

Minutes of the regular monthly meeting of the Jerusalem Town Board held on October 18, 2006 at 7:00 P.M. PRESENT were: Councilpersons Barden, Folts, Hopkins, Stewart, Town Attorney Bailey, Supervisor Jones, Highway Superintendent Payne, Town Engineer Ackart, Town Clerk McMichael.

Guests: 30+ residents.

Supervisor Jones called the meeting to order at 7:05 P.M. with the Pledge to the Flag.

RESOLUTION #161-06

APPROVAL OF MINUTES

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

ADOPTED	Ayes	4	Folts, Hopkins, Jones, Stewart
	Nays	0	
	Abstain	1	Barden

Resolved that the minutes of the October 5, 2006 Special meeting be approved as read.

RESOLUTION #162-06

APPROVAL OF MINUTES

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

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

Resolved that the minutes of the September 20, 2006 meeting be approved as read.

OPENING REMARKS - ADULT ENTERTAINMENT SUBCOMMITTEE

Supervisor Jones provided background information on the proposed local laws to create a new Agricultural Residential Business zone and the adult entertainment regulations. So far as the Town is aware there is no state mandate to set aside an area for adult entertainment. However, the mandate is in the First Amendment to the United States Constitution as interpreted by the United State Supreme Court and other courts. Nothing in our current zoning prevents places of adult entertainment from locating a business in a lot of areas in the Town - in any commercial zone (general business) or agricultural/residential. According to law, the Town can only control and regulate, but not prohibit, this from occurring in our Town.

For the past three years, a Subcommittee of the Planning Board has been working many hours to come up with a location. The proposed regulations were taken from twenty different communities in New York State. The Town of Victor has not had a request since

enactment of their regulations. These businesses do not like to locate in areas that are regulated. An official on the Village of Penn Yan Board was told that a man came to him and stated that there will be adult entertainment in Yates County within the next three or four years, which has been a driving force to enact legislation in our Town. The Subcommittee looked at many areas before they settled on the one proposed. It was determined that this remote area would impact the least number of citizens. The Subcommittee also drafted regulations that restrict the area places of adult entertainment can be located.

RESOLUTION #163-06

OPEN PUBLIC HEARING - PROPOSED LOCAL LAW H OF 2006 CREATING A NEW AGRICULTURAL RESIDENTIAL BUSINESS ZONE

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

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

With proof of notice having been duly published and posted, Supervisor Jones opened the Public Hearing at 7:15 P.M., asking for comments on the proposed amendment to the zoning ordinance by creating a new Agricultural Residential Business zone on the west side of Guyanoga Road in the vicinity of the town barns that will permit a blend of agricultural, residential, and business uses including light industry and adult entertainment.

The following residents attended the meeting to voice their strong opposition to the proposed zone:

Jim Cook, Guyanoga Road
June Hathaway, Champlin Road
Janice Christensen, Champlin Road
John Keidel, Shanty Plains
Susan Comstock, Shanty Plains Road
Mark Dibble, YMCA of Greater Rochester Camp Director
Attillio Carcone, Belknap Hill Road
Richard Mosier, Champlin Road
Representative for the YMCA of Greater Rochester Camp
Al McGuffie, Champlin Roa
Cindy Geertson, Belknap Hill Road
Jan Comstock, Friend Road.

Comments made by several individuals mirrored the same issues. Following is a list of points they felt strongly the Board should consider:

- Even though it was stated the proposed district is in an isolated area that would impact the least number of residents,

there was a roomful of community members opposed to this district.

- By virtue of being in the designated AGR Business District #1 that allows adult entertainment as a special use, it will impact the residents when they try to sell their properties. The cloud will be there whether any place of adult entertainment is ever established or not. This proposed zone will affect property values.
- It was suggested the zone be placed on the west boundary of the Town near the Blue Eagle Tavern, in an existing business area such as Kinneys Corners, the industrial park, Guyanoga Road or the four-corners of Branchport, or in the lake/bluff area where the land is high-priced to deter any interest.
- They stated their disappointment in not being notified of the proposed zone. The Town should have met with those directly affected.
- Is it necessary to include light industry in the proposed zone? What type of road will be required in this zone? Was law enforcement consulted due to the remote location?
- The residents purchased their properties because of the beautiful countryside and feel the proposed zone is not appropriate for this area.
- The YMCA owns approximately 33 acres in the proposed district. They operate a summer camp for children from urban areas that have never been in a pristine environment such as Jerusalem.
- It would be premature for the Board to vote on this matter tonight given the lack of public knowledge on the proposed district, and therefore, the lack of public input they are able to provide.
- "Not in my backyard."

Councilperson Stewart stated this issue was also discussed at three additional public hearings as part of the Comprehensive Plan process earlier this year. By law, the Town is only required to put a notice of public hearing in the official newspaper of the Town, *The Chronicle Express* and post it on the Town Hall bulletin board.

Subcommittee members Annette Toaspern and Mary Coriale addressed the audience. They felt there were a lot of misconceptions because residents had not had an opportunity to completely review these drafts. Many of tonight's comments are erroneous as all the restrictions are outlined in the proposed regulations on places of adult entertainment (proposed Local Law I of 2006). Places of adult entertainment tend to gravitate to areas without zoning or areas that have loop holes in their zoning to allow such use. The Subcommittee tried their best to do what would work for the Town of Jerusalem. Supervisor Jones added that the Town imposed a

moratorium on places of adult entertainment while the Subcommittee actively worked toward the zoning law. The moratorium expired in August 2006 and the State does not allow moratoriums to be imposed indefinitely.

Supervisor Jones read an excerpt from the *Talk of the Towns Topics* regarding the court decision on the Town of New Rochelle being challenged for the size of their designated zone. Councilperson Hopkins reviewed the raw data calculations used by the Subcommittee in determining the size of the proposed district. No formal application for such use has been made to the Town, but an inquiry was made to the Code Enforcement Officer when the moratorium was in place. The Village of Penn Yan and the Town of Benton have already designated areas for adult entertainment use.

RESOLUTION #164-06

CLOSE PUBLIC HEARING - PROPOSED LOCAL LAW H OF 2006 CREATING A NEW AGRICULTURAL RESIDENTIAL BUSINESS ZONE

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

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

Resolved that the Public Hearing be closed at 8:16 P.M. and that the Board return to the Regular Town Board meeting.

RESOLUTION #165-06

OPEN PUBLIC HEARING - PROPOSED LOCAL LAW I OF 2006 ESTABLISHING ADULT ENTERTAINMENT REGULATIONS

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

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

With proof of notice having been duly published and posted, Supervisor Jones opened the Public Hearing at 8:17 P.M., asking for comments on the proposed local law amending the Town of Jerusalem Zoning Law to include regulations pertaining to adult use and entertainment. Authority for this law is based on Municipal Home Rule Law §10, town law article 16 and Town Law §136.

Jim Cook, Guyanoga Road stated there is a specific reason why the residents attending tonight's meeting own the property they do - because it is in an agricultural zone. A few residents feel they are being sacrificed at the Town's expense to allow places of adult entertainment. Supervisor Jones clarified that this proposed local law is not to determine the zone, but to provide for the regulations pertaining to adult use and entertainment.

Mark Dibble, YMCA Camp Director, stated such use would change the look and feel of the area.

Susan Comstock, Shanty Plains Road, questioned signage and parking. These are dictated by Town zoning.

John Keidel, Shanty Plains Road, again stated the public is not fully informed because they have not had a chance to read the proposed law. Therefore, unfortunately, those who are going to be the most affected are not educated. This is not anyone's fault. Everyone is unprepared for this hearing.

Subcommittee member Annette Toaspern stated the draft regulations were reviewed by the Department of State and the Subcommittee was commended for doing an excellent job by the State staff. The Subcommittee was given and implemented the State's recommended changes to strengthen our regulations, which are modeled after regulations in place for Victor and Scotia. The regulations require applicants to go through the site plan process that requires surrounding neighbors to be notified. The Town Board imposed moratoriums to allow the development of these regulations. To be informed, the public needs to attend Town meetings and read the public notices. Local laws are always subject to revision and amendment as circumstances warrant, after completing the necessary legal requirements of Local Law enactment procedures.

Mr. Cook suggested adopting the regulations without a designated zone, apply the regulations town-wide and make them very restrictive.

Ms. Comstock asked how much effort would be put in to finding a new site.

Again, the public notice process was explained. The requirement for zoning amendments is not same as notifying neighbors when there is a variance. Town meeting minutes and the Comprehensive Plan are posted on our website, www.jerusalem-ny.org.

Max Parson, Guyanoga Road, addressed the issue of the public not being informed. He was upset with the Town a couple of years ago and has been attending meetings ever since. He stated this is our Town and the public should attend meetings and listen. The public can not say they do not know anything. It is our job to be informed and be a part of our Town. He added like everyone else, he is active with his job and community youth group commitment, but still makes time to attend meetings.

RESOLUTION #166-06

CLOSE PUBLIC HEARING - PROPOSED LOCAL LAW I OF 2006 ESTABLISHING
ADULT ENTERTAINMENT REGULATIONS

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

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

Resolved that the Public Hearing be closed at 8:40 P.M. and that the Board return to the Regular Town Board meeting.

RESOLUTION #167-06

OPEN PUBLIC HEARING - EMPIRE VIDEO SERVICES CORPORATION APPLICATION
FOR CABLE TELEVISION FRANCHISE LICENSE

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

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

With proof of notice having been duly published and posted, Supervisor Jones opened the Public Hearing at 8:41 P.M., asking for comments on an application for cable television franchise license from Empire Video Services Corporation.

Brian Ketchum, Vice President of Empire Video Services Corporation (EVSC) provided an overall summary Empire's experience through its operation of telecommunications services in upstate New York and in northern Pennsylvania through its sister company North Penn Telephone Company. EVSC will provide cable services substantially over the existing local services telephone facilities of its parent corporation, Empire Telephone Corporation headquartered in Prattsburgh. EVSC desires to compete with the existing cable providers to provide cable television to their subscribers.

Title 16 of the New York Code of Rules and Regulations requires Empire Video Services to obtain a cable television franchise license in the 22 towns in New York they cover. The Town of Jerusalem currently has a franchise agreement with Adelphia and the Public Service Commission (PSC) requires any additional provider, i.e., EVSC, to have the same agreement as the existing provider (Time Warner, formerly known as Adelphia). EVSC has petitioned the PSC for a waiver of the PSC regulation for the mandatory line extension requirement whereby the people pay the cable television service provider to extend service to them, but Empire already has their telephone lines in place. It would not be economical for EVSC to invest in the cable, technology, and personnel necessary for it to serve areas within the municipalities were it does not have existing telephone lines. Therefore, any Empire telephone

subscriber can request cable services through their existing local service telephone facilities of Empire Telephone.

Empire's attorney has been working with Town Attorney Bailey on this matter. The Board has to be assured that Empire is financially sound and has the technology to provide the service. Empire is also requesting the Board authorize the Supervisor to make changes to the proposed agreement as deemed necessary by the PSC following review of Empire's waiver request.

Ed Castillo, Assembly Avenue, questioned how Empire could be competitive when they can't provide cable services beyond their existing telephone lines? Mr. Ketchum stated that if Empire provides cable services, it would be a choice for their customers. For example, in Prattsburgh, Time Warner is there, but does not cover the entire town because they are too rural. Time Warner is their choice and Prattsburgh residents have not requested Time Warner to extend their services. Empire Telephone as a telephone service provider can not offer cable services, but EVSC can. Attorney Bailey noted that according to FCC regulations, the Town can not deny a franchise if one already exists. EVSC has the right to provide cable services like Adelphia. The Town would substantially be accepting the terms of the Adelphia agreement for EVSC. Mr. Ketchum stated 18 of the 22 towns in New York State have passed the required resolution.

RESOLUTION #168-06

CLOSE PUBLIC HEARING - EMPIRE VIDEO SERVICES CORPORATION
APPLICATION FOR CABLE TELEVISION FRANCHISE LICENSE

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

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

Resolved that the Public Hearing be closed at 8:56 P.M. and that the Board return to the Regular Town Board meeting.

RESOLUTION #169-06

OPEN PUBLIC HEARING - PROPOSED LOCAL LAW J OF 2006 REPEALING
EXISTING TOWN CODE TO IMPLEMENT THE UNIFORM FIRE PREVENTION AND
BUILDING CODE

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

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

With proof of notice having been duly published and posted, Supervisor Jones opened the Public Hearing at 8:57 P.M., asking for

comments on the proposed local law repealing existing Town Code Chapters 11, 65 and 118. The Town Board adopted Local Law 4 of 2006 providing for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this Town on August 16, 2006. These three existing chapters of the Town Code need to be repealed to allow implementation of the recently enacted Uniform Code and the Energy Code.

No one wished to comment.

RESOLUTION #170-06

CLOSE PUBLIC HEARING - PROPOSED LOCAL LAW J OF 2006 - REPEALER

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

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

Resolved that the Public Hearing be closed at 9:00 P.M. and that the Board return to the Regular Town Board meeting.

REPORT OF TOWN OFFICIALS

HIGHWAY SUPERINTENDENT

- Highway Superintendent Payne submitted his written report of road work done in the month of September, on file in the Office of the Town Clerk. He stated his availability to answer any questions and offered his daily journal of highway work for anyone interested in reviewing it.
- The Highway employees, Highway Superintendent, Supervisor and Deputy Supervisor have received National Incident Management System (NIMS) training as required by Homeland Security for uniform response in emergency situations and mandated for the Town of Jerusalem by Resolution #134-06.
- Mr. McGuffie complimented the Highway Department for the work done on Champlin Road.

TOWN ENGINEER

- The Town Engineer monthly report is on file in the Office of the Town Clerk.
- Town Engineer Ackart and Councilperson Barden recently attended a very worthwhile training session on funding water and sewer projects.

RESOLUTION #171-06

APPROVAL - WATER METER POLICY

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

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

Resolved that the following meter standards be established for the Town of Jerusalem:

- Meters size 5/8" x 3/4" through 3" shall be displacement meters.
- Meters size 4" and larger shall be compound meters.
- Water services used exclusively for fire protection systems do not have to be metered. Town Code 152-13 A (1).
- Turbine meters shall not be permitted unless specifically approved by the Keuka Park Water District for a constant flow application where measurement of low flows is not an issue.
- Reference AWWA Manual M6.

RESOLUTION #172-06

TABLE WATER & SEWER RELEVIES

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

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

Resolved that action on the 2006 water and sewer relevies be tabled until the October 25, 2006 Public Hearing on the 2007 Fiscal Budget as supporting documentation has not been supplied to all Board members.

Supervisor Jones called for a short recess at 9:10 P.M.

RESOLUTION #173-06

TABLE - SEQR FOR PROPOSED LOCAL LAW H OF 2006 ESTABLISHING AGR/BUSINESS DISTRICT #1

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

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

Resolved that the SEQR for proposed Local Law H of 2006 establishing an Agricultural/Residential Business District #1 be tabled.

RESOLUTION #174-06

TABLE - PROPOSED LOCAL LAW H OF 2006 ESTABLISHING AGR/BUSINESS #1

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

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

Resolved that the enactment of proposed Local Law H of 2006 establishing an Agricultural/Residential Business District #1 be tabled.

DISCUSSION - PROPOSED LOCAL LAW H OF 2006 ESTABLISHING AGR BUSINESS DISTRICT #1

Supervisor Jones requested any further comments on proposed Local Law H of 2006 establishing an agricultural/residential business district #1 be submitted in writing to the Town Board for further consideration prior to action on this matter.

RESOLUTION #175-06

ADOPTION - LOCAL LAW #6 OF 2006 AMENDING THE ZONING ORDINANCE TO INCLUDE REGULATIONS PERTAINING TO ADULT USE AND ENTERTAINMENT

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

ADOPTED BY ROLL CALL VOTE:

Councilperson Barden	Nay
Councilperson Folts	Aye
Supervisor Jones	Aye
Councilperson Hopkins	Aye
Councilperson Stewart	Aye

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Jerusalem for a public hearing to be held by said Town Board on October 18, 2006, at 7:05 P.M. at the Town Hall at 3816 Italy Hill Road, Branchport, New York, to hear all interested parties on a proposed Local Law entitled "A Local Law amending the Zoning Ordinance of the Town of Jerusalem to include regulations pertaining to adult use and entertainment"; and

WHEREAS, notice of said public hearing was duly advertised in The Chronicle Express, the official newspaper of said Town, on October 4 and October 11, 2006; and

WHEREAS, said public hearing was duly held on October 18, 2006, at 8:17 P.M. at the Town Hall at 3816 Italy Hill Road, Branchport, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof; and

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

WHEREAS, the Yates County Planning Board recommended approval of the proposed Local Law on September 28, 2006, pursuant to section 239-m of the General Municipal Law; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Jerusalem hereby adopts said Local Law No. 6 of 2006 entitled "A Local Law to include regulations pertaining to adult use and entertainment", a copy of which is attached hereto and made a part of this resolution.

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF JERUSALEM as follows:

- §__-1 Intent
- §__-2 Purpose.
- §__-3 Definitions.
- §__-4 Location restrictions.
- §__-5 Other Restrictions
- §__-6 License required.
- §__-7 License application.
- §__-8 Grounds for denial or revocation of license.
- §__-9 Term of license.
- §__-10 Display of license.
- §__-11 Renewal of license.
- §__-12 Transfer of license.
- §__-13 Compliance with standards required.
- §__-14 Penalties for offenses.

Local Law #6 of the year 2006

A local law amending the Town of Jerusalem Zoning Law to include regulations pertaining to adult use and entertainment. Authority for this law is based on Municipal Home Rule Law §10, town law article 16 and Town Law §136.

§0 of the Zoning Law of the Town of Jerusalem is hereby amended by adding a new section Adult Entertainment Use Establishments.

§0-1 Intent

The Jerusalem Town Board, after review of its Adult Entertainment Use Study, dated March 23, 2005 finds that Adult Entertainment Uses by virtue of their nature often have negative secondary effects. Secondary effects included crime rates, impact on real estate, traffic, noise and general neighborhood appearance. It is the intent of the Jerusalem Town Board that special regulation of adult entertainment business is necessary to protect the health, safety and welfare of its citizens.

§0-2 Purpose

The Jerusalem Town Board has determined that special regulation is necessary to mitigate the secondary effects of adult entertainment uses while protecting freedom of speech.

§0-3 Definitions:

Adult businesses: This term shall include adult use, adult use business or adult entertainment or: those businesses distinguished or characterized by an emphasis on the depiction of or description of "specified sexual activities" or "specified anatomical areas" including but not limited to adult arcade, adult cabaret, adult media, adult media outlet, adult motel, adult motion picture theaters, adult mini-motion picture theater, escort agency, sexual encounter center and or any other commercial establishment where a portion of their principal business is of an adult nature or use.

a. Adult arcade: Any place to which the public is permitted or invited wherein electronically, or mechanically controlled still or motion-picture machines, projectors, computer, or other image producing devices are maintained to show images to five or fewer persons per machine at any one time, and where the images so displayed are distinguished or characterized by the depicting or describing of a specified sexual activity or specified anatomical areas.

b. Adult cabaret: A building or portion of a building regularly featuring dancing or other live entertainment if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if the dancing or entertainment is distinguished or characterized by an emphasis of the depiction or description of "specific sexual activities" or "specified anatomical areas" for observation by patrons therein.

c. Adult media: Magazines, books, videotapes, movies, slides or other media which are distinguished or characterized by their emphasis on matter depicting, describing or relating to "specified sexual activities" or "specified anatomical areas" where the prevailing practice excludes minors by virtue of age.

d. Adult motel: A hotel, motel or similar commercial establishment which:

- (1) Offers accommodations to the public for any form of consideration; provides patrons with closed-circuit television transmissions, films, motion pictures, videocassettes, DVD, slides or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; which advertises the availability of sexual oriented type of material by means of a sign visible from the public right -of-

way, or by means of off-premises advertising, including but not limited to, newspapers, magazines, pamphlets, leaflets, internet, radio or television; or

(2) Offers sleeping rooms for rent on a regular basis for a period of time that is less than ten (10) hours or

(3) Allows a tenant or occupant of a room to sublease the room for a period of less than ten (10) hours.

e. Adult motion picture theater: A building or portion of a building with a capacity of fifty (50) or more persons used for presenting material if such building or portion of a building, as a prevailing practice, excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

f. Adult media outlet: An establishment that rents or sells books, magazines, videotapes, slides, movies or other media, and meets either of the following tests; more than 25% twenty five percent of the gross floor area is devoted to adult media or on-site advertising; or more than 25% twenty five percent of the business gross revenue result from the sale or rental of adult materials.

g. Adult mini-motion picture theater: A building or portion of a building with a capacity for less than fifty (50) persons used for presenting material if such building or portion of a building as a prevailing practice excludes minors by virtue of age, or if such material is distinguished or characterized by an emphasis on the depiction or description of "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.

h. Escort: a person who, for a fee, tip or other compensation, agrees to or offers any of the following: act as a date for another person including specified sexual activity; privately model lingerie for another person or privately perform a striptease for another person.

i. Escort Agency: A person or business association who or which furnishes, offers to furnish, or advertises to furnish escorts as one of its primary business purposes for a fee, tip or other consideration.

j. Sexual Encounter Center: A business or commercial enterprise that, as one of its primary business purposes, offers, for any form of consideration, a place where two or more persons may congregate, associate or consort for the purpose of specified sexual activities or exposure of specified anatomical areas, or activities between male and female and/or persons of the same sex when one or more of

the persons is in a state of nudity or seminude. The definition of adult uses shall not include an establishment where a medical practitioner, psychologist, psychiatrist, or similar professional person licensed by the state engages in medically approved and recognized sexual therapy.

k. Specified anatomical areas: These include: (1) less than completely and opaquely covered: human genitals, pubic region, buttock and female breast below a point immediately above the top of the areola; and (2) human male genitals in a discernible turgid state, even if completely and opaquely covered.

l. Specified sexual activities: Human genitals in a state of sexual stimulation or arousal or acts of human masturbation, sexual intercourse or sodomy or fondling or other touching or other erotic touching of human genitals, pubic region, buttock or female breast.

m. Business: any person, firm, association, partnership, corporation or other entity for profit.

n. Person: Any individual, firm, partnership, corporation, club, association or legal representative acting individually or jointly.

o. Sexual Activities: Any act of masturbation, sadomasochism, sexual intercourse or physical contact with a person's clothed or unclothed genitals, pubic area or buttocks.

p. Substantial Connection:

- A. In a sole proprietorship, an individual who owns, operates, controls or conducts, directly or indirectly, any premises, building, or location upon which any adult use takes place.
- B. In partnership, limited or general, an individual who shares in the ownership or control of any of the assets of the partnership.
- C. In a corporation, an individual who is an officer, director or holder, either directly or indirectly or beneficially, of more than twenty percent (20%) of any class of stock.

§0-4 Location Restrictions:

Adult Entertainment uses shall be permitted as a special use only in Ag./Res/Bus #1.

- a. No adult entertainment business shall be established within 1000 ft. of any of the following:
1. public or private school
 2. church or other house of worship
 3. licensed day care center, nursery school or preschool
 4. public library

5. public park, playground, or environmental land or animal preserve
 6. public recreation or community center
 7. senior citizen center
 8. a fire station or ambulance/emergency response facility
 9. Establishment serving alcoholic beverages
- b. No adult entertainment shall be established within 700 ft. of any residential dwelling.
- c. An adult use shall not be operated within 1000ft. of another adult use or on the same lot or parcel of land as any other adult use.
- d. An adult use shall not be operated in the same building or portion thereof containing another adult use.

§0-5 Other Restrictions

- a. Any private booths or areas within such Adult Use Businesses, for the viewing of motion pictures shall be subject to the following requirements:
 - i. Booths, cubicles, studios, studies and rooms for the private viewing of adult motion pictures shall be open to the public view from the common areas of the establishment; there not be any doors, curtains, blinds, or other structures or devices that shall obstruct observation of the viewing area from the common area of the establishment.
 - ii. Private viewing areas shall be well lighted, accessible at all times and continuously open to view.
 - iii. Lighting throughout the adult establishment shall be sufficient to illuminate every area that patrons are permitted to use.
- b. All Adult Use Business shall be conducted in an enclosed building. It shall be a violation to display or exhibit in the open air (outside of the establishment), through a window, or by means of a depiction or decoration, or to allow to be displayed or exhibited, any specified anatomical areas or specified sexual activities.
- c. The exterior appearance of any building containing an adult use business shall be consistent with the character of the surrounding structures and shall not detract from the appearance of the neighborhood.

- d. Only one exterior sign at the site shall be allowed and it will be limited to only the name of the establishment, not contain any photographic or artistic representation of the human body and must conform to all the other Town of Jerusalem signage laws.
- e. Parking shall be in compliance with § 160.54 of this code unless conditions are stated differently in the site plan or special use permit.
- f. It shall be unlawful to operate an adult entertainment use between the hours of 12 am and 8 am.
- g. Alcoholic beverage consumption is prohibited on any adult use site.
- h. Live entertainment is prohibited at any adult use site.
- i. A separate special use permit shall be required for each adult use on the same premises so there cannot be an expansion of a special use permit.

§0-6 License required.

No person, firm, partnership, corporation or other entity shall operate or cause to be operated an adult entertainment use unless a valid license has been issued for such use by the Town of Jerusalem.

§0-7 Application for license.

A. An application for a license to operate an adult entertainment use shall be made to the Town Clerk, in a form prescribed by the Town Clerk, which application shall be submitted under oath and shall supply the following information.

- (1) The name, address and phone number of the person, business or establishment applying for an adult entertainment use.
- (2) The exact nature of the adult entertainment use and hours of its operation.
- (3) A description of the location of the use and a description of all adjacent properties and uses.
- (4) A copy of the site plan approval, as granted by the Town of Jerusalem Planning Board and a copy of the special use granted by the Zoning Board of Appeals.
- (5) A statement of the nature and character of the applicant's other business or businesses, if any, to be carried on in conjunction with the adult entertainment use.
- (6) The name or names of the person or persons who will manage or supervise the applicant's business.
- (7) The names, business and home addresses and business and home and cell phone numbers of all those persons or businesses having substantial connection with the business or establishment to be licensed.

- (8) If applicable, a disclosure of the criminal record, if any, of any person who will manage or supervise the applicant's business or of any person having a substantial connection with the business or establishment to be licensed. Disclosure of convictions of crimes punishable to §§ 230 through 245 of the New York State Penal Law shall be disclosed if the same have occurred within a two-year period preceding the date of the application.
- (9) The status of all other required local and state approvals.

B. The application shall not be deemed complete until all the information required pursuant to §0-7 is received by the town Clerk. Once the application is complete, the same will be deemed accepted by the Town Clerk and forwarded to the Town Board for its review and consideration.

C. Fee. An application for adult entertainment use license shall be accompanied by a nonrefundable fee in the amount as the Town of Jerusalem may from time to time establish by resolution.

D. Issuance and approval. Upon the receipt of a completed application and the application fee, the Town Clerk shall review the application and, if approved by a Town Board Resolution, shall issue to the applicant within thirty (30) days from the date of Town Board approval of the application.

E. Denials. The Town Clerk may deny an application which is incomplete or insufficient pursuant to §0-7B or further deny an application by any person who shall have been convicted or of any previous violation of this Code.

§0-8 Grounds for denial or revocation of license.

The Town Board may deny a license on any of the following grounds:

- A. That the use is prohibited by any local or state law or local law or ordinance.
- B. That the applicant has falsified or failed to provide information required in the application for the issuance or amendment of an adult entertainment use license under this chapter.
- C. That an inspection of the premises reveals that any applicable laws, ordinances, codes, rules and regulations pertaining to structural, fire, and safety have not been complied with.
- D. That any persons managing or supervising the applicant's or licensee's business or any person having a substantial connection with the business or establishment has been convicted of a felony or a crime punishable pursuant to §§230

- 245 of the New York State Penal Code within a period of two (2) years prior to the date of application.
- E. That any person managing or supervising a licensed adult entertainment use or any person having a substantial connection with such a licensed use has been charged and found guilty of a misdemeanor or felony.
- F. That the applicant or any person, business or establishment having a substantial connection with the business or establishment for which an application is made has had any license issued under this chapter revoked for cause during the preceding one-year period. If this license is revoked, the Town Clerk shall notify the licensee in writing, by certified mail, of the revocation.

§0-9 Terms of license.

Any license issued to operate an adult entertainment use shall expire on the 31st day of December succeeding its date of issue, unless revoked.

§0-10 Display of license.

A licensee under this chapter shall cause the license for adult entertainment use to be conspicuously displayed, in full view of patrons, at the location stated in such license.

§0-11 Renewal of license.

A valid adult entertainment use license may be renewed for a period of one (1) year at a time by the following license application procedures in §0-7 above. Such renewal application must be submitted at least thirty (30) days prior to the expiration of the current license, and the same shall be granted unless the applicant is found to be in violation of any of the subsections or instances in §0- 8 hereof.

§0-12 Transfer of license.

No license issued under the provisions of this chapter shall be transferred or assigned to any person or used by any person other than the licensee to whom it was issued, nor shall such license be used or displayed at any location other than location stated in such license.

§0-13 Compliance with the other standards required.

All adult entertainment uses licensed under this chapter must comply with the applicable laws, regulations and standards imposed by New York State, local land use control laws and any conditions imposed by any local governing body, board or agency.

§0-14 Penalties for offenses.

- A. Any licensee found guilty of violating any provisions of this chapter shall be guilty of a violation and shall be subject to a fine not to exceed two hundred fifty dollars (\$250.) or to imprisonment for a period not to exceed fifteen (15) days, or to both such fine and imprisonment.
- B. The continuation of an offense under this chapter, after notice of such, shall constitute, for each day the offense continues, a separate and distinct violation hereunder.
- C. The continuation of an offense under this chapter, after notice of such, will constitute grounds for immediate revocation of the license to operate.

;and be it further

RESOLVED, that the Town Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of the Town of Jerusalem, and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

Resolved that this Local Law become effective upon the filing of same with New York State.

RESOLUTION #176-06

GRANTING OF A CABLE FRANCHISE TO EMPIRE VIDEO SERVICES CORPORATION

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

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

WHEREAS, pursuant to the Communications Act of 1934, as amended (the "Communications Act"), the Board has the authority to grant cable television franchises for and in the Town of Jerusalem; and

WHEREAS, the Board has considered the technical ability, financial condition, and character of Empire Video Services Corporation ("EVSC") before a public hearing on this date; said public hearing and negotiations included considerations of the Company's plans for re-constructing and operating, maintaining and repairing the herein described and referred to video system; and

WHEREAS, notice of said public hearing was provided to all parties so entitled to notice, being posted on the official sign board of the Town of Jerusalem on October 9, 2006; and

WHEREAS, the Board has determined that the proposed cable franchise for EVSC fulfills the needs of the Town of Jerusalem with respect to cable television service and complies with the standards and requirements of the New York Public Service Commission.

NOW, THEREFORE, BE IT:

RESOLVED, that the Board hereby grants EVSC a cable franchise in the Town of Jerusalem; and it is

FURTHER RESOLVED, that the Board approves the Franchise Agreement between the Town of Jerusalem and EVSC substantially in the form presented at the Town Meeting on October 18, 2006, subject to modifications approved by the Supervisor or required by the New York Public Service Commission; and it is

FURTHER RESOLVED, that the Supervisor is authorized to modify the Franchise Agreement, as may be required in his reasonable judgment, and to execute the Franchise Agreement on behalf of the Town of Jerusalem his execution thereof constituting proof of the effectiveness of such Franchise Agreement.

RESOLUTION #177-06

ADOPT - LOCAL LAW #7-2006 REPEAL EXISTING TOWN CODE CHAPTERS 11, 65 AND 118

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

ADOPTED BY ROLL CALL VOTE

Supervisor Jones	Aye
Councilperson Stewart	Aye
Councilperson Folts	Aye
Councilperson Barden	Aye
Councilperson Hopkins	Aye

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Jerusalem for a public hearing to be held by said Town Board on October 18, 2006, at 7:15 P.M. at the Town Hall at 3816 Italy Hill Road, Branchport, New York, to hear all interested parties on a proposed Local Law entitled "A Local Law of the Town of Jerusalem to repeal existing Town Code Chapters 11, 65 and 118"; and

WHEREAS, notice of said public hearing was duly advertised in The Chronicle Express, the official newspaper of said Town, on October 11 and October 18, 2006; and

WHEREAS, said public hearing was duly held on October 18, 2006, at 8:57 P.M. at the Town Hall at 3816 Italy Hill Road, Branchport, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof; and

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

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Jerusalem hereby adopts said Local Law No. 7 of 2006 entitled "A Local Law repealing three existing Town Code Chapters 11, 65 and 118", a copy of which is attached hereto and made a part of this resolution, and be it further

Whereas, on August 16, 2006, Local Law #4 of 2006, entitled a Local Law Providing for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code was duly adopted and enacted by the Town of Jerusalem; and

Whereas, said Local Law #4 of 2006, provides updates to three existing Chapters of the current Town of Jerusalem Code Book, by expanding their definition and scope of coverage under the new State Uniform Building Code. Therefore the need to repeal the three prior related chapters becomes necessary. The chapters to be repealed are:

Chapter 11, entitled Code Enforcement Official, adopted by LL #3 of 1989

Chapter 15, entitled Building Construction & Fire Prevention adopted 12/14/1970

Chapter 118, entitled Property Maintenance, adopted by LL #1 of 1985; and

Whereas, it is required, by law, to repeal any existing local law, by enactment a subsequent local law, and said repeal of these three Chapters is necessary to allow the newly adopted Local Law #4 of 2006 to become fully effective; now therefore be it

Resolved that Local Law #7 of 2006 be hereby adopted that will repeal three chapters in the Town of Jerusalem Town Code, known as Chapter 11 - Code Enforcement Official, Chapter 15 - Building Construction & Fire Prevention, and Chapter 118 - Property Maintenance; and be it further

RESOLVED, that the Town Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of the Town of Jerusalem, and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

Resolved that this Local Law become effective upon the filing of same with New York State.

RESOLUTION #178-06

APPROVAL - 2007 BUDGET ASSISTANCE MONETARY COMPENSATION

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

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

Whereas, the salary of the Bookkeeper for the calendar 2006 as fixed in the Town budget did not take into consideration work on preparing the 2007 budget; and

Whereas, the Bookkeeper significantly assisted with the 2007 budget work during the months of May thru October 2006; and

Whereas, this project is outside of the normal duties of said position for the year 2006; and

Whereas, the 2007 budget does include monetary compensation for said work; now, therefore be it

RESOLVED that the Town Board authorizes monetary compensation to the Bookkeeper in the amount of \$1,200.00 to be paid through the payroll process with the monthly payroll during the months of October, November and December 2006.

RESOLUTION #179-06

AUDIT OF CLAIMS

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

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

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

September utilities:	General	\$660.20
	Water	\$171.93
	Sewer	\$365.09

General	\$11,727.15
Highway DA	\$ 4,426.10
Highway DB	\$26,818.88
Sewer	\$ 6,580.34
Water	\$ 8,205.41

RESOLUTION #180-06

SUPERVISOR'S REPORT

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

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

Resolved that the Supervisor's Report on the Town's finances for the month of September 2006 be accepted as presented.

DISCUSSION - BED & BREAKFAST DEFINITION

Annette Toaspern, West Lake Road, speaking as a private citizen, presented a petition to the Town Board requesting a zoning amendment to Chapter 160-5 Bed & Breakfast definition, which was rejected by the Town Board at their August 16, 2006 meeting. She presented a revised definition using the New York State version as a guideline and asked the Town Board to consider this version.

Susan Heyser of Merritt Hill Manor, Coates Road supported the proposed definition and strongly urged the Board to adopt a definition that requires an owner to occupy the residence. The guest expectation is not at the same level of service if the owner is not present and it reflects on all area bed and breakfasts. She mentioned several B&B industry organizations and noted that she is not aware of any member B&B that is not operated by the owner.

Planning Board member Bob Evans spoke to the history of B&B's, noting requiring owners to occupy the residence is not a new phenomena.

Paul Middlebrook, West Lake Road signed the original petition due to some changes that were to occur on West Lake Road. He feels the original intent of the definition was to have the owner occupy the B&B. Whether it uses a slash, hyphen or dash, we're looking at a legal definition. There is certainly the possibility of over-regulating, but there is also protecting the public. Having the property owner on site will protect the interest of the neighbors, protect the owner's interests and control what goes on there.

With there being no further business, on a motion of Councilperson Hopkins, seconded by Councilperson Barden, the meeting was adjourned 9:49 P.M.

Sheila McMichael, Town Clerk