

Justice Court Consolidation Solutions

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TUG HILL COMMISSION ISSUE PAPER SERIES

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The Tug Hill Commission *Technical and Issue Paper Series* are designed to help local officials and citizens in the Tug Hill region and other rural parts of New York State. The *Technical Paper Series* provides guidance on procedures based on questions frequently received by the Commission. The *Issue Paper Series* provides background on key issues facing the region without taking advocacy positions. Other papers in each series are available from the Tug Hill Commission at the address and phone number on the cover.

Introduction

The justice courts (or the town and village courts) of New York are complex institutions and the “face” of the court system that millions of New Yorkers deal with most frequently. They handle both criminal and civil matters, issue search warrants and orders of protection, conduct weddings, and administer oaths. They also collect fines, fees and surcharges that flow into municipal coffers at all levels of government within the State. Though money collected by the justice courts is disbursed to many levels of government, the funding to operate and maintain the justice courts comes mainly from the sponsoring local municipalities.

While grant funding is available, in the rural areas of the State including the Tug Hill region, many municipalities have limited budgets and very little capital to invest in the justice courts. Most small courts don’t bring in enough funds to pay the justice salaries let alone any other costs. While many rural courts have small workloads with limited case dockets and infrequent court hours, the salary available for the justice position is also very low. This can create an additional issue for many small municipalities in finding candidates willing to fill these elected positions for so little compensation that also require special and difficult training. In addition, many of these small courts don’t have funding for additional court support staff, adequate and accessible facilities, security measures, or adequate equipment and administrative supplies.

The State mandated property tax cap, along with rising costs, has put further pressure on municipalities to find funding for all of the services they must provide their residents, including court services. This has precipitated many municipalities to review their operations, including their justice courts, looking for ways to share or consolidate services or otherwise collaborate with their neighbors as a way to conserve resources.

Whether your municipality is looking for solutions to save money, increase efficiency, or is having difficulty filling a justice vacancy, there are options available in the justice court arena for your municipality to review. This paper will outline options available to municipalities and the process for utilizing them.

Options

There are multiple options available to municipalities for shared services in the justice courts, some of which require home rule legislation and action by the State Legislature and some which require no home rule legislation and local action only. Towns cannot dissolve their courts by law, falling into the category of requiring state legislative action for dissolution.¹ However, there are a number of ways which towns can share court facilities and services with neighboring towns and reduce the operational expenses of the courts. Villages have the option to share court facilities as well. However, they unlike towns, have the option of

¹ NYS Constitution Article 6, Section 17b

creating or dissolving their justice courts without state action.² Here is a breakdown of the various options which will be explored in more depth in the following sections:

Home Rule Legislation Options: Towns may:

- 1) Preserve their separate justice courts and facilities but elect one justice to preside over multiple courts.³
- 2) Preserve their separate justice courts but share one justice and one court facility.⁴
- 3) Develop an alternate solution and propose legislation to the State Legislature for passage to affect the change.

Only Local Action Required Options: Municipalities may:

- 1) Preserve their separate justice courts but share one court facility used by each court.⁵
- 2) Merge multiple justice courts into one multi-municipality court with justices elected from each town/village.⁶
- 3) Create or abolish a village court and the village justice position.²
- 4) Establish an additional village justice position.⁷

These are all voluntary options and each has potential advantages and disadvantages which must be weighed by the municipalities to determine the impact on themselves and on their citizens. Each option has specific procedures to follow and in most cases will require voter approval. These options are outlined below in more detail.

Home Rule Legislation Options

1. Election of One Justice to Preside Over Multiple Courts (UJCA 106-b)

The Uniform Justice Court Act (Section 106-b) authorizes towns (not villages) to elect one justice to preside in the justice courts of two or more adjacent towns within the same county. This option allows the towns to retain the identity of their justice courts and solves staffing difficulties by allowing multiple towns to utilize the services of only one justice, who acts as a “circuit rider” for the participating courts at their separate facilities.

The process to affect this change begins with each participating town adopting a joint resolution to conduct a study of the concept. The joint resolution (or a certified copy of the resolution) must be filed with the

² Village Law Section 3-301(2)(a)

³ Uniform Justice Court Act Section 106b

⁴ Uniform Justice Court Act Section 106b, General Municipal Law Article 5-g

⁵ General Municipal Law Article 5-g

⁶ Uniform Justice Court Act Section 106a

⁷ Village Law Section 3-302(3)

clerk of each participating town. Once the filing is complete in at least two of the adjacent towns who adopted the joint resolution, the study can be started. There is no timeframe to complete the study.

Once the study has been completed, each town has 30 days to publish a notice in their official newspaper (or a paper of general circulation in the town if they have no official paper) informing the public about the study's completion and setting the date, time and location for a public hearing to be held on the study. Each town must conduct their public hearing within 20 to 30 days after the publication of the public hearing notice. Within 60 days after the last public hearing, the towns must each decide if they will participate in the plan to elect a single town justice. If two or more adjacent towns do not approve the plan, the process is ended.

If two or more adjacent towns do approve the plan, the towns who have approved the plan adopt another joint resolution which calls for the election of one justice to preside over the courts, the abolition of the existing town justice position(s) in the participating courts and the election of one justice every fourth year thereafter. Proper planning should be utilized to avoid intruding on the justices' terms of office by abolishing them mid-term. Once the joint resolution is approved, it is sent to the State Legislature as a "home rule message." It is then up to the Legislature to enact legislation implementing the plan. The Legislature is not compelled to implement the towns' proposed plan. It falls completely to the Legislature's discretion.

Once both houses of the state legislature – assembly and senate – pass the legislation, it then goes to the Governor for his signature. Once complete, the plan provides a guide for the selection of a single justice. This justice would have jurisdiction in each of the towns and would keep a separate set of books, dockets and records for each justice court, as well as a separate bank account. Each town would continue to receive the revenue from the cases chargeable to their town and defendants would appear for court in whichever town their violation occurred. The only thing which would be shared would be the justice him or herself (See Appendix A).

2. Election of One Justice, Shared Court Facilities

Once a single-justice plan has been approved by the state legislature through the process outlined above, the towns can adopt an inter-municipal agreement (IMA) to jointly provide a single justice court facility. In this case, the justice would preside in only one facility and through the IMA the towns could agree to share administrative and other costs, as well as sharing support staff, such as court clerks or officers. While this approach is closer to a true merger, with the towns sharing the justice and facility as well as the associated costs of the court, the courts themselves would remain separate entities. The justice would hold separate court sessions, keep separate case and financial records, and the funds would be dispersed to each town separately. This approach allows towns to maximize their potential to fill these positions with the appropriate personnel and provide adequate facilities by sharing their resources, while still retaining the identity of their local justice courts (See Appendix A).

3. Alternate Solutions

Towns and villages have the option of proposing special legislation to their state representatives which addresses special needs that may exist within their municipalities. The State Legislature is endowed by the State Constitution with broad power to regulate the justice courts, which allows the Legislature to consider and approve modifications to judicial selection processes, court structure, or court operations. Examples of this type of proposal might include:

- **Changing Residency Requirements for Justices.** Current law requires that town justices must be electors of the municipality in which they seek office.⁸ This requires judicial candidates to be residents of the town they seek to serve. Special legislation can be drafted allowing judicial candidates to reside in a town other than that which they would serve. This can be helpful in allowing a small municipality to explore a larger pool of people to find a candidate for a judicial position that they are having difficulty filling (See Appendix B).
- **Enhanced cooperation between villages.** Current law doesn't allow multiple villages to share a single justice court. Villages may share court facilities without the Legislature's specific approval, and smaller villages may authorize the election of a justice who is not a resident of the village.⁹ As small villages have this option, multiple villages could agree to select a single justice and utilize an IMA to house the separate courts in one facility, while sharing operation costs. The courts would remain separate however and require separate dockets, records and financial arrangements. If the villages desired to truly merge their separate justice courts having only one election for justice with jurisdiction in all the villages and requiring only one set of records, they would be required to obtain approval from the State Legislature.
- **Enhanced cooperation between towns and villages.** Current law does not allow a town and a village (or multiple towns and multiple villages) to share a single justice court. Many towns and villages share court facilities, and many have the same justice if the justice is eligible to run for each position separately, but they cannot independently merge their separate justice courts. If towns and villages desire to merge their separate justice courts, as stated above, they would need approval from the State Legislature. Additionally, if the merger resulted in the dissolution of a town justice court, that dissolution would have to be approved by the voters of the town.

⁸ Public Officers Law Section 3, Town Law Section 23

⁹ Village Law Section 3-300(2)(b)

Only Local Action Required Options

1. Separate Justice Courts/Shared Court Facilities

The State Constitution authorizes two or more municipalities to join together to provide municipal facilities, services, activities or undertakings that each has the power to do separately. The State Legislature implemented this constitutional authority by allowing inter-municipal agreements under Article 5-g of the General Municipal Law. General Municipal Law provides municipalities with the authority to enter into, amend, cancel and terminate agreements for the performance of their respective functions, powers and duties on a cooperative or contract basis.¹⁰ Inter-municipal agreements (IMA's) are common ways that municipalities share or fulfill their service requirements, allowing municipalities to save money and avoid duplication of services. They must be carefully drafted, however, to ensure that participating municipalities receive the desired benefits of the agreement.

Pursuant to this authority, two or more municipalities can enter into an IMA to share court facilities, including the court room, supplies, and office spaces. Using this model, two or more justice courts could hold court proceedings in the same facility, with each justice court serving only the sponsoring municipality on the day in question regardless of how many municipalities utilize the facility. This would result in a justice holding court outside of his or her geographic jurisdiction, but is allowed by the statute as long as the cooperating municipalities adjoin and they have an IMA agreeing to share the facility signed by each municipality.

Each justice court in this case would remain a separate entity, with separate caseloads, financial records, bank accounts and jurisdiction only over the cases arising from each individual municipality. The cost savings in this case would be in the form of sharing the overhead cost of the facility and possibly from sharing non-judicial staff. While it is recommended that the affected justices be included in the planning for this type of process, it is not required that they approve the measure. Justices are required to hold court in the facility provided by the sponsoring municipality under the New York Code of Rules and Regulations.¹¹ Sharing of non-judicial staff does require the consent of the justice, as justices are responsible for the work of their non-judicial staff and must give consent for the assignment of staff they oversee.

2. Merge Courts with Justices Selected from each Town (UCJA 106-a)

Two or more adjoining towns within the same county can establish a single consolidated justice court, which utilizes justices from each participating town, but fewer than existed prior to the consolidation process. This is a true merger of the justice courts of adjoining towns, and is a solution only available to towns. This process may be initiated either by a petition of residents in each town or by each of the town

¹⁰ General Municipal Law Section 199-o

¹¹ 22 NYCRR 214.2

boards involved. If the consolidation is started by petition, a single petition must be addressed to each separate town board and be signed by at least 20% of the registered voters in each town (See UJCA 106-a in Appendix C for the form and content of the petition required). The consolidation process can also be started by adoption of a resolution of one town board calling for the consolidation of their justice court with that of any other town or towns adjoining them and within the same county, and a reduction of the total number of justice positions. This resolution must then be filed with the town clerk of the originating municipality and certified copies must be filed with the clerks of the other towns.

Within 30 days of the filing of either the petition or the adopted resolution, the clerk of the original town involved must file a notice in each town's official newspaper of the filing and setting a date, time, and place for a joint public hearing to be held within 20 to 40 days of the publication on the matter at hand. Each town listed in the petition or resolution would participate in the public hearing.

Within 60 days of this public hearing, the town boards involved must decide if they want to approve the proposed consolidated justice court. If any of the towns fail to approve the proposal, then the process is terminated for all of the participating towns. If the other towns involved (if there were more than two originally) wish to proceed without the town which did not approve the proposal, they must start the process over from the beginning.

If all of the towns approve the consolidation, they must prepare a joint resolution providing for one judicial office in each town to be abolished, specifying which position shall be eliminated and which will be retained. The resolution must also provide the remaining justice from each town with jurisdiction in each of the participating towns and provide for the election of at least one town justice every two years to allow for the continued staggering of the judicial terms. If no agreement can be reached on which justice position shall be abolished, then the office to be abolished shall be chosen by lot, so long as the drawing of lots doesn't violate the earlier terms of UJCA 106-a. Proper planning should be utilized to avoid intruding on the justices' terms of office by abolishing them mid-term.

Once the joint resolution is approved by each of the participating towns, it must then go to a vote of the electors in the involved towns. It should be on the ballot at the next general election that occurs more than 60 days following the approval of the joint resolution. If the joint resolution is approved by a majority of voters in each town, it is then considered adopted and the plan to establish the single justice court will go forward. If the joint resolution fails to win majority approval in any of the participating towns, the resolution is then considered defeated and no further action on the plan will be taken.

If the consolidation is approved by the voters then each town justice of the newly consolidated court has jurisdiction in all of the towns in the consolidated area, must keep separate dockets, records, and bank accounts for each town within which they have jurisdiction.

3. Create or Abolish a Village Justice Court and Village Justice Position

Villages who do not currently have a village justice can, by resolution or local law and subject to a permissive referendum, create a village justice court.¹² In the local resolution or law, they would also be creating the office of village justice. Villages may have one or two village justices, and those villages with only one justice can also have an acting village justice. The term of office for village justices is four years, just as it is for towns. If there are two justices the terms must also be staggered.

Unlike towns, villages are not required to have justice courts. If they decide not to continue the justice court, the village can dissolve the court by resolution or local law, subject to a permissive referendum.⁹ This dissolution, however, would only take effect at the end of the justices' terms of office. Thus, it is necessary to plan in advance to have a village court abolished to avoid intruding on the justices' terms of office.

If a village dissolves its justice court, any active cases would be transferred to the town(s) within which the village is located. Any closed cases would remain village property, unless the village makes other arrangements with the town(s) for the custody of the records. If no arrangement is made with the town for custody of the records, the village would remain responsible for storage, access to, and maintenance of these closed files in the manner proscribed by the Unified Court System. Arrangements would need to be made to allow town court personnel access to the records if necessary for the conduct of court business.

Dissolving a village justice court may provide some savings for small villages with small caseloads and increasing facility costs, but at the same time the dissolution of the court also deprives the village of much of the revenue from the justice court and of village control of operations of the court.

4. Establishment of an Additional Village Justice Position

If a village with only one justice decides to create a second position, they can do so through resolution or local law.¹³ The initial term of the second justice may be shorter than four years if necessary to keep the terms of the justices staggered so that at least one justice is elected every two years. Villages that wish to add additional justices (more than the two allowed by Village Law) will need to seek authorizing legislation from their state legislative representatives.

¹² Village Law Section 3-301(2)(a)

¹³ Village Law Section 3-302(3)

Conclusion

There are many options available for municipalities who are looking at court consolidation for some reason. It should be noted, however, that each case is unique and should be carefully evaluated in terms of pros and cons and costs and benefits. It is important in any of these cases to involve as many affected stakeholders as possible in the process of studying and implementing any change to the local justice court system. Many of these options may help with staffing problems, while not producing any significant monetary savings, while others may save money, but still leave issues with finding a qualified person to hold the justice position. Taking in the viewpoints and input of as many people as possible as you begin the process of investigating a possible change can help clearly outline the potential gains to be made as well as averting preventable operational problems before they occur. Good communication among the parties and with the public can be vital to the success of any justice court alteration process. There are many resources available to provide support and guidance for citizens and municipalities investigating a potential change in their court system (See Appendix D).

APPENDIX A: Harrisburg-Pinckney-Montague Shared Justice Court

(11/16/10)

- 1. Justice Court Characteristics:**
 - a. Municipal Demographics
 - b. Current Justice Court case structure, volume, fiscal metrics, etc.
- 2. Project Impetus and Description:**
 - a. History of 3 court structure
 - b. Current Justice sharing arrangement
 - c. 2010 Justice Court Act Amendments
- 3. Proposal(s) and Proposed “Plan”:**
 - a. Shared Justice Court Structure and Administration
 - i. Shared Facility
 1. Current Facilities
 2. OCA/ADA Compliance
 - ii. Justice Court Jurisdiction
 1. Summary of GML Article 5-G agreement
 - iii. Justice Court Administration
 1. Records and Dockets
 2. Equipment
 - iv. Justice Court Finances and Auditing
 1. Separate Accounts
 2. Separate fees and revenues
 3. Auditing
 - v. Justice Election
 - b. Discontinuance and Dismantling of the Agreement
- 4. Legal Foundation and Legal Process Checklist:**
 - a. Joint Town Board initiated resolution authorizing the preparation of a “Plan”
 - b. Shared Justice Court Plan
 - c. Public Hearing on proposed “Plan” (30 days of Plan completion)
 - d. Joint Resolution abolishing two town justices and retaining one shared justice and establishing terms (within 60 days of public hearing)
 - e. GML Article 5-G Intermunicipal Agreement
 - f. Home Rule Message on the Joint Resolution and Article 5-G agreement and Special Act of the Legislature authorizing the arrangement.

Outstanding Questions/Concerns

While following UJCA section 106-B we encountered several questions and concerns as to following the procedure and going forward once the Plan was approved and implemented. The following highlights those questions/concerns.

- 1. Maintaining three sets of proprietary court software systems.** In order to sustain the revenue structure for each of the participating municipalities it was necessary to keep three sets of proprietary software and associated licenses for each municipality. While the software provider did set key strokes so that a single computer could be used there are three sets of software, licenses and maintenance fees for each municipality.
- 2. Appointing a new justice.** Only two months into the shared justice court the elected justice passed away and the towns were faced with having to appoint a new justice. 106-B is silent as to appointments and elected procedures so we went with the idea that each participating town board appointed the same justice. In this case the appointee was an attorney so training requirements were largely avoided and the process was relatively smooth.
- 3. Altering the number of justices.** 106-B is silent as to the number of justices serving a shared court. In this circumstance there is one justice as authorized by each town. What if case load demand warrants a second justice? How would the shared court get two justices? Would there need to be an amendment to the Plan” and another Home Rule Message and legislative act to authorize it?
- 4. Discontinuance and dismantling of the agreement.** Should circumstances change and one or more towns decide they want to revert back to their own justice court how would this be achieved? Would it require an amendment to the “Plan” and another Home Rule Message and legislative act?

Throughout this process we often thought that accomplishing a shared court under GML Article 5-G would be much easier. In effect it is within the spirit of 5-G in that anything anyone town can do it can share with another town. We see countless examples of this in shared governance, services and equipment. Article 5-G agreements are also limited in duration (maximum 5 years) and would authorize both the local governing bodies and the electorate periodic review of the arrangement. It is simple to craft, amend and undue an Article 5-G agreement. One consideration in approaching this from an Article 5-G agreement would be that it subjects the agreement to a permissive referendum. Thus if any one of the municipalities’ electorate had problems with the agreement they could force the issue to a referendum.

APPENDIX B: Lewis Home Rule Legislation

S T A T E O F N E W Y O R K

4817--B
Cal. No. 1239
2015-2016 Regular Sessions
I N S E N A T E
April 20, 2015

Introduced by Sen. GRIFFO -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported favorably from said committee, ordered to first report, amended on first report, ordered to a second report and ordered reprinted, retaining its place in the order of second report

AN ACT to amend the town law and the public officers law, in relation to authorizing the town justice of the town of Lewis in Lewis County to be a nonresident of the town of Lewis under certain circumstances

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 Section 1. Section 23 of the town law is amended by adding a new
2 subdivision 29 to read as follows:
3 29. NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION,
4 IN THE TOWN OF LEWIS, LEWIS COUNTY, THE PERSON PERFORMING THE FUNCTION
5 OF TOWN JUSTICE, NEED NOT BE AN ELECTOR OF SUCH TOWN. PROVIDED, HOWE-
6 VER, THE PERSON PERFORMING THE FUNCTION OF TOWN JUSTICE IN ANY OTHER TOWN
7 SHALL BE AN ELECTOR OF SUCH TOWN, UNLESS OTHERWISE PROVIDED BY AN ACT OF
8 THE STATE LEGISLATURE.
9 S 2. Section 3 of the public officers law is amended by adding a new
10 subdivision 64 to read as follows:
11 64. IN THE TOWN OF LEWIS, LEWIS COUNTY, THE PROVISIONS OF THIS SECTION
12 REQUIRING A PERSON TO BE A RESIDENT OF THE POLITICAL SUBDIVISION OR
13 MUNICIPAL CORPORATION OF THE STATE FOR WHICH HE OR SHE SHALL BE CHOSEN
14 OR WITHIN WHICH HIS OR HER OFFICIAL FUNCTIONS ARE REQUIRED TO BE EXER-
15 CISED, SHALL NOT PREVENT A PERSON FROM HOLDING THE OFFICE OF TOWN
16 JUSTICE OF THE TOWN OF LEWIS; PROVIDED THAT SUCH PERSON RESIDES IN A
17 TOWN WHICH ADJOINS SUCH TOWN AND WHICH IS IN THE COUNTY OF LEWIS.
18 PROVIDED, HOWEVER, THE PERSON PERFORMING THE FUNCTION OF TOWN JUSTICE IN
19 ANY OTHER TOWN SHALL BE A RESIDENT OF SUCH TOWN, UNLESS OTHERWISE
20 PROVIDED BY LAW.
21 S 3. This act shall take effect immediately.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [] is old law to be omitted.

LBD10463-09-5

APPENDIX C: Pertinent Statutes

Uniform Justice Court Act:

§ 106-a. Reducing number of justices in adjacent towns.

1. The town boards of two or more towns that form a contiguous geographic area within the same county are hereby authorized to establish a single town court to be comprised of town justices to be elected from each of such towns in the same manner and for the same terms as town justices are so elected except that the number of such terms expiring in any one year may not exceed by more than one the number of terms expiring in any other year in which terms expire. The procedure to establish such single court may be initiated by the town board or may be initiated by petition. In the event the procedure is initiated by petition, the petition shall be addressed to each town board and shall be signed by at least twenty percent of the registered voters in such towns.

2. The petition shall be made upon white paper containing the signatures of qualified electors of each town. The sheets of such a petition shall be numbered consecutively, beginning with number one, at the foot of each sheet. Such petition must set forth in every instance the correct date of signing, the full name of the signer and his or her present residence. A signer need not himself or herself fill in the date or residence. Each sheet of such petition shall be signed in ink and shall be substantially in the following form:

To the Town Boards of the Towns of and

County of State of New York.

We, the undersigned, duly qualified electors of the towns of and respectfully petition each town board to reduce the number of justices in each town to one justice and provide for the extension of the geographic jurisdiction of such justices to include the area of such towns and also to provide for an orderly transition subject to the approval of the electors of each town as authorized by law.

Date	Signature	Residence
.....
.....
.....
.....

Statement of Witness:

I.....state: I am over the age of eighteen years and now reside at(residence, address, or post office address if not identical) in the Town of.....in the State of New York, County of.....Each of the electors whose names are subscribed to this petition sheet containing.....(fill in

number) signatures, subscribed his or her name in my presence. I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

.....

Date

Signature of Witness

3. Such petition shall be filed in the office of the town clerk of one of such towns and a certified copy shall be filed in the office of the town clerk of the other town or towns.

4. Any town board may adopt a resolution calling for the reduction of the number of justices in the town and in one or more towns that form a contiguous geographic area. The filing of such original resolution shall have the same effect as the filing of a petition as authorized by this section and the clerk in whose office such resolution was filed shall proceed in the same manner as if such resolution was a duly filed petition. A certified copy of such resolution shall be filed in the office of the town clerk of the other town or towns.

5. Within thirty days after such petition or resolution and the certified copies thereof are filed the town clerk of the town in which the original petition or resolution was filed shall cause a notice to be published once in the official newspaper of each town, or, if there be no official newspaper, in a newspaper published in the county and having general circulation within the area of each town. Such notice shall state that the petition or resolution has been received and that at a specified time not less than twenty days nor more than forty days after the publication of such notice, which place and dates shall be specified therein, a joint hearing will be held upon such petition or resolution by such town boards.

6. The town boards of such towns shall meet at the time and place specified in such notice. The members of the participating boards shall agree on the selection of one of their members to preside at such meeting and in the event no such agreement is reached, he or she shall be chosen by lot. Such town boards shall hear testimony and receive evidence and information which may be presented concerning the petition or resolution to establish a single town court.

7. Within sixty days after the hearing held pursuant to subdivision six of this section the town boards of such adjacent towns shall determine whether or not such petition or resolution shall be approved. In the event one town board disapproves or rejects such petition or resolution, all proceedings under this section shall terminate and the existing court system in such adjacent towns shall continue to the same extent as if no such petition or resolution had been filed.

8. In the event that each respective town board approves such resolution or petition, such boards shall prepare a joint resolution which shall provide that the office of one justice in each town shall be abolished and that the remaining justice in each town shall have jurisdiction in each town to the same extent as if each such justice was elected in each town. Such joint resolution shall provide for the election of at least one town justice every two years but in no case shall the number of terms expiring in any one year exceed by more than one the number of terms expiring in any other year in which terms expire, and shall identify each justice whose office shall be abolished, and shall identify each justice whose office shall be continued.

9. In the event no agreement can be reached as to which offices shall be abolished, the offices to be abolished by such resolution shall be chosen from each of the offices of town justice by lot. However in no case shall an office be chosen by lot to be abolished that would cause the remaining offices to violate the requirements of subdivision eight of this section.

10. Such joint resolution shall be submitted to the electors of each town at the next general election occurring more than sixty days after the final determination of the language of such resolution.

11. If such resolution is approved by a majority of the qualified persons voting thereon in each town such resolution shall be deemed to be adopted and the plan to establish a single town court shall be implemented in the manner provided in such resolution. If such resolution is disapproved by a majority of the qualified persons

voting thereon in one or more towns, such resolution shall be defeated and no further action shall be taken to implement such plan.

12. Any town justice continuing in office pursuant to such plan and any town justice hereafter elected pursuant to the plan established in such resolution shall have jurisdiction in each town in the contiguous geographic area to the same extent and effect as if such town justice were elected in each such town.

13. Each town justice exercising jurisdiction in accordance with this section shall keep a separate set of records and dockets for each town in which he or she exercises jurisdiction and such justice shall also maintain a separate bank account for each town for the deposit of moneys received when exercising jurisdiction in each town.

§ 106-b. Election of a single town justice for two or more adjacent towns.

1. Two or more adjacent towns within the same county, acting by and through their town boards, are authorized to jointly undertake a study relating to the election of a single town justice who shall preside in the town courts of each such town. Such study shall be commenced upon and conducted pursuant to a joint resolution adopted by the town board of each such adjacent town. Such joint resolution or a certified copy thereof shall upon adoption be filed in the office of the town clerk of each adjacent town which adopts the resolution. No study authorized by this subdivision shall be commenced until the joint resolution providing for the study shall have been filed with the town clerks of at least two adjacent towns which adopted such joint resolution.

2. Within thirty days after the conclusion of a study conducted pursuant to subdivision one of this section, each town which shall have adopted the joint resolution providing for the study shall publish, in its official newspaper or, if there be no official newspaper, in a newspaper published in the county and having a general circulation within such town, notice that the study has been concluded and the time, date and place of the town public hearing on such study. Each town shall conduct a public hearing on the study, conducted pursuant to subdivision one of this section, not less than twenty days nor more than thirty days after publication of the notice of such public hearing.

3. The town board of each town party to the study shall conduct a public hearing upon the findings of such study, and shall hear testimony and receive evidence and information thereon with regard to the election of one town justice to preside over the town courts of the adjacent towns which are parties to the joint resolution providing for the study.

4. Within sixty days of the last public hearing upon a study conducted pursuant to subdivision one of this section, town boards of each town which participated in such study shall determine whether the town will participate in a joint plan providing for the election of a single town justice to preside in the town courts of two or more adjacent towns. Every such joint plan shall only be approved by a town by the adoption of a resolution by the town board providing for the adoption of such joint plan. In the event two or more adjacent towns fail to adopt a joint plan, all proceedings authorized by this section shall terminate and the town courts of such towns shall continue to operate in accordance with the existing provisions of law.

5. Upon the adoption of a joint plan by two or more adjacent towns, the town boards of the towns adopting such plan shall each adopt a joint resolution providing for:

- a. the election of a single town justice at large to preside in the town courts of the participating towns;
- b. the abolition of the existing office of town justice in the participating towns; and

c. the election of such single town justice shall occur at the next general election of town officers and every fourth year thereafter.

6. Upon the adoption of a joint resolution, such resolution shall be forwarded to the state legislature, and shall constitute a municipal home rule message pursuant to article nine of the state constitution and the municipal home rule law. No such joint resolution shall take effect until state legislation enacting the joint resolution shall have become a law.

7. Every town justice elected to preside in multiple towns pursuant to this section shall have jurisdiction in each of the participating adjacent towns, shall preside in the town courts of such towns, shall maintain separate records and dockets for each town court, and shall maintain a separate bank account for each town court for the deposit of moneys received by each town court.

8. In the event any town court operated pursuant to a joint plan enacted into law pursuant to this section is without the services of the single town justice because of absence or disability, the provisions of section one hundred six of this article and the town law shall apply.

Village Law:

Section 3-300(2)(b) – The board of trustees of a village with a population of less than three thousand may provide, in lieu of any other residency requirement imposed by law, that the village justice may reside within a county in which the village is wholly or partially situate.

Section 3-301(2)(a) - Any village may have the following officers:

a. except as provided in section 3-303 of this article, no more than two village justices, but in the event a village has one justice, it shall also have an acting justice who shall serve when requested by the village justice or in the absence or inability of the village justice to serve. The office of village justice is continued in every village in which it is now established. The board of trustees of any other village may establish such office by resolution or local law, subject to a permissive referendum. The board of trustees of any village by resolution or local law, subject to permissive referendum, may abolish such office, but to take effect only upon the expiration of the then current term of such office, or establish the office of additional village justices, which justice once elected shall have all the powers and duties of a village justice. The resolution or local law in the latter case shall provide for a term pursuant to section 3-302 of this article. The clerk of the court of a village shall be discharged from employment only upon the advice and consent of the village justice or justices when the clerk, in his or her village duties, works solely for the village justice or justices.

Section 3-302(3) - Except as is otherwise provided herein or in this chapter, the term of office of mayor, each trustee, treasurer and clerk shall be two official years and the term of office of village justice shall be four official years. If the board of trustees of any village establishes a second office of village justice pursuant to section 3-301 of this article or a third office of the village justice pursuant to section 3-303 of this article the resolution or local law therefore may provide for a single term of one, two or three years for such second or third village justice who shall serve a single term of one, two or three years, as provided in such resolution or local law, commencing on the first day of the official year following his election in order to provide that village justices shall thereafter be elected every two years. The successor of such justice shall thereafter be elected for a full four year term.

NYS Constitution:

Article VI, Section 17 (b) - The legislature may regulate such courts, establish uniform jurisdiction, practice and procedure for city courts outside the city of New York and may discontinue any village or city court outside the city of New York existing on the effective date of this article. The legislature may discontinue any town court

existing on the effective date of this article only with the approval of a majority of the total votes cast at a general election on the question of a proposed discontinuance of the court in each such town affected thereby.

General Municipal Law:

Article 5G, Section 199(o) - Performance of municipal cooperative activities; alternative powers; alternative assignment of responsibilities. 1. In addition to any other general or special powers vested in municipal corporations and districts for the performance of their respective functions, powers or duties on an individual, cooperative, joint or contract basis, municipal corporations and districts shall have power to enter into, amend, cancel and terminate agreements for the performance among themselves or one for the other of their respective functions, powers and duties on a cooperative or contract basis or for the provision of a joint service or a joint water, sewage or drainage project. Notwithstanding the foregoing grant of authority, the temporary investment of moneys by more than one municipal corporation or district pursuant to a municipal cooperation agreement which meets the definition of "cooperative investment agreement" as set forth in article three-A of this chapter shall be in compliance with all of the requirements of that article. Any agreement entered into hereunder shall be approved by each participating municipal corporation or district by a majority vote of the voting strength of its governing body. Where the authority of any municipal corporation or district to perform by itself any function, power and duty or to provide by itself any facility, service, activity, project or undertaking or the financing thereof is, by any other general or special law, subject to a public hearing, a mandatory or permissive referendum, consents of governmental agencies, or other requirements applicable to the making of contracts, then its right to participate in an agreement hereunder shall be similarly conditioned. Municipal corporations and districts shall also have the power to enter into, amend, cancel and terminate agreements with a soil and water conservation district established under the soil and water conservation districts law for the performance among themselves or one for the other of their respective functions, powers and duties on a cooperative or contract basis or for the provision of a joint service or a joint project; provided, however, that the exercise of any powers and duties under this article by a soil and water conservation district shall be subject to the powers, duties and limitations in section nine of the soil and water conservation districts law.

APPENDIX D: Additional Resources

*New York State’s “Justice Court Manual” from January 2015 is available at www.nycourts.gov/courts/townandvillage on the home page under the “Important Information” heading.

*The Office of Court Administration – www.nycourts.gov/Admin/oca.shtml

*The Office of Justice Court Support-Town and Village Resource Center – resourcecenter@nycourts.gov

*The NY State Magistrates Association – www.nysmagassoc.homestead.com

*The Third Judicial District (Albany, Columbia, Greene, Rensselaer, Schoharie, Sullivan and Ulster Counties) – 3rdJDAdministration@nycourts.gov

*The Fourth Judicial District (Clinton, Essex, Franklin, Fulton, Hamilton, Montgomery, St. Lawrence, Saratoga, Schenectady, Warren, and Washington Counties) – 4thJudicial@courts.state.ny.us

*The Fifth Judicial District (Herkimer, Jefferson, Lewis, Oneida, Onondaga, and Oswego Counties) – 5thJDAdministration@nycourts.gov

*The Sixth Judicial District (Broome, Chemung, Chenango, Cortland, Delaware, Madison, Otsego, Schuyler, Tioga and Tompkins Counties) – 6jd-res@nycourts.gov

*The Seventh Judicial District (Cayuga, Livingston, Monroe, Ontario, Seneca, Steuben, Wayne and Yates Counties) – www.nycourts.gov/courts/7jd

*The Eighth Judicial District – (Allegany, Cattaraugus, Chautauqua, Erie, Genesee, Niagara, Orleans and Wyoming Counties) – www.nycourts.gov/courts/8jd/districtoffice.shtml