

Minutes of the regular monthly meeting of the Jerusalem Town Board held on February 21, 2007 at 7:00 P.M. PRESENT were: Councilpersons Barden, Folts and Stewart, Supervisor Jones, Highway Superintendent Payne, Town Engineer Ackart, Town Clerk McMichael.

Excused: Councilperson Hopkins

Guests: Cynthia Geertson, David Geertson, June Hathaway, Donna Daugherty, Sally Ribble, Lawrence Brown, Susan Pinckney, Dale Robinson, Jeff Hulse and several unidentified guests.

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

RESOLUTION #38-07

AMENDMENT AND APPROVAL OF MINUTES

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

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

Resolved that Resolution #21-07 Machine Reserve be amended as follows (\*) to clarify the transaction:

Resolved that the Town Board authorize the following transfers to be done for the 2006 year's budget:

General A	D/510 (3005 account)	- \$40,000.00
	C/960 (9901.9 account)	- \$40,000.00

\*Resulting in monies being transferred from General to Highway DA

Highway DA	D/510 (5031 account)	- \$40,000.00
	C/960 (9901.9 account)	- \$40,000.00

\*Resulting in monies being transferred from Highway DA to Highway Machine Reserve

Highway Machine Reserve

D/230	\$40,000.00
C/980 (5031 account)	- \$40,000.00

\* This recognizes the actual cash being deposited in the Reserve

;and, be it further,

Resolved that the minutes of the January 3, 2007 Organizational Meeting be approved as amended.

RESOLUTION #39-07

APPROVAL OF MINUTES

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

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

Resolved that the minutes of the January 17, 2007 monthly meeting be approved as read.

OPEN PUBLIC HEARING - PROPOSED ZONING AMENDMENT RELATING TO THE DEFINITION OF BED & BREAKFAST

Supervisor Jones opened the public hearing on the proposed amendment to the definition of Bed and Breakfast at 7:04 P.M.

Section 1: Section 160-104 of Chapter 160 of the Code of the Town of Jerusalem relating to Zoning is hereby amended by deleting the definition of Bed and Breakfast and substituting a new definition to read as follows:

BED-AND-BREAKFAST - A single-family dwelling that meets all of the following criteria:

1. At least one but not more than five sleeping rooms are offered by the owner for pay as overnight lodging facilities for transient guests.
2. Breakfast is the only meal provided.
3. The owner spends the night there while guests are in residence.
4. The dwelling conforms to the New York State Uniform Fire Prevention and Building code.

Supervisor Jones stated two additions to the proposed definition will be:

- Item 1. "to accommodate up to 10 guests"  
Item 3. "or owner's agent".

Supervisor Jones stated that he discussed these changes with Planning Board Member Annette Toaspern and she was in agreement with the suggested wording.

Bill Pringle questioned the definition of agent because he feels this sounds more like a hotel than a bed & breakfast. Supervisor Jones stated the residence would still be the owner's primary residence, but the agent could be used if the owner is ill or in an emergency situation. Bob Evans suggested we compromise on this as it is common practice for B&B owners to call on fellow B&B owners to cover in these instances. Mr. Pringle thought the original intent was to omit the "/" from the definition to make the definition more clear. He feels adding "agent" makes it more confusing than the "/".

The hearing was left open.

OPEN PUBLIC HEARING - PROPOSED ZONING AMENDMENT RELATING TO ADULT ENTERTAINMENT

Supervisor Jones opened the public hearing on the proposed zoning amendment relating to Adult Entertainment as a permitted or special use at 7:14 P.M.

Section 1: Section 160-107 Location Restrictions of Chapter 160 of the Code of the Town of Jerusalem relating to Adult Entertainment Regulations is hereby amended by deleting the first sentence and substituting a new first sentence to read as follows:

Adult Entertainment uses shall be permitted only in the Agricultural-Residential and General Business zones as a Permitted Use.

§ 2: Section 160-18 of such Code is amended by adding the following:

G. Adult Entertainment Uses in accordance with Article XX.

§ 3: Section 160-35 of such Code is amended by adding the following:

j. Adult Entertainment Uses in accordance with Article XX.

Cindy Geertson posed the following questions to the Board:

1. On June 21, 2006, a Resolution #111-06 was adopted requesting the planning board to complete SEQOR requirements for local law on adult entertainment. Is this document and the SEQOR discussed today open for the public to read? Yes
2. With the adoption of a Local Law amending the zoning ordinance, what areas are considered to be General Business in the Town of Jerusalem - into which the adult entertainment businesses might be located? General Business is defined in Chapter 160-7 of the Town Code.
3. By including with the proposed Local Law all Agricultural/ Residential zones in the Town of Jerusalem, the available areas for A/E businesses is greatly expanded, potentially impacting many if not all residents. True. No total on the number of residents impacted, but the location must be within the limits as defined in the A/E regulations.
4. Concerning the Application for license, when the proposed amendment we are discussing changes the A/E businesses to "permitted use" rather than a "special permitted use", will the application for the A/E license continue to be "forwarded to the Town Board for its review and consideration" as is currently required under section § 0-7 B of Local Law #6 of 2006? Yes.

5. What steps have the Town Board and the Subcommittee of the Planning Board taken thus far to severely tighten & expand the regulations? (as put forth by Ray Stewart at the December 13, 2006 regular monthly meeting of the Jerusalem Town Board) None at this time.
6. Have meeting dates been set between the Town Board and/or the Planning Board Subcommittee and Attorney David Saracino? (discussed by the Town Board at the regular monthly meeting of the Jerusalem Town Board on January 17, 2007) Information has been forwarded to Attorney David Saracino for his review, but no meeting has been scheduled.
7. The Town of Arcadia's A/E regulations were received by the Town of Jerusalem on February 15, 2007. Have the regulations been reviewed by the Subcommittee or by the Town of Jerusalem Board? These regulations were requested by Councilperson Hopkins and received just prior to her leaving for vacation. Arcadia's A/E regulations will be distributed to the Town and Planning Boards for review upon her return.
8. Most of the concerns addressed by the Town of Jerusalem Citizens were also addressed in the Town of Arcadia's regulations. Additional issues were also highlighted in their regulations which the Town of Jerusalem Board/Subcommittee might well consider.
9. Please let us know if we can help in any way. Thank you for your time and your public service to our town.

Town of Jerusalem Residents for Effective Adult Entertainment Regulations

RESOLUTION #40-07

CLOSE PUBLIC HEARING - PROPOSED BED & BREAKFAST DEFINITION

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

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

Resolved that the public hearing on the proposed zoning amendment relating to the definition of Bed & Breakfast be closed at 7:21 P.M.

RESOLUTION #41-07

AUDIT OF CLAIMS

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

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

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

General	\$ 11,992.05
Highway DA	\$ 63,595.00

Highway DB	\$ 32,420.81
Sewer	\$118,797.33
Water	\$ 2,720.99
Outside Village	\$ 709.00

January Utilities:	Water	\$ 34,220.92
	Sewer	\$ 183.05

RESOLUTION #42-07

SUPERVISOR'S REPORT

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

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

Resolved that the Supervisor's Report on the Town's finances for the month of January 2007 be accepted as presented.

REPORT OF TOWN OFFICIALS

HIGHWAY SUPERINTENDENT

Highway Superintendent Payne submitted his written report of road work done for the month of January, noting the winter weather is keeping them busy. The roller was delivered and paperwork has been submitted to receive the \$30,000 grant funds.

RESOLUTION #43-07

AUTHORIZE SUBSTANCE ABUSE AND ALCOHOL TESTING POLICY UPDATE

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

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

Resolved that the Town enter into an agreement with Public Sector HR Consultants LLC to update our Substance Abuse and Alcohol Testing Policy at a cost of \$500.

TOWN ENGINEER

- Town Engineer Ackart was pleased to report our system is well-protected as we only experienced one frozen grinder pump during the recent cold spell. This was an owner issue, not the Town's.
- A meeting was held with the County Highway Superintendent to discuss widening Lower West Lake Road, Penn Yan. Federal funding will not be pursued by the County because it was determined this project is not feasible because of utilities located in that area.
- Four of five of the old turbo water meters at Keuka College have been replaced. Meters at the College are also being equipped with the master meter radio read system.

- Information is being gathered in anticipation of conducting a water rate study.

TOWN COUNCIL

Councilperson Barden reported an overview of the Keuka Lake Uniform Docking & Mooring law was presented by the Subcommittee to the Zoning and Planning Boards.

WIND FARM SUBCOMMITTEE:

Neil Simmons reported the Subcommittee met following the January 15 Public Information with minimal attendance due to the inclement weather. They are scheduled to meet again tomorrow. A "No Wind Turbines" sign has been placed at the intersection of 54A and Pepper Road.

SLOPES SUBCOMMITTEE:

Councilperson Folts reported the Slopes Subcommittee has set their goals. Highway Superintendent Payne has provided the Subcommittee with his issues and concerns.

ZONING REVIEW SUBCOMMITTEE:

No report.

DISCUSSION - PECK, 714 WEST BLUFF DRIVE ELECTRIC BILL:

A Notice of Claim has been filed by Barbara Peck, 714 West Bluff Drive, alleging property damage in the amount of \$747.83 for damage to the electric line buried under the town highway that was cut during work on the road by the Town.

Supervisor Jones stated the \$747.83 bill for electric services rendered had been submitted to the Town for payment. We returned it stating this was the responsibility of the homeowner. Attorney Bailey has also been contacted by Peck's attorney proposing the Town pay ½ of the cost of the repair to the damaged electric line. He explained the Notice of Claim does not change Peck's position. It had to be filed concurrently with the proposal to split the repair cost to comply with the prescribed 90-day filing. Highway Superintendent Payne presented the events that transpired, noting his policy for buried lines in the highway is that they be 4' so they are well away from ditches.

RESOLUTION #44-07

DENY - PECK, 714 WEST BLUFF DRIVE CLAIM WITH THE TOWN OF JERUSALEM

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

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

Whereas Barbara and Peter Peck, 714 West Bluff Drive, requested the Highway Department replace their culvert pipe; and

Whereas during said excavation, the private electric line at 714 West Bluff Drive was severed resulting in a \$747.83 bill; and

Whereas the owner failed to advise the Town Highway Superintendent prior to the day when the work was done of the presence of this electric line, even though there were numerous conversations with the Superintendent; and

Whereas a call to UFPO that monitors public utilities would not have identified this private line; and

Whereas the Town's policy with regard to utility lines buried in the highway right-of-way is that they be at least four feet below the surface of the ground and this line was about 16 inches below the surface; and

Whereas the town highway crew remained on site after the line was cut to assist with the repair and re-burying of the line; and

Whereas the Town Board feels, without conceding the issues of responsibility, if the town was in fact partly responsible for this damage, it already contributed its share toward the repair; now, therefore, be it

Resolved that the Town Board deny the claim filed by Barbara Peck; and, be it further

Resolved that Attorney Bailey respond to the Notice of Claim; and, be it further

Resolved that the Highway Superintendent implement a formal form for property owners to sign off with regard to buried utilities to reduce the likelihood of this type of event recurring.

RESOLUTION #45-07

PROPOSED BED & BREAKFAST DEFINITION - AUTHORIZE THE FILING OF A NEGATIVE DECLARATION UNDER THE SEQR LAW

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

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

Whereas the Town Board of the Town of Jerusalem hereby finds and determines with respect to the revision of zoning relating to the definition of Bed and Breakfast, it has considered the action, reviewed the short environmental assessment form and determined the

adoption will not result in any large and important environmental impacts, and, therefore, is one which will not have a significant effect on the environment; now, therefore, be it

Resolved that a negative declaration be prepared and the Town Board authorizes the Supervisor to sign the negative declaration (determination of non-significance) pursuant to 6 New York Code of Rules and Regulations, section 617.7 with respect to the project.

RESOLUTION #46-07

PROPOSED ADULT ENTERTAINMENT/PERMITTED USE - AUTHORIZE THE FILING OF A NEGATIVE DECLARATION UNDER THE SEQOR LAW

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

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

Whereas the Town Board of the Town of Jerusalem hereby finds and determines with respect to amending Chapter 160 of zoning relating to Adult Entertainment as a permitted use, it has considered the action, reviewed the short environmental assessment form and determined the adoption will not result in any large and important environmental impacts, and, therefore, is one which will not have a significant effect on the environment; now, therefore, be it

Resolved that a negative declaration be prepared and the Town Board authorizes the Supervisor to sign the negative declaration (determination of non-significance) pursuant to 6 New York Code of Rules and Regulations, section 617.7 with respect to the project.

DISCUSSION -TOWN PERSONNEL LUNCH HOUR

The decision to pay all town employees for their lunch break made in November was discussed at length. Prior to that, there was a discrepancy between employees not being paid and those that were paid based on verbal terms of hire. Several employees submitted comments to Board members for their consideration. The Highway Department gave up their two 15-minute breaks when the paid lunch was instituted. Related issues discussed included public inconvenience when staff are at lunch as all staff are not cross-trained and no designated area for staff to eat lunch at the Town Hall. Several public comments were made disagreeing with employees being paid for their lunch break. Personnel Committee member Stewart stated his responsibility for the controversy surrounding the decision to pay the lunch break as he felt all Town employees should be treated the same.

RESOLUTION #47-07

LUNCH BREAK POLICY FOR TOWN PERSONNEL

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

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

Resolved that all hourly Town employees receive a 15-minutes break in the morning, a 15-minute break in the afternoon and a ½ hour unpaid lunch break effective February 26, 2007; and, be it further

Resolved that in extenuating circumstances, the Supervisor or Department Head may require employees to work through their lunch break at which time employees will be compensated for said time.

JUSTICE KILLEN COURT CLERK

Following the Town Board's approval of Justice Anne Killen's 12-week leave of absence this spring, she has notified her Court Clerk that the Clerk's services will not be needed during the Justice's leave.

RESOLUTION #48-07

NAME LYONS NATIONAL BANK AS TOWN DEPOSITORY

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

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

Resolved that Lyons National Bank also be designated as an official depository for the Town, with the Supervisor and Deputy Supervisor authorized to sign checks and other financial papers.

CLUSTER DEVELOPMENT

Supervisor Jones stated the cluster development information from Code Enforcement Officer Phillips is not available for discussion at tonight's meeting.

Planning Board members Bob Evans and Neil Simmons questioned the process on matters such as cluster development. They asked why the CEO is working with legal counsel and presenting it to the Town Board before the Planning Board has reviewed it. Supervisor Jones will seek clarification on the matter.

RESOLUTION #49-07

RESOLUTION INCREASING APPROPRIATION FOR BRANCHPORT FREE LIBRARY

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

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

WHEREAS, the Branchport Free Library has moved into its new building and increased its services to the community; and

WHEREAS, the Branchport Free Library has incurred additional expenses in the year 2007 that were unforeseen and are unlikely to recur; and

WHEREAS, when the 2007 budget for the Town was prepared, the amount designated for the Branchport Free Library did not take into account the additional unanticipated expense; now, therefore, be it

RESOLVED by the Town Board of the Town of Jerusalem in regular session duly convened as follows:

1. The 2007 appropriation for the Branchport Free Library be and the same hereby is increased by Four Thousand Dollars, from Six Thousand Dollars to Ten Thousand Dollars, to take into account the additional unanticipated expenses incurred by it.
2. Four Thousand Dollars be and the same hereby is transferred from Budget Item [A 1990.4] to Budget Item [A 7410.4] to fund such appropriations.
3. This resolution shall take effect immediately.

RESOLUTION #50-07

CLOSE PUBLIC HEARING - PROPOSED ZONING AMENDMENT RELATED TO ADULT ENTERTAINMENT

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

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

Resolved that the Public Hearing be closed at 8:54 P.M. and that the Board return to the Regular Town Board meeting.

RESOLUTION #51-07

TABLE PROPOSED BED & BREAKFAST DEFINITION AMENDMENT

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

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

Resolved that the proposed Bed & Breakfast definition amendment be tabled until the March 21, 2007 Town Board meeting.

DISCUSSION - PROPOSED LOCAL LAW AMENDING THE ZONING ORDINANCE RELATED TO ADULT ENTERTAINMENT

Supervisor Jones read proposed Local Law B-2007 amending the zoning ordinance related to adult entertainment and explained this change is necessary to enforce the adult entertainment use regulations

adopted by Local Law #6-2006. Mrs. Geertson expressed her concern regarding the original intent to confine places of adult entertainment to a small area and now it is being opened up to a large portion of the Town. Supervisor Jones noted we can not prohibit places of adult entertainment, we can only regulate them. We will continue to address this matter with Attorney David Saracino following his review of the information we sent him.

RESOLUTION #52-07

ADOPTION LOCAL LAW #1-2007 AMENDING THE ZONING ORDINANCE RELATED TO ADULT ENTERTAINMENT

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

ADOPTED BY ROLL CALL VOTE:

Councilperson Folts	Aye
Supervisor Jones	Aye
Councilperson Barden	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 December 13, 2006, at 7:00 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 relating to Adult Entertainment as a permitted or special use", and

WHEREAS, notice of said public hearing was duly advertised in The Chronicle Express, the official newspaper of said Town, on February 7, 2007 and February 14, 2007, and

WHEREAS, said public hearing was duly held on February 21, 2007, 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 January 25, 2007 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. 1 of 2007 entitled "A

Local Law amending Chapter 160 of the Code of the Town of Jerusalem concerning Zoning relating to Adult Entertainment as a permitted or special use", 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 160-107 Location Restrictions of Chapter 160 of the Code of the Town of Jerusalem relating to Adult Entertainment Regulations is hereby amended by deleting the first sentence and substituting a new first sentence to read as follows:

Adult Entertainment uses shall be permitted only in the Agricultural-Residential and General Business zones as a Permitted Use.

§ 2: Section 160-18 of such Code is amended by adding the following:

G. Adult Entertainment Uses in accordance with Article XX.

§ 3: Section 160-35 of such Code is amended by adding the following:

J. Adult Entertainment Uses in accordance with Article XX.

§4: 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.

With there being no further business, on a motion of Supervisor Jones, seconded by Councilperson Barden, the meeting was adjourned at 9:09 P.M.

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Sheila McMichael, Town Clerk