

JERUSALEM TOWN BOARD MEETING - SEPTEMBER 20, 2006

Minutes of the regular monthly meeting of the Jerusalem Town Board held on September 20, 2006 at 7:00 P.M. PRESENT were:  
Councilpersons Barden, Hopkins, and Stewart, Supervisor Jones, Highway Superintendent Payne, Town Engineer Ackart, Town Clerk McMichael.

Excused: Councilperson Folts

Guests: Mary Coriale, Annette Toaspern, Bob Evans, Max Parsons, Bill Pringle, Jim Barre.

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

RESOLUTION #142-06

APPROVAL OF MINUTES

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

ADOPTED	Ayes	3	Barden, Hopkins, Jones
	Nays	0	
	Abstain	1	Stewart

Resolved that the minutes of the August 16, 2006 meeting be approved as presented.

SUMMER RECREATION PROGRAM DIRECTOR REPORT

Bev Eggleston, Summer Recreation Program Director, was unable to attend the meeting due to illness and will submit her written report to the Board at a future date.

REPORT OF TOWN OFFICIALS

HIGHWAY SUPERINTENDENT

- Highway Superintendent Payne submitted his written report of road work done in the month of August, on file in the Office of the Town Clerk.
- We received notice that our grant application to fund a salt storage building was not approved under Round 8 of the NYS Non-Agricultural, Non-Point Source Pollution Control program. Superintendent Payne will follow up to reapply for this funding.

TOWN ENGINEER

- Town Engineer Ackart presented the following highlights from his monthly report.
- Sewer lines in Keuka Park were TV'ed and cleaned by Scanex. Considerable grease was found in a section of the Keuka College line that will require further cleaning, with the College covering the cost.
- We are proceeding with the process to transfer the Assembly Avenue sewer to the Town.

- The new flume for sewage flow measurement in the Indian Pines pump station is producing great data.
- A contingent of 17 Swedish engineers will be visiting Jerusalem and Milo to view our pressure sewage systems. They are interested in seeing the operation using E-One grinder pumps.
- Town Engineer Ackart and CEO Phillips continue to meet with Keuka College on the Ball Hall renovation project.
- The 30-day permissive referendum period for the proposed Pulteney water district ended September 9.

RESOLUTION #143-06

APPROVE SEQRA TRAINING FOR TOWN ENGINEER

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

ADOPTED	Ayes	4	Barden, Hopkins, Jones, Stewart
	Nays	0	

Resolved that the Town Engineer be authorized to attend the SEQRA seminar on November 7, 2006 in Rochester, New York; and be it further

Resolved that due to the engineer providing services to both Jerusalem and Milo, the \$339 cost will be split equally between the two towns.

RESOLUTION #144-06

APPOINTMENT - BOARD OF ASSESSMENT REVIEW

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

ADOPTED	Ayes	4	Barden, Hopkins, Jones, Stewart
	Nays	0	

Resolved that Llarilyn Buckingham be appointed to the Board of Assessment Review for a five-year term, from October 1, 2006 through September 30, 2011.

RESOLUTION #145-06

APPOINTMENT - PLANNING BOARD

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

ADOPTED	Ayes	4	Barden, Hopkins, Jones, Stewart
	Nays	0	

Whereas the Town Board is in receipt of a letter dated August 18, 2006 from Michael VanWormer resigning as a member of the Planning Board; and

Whereas the Town Board desires to fill this vacancy; now, therefore, be it

Resolved that Bill Pringle be appointed to the Planning Board to fill the unexpired term of Michael VanWormer through December 31, 2008.

Supervisor Jones will send a letter to Mr. VanWormer thanking him for his service.

RESOLUTION #146-06

APPROVAL - WIND FARM STUDY GROUP

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

ADOPTED	Ayes	4	Barden, Hopkins, Jones, Stewart
	Nays	0	

Whereas a subcommittee has been set up to study windmills and wind farms; and

Whereas the subcommittee requested a day trip from 7:00 A.M. to 9:00 P.M. to visit wind farms in the Towns of Fenner, Madison County and in the Town of Martinsburg, Lewis County for the purpose of gathering information; now, therefore, be it

Resolved that the Town Board authorize the day trip with transportation to be provided by K-Ventures motor coach at a cost of \$855.25 for 25 people; and, be it further

Resolved that due to the hours involved in the trip, the Town will provide box lunches and one meal on the return trip; and, be it further

Resolved that along with the subcommittee members, the Town Board, Planning Board, Zoning Board and their respective secretaries be invited to attend.

RESOLUTION #147-06

SEQR DETERMINATION - PROPOSED LOCAL LAW E OF 2006 - TOWN CODE AMENDMENTS TO CHAPTER 98. JUNKYARDS

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

ADOPTED	Ayes	4	Barden, Hopkins, Jones, Stewart
	Nays	0	

Resolved that proposed Local Law E of 2006 amending Town code Chapter 98. Junkyards is considered to be a Type II action as

defined in 6 NYCRR Part 617.5 {C}(11); that being said undertaking is not subject to further SEQR review.

RESOLUTION #148-06

ADOPT LOCAL LAW #5-2006 AMENDING CHAPTER 98 OF THE JERUSALEM TOWN CODE RELATING TO JUNKYARDS AS TO LICENSE FEES, FENCING, EXISTING JUNKYARDS, AND THE RESPONSIBLE ENFORCEMENT OFFICER

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

ADOPTED BY ROLL CALL VOTE

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 August 16, 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 amend Chapter 98 of the Jerusalem Town Code relating to Junkyards", and

WHEREAS, notice of said public hearing was duly advertised in The Chronicle Express, the official newspaper of said Town, on August 9 and August 16, 2006, and

WHEREAS, said public hearing was duly held on August 16, 2006, at 7:07 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 August 24, 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. 5 of 2006 entitled "A Local Law of the Town of Jerusalem to amend Chapter 98 of the Jerusalem Town Code relating to Junkyards as to license fees, fencing, existing junkyards, and the responsible enforcement

officer", 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:

Section 1: Section 98-11. License fees. of Chapter 98 of the Code the Town of Jerusalem relating to Junkyards is hereby amended to read as follows;

98-11. License fees. The Town Board may establish by resolution a fee to be paid by the applicant for the license and annually thereafter if the license is granted. If the application is not granted, the fee shall be returned to the applicant.

§ 2: The opening paragraph A of Section 98-12 is amended to read as follows:

A. All junkyards, either new or existing, shall be completely surrounded with a fence of sufficient height to substantially screen them, which fence shall be equipped with a suitable gate which shall be closed and locked except during the working hours of such junkyard or when the applicant or his agent shall be within. A berm of sufficient height may be substituted for the fence or part of the fence.

§ 3: The final sentence of paragraph B of Section 98-12 is amended to read as follows:

No material shall be so placed that it, or any part of it, is higher than the top of the fence or outside of the fence.

§ 4: Section 98-14 is amended to read as follows;

98-14. Existing Junkyards. All junkyards existing at the time when this local law becomes effective shall comply with the requirements of this chapter within one year of such time. In case of hardship, the Town Board may grant a temporary variance from the requirements on such reasonable conditions as the Board may deem just and appropriate.

§ 5: Section 98-16 shall be amended to read:

98-16. Enforcement.

This chapter shall be enforced by the Code Enforcement Officer.

§ 6: This Local Law shall be effective immediately upon its being filed by the Secretary of State.  
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.

RESOLUTION #149-06

ESTABLISH JUNKYARD LICENSING FEE SCHEDULE

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

ADOPTED   Ayes           4       Barden, Hopkins, Jones, Stewart  
              Nays            0

Whereas Section 98-11. License Fees of Chapter 98 of the Town Code relating to Junkyards states the Town Board may establish by resolution a fee to be paid by the applicant for the license and annually thereafter if the license is granted; and

Whereas it is the Town Board's desire to establish junkyard licensing fees; now, therefore, be it

Resolved that the junkyard licensing fees be established based on their dimensions as follows:

      \$250           100 sq. ft. area  
      \$500           500 sq. ft. area  
      \$1,000        1,000+ sq. ft. area

;and, be it further

Resolved that the junkyard renewal fee is yet to be determined; and be it further

Resolved that these fees will be reviewed annually at the organizational meeting of the Town Board.

RESOLUTION #150-06

SET PUBLIC HEARING AND AUTHORIZE GML 239 REFERRAL FOR PROPOSED LOCAL LAW H-2006 CREATING AN AGRICULTURAL RESIDENTIAL BUSINESS ZONE WITH PERMITTED USES, LOT SIZES, GEOGRAPHICAL DESCRIPTION AND SPECIAL USES

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

ADOPTED   Ayes           4       Barden, Hopkins, Jones, Stewart  
              Nays            0

Resolved that a Public Hearing be scheduled for the October 18, 2006 Town Board meeting at 7:00 P.M. on proposed Local Law H-2006 creating an agricultural residential business zone with permitted uses, lot sizes, geographical description and special uses; and, further

Resolved that a GML 239 Referral be submitted to the Yates County Planning Board for review on said proposed local law; and, further

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

RESOLUTION #151-06

SET PUBLIC HEARING AND AUTHORIZE GML 239 REFERRAL FOR PROPOSED LOCAL LAW I-2006 AMENDING THE ZONING LAW TO INCLUDE REGULATIONS PERTAINING TO ADULT USE AND ENTERTAINMENT

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

ADOPTED	Ayes	4	Barden, Hopkins, Jones, Stewart
	Nays	0	

Whereas the Public Hearing on Proposed Local Law G of 2006 was held on August 16, 2006 to impose a 90-day moratorium on places of adult entertainment; and

Whereas the Planning Board Adult Entertainment Subcommittee presented the Town Board with their final draft Adult Entertainment law dated September 20, 2006, along with raw calculations relating to the acceptability of the proposed Adult Entertainment Area, thereby eliminating the need for a moratorium; now, therefore, be it

Resolved that a Public Hearing be scheduled for the October 18, 2006 Town Board meeting at 7:05 P.M. on proposed Local Law I-2006 amending the Jerusalem zoning law to include regulations pertaining to adult use and entertainment; and, further

Resolved that a GML 239 Referral be submitted to the Yates County Planning Board for review on said proposed local law; and, further

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

RESOLUTION #152-06

ADOPT TOWN OF JERUSALEM COMPREHENSIVE PLAN

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

ADOPTED BY ROLL CALL VOTE

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

Whereas the current Town of Jerusalem Comprehensive Plan was adopted more than 15 years ago; and

Whereas considerable development pressure is evident in the Town; and

Whereas a group of people representing a broad cross section of the population has been working for more than two years to draft a new Comprehensive Plan that more correctly reflects the needs and pressures on the community than the existing Plan; and

Whereas two public hearings have been held to get input on the draft Plan and changes made to the draft to reflect that input; and

Whereas a Type 1 SEQRA review has been completed with a negative declaration regarding adverse environmental impact; now, therefore, be it

Resolved that the Town of Jerusalem adopt the new Comprehensive Plan dated August 2006 and received by the Town Clerk's Office on the 15<sup>th</sup> of September 2006 from Consultant Clark Patterson; and be it further

Resolved that the Town Board recognizes the work of the dedicated Steering Committee members and the Supervisor send letters to all Committee members stating their appreciation.

Supervisor Jones and Councilperson Barden will coordinate the media release on the adoption of our Comprehensive Plan.

RESOLUTION #153-06

COMPREHENSIVE PLAN - FEES

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

ADOPTED	Ayes	4	Barden, Hopkins, Jones, Stewart
	Nays	0	



Resolved that the Town of Jerusalem Comprehensive Plan be duplicated and made available for sale to the Public, at a cost of \$15.00 per copy; and be it further

Resolved that a Comprehensive Plan Change Sheet, that lists all changes made to the Original Public Hearing document to the Final Document (Adopted 9/20/06) be made available, at no charge.

RESOLUTION #154-06

SET PUBLIC HEARING FOR EMPIRE VIDEO SERVICES CORPORATION VIDEO FRANCHISE APPLICATION

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

ADOPTED	Ayes	4	Barden, Hopkins, Jones, Stewart
	Nays	0	

Resolved that a Public Hearing be scheduled for October 18, 2006 at 7:10 P.M. regarding the application from Empire Video Services Corporation to operate a video franchise in the Town of Jerusalem.

RESOLUTION #155-06

SET PUBLIC HEARING TO REPEAL THREE EXISTING CHAPTERS OF THE JERUSALEM TOWN CODE, THAT HAVE BEEN UPDATED BY THE RECENT ENACTMENT OF NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE - 1203

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

ADOPTED	Ayes	4	Barden, Hopkins, Jones, Stewart
	Nays	0	

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 is necessary. The chapters to be repealed are:

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

Chapter 65, 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 of 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 it be

Resolved, that a public hearing be scheduled on October 18, 2006 at 7:15 PM to hear public comment on the repeal of Chapters 11, 65 and 118; and, be it further

Resolved that the Town Clerk be authorized to advertise said public hearing in accordance with law.

RESOLUTION #156-06

VILLAGE OF PENN YAN CEMETERY ANNEXATION RESPONSE

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

ADOPTED   Ayes           4       Barden, Hopkins, Jones, Stewart  
              Nays            0

Whereas the Village of Penn Yan requested the Town annex the Lakeview Cemetery lands and the Town proposed that we also include the west end of Court Street and the storm drain; and

Whereas the Village of Penn Yan desires to handle these two matters separately; now, therefore be it

Resolved that the Supervisor inform the Village of Penn Yan that the Town is not interested in pursuing the sole annexation of the cemetery property and the exclusion of Court Street and the storm drain.

RESOLUTION #157-06

ADOPT - LOCAL LAW 6 OF 2006 ENTITLED KEUKA LAKE UNIFORM DOCKING AND MOORING LAW

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

ADOPTED BY ROLL CALL VOTE  
      Councilperson Stewart       Aye  
      Supervisor Jones            Aye  
      Councilperson Hopkins       Aye  
      Councilperson Barden        Aye

WHEREAS, resolutions were duly adopted by the Town Board of the Town of Jerusalem for Public Hearings to be held by said town Board on October 12<sup>th</sup>, 2005 and June 21<sup>st</sup>, 2006 at the Jerusalem Town Hall, Branchport, New York to hear all interested parties on a

proposed local law B-2005 and No. 6 of 2006 respectively, entitled "Keuka Lake Uniform Docking and Mooring Law"; and

WHEREAS, notice of said Public Hearings were duly advertised in the Chronicle Express, the official newspaper of the Town of Jerusalem on 9/28/2005 and 10/5/2005 (for the 10/12/2005 Hearing) and 5/31/2006 (for the 6/21/2006 Hearing) and other notices required by law were properly served, posted or given; and

WHEREAS, said Public Hearings were held on October 12<sup>th</sup>, 2005 at 7:35 P.M. and on June 21, 2006 at 7:00 P.M. at the Jerusalem Town Hall at 3816 Italy Hill Road, Branchport, New York and all parties in attendance were permitted an opportunity to speak on behalf or in opposition to said Proposed Law, or any part thereof; and

WHEREAS, the Town Board of the Town of Jerusalem, after due deliberation, finds it in the best interest of the Town of Jerusalem 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 "Keuka Lake Uniform Docking and Mooring Law", a copy of which is attached hereto and made a part of this Resolution; and, be it further

RESOLVED, that the Town Clerk shall, and she is hereby directed to enter said Local Law in the Minutes of this meeting and in the Local Law Book of the Town of Jerusalem, and to give due notice of the adoption to all of the other respective Keuka Lakeshore Municipalities; and, be it further

RESOLVED, that the Town of Jerusalem Local Law No. 6 establishing in the Town of Jerusalem the "Keuka Lake Uniform Docking and Mooring Law" shall be timely submitted to and approved in writing by the Commissioner of the New York State Office of Parks, Recreation and Historic Preservation; and, be it further

RESOLVED, that upon receipt of such Commissioner's written approval, it shall be filed in the Office of the New York State Secretary of State and shall become effective 10 days thereafter.

DISCUSSION - UNIFORM DOCKING AND MOORING LAW

- Councilpersons Stewart and Hopkins again stated their concern to address the enforcement process for the Uniform Docking and Mooring law.
- Councilperson Barden will have the Uniform Docking and Mooring law posted on the Town website.
- Supervisor Jones thanked Councilperson Barden for all the hours he worked on the law.

RESOLUTION #158-06

AUDIT OF CLAIMS

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

ADOPTED	Ayes	3	Barden, Jones, Stewart
	Nays	0	
	Abstain	1	Hopkins

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

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

General	\$ 11,684.89
Highway DA	\$ 3,751.16
Highway DB	\$ 45,138.87
Sewer	\$108,919.46
Water	\$ 4,476.28

RESOLUTION #159-06

SUPERVISOR'S REPORT

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

ADOPTED	Ayes	3	Barden, Jones, Stewart
	Nays	0	
	Abstain	1	

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

DISCUSSION - BED & BREAKFAST PETITION - RESOLUTION #131-06

Annette Toaspern, 240 West Lake Road, Penn Yan, approached the Town Board regarding the rejection of proposed Local Law F of 2006 - Chapter 160. related to the definition of bed-and-breakfast (Resolution #131-06). She urged the Board to reconsider this decision.

A lengthy discussion ensued on the matter. Given receipt of an e-mail dated September 18, 2006 from Town Attorney Bailey regarding this decision and his uncertainty on the ramifications of such, Supervisor Jones will contact Attorney Bailey to obtain his final opinion on this matter. Bob Evans will also investigate State law on Bed & Breakfast and advise.

Jerusalem Town Board  
September 20, 2006

With there being no further business, on a motion of Councilperson Barden, seconded by Supervisor Jones, the meeting was adjourned at 9:45 P.M.

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Sheila McMichael, Town Clerk