

Minutes of the regular monthly meeting of the Jerusalem Town Board held on October 15, 2014 at 7:00 P.M. PRESENT were: Supervisor Killen, Councilors Dinehart, Jones, Parson, Steppe, Deputy Supervisor Stewart, Town Attorney Bailey, Town Clerk McMichael, Highway Superintendent Martin, Town Engineer Ackart.

GUESTS: Ron Rubin, Tim Cutler, Doug Paddock, Bob Evans, Larry Muscarella, Donna Gridley, Richard Clouser, Ward Abbott, John Adamski, Phil Lentini.

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

**RESOLUTION #154-14**

**APPROVAL OF MINUTES**

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

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

Resolved that the minutes of the September 17, 2014 meeting be approved as read.

**RESOLUTION #155-14**

**APPROVAL OF MINUTES**

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

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

Resolved that the minutes of the September 10, 2014 special meeting be approved as read.

**RESOLUTION #156-14**

**AUDIT OF CLAIMS**

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

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

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

General:	\$25,485.24
Outside Village	\$ 1,644.75
Highway DB:	\$54,983.72
Sewer:	\$34,659.61
Water:	\$ 3,099.98
Branchport Light	\$ 188.73

September Utilities:

General:	\$	207.70
Outside Village:	\$	64.65
Highway DB:	\$	3,733.80
Sewer:	\$	121.09
Water:	\$	366.53
Trust:		\$28,127.18

RESOLUTION #157-14  
SUPERVISOR REPORT

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

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

Resolved that the Supervisor's Report on the Town's finances for the month of September 2014 be accepted as presented.

RESOLUTION #158-14

PUBLIC HEARING - 2015 TOWNWIDE, CONSOLIDATED WATER DISTRICT & SEWER DISTRICTS AND EXTENSIONS BUDGETS

With proof of notice having been duly published and posted, Supervisor Killen opened the Public Hearing at 7:05 P.M., asking for comments on the tentative 2015 Townwide, Water & Sewer Budgets.

The 2015 Tentative Town Budget includes a 1.457% increase in the Town Tax Rate which equates to an additional \$3.60 per \$100,000 of assessed valuation. Changes to the Preliminary Budget include the Water/Wastewater Maintainer salary increases as ratified in the Teamsters Contract and a typo on the outside village assessed value which result in a 1.467% increase in the Town Tax Rate. There will be a significant cost increase for salt in 2015. The preliminary budget reflects 25% local share and 75% FEMA reimbursement for the spring disaster. There is a potential 12.5% reimbursement from the State that is not included in the budget figures.

Ward Abbott, 9189 East Bluff Drive questioned the continual increase in sewer costs. The rates do not reflect a reduction due to the recent bond refinancing.

Richard Clouser, 9627 East Bluff Drive underscored Mr. Abbott's comments.

Supervisor Killen noted a significant portion of the rate that the Town cannot control, is the cost from the Village of Penn Yan to treat the sewage under the terms of a 40-year contract. Town Engineer Ackart stated the 2015 quarterly rates will reduce \$84 for Sewer #2 and \$5 for the consolidated water district.

The hearing was left open.

PRESENTATION - FINGER LAKES MUSEUM

John Adamski and Phil Lentini provided an update on the Finger Lakes Museum project. Due to challenging fund raising efforts, the site will be relocated from the Keuka Lake State Park to the Branchport Discovery Campus. There has been a reluctance of benefactors to invest in a project built on New York State lands. A considerable amount of work needs to be done before the Museum is able to submit new applications to the Town for the Branchport site. Public forums will be scheduled to generate local interest, along with a design charrette to brainstorm ideas.

TOWN OFFICIALS

HIGHWAY SUPERINTENDENT

- Written Budget Highway report on file in the Office of the Town Clerk.
- Highway Superintendent Martin reported the East Bluff Drive gabion basket project should be completed this week.
- The Highway Department will begin hauling sand to prepare for winter.
- The most severe road damages resulting from the spring flooding have been repaired. They will work on repairing the shoulders and ditches as time and the weather allow.

RESOLUTION #159-14

AUTHORIZE HIGHWAY VACATION CARRY-OVER

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

ADOPTED Ayes 4 Dinehart, Jones, Killen, Parson  
Nays 1 Steppe

Whereas, on May 13<sup>th</sup> and May 15<sup>th</sup>, the Town of Jerusalem sustained significant damage due to unprecedented heavy rains and flooding; and

Whereas, this damage to our roads, culverts and ditches required significant amounts of overtime work initially; and

Whereas, emergency repairs have been made but permanent repairs will continue and require full staffing from highway workers for many months in the future, possibly over a year; and

Whereas, the volume of work has caused some Town of Jerusalem highway employees to be unable to use their earned vacation time as usual; and

Whereas, existing vacation policy section 802 states "an employee may not carry-over vacation leave credits to a subsequent calendar year, except a Supervisor may approve carry over up to 5 days due to extenuating circumstances; now, therefore, be it

Resolved, that a one-time exception to vacation policy be permitted allowing up to 10 days (80 hours) of vacation time be rolled forward into 2015, if all reasonable efforts have been made to use such vacation time prior to year end.

Councilor Steppe wanted it on record that his vote was not against the Highway, but because this should apply to all departments to be consistent to all employees.

TOWN ENGINEER

- Notes of the October 7, 2014 KPSW meeting on file in the Office of the Town Clerk.
- A meeting of the Village of Penn Yan and Wholesale Water Customers is scheduled for October 23, 2014 at the Village Hall.

SUPERVISOR

- Supervisor Killen reported as of today, only 75% of the safety concerns reported to John Carroll, 3408 Guyanoga Road have been repaired. Code Enforcement Officer Phillips will issue a citation.
- Supervisor Killen now receives copies of all letters issued by Code Enforcement Officer Phillips to property owners regarding mowing.
- The Town is working with John Tharp, 523 Court Street, to address damages to his drainage system that occurred when emergency road repairs were done during the spring floods.

COUNCIL

- Councilor Steppe introduced a check list as requested by the Planning Board to make their decisions a closed-loop process. Currently there is not a trail of documentation.
- Town Attorney Bailey was asked to speak to the recent court decision related to a small claims filing against the Water & Sewer Department. In summary, Attorney Bailey stated the Judge was impressed with the evidence submitted by the Town and ruled in our favor. The Town Code was followed and documented through notes and pictures by the Water & Sewer Department staff.
- The Zoning Board has reviewed Proposed Local Law A-2014 amending certain zoning provisions in the Agricultural Residential District. They recommend the code be left as currently written.
- Keys to the Town Office will be issued to the Planning Board and Zoning Board Vice-Chairs.

SUBCOMMITTEE REPORTS:

LOCAL WATERFRONT REVITALIZATION PROJECT:

A presentation on the draft Local Waterfront Revitalization Project is scheduled at 7:00 P.M. on October 28, 2014 at the Town Office.

BRANCHPORT HAMLET SUBCOMMITTEE:

The Subcommittee will work with Attorney Bailey on the legal aspects of cleaning up the Sugar Creek parking area to enhance the Hamlet area.

PUBLIC HEARING - 2015 TOWNWIDE, CONSOLIDATED WATER DISTRICT & SEWER DISTRICTS AND EXTENSIONS BUDGETS

Richard Clouser requested future budgets include the projected cost for water and sewer customers.

RESOLUTION #160-14

CLOSE PUBLIC HEARING - 2015 TOWNWIDE, CONSOLIDATED WATER DISTRICT & SEWER DISTRICTS AND EXTENSIONS BUDGETS

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

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

With all persons desiring to be heard, Supervisor Killen closed the hearing at 8:40 P.M.

RESOLUTION #161-14

ADOPT 2015 TOWNWIDE BUDGET

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

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

Resolved the 2015 Townwide Budget be adopted as modified.

RESOLUTION #162-14

ADOPT 2015 CONSOLIDATED WATER DISTRICT BUDGET

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

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

Resolved the 2015 Consolidated Water District be adopted as modified.

RESOLUTION #163-14

ADOPT 2015 SEWER DISTRICTS & EXTENSIONS BUDGET

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

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

Resolved the 2015 Sewer Districts and Extensions Budget be adopted as modified.

RESOLUTION #164-14

BOND RESOLUTION DATED OCTOBER 15, 2014 OF THE TOWN BOARD OF THE TOWN OF JERUSALEM, NEW YORK, AUTHORIZING GENERAL OBLIGATION SERIAL BONDS TO FINANCE CERTAIN CAPITAL IMPROVEMENTS CONSISTING OF CONSTRUCTION OF A SALT STORAGE BUILDING, AUTHORIZING THE ISSUANCE OF BOND ANTICIPATION NOTES IN CONTEMPLATION THEREOF, THE EXPENDITURE OF SUMS FOR SUCH PURPOSE, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

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

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

WHEREAS, the Town, acting as lead agency under the State Environmental Quality Review Act and the applicable regulations promulgated thereunder ("SEQRA"), has completed its environmental review and, on July 16, 2014, has duly issued a negative declaration and has determined that the implementation of the

unlisted action as proposed will not result in any significant adverse environmental impacts; now therefore, be it

RESOLVED BY THE TOWN BOARD OF THE TOWN OF JERUSALEM, NEW YORK (hereinafter referred to as the "Town"), by the favorable vote of not less than two-thirds of all of the members of such Board, as follows:

Section 1. The Town of Jerusalem shall undertake certain capital improvements consisting of the construction of a 65' x 100' snow/ice control salt storage building at the Town Highway complex on Guyanoga Road in the Town of Jerusalem, various site and other incidental improvements in connection therewith and the acquisition of original furnishings, equipment, machinery or apparatus that may be required in connection therewith for such construction and Town use (hereinafter referred to as "purpose"), and general obligation serial bonds in an aggregate principal amount not to exceed \$135,000 and bond anticipation notes in anticipation thereof (and renewals thereof) of the Town are hereby authorized to be issued to finance said purpose, and said amount is hereby appropriated therefor.

Section 2. The estimated aggregate maximum cost to the Town of Jerusalem of said purpose, including preliminary costs and costs incidental thereto and costs of the financing thereof, is estimated to be \$200,000. The plan for financing of said purpose is to provide (i) up to \$135,000 of such maximum cost by issuance of bonds or bond anticipation notes as herein authorized, (ii) up to \$65,000 from available reserve funds.

Section 3. It is hereby determined and declared that (a) such building shall be a class "A" building as defined in Subdivision 11 of Paragraph a of Section 11.00 of the Local Finance Law, and said purpose is one of the class of objects or purposes described in Subdivision 11 of Paragraph (a) of Section 11.00 of the Local Finance Law, and that the period of probable usefulness of said purpose is hereby restricted to five (5) years, (b) the proposed maximum maturity of said bonds authorized by this resolution will not be in excess of five years, (c) current funds required to be provided prior to the issuance of the bonds or notes herein authorized, pursuant to Section 107.00 of the Local Finance Law, to the extent applicable, if any, will be provided, (d) the notes herein authorized are not issued in anticipation of bonds for an assessable improvement, and (e) there are presently no outstanding bond anticipation notes issued in anticipation of the sale of said bonds.

Section 4. The bonds and notes authorized by this resolution shall contain the recital of validity prescribed in Section 52.00 of the Local Finance Law and such bonds and notes shall be general obligations of the Town and all the taxable real property in the Town is subject to the levy of *ad valorem* taxes to pay the principal thereof, and interest thereon, without limitation as to rate or amount, subject to applicable statutory limitations, if any, sufficient to pay the principal of and interest on said bonds and notes.

Section 5. It is hereby determined and declared that the Town reasonably expects to reimburse the general fund, or such other fund as may be utilized, not to exceed the maximum amount authorized herein, from the proceeds of the obligations authorized hereby for expenditures, if any, from such fund that may be made for the purpose prior to the date of the issuance of such obligations. This is a declaration of official intent under Treasury Regulation §1.150-2.

Section 6. The power to further authorize the sale, issuance and delivery of said bonds and notes and to prescribe the terms, form and contents of said bonds and notes, including, without limitation, the consolidation with other issues, the determination to issue bonds with substantially level or declining annual debt service, all contracts for, and determinations with respect to, credit or liquidity enhancements, if any, and to sell and deliver said bonds and notes, subject to the provisions of this resolution and the provisions of the Local Finance Law, including without limitation, the authority to determine whether to accept bids electronically to the extent allowed by Section 58.00 of the Local Finance Law, is hereby delegated to the Town Supervisor, the Town's chief fiscal officer. The Town Supervisor and the Town Clerk or Deputy Clerk are hereby authorized to sign by manual or facsimile signature and attest any bonds and notes issued pursuant to this resolution, and are hereby authorized to affix to such bonds and notes the corporate seal of the Town of Jerusalem.

Section 7. The faith and credit of the Town of Jerusalem, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds and notes as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such obligations becoming due and payable in such year.

Section 8. This resolution shall be published in full by the Town Clerk of the Town of Jerusalem together with a notice in substantially the form prescribed by Section 81.00 of said Local Finance Law, and such publication shall be in each official



newspaper of the Town, in the manner prescribed by law. The validity of said bonds and bond anticipation notes issued in anticipation of the sale of said serial bonds, may be contested only if such obligations are authorized for an object or purpose for which said Town is not authorized to expend money, or the provisions of law which should be complied with, at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty (20) days after the date of such publication; or if said obligations are authorized in violation of the provisions of the Constitution.

Section 9. This resolution shall take effect immediately upon its adoption.

RESOLUTION #165-14

APPOINTMENT - PART-TIME HIGHWAY MEDIUM EQUIPMENT OPERATOR

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

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

Whereas Arthur Burk retired his full-time Medium Equipment Operator position on October 7, 2014; and

Whereas Mr. Burk has agreed to continue assisting the Highway Department on a part-time basis; now, therefore, be it

Resolved Arthur Burk be hired as the part-time Medium Equipment Operator effective October 8, 2014 through December 31, 2014 at an hourly rate of \$17.30.

Supervisor Killen stated a luncheon will be planned for Mr. Burk.

RESOLUTION #166-14

WATER AND SEWER DELINQUENT ACCOUNT RELEVIES

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

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

Whereas, the Jerusalem Town Code provides for the collection of delinquent water and sewer bills by the County of Yates by the relevy of those accounts on the January tax bills; and

Whereas, the Town Water/Sewer office has compiled a listing of the preliminary 2014 water and sewer delinquent accounts in the following amounts:

WATER	\$28,955.69
SEWER	\$20,806.07
RELEVY FEE	\$ 4,600.00

; now, therefore, be it

Resolved, that the Jerusalem Town Board does hereby approve the transfer of these delinquent accounts less any validly made payments to the County for relevy on their 2015 tax bills.

NOTE: Final relevy amounts:

WATER	\$27,103.77
SEWER	\$19,338.70
RELEVY FEE	\$ 3,600.00

RESOLUTION #167-14

SETTLEMENT OF SCHWINGLE-OLIN COMPLAINT

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

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

WHEREAS:

1) Clarence E. Schwingle, Jr. [hereafter "Schwingle"] owns premises [hereafter "Schwingle premises"] known as 6451 West Bluff Drive in the Town of Jerusalem [the "Town"], and Sharon Olin and William Olin [hereafter "Olin"] own premises [hereafter "Olin premises"] known as 6475 West Bluff Drive in the Town, which are south of and adjacent to the Schwingle premises; and

2) Schwingle has complained to the Town that Olin owns, uses, and maintains a permanent dock [hereafter the "Dock"] within the waters of Keuka Lake westerly of the Olin premises that is in violation the Docking and Mooring Law of the Town of Jerusalem, Chapter 160, Article XXI of the Town Code [hereafter the "Docks Law"], in that it extends over the Water Rights Line, established by the Docks law, between the Schwingle Premises and the Olin Premises and encroaches upon the waters effectively reserved to Schwingle by the terms of the Docks law; and

3) Schwingle has likewise complained to the New York State Office of General Services [hereafter "OGS"] that the Dock violates, among

other things, Section 32 of the New York State Navigation Law; and

4) Following an investigation conducted by OGS pursuant to Section 32 aforesaid, a settlement of the issues presented by the complaint to OGS [hereafter the "Settlement"] has been proposed and provisionally agreed to by the Olin, the Schwingle, and OGS; and

5) The Settlement would require that the Dock be reconfigured to conform to the sketch attached hereto and made a part hereof; and

6) The terms of the settlement call for the reconfiguration and location of the dock aforesaid at a place that is five feet from the Water Rights Line rather than ten feet as required by the Docks Law thus rendering the Dock less non-conforming than it presently is; and

7) The Dock is known to have been in existence well before the effective date of the Docks Law and therefore is entitled to remain where it is unless other facts, which are in dispute, are proven; and

8) The terms of the settlement appear to be fair and reasonable to all concerned and if entered into will avoid the expenditure of further resources of the Town to mediate or litigate a disposition of the complaint to the Town;

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Notwithstanding the terms of Article XXI, Docking and Mooring, of Chapter 160 of the Code of the Town of Jerusalem, permission is hereby granted by the Town Board of the Town of Jerusalem to Sharon Olin and William Olin, as owners of the premises commonly referred to as 6475 West Bluff Drive, in the Town of Jerusalem, to have and maintain the existing permanent dock located lakeside of said premises and so reconfigured as to conform to the drawing attached hereto and made a part hereof, and further
2. That the minimum distance between such permanent dock and the water rights line between the Schwingle Premises and the Olin Premises as depicted on such sketch is hereby expressly set at five feet, and further
3. That compliance with this resolution by Olin will settle all issues presented to the Town by the Schwingle complaint; provided, however,
4. That this permission will become void and of no effect if

any modification required to bring such permanent dock into conformance with the drawing shall not have been completed on or before December 31, 2014.

RESOLUTION #168-14

AUTHORIZE SUPERVISOR TO EXECUTE A CONTRACT MODIFICATION WITH SIMMONS RECOVERY CONSULTING FOR FEMA REIMBURSEMENT

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

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

Resolved the Supervisor be authorized to execute a modification to extend the term of the Simmons Recovery Consulting contract approved by Resolution #127-14 through November 20, 2014; and, be it further

Resolved that the contract modification is approved in an amount not-to-exceed \$90,000 to assist the Town with our disaster recovery efforts.

RESOLUTION #169-14

RESOLUTION REQUESTING STATE DISASTER AID

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

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

Whereas, on May 13<sup>th</sup> and May 15<sup>th</sup>, the Town of Jerusalem infrastructure sustained significant damage due to unprecedented heavy rains and flooding; and

Whereas, a FEMA disaster declaration was made on July 8<sup>th</sup>, 2014; and

Whereas, FEMA reimburses repairs at a rate of 75% of actual cost; and

Whereas, New York State (NYS) has imposed a tax cap limiting a local municipality's ability to raise funds for extensive repairs through property tax increases; and

Whereas, the cost of necessary repairs, if funded solely by the Town of Jerusalem, will inhibit the Town's ability to provide necessary services to its residents while remaining under the NYS tax cap; now, therefore, be it

Resolved, that the Town of Jerusalem respectfully requests that NYS reimburse 12 ½% of the cost of repairs incurred by the Town of

Jerusalem in repair and recovery from flood damage incurred in this flooding disaster; and, be it further

Resolved, that a copy of this resolution be forwarded to Governor Andrew Cuomo, Senator Tom O'Mara and Assemblyman Phil Palmesano.

RESOLUTION #170-14  
MOVE TO EXECUTIVE SESSION

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

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

Resolved that this meeting be interrupted to enter into Executive Session to discuss pending litigation with Penn Yan.

The Executive Session convened at 9:31 P.M. following a five minute recess. KPSW Clerk Wheeler, Town Engineer Ackart and Town Attorney Bailey remained for the session.

The following information was provided by Supervisor Killen:

RESOLUTION #171-14  
RETURN TO REGULAR SESSION

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

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

Resolved that the Board return to regular session.

The Board reconvened in regular session at 10:35 P.M.

With there being no further business, the meeting was adjourned at 10:36 P.M.

---

Sheila McMichael, Town Clerk