Minutes of the regular monthly meeting of the Jerusalem Town Board held on December 19, 2018 at 7:00 P.M. PRESENT were: Supervisor Killen, Councilors Anderson, Jones, Sisson, Stewart, Town Clerk McMichael, Highway Superintendent Martin, Town Engineer Ackart.

GUESTS: Jen McKay, Arlene Wilson, Jeff Arnold, Bill Neilsen, Ignatius Scott, John Christensen; Chronicle Express Reporter.

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

RESOLUTION #240-18 APPROVAL OF MINUTES

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

ADOPTED Ayes 5 Anderson, Jones, Killen, Sisson, Stewart Nays 0

Resolved that the minutes of the November 14, 2018 meeting be approved as read.

RESOLUTION #241-18

AUDIT OF CLAIMS

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

ADOPTED Ayes 5 Anderson, Jones, Killen, Sisson, Stewart Nays 0

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

General: \$16,085.78
Outside Village \$5,971.43
Highway DB: \$67,438.64
Sewer: \$46,960.55
Water: \$14,098.39
Branchport Light \$256.81
Trust: \$2,449.00

November Utilities:

General: \$ 820.99
Outside Village: \$ 161.53
Sewer: \$ 268.26
Water: \$ 289.51
Sewer: \$ \$9,108.91

RESOLUTION #242-18

SUPERVISOR REPORT

ADOPTED Ayes 5 Anderson, Jones, Killen, Sisson, Stewart

Nays 0

Resolved that the Supervisor's Report on the Town's finances for the month of November 2018 be accepted as presented.

PRESENTATION - ARLENE WILSON, YATES COUNTY CORNELL COOPERATIVE EXTENSION EXECUTIVE DIRECTOR

Arlene Wilson, Executive Director, Yates County Cornell Cooperative Extension (CCE) presented the 2018 Annual Report calendar and Local Food Guide to the Board. The Yates County Chamber of Commerce shared in publishing the food guide that connects farmers and producers to the community. She briefly addressed the Board regarding resources and services available through CCE.

TOWN OFFICIALS

HIGHWAY SUPERINTENDENT

- Written Budget Highway report on file in the Office of the Town Clerk.
- NYSDOT conducted a speed study on the Town portion of Italy Friend Road and concluded 55 mph is an adequate speed. We will install a Stop Ahead and 35 mph advisory speed sign as recommended by DOT. We will follow up with Yates County Sheriff's Office as we have not received their speed study report.
- Information is being gathered from other municipalities for Road Opening and Road Working Applications. Any revision to our current process must be done by local law.
- Calls have been received related to the numerous construction vehicles parked along West Bluff Drive. This will be addressed in the future as part of the pre-construction meetings. This becomes a problem for the Town when we need to plow.

TOWN ENGINEER

- Notes of the December 13, 2018 KPSW meeting on file in the Office of the Town Clerk.
- We received the results from the NYS Department of Health 2018 routine water system inspection which noted the system is in excellent condition and we have knowledgeable and cooperative staff.
- We are still awaiting DOH approval on the water capital project.
- Our Financial Consultant presented the preliminary water and sewer rate study. 2019 rates will remain at the 2018 levels. Councilor Stewart thanked Jennifer McKay and Ginny Fenton for their work in supplying the information needed to complete the study.

ASSESSOR

 Vinnie Fisher will start as the Sole Appointed Assessor on Monday, December 24th.

COUNCIL

• Water Operator/Wastewater Maintainer Brad Donovan is registered for training in March so he will be certified before Lee Hardy's scheduled retirement.

SUPERVISOR

- Supervisor Killen received a call commending KPSW employees Lee Hardy and Brad Donovan for their professionalism and demeanor while dealing with the recent water main break in Indian Pines. He also received a call earlier this year commending Code Enforcement Officer Zac DeVoe for his involvement with a building permit.
- DEC issued the Switzerland Inn a SPDES permit on December 4, 2018
- Supervisor Killen and Councilor Sisson will meet to work on a kennel law.

RESOLUTION #243-18

RESOLUTION AUTHORIZING SCHEDULING OF PUBLIC HEARING FOR A PROPOSED LOCAL LAW AMENDING THE TOWN OF JERUSALEM ZONING ORDINANCE
On a motion of Councilor Sisson, seconded by Councilor Anderson,

the following was

ADOPTED Ayes 5 Anderson, Jones, Killen, Sisson, Stewart Nays 0

WHEREAS, the Town Board of the Town of Jerusalem, after due deliberation, finds it in the best interests of the Town to schedule a public hearing to solicit public comment upon a proposed Local Law entitled "A Local Law Amending the Town of Jerusalem Zoning Ordinance"; and

WHEREAS, the Town Board of the Town of Jerusalem has reviewed the draft of the aforementioned proposed Local Law attached hereto as Exhibit "1" and deems it in the best interests of the Town of Jerusalem to proceed in accordance with the Code of the Town of Jerusalem and the Laws of the State of New York in adopting said Local Law,

NOW, THEREFORE, BE IT RESOLVED, that the Town Clerk be, and she hereby is, directed to schedule a public hearing to be held on January 16, 2019, at 7:05 p.m. at the Jerusalem Town Hall, 3816 Italy Hill Road, Branchport, New York; and be it further

RESOLVED, that the Town Clerk, be and hereby is, authorized to forward to the official newspaper of the Town a Notice of Public Hearing in the form substantially the same as that attached hereto as Exhibit "2"; and be it further

RESOLVED, that the Town Clerk be, and she hereby is, directed to post a copy of the proposed Local Law on the Town of Jerusalem sign board and take any and all other necessary actions to properly bring the aforementioned Local Law before the Town Board of the Town of Jerusalem for its consideration.

PUBLIC CONCERN

Art Carcone was not in attendance at tonight's meeting. Highway Superintendent Martin stated he spoke to Mr. Carcone who had a concern regarding snow plowing.

RESOLUTION #244-18

Schedule January 2019 Organization Meeting

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

ADOPTED Ayes 5 Anderson, Jones, Killen, Sisson, Stewart Nays 0

Resolved the Organization Meeting be held at 6:00 P.M. on January 2, 2019.

RESOLUTION #245-18

2018 Highway DB Budget Amendment

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

ADOPTED Ayes 5 Anderson, Jones, Killen, Sisson, Stewart Nays 0

Whereas, Yates County Soil and Water has reimbursed the Town for stone used on Stever Hill Road;

Now be it resolved that the Highway DB budget be amended to recognize the Yates County Soil and Water reimbursement of \$8,773.50 as follows:

Increase expense code 5110.4 \$8,773.50 Increase revenue code 2770 \$8,773.50

RESOLUTION #246-18

Yates County Planning Board Representative - Jamie Sisson

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

ADOPTED Ayes 5 Anderson, Jones, Killen, Sisson, Stewart Nays 0

Resolved Jamie Sisson be appointed to represent Jerusalem on the Yates County Planning Board.

RESOLUTION #247-18

AUTHORIZE CEO TO ATTEND FINGER LAKES BUILDING OFFICIALS ASSOCIATION (FLBOA) TRAINING

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

ADOPTED Ayes 5 Anderson, Jones, Killen, Sisson, Stewart Nays 0

Whereas Code Enforcement Officer Zac DeVoe is required to maintain awareness of current laws and regulations through annual training, and

Whereas FLBOA has scheduled a training session at RIT March 11-13 2019, (see training request attached)

Therefore be it resolved to allow CEO Zac DeVoe to attend training at FLBOA conference March 11-13, 2019 with costs for training not to exceed \$390 and lodging not to exceed \$282.

RESOLUTION #248-18

Approve YCSO Animal Control Agreement

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

ADOPTED Ayes 5 Anderson, Jones, Killen, Sisson, Stewart Nays 0

Resolved the Supervisor be authorized to execute the 2019 Animal Control Agreement with the Yates County Sheriff's Office.

RESOLUTION #249-18

Approve Sunshine Fund Expenditure

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

ADOPTED Ayes 5 Anderson, Jones, Killen, Sisson, Stewart Nays 0

Resolved a Sunshine fund payment \$630 to Ray Stewart for purchase of Tops gift cards for employees (\$30 each) for Christmas gift be approved.

PURCHASE OF REPLACEMENT SOLAR FLAG LIGHT

Following discussion, replacing the flag light with solar or LED will be reviewed further. Supervisor Killen will obtain two quotes.

RESOLUTION #250-18

Approve Purchase of Toaster

On a motion of Councilor Anderson, seconded by Councilor Sisson, the following was

ADOPTED Ayes 5 Anderson, Jones, Killen, Sisson, Stewart Nays 0

Resolved the Supervisor be authorized to expend up to \$30 to replace the broken toaster.

RESOLUTION #251-18

Early Release of Hourly Employees December 21, 2018

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

ADOPTED Ayes 5 Anderson, Jones, Killen, Sisson, Stewart Nays 0

Whereas the Town of Jerusalem in the spirit of Christmas, traditionally thanks hourly employees by allowing early dismissal with pay following a Christmas party, and

Whereas there will be a potluck Christmas lunch from 1 pm to 2 pm, on December $21^{\rm st}$, 2018, at the Town of Jerusalem Offices, and

Whereas all town employees, past employees, elected officials, and their families are invited to lunch, and

Therefore be it resolved that Town of Jerusalem hourly employees shall be allowed to leave work at 2 pm, on that day, with pay through their normal finishing time.

RESOLUTION #252-18

APOINT MEDIUM EQUIPMENT OPERATOR

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

ADOPTED Ayes 5 Anderson, Jones, Killen, Sisson, Stewart Nays 0

Whereas Frank Fitzwater resigned from the Highway Department on November 13, 2018; and

Whereas the position was advertised and three qualified applicants interviewed by the Highway Superintendent, Deputy Highway Superintendent and Highway Committee (Councilors Jones and Stewart); now, therefore, be it

Resolved the interview committee agreed to offer the position of MEO to Jamie Sisson starting January 7, 2019 at a salary of \$19.22 per hour pursuant to and in compliance with Yates County Civil Service regulations.

PROPOSED PARKING REGULATIONS ON CENTRAL AND ASSEMBLY AVENUES Keuka Park Post Master Ignatius Scott and the Keuka Park Association requested a parking law to address concerns with overnight parking around the Keuka Park Post Office. Yates County Highway Superintendent Dave Hartman supports the proposed law as presented to him by Supervisor Killen. A lengthy discussion ensued on the proposed language. Attorney Graff will be asked to draft needed legislation for no parking 11 PM - 7 AM in the identified area.

FREEDOM OF INFORMATION LAW (FOIL) APPEAL

Supervisor Killen distributed a response to the December 11, 2018 FOIL appeal filed by Town Clerk McMichael. The FOIL was filed for responses to the November 7, 2018 Letter to the Editor. Information was cut and pasted into a Word document and one email was omitted which does not comply with law.

It was noted emails were received prior to the November 14th Town Board meeting, but the Supervisor distributed them at the meeting. Budget workshops and the October public hearing were all advertised in accordance with law. Councilor Sisson viewed these letters as sneaky. He instructed the Supervisor there are to be no more unannounced visits to his residence as he felt he was being strongarmed. Councilor Jones questioned the anonymous email stating Town employees worked at the Clerk's cottage in 2014; alleging misconduct. Supervisor Killen did no investigation prior to distributing it, even though he was Supervisor in 2014. Work was done to stabilize the road and protect the sewer line following the flood. Similar work has been done on other properties in that general vicinity.

PUBLIC COMMENT

As the tenant where the Indian Pines water main break occurred, John Christensen also commended the KPSW staff for their response.

RESOLUTION #253-18

CREATE FULL-TIME DEPUTY TOWN CLERK

Councilor Jones made the motion, seconded by Councilor Stewart, as follows:

Whereas Supervisor Killen ordered the Bookkeeper to no longer serve as Deputy Town Clerk as of December 31, 2018 as he needs clerical assistance to work on grants; and

Whereas this mirrors an email in 2015 related to the same issue that was followed by a public apology by the Supervisor at the June 17, 2015 Town Board meeting; and

Whereas Jennifer McKay has done a tremendous job in her position at the Town for over twenty years; and

Whereas in a Town of the second class, the position of Bookkeeper to the Supervisor must be authorized by Town Board resolution; now, therefore, be it

Resolved a 35-hour full-time Deputy Town Clerk position be created; and, be it, further

Resolved the position will be paid at the 2019 salary as allocated in the 1430.1 Personal Services account.

Following considerable discussion, Councilor Jones called the question and the vote was as follows:

ADOPTED Ayes 3 Jones, Sisson, Stewart

Nays 2 Anderson, Killen

APPOINTMENT - FULL TIME DEPUTY CLERK

Town Clerk McMichael appointed Jennifer McKay to the full-time Deputy Town Clerk position allowing the office to operate as it has for twenty years.

PUBLIC COMMENT

The following written report was received from County Legislator Ed Bronson who was unable to attend tonight:

- The County Highway Department has a new mini excavator and trailer thanks to Phil Palmesano; it is shared with Schuyler County and our Towns. It will be at the Highway Department. Contact Superintendent Dave Hartman to use the excavator.
- The Legislature adopted County and Town tax rates for 2019 at our last meeting, so the bills could go to the printers and be ready to be mailed at the end of the year.
- There was a presentation by Yates Transit Service at our last meeting. There is a 33% increase in riders this year over last year. The increase is due primarily to Keuka College students.
- The Legislature will have a Year End meeting on December 28th at 2:00 PM.
- There is one At Large position open on the County Planning Board. Interested individuals should contact Dan Long in the Planning office.

• Applications for Natural and Recreational Resources are due February 1st. Contact Dan Long in the Planning office for further information.

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

Sheila McMichael, Town Clerk

EXHIBIT 1

Local Law No. B of the year 2018

A Local Law Amending the Town of Jerusalem Zoning Ordinance

Be it enacted by the **Town Board**

Town of Jerusalem

as follows:

Section 1. Section 160-5 (Terms defined) of The Town of Jerusalem Zoning Ordinance is hereby amended with the deletion of the existing definitions of "Lot, Corner" and "Yard, Front" and the insertion of new definitions of "Lot, Corner" and "Yard, Front" to read as follows:

LOT, CORNER - A parcel of land at the junction of and fronting on two or more intersecting streets or bounded on at least two sides by streets or highways. All corner lots shall be deemed to have two front yards, two side yards and no rear yard.

YARD, FRONT

- A. Except as otherwise defined, the area between the part of an existing structure nearest the street line and the street line bounded on each side by the side lines of the lot.
 - B. On corner lots, those areas between that part of each exterior wall of an existing structure nearest each street line abutting said lot and said street line bounded by the other street, and the side line most closely parallel to said other street line shall be the "front yard"
 - C. For all lots that border Keuka Lake, the "front yard" will be the area between the part of an existing structure nearest Keuka Lake and mean high water line of Keuka Lake, bounded on each side by the side lines of the lot.
- **Section 2.** Section 160-5 (Terms defined) of The Town of Jerusalem Zoning Ordinance is hereby amended with the insertion of new definitions (said new definitions to be inserted alphabetically) to read as follows:

LOT LINE, FRONT

The line separating the lot from the boundary of the highway or right-of-way upon which the lot abuts, except for all lots that border Keuka Lake, the "front lot line" will be the mean high water line of Keuka Lake.

LOT LINE, REAR

The lot line opposite and most distant from the front lot line. On lots that border Keuka Lake where a highway or right-of-way forms the rear lot line, the rear lot line shall be the boundary of the highway or right-of-way upon which the lot abuts.

LOT LINE, SIDE

The lot line(s) other than a front and/or rear lot line.

SETBACK, REAR

The distance from the rear lot line to the nearest part of the structure, measured at right angles or radially from the rear lot line.

YARD, REAR

- A. That area between that part of an existing structure nearest the rear lot line and the rear lot line of each lot.
- B. For all properties that border Keuka Lake, the "front yard" will be the area between the part of an existing structure nearest Keuka Lake and the mean high water line of Keuka Lake, bounded on each side by the side lines of the lot.
- **Section 3.** Section 160-18 (Permitted uses and structures) of Article V (Agricultural Residential (AGR) Use District) of The Town of Jerusalem Zoning Ordinance is hereby amended with the repeal of Paragraph L (Wineries, breweries and distilleries) in its entirety.
- **Section 4.** Paragraph B of Section 160-19 (Permitted accessory uses and structures) of Article V (Agricultural Residential (AGR) Use District) of The Town of Jerusalem Zoning Ordinance is hereby repealed and a new Paragraph B is inserted in its place to read as follows:
 - B. Side and rear setbacks
 - 1. On lots that are five (5) acres or less: No accessory structure shall be closer than 20 feet to the side lot line and 25 feet to the rear lot line.
 - 2. On lots that are over 5 acres: No accessory structure shall be closer than 40 feet to the side lot line and 45 feet to the rear lot line.
- **Section 5.** Section 160-20 (Special uses) of Article V (Agricultural Residential (AGR) Use District) of The Town of Jerusalem Zoning Ordinance is hereby amended with the addition of a new Paragraph M to read as follows:
 - M. Wineries, breweries and distilleries.
- **Section 6.** Paragraph E of Section 160-39 (Flood Fringe Over Zone (FFO)) of Article IX (Flood Hazard Areas) of The Town of Jerusalem Zoning Ordinance is hereby amended with the repeal of subsections (3) and (4) in their entirety.
- **Section 7.** Section 160-56 (Continuance) of Article XIII (Nonconforming Uses) of The Town of Jerusalem Zoning Ordinance is hereby repealed and a new Section 160-56 is inserted in its place to read as follows:

§ 160-56 Continuance.

- A. Except as otherwise provided in this Article, a nonconforming lot may continue to exist provided that it shall not be reduced in size nor shall it otherwise have its boundaries altered.
- B. Except as otherwise provided in this Article, the lawful use of land or buildings existing at the date of the adoption of this chapter may be continued, although such use or building does not conform to the regulations specified by this chapter, provided that:
 - (1) The lot, on which such nonconforming use or building is situate, is not reduced in size.
 - (2) No nonconforming building may be enlarged, extended or increased except as follows:
 - (i) The height of the nonconforming building may be increased provided such increase is within the height limits required by this Chapter, as determined by the Code Enforcement Officer;
 - (ii) Horizontal expansion of the nonconforming building shall be permitted provided such horizontal expansion does not increase the degree of non-conformance and further provided such horizontal expansion conforms with all other regulations of this Chapter, as determined by the Code Enforcement Officer.
 - (3) No nonconforming use may be expanded.

Section 8. Paragraph B of Section 160-58 (Restoration) of Article XIII (Nonconforming Uses) of The Town of Jerusalem Zoning Ordinance is hereby repealed and a new Paragraph B is inserted in its place to read as follows:

- B. Any nonconforming building or structure may be restored, reconstructed or replaced as follows:
 - (1) The height of the restored, reconstructed or replaced building or structure may be increased provided such increase is within the height limits required by this Chapter;
 - (2) Horizontal expansion of the restored, reconstructed or replaced building or structure shall be permitted provided such horizontal expansion does not increase the degree of non-conformance and further provided such horizontal expansion conforms with all other regulations of this Chapter.

- (3) The restored, reconstructed or replaced building or structure shall otherwise be sited as before on the same outline or footprint of the original, nonconforming building or structure.
- **Section 9.** Article XIII (Nonconforming Uses) of The Town of Jerusalem Zoning Ordinance is hereby amended with the insertion of new Section 160-62.1 as follows:

§160-62.1 Certificate of nonconformity.

- A. A certificate of nonconformity issued by the Zoning Officer shall be required as part of any request to the Town to alter any preexisting nonconforming building or structure by way of additional or expanded physical modifications or any way that increases or decreases the degree of nonconformance.
- B. A certificate of nonconformity may be requested by the property owner(s) upon completion of an application, as provided by the Zoning Officer, and upon payment of the application fee, to be established by resolution of the Town Board.
- C. A certificate of nonconformity shall:
 - 1. Include a map to scale depicting the boundaries of the subject property as well as physical improvements and uses.
 - 2. Identify and describe all instances wherein the nonconformity fails to comply with the provisions of this chapter and the date the nonconformity was established.
- **Section 10.** Article XIII (Nonconforming Uses) of The Town of Jerusalem Zoning Ordinance is hereby amended with the insertion of new Section 160-62.2 as follows:

§ 160-62.2 Variance process.

- A. The alteration of any preexisting nonconformity, by way of additional, expanded or more intensive use(s), physical modifications, property boundary modifications, or any way that increases or decreases the degree of nonconformance, or the reduction in size of any lot on which a nonconforming use or building is situate, even if such alteration or reduction in size is expressly prohibited in this Article, may be permitted if the Zoning Board of Appeals approves a variance for such alteration. The property owner(s) must complete an application, as provided by the Zoning Officer, and pay the application fee, to be established by resolution of the Town Board, to request such a variance.
- B. The Zoning Board of Appeals shall, in the granting of a variance pursuant to this section, have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed alteration. Such conditions shall be consistent with the spirit and intent of this chapter and shall be imposed for the purpose of minimizing any adverse impact such variance may have on the

neighborhood or community. The provisions of § 160-74, pertaining to time limits, shall automatically be a condition of every variance granted pursuant to this section. If the applicant refuses to accept such requirements and conditions, the area variance shall be denied.

Section 11. Severability

If any clause, sentence, paragraph, section or part of this local law or the application thereof to any person, firm or corporation, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part of this local law or in its application to the person, individual, firm or corporation or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

Section 12. Effective Date

This local law shall take effect immediately upon filing with the Secretary of State.

Exhibit 2

TOWN OF JERUSALEM

NOTICE OF PUBLIC HEARING

PLEASE TAKE NOTICE, that a public hearing will be held by the Town Board of the Town of Jerusalem on January 16, 2019, at 7:05 p.m., at the Jerusalem Town Hall, 3816 Italy Hill Road, Branchport, New York, regarding the adoption of a Local Law of the Town of Jerusalem for the year 2018, which would amend the Zoning Law of the Town of Jerusalem, to make the following changes:

- 1. Amending the definitions of "Lot, Corner" and "Yard, Front"
- 2. Adopting new definitions of "Lot Line, Front", "Lot Line, Rear", "Lot Line, Side", "Setback, Rear" and "Yard, Rear"
- 3. Amending the regulations pertaining to permitted, accessory and specially permitted uses and structures in the Agricultural-Residential Use District.
- 4. Amending regulations related to the Flood Fringe Over Zone.
- 5. Amending regulations related to nonconforming uses, buildings and lots.

Any resident of the Town of Jerusalem shall be entitled to be heard upon said proposed Local Law at such public hearing. Copies of said proposed Local Law are available for public review at the Town of Jerusalem Town Hall, 3816 Italy Hill Road, Branchport, New York.

This by Resolution of the Town Board of the Town of Jerusalem.
Sheila McMichael, Town Clerk