

Minutes of the regular monthly meeting of the Jerusalem Town Board held on June 20, 2007 at 7:00 P.M. PRESENT were: Councilpersons Folts, Hopkins, Stewart, Supervisor Jones, Highway Superintendent Payne, Town Engineer Ackart, Town Clerk McMichael.

GUESTS: Kathy Swarthout, Bill Pringle, Glenn & Joyce Herbert, Robert & Barbara Stroyer, Donna Daugherty, Bob Evans, Cynthia Geertson, Ef Adnopo, Bob Morse, Ed Pinneo, Jim Bird John Hoffman, Ray & Susan Franks, Michael Steppe, Anne Glazier, Don Oglesby, Mary Ann Oglesby, Larry Brown, Lisa Saether, Debbie Koop, Arlan Ingram.

Excused was Councilperson Barden, Highway Superintendent Payne.

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

RESOLUTION #81-07

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	

Resolved that the minutes of the May 16, 2007 meeting be approved as read.

PUBLIC HEARING - PROPOSED LOCAL LAW C-2007 AMENDING ZONING RELATING TO ADULT BUSINESS AS A SPECIAL USE

With proof of notice having been duly published and posted, Supervisor Jones opened the Public Hearing at 7:04 P.M. on proposed Local Law C-2007 amending Chapter 160 of the Town Code concerning zoning changing Adult Business to a special use permit in Agricultural-Residential and General Business zones. Councilman Stewart added the Town continues to meet with the Jerusalem residents and expect to bring forward additional adult business regulation amendments as a result of those discussions.

Cynthia Geertson thanked the Town Board for their ongoing effort concerning adult entertainment. She stated their support of the proposed amendment as they agree the special use more clearly reflect adult entertainment than permitted use. However, they are not satisfied with just this one revision and they expect to see a continuation of the Town Board's ongoing efforts to tighten those regulations. We also understand these businesses must have a reasonable opportunity to open and operate. We understand that the Town of Jerusalem's current Article XX places adult entertainment, as was said, in all of the Agricultural-Residential and General Business zones. She cited a 1986 Supreme Court decision, a site is considered available even though it is presently occupied by another business and even though it is undeveloped and is not for

sale or lease. The Court also said that respondents must fend for themselves in the real estate market. The First Amendment does not require that the adult entertainment businesses will be able to obtain sites at bargain prices.

Don Oglesby and Larry Brown stated their support of the proposed amendment and thanked the Board for their continued efforts to bring forward further recommended changes.

Kathy Swarthout finds it difficult to understand why the Town, or even County government, has to deal with adult business issues and stated her belief it should be a larger government body that should deal with this. It seems to make no sense to her in dealing with this as we are, we will have to deal with pitting one section of residents of the Town against another section so that they will have to swallow this whether they want it or not. She feels this is not right. This is not freedom of speech. If it was freedom of speech, we could chose and say, no we do not want to have to deal with this. But we do have to deal with this if it is any place in this Town. She feels this should be sorted out at a federal level and objects to subjecting her family to people who frequent these establishments.

June Hathaway concurred.

Mrs. Geertson made comments relevant to future suggested amendments to the adult entertainment law.

PUBLIC HEARING - PROPOSED LOCAL LAW D-2007 IMPOSING A ONE-YEAR MORATORIUM ON CERTAIN BUILDING PERMITS

With proof of notice having been duly published and posted, Supervisor Jones opened the Public Hearing at 7:14 P.M. proposing a one-year moratorium on the issuance of building permits for new structures on lots in the Town that do not have the required minimum footage on a public highway for building as required by the zoning ordinance of the Town.

Copies of the local law were distributed as many of tonight's attendees had not seen the proposed moratorium wording.

Ed Pinneo stated he was opposed to this moratorium and posed several questions. He said one of his questions was answered already because it appears many residents were not familiar with the moratorium prior to this meeting. He wondered where all of a sudden a moratorium came from. He questioned how many community members the Board tried to contact to see what their opinion was on a moratorium to start with, why is the Planning Board working on private road standards if we will not allow building anyway and why

are we spending tax payer money to have an attorney draft a local law that is not agreed upon. Why wasn't a meeting held to spend tax payer money to write this up? Is this legal to start with?

Deb Koop is in favor of the moratorium to control development within the Town. Subdivision will allow development in an organized fashion and conserve our natural resources.

Ron Kenville opposed the moratorium. There is no need to impose a moratorium to get things done. If there is something that needs to be done, then let's do it, and not constrain ourselves by time. We need to do it right and do it once and not have to come back, look at it and do it over again. He is concerned because he has a flag lot that he plans to put a building on this year. The way he reads the proposed moratorium he won't be able to put a barn on his back property unless he goes through a special hearing or something to get permission to do it. He suggested we write the subdivision law and not impose a moratorium to get the law done.

Kathy MacDougal supports the moratorium. Her main concern is there is no specific way to deal with housing development in the area. We need laws written to follow for development before people can just buy land, sell it off, build houses and turn the bluff into a housing tract. Their watershed has never been researched. If you buy 5-20 acres of land and divide it up for 4-5 houses, who knows if the water can even support those houses without affecting the neighbors who are already using that watershed. There is a lot for the Town to consider. This needs to be discussed and researched in order to do it the right way to keep the beauty of the bluff.

Ef Adnopoz questioned the time line involved with this process.

Supervisor Jones stated a Subdivision Subcommittee has been established and is working on subdivision right now, so it could be 5-7 months off.

Mr. Adnopoz stated in principle, it is difficult not to support the moratorium because, thinking back to the really good presentation given at Keuka College during the Comprehensive Plan work, when the community all gave voice to what we felt the community objectives should be in terms of development, i.e., open spaces, safe roads, property development and expansion to allow this area to grow fruitfully for everybody concerned. Discipline will be required throughout the bluff, the lakeside and above so that we can expand and develop our properties so that it bears fruit in terms of value and also the environment. He would support the moratorium. It goes against a lot of his own principles in terms of the freedom to do what we want to do, but at the same time he would have to

respect his neighbor and allow this freedom to be developed in such a way that we do not give the next generation the burden and expenses that we should not have to.

Lisa Saether supports the moratorium to allow regulations to be enacted that would help the Town to develop as outlined in our Comprehensive Plan.

Neil Simmons reflected on the process used to develop our Comprehensive Plan and feels community education and involvement are needed. He is opposed to the moratorium due to the lack of education on the matter. He was not aware of the proposed moratorium and just received a copy of it tonight, but he has also been out of town. He realizes that we met State specifications with regard to advertising and posting the proposed local law, but he feels we need to be in the educational area first.

Bob Morse is also opposed because of the lack of communication. This is infringing on those that own large tracts of land. He would like to be able to divvy his land to his daughter, for retirement or sell off lots if in dire straights. He would prefer to see a moratorium on variances than what is proposed.

Supervisor Jones pointed out this is covered under Section 7 of the proposed moratorium.

Jim Cassata is in a situation similar to Mr. Morse and is also opposed. He does not feel this is the best alternative as it is not fair and reasonable to all.

Annette Toaspern, Planning Board member, received the proposed moratorium wording in her meeting packet that all Planning Board members got. As a Planning Board member, she has seen an increase in the number of flag lots being developed in the Town over the past 12-18 months. Most have not been large tracts of farmland, but smaller subdivisions and she listed approximately 12 of them. An Open Development Area was just approved on Skyline Drive and now we have an Open Development Area application from Alconero that is in a very visible on the hillside of Rte. 54A.

Roger Keil stated the issues are economics for now and in the future and the area we live in. Planned development will increase property values. As the land becomes more valuable we have to remember the special place we live in light of future development.

In response to Ed Pinneo's earlier questions, Attorney fees are a budget line adopted annually to allow the Town to seek legal opinion on matters. The Town does not request public input every

time the Town Attorney is consulted. Local laws must be in legal format and available prior to a public hearing for public review on the matter at hand.

Councilperson Folts stated the Town should get public opinion before we incur expenses to have the attorney draft local laws.

June Hathaway asked how many moratoriums the Town can have because we already had one on adult entertainment and wind farms.

Supervisor Jones stated the State will allow a moratorium if the Town is actively pursuing an end result.

Mrs. Hathaway added she moved here 25 years ago and attended this same meeting at the Fire House on subdivision and nothing has been done. She would not like to see the Town drop this matter again.

Neil Simmons again stated his desire to ensure community involvement when developing subdivision regulation and reiterated his previous comments. The Town Board will consider engaging a consultant to assist with subdivision regulations at tonight's meeting and he asked they consider including an educational meeting for the public to explain exactly what subdivision is. He feels lack of education on subdivision is what the community is afraid of.

Ef Adnopoz thought educating the community is a good idea, but we need continued need to develop property during the process of developing regulations. He hopes community education will not slow down the process of developing subdivision regulation.

Glenn Herbert is a member of the Subdivision Subcommittee and Zoning Board. Quotes were received from two consultants to assist with subdivision regulation development. He expects the first level will be a "cookbook" type general subdivision regulation. The second part will be the actual zoning regulations outlining items such as acreage and lot coverage. Probably the "cookbook" text will be modified to satisfy our Town. The second part will need to include looking at our laws we have now. The Subdivision Subcommittee is meeting July 26 to discuss subdivision regulation from Gorham and Milo that are being used as sample legislation. The Subcommittee will then meet with the consultant in August to present their recommendations. Currently the Town only has the State's subdivision regulation.

Neil Simmons stated his concern using a consultant given his experience with the Comprehensive Plan. The draft did not contain one picture from the Town of Jerusalem. An actual comparison in

the Town of Jerusalem was not done until the end of the process. The consultants never conducted a drive through of Jerusalem. He would like to see community education up front.

Ef Adnopoz would like to see no variances granted for anything for one year and then see where we are.

Annette Toaspern stated she was impressed with the Comprehensive Plan consultant, Andy Raus who is currently with Bergmann Associates. He personally knows Reading Center and this area. A drive through of the community could be done to feel more comfortable and obtain community input. This is not an "us" against "them". We all care about our Town.

Jim Cassatta asked even though we are working with a consultant, conducting a drive through of the Town and educating the community, does this dictate the need for imposing a moratorium. Do we have a specific number of subdivisions and will a moratorium mitigate them?

Annette Toaspern responded as she stated previously, she listed at least 10 that she has been in the last 12-18 months. She supports the moratorium.

Ed Pinneo clarified the misconception that as a large tract land owner, he is not against subdivision regulation, he would just like to have input on the matter.

Molly Pearse stated it is apparent we have to have education first and suggested the session be held at Keuka College and that they be held in small groups.

Lynn Simmons stated the Town needs to enforce the laws we have on the books now. The Town already has a Master Plan and zoning laws, but we need to use them. The Town needs to be educated on what is already on the books. He has seen moratoriums imposed by neighboring towns, but they are usually only 6 months in duration. He does not want to see everyone trying to scramble to get under the radar of subdivision regulation and again suggested looking at the laws we already have.

Deb Koop, Planning Board member, understands Mr. Simmons' comments noting the Comprehensive Plan is a guideline and not zoning ordinance. Our zoning ordinance needs to enforce the vision as outlined in the Comprehensive Plan. The Planning Board has found our current laws are not working and need to be changed. We need a subdivision ordinance and we need the moratorium to help us go in the right direction.

Bob Evans stated he has been involved with the adult entertainment moratorium. He explained the main reason for requesting a 12-month moratorium instead of a 6-month is because it is legally difficult to get a moratorium extended.

The Public Hearing was left open.

RESOLUTION #82-07

CLOSE PUBLIC HEARING - PROPOSED LOCAL LAW C-2007 AMENDING ZONING RELATING TO ADULT BUSINESS AS A SPECIAL USE

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

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

With all persons desiring to be heard, the public hearing on proposal Local Law C-2007 amending zoning relating to adult business as a special use was closed at 8:13 P.M.

RESOLUTION #83-07

AUDIT OF CLAIMS

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

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

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

General	\$19,082.09
Highway DA	\$ 2,317.83
Highway DB	\$47,128.68
Sewer	\$30,523.94
Water	\$39,039.89

April Utilities:	General:	\$1,747.14
	Sewer:	\$ 315.96
	Water:	\$ 800.47

RESOLUTION #84-07

SUPERVISOR REPORT

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

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

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

PRIVILEGE OF THE FLOOR:

Greg Miller addressed the Town Board regarding his purchase of the former Branchport Library, 3501 Rte. 54A. His intent was to renovate the building and put it on the market as a single family dwelling by July 2007. He wanted the public to be aware of a situation he is currently addressing with the septic system due to the close proximity of the neighbors and the neighbor's active well, even though they are within Water #3 District. He thanked the Town personnel for all the assistance they have given him, but the Town's hands are tied with regard to this matter. He is still working with his neighbor and trying to obtain a waiver from the Department of Health on the septic system's setback from the lot lines and any active wells to rectify this matter. He cautioned the public to be cognizant of "buyer beware" in the Branchport hamlet because of the small lot size, the Town's waterline, wells and septic systems, noting the importance of researching before purchasing property. Mr. Miller stated he was misled by the passing report issued by KWIC for the septic replacement at the time of sale; only to find out their approval was based on the property use as a library or small business, not his intent to convert its use to a single family dwelling. Renee Bloom as the realtor involved with this sale, added her firm is now mindful of the need to research zoning and septic inspections to avoid situations like this in the future.

Mr. Miller was asked to submit his written comments to Supervisor Jones regarding issues related to KWIC.

REPORT OF TOWN OFFICIALS  
HIGHWAY SUPERINTENDENT

Written report of roadwork done in May 2007 on file in the Office of the Town Clerk.

TOWN ENGINEER

- Town Engineer Ackart reported we continue to meet with Pulteney regarding their water district.
- The Annual Water Quality Report was mailed on June 4.
- The Village of Penn Yan is not increasing their wholesale water rate. However, there will be a substantial increase in the wholesale sewage treatment cost. The Towns of Milo and Jerusalem will be meeting with the Village to discuss these issues. The Village has identified costly needs at the Treatment Plant.

SUPERVISOR

- Supervisor Jones reported the Yates County Sheriff's radar trailer on Route 54A east of Wager Hill Road showed 2,651 vehicles traveled there from 7:30 A.M. - 5:30 P.M. on May 26,



2007 and 3,148 vehicles from 8:00 A.M. - 5:00 P.M. on May 8, 2007 on Route 54A east of the Water Treatment Plant.

- Supervisor Jones read a letter from Justice Anne Killen informing us that she would not be seeking re-election in 2007. Her term expires December 31, 2007.

#### WIND FARM SUBCOMMITTEE

Wind Farm Subcommittee Chair Neil Simmons reported the Subcommittee conducted a drive-by meeting to tour Jerusalem. They are reviewing area wind farm regulations to use as a guide. The Subcommittee hopes to present their recommendation to the Planning Board in July or August. Subcommittee member Bill Pringle stated the one-day trip to the Town of Fenner is postponed until late-August or September.

#### SLOPES SUBCOMMITTEE

Slopes Subcommittee Chair Ed Pinneo reported the Subcommittee toured the Town to identify problem areas. Their proposed regulation will be modeled after South Bristol's regulation. The view of the Subcommittee is to propose simple minimum regulations and add to them as we proceed. Their next meeting will be July 2.

#### ZONING REVIEW SUBCOMMITTEE

Zoning Review Subcommittee Chair Bob Evans stated they will be scheduling a meeting to consider proposed R-1 zoning amendments based on an analysis of prior zoning applications.

#### DISCUSSION - SUBDIVISION REGULATION

Councilperson Stewart reported the Subdivision Subcommittee, chaired by Councilperson Barden, met to review two consultant proposals to assist with the development of subdivision regulation. The scope of services includes two steering committee meetings and a public hearing at a cost of \$3,500. The Subcommittee recommends engaging Bergmann Associates. After further discussion based on comments received as tonight's proposed moratorium public hearing, the proposal will be renegotiated to include an additional public information session on subdivision.

#### RESOLUTION #85-07

#### APPROVAL - SUBDIVISION REGULATION CONSULTANT

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

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

Whereas the Jerusalem Comprehensive Plan adopted August 2006 called for the "development and enactment of a subdivision law"; and

Whereas little to no progress has been made toward development and enactment of such regulations; and

Whereas development activity and public pressure to regulate that development is rising; and

Whereas Jim Barden has agreed to lead a committee which is made up of a cross section of the community but is largely the same group that saw the Comprehensive Plan through to Adoption; now, therefore, be it

Resolved that the Jerusalem Town Board authorize the expenditure of \$3,500.00 to engage Bergmann Associates to work with the above-mentioned committee to develop a set of Subdivision regulations for the Town to be enacted by the Town Board.

RESOLUTION #86-07

ADOPTION - PRIVATE ROAD STANDARDS

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

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

WHEREAS, Section 280-a of the Town Law authorizes towns to adopt general rules for private roads that serve improvements on more than one lot by means of an easement in an area referred to in said law as an "Open Development Area," and

WHEREAS, the adoption of these general rules does not prevent the town board from specifying of additional or different standards in a particular area of the town if the conditions in such area are deemed by the town board on advice of the planning board to require additional or different regulations in order to achieve the purpose sought, and

WHEREAS, the purpose of having such standards and specifications is to promote and enhance the safety of persons and property by insuring the ability of emergency vehicles to reach structures on such lots in time of need, and

WHEREAS, the Town Board intends that the standards and specifications hereby adopted will achieve that purpose but will not qualify such private roads for dedication to the town as public highways, and

WHEREAS, the Planning Board has reviewed the proposed standards and specifications and made its recommendation to the Town Board concerning them,

NOW, THEREFORE, BE IT RESOLVED that the following Rules for Private Roads in the Town of Jerusalem are hereby approved and adopted, and be it further

RESOLVED that the Rules for Private Roads in the Town of Jerusalem shall be published in the Code of the Town of Jerusalem as Article Two of Chapter 93 concerning Highways:

Rules for Private Roads in the Town of Jerusalem

1. These rules apply to any private road that serves two or more lots.
2. A private road must connect to a Town, County or State road or street.
3. A private road must be fifty feet wide with a fifteen foot drivable surface and shall have proper drainage to protect the road and surrounding property. Compliance with the Construction Standards set forth in paragraph 9 shall be deemed adequate.
4. A site plan of the private road showing its location and the number and dimensions of lots to be served must be presented and approved by the Town Planning Board prior to construction of the road.
5. Private roads shall be inspected and approved by the Town Code Enforcement Officer, the Town Highway Superintendent, the Fire Chief, and may require approval by the Yates County Soil and Water Conservation Department.
6. Before a private road may be used for ingress and egress for vehicular and pedestrian traffic, there must be an agreement among the property owners providing for maintenance and repair of the private road. This agreement must be recorded in the deed records at the Yates County Clerk's Office prior to the issuance of a building permit for any lot served by this road.
7. Upon approval and acceptance of the private road, an appropriate street sign shall be placed at the intersection of the private road and the connecting Town, County, or State road or street. The sign will be furnished by the Town of Jerusalem and will indicate that the road is a private road. Upon the issuance of a building permit and prior to a final inspection, a fire number shall be assigned to the lot and the assigned fire number shall be placed on the street sign at the intersection of the private road and connecting Town, County or State road or street.

8. Preexisting private roads may continue, and the dwellings thereon may continue to be used; provided, however, that if a pre-existing private road is to be extended to provide access to a new dwelling, the extension shall comply with these rules. A preexisting private road serving only one dwelling is a driveway and shall not be considered a preexisting private road for the purpose of these rules, but no building permit shall be issued for the construction of a new dwelling to be served by that driveway unless the portion of the private road serving the new dwelling (which will thereafter be a private road) and any extension thereof complies with these rules.
9. Private Road Construction Standards:
  - A. A Private Road shall be 50 feet wide with a hard pack surface, which shall be a minimum of 15 ft. wide.
  - B. The private road shall have a surface graded to  $\frac{1}{4}$  inch per foot minimum.
  - C. The 15 ft. wide cleared surface area will have a GEO and EC mesh layer followed by an 8 inch layer of bank run gravel compacted.
  - D. The sides of the 15 feet hard pack surface shall be tapered with a 3 to 1 slope.
  - E. Cross culverts are to be installed where needed to promote drainage.
  - F. Pre-cast open drive gutters with iron grates are to be installed approximately 15 feet from the edge of the public highway on slopes of 10% or greater.
  - G. 25 ft. minimum length culverts to be installed where a private road meets a Town/County or State road. The diameter of culvert is to be determined by appropriate Highway Superintendent (Town/County/State).
  - H. Turnarounds shall be a minimum of 60 feet in diameter or an equivalent square or rectangle.
10. If the conditions of a particular area are found to require additional or different standards and specifications in order to satisfy the requirements of Section 280-a of the Town Law of the State of New York, the Town Board with the advice of the Town Planning Board may vary these Rules for a particular area when establishing that area as an Open Development Area.

RESOLUTION #87-07

SEQR DETERMINATION - PROPOSED LOCAL LAW C-2007 AMENDING ZONING RELATING TO ADULT BUSINESS AS A SPECIAL USE

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

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

Whereas the Town Board of the Town of Jerusalem hereby finds and determines with respect to the revision of the zoning relating to adult business as a Special 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.

RESOLUTION #88-07

CLOSE PUBLIC HEARING - PROPOSED LOCAL LAW D-2007 IMPOSING A ONE-YEAR MORATORIUM ON CERTAIN BUILDING PERMITS

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

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

With all persons desiring to be heard, the public hearing on proposal Local Law D-2007 imposing a one-year moratorium on certain building permits was closed at 8:46 P.M.

RESOLUTION #89-07

AUTHORIZE GML 239 REFERRAL TO YATES COUNTY PLANNING BOARD FOR PROPOSED LOCAL LAW D-2007 IMPOSING A ONE-YEAR MORATORIUM ON CERTAIN BUILDING PERMITS

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

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

Resolved that a GML 239 Referral be submitted to the Yates County Planning Board for review on proposed Local Law D-2007 imposing a one-year moratorium on certain building permits.

RESOLUTION #90-07

ADOPTION - LOCAL LAW #3-2007 AMENDING CHAPTER 160 CONCERNING ZONING  
RELATING TO ADULT BUSINESS AS A SPECIAL USE

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

ADOPTED BY ROLL CALL:

Supervisor Jones	Aye
Councilperson Folts	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 May 16, 2007 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 Business as a Special Use"; and

WHEREAS, notice of said public hearing was duly advertised in The Chronicle Express, the official newspaper of said Town, on June 6 and June 13, 2007; and

WHEREAS, said public hearing was duly held on June 20, 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 May 24, 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. 3 of 2007 entitled "A Local Law amending Chapter 160 concerning zoning relating to Adult Business as a 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: Local Law No. 1 of 2007 of the Town of Jerusalem is repealed.

§2: The first sentence of Paragraph A of Section 160-41 of Chapter 160 of the Code of the Town of Jerusalem relating to Zoning is hereby amended to read:

- A. Except for Adult Businesses, which are governed by paragraph C below, [t]he special uses listed in this chapter may be permitted, enlarged or otherwise altered upon authorization by the Zoning Board of Appeals in accordance with the standards and procedures set forth in this Article and such additional standards as may be set forth for such special uses elsewhere in this chapter.

§3: There is hereby added to such Section Paragraph C to read as follows:

- C. An Adult Business as defined in Article XX of this chapter may be permitted, enlarged or otherwise altered upon authorization by the Zoning Board of Appeals in accordance with the standards and procedures set forth in this Article and such additional standards as may be set forth for such special uses elsewhere in this chapter. In permitting a special use or the modification of a special use, the Zoning Board of Appeals may impose, in addition to those standards and requirements expressly specified by this chapter only such reasonable conditions that would control the number and location of vehicle access points, limit the number, size and location of signs and require diking, fencing, screening, landscaping or other facility to protect adjacent or nearby property.

§4: There is hereby added to Article IX of such Chapter 160 relating to Site Plan Review a new Section 160-104 to read as follows:

§ 160-104. Criteria for Review of Adult Businesses. Conditions or restrictions that may be required by the Planning Board pursuant to § 160-102 F and § 160-103 shall be limited to matters set forth in Paragraphs B through G (inclusive) of § 160-103.

§5: 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 #91-07

SEQR DETERMINATION - PROPOSED LOCAL LAW D-2007 IMPOSING A ONE-YEAR MORATORIUM ON CERTAIN BUILDING PERMITS

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

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

Resolved that the Town considers this undertaking to be a Type II action as defined in 6 NYCRR Part 617.5 {C}(11); that being the finding said undertaking is not subject to further SEQR review.

RESOLUTION #92-07

ALCONERO OPEN DEVELOPMENT AREA APPLICATION REFERRAL

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

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

Resolved that the Alconero Open Development Area application be referred to the Planning Board for their review and recommendation.

RESOLUTION #93-07

APPOINT GRIEVANCE BOARD SECRETARY

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

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

Resolved that Eleanor Lambert be appointed as Grievance Board Secretary at a salary of \$10.42/hour.

RESOLUTION #94-07

MATERNITY LEAVE COVERAGE FOR SEWER & WATER CLERK

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

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

Resolved that Sandra Spencer be appointed as the Sewer & Water Clerk during the anticipated maternity leave of Carrie Wheeler; and at a salary of \$10.42/hour.



RESOLUTION #95-07

APPROVAL - ADDRESS CHANGE FORM

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

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

Whereas numerous public contacts are made to the Town Office informing staff of a change of address; and

Whereas there is no formal process to share this information among the various Town departments; now, therefore, be it

Resolved that the proposed Change of Address Form be approved; and, be it further

Resolved that the Town Clerk supply all departments within the Town with copies of this form and instruct them to utilize this form for all contacts received.

RESOLUTION #96-07

AUTHORIZE SUPERVISOR TO SIGN VERIZON AFFIDAVIT OF MERIT

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

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

Whereas Verizon New York, Inc. (formerly New York Telephone Company) petitioned the Assessor, Board of Assessment Review and the Town of Jerusalem, New York for a Review under Article Seven of the Real Property Tax Law of the assessment for 2006; and

Whereas after review of the Stipulation and Consent Order, along with due consideration of the cost and uncertainty of litigation, and discussions regarding the relevant property with the Town Assessor and counsel, we have determined that settling this matter is in the Town's best interest; now, therefore, be it

Resolved that the Supervisor be authorized to sign the Affidavit of Merit Index No. 2006-0284 reducing Verizon's 2007 assessment for parcel tax map number 225.00-6-9 from \$1,002,347 to \$733,450.

RESOLUTION #97-07

ENDORSE NYS PROPERTY TAXPAYER PROTECTION ACT

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

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

Whereas the tremendously high property tax burden on New York families and businesses is the number one issue facing our community today, and the sheer cost of living in New York has forced many residents and businesses to leave, thus slowing the economic engine of the state; and

Whereas young people are finding it difficult to purchase homes, seniors are struggling to maintain their homes, and businesses are facing immense challenges to create and retain jobs; and

Whereas, New Yorkers face the highest property taxes in the nation, and when measured as a percentage of home value, nine of the top 10 property tax rates in the entire country belong to counties in New York; and the State must act now to thwart the detrimental effects that high property taxes are having on local governments; and

Whereas Assembly Minority Members have introduced the "New York State Property Taxpayer Protection Act (Assembly Bill 8775)," which puts forth new and innovative ideas for property tax reform that limit the amount school districts can raise annually through local tax levies to four percent or the rate of inflation, whichever is less; in addition the Act would relieve municipalities and school districts of unfunded mandates, reduce county Medicaid costs, strengthen financial accountability over school tax dollars, promote local government efficiency, and encourage local option insurance pooling; and

Whereas the "New York State Property Taxpayer Protection Act" will help fix New York's broken property tax system, providing homeowners, businesses and municipalities significant and lasting relief from the crushing burden of skyrocketing property taxes; now, therefore be it

Resolved that this Legislative Body pause in its deliberations to acknowledge New York State's property tax crisis and urge the immediate passage and chaptering of the "New York State Property Taxpayer Protection Act," which will help local governments reinvigorate New York's economy by providing incentives for people and businesses to move and stay here; and, be it further

Resolved that a copy of this Resolution be sent to the Association of Towns to enlist their assistance with this matter; and, be it further

Resolved that a copy of this Resolution, suitably engrossed, be transmitted to the Governor of the State of New York, the Temporary

President of the New York State Senate, and the Speaker of the New York State Assembly.

RESOLUTION #98-07

RENEW YATES COUNTY COMMUNITY-WIDE EMERGENCY AGREEMENT

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

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

Resolved that the Supervisor be authorized to sign the Community-Wide Emergency Agreement with Yates County Local Emergency Planning Committee for the Town of Jerusalem to assist with resources during an emergency within Yates County; and, be it further

Resolved that this Agreement will go into effect on January 1, 2007 and remain in effect until superseded by a subsequent agreement.

RESOLUTION #99-07

AMEND GENERAL 2007 BUDGET FOR RECREATION PROGRAM DONATION

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

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

Whereas the Town has received a \$500.00 check from the Town of Jerusalem Republican Committee as a donation towards the Town's recreation program; now, therefore, be it

Resolved that the General 2007 Budget be amended as follows:

    Revenue code 2770 be increased \$500.00  
    Expense code 7310.4 be increased \$500.00

;and, be it further

Resolved that the Supervisor send a letter to the Republican Committee thanking them for their donation.

RESOLUTION #100-07

AMEND GENERAL 2007 BUDGET FOR YATES COUNTY GRANT FUNDS

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

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

Whereas the Town has received a \$2,312.62 check from the Yates County Treasurer; and

Whereas this check represents monies from a Yates County Planning Grant; now, therefore, be it

Resolved that the General 2007 Budget be amended as follows:

Revenue code 2770 be increased \$2,312.62

Expense code 8020.4 be increased \$2,312.62

RESOLUTION #101-07

RESOLUTION TO REDUCE NUMBER OF TOWN JUSTICES FROM TWO TO ONE

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

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

WHEREAS, the term of office of Town Justice Killen expires on December 31, 2007; and

WHEREAS, this Town Board finds that the volume of cases in the Town Court of the Town of Jerusalem is such that there is presently no need for two justices to handle the caseload and therefore hereby determines that it would be in the best interest of the Town of Jerusalem to reduce the number of town justices from two to one; now, therefore be it

RESOLVED, pursuant to the provisions of subparagraph 2 of section 60-a of the Town Law of the State of New York as follows:

1. The number of town justices of the Town of Jerusalem shall be reduced from two to one effective January 1, 2008.
2. In accordance with the provisions of paragraph 2 of section 60-a of the Town Law, this Resolution shall become effective thirty days after its adoption unless within that time a petition for a referendum on this Resolution shall have been filed with the Town Clerk in accordance with law. If such a petition shall be filed then this Resolution shall become effective upon the approval of a Proposition therefore by a majority of the voters voting thereon at a general or special election to be held as required by law.

REPORT OF COUNCIL

Councilperson Stewart stated the following:

- He thanked the "Lest We Forget" Committee for the work done installing the flags at the Memorial, noting there is not another monument in Yates County as beautiful.
- We have installed a secure Municipal Drop Box in the Town Hall parking lot to be used for any Town business matters after hours, including depositing payments. The Drop Box was installed by Gary Dinehart.
- The Town Hall meeting room has been rearranged to allow better traffic flow within the room. The Flag was moved out of the doorway to the corner of the room. Gary Dinehart made the bracket holding the Flag.

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- He thanked the "Town of Jerusalem Residents for Effective Adult Entertainment Regulations" for inviting him to a recent slide presentation held at the Faith Baptist Church. The program was well-attended by concerned residents.

With there being no further business, on a motion Councilperson Hopkins, seconded by Supervisor Jones, the meeting was adjourned at 9:20 P.M.

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Sheila McMichael, Town Clerk