

JERUSALEM TOWN BOARD MEETING - APRIL 19, 2006

Minutes of the regular monthly meeting of the Jerusalem Town Board held on April 19, 2006 at 7:00 P.M. PRESENT were: Councilpersons Barden, Folts, Hopkins and Stewart, Supervisor Jones, Highway Superintendent Payne, Town Engineer Ackart, Town Clerk McMichael.

Guests: Max Parsons, Bill Pringle, John Kuehn of NYMIR/Sprague Insurance, Peg Thompson, Dundee Observer reporter.

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

RESOLUTION #71-06

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 March 15, 2006 meeting be approved with the addition that Town Engineer Ackart related to the Board that the additional revenue from Jerusalem conveying water to Pulteney will be used to offset the expenses of Water Districts #1 and #3.

PUBLIC HEARING - SIX-MONTH MORATORIUM ON WIND FARMS

Supervisor Jones opened the Public Hearing on proposed Local Law A of 2006 imposing a six-month moratorium on wind farms at 7:05 P.M. Max Parson, Guyanoga Road, requested clarification on the purpose of imposing the moratorium. Supervisor Jones explained the Planning Board needs to review and research wind farm development to determine if local legislation is needed on the matter.

SEQR DETERMINATION - SIX-MONTH MORATORIUM ON WIND FARMS

The moratorium has been determined to be a Type II SEQR, requiring no further action.

NYMIR INSURANCE RENEWAL

John Kuehn of Sprague Insurance distributed and reviewed the NYMIR insurance renewal proposal for 2006-2007. This will be the Town's third year with NYMIR, which is a non-profit self-sustaining program. The Town's statement of value was reviewed and updated by the Town Supervisor and Highway Superintendent, resulting in a 5% premium increase. In response to questions, Mr. Kuehn explained the Town's various policies and coverage.

There was a lengthy discussion on a new insurance requirement for contractors to add the Town of Jerusalem to their policy as an

additional insured when working under Town issued permits. NYMIR has recommended the Town implement this risk control technique. Town Attorney Bailey will review the draft letter to contractors stating the insurance coverage requirements.

REPORT OF TOWN OFFICIALS  
HIGHWAY SUPERINTENDENT

- Highway Superintendent Payne presented his report on the highway work for the month of March, on file in the Office of the Town Clerk.
- Approximately 4,000 tons of the Town's gravel is being placed on West Sherman Hollow Road.
- The feasibility of selling gravel from the Town's gravel pit will be reviewed.
- The plow equipment has been installed on the Sterling cab/chassis that was purchased under the insurance claim for the truck lost to fire last year.
- We hope to repair the Town Hall parking lot this summer.
- In response to a question, Highway Superintendent Payne stated the Town uses approximately 100,000 gallons of road oil annually.
- Supervisor Jones has received phone calls and letters from the Crescent Beach residents stating they do not want the white 30 MPH speed limit signs installed as instructed under Resolution #67-06.

TOWN ENGINEER

- Town Engineer Ackart is working with Attorney Bailey on the line of credit and security as required for the Verizon cell tower under Zoning Ordinance 160-99.
- Conrady Consultant Services is conducting a required routine inspection of the Keuka Park water tank on May 19, 2006.

RESOLUTION #72-06

SCHEDULE PUBLIC HEARING FOR PROPOSED LOCAL LAW B-2006 TO ESTABLISH TRAINING REQUIREMENTS FOR PLANNING AND ZONING BOARD MEMBERS

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

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

Whereas Resolution #59-06 set the Public Hearing on proposed Local Law B-2006 to establish training requirements for Planning and Zoning Board members for April 19, 2006; and

Whereas, due to clerical error, the notice of hearing was not published in the official newspaper for the Town; now, therefore, be it

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Resolved that the Public Hearing be held at the May 17, 2006 Town Board meeting at 7:00 P.M.; and, further

Resolved that the Town Clerk advertise for said Public Hearing in a manner consistent with law.

RESOLUTION #73-06

ZONING BOARD OF APPEALS APPOINTMENT - ROBERT FOX

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 Robert Fox be appointed to the Zoning Board to fill the unexpired term of Neil Simmons effective May 1, 2006 through December 31, 2007.

RESOLUTION #74-06

CLOSE PUBLIC HEARING

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

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

With all persons desiring to be heard, the Public Hearing was closed at 8:32 P.M.

RESOLUTION #75-06

ADOPT LOCAL LAW #2-2006 IMPOSING A SIX-MONTH MORATORIUM ON WIND FARMS

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

ADOPTED BY ROLL CALL VOTE

Councilperson Folts	Aye
Councilperson Stewart	Aye
Supervisor Jones	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 March 15, 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 of the Town of Jerusalem to Impose a Six-Month Moratorium on Wind Farms", and

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WHEREAS, notice of said public hearing was duly advertised in The Chronicle Express, the official newspaper of said Town, on April 5, 2006, and

WHEREAS, said public hearing was duly held on April 19, 2006, at 7:00 P.M. at the Town Hall at 3816 Italy Hill Road, Branchport, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof, and

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

WHEREAS, the Yates County Planning Board recommended approval of the proposed Local Law on March 23, 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 the Town of Jerusalem hereby adopts said Local Law No. 2 of 2006 entitled "A Local Law Imposing a Six-Month Moratorium on Wind Farms", a copy of which is attached hereto and made a part of this resolution, 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.

BE IT ENACTED BY THE TOWN OF JERUSALEM AS FOLLOWS:

**Section 1. Title**

This Local Law shall be referred to as the "Local Law Imposing a Six Month Moratorium on Wind Farms."

**Section 2. Purpose and Intent**

Pursuant to the statutory powers vested in the Town of Jerusalem (the "Town") to regulate and control land use and to protect the health, safety and welfare of its residents, the Town Board of the Town hereby declares a six month moratorium on the establishment, placement, construction, enlargement and erection of Wind Farms within the Town.

The Town Board is aware that the location of Wind Farms within the Town may have a significantly detrimental effect on the visual

environment of the Town and that proposals for establishing Wind Farms have been made in nearby towns.

The possible introduction of such establishments within the Town, where the visual environment is a significant factor in the attractiveness of the Town as a resort and destination for tourists, calls for the planning of suitable standards and controls as to the location, use, and zoning of Wind Farms.

The Town Board of the Town desires to address, in a careful manner, the establishment, placement, construction, enlargement and erection of Wind Farms on a comprehensive Town-wide basis, rather than on an individual basis, and to adopt appropriate land use provisions specifically to regulate same.

A previous moratorium for the same purpose expired in August 2005, but the Planning Board and the Town Board have not completed the work necessary for proposing a suitable regulation of Wind Farms in the Town.

### **Section 3. Scope of Controls**

A. During the effective period of this Local Law:

1. The Town Board of the Town shall not grant any approvals that would have as the result the establishment, placement, construction, enlargement or erection of a Wind Farm within the Town.

2. The Town Planning Board shall not grant any preliminary or final approval to a subdivision plat, site plan, special use permit or other permit that would have as a result the establishment, placement, construction, enlargement or erection of a Wind Farm within the Town.

3. The Town Zoning Board of Appeals shall not grant any variance or other permit for any use that would result in the establishment, placement, construction, enlargement or erection of a Wind Farm within the Town.

4. The Code Enforcement Officer of the Town shall not issue any permit that would result in the establishment, placement, construction, enlargement or erection of a Wind Farm within the Town.

B. The Town Board of the Town reserves the right to direct the Code Enforcement Officer to revoke or rescind any building permit or certificate of occupancy issued in violation of this Local Law.

### **Section 4. No Consideration of New Applications**

No application for construction affected by this Local Law or for approval for a site plan, subdivision, variance, special use permit or other permits shall be considered by any board officer or agency of the Town while the moratorium imposed by this Local Law is in effect.

### **Section 5. Term**

The moratorium imposed by this Local Law shall be in effect for a period of six months from the effective date of this Local Law.

**Section 6. Penalties**

Any person, firm or corporation that shall establish, place, construct, enlarge or erect any Wind Farm in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be subject to:

A. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules, regulations of the Town for violations; and

B. Injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction that may have taken place in violation of this Local Law.

**Section 7. Validity**

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

**Section 8. Hardship**

A. Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner of said property may apply to the Town Board of the Town in writing for a variation from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. For the purposes of this Local Law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special permit, site plan, subdivision, or other permit during the period of the moratorium imposed by this Local Law.

B. Procedure. Upon submission of a written application to the Town Clerk by the property owner seeking a variation of this Local Law, the Town Board shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days' written notice in the official newspaper of the Town. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this Local Law. If the Town Board determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board shall vary the application

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to this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

Section 9. Effective Date

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

RESOLUTION #76-06

AUDIT OF CLAIMS

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

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

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

General	\$83,403.32
Highway DA	\$47,708.00
Highway DB	\$19,168.26
Sewer	\$25,817.10
Water	\$18,759.89

Two checks will be released upon clarification of the following:

1. Allyance Solution - Determine the need for the GFI Mail Security and Essentials network software as billed.
2. Underberg & Kessler - Verify the amount related to an assessment case that came in higher than anticipated and we were not given the correct professional courtesy discount amount.

RESOLUTION #77-06

SUPERVISOR'S REPORT

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

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

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

RESOLUTION #78-06

WATER SERVICE LETTER - 117-118 WEST LAKE ROAD, BRANCHPORT

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

ADOPTED   Ayes           4       Barden, Jones, Hopkins, Stewart  
          Nays            0  
          Abstain     1       Folts (personal conflict)

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Whereas Vincent Bedient, 118 West Lake Road, Branchport was informed he is in violation of Jerusalem Code Section 152-3 and 152-11 due to 117 West Lake Road being served by Keuka Park Water Line that is supplied from his residence at 118 West Lake Road; and

Whereas it is the Town Board's desire to bring known violators into compliance with the Town Code; now, therefore be it

Resolved that Mr. Bedient's request to the Town Board to grandfather his connection until such time the property is divided, and then separate services could be installed be denied.

DISCUSSION - KEUKA LAKE DOCKING AND MOORING LAW TIMELINE

Councilperson Barden provided an update on the uniform docking and mooring law being developed by the eight municipalities surrounding Keuka Lake. The draft regulations are available on the Keuka Lake Association website. Copies of the proposed law will be made available to the Town Planning Board. The Town of Urbana, as Lead Agency, has determined July 31, 2006 to be a reasonable "deadline date" for each SEQR Involved Agency to solicit comments on the coordinated environmental review being conducted. Councilperson Barden proposed one hour be set for the Public Hearing at the June 21, 2006 Town Board Meeting. Comments will then be provided to the Lead Agency for consideration by the Lead Agency prior to making its determination of significance subsequent to its Public Hearing on this local legislation. The enforcement mechanism after such law is adopted is still under discussion by the Keuka Lake Uniform Docking and Mooring Committee.

RESOLUTION #79-06

DRAFT COMPREHENSIVE PLAN - MAKE AVAILABLE ON THE TOWN WEBSITE

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

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

Resolved that the draft Comprehensive Plan be put on the Town of Jerusalem website, [www.jerusalem-ny.org](http://www.jerusalem-ny.org), for public view in preparation of the Public Hearing.

RESOLUTION #80-06

AUTHORIZE GML 239 REFERRAL TO YATES COUNTY PLANNING BOARD FOR PROPOSED COMPREHENSIVE PLAN

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

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



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Whereas the Steering Committee has been working with Clark Patterson Associates and has presented a draft Comprehensive Plan for adoption; and

Whereas we are in the process of making additional copies of such draft available; and

Whereas the comprehensive plan is subject to the provisions of SEQR and is a Type I action which is contained in Appendix A of said draft; now, therefore, be it

Resolved that when copies are available, a GML 239 Referral be submitted to the Yates County Planning Board for their review; and, further

Resolved that upon receipt of their comments, a Public Hearing be scheduled.

RESOLUTION #81-06

TOWN HALL OFFICE HOURS

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

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

Whereas the Personnel Committee of the Board discussed current staffing levels and the ability to keep up with the increased workload related to Town growth; and

Whereas the Personnel Committee recommends a change be made to ensure staff adequate office time to fulfill their duties; now, therefore, be it

Resolved that the Town Board desires to enact measures to address this situation, thereby, closing the Town Offices to public access at 12:00 noon on Wednesdays until further notice; and further

Resolved that Resolution #81-06 be advertised effective May 3, 2006.

REPORT OF TOWN COUNCIL

- The Town is sponsoring a Petition requesting that the New York State Department of Transportation investigate, budget and repair Route 54A from Penn Yan to Branchport due to the deteriorating condition of the road.
- Councilperson Barden is researching electronic payments to the Town in response to a recent inquiry for such service.

- The Towns of Jerusalem and Benton disapproved and did not consent to the request from Robert Butcher to annex 2377 Window Hill Road into the Village of Penn Yan (TOJ Resolution #41-06). The Village approved the petition. The matter is concluded as all three parties had to approve the petition
- The Town has purchased a riding mower to maintain the lawn at the Town Hall and KPSW treatment plants.

PUBLIC COMMENTS

Bill Pringle, 309 Cedar Street, inquired on the Town code related to the number of unlicensed and unregistered vehicles. Supervisor Jones stated we are addressing these issues, as well as junk in general.

RESOLUTION #82-06

MOVE TO EXECUTIVE SESSION

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 regular meeting be interrupted to move into Executive Session to discuss pending litigation at 9:34 P.M.

RESOLUTION #83-06

RETURN TO REGULAR SESSION

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 Board return to regular session at 9:52 P.M.

RESOLUTION #84-06

AUTHORIZE SUPERVISOR TO NEGOTIATE

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

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

Resolved that the Supervisor be authorized to negotiate settlement of the assessment claim through Attorney Keneally of Underberg & Kessler.

With there being no further business, on a motion of Councilperson Stewart, seconded by Councilperson Hopkins, the meeting was adjourned at 9:55 P.M.

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Sheila McMichael, Town Clerk