish water reserve funds.
- Town Attorney Bailey is researching alternatives, guidelines and procedures required for extension of the consolidated district.
- KPSW Clerk Wheeler and Councilperson Stewart have worked numerous hours to get the water capital charges on the 2009 tax bills.
- Bernard P. Donegan, Inc. will conduct a sewer rate study for the Town as included in the 2008 budget.

- In response to an inquiry from Town Assessor Comstock, Ackart prepared a document estimating the replacement and depreciated value of the Keuka Park sewer and water districts. The water district depreciated value is estimated at \$8,250,000 and sewer at \$5,000,000 showing KPSW has become a big business. This document will be copied to the Town Board.
- Ackart was asked to elaborate on the problems with the conversion from gas to Village electric heat at the Indian Pines Pump Station. During the conversion, we discovered the existing transformer only delivers 30 amps and is not enough amperage to run the two new electric heaters. A butt booster will have to be installed that will increase the cost of the conversion. Originally, we estimated a 4-year pay back from the conversion savings, but now the additional cost of the butt booster installation will have to be factored in. Councilperson Simmons disputed the procedure stating we need to see the usage and savings comparison before hand.
- Declaring scrap metal as excess equipment will be addressed at the next meeting.

SUBCOMMITTEE REPORTS:

ADULT ENTERTAINMENT:

Subcommittee member Bob Evans reported a meeting was held with legal counsel in January. The Adult Entertainment Subcommittee will meet to review the draft regulations received from Attorney Jason DiPonzio and make their recommendation to the Town Board.

SUBDIVISION:

Subcommittee member Jim Barden stated Attorney Don Schneider shared his concerns regarding the proposed subdivision regulations with the Subcommittee on February 6<sup>th</sup>. Mr. Barden will be sharing comments he received from our consultant, Andy Raus with the subcommittee at their next meeting.

WATERFRONT DEVELOPMENT:

Jim Barden was the Town's representative on the Waterfront Revitalization Program. Yates County, in cooperation with the Village of Penn Yan and the Towns of Milo and Jerusalem, received a grant from the NYS Department of State under the Quality Communities program to prepare the study which addresses the waterfront along the Keuka Lake Outlet between Keuka Lake and the Cherry Street bridge. He commented on the superb job done on the project. A 2-volume draft report is available in the Town Clerk's office for review.

WIND FARMS:

Subcommittee member Neil Simmons stated an information meeting will be held on March 27 at Keuka College. Residents in the proposed areas to locate wind farms will be notified via mail.

SLOPES:

Subcommittee member Ed Pinneo reported the Planning Board reviewed and recommended the draft Construction on Steep Slopes regulations be passed on to the Town Board. Mr. Pinneo raised a question at the Planning Board meeting regarding the performance bond that he will discuss further with Town Attorney Bailey. Supervisor Jones has forwarded the draft regulations to Attorney Bailey for his review.

Planning Board member Deb Koop clarified that the recommendation from the Planning Board was to forward the draft regulations that included the performance bond clause, noting that she seconded Mr. Pinneo's motion at the February Planning Board meeting to pass the draft regulations on to the Town Board. She stated the performance bond is to be included to give the Planning Board discretion to require it so the work gets done properly and Mr. Pinneo was not directed by the Planning Board to discuss this matter with Attorney Bailey.

RESOLUTION #37-08

A RESOLUTION DETERMINING THAT LOCAL LAW A OF 2008 ENTITLED:  
"CHANGES TO THE NOTICE OF HEARING REQUIRED IN CASES BEFORE THE  
ZONING BOARD OF APPEALS OF THE TOWN OF JERUSALEM" DOES NOT REQUIRE  
ENVIRONMENTAL REVIEW

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

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

WHEREAS, the Town Board of the Town of Jerusalem has before it proposed Local Law A of 2008, which provides for certain changes to the procedure for giving notice of applications to the Zoning Board of Appeals for variances; and

WHEREAS, Rule 617.5 (c) of the Regulations of the Department of Environmental Conservation provide that the adoption of regulations and procedures involving the granting of certain area variances are "Type II" actions that are not subject to environmental review;

NOW, THEREFORE, BE IT RESOLVED by the Town Board of the Town of Jerusalem that proposed Local Law A of 2008, entitled "Changes to the Notice of Hearing Required in Cases Before the Zoning Board of Appeals of the Town of Jerusalem" is not subject to environmental review.

RESOLUTION #38-08

RESOLUTION AUTHORIZING ADOPTION BY THE TOWN BOARD OF THE TOWN OF  
JERUSALEM OF LOCAL LAW NO. A-2008 (PROPOSED) ENTITLED: "CHANGES TO

THE NOTICE OF HEARING REQUIRED IN CASES BEFORE THE ZONING BOARD OF APPEALS OF THE TOWN OF JERUSALEM"

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

**ADOPTED BY ROLL CALL VOTE:**

Councilperson Stewart	Aye
Councilperson Folts	Aye
Councilperson Simmons	Aye
Supervisor Jones	Aye
Councilperson Hopkins	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 16, 2008, 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 amending the Zoning Ordinance of the Town of Jerusalem to change the notice of hearing required in cases before the Zoning Board of Appeals of the Town of Jerusalem; and

WHEREAS, notice of said public hearing was duly advertised in The Chronicle Express, the official newspaper of said Town, on January 9 and 16, 2008; and

WHEREAS, said public hearing was duly held on January 16, 2008, at 7:00 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, pursuant to part 617 of the implementing regulations pertaining to article 8 State Environmental Quality Review Act (SEQRA) it has been determined by the Town Board of said Town that adoption of said proposed Local Law would not have a significant effect upon the environment and could be processed by other applicable governmental agencies without further regard to SEQRA; and

WHEREAS, the Yates County Planning Board recommended approval of the proposed Local Law on January 24, 2008, pursuant to section 239-m of the General Municipal Law; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Jerusalem hereby adopts said Local Law No. 1 of 2008 entitled "A Local Law amending the Zoning Ordinance of the Town of Jerusalem to change the notice of hearing required in cases before the Zoning Board of Appeals of the Town of Jerusalem", a copy of which is attached hereto and made a part of this resolution;

Be it enacted by the Town of Jerusalem as follows:

## Section 1: Findings and Purpose.

The Town Board finds that the amount of time between the mailing of notice to neighbors and the date for the hearing established in the town's zoning law has been too short to afford the neighbors adequate time to prepare for attending the hearings of the zoning board of appeals. The Board further finds that a recent change to the New York State General Municipal Law, which added Section 239-nn to such law, requires that notice be given to adjacent municipalities in certain cases and should be provided for in the town's zoning law. The Board further finds that it would be helpful to the public for the provisions of Section 239-m of the General Municipal Law, which requires notice to the Yates County Planning Board in certain cases, to be mentioned in the town's zoning law. The purpose of this local law is to make these changes.

## Section 2: Amendment.

Paragraph B of Section 160-73 of the Code of the Town of Jerusalem relating to notice of hearing before the Zoning Board of Appeals is hereby amended to read as follows:

- B. Notice. The Zoning Board of Appeals shall give public notice of any application for a variance, for the hearing of appeal for administrative review or for the hearing of any application for a special use permit in the following manner:
- (1) By the publication in the official paper of a notice of such hearing at least ten (10) business days prior to the date thereof.
  - (2) By mailing notices of such hearing at least ten (10) business days before the hearing to:
    - (a) The parties.
    - (b) The regional state park commission having jurisdiction over any state park or parkways within five hundred (500) feet of the property affected by such appeal.
    - (c) The clerk of an adjacent town or village located within five hundred (500) feet of the property affected by such appeal.
    - (d) All persons, firms or corporations owning property or residing within two hundred (200) feet of the location of the property affected by such appeal.
    - (e) The Yates County Planning Board when required by Section 239-m of the General Municipal Law.
    - (f) This mailing shall be by certified mail, without return receipt.
  - (3) The Notice shall contain the following information:
    - (a) The name of the applicant.
    - (b) The location of the property.
    - (c) The relief requested in sufficient detail to inform the public of the affect of the relief, if granted.
    - (d) The time and place of the meeting at which the application will be heard.

- (e) A statement that the full application may be examined at the town office and the times when the office is open for that purpose.

Section 3: Effective Date.

This local law shall take effect upon filing with 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.

YATES COUNTY PLANNING BOARD PRESENTATION

Councilpersons Folts and Simmons and Planning Board Chair Bob Evans will draft a letter to Chuck Mitchell, our representative on the County Planning Board, inviting him to present to the Town Board.

RESOLUTION #48-08

NAME LYONS NATIONAL BANK AS TOWN DEPOSITORY

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

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

Resolved that Lyons National Bank also be designated as an official depository for the Town, with the Supervisor and Deputy Supervisor authorized to sign checks and other financial papers.

RESOLUTION #49-08

BUDGET AMENDMENT - WATER DISTRICT CONSOLIDATION

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

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

Whereas, the Town has now formally combined all four water districts into one consolidation district; and

Whereas, the 2008 Town Budget was adopted prior to the consolidation; now, therefore

BE IT RESOLOVED that the 2008 Budget be amended as follows

Decrease in the 2140 (rents) revenue	\$108,788.00
Decrease in the 2144 (transmission) revenue	\$ 12,121.00

Increase the USE OF FUND BALANCE

\$120,909.00

RESIGNATION - BOARD OF ASSESSMENT REVIEW

Supervisor Jones read a letter dated February 15, 2008 from Lynn Simmons resigning from the Board of Assessment Review. Councilperson Hopkins stated Mr. Simmons has been a valuable member and requested Supervisor Jones send Mr. Simmons a letter thanking him for his years of service.

RESOLUTION #50-08

APPOINTMENT - PLANNING BOARD - DONNA GRIDLEY

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

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

Whereas, the need exists for an appointment to the Planning Board to fill the vacancy left by Neil Simmons who was elected to the Town Board; and

Whereas, those candidates so desiring, were interviewed on February 13, 2008; and

Whereas, the Planning Board Vacancy Interview Committee recommends candidate, Donna Gridley; now, therefore, be it

Resolved, we, the Town Board, hereby appoint Donna Gridley to the unexpired term through December 31, 2012.

Bob Evans, Planning Board and Interview Committee Chairman stated there were five outstanding interviews and all candidates stated their willingness to serve on subcommittees if they were not appointed to the Planning Board.

RESOLUTION #51-08

ABSTRACT OF VOUCHERS

On a motion of Supervisor Jones, seconded by Councilperson Folts, following further discussion including their desire not to pay finance charges, the resolution was

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

Whereas, there needs to be a process for the completion of the abstract of vouchers to be paid at a regular Town Board meeting; and



Whereas, at the present time there is not a process; now, therefore be it

RESOLVED that all vouchers needing to be on a regular Town Board meeting abstract be in the Town Clerk's Office no later than 2:00 PM on the Thursday prior to such regular Town Board meeting. Any vouchers received after such time will be placed on the next regular Town Board meeting abstract; and, be it further

RESOLVED that payments will include a mailer informing vendors of aforesaid procedure.

Note: The Supervisor asked the Bookkeeper to include the vendor mailer in the February, March and April payments.

RESOLUTION #52-08

TOWN BOARD AGENDA

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

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

Whereas, a Town Board member has requested that the agenda of a regular Town Board meeting be made available two days prior to such meeting; and

Whereas, there is not a process for this request at this time; now, therefore be it

RESOLVED that the agenda of a regular Town Board meeting be available no later than 1:00 P.M. on the Monday prior to such Town Board meeting; and, be it further

RESOLVED that when a holiday falls on the Monday, the agenda of a regular Town Board meeting be available no later than 1:00 P.M. on the Friday prior to such Town Board meeting.

RESOLUTION #53-08

BRANCHPORT LIGHTING TAXING DISTRICT

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

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

Whereas it has been found that the following parcels should not be taxed for the Branchport Lighting District as the properties fall outside the lines set up when said District was created; now, therefore be it

Resolved that the following properties be removed from the Branchport Lighting District:

Gary Dinehart: tax map #83.49-1-1  
Linda Smith: tax map #83.65-1-13  
Brian Zerges: tax map #83.65-1-18

DISCUSSION - JOINT SERVICES PROJECT - BID MUNICIPAL ELECTRIC RATES

Councilpersons Simmons and Hopkins presented a draft idea to have our County representatives coordinate a joint service project to bid municipal electric rates for every township, village and municipal user in Yates County. The Village of Penn Yan will not be included as they already have great rates. A meeting will be held with County Legislator Taylor Fitch to develop a plan of action.

DISCUSSION -ESTABLISH SUBCOMMITTEE - REVIEW OF BUILDING DEPARTMENT OPERATIONS

Councilperson Simmons presented a proposal to establish a subcommittee to review the Building Department to recommend possible ways to improve operations of the Department. The Subcommittee will spend time at the office with the charge to determine the possible need to increase staff, identify ways to improve operations, i.e., updated computer programs, increase office communication, and review the physical layout of the office. As the Town continues to grow, the office has gotten busier.

\$5,000 was included in the 2008 budget appropriation code 3620.1 to hire an additional person to work no more than 10 hours per week for the Code Enforcement Officer. The subcommittee review is being proposed because it is believed that an additional part-time employee will not solve our problems or answer questions. Councilperson Hopkins stated the Assessing Department has to be included in the review because the Zoning, Assessing and Planning Clerk is shared by the Code Enforcement Officer and the Assessor. The Keuka Park Sewer and Water operations will not be included at this time.

Each Town Board member will submit the name of one person to sit on the subcommittee to the Town Clerk by Monday, February 25. The subcommittee will be asked to submit their report for the May 21, 2008 Town Board meeting.

RESOLUTION #54-08

ADOPT - OPEN DEVELOPMENT AREA - DECLARATION OF COVENANTS REGARDING MAINTENANCE OF PRIVATE ROADS

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

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

WHEREAS, Section 280-a of the Town Law authorizes towns to adopt general rules for private roads that serve improvements on more than one lot by means of an easement in an area referred to in said law as an "Open Development Area"; and

WHEREAS, applications are made to the Town of Jerusalem for the establishment of an "Open Development Area" within the meaning of Section 280-a of the Town Law so as to allow construction of structures on lots within said area that do not directly abut a public highway; and

WHEREAS, Section 280-a of the Town Law authorizes the Town to establish an Open Development Area on such rules as the Town deems reasonably required to insure access by emergency vehicles to lots served by a private road; and

Whereas the Town of Jerusalem adopted Rules for Private Roads in the Town of Jerusalem on June 20, 2007 that apply to any private road that serves two or more lots; and

Whereas Chapter 93. Article II. Rules for Private Roads, Section 93-23. Maintenance and repair. states there must be an agreement among the property owners providing for maintenance and repair of the private road and said agreement must be recorded in the deed records at the Yates County Clerk's office prior to the issuance of a building permit for any lot served by this road; and

Whereas, Town Attorney Bailey drafted such agreement for an Open Development Area application filed previously; now, therefore, be it

Resolved that the following agreement format or an agreement satisfactory to the Town Attorney be adopted:

DECLARATION OF COVENANTS  
REGARDING MAINTENANCE OF PRIVATE ROAD

KNOW ALL MEN BY THESE PRESENTS: that \_\_\_\_\_,  
residing at \_\_\_\_\_, being the owners of All that Tract  
or parcel of land situate in the Town of Jerusalem, County of  
Yates, and State of New York, bounded and described as set forth in  
schedule A attached hereto, including the right of way from said  
land to \_\_\_\_\_, a public highway of said town, which runs  
across land conveyed by us to \_\_\_\_\_ by deed recorded  
in the Yates County Clerk's Office on \_\_\_\_\_, 200\_\_ in Liber ---

at page -----, do hereby declare and covenant for ourselves, our heirs, representatives and assigns as follows:

1. The owners of said land and the various parcels therein as they may be from time to time will be solely responsible for maintaining, repairing, and removing ice and snow from the private road. The private road shall be cleared and maintained to a width of not less than fifteen (15) feet and kept in a good and passable condition. They shall be solely responsible for compliance with the Rules for Private Road in Open Development Area No. \_\_\_\_\_ of the Town of Jerusalem as established by Resolution of the Town Board of the Town of Jerusalem on \_\_\_\_\_, 200\_\_.

2. The cost of such repair, maintenance, removal and compliance shall be paid by the various owners, and they may agree among themselves from time to time on a fair and equitable division of such cost according to the relative benefit derived by each from such private road.

3. The undersigned are aware that the Town of Jerusalem has no responsibility for the maintenance and repair of the private road, for the removal of ice and snow from it, or liability for injury to person or property resulting from the use of it.

4. These covenants shall be and constitute real covenants running with the land and shall be binding upon Owners and any or all subsequent owners of the real property, or any part thereof, and upon their heirs, representatives, successors and assigns.

5. These covenants shall be enforceable by such owners, their heirs, representatives, and assigns by action for an injunction or for any other appropriate remedy.

IN WITNESS WHEREOF, the undersigned have set their hands and seals hereto as of this \_ day of \_\_\_\_\_, 200\_\_.

PUBLIC COMMENT:

Max Parson requested clarification on Town Engineer Ackart's comments regarding the budget amendment. Ackart explained the Village of Penn Yan budget year runs from June 1 to May 31. We are anticipating an increase from the Village on our cost of water. Because the Village fiscal year does not run with the Town's fiscal year, the Town Board passed a resolution that when the Village increases the water rate, the Town will pass this increase along to our water customers.

With there being no further business, on a motion of Councilperson Folts, seconded by Councilperson Hopkins, the meeting was adjourned at 9:07 P.M.

Jerusalem Town Board  
February 20, 2008

---

Sheila McMichael, Town Clerk