

Jerusalem Town Board
June 21, 2006

JERUSALEM TOWN BOARD MEETING –JUNE 21, 2006

Minutes of the regular monthly meeting of the Jerusalem Town Board held on June 21, 2006 at 7:00 P.M.

PRESENT were: Councilpersons Barden, Folts, Hopkins and Stewart, Supervisor Jones, Highway Superintendent Payne, Town Engineer Ackart, and Deputy Town Clerk Hunt.

Guests: Max Parson, Mary Sutherland, Marsha Senges, Bill O'Brien, Heidi A. Bauer, Bob Worden, Peg Thompson – Dundee Observer Reporter, Keith and Annette Toaspern, Bob Evans, and William Pringle.

Supervisor Jones called the meeting to order at 7:02 P.M. with the Pledge to the Flag.

RESOLUTION # 106-06

APPROVAL OF MINUTES

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

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

Resolved that the minutes of the May 17, 2006 meeting be approved with one correction to Resolution # 96-06 where Councilwoman Hopkins was incorrectly listed as voting twice. The correct vote should show – Ayes to be Barden, Folts, Jones & Hopkins and Nay votes to be only Stewart.

PUBLIC HEARING – “TO ENACT A UNIFORM SET OF REGULATIONS TO RESTRICT AND REGULATE DOCKS, MOORINGS AND BOATHOUSES ON KEUKA LAKE”

Supervisor Jones opened the Public Hearing at 7:03 pm, asking for comments on this Lake wide issue under consideration by all Municipalities that border Keuka Lake.

No one from the public wished to speak.

Councilperson Stewart asked if the issue of uniform enforcement of this law had been resolved?

Councilperson Barden stated that although the committee felt it was a good idea to have just one inspector for enforcement around the entire lake, no funding has been established to date. Since it is required that each involved Municipality adopt the same Local Law, we must accomplish that first before setting up rules for enforcement.

Councilperson Hopkins is very much in favor of the adoption of this Local Law, but feels strongly about a single enforcement agent.

Annette Toaspern of West Lake Road, expressed concern over the section of this law dealing with pre-existing seasonal docks, referencing a situation where one adjoining property owner placed a seasonal dock in the lake at an angle that encroached on someone else's lake rights, thereby causing their neighbor navigational problems. Her concern is that this type of infringement will become legalized under the grandfathering clause during the adoption of this new law.

Councilperson Barden stated that someone being over the line on to another's property is not something that this Local Law would deal with. That would be a civil issue. He further stated that the Town of Urbana's Attorney, B. Flynn has spent endless hours on this Law to be sure it will cover all docking issues. Mr. Barden then offered "kudos" to Bob Worden for leading the committee developing this plan and to the Town of Urbana who has taken on the duties of Lead Agency for the SEQR. Question was then raised as to whether or not Ms. Toaspern had the latest copy of the law - the correct version includes section 12 – Repealer, dated 3/1/06. Mr. Barden again reassured Ms. Toaspern that grandfathering within this law would not apply to something illegal.

Keith Toaspern - restated the problem of a boatlift, twenty feet out in the lake, extending over their property being grandfathered by default when this proposal becomes law.

B. Worden stated that this law would define property lines as the high water line.

Annette Toaspern made reference to a 1991 law that Senator Kuhl had been working which may have put in place a statewide regulation; she questioned what happened to that law.

Councilperson Barden was unfamiliar with that proposal. He commented that is it extremely difficult to get everyone in only eight Municipalities to agree to one law, and was unsure how everyone in the State would agree to one regulation.

Mary Sutherland, asked who or what controlled docks up to now and whether any thing will need to be removed from the lake with the adoption of this law?

Councilperson Barden stated that there was no docking regulation in place to date, only neighborly co-operation. Under the new law, whatever exists in the lake at the adoption of the law, can be legally replaced when it becomes necessary

No other comments were made.

RESOLUTION # 107-06

CLOSE PUBLIC HEARING – RE OPEN REGULAR TOWN BOARD MEETING

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

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

Resolved that the public hearing be closed and that the Board return to the Regular Town Board meeting.

REPORT OF TOWN OFFICIALS

HIGHWAY SUPERINTENDENT

Highway Superintendent Payne presented his report of the highway work for the month of May, which is kept on file in the office of the Town Clerk. Work includes shimming being done in

preparation for oiling and stoning. Both W. Sherman Hollow Road and Davis Road are in bad condition and must be dealt with ahead of their long range scheduled dates.

In response to a question from Mary Sutherland in the audience, Highway Superintendent Payne gave the Town of Jerusalem's web site address, where she could find listings of the roads to be worked on.

TOWN ENGINEER

- 1) Brandy Bay Sewer has been completed and came in under budget.
- 2) Assembly Ave. Sewer is proceeding with development of the district map.
- 3) Indian Pines Pump station meter flow project, has now installed new railings and flumes. He complimented both Water Maintainers Dinehart & Enos for a job well done on this project.
- 4) Two hydrants have been replaced at Keuka State Park.
- 5) Paint job on the water tanks have been inspected and are in good shape. Town engineer Ackart suggested that the Board think about creating a reserve fund for future painting projects for all three tanks, it is his fear that in any one year it may become necessary to repaint any one or all of the tanks, at a huge expense.
- 6) Notice from Pulteney is out on bids for water project.

Councilperson Folts questioned Mr. Ackart about the need of an \$1800 expense for changing out hydrants at the State Park.

Engineer Ackart stated that both hydrants had originally been installed in 1960 and replacement parts are no longer obtainable. It was necessary to replace them before problems occurred that could not be quickly dealt with. Additionally, there had been discussion with the State of changing the hydrants positions. However, the State felt it would be at least two years before they could prepare for such a move.

Heidi Bauer - expressed strong feeling that it could not possibly cost \$900 to change out one fire hydrant.

Engineer Ackart stated that it took three men, a backhoe and trucking equipment a full day to complete the project, and he did not feel this to be an unusual cost.

DISCUSSION OF PETITION FOR EXTENSION OF WATER/SEWER SERVICE TO 1036 EAST BLUFF DRIVE – BILL & LANA GRAUER

Supervisor Jones, referring to a petition submitted by Bill and Lana Grauer requesting both Water and Sewer lines be extended to 1036 East Bluff Drive, asked that the Engineer address this request.

Engineer Ackart stated that the normal Town procedure calls for petitions/request of at least fifty (50) landowners before public funds are expended to establish cost for new districts. This procedure is followed due to several sizeable fixed costs that are necessary to any new district. NY State Audit and Control requires that all districts be financially self-sustaining and independent of any other district, therefore cost would be prohibitive for just one resident requesting service. Further it is doubtful that the East Bluff area would trigger any financial hardship considerations that would bring grant money into play.

Councilperson Folts questioned why the current Kinney's Corners Sewer installation is now being extended if every district must be financially independent of any other one? He further stated that any further extensions be brought before the entire Town Board for authorization and not just verbally approved by three or four individual's in the office.

Engineer Ackart assured Councilperson Folts that there were no tax dollars or public costs involved in the installation of the Kinney's Corners Sewer line. The line is being installed to town specifications at the owner's costs, and then donated to the Town. This is the same procedure that was followed when the College line was installed.

Supervisor Jones will respond to Mr. & Mrs. Grauer petition by letter, advising them that it is not cost effective to our tax payers to proceed with an expansion that would service less than fifty parcels.

RESOLUTION # 108-06
AMENDING WATER BUDGET 2006 – DUE TO INCREASE IN COST FROM PENN YAN MUNICIPAL

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

| | | |
|------|---|---------------------------------|
| Ayes | 4 | Barden, Hopkins, Jones, Stewart |
| Nays | 1 | Folts |

Whereas the Town's payment toward the Village of Penn Yan's Capital Reserve Fund on the Water Treatment Plant has doubled; and

Whereas the Village of Penn Yan has increased the cost of water to the Town of Jerusalem and

Whereas Resolution # 14-05 authorized any water rate increase from our supplier, Penn Yan Municipal, to be passed through to Jerusalem customers to recover our cost; now therefore be it

Resolved that the Town amend the 2006 water budget as follows:

- Revenue Code 2140 be increased by \$16,134.00
- Expense Code 8320.4 be increased by \$16,134.00

Heidi Bauer – strongly objected to this action. She stated that she uses only one-third of the water that she is required to pay for under the Town's minimum. She questioned whether the Town actually paid Penn Yan for the full twelve thousand gallons of the minimum or only the four thousand that she actually used? It is her feeling that water customers are being gouged, and that residents had no idea of these huge costs before they voted to approve this district.

Supervisor Jones indicated that a Water Committee has been formed to look at a number of issues concerning the water districts, with water rate minimum's on the list. He further noted that it is necessary to establish a minimum to base operating expenses on to effectively run the water department.

Jerusalem Town Board
June 21, 2006

RESOLUTION # 109-06

AUTHORIZATION FOR ST LUKE'S EPISCOPAL CHURCH – USE OF WAR MEMORIAL GAZEBO

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

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

Resolved that St. Luke's Episcopal Church be authorized to use the War Memorial Gazebo to hold a summer concert, in either July or August by St. Luke's Celtic Group.

Note: Councilperson Folts suggested that the Board might wish to consider charging for similar requests in the future, assuring that the property will be left in good condition or not refunding fees.

RESOLUTION # 110-06

PUBLIC HEARING SET FOR COMPREHENSIVE PLAN & SEQR PART II DETERMINATION

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

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

Whereas by State Law, adoption of any Town's new or revised Comprehensive Plan must become a SEQR Type I action; and

Whereas the Jerusalem Town Board is willing to serve as the Lead Agency for the SEQR Type I review on this issue and

Whereas it is felt that a second Public Hearing on this issue would best serve the needs of our Residents now therefore be it

Resolved that another Public Hearing be held at 7 pm on July 12, 2006, at the Keuka College Lightner Library Lower Level. That meeting area will allow a much larger group attendance than could be accommodated at the Branchport Fire Hall.

Resolved that the Town Clerk be instructed to send notifications required by SEQR to apply for lead agency status and to advertise said Public Hearing date and time. Additionally, a block ad is to be run in addition to the Public Hearing legal notice to reach as many residents as possible.

RESOLUTION # 111-06

REQUEST FOR PLANNING BOARD TO COMPLETE SEQR REQUIREMENTS FOR LOCAL LAW ON ADULT ENTERTAINMENT

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

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

Resolved that the Town Board hereby requests that the Planning Board complete the necessary SEQR forms for the proposed Local Law addressing Adult Entertainment.

Jerusalem Town Board
June 21, 2006

RESOLUTION # 112-06
SET PUBLIC HEARING DATE FOR CONSIDERATION OF BOTH NYS UNIFORM FIRE PREVENTION AND BUILDING CODE LOCAL LAW # 1203 AND # 108 UNSAFE STRUCTURES & EQUIPMENT.

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

| | | |
|------|---|--|
| Ayes | 5 | Barden, Folts, Hopkins, Jones, Stewart |
| Nays | 0 | |

Resolved that a Public Hearing be set on the proposed Local Laws - # 1203 -NYS Uniform Fire Prevention and Building Code and second Local Law necessary and in conjunction with #1203, known as # 108 Unsafe Structures and Equipment, be held on July 19, 2006 at 7:00 pm and further

Resolved that the Town Clerk be authorized to forward the proposed Local Laws to the Yates County Planning Board for comment and to advertise said Public Hearing in accordance with law.

REPORT - PLANNING BOARD CHAIRMAN

Chairman Robert Evans reported on the following issues:

- 1) Bed and Breakfast wording change will be considered at the next Planning Board meeting, as he did not have a quorum at the last gathering.
- 2) He will check on the Windmill Committee who have yet to meet on the issue.
- 3) A Zoning Code Committee has been established to review our Zoning Laws. That committee consists of two members from the Planning Board, two members of the Zoning Board, Elaine Nesbit and Alice Hunt in a consulting capacity.

REPORT COUNCILPERSON STEWART – TOWN SUMMER RECREATION PROGRAM

Councilperson Stewart stated that the problem concerning access to the Keuka State Park has been resolved and our Town Summer Recreation Program will proceed on schedule, opening on July 10, 2006

RESOLUTION # 113-06
AUDIT OF CLAIMS

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

| | | |
|------|---|--|
| Ayes | 5 | Barden, Folts, Hopkins, Jones, Stewart |
| Nays | 0 | |

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

| | |
|-------------------------|-------------|
| General Fund - | \$ 8,840.17 |
| General outside Village | \$ 22.73 |
| Highway DA - | \$ 2,632.90 |
| Highway DB - | \$46,104.55 |
| Sewer - | \$19,457.68 |
| Water - | \$ 5,769.70 |

Jerusalem Town Board

June 21, 2006

RESOLUTION # 114-06
SUPERVISOR'S REPORT

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 Supervisor's Report on the Town Finances for the month of May 2006 be accepted as presented.

PUBLIC COMMENT

Heidi Bauer questioned how that huge boat (Esperenza Rose) got into the lake and why the Town allowed the dock to be put in on someone else's lake right a way? She is hearing "things" and wanted to check out the matter for herself with the Town Board.

Supervisor Jones stated that the regulation of the installation of docks is not now, nor has it ever been to date, a Town function. He further related that during a three-month period that the issue of the Esperenza Rose was under discussion a year ago, he did not recall anyone ever coming forward and claim his or her lake rights were being violated.

Councilperson Hopkins noted that the large boat was brought over land from Seneca Lake and put into Keuka Lake in Penn Yan.

Bill Pringle questioned what happened to the Petitions that were circulating for the repair of State Route 54A?

Councilperson Stewart related that seven hundred (700) signatures were collected on this issue and delivered to NYS Assemblyman Bacalles at the Republican Picnic on June 11, 2006. A few days later, the Supervisor mailed a large chunk of concrete that had come out of a hole on 54A to Senator Winner's office with an additional letter requesting assistance. It was noted that some patching has been underway by the State the last couple of days just outside the Penn Yan Village line. He further noted that the Town has, through this action, put the State on notice that the conditions on this State Highway are dangerous.

Max Parson – Expressed his extreme displeasure at the exuberant water rates. Stating that we are up to three increases now, and way over amounts indicated before the creation of the district. He questioned if there was any way to cap these increasing costs? It is unreasonable to allow three increases in one year – and believes this is very poor planning on someone's part. He feels there must be some alternative that does not place Jerusalem at the whim of the Penn Yan Municipal Board. Isn't this a democracy? We must have some input into what they do.

Supervisor Jones, stated that the Capital Reserve Costs from Penn Yan Municipal, this year has doubled from \$50,000 last year to \$100,000 to address problems caused by THM contaminants. The Town of Jerusalem owns twenty-eight percent of the Penn Yan plant, however has NO say at all in decisions that are made! We have been told that we must be a resident of the Village to be eligible for consideration. The Town of Jerusalem has sent letters to the other Municipalities involved (Pulteney, Benton, Dresden and Milo) who are

Jerusalem Town Board
June 21, 2006

also without representation, asking if they wish to band together seeking voting rights from the Penn Yan Municipal Board. Supervisor Jones is awaiting return comments from those Town's.

Councilperson Stewart commented that there was no crystal ball as to this type of increase when the water district was forming.

Councilperson Folts stated that the Village charges us only \$1.92 per thousand for water, yet we bill our customers \$6.50 per thousand. He has been made aware that the Village Officials feel that the Jerusalem Town Board continually blames the high cost of water on the Village. However, Jerusalem's charges are three fold the cost of the product bought from the Village. Mr. Folts urged that the cost between the \$1.92 paid for water and the \$6.50 charged be explained.

Max Parson questioned why bottled water is being used at the Town Hall. The Town Hall has had Municipal water installed so why isn't it being utilized? Notices assure the public that Municipal water is safe to drink, yet the Town Hall continues to use costly bottled water.

Supervisor Jones will look into that situation.

There being no further business, on a motion of Councilperson Hopkins, seconded by Councilperson Barden, the meeting was adjourned at 9:03 P.M.

Alice B. Hunt, Deputy Town Clerk