

**PUBLIC HEARING
2004 LOCAL LAW NUMBER 3**

**PALMYRA TOWN HALL
MAY 27, 2004**

The Public Hearing scheduled for Thursday, May 27, 2004 at the Palmyra Town Hall, 1180 Canandaigua Road, Palmyra, New York, to consider Local Law Number 3 of 2004 was called to order at 8:00 p.m. by Town Supervisor David Lyon.

**PUBLIC HRG –
2004 LOCAL
LAW NUMBER 3:
AMENDS LOCAL
LAW #2 OF 1977
PROVIDING
WRITTEN
NOTIFICATION
OF HIGHWAY,
BRIDGE,
STREET,CROSS
WALK, CULVERT
DEFECTS AND
OBSTRUCTIONS**

In attendance at the hearings were the following town board members:

- David C. Lyon, Supervisor
- David Nussbaumer, Councilman
- Michael Lambrix, Councilman
- James Welch, Councilman
- Kenneth Miller, Councilman

Also present at these hearings:

- John Girolamo representing Corneles Engineering,
Rochester, engineer for the Palmyra Inn
- Gary LaBerge 904 Canandaigua Rd., Palmyra
- Dave Banks 949 Vandy Drive, Palmyra
- Todd Pipitone reporter for the *Courier-Journal*
- Nelson F. Cook Palmyra Highway Superintendent
- Dwight Hargrave 1400 Hammond Rd., Palmyra
- Shelly Hargrave 1400 Hammond Rd., Palmyra
- Brion S. Havert 895 Canandaigua Rd., Palmyra
- Tim Montroy 306 Stafford Rd., Palmyra
- Richard Dzinbal 1145 Canandaigua Rd., Palmyra
- Davis Fredericksen 1020 Canandaigua Rd., Palmyra
- Rose Fredericksen 1020 Canandaigua Rd., Palmyra
- Al Davis 340 West Foster St., Palmyra
- Norma Davis 340 West Foster St., Palmyra
- Diane Wheaton 139 Stafford Rd., Palmyra
- Dave Koeberle 997 Canandaigua Rd., Palmyra
- Alison Meech reporter for *Canandaigua Daily Messenger*,
& resident of 226 E. Jackson St., Palmyra
- Herland Bouwens 5110 Route 31 West, Newark
- Charlene Bouwens 5110 Route 31 West, Newark
- Steven Smoot representing Palmyra Inn
- Kathleen Smoot 186 W. Baer Creek Drive, Kays Utah

SECTION 2. EFFECTIVE DATE.

This local law shall take effect immediately after filing in the office of the Secretary of State.

PLEASE TAKE FURTHER NOTICE that pursuant to Section 20 of the Municipal Home Rule Law, a public hearing will be held on the aforesaid proposed amendment to Local Law before the Town Board of the Town of Palmyra at the Town Hall, 1180 Canandaigua Road, in the Town of Palmyra, New York at 8:00 p.m. on May 27, 2004, at which time all interested persons will be heard.

Dated: April 22, 2004
LYNDALL ANN P. GREEN
Palmyra Town Clerk

Supervisor Lyon asked those present if there were any questions or comments about the proposed local law. He then asked if any board members had questions or comments. Hearing none, he declared the public hearing closed at 8:03 p.m.

**HEARING
CLOSED FOR
LOCAL LAW #3
FOR 2004**

**PUBLIC HEARING
FOR EXPANSION OF SPECIAL USE AUTHORIZATION
FOR DWIGHT AND SHELLY HARGRAVE
AT CEDAR HILL KENNELS, 1400 HAMMOND ROAD,
PALMYRA
PALMYRA TOWN HALL
MAY 27, 2004**

**PUBLIC
HEARING FOR
EXPANSION OF
S.U.A. FOR
CEDAR HILL
KENNELS—
DWIGHT &
SHELLY
HARGRAVE**

The Public Hearing scheduled for Thursday, May 27, 2004 at the Palmyra Town Hall, 1180 Canandaigua Road, Palmyra, New York, to consider the application of Dwight and Shelly Hargrave, 1400 Hammond Road, Palmyra, to modify a Special Use Authorization, was called to order at 8:05 p.m. by Town Supervisor David Lyon. Town Clerk, Lynne Green, read the following legal notice for the public hearing:

**LEGAL NOTICE
TOWN OF PALMYRA
DWIGHT AND SHELLY HARGRAVE –
SPECIAL USE AUTHORIZATION MODIFICATION**

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Palmyra will hold a Public Hearing on Thursday, May 27, 2004 at 8:05 PM at the Palmyra Town Hall, 1180 Canandaigua Road, Palmyra, NY to consider the application of Dwight and Shelly Hargrave, 1400 Hammond Rd., Palmyra, NY 14522, tax parcel #65111-00-818549, to modify a Special Use Authorization by adding a groom room and office, making existing space into 7 more kennels at Cedar Hill Kennels, 1400 Hammond Rd., Palmyra.

Article III, Section 3.2(b) of the Palmyra Town Zoning Ordinance, which limits the uses of property in an Agricultural District to those permitted under Section 3.1, Paragraphs a-h states: "Use of land for other than farm purposes requires Special Authorization from the Town Board. Such Special Authorization is subject to Article VII, Section 7.1".

The property is located at 1400 Hammond Road and is bounded on the North by property reputedly owned by Debra Hurley-Salmen, tax parcel #65111-00-819606, and bounded on the East by property reputedly owned by John Koeberle, tax parcel #65111-00-904574, and bounded on the South by property reputedly owned by Robert Green, tax parcel #65111-00-823507, and bounded on the West by Hammond Road.

The Town Board will at said time and place hear all persons in support of the above application or any objections thereto. Persons may appear in person or by attorney or agent. The application is on file at the Town Clerk's Office, 1180 Canandaigua Road, and is available for review Monday through Friday, 8:00 AM – 5:00 PM.

BY ORDER OF THE TOWN BOARD

Dated: April 22, 2004

Lyndall Ann P. Green
Palmyra Town Clerk

Supervisor Lyon asked the Hargraves to explain the reason for applying to modify their Special Use Permit. Dwight Hargrave explained that their present 10-run kennel is not enough to meet the demand of their customers. By adding a 12' x 24' addition for a grooming room and an office, they could add 7 additional runs where the current groom room and office are located. Dave Lyon asked those present if there were any questions or comments about the proposed local law. He then asked if any board members had questions or comments. Councilmen Dave Nussbaumer and Michael Lambrix spoke in praise of the business, explaining that from personal experience, they felt it was well run, and added their observation of need for more boarding room. Ken Miller noted that the original permit limited the number of dogs at any one time to 10. He asked if this would also need to be modified. Dwight Hargrave said yes.

Dave Lyon asked the Town Clerk to read the recommendations from the town and county planning boards:

At their meeting on May 10, 2004, the town planning board made the recommendation to approve the application for a special use modification for

the following reasons: (1) they provide a public service, and (2) no complaints from their neighbors.

At their meeting on May 26, 2004, the Wayne County Planning Board reviewed the Hargrave request and recommended approval of the Special Permit expansion.

Dave Lyon asked if there were any more comments or questions. Hearing none, he declared the public hearing closed at 8:08 p.m.

**HEARING
CLOSED FOR
EXPANSION OF
S.U.A. FOR
CEDAR HILL
KENNELS—
DWIGHT &
SHELLY
HARGRAVE**

**PUBLIC HEARING
FOR EXPANSION OF SPECIAL USE AUTHORIZATION
FOR HERLAND BOUWENS
AT BUTCH'S BODY SHOP, 5110 ROUTE 31 WEST, NEWARK
PALMYRA TOWN HALL
MAY 27, 2004**

**PUBLIC
HEARING FOR
EXPANSION OF
S.U.A. FOR
BUTCH'S
BODY SHOP—
HERLAND W.
BOUWENS, JR.**

The Public Hearing scheduled for Thursday, May 27, 2004 at the Palmyra Town Hall, 1180 Canandaigua Road, Palmyra, New York, to consider the application of Herland W. Bouwens, Jr., 2394 Ford Rd., Newark, to modify a Special Use Authorization, was called to order at 8:10 p.m. by Town Supervisor David Lyon. Town Clerk, Lynne Green, read the following legal notice for the public hearing:

**LEGAL NOTICE
TOWN OF PALMYRA
HERLAND W. BOUWENS, JR.
SPECIAL USE AUTHORIZATION MODIFICATION**

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Palmyra will hold a Public Hearing on Thursday, May 27, 2004 at 8:10 PM at the Palmyra Town Hall, 1180 Canandaigua Road, Palmyra, NY to consider the application of Herland W. Bouwens, Jr., 2394 Ford Rd., Newark, NY 14513, to modify a Special Use Authorization to build an addition to the back of the current building at Butch's Body Shop, 5110 Route 31 West, Newark, NY 14513, tax parcel #67110-00-239979.

Article III, Section 3.2(b) of the Palmyra Town Zoning Ordinance, which limits the uses of property in an Agricultural District to those permitted under Section 3.1, Paragraphs a-h states: "Use of land for other than farm purposes requires Special Authorization from the Town Board. Such Special Authorization is subject to Article VII, Section 7.1".

The property is located at 5110 New York State Route 31 and is bounded on the North by New York State Route 31 West, and bounded on the East by the Town of Arcadia, and bounded on the South by property reputedly owned by Robert Schram, tax parcel #67110-00-242926, and bounded on the West by Hanley Road.

The Town Board will at said time and place hear all persons in support of the above application or any objections thereto. Persons may appear in person or by attorney or agent. The application is on file at the Town Clerk's Office, 1180 Canandaigua Road, and is available for review Monday through Friday, 8:00 AM – 5:00 PM.

BY ORDER OF THE TOWN BOARD

Dated: April 22, 2004

Lyndall Ann P. Green
Palmyra Town Clerk

Supervisor Lyon asked Herland Bouwens to explain the reason for applying to modify his Special Use Permit. He said the 40' x 72' addition would about double the space he has for his body shop. Dave Lyon asked if there were any questions or comments from the public or town board members. Dave Nussbaumer stated he would support the expansion request because he felt Bouwens is running a good business and is clean. Jim Welch referred to the original Special Use Authorization dated May 21, 1996. In item #12, he noted reference to a storage fence which would screen "parts" vehicles which are stored behind it. Jim wanted to know if he would be moving the fence and if the restriction would still apply. Herland replied that the fence would stay and that the restriction would apply. Ken Miller wanted to know if the expansion means that he might add employees in the future. When Herland answered yes, Ken said "good."

Lynne Green read the recommendations by the town and county planning boards. At their meeting on May 10th, the Palmyra Town Planning Board made a motion for a favorable recommendation to the Town Board for the following reasons: (1) provides a valuable service to the community, and (2) well-kept parcel.

The Wayne County Planning Board met on May 26th and recommended approval of the Special Permit expansion. Planning Department staff also recommends that landscaping and fencing (to screen vehicles) should be considered as a means to continue to keep the property attractive from the highly utilized NYS Rt. 31 (Canal Corridor).

Dave Lyon asked if there were any more comments or questions. Hearing none, he declared the public hearing closed at 8:13 p.m.

**HEARING
CLOSED FOR
EXPANSION OF
S.U.A. FOR
CEDAR HILL
BUTCH'S BODY
SHOP—
HERLAND W.
BOUWENS, JR.**

**PUBLIC HEARING
FOR CONTINUATION OF PREVIOUS HEARING FOR
PLANNED DEVELOPMENT DISTRICT ON
ROUTE 21 SOUTH, PALMYRA—
PROPOSED PALMYRA INN PROPERTIES**

**PALMYRA TOWN HALL
MAY 27, 2004**

**PUBLIC
HEARING FOR
CONTINUATION
OF PREVIOUS
HEARING FOR
PLANNED
DEVELOPMENT
DISTRICT ON
ROUTE 21
SOUTH—
PALMYRA INN
PROPERTIES**

The Public Hearing scheduled for Thursday, May 27, 2004 at the Palmyra Town Hall, 1180 Canandaigua Road, Palmyra, New York, for continuation of Planned Development District on Route 21—proposed Palmyra Inn properties, was called to order at 8:15 p.m. by Town Supervisor David Lyon. Town Clerk, Lynne Green, read the following legal notice for the public hearing:

**LEGAL NOTICE
TOWN OF PALMYRA
NOTICE OF PUBLIC HEARING**

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Palmyra will hold a Public Hearing on Thursday, May 27, 2004 at 8:15 PM at the Palmyra Town Hall, 1180 Canandaigua Road, Palmyra, NY to consider the adoption of a Planned Development District designation for two tax parcels on Canandaigua Road, pursuant to the Town of Palmyra Zoning Code Section 3.4.

Tax Parcels 64110-00-629999 and 64110-00-631959, both reputedly owned by Randy Hayes, are bounded on the North by property reputedly owned by David Koeberle, Tax Parcel 64111-00-615049; on the West by property reputedly owned by the Corp. of Presiding Bishops of the Church of Jesus Christ of Latter-day Saints, Tax Parcel 64110-00-581970; on the South by property reputedly owned by Herta A. Freling, Tax Parcel 64110-00-651954 and by property reputedly owned by Brion A. and Jeanette K. Havert, Tax Parcel # 64110-00-628932; and on the East by Canandaigua Road (NYS Route 21).

The Town Board will at said time and place hear all persons in support of the above application or any objections thereto. Persons may appear in person or by attorney or agent. The application is on file at the Town Clerk's Office, 1180 Canandaigua Road, and is available for review Monday through Friday, 8:00 AM – 5:00 PM.

BY ORDER OF THE TOWN BOARD
DATED: May 13, 2004

Lyndall Ann P. Green
Palmyra Town Clerk

Steve Smoot, representing Sky Properties, investors for Palmyra Inn, and John Girolamo, project engineer for Corneles Engineering, attended the meeting and made a presentation about the proposed motel to be built on Route 21, south of the village. Steve showed the architect's rendering of the façade, as well as the plot plan on the building lot. The motel itself will sit on 3 ½ of the 9 ½ acres. As required by the Department of Transportation, there will be two entrances/exits to the parking lot and motel entrance. John expressed the concern town residents have had in the past with drainage problems on that side of Route 21. He showed on the diagram where plans are in place to construct an oversized retention pond to catch runoff, even in large storms, which should ease the flooding problems downstream—for residents to the north of the Palmyra Inn property. The extra large pond is their way of demonstrating that they "are doing more than needed to retain runoff water."

At 8:25 p.m., Dave Lyon asked those present if they had any comments about the presentation and the town's Planned Development District.

Concerns of area residents included if a larger retention pond would really help. Although it would ease the stormwater runoff problem, there was concern for West Nile Virus-bearing mosquitoes being attracted to the pond. Where drainage would go was another point of discussion, as well as landscaping being more than just a tree here and there, the type of lighting in the parking lot and if it would be bothersome to neighbors, if college level courses would be offered to students staying there, what "future development" might bring, if Route 21 speed changes would be needed, and what the Planned Development District might include in the future.

Dave Lyon then explained that the town planning board would meet on June 14th, and may or may not have a recommendation for the town board meeting of June 24. The town board may or may not make a recommendation then, depending on if they have sufficient information.

Lynne Green read the Wayne County Planning Board's recommendation of its meeting on May 26:

"The Wayne County Planning Board reviewed the above referenced referral and recommended approval of the Amendment to the Zoning Map, and Preliminary Site and Subdivision Plans with the following conditions: (1) the Town is basing the rezoning on findings made in their current master plan update effort (zoning changes should be based on a 'well-considered plan' or 'comprehensive plan' so it can not be considered spot zoning, (2) the storm water and erosion and sediment control plan meets Phase II NYSDEC regulations, (3) NYS DOT approves the proposed road cuts, (4) screening is provided to buffer the proposal from existing residences, and (5) a coordinated SEQR review is considered."

After all residents, visitors, presenters and town board members had the opportunity to express their views, Dave Lyon adjourned the meeting at 9:05 p.m. and said there would be a 5 minute break before starting the regular town board meeting.

**HEARING
ADJOURNED
FOR
CONTINUATION
OF PREVIOUS
HEARING FOR
PLANNED
DEVELOPMENT
DIST. ON RTE.
21 SOUTH—
PALMYRA INN
PROPERTIES**

REGULAR TOWN BOARD MEETING

The regular meeting of the Town Board, Town of Palmyra, scheduled to be held on Thursday, May 27, 2004, at the Palmyra Town Hall, 1180 Canandaigua Road, Palmyra, NY, was called to order at 9:10 p.m. by Town Supervisor David Lyon.

**CALL TO
ORDER**

Supervisor Lyon led those present in the Pledge of Allegiance to the Flag.

**PLEDGE OF
ALLEGIANCE**

Upon roll call, the following board members were present:

- David C. Lyon, Supervisor
- David Nussbaumer, Councilman
- Michael Lambrix, Councilman
- James Welch, Councilman
- Kenneth Miller, Councilman

ROLL CALL

Also present at the meeting were:

- Todd J. Pipitone, reporter for the *Courier-Journal*
- Nelson F. Cook, Palmyra Highway Superintendent

Motion was made by Mike Lambrix to approve the minutes of the May 13, 2004 meeting of the Town Board.

Second: Dave Nussbaumer Vote: 5 ayes.

**MTN: APPRV.
MINUTES OF
5/13/2004 MTG.**

COMMUNICATIONS

1. Veteran's Highway of Wayne County: A letter was received from NY State Senator Michael Nozzolio in which he informed us that the bill he had sponsored (S.5926), which dedicates NY State Route 31, from the Monroe County line to the Seneca County line, as the Veteran's Highway of Wayne County, has passed the NY State Senate. The bill was subsequently delivered to the Assembly, where it is being sponsored by Assemblyman Oaks (A.9476).

**RTE. 31
DESIGNATED
AS VETERANS
HWY. OF
WAYNE CO.
PASSED
STATE
SENATE**

**REQUESTS
FOR SEWER
SERVICE IN
MAPLE
AVENUE AREA**

2. Requests for sewer service north of the village: Phone calls have been received by the town supervisor and town clerk requesting the town to consider providing sewer service in the area of Maple Avenue from Quaker Road north to the Division Street intersection, for Betty Brae Lane, Bonnie Lane, Meadow Drive and Wheel-In-Circle. With the large number of homes in the area, no one had wanted to take a petition door to door. It was suggested that the town send a letter to residents asking them if they would be interested in hooking up to sewer service if it were offered in their area. The response would determine the level of interest by area residents. The Town Clerk was asked to prepare such a letter and send it to that area's residents.

REPORTS OF STANDING COMMITTEES

Buildings and Grounds Committee – Ken Miller, Chairman

**BLDGS. &
GROUNDS
UPDATE**

Ken Miller noted that he, Dave Lyon and Bob Grier had walked through the building recently, looking at maintenance issues in each room. An infestation of ants has been taken care of. An outfit in Marion has been contacted to take care of updating and recharging outdated fire extinguishers.

Highway Committee – Michael Lambrix, Chairman

**RPT. ON
MUNICIPAL
AUCTION**

1. Highway Superintendent Nelson Cook updated the board on the recent municipal auction. Revenue this year was particularly good, and our total, after expenses, was \$22,753.61. He added it was one of the smoothest auctions we've had, and that it brought in more than \$100,000 over last year.

**ANNOUNCE
GRANT
APPROVAL
FOR SHILLING
RD.
CONSTRUCTN**

2. Nelson Cook was pleased to break the news to the board and the public that our grant request to the Wayne County Quality Water Coordinating Committee was approved for the Shilling Road construction. We received notice that the maximum amount of the grant, \$5,000, was awarded to the town to take care of erosion control.

**NELSON COOK
TO ATTEND
HIGHWAY
SCHOOL**

3. Nelson Cook to attend Highway School: The highway superintendent noted he will be attending Highway School on June 7 through 9.

4. Update on Shilling/Lusk intersection reconstruction project: Cook noted that a pre-construction meeting has taken place with representatives of the town highway department and the contractor working on the Goldsmith/Shilling intersection. Signs for detours should be up next week. The holdup has been buried phone cable by Verizon. The town's crew has already started south of Lusk Road, removing trees and brush. Cook anticipated good cooperation between his crew, the contractor at Goldsmith Road, and the Water Authority which is laying water lines, so the road closings will be minimal and the work will get done.

**UPDATE ON
SHILLING/LUSK
INTERSECTION
RECONSTRUC-
TION PROJECT**

Planning Committee – James Welch, Chairman

Task Force meeting: Jim Welch attended the Task Force meeting recently, but found the issues focused mostly on the village. He told fellow board members he would report back any issues in future meetings which pertain to the town.

**TASK FORCE
MEETING
UPDATE**

Zoning Committee – David Nussbaumer, Chairman

Code Enforcement and Zoning Officer Bob Grier submitted a monthly report showing activity during the past month. Grier was not in attendance at the meeting due to a death in the family.

**CEO REPORT
FOR MAY**

INFORMATIONAL ITEMS

1. Report to the Board from the Town Clerk's office: In addition to daily work assisting customers, files have been cleaned up and relabeled for easier retrieval. Archival work continues at a steady pace, with scanning, indexing and microfilming of old record books being done as funds allow. Our web site continues to receive thousands of inquiries per month, as well as positive feedback and ideas for new items to include. Our office and the historian submitted requests for over \$36,000 in archival grants. We now know that at least part of our requests will be funded. At the end of June we should have the final award amounts.

**TOWN CLERK'S
OFFICE REPORT**

Grants this coming year will have a deadline of December 1, 2004, so it is now time to start the grant-writing process again.

Tourism is a big item locally and our office hosted the Tourism Committee again in May. The Palmyra Information Center at the Town Hall continues to attract visitors for brochures and maps. The Canalway Trail from Aqueduct Park to the Port of Palmyra marina will

be officially dedicated on June 5.

New dog fees went into effect May 1 and the Town Clerk's office has seen an increase in revenue as a result. Issuing of marriage licenses is up considerably over last year.

**HISTORIAN'S
REPORT
SPECIAL
REQUEST**

- 2. Historian's Report for April special request: Palmyra Historian Beth Hoad attended a Regional Preservation Conference on May 1 put on by the Landmark Society of Western New York. Several topics concerned historic houses and buildings, restorations, and how to write a National Register Landmark nomination.

She asked several presenters "if they would be willing and able to address a group that could include Palmyra Town Supervisor and Town Board members, Village of Palmyra Trustees, Zoning and Code Enforcement officials, various village and town task forces, panels and committees, Historic Palmyra, Inc. and other interested citizens of Palmyra." They said yes, and Beth wondered if they would be interested in having her try to organize such a meeting. A poll of board members showed they thought it would be a good idea, and to pursue it. Dave Lyon said he would talk with village mayor Vicky Daly and report back to the board.

**RPT. OF MTG.
WITH WASTE
MGMT. ABOUT
TRUCK TRAFFIC
ON RT. 21 THRU
PALMYRA**

- 3. Waste Management Report of Meeting: Dave Lyon, Nelson Cook and Lynne Green, representing the town, attended a meeting on May 27 with Waste Management at their High Acres landfill facility. The meeting concerned truck traffic headed for the landfill which has become a nuisance for residents of Route 21 south of the village, as well as village residents on Canandaigua Street. Also in attendance were Joan Grela, from Senator Nozzolio's office, Bill and Lois Parsons, Ed Wheeler and Agnes Griffith, village residents, and Jeff Kocian, from Waste Management. The group learned about the process of collecting refuse, transporting it to landfills, as well as strict regulations which govern what can and cannot be done, and where. A variety of ideas was expressed, although most had already been thought of or tried.

AGENDA ITEMS

**MTN: APPRV.
LOCAL LAW #3
FOR 2004—
WRITTEN
NOTIFICATION**

- 1. Local Law No. 3 of the year 2004—written notification of defects and obstructions on town highways, bridges, streets, sidewalks, crosswalks and culverts: Mike Lambrix made the motion to approve the proposed Local Law No. 3 of the year 2004 entitled "A Local Law Amending Local Law No. 2 of the Year 1977, providing for written

notification of defects and obstructions on town highways and bridges, streets, sidewalks, crosswalks and culverts in the Town of Palmyra'. This was the subject of the hearing earlier in the town board meeting.

Second: Ken Miller

Vote: 5 ayes

PROPOSED
LOCAL LAW 3 OF THE YEAR 2004
TOWN OF PALMYRA, NEW YORK

A LOCAL LAW AMENDING LOCAL LAW NO 2 OF THE YEAR 1977
PROVIDING FOR WRITTEN NOTIFICATION OF DEFECTS AND
OBSTRUCTIONS ON TOWN HIGHWAYS AND BRIDGES, STREETS,
SIDEWALKS, CROSSWALKS AND CULVERTS IN THE TOWN OF PALMYRA"

BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF PALMYRA, NEW YORK AS FOLLOWS:

SECTION 1. THAT LOCAL LAW NO. 2 FOR THE YEAR 1977 ENTITLED "WRITTEN NOTIFICATION OF DEFECTS AND OBSTRUCTIONS ON TOWN HIGHWAYS AND SIDEWALKS OF THE TOWN OF PALMYRA" WHICH WAS AMENDED BY AMENDING THE TITLE BY LOCAL LAW NO. 3 FOR THE YEAR 1995, CHANGING THE TITLE TO "A LOCAL LAW PROVIDING FOR WRITTEN NOTIFICATION OF DEFECTS AND OBSTRUCTIONS ON TOWN HIGHWAYS, BRIDGES, STREETS, SIDEWALKS, CROSSWALKS AND CULVERTS IN THE TOWN OF PALMYRA" IS HEREBY AMENDED TO READ AS FOLLOWS:

1. Section 1. No civil actions shall be maintained against the town or town superintendent of highways for damages or injuries to person or property sustained by reason of any highway, bridge, street, sidewalk, crosswalk or culvert being defective, out of repair, unsafe, dangerous or obstructed unless written notice of such defective, unsafe, dangerous, or obstructed condition of such highway, bridge, street, sidewalk, crosswalk or culvert was actually given to the town clerk or town superintendent of highways, and there was a failure or neglect within a reasonable time after the giving of such notice to repair or remove the defect, danger or obstructions complained of. No such action shall be maintained for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any highway, bridge, street, sidewalk, crosswalk or culvert, unless written notice thereof, specifying the particular place, was actually given to the town clerk or town superintendent of highways and there was failure or neglect to cause such snow or ice to be removed or to make the place otherwise reasonably safe within a reasonable time after the receipt of such notice.

2. Section 2. The town superintendent of highways shall transmit in writing to the town clerk within ten days after the receipt thereof all written notices received pursuant to this local law and subdivision 2 of section 65-a of the Town Law. The town clerk shall cause all written notices received pursuant to this local law and

subdivision 2 of section 65-a of the Town Law, to be presented to the town board within ten days of the receipt thereof or at the next succeeding town board meeting whichever shall be sooner.

3. Section 3. This local law shall supersede in its application of the Town of Palmyra subdivisions 1 and 3 of section 65-a of the Town Law.

SECTION 2. EFFECTIVE DATE

This local law shall take effect immediately after filing in the office of the Department of State.

Dated: May 27, 2004
Lyndall Ann P. Green
Palmyra Town Clerk

**MTN: APPRV.
SUA EXPANDED
PERMIT—
HARGRAVE—
FOR CEDAR HILL
KENNELS**

- 2. Special Use Permit expansion—Dwight & Shelly Hargrave: Dave Nussbaumer made the motion to approve the application for a special use authorization modification made by Dwight and Shelly Hargrave for Cedar Hill Kennels, 1400 Hammond Rd., Palmyra.

Second: Mike Lambrix Vote: 5 ayes

**MTN: APPRV.
SUA EXPANDED
PERMIT—
BOUWENS—
BUTCH'S BODY
SHOP**

- 3. Special Use Permit expansion—Herland Bouwens, Jr: Ken Miller made the motion to approve the application for a special use authorization modification made by Herland Bouwens, Jr. for Butch's Body Shop, 5110 Route 31 West, Newark.

Second: Jim Welch Vote: 4 ayes
(Mike Lambrix abstained because he works next to Butch's and felt there might be a conflict of interest.)

**MTN: SET
HEARING DATE -
--PATRICIA
JOHNSON
POTTERY SHOP
FOR 6/24/2004**

- 4. Set hearing date for Special Use Variance for Pottery Shop: Patricia Johnson wants to open a pottery shop business in her home, 1976 Division Street. Mike Lambrix made the motion to schedule the public hearing date for 8:00 p.m. on Thursday, June 24 at the Palmyra Town Hall.

Second: Dave Nussbaumer Vote: 5 ayes

**MTN: SET
HEARING DATE--
-ULTIMATE
RECYCLED
PLASTICS FOR
6/24/2004**

- 5. Set hearing date for Special Use Permit modification—Ultimate Recycled Plastics: Donald Reeners wishes to add 4 storage silos at his business, Ultimate Recycled Plastics, 889 Port Gibson Road. Mike Lambrix made the motion to schedule the public hearing date for 8:15 p.m. on Thursday, June 24 at the Palmyra Town Hall.

Second: Dave Nussbaumer

Vote: 5 ayes

- 6. Changes to intermunicipal agreements: Three agreements made between the town and village of Palmyra were reviewed by both municipalities. Certain updates were worked on and were presented to each board for approval:

CHANGES TO INTER-MUNICIPAL AGREEMENTS WITH VILLAGE:

- a. Highway:

**INTERMUNICIPAL AGREEMENT
FOR ADMINISTRATION, MAINTENANCE, AND REPAIR
OF VILLAGE HIGHWAY SYSTEM**

HIGHWAY—ADMINISTRATION, MAINTENANCE & REPAIR

THIS AGREEMENT made this 27th day of May, 2004, by and between:

The **Village Board of the Village of Palmyra**, a municipal corporation with principal address at 144 East Main Street, Palmyra, NY 14522, hereinafter referred to as the "Village," and

The **Town Board of the Town of Palmyra**, a municipal corporation with principal address at 1180 Canandaigua Road, Palmyra, New York 14522, hereinafter referred to as the "Town."

WITNESSETH

WHEREAS, on or about May 27, 1996, the Town and the Village entered into a cooperative agreement pursuant to article 5-G of the General Municipal Law, wherein the Town and Village entered into an intermunicipal effort to provide highway services to the residents of the Village, and

WHEREAS, the term of said agreement was for a period of three years, expiring May 31, 1999, and

WHEREAS, the parties hereto extended the original agreement terminating May 31, 1999, by a new agreement executed July 22, 1999, extending this agreement to May 31, 2004.

WHEREAS, the Town and Village have found economies and efficiencies resulting from such intermunicipal agreement in the best interests of both the Town and Village and mutually advantageous, and desire to enter into another intermunicipal agreement for the same purposes, and

WHEREAS, the Town and Village are authorized to enter into a cooperative agreement pursuant to article 5-G of the General Municipal Law of the State of New York for the Town to provide highway department superintendence and related services to the Village, and

WHEREAS, the Town and Village have reached agreement as to the terms and conditions of such intermunicipal contract and are desirous of memorializing their understandings, expectations, and representations as to their agreement, and

WHEREAS, the respective governing boards of the Town and Village have, by a majority vote, approved the actions set forth in this agreement and approved the execution thereof by its appropriate executive officer;

NOW, THEREFORE, in consideration of the premises and the covenants hereinafter set forth, the Town and Village agree as follows:

1. General Agreement:

(A) During the term of this agreement, the Town Highway Superintendent shall manage and supervise the village highway department utilizing existing forces, machinery, and equipment, and incurring such expenditures as authorized by the Village Board and consistent with the village budget adopted pursuant to Village Law, to the extent funds and manpower are made available. The Town Highway Superintendent's performance of these duties shall not interfere with the Town Highway Superintendent's obligations to the Town.

(B) The Town Highway Superintendent shall be responsible for (i) managing and scheduling the use and maintenance of all village vehicles and equipment deployed for village highway department use and (ii) managing and supervising the village employees deployed to the village highway department.

(C) The Town Highway Superintendent shall be responsible for the costs of maintenance and repair in good operational order of the village vehicles and equipment deployed for highway department purposes, except that the Village shall be responsible for the cost of replacement of engines and transmissions in such village vehicles where such engines and transmissions cannot be reasonably repaired.

(D) The Village shall retain financial and operational responsibility for scheduling deployment and maintenance of equipment used primarily by the Village Parks Department, including lawn mowers and similar types of small equipment.

(E) The Town and Village shall remain responsible for their own equipment purchases, and any funds realized from the sale of such equipment shall be retained by the municipality owning such equipment.

(F) It is contemplated that there may be times when equipment and/or personnel of one municipality may be used in performance of services to another municipality. To the extent such services are not required under the contract, or otherwise included in the town's customary services to the village, the parties agree that a record of hours and expenses involved in performing such services shall be kept and the municipality that performed such services shall be reimbursed for the actual labor costs and expenses incurred by the municipality in performing such services. A quarterly accounting shall be rendered by each municipality to the other on a schedule to be agreed upon, with any payment to be made in the form of in-kind services to be agreed upon by the parties. At the end of the contract period all accounts, unless renewed, shall be balanced and any outstanding obligations paid in cash.

2. Duration:

This agreement shall be for a term of five years, said term to commence June 1, 2004, and to end on May 31, 2009.

3. Operational Planning and Budget:

The Town Highway Superintendent shall develop, in cooperation with village officials, long term plans for street/sidewalk improvements, maintenance, and repairs of infrastructure, as well as preparing a budget submission for highway purposes in time for adoption in each village budget year covering the terms of this agreement.

4. Joint Board:

The activities set forth in this agreement shall be monitored on a day-to-day basis by a joint board made up of the village trustee in charge of highway and his/her elected counterpart from the town, which shall meet with the Town Highway Department Superintendent at least monthly. However, no change may be made to the terms of this agreement, except by majority vote of the governing body of each participating municipality followed by the execution of a written addendum to this agreement.

5. (A) The Village hereby agrees to pay the Town for services provided for under section 1(A) and (B) of this agreement the sum of \$18,000 for each year this contract is in effect, and pay to the Town for services provided for under section 1 (C) of this agreement the sum of \$15,000 for each year this contract is in effect, for the total annual payment of \$33,000 payable in equal monthly installments of \$2,750.00

(B) Each year this contract is in effect, the Village shall pay to the Town the sum of \$3,000 for the incremental costs resulting from the contemplated combining of town and village highway facilities. The Village will make this payment prior to July 1 of each year this contract is in effect and the Town will deposit said sum into a capital reserve account created or to be created for the improvement of the town highway facility used for common purposes pursuant to this agreement.

6. Indemnification and Insurance:

(A) The Village agrees to indemnify, defend, and hold harmless the Town and its Highway Superintendent from any and all actions, claims, losses, and expenses (including reasonable attorneys' fees and expenses) for the acts, omissions, or decisions of the Town, its agents, employees, under this agreement. The Town shall add the Village as an additional insured on its liability policy, which shall remain in full force and effect during the term of this agreement.

(B) The Town agrees to indemnify, defend, and hold harmless the Village from any and all actions, claims, losses, and expenses (including reasonable attorneys' fees and expenses) for the acts, omissions, or decisions of the Village, its agents, employees, invitees, and those under its control with respect to all matters covered under this agreement. The Village shall add the Town and its Highway Superintendent as additional insureds on its liability policy, which shall remain in full force and effect during the term of this agreement.

IN WITNESS WHEREOF, the parties have caused this agreement to be executed by their respective duly authorized officers on the day and year first above written.

VILLAGE OF PALMYRA
Victoria W. Daly, Mayor
TOWN OF PALMYRA
David C. Lyon, Supervisor

Dave Lyon noted that certain updates benefited the town, such as raising the contribution for salary and benefits from \$16,500 to \$18,000 per year, for equipment repairs from \$13,000 to \$15,000, and for common highway facilities from \$2,000 to \$3,000 per year.

Mike Lambrix made the motion to accept the updated agreement with the village for cooperative highway services.

Second: Dave Nussbaumer

Vote: 5 ayes

**MTN: ACCEPT
UPGRADED
AGREEMENT
FOR
COOPERATIVE
HIGHWAY
SERVICES**

b. Zoning:

**ZONING—
ADMINISTRATN
& ENFORCMENT
OF ZONING &
BLDG. CODES &
PLANNING
SERVICES**

**AMENDMENT OF
INTERMUNICIPAL AGREEMENT FOR
ADMINISTRATION AND ENFORMENT OF ZONING AND
BUILDING CODES AND PLANNING SERVICES**

THIS AGREEMENT made this 27th day of May, 2004, by and between :

The Village Board of the Village of Palmyra, a municipal corporation with principal address at 144 East Main Street, Palmyra, New York 14522, (hereinafter referred to as the "Village," and

The Town Board of the Town of Palmyra, a municipal corporation with principal address at 201 East Main Street, Palmyra, NY 14522, (hereinafter referred to as the "Town").

RECITATIONS:

1. The parties hereto entered into a municipal agreement for the Administration and Enforcement of Zoning and Building Codes and Planning Services, dated November 18, 1996.

2. The parties desire to amend Article IV of the Agreement to evaluate the services as rendered.

NOW, THEREFORE, in consideration of the mutual premises herein, it is agreed as follows:

1. Section 4.1 Term is hereby amended to eliminate the second five-year period which was to commence January 1, 2005, and terminate December 31, 2009.

2. Section 4.1 Term will be amended to read as follows: "Unless sooner terminated pursuant to the terms of this article, this Agreement shall take effect on the 1st day of December, 1996, and shall continue until December 31, 1999, and shall be renewed for one successive period of five (5) years and a single successive period of one year commencing January 1, 2005 and ending December 31, 2005. The parties waive any notice of cancellation and relinquish any right to cancel this Agreement until December 31, 2005.

3. Section 4.2.2 Payments is hereby amended to read as follows:

(A) The parties agree that they shall share the cost of the operation of the Building Department as follows:

The Town shall pay 60%

The Village shall pay 40%

(B) The Village shall pay a sum monthly, equal to 1/12 of the sum determined by multiplying 40% times the net budget amount. Said monthly sum is due on the first of each month during the term of this Agreement.

(C) At the end of the calendar year, the income and expenses of the Building Department shall be calculated without the municipalities' contributions. The actual net cost of the operation of the Building Department shall be determined and the resultant figure shall be multiplied by 40%. The Village shall within thirty (30) days of notice of the difference between the actual monthly payment and the amount due, shall pay the said difference to the Town. If it shall be determined that the Village has overpaid, the Town shall repay to the Village said overpayment within thirty (30) days of the date the amount is delivered.

(D) Any sum due from the Village to the Town or the Town to the Village, pursuant to this paragraph set forth above shall bear interest at 6%, if not paid within sixty (60) days of the notification of the amount due.

(E) The Village agrees to pay monthly the sum of \$2,000.00 during the calendar year of 2005.

4. Section 5.1 Office is amended to read as follows: "As additional consideration for the amendment of this agreement, the Town shall supply a suitable location for an office for the Building Department during the year when this Agreement is in effect. Upon the termination or expiration of this Agreement, the aforesaid location shall be vacated by the Building Department, unless otherwise agreed by the Town and Village."

5. All of the other terms and conditions of the Agreement dated November 18, 1996, not herein amended are hereby ratified and approved as if set forth at length herein.

IN WITNESS WHEREOF the parties have caused this Agreement to be executed by their respective duly authorized officer on the day and year first above written.

VILLAGE OF PALMYRA
Victoria W. Daly, Mayor
TOWN OF PALMYRA
David C. Lyon, Supervisor

Dave Lyon added the changes were made because the time spent in planning and zoning dealing with village issues was more than anticipated, and the adjustments more truly reflect the percentages. Dan Wooden and Bob Grier will keep track of times. Since the Code Enforcement office is here, the rental of office space by the village for this service needed to be addressed. A cooperative agreement was reached whereby town rental of courtroom and court office space could be balanced by the rental of office space used in Code Enforcement for village needs.

Dave Nussbaumer made the motion to accept the terms of the updated zoning/code enforcement agreement with the village.

Second: Mike Lambrix

Vote: 5 ayes

c. Courts:

LEASE MODIFICATION AGREEMENT

Made this 27th day of May, 2004, between:

Village of Palmyra, a municipal corporation (benefit) with an office at 144 East Main Street, Palmyra, New York 14522, party of the first part, and

Town of Palmyra, a municipal benefit corporation with an office at 1180 Canandaigua Road, Palmyra, NY 14522, party of the second part.

**MTN: ACCEPT
TERMS OF
UPDATED
ZONING/CODE
ENFORCEMENT
AGREEMENT
WITH VILLAGE**

**COURTS:
LEASE
MODIFICATION
AGREEMENT**

RECITATIONS:

1. The parties hereto entered into a lease agreement dated April 22, 2003, to allow the Town to use the "Village Court Room" and "Town Justice's Office" in the Village Hall at 144 East Main Street, Palmyra, New York.

2. The Lease Agreement commenced January 1, 2004, and terminated December 31, 2006.

3. The rental reserved in the Lease Agreement was FOUR THOUSAND DOLLARS (\$4,000.00) per calendar year.

4. At the time the parties entered into the Lease Agreement, there were other consideration in establishing the annual rental.

5. The parties wish to modify the Agreement only as to the annual rental.

NOW, THEREFORE, in consideration of the mutual premises herein, it is agreed as follows:

1. The annual rental will be Two Thousand Dollars (\$2,000.00) for the calendar year 2005 to be paid as follows: \$166.66 per month in advance on the first day of each month in 2005.

2. There will be no annual rental for the use of the leased premises in the calendar year 2006.

3. The Lease Agreement will terminate on December 31, 2006.

4. All the other terms and conditions of the Agreement dated April 22, 2003, for use of the "Town Justice's Office" and the "Village Court Room" not herein amended will remain as set forth in the original Agreement between the parties hereto.

5. The parties represent to each other that this amended Agreement has been approved by their respective Board.

WITNESS, the hands and seals of the said parties, the day and year first above written.

VILLAGE OF PALMYRA

Victoria W. Daly, Mayor

TOWN OF PALMYRA

David C. Lyon, Supervisor

**MTN: ACCEPT
TERMS OF
UPDATED COURTS
LEASE
AGREEMENT WITH
VILLAGE**

Dave Nussbaumer made the motion to accept the terms of the updated courts lease agreement with the village.

Second: Ken Miller

Vote: 5 ayes

**K&D DISPOSAL
CONTRACT FOR
COMMUNITY
TRASH DISPOSAL
AT TOWN BARN**

7. K&D Disposal contract for trash disposal at Town Barns: The contract that the Town has made with K&D Disposal to be available on Saturday mornings at the Town Barns on Kent Street, as a convenience for residents, especially if they need to dispose of things such as appliances, has been poorly attended. Although advertisements have been placed in local newspapers, there are an average of 3 to 4 people per Saturday. K&D Disposal has requested that a modification be made to the agreement which states that residents can go to K&D's Garnsey Road facility to dispose of their unwanted items and trash, instead of using the Town Barns. Other conditions would remain the same. If the

board consensus is to continue, they would work out the new terms for a contract to be presented at the June 24 meeting and a motion could be made at that time.

8. Agreement with Stuart I. Brown Associates for grantwriting services:

For the proposed sewer project from East Foster Street, with easements to Rolfe Street, Bear Hill Drive to Route 21, and to Crestwood Drive, Stuart I. Brown Associates have agreed to prepare the grant application for submission to the EPA at a cost of \$2,000. The fee would include all costs. We are hoping this application, with the help of our Congressman Jim Walsh, would successfully bring in about \$230,000 in grant funds to the town which, along with some funding from the town, could allow this project to be accomplished.

Motion was made by Dave Nussbaumer to accept the agreement with Stuart Brown for preparing the EPA application for sewer improvements at a cost of \$2,000.

Second: Michael Lambrix

Vote: 5 ayes

**MTN: ACCEPT
AGREEMENT
WITH STUART
I. BROWN
ASSOC. TO
PREPARE EPA
APPLICATION
FOR SEWER
APPROVEMTS**

9. Abstract #65: Motion was made by David Nussbaumer to approve the claims and expenditures as shown on Abstract #65:

Voucher Numbers
5133 – 5232

Total
\$148,651.87

Second: Mike Lambrix

Vote: 5 ayes

**MTN: APPRV.
ABSTRACT #65**

10. Motion to adjourn: Motion to adjourn was made at 9:38 p.m. by Mike Lambrix.

Second: Ken Miller

Vote: 5 ayes

**MTN:
ADJOURN
MEETING**

Respectfully submitted,

Lyndall Ann P. Green
Palmyra Town Clerk

**Next town board meeting is scheduled for Thursday, June 24, 2004
at 8 p.m. at the Town Hall**