

Minutes of the regular monthly meeting of the Jerusalem Town Board held on April 18, 2007 at 7:00 P.M. PRESENT were: Councilpersons Barden, Folts, Hopkins, Stewart, Supervisor Jones, Highway Superintendent Payne, Town Clerk McMichael.

EXCUSED: Town Engineer Ackart.

GUESTS: Max Parsons, Bill Pringle, Jim Fitzgibbons, Donna Daugherty, Bob Evans, Cynthia Geertson.

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

RESOLUTION #64-07

AMENDMENT AND APPROVAL OF MINUTES

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

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

Resolved that the minutes of the March 21, 2007 monthly meeting be approved with two amendments as follows:

Page 4 - The intent of the Slopes Subcommittee is town-wide regulation with their initial focus on slopes of 15% or greater in the R-1 district.

Page 7 - Resolution #59-07: The amount of the sewer agreement is \$61,015 annually.

RESOLUTION #65-07

AUDIT OF CLAIMS

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

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

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

General	\$54,196.59
Highway DB	\$23,200.96
Sewer	\$ 5,141.81
Water	\$68,579.71

March Utilities:	General	\$ 1,921.36
	Sewer:	\$ 524.69
	Water:	\$ 109.71

RESOLUTION #66-07
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 March 2007 be accepted as presented.

REPORT OF TOWN OFFICIALS

HIGHWAY SUPERINTENDENT:

- Highway Superintendent Payne submitted his written report of work done for the month of March.
- The Highway Department is now working four 10-hour days through October, 6:00 A.M. - 4:30 P.M.

TOWN ENGINEER:

The written report of the April 2nd KPSW Subcommittee meeting is on file. There was no further report as the Town Engineer was on vacation.

TOWN COUNCIL:

Councilperson Hopkins read an excerpt from the April 5th Planning Board meeting minutes regarding the Private Road specifications referred by the Town Board. The Planning Board has tabled the matter until they receive further guidance from the Town Board as they feel the proposed standards are "overkill"

WINDFARM SUBCOMMITTEE:

Subcommittee member Bill Pringle stated they are organizing a visit to the Town of Fenner to meet with their Supervisor again. This day trip will be scheduled for May or June.

SLOPES SUBCOMMITTEE:

Councilperson Folts stated the Subcommittee met this month to identify the steepest slopes within the Town. A drive throughout the Town will be organized to view the areas with slopes 15% or greater.

ZONING BOARD:

- Councilperson Stewart reflected on the passing of two prior Zoning Board members this year, Ron Sutherland and George White, noting their years of dedicated service to the Town.
- Councilperson Folts reported on the April 12th Zoning Board meeting, stating they did an excellent job in trying to be consistent. The Board considered four applications. Three were granted, one with stipulations, and one application was denied.

RECREATION COMMITTEE:

Supervisor Jones was pleased to report he received verbal notification from New York State Parks & Recreation resolving the issues related to the State imposing fees on our Summer Recreation Program held at the Keuka Lake State Park. This matter will be brought back to the Town Board upon receipt of their written resolution.

RESOLUTION #67-07

ADOPTION - LOCAL LAW #2-2007 ZONING AMENDMENT RELATING TO THE DEFINITION OF BED AND BREAKFAST

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

ADOPTED BY ROLL CALL VOTE:

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

WHEREAS, the need exists to clarify the meaning of the portion of Chapter 160 (Zoning) as it relates to defining Bed and Breakfast; and

WHEREAS, the Planning Board, Town Board and Town Attorney have spent many hours considering different options/descriptions and their effect on our Community; and

WHEREAS, Resolution #203-06 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 the Town Hall at 3816 Italy Hill Road, Branchport, New York, to hear all interested parties on a proposed Local Law A-2007 entitled "A Local Law amending Chapter 160 of the Zoning Ordinance of the Town of Jerusalem relating to the definition of Bed and Breakfast"; and

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

WHEREAS, said public hearing was duly held on February 21, 2007, at 7:04 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 #2 of 2007 entitled "A Local Law amending Chapter 160 of the Code of the Town of Jerusalem concerning zoning relating to the definition of Bed and Breakfast", 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 160-5 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 which is occupied by the owner and meets all of the following criteria:

1. At least three but not more than five sleeping rooms are offered by the owner for pay as overnight lodging facilities for not more than ten (10) transient guests.
2. Breakfast is the only meal provided.
3. The dwelling conforms to the New York State Uniform Fire Prevention and Building code.

§ 2: 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.

OPEN DEVELOPMENT REQUEST - SKYLINE DRIVE/PRIVATE ROAD STANDARDS

Supervisor Jones received a letter from Attorney Valerie Gardner requesting open development status of three parcels off Skyline Drive, tax map 84.02-1-9.114, 84.02-1-9.115, and 84.02-1-9.116. Under the State 280-a law, the Town Board may, by resolution, establish an open development area within the town, wherein permits

may be issued for the erection of structures to which access is given by right of way or easement. Such matter must be referred to the Planning Board for its advice.

There was a lengthy discussion on the need for the Town to approve the Private Road Specifications as part of the State law, §280-a. "Permits for buildings not on improved mapped streets."

The §280-a law states access must be sufficient to allow the ingress and egress of emergency vehicles. The draft private road standards before the Planning board include inspection and approval by the Town Code Enforcement Officer, Highway Superintendent, Fire Chief and may require approval by the Yates County Soil and Water Conservation Department. The concerns of the Planning Board regarding the draft private road standards need to be specifically stated so changes can be considered if warranted. Councilperson Stewart stated one Planning Board member noted the need to think of the planning of the Town in terms of the future which was not included in the April Planning Board minutes. It was clarified the private road regulations are required for the development of two or more parcels, not a driveway to one parcel.

Supervisor Jones will forward the Open Development request letter from Attorney Gardner to the Planning Board Chair for the Planning Board's review and recommendation. Because of the confusion surrounding this matter, Planning Board Chair Evans will submit a packet to the Planning Board members that includes Gardner's request letter, the State §280-a law, and the Town of Milo Subdivision ordinance which includes their private road standards.

PLANNING BOARD ASSIGNMENT PRIORITIZED LIST

Supervisor Jones read the April 4th memo from Planning Board Chair Bob Evans of the current assignments before the Planning Board. The Bed & Breakfast definition was adopted under Resolution #67-07. The remaining items were prioritized by the Town Board as follows:

1. Private Road Specifications
2. Adult entertainment
3. Subdivision
4. Slopes
5. Zoning regulations updated
6. Cluster Development, Open Development, Flag Lots and Land in trust are somewhat related
7. Wind Farms

Supervisor Jones will forward the prioritized list to the Planning Board Chair. He will also request representation from the Planning Board for a Subdivision Subcommittee.

RESOLUTION #68-07

ADULT ENTERTAINMENT SUBCOMMITTEE REQUEST TO PURCHASE MAPS

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

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

Whereas the Adult Entertainment Subcommittee has identified a need to purchase maps to adapt the current adult entertainment regulations town-wide; and

Whereas funds were not allocated in the current budget for said maps and the Planning Board will complete budget worksheets on expected expenditures for consideration in future budgets; and

Whereas they have submitted a request to purchase modified topographical maps at a cost not exceed \$250.00; and

Whereas adult entertainment is second on the Planning Board's prioritized assignment list; now, therefore be it

Resolved that the Adult Entertainment Subcommittee be authorized to purchase the necessary maps at a cost not-to-exceed \$250.00 to be expended from the Planning Board contractual budget line 8020.4.

DISCUSSION - EMPLOYEE LUNCH BREAK

Supervisor Jones introduced the topic of employee lunch breaks as discussed at the February 21, 2007 Town Board meeting. Further review of the matter has revealed the past years' time sheets support the previous practices, which are also supported by the following Department of Labor laws:

Water Maintainers, Section 195.5 of New York State Department of Labor states: The status of an employer's oral agreement to provide a particular fringe benefit may be enforced if the oral policy or past practice can be confirmed by investigation. The KPSW water maintainer work hours were determined by a prior Town Board member.

In reference to the Keuka Park Sewer and Water Clerk and the Bookkeeper to the Supervisor, Section 162 of that same law states: When only one person is in a specific occupation, it is customary for that employee to eat on the job if they voluntarily consent to that arrangement. However an uninterrupted meal period must be provided to an employee who requests it from an employer.

These laws would indicate consideration of allowing the employees to return to their prior lunch break practices.

Councilperson Folts vehemently disagreed with this position.

Max Parsons spoke to the matter stating that when he was a Town Board member, KPSW was a very simple department and a lot of issues were not considered as the department grew over the years. Many times the rules were made as we reacted to situations. Although Mr. Parsons does not agree with where the Town is at today, he understands how the rapid expansion of the KPSW Department has been difficult to deal with. Councilperson Stewart stated even with the rapid growth of KPSW, he feels the KPSW is not seen as "big business" which has impacted the public's perception of our employees.

The desire for equity between the Highway and KPSW was discussed; however they are two separate departments that have very different responsibilities. Various aspects of KPSW require daily attendance by one of the KPSW employees so they must be scheduled 365 days/year. We recognize the need for Highway employees to be available as situations arise and we may call them in, but they are not regularly scheduled on weekends.

RESOLUTION #69-07

RESCIND RESOLUTION #47-07 - EMPLOYEE LUNCH BREAK STATUS

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

ADOPTED	Ayes	Barden, Hopkins, Jones, Stewart
	Nays	Folts

Whereas the Town Board adopted Resolution #47-07 on February 21, 2007 regarding employee lunch breaks; and

Whereas in reference to the Water Maintainers, Section 195.5 of New York State Department of Labor states: The status of an employer's oral agreement to provide a particular fringe benefit may be enforced if the oral policy or past practice can be confirmed by investigation; and

Whereas in reference to the Keuka Park Sewer and Water Clerk and the Bookkeeper to the Supervisor, Section 162 of that same law states: when only one person is in a specific occupation, it is customary for that employee to eat on the job if they voluntarily consent to that arrangement. However an uninterrupted meal period must be provided to an employee who requests it from an employer; and

Whereas review of employee time records (attached) confirms said practice of current and past employees; and

Whereas the current employee policy of the Town of Jerusalem states:

Full Time for Highway is 2080 hours for 365 days

- A. Winter - Eight (8) hours daily - 7:00 A.M. to 3:30 P.M. with half (1/2) hour for lunch (12 noon to 12:30 P.M.)
- B. Summer - Ten (10) hours daily - Monday through Thursday, 6:00 A.M. to 4:30 P.M.
- C. Date of changeover at the discretion of the Highway Superintendent.

And further, Section 140 of the Highway Law confers on the Highway Superintendent the power independently to employ and direct such persons as may be necessary to carry the responsibility for the maintenance and repair of town highways; now, therefore, be it

Resolved that Resolution #47-07 be rescinded and the above referenced employees be returned to their former lunch break status.

PUBLIC COMMENT:

In response to a question from Councilperson Stewart, Mrs. Cynthia Geertson responded Adult Entertainment Subcommittee member Bob Evans has been in contact with her regarding the issues she raised at the February 21, 2007 Town Board meeting.

With there being no further business, on a motion of Councilperson Hopkins, seconded by Councilperson Barden, the meeting was adjourned at 8:50 P.M.

Sheila McMichael, Town Clerk