

Minutes of the regular monthly meeting of the Jerusalem Town Board held on September 19, 2007 at 7:00 P.M. PRESENT were: Supervisor Jones, Councilpersons Barden, Folts, Hopkins, Stewart, Highway Superintendent Payne, Town Engineer Ackart, Town Clerk McMichael.

GUESTS: Chuck Bastian, Bernard P. Donegan, Inc., Bill Pringle, John Keidel, Tom Close, Susan Close, Bill Pinckney, April E. Sutherland, Mary Kay Stine, Bob Evans, Art Adams, Loujane Johns, Chronicle Express Reporter, Ef Adnopoz, Mike Morehouse, Jr., Mike Morehouse, Sr., Peg Thompson, Dundee Observer Reporter.

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

RESOLUTION #125-07  
APPROVAL OF MINUTES

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

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

Resolved that the minutes of the August 15, 2007 meeting be approved as read.

RESOLUTION #126-07  
AUDIT OF CLAIMS

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 bills be paid as presented in the following amounts:

|            |             |
|------------|-------------|
| General:   | \$14,293.46 |
| Highway DA | \$ 3,408.47 |
| Highway DB | \$72,403.15 |
| Sewer      | \$97,311.19 |
| Water      | \$12,595.16 |

|                   |         |           |
|-------------------|---------|-----------|
| August Utilities: | General | \$1023.10 |
|                   | Water   | \$ 558.43 |
|                   | Sewer   | \$ 216.50 |

RESOLUTION #127-07  
SUPERVISOR REPORT

On a motion of Councilperson Hopkins, seconded by Barden, 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 August 2007 be accepted as presented.

REPORT OF TOWN OFFICIALS

HIGHWAY SUPERINTENDENT

Written report of roadwork done in August 2007 on file in the Office of the Town Clerk. Highway Superintendent stated work continues to go smoothly.

RESOLUTION #128-07

APPROVAL OF SALT-SAND SPREADER PURCHASE

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

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

Whereas the Highway Superintendent has received four quotes for salt-sand spreader as follows:

|                       |             |
|-----------------------|-------------|
| Tracey Road Equipment | \$ 9,999.00 |
| Tenco                 | \$13,125.00 |
| Smart Systems, Inc.   | \$13,289.00 |
| Viking Cives Corp.    | \$14,482.00 |

;and,

Whereas Tracey Road Equipment met the necessary specifications at the lowest price; now, therefore, be it

Resolved that the Highway Superintendent be authorized to purchase the salt-sand spreader from low bidder, Tracey Road Equipment.

RESOLUTION #129-07

AMEND HIGHWAY DB 2007 BUDGET TO RECOGNIZE ADDITIONAL CHIPS MONIES

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

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

Whereas, the Highway Superintendent has received correspondence from the NYS DOT regarding the expected Chips funds for 2007; and

Whereas, the Town is to receive additional funds beyond the original budgeted amount,

Resolved that the Highway DB 2007 budget be amended as follows

|                     |                         |
|---------------------|-------------------------|
| Revenue code 3501   | be increased \$2,794.78 |
| Expense code 5112.4 | be increased \$2,794.78 |

TOWN ENGINEER

- Town Engineer Ackart reported a meeting was held with Town of Milo Supervisor Jack Snow to discuss concerns related to the forthcoming work needed at the Village of Penn Yan Waste Water Treatment Plant. A letter conveying our concerns will be sent to Ed Balsey, Superintendent, Village of Penn Yan Municipal Utility Commission.
- In general, everything is running quite well in the Water Department.
- An open presentation will be made by Dig Safely New York at the Town Hall on September 25, 11:00-12:00.

#### COUNCIL

Councilperson Hopkins attended both the Planning and Zoning Board meetings this month. She reported Annette Toaspern has been named Chair of the Zoning Review Subcommittee. The Subcommittee has met and will be presenting their recommendations to the Planning Board.

#### SUPERVISOR

- Supervisor Jones stated the roadway has been approved after some additional work done by Chambers, meeting the 280-a law requirement for their open development area on Skyline Drive.
- The Town Office phone lines will be out of service on September 20 for upgrading. E-mail service will not be interrupted. E-mail addresses can be found on the Town website [www.jerusalem-ny.org](http://www.jerusalem-ny.org).

#### RECREATION COMMITTEE

Bev Eggleston, Director and Brenda Austin, Assistant Director reported on the Summer Recreation Program that was full of fun and excitement this year. They provided an overview of the activities conducted this summer and circulated a display board of photographs from the Program. The Program received a \$500 donation from the Jerusalem Republication Committee that was used to purchase a cart to store all their sports equipment in one place. 21 out of 47 children passed their level in swimming lessons. They were able to go on four field trips. They noted this year's group worked well together and there was increased interaction among the participants. The Program lost 23 participants to being too old, but they hope their program will grow next year given the number of new faces they saw and new families telling others about the Program.

#### SUBCOMMITTEE REPORTS

- Wind Farm Subcommittee member Bill Pringle stated they will be meeting again after harvest. He will provide a report on tomorrow's bus trip to the Town of Fenner next month.
- Councilperson Folts reported the Slopes Subcommittee draft regulations are with Town Attorney Bailey for review.
- Councilperson Barden stated the Subdivision Subcommittee has completed their first pass of the draft regulations received

from Andy Raus, the consultant. Their notes will be input in to the document and then forwarded to the consultant. The Subcommittee will meet one more time before they meet with Mr. Raus, on September 27.

RESOLUTION #130-07

SCHEDULE PUBLIC HEARING - LOCAL LAW E-2007 PROVIDING ADDITIONAL PROTECTIONS AS TO ADULT USE BUSINESSES

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

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

Whereas, the Town of Jerusalem shall hold a public hearing on local law E-2007, entitled "A Local Law Providing Additional Protections as to Adult Use Businesses"; now, therefore be it

Resolved, that this public hearing be duly advertised in the Chronicle Express, the official newspaper of the Town stating that the hearing will be held in the Town offices on October 17, 2007 at 7:00 in the evening.

Copies of this local law shall be sent to the Yates County Planning Board and will be available to the general public.

DISCUSSION - PROPOSED CONSOLIDATION OF THE KEUKA PARK WATER DISTRICT AND EXTENSIONS NOS. 1, 2 AND 3

Given comments heard at the Public Hearing regarding the proposed change in capital charges under the proposed consolidation, Councilperson Folts asked if it would be possible to leave the capital charges by district as they have been in previous years and still consolidate. Financial Consultant Bastian stated that would be a question to pose to legal counsel as he has never seen it done and leaving the different capital charges would defeat the purpose of consolidating.

As stated at the August Public Hearing, Mr. Bastian explained how the consolidation is seen as a benefit to all water customers. Specifically in District 1 with their aging lines, their benefit would be the additional near-term potential liability of their system being spread to the other districts. Therefore, the gain for District 1 customers is from a long range planning approach, whereas Districts 2 and 3 customers readily see a financial gain because of their proposed rate reduction. Eventually Districts 2 and 3 will also realize the long-range gain like District 1. Therefore, the Town believes it would be in the public's interest to assess all expenses of the consolidated district, including all

extensions hereafter established, as a charge against the entire area of the consolidated district.

Councilperson Folts stated he is not against the consolidation, but comments heard at the public hearing were related to the people voted when the districts were formed and the desire to have the people vote on the proposed consolidation now. Councilperson Hopkins stated the consolidation resolution was subject to permissive referendum and there are some matters that elected officials have to vote on first and then the people can bring to public vote.

Town Engineer Ackart repeated the legal process involved as explained at the Public Hearing by Attorney Bailey. If the Town Board adopts a resolution to consolidate the water districts, it would be subject to permissive referendum. A notice of the adoption of the resolution must be published in the newspaper. The public will have 30 days to submit a petition to the Town Clerk. The petition can only be signed by the property owners of parcels within the water district. There are three possible totals of qualified electors, any one of which would require a referendum, if they sign a petition:

1. 25 electors from each district (i.e. a total of 100)
2. 200 electors from the entire area of the consolidated district without regard to which district they come from.
3. 50% of the electors in any one district.

The Town Clerk will tabulate the signatures to determine if any of the three thresholds have been met and a special election would be held. If the voters approve, the formation of the single district would be effective December 31.

A qualified petitioner is the owner of the property, not the person living there, i.e. leased land. If there is more than one owner, each person can vote. Land in trust is one vote. The College is one vote.

Supervisor Jones pointed out that the consolidation would satisfy recommendations by the Town's auditors concerning segregation and reconciliation of water accounts.

RESOLUTION #131-07

A RESOLUTION AUTHORIZING THE CONSOLIDATION OF THE KEUKA PARK WATER DISTRICT AND EXTENSIONS NOS. 1, 2 AND 3 OF THE KEUKA PARK WATER DISTRICT OF THE TOWN OF JERUSALEM INTO ONE CONSOLIDATED WATER DISTRICT TO BE DESIGNATED AS THE KEUKA PARK CONSOLIDATED WATER DISTRICT IN THE TOWN OF JERUSALEM PURSUANT TO SECTIONS 206 AND 206-a OF THE TOWN LAW OF THE STATE OF NEW YORK

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

ADOPTED    Ayes                    4            Barden, Hopkins, Jones, Stewart

Nays 1 Folts

WHEREAS, there are presently one water district and three extensions of said water district existing in the Town of Jerusalem; and

WHEREAS, the present indebtedness of said district and extensions shall be assumed by the Consolidated district; and

WHEREAS, it appears that certain benefits would accrue if the district and its extensions were to be consolidated, namely:

a. Bookkeeping and budgeting would be easier by the elimination the need for interdistrict transfers and adjustments.

b. The costs of future repairs for emergencies will be spread over the entire consolidated district and not borne only by the specific area involved.

c. The costs of future expansion of water service will be spread over the entire consolidated district and not just the new area involved.

d. Revenues produced by the transmissison of water through the district to other areas would be shared by the entire consolidated district.

e. All future expenses of maintenance, operation and improvements of the consolidated district would be raised and paid for by all properties within the consolidated district, except as noted; and

WHEREAS, the district and the extensions thereto are presently financed on the benefit basis; and

WHEREAS, a resolution was duly adopted by this Town Board on July 18, 2007 calling a public hearing pursuant to Town Law sections 206 and 206-a for the purpose of considering the proposed consolidation of the water district and present extensions thereof in accordance with the requirements of sections 206 and 206-a of the Town Law of the State of New York and stating all other matters required by law to be so stated and specifying August 15, 2007 at 7:00 p.m. as the time and the Branchport-Keuka Park Firehouse, Branchport, New York as the place where said Town Board would meet and consider said matter and to hear all persons interested in the subject thereof, concerning the same, and to take such action thereon as is required or authorized by law; and

WHEREAS, notice of said public hearing was duly published and posted as required by law; and

WHEREAS, a public hearing on said matter was duly held by said Town Board on August 15, 2007 at 7:00 p.m. in the Branchport-Keuka Park Fire House, Branchport, New York and all persons desiring to speak either on behalf of or in opposition to said proposed consolidation were afforded an opportunity to do so; and

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to article 8 (State Environmental Quality Review Act) it has been determined by the Jerusalem Town Board that adoption of the proposed consolidation would not have a significant effect upon

the environment and can be administered by other applicable governmental agencies without further regard to SEQR,  
NOW, AFTER DUE DELIBERATION, IT IS RESOLVED AND DETERMINED:

- a. The notice of hearing was published and posted as required by law and is otherwise sufficient;
- b. It is in the public interest to assess all expenses of the consolidated district, including all extensions hereafter established, as a charge against the entire area of the consolidated district as so extended, except that parcels presently exempt from payment for the the cost of improvements heretofore made by reason of advance payment in a lump sum of such cost in the district or extension where they are located shall continue to be exempt from the cost of improvements heretofore made in the remaining areas of the consolidated district now being formed but not from the cost of improvements that may in the future be added to the consolidated district.
- c. That all future costs of operation, maintenance and improvements will be financed on a benefit basis in accordance with the schedule of rates attached hereto and a part hereof, which shall not include the fee for transmission of water presently charged to Extensions #2 and #3.
- d. That it is in the public interest to consolidate all of the Town water districts and extensions thereof.
- e. That this resolution shall be subject to permissive referendum;
- f. That the Town Clerk be and hereby is authorized and directed to give notice of the adoption of this resolution pursuant to the provisions of section 206-a of the Town Law.

RESOLUTION #132-07

REMOVE PROPOSED MORATORIUM FROM THE TABLE

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 the proposed moratorium on the issuance of certain building permits be removed from the table for further discussion.

DISCUSSION - MORATORIUM IMPOSING A SIX MONTHS MORATORIUM ON THE ISSUANCE OF CERTAIN BUILDING PERMITS

Councilperson Hopkins noted that the Yates County Planning Board review of the proposed moratorium on the issuance of certain building permits recommended approval of the proposed action with amendments. After consideration of their recommendations, the Town Board agreed to change Section 4, making the term of the moratorium six months and Section 5, standardizing the phrase by removing the word "enlarge". Their other recommendation to amend Section 1 to reference specific Town zoning ordinances was considered, but felt

it was not pertinent. The two noted amendments have been incorporated in the text of the proposed local law.

RESOLUTION #132-07

ADOPTION - LOCAL LAW #4-07 IMPOSING A SIX-MONTH MORATORIUM ON THE ISSUANCE OF CERTAIN 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

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

ADOPTED BY ROLL CALL VOTE:

|                       |     |
|-----------------------|-----|
| Councilperson Folts   | Nay |
| Supervisor Jones      | Aye |
| Councilperson Stewart | Aye |
| Councilperson Barden  | Aye |
| Councilperson Hopkins | Aye |

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Jerusalem for a public hearing to be held by said Town Board on June 20, 2007, at 7:05 P.M. at the Town Hall at 3816 Italy Hill Road, Branchport, New York, to hear all interested parties on a proposed Local Law entitled "A Local Law imposing a six-month moratorium on the issuance of certain building permits", and WHEREAS, notice of said public hearing was duly advertised in The Chronicle Express, the official newspaper of said Town, on June 13 and 20, 2007; and

WHEREAS, said public hearing was duly held on June 20, 2007, at 7:14 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 with amendments of the proposed Local Law on June 28, 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. 4 of 2007 entitled "A Local Law imposing a six-month moratorium on the issuance of

certain building permits", 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. Purpose and Intent

Pursuant to the statutory powers vested in the Town of Jerusalem (the "Town") to regulate and control land use and to protect the health, safety and welfare of its residents, the Town Board of the Town hereby declares a six month moratorium on the issuance of building permits for new structures on lots in the Town that do not have the required minimum frontage on a public highway for building as required by the zoning ordinance of the Town.

The Town receives numerous applications for the construction and location of residential and other structures on lots that do not front on public highways. Many people desire to build new houses within the Town, and many of them will do so on lots not fronting on public highways.

The development of land in the Town that does not have frontage on public highways presents issues that are not adequately regulated in the Town's zoning ordinance, such as the kind of roads that should be required within such areas, the method for mitigating the deleterious effect of construction on steep slopes, the preservation of the agricultural resources of the town, the size and adequacy of public utilities and other infrastructure, and other issues, all of which create a need for suitable standards and controls of the location and land use of such development.

The Town Board of the Town desires to address, in a careful manner, the establishment, placement, construction, and erection of structures on lots that do not front on public highways in a comprehensive way for the entire Town, rather than individually lot by lot and to adopt appropriate rules and procedures to specifically regulate same.

The Town Board and the Planning Board of the Town are now in the process of considering various options relating to this issue. The Town Board finds and determines that it needs the period of time covered by the moratorium imposed hereby in order to carefully study the question, draft proposed amendments to the Town Code, make appropriate changes to the draft of the proposed Local Law, schedule and hold the required public hearing on the Local Law, perform an appropriate environmental review of the Local Law, comply with applicable provisions of law, adopt the Local Law, and file a copy of the Local Law, as adopted, with the Secretary of State of the State of New York.

Section 2. Scope of Controls

A. During the effective period of this Local Law:

1. The Town Board of the Town shall not grant any approvals that would have as the result, whether alone or in conjunction

with other approvals, the establishment, placement, construction, or erection of a structure on a parcel of land within the Town that does not have sufficient frontage on a public highway to constitute a building lot.

2. The Town Planning Board shall not grant any preliminary or final approval to a subdivision plat, site plan, special use permit or other permit that would have as a result the establishment, placement, construction, or erection of a structure on a parcel of land within the Town that does not have sufficient frontage on a public highway to constitute a building lot.

3. The Town Zoning Board of Appeals shall not grant any variance or other permit for any use that would result in the establishment, placement, construction, or erection of a structure on a parcel of land within the Town that does not have sufficient frontage on a public highway to constitute a building lot.

4. The Code Enforcement Officer of the Town shall not issue any permit that would result in the establishment, placement, construction, or erection of a structure on a parcel of land within the Town that does not have sufficient frontage on a public highway to constitute a building lot.

B. Notwithstanding the foregoing, permits may be issued for new structures on lots that already have a legal primary structure or for additions or changes to existing structures.

C. The Town Board of the Town reserves the right to direct the Town Code Enforcement Officer to revoke or rescind any building permits or certificates of occupancy issued in violation of this Local Law.

### Section 3. No Consideration of New Applications

No applications for permits prohibited by this Local Law or for approvals for a site plan, subdivision, variance, special use permit or other permit prohibited by this Local Law shall be considered by any board, officer or agency of the Town while the moratorium imposed by this Local Law is in effect.

### Section 4. Term

The moratorium imposed by this Local Law shall be in effect for a period of six months from the effective date of this Local Law.

### Section 5. Penalties

Any person, firm or corporation that shall establish, place, construct or erect any structure within the Town on a parcel of land that does not have sufficient frontage on a public highway to constitute a building lot in violation of the provisions of this Local Law or shall otherwise violate any of the provisions of this Local Law shall be subject to:

A. Such penalties as may otherwise be provided by applicable local laws, ordinances, rules, regulations of the Town for violations; and

B. Injunctive relief in favor of the Town to cease any and all such actions which conflict with this Local Law and, if necessary, to remove any construction that may have taken place in violation of this Local Law.

#### Section 6. Validity

The invalidity of any provision of this Local Law shall not affect the validity of any other provision of this Local Law that can be given effect without such invalid provision.

#### Section 7. Hardship

A. Should any owner of property affected by this Local Law suffer an unnecessary hardship in the way of carrying out the strict letter of this Local Law, then the owner of said property may apply to the Town Board of the Town in writing for a variation from strict compliance with this Local Law upon submission of proof of such unnecessary hardship. For the purposes of this Local Law, unnecessary hardship shall not be the mere delay in being permitted to make an application or waiting for a decision on the application for a variance, special permit, site plan, subdivision, or other permit during the period of the moratorium imposed by this Local Law.

B. Procedure. Upon submission of a written application to the Town Clerk by the property owner seeking a variation of this Local Law, the Town Board shall, within thirty (30) days of receipt of said application, schedule a Public Hearing on said application upon five (5) days' written notice in the official newspaper of the Town. At said Public Hearing, the property owner and any other parties wishing to present evidence with regard to the application shall have an opportunity to be heard, and the Town Board shall, within fifteen (15) days of the close of said Public Hearing, render its decision either granting or denying the application for a variation from the strict requirements of this Local Law. If the Town Board determines that a property owner will suffer an unnecessary hardship if this Local Law is strictly applied to a particular property, then the Town Board shall vary the application to this Local Law to the minimum extent necessary to provide the property owner relief from strict compliance with this Local Law.

#### Section 8. Effective Date

This Local Law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

;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.

DISCUSSION - RESOLUTION TO REDUCE THE NUMBER OF TOWN JUSTICES FROM TWO TO ONE

Councilperson Stewart stated the Board adopted Resolution #101-07 in June to reduce the number of Town Justices from two to one, subject to permissive referendum and provided the background for said proposal.

- The term of office of Town Justice Killen expires on December 31, 2007.
- Data indicates that Justice Davison has been carrying approximately 75% of the court cases in Jerusalem.
- Justice Davison served as sole justice in the Town during Justice Killen's twelve week leave of absence earlier this year.
- 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.
- Town justice candidates Loren James and Wayne Ackart were informed of the Board's intent and knew if the electors agree, there would not be an office to take in January 2008.

A petition has been filed calling for a vote by the people on this matter.

Councilperson Hopkins added there are associated insurance and retirement costs and we would also eliminate the second Court Clerk position. Jerusalem is the only town in Yates County with two justices. This has been discussed for years and with Justice Killen's decision not run again, the Board is moving on this matter.

RESOLUTION #133-07

RESOLUTION FIXING TIME AND PLACE OF SPECIAL ELECTION ON A PROPOSITION TO REDUCE THE NUMBER OF TOWN JUSTICES FROM TWO TO ONE

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

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

WHEREAS, a petition for the submission of a proposition hereinafter described, was filed in the office of the Town Clerk of the Town of Jerusalem on the 30<sup>th</sup> day of July, 2007, subscribed and authenticated in accordance with law by 101 electors of said Town

qualified to vote upon a proposition to raise and expend money, said electors equaling, in number, at least five per centum of the total votes cast for Governor in said Town at the last general election held for the election of State Officers on November 7, 2006; and

WHEREAS, the aforesaid petition called for the submission to the voters of a proposition to approve Resolution No. 101-07 relating to the reduction of the number of town justices from two to one;

NOW, THEREFORE, BE IT RESOLVED as follows:

Section 1. A special election of the residents and taxpayers of the Town of Jerusalem is hereby authorized and directed to be held on the 10<sup>th</sup> day of October, 2007, between the hours of 1 o'clock p.m. and 7 o'clock p.m., for the purpose of voting by ballot on the proposition hereinafter set forth.

Section 2. The polling place at such election is hereby designated as the Jerusalem Town Hall at 3816 Italy Hill road, Branchport, New York.

Section 3. The notice of such s special election shall be in substantially the following form:

Legal Notice

#### NOTICE OF SPECIAL ELECTION

Notice is Hereby Given that a Special Election of the residents and taxpayers of the Town of Jerusalem, Yates County, New York (the "Town"), will be held in the Town on the tenth day of October, 2007, at which the polls will be kept open between the hours of one o'clock P.M. and seven o'clock P.M. for the purpose of voting by ballot upon the following proposition:

Proposition

Shall the number of Town Justices of the Town of Jerusalem be reduced from two to one effective January 1, 2008?

Circle your choice.

YES

NO

The polling place at such election will be: The Jerusalem Town Hall at 3816 Italy Hill Road, Branchport, New York.

All electors of the Town shall be qualified to vote at such special election.

By Order of the Town Board.

Dated: September 20, 2007,

\_\_\_\_\_  
Sheila McMichael  
Jerusalem Town Clerk

Section 4. The Town clerk is hereby ordered and directed to give notice of such election by publication thereof in the Chronicle Express, such publication to be at least ten days prior to the date of such special election, and by posting on the sign board of the Town a copy of such notice at least ten days before such special election.

Section 5. Resident taxpayers of said town will be designated to act as election inspectors and ballot clerks from the Yates County Board of Elections Detailed Poll Worker Master List.

Section 6. The Town Clerk is hereby ordered and directed to prepare printed ballots in sufficient quantity for use at said special election, and also to prepare for the use of the election officers the necessary oaths and certificates of election, and also to procure and deliver to such election officers any and all necessary paraphernalia for the proper conduct of such election.

Section 7. This resolution shall take effect immediately.

RESOLUTION #134-07

APPOINTMENT - BOARD OF ASSESSMENT REVIEW - PARKER REYNOLD

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

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

Resolved that Parker Reynolds be appointed to the Board of Assessment Review for a five-year term, from October 1, 2007 through September 30, 2012.

RESOLUTION #135-07

APPROVAL - 2007 AUDIT QUOTE

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

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

Whereas the Town is in receipt of a Quotation for Accounting Services from Raymond F. Wager, CPA, PC to conduct the Town's audit

for the year ending December 31, 2007 at an estimated cost of \$16,050; now, therefore, be it

Resolved that the Town engage the services of Raymond F. Wager, CPA, PC and the Supervisor be authorized to sign the Quotation of Accounting Services.

PROCLAMATION - CONSTITUTION WEEK September 17-23, 2007

Supervisor Jones read the following proclamation:

Proclamation presented by the Gu-Ya-No-Ga Chapter NSDAR  
Whereas, our Founding Fathers, in order to secure the blessings of liberty for themselves and their posterity, did ordain and establish a Constitution for the United States of America; and

Whereas, it is of the greatest importance that all citizens fully understand the provisions and principles contained in the Constitution in order to effectively support, preserve and defend it against all enemies; and

Whereas, the two hundred and twentieth anniversary of the signing of the Constitution provides an historic opportunity for all Americans to remember the achievements of the Framers of the Constitution and the rights, privileges, and responsibilities they afforded us in this unique document; and

Whereas, the independence guaranteed to American citizens, whether by birth or naturalization, should be celebrated by appropriate ceremonies and activities during Constitution Week, September 17 through 23, as designated by proclamation of the President of the United States of America in accordance with Public Law 915; now

Therefore, I Daryl H. Jones by virtue of the authority vested in me as Jerusalem Supervisor in the State of New York, do hereby proclaim the week of September 17 through 23 as CONSTITUTION WEEK in the Town of Jerusalem, and urge all our citizens to reflect during that week on the many benefits of our Federal Constitution and the privileges and responsibilities of American citizenship.

SIDEWALK ISSUES - 3400 BLOCK OF GUYANOGA ROAD

Mary Kay Stine complained about the condition of the sidewalk area in the 3400 block of Guyanoga Road that is impassable by pedestrians which violates the health, safety and welfare of the Town residents. Her neighbor, Amy Conklin has created a dangerous condition by blocking the sidewalk with gravel and planting flowers in the area where a sidewalk should be placed. The area is also overgrown with dense trees and shrubs. Parked vehicles also block the pedestrian travel path. Pedestrians are not able to walk on a sidewalk and are forced to enter the roadway. The property owner did not allow a sidewalk across their property when sidewalks were improved in the rest of Branchport as part of the Water #3 project.

Donald Smith also spoke to the matter, noting his concern for children needing an accessible path to the bus at Branchport Hardware. There is also an ongoing problem of cars traveling at high speeds through Branchport and children are forced to walk on the road. In the past, another area neighbor was forced to move obstructing vehicles and demanded action by the Town on this matter.

Supervisor Jones has discussed the matter with Rick Wilson, licensed land surveyor who has surveyed this property. Years ago when the new sidewalks were being installed, the property owner claimed the sidewalk area belonged to him and he did not want sidewalks there. The Town did not pursue the matter and we do not know why. Currently, the Town does not have a sidewalk ordinance. Supervisor Jones also discussed the matter with the Sheriff's Department and encouraged residents to file their complaints directly with the Sheriff's Department. Supervisor Jones quoted New York State Penal Law 240.45 regarding criminal nuisance and will instruct Code Enforcement Officer Phillips to send the property owner a notice of violation. Guyanoga Road is a County road, but according to Craig Prior, County Highway Deputy Superintendent, the sidewalk is outside of the County's right-of-way.

Bill Pinckney stated the sidewalks should be replaced to match the rest of them, noting the existing sidewalks have been used for years. He asked to be kept informed on this matter.

Ms. Stine also stated she has had flooding problems in her property because the new sidewalks pitch down to her yard. The water needs to drain off as it is crumbling her foundation. Code Enforcement Phillips and Supervisor Jones have looked at the situation, but it has not been resolved. The County tried to address the water issue when they paved Guyanoga Road recently.

Councilperson Hopkins stated the Town will instruct Town Attorney Bailey to draft a local law establishing standards for the maintenance of sidewalks within the unincorporated area of the Town.

#### FIRE NUMBER PETITION

Supervisor Jones read a letter addressed to the Town Board from Bob Johnson transmitting petitions regarding the current situation with street names and numbers on Route 54A from Penn Yan to the Steuben County line. The petitioners feel this is a serious problem and want the situation corrected. They have requested the Town Board officially assign unique names to the streets in the Town in a

manner that will be both meaningful and useful for all those that use these roads. Secondly, signs be posted clearly showing the official names of these roads so that all residents, visitors to the area, emergency services and delivery people will know the official name of the road they are living or traveling or making deliveries on.

Mr. Johnson has suggested a committee be appointed and charged with the responsibility of thoroughly researching the problem and developing a specific proposal for solution to this problem, including a timetable for reporting back to the Town Board.

In 2006, Mr. Johnson presented this same concern to the Board. The recommendation to install a "West Lake Road" sign at the four-corners of Branchport was not allowed by the Department of Transportation because there is already a West Lake Road within the Town of Jerusalem in Penn Yan. The problem is 54A turns in a different direction at the four-corners in Branchport, thereby duplicating numbers on the east-west grid and the north-south grid.

Supervisor Jones will notify Mr. Johnson that the Board would like him to establish a committee to review this matter. Councilperson Stewart will be the liaison for the Town Board.

Bill Pinckney stated his concern with the increasing number of speeding vehicles on Guyanoga Road. The Yates County Highway Department has flagged the 35 MPH signs, but it has not helped. He would appreciate anything the Town could do on this matter. Supervisor Jones has already discussed this with the Sheriff's Department. Bob Evans also brought this to the Board's attention a few months ago. Supervisor Jones encouraged all residents to contact the Sheriff's Department as he is only one contact from the Town and several calls will bring about more results.

RESOLUTION #136-07

MOVE TO EXECUTIVE SESSION

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 this meeting be interrupted to go into Executive Session to discuss pending litigation at 9:05 P.M.

Councilperson Barden recused himself from the discussion.

RESOLUTION #137-07

RETURN TO REGULAR SESSION

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 Board return to regular session at 9:20 P.M.

RESOLUTION #138-07

ENGAGE McCONVILLE CONSIDINE COOMAN & MORIN, ATTORNEYS AT LAW

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 desires representation by a litigation lawyer on potential litigation work; and

Whereas McConville Considine Cooman & Morin (MCCM), Attorneys & Counselors at Law, Rochester, New York have submitted a proposal to represent the Town of Jerusalem regarding potential litigation work; and

Whereas Paul G. Barden will be the attorney with responsibility for the overall supervision of work carried out by MCCM for the Town and has disclosed that he is the son of current Council member James Barden; now, therefore, be it

Resolved that the Town retain the services of McConville Considine Cooman & Morin to represent the Town of Jerusalem on the matter of the Sewer #2 Addendum Agreement with the Village of Penn Yan.

Councilperson Barden returned to the meeting room at 9:21 P.M.

RESOLUTION #139-07

MOVE TO EXECUTIVE SESSION

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 this meeting be interrupted to go into Executive Session to discuss the employment history of a particular person at 9:22 P.M.

RESOLUTION #140-07

RETURN TO REGULAR SESSION

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 the Board return to regular session at 9:40 P.M.

Supervisor Jones will contact the newspaper for a press release on the Board's desire to reduce the number of Town Justices from two to one.

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

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Sheila McMichael, Town Clerk