

**PUBLIC HEARING
PROPOSED LOCAL LAW #2 OF 1999
THE PROPERTY NUISANCE ABATEMENT LAW
OF THE TOWN OF PALMYRA**

The Public Hearing scheduled to be held on Thursday, May 27, 1999, at the Palmyra Town Clerk's Office, 201 East Main Street, Palmyra, New York, was called to order at 8:00 PM by Town Supervisor David C. Lyon.

CALL TO ORDER

Those present at this public hearing, in addition to the Town Board, included the following:

- Jon Heerkens SAW Environmental, 81 O'Connor Rd., Fairport, NY 14450
- Petra Anderson Clerk to the Supervisor
- Robert K. Jagger 4193 Hogback Hill Rd., Palmyra NY 14522
- Nelson F. Cook Highway Superintendent
- Kris Dreessen Daily Messenger
- Robert A. Grier Code Enforcement Officer

David Nussbaumer, Councilmember, moved to wave the reading of the legal notice, as published in the Courier-Journal. Seconded by Michael Lambrix, Councilmember. Carried Unanimously.

**MTN TO
WAIVE
READING
OF LEGAL
NOTICE
FOR
PUBLIC
HEARING**

Supervisor Lyon then opened the floor to the public for questions and comments.

Robert Jagger commented that in his opinion this proposed law gives the Code Enforcement Officer (CEO) almost dictatorial powers. Supervisor Lyon responded that the Town Board has the control. Robert Grier, CEO, clarified that the CEO reports to the Town Board which then makes any decisions. Mr. Jagger said the CEO can walk in without a complaint, and Mr. Grier replied that he can do that now without this law. Mr. Jagger emphasized this law makes it more so. David Nussbaumer explained this law shortens the time for the Board to act upon a problem.

Kris Dreessen commented the Board had mentioned the possibility of establishing a fund for property cleanup and

recouping the money from the property owner. She wanted to know if that had been decided. Supervisor Lyon replied the funds would come from the Building and Zoning budget, and that it wouldn't be a major amount of money. Mr. Grier explained that Section 11 of the proposed Law explains how that's done. Ms. Dreessen asked for clarification, and if Section 11 states the money will come from the property owner. Mr. Grier said there are a number of ways to do it. Ms. Dreessen asked if auction was an option, to which Mr. Grier replied; "sure".

Supervisor Lyon commented that the whole thing is a last resort, and the same laws have been enacted around us. Bob Grier said this law is a carbon copy of the Walworth law.

Lynne Green, Councilmember, offered that she was delighted to see this law, and that it had been extremely frustrating to have the CEO trying to work with the property owners with no recourse. She believes the neighbors of these nuisance properties will be pleased.

Jon Heerkens, resident of Macedon, remarked that in his opinion Macedon doesn't have tough zoning laws, and that tough zoning laws protect property values.

Supervisor Lyon asked those present if there were any more comments or questions regarding this proposed local law; there were none. He then asked the Board Members if they had any comments or questions and again there were none. Supervisor Lyon declared this public hearing closed at 8:10 PM.

**PUBLIC HEARING
CLOSED**

REGULAR TOWN BOARD MEETING

The regular meeting of the Town Board, Town of Palmyra, scheduled to be held on Thursday, May 27 at the Town Clerk's Office, 201 East Main Street, Palmyra, was called to order at 8:10

**CALL TO
ORDER**

PM by Town Supervisor David C. Lyon. 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:

Town Supervisor -	David C. Lyon
Town Board Members -	David Nussbaumer
	Lynne Green
	Michael Lambrix
	James Welch

ROLL CALL

David Nussbaumer moved to approve the minutes of the April 22, 1999 and May 13, 1999 Town Board Meeting as submitted.

MTN TO APPROVE MINUTES

Seconded by: James Welch

Carried: Unanimously

COMMUNICATIONS

1. 1999 Crop Walk report (held Saturday, May 2)
2. Memorial Day parade reminder: Monday, May 31, 9:00 AM in Palmyra, in East Palmyra immediately following ceremony at the cemetery (approximately 10AM)
3. Economic Development Committee - Spring Fest - Saturday, June 12
4. Relay for Life - July 30, 8:00 PM at Wayne County Fairgrounds
5. Wayne County Board of Elections - Election Machine Custodian Notice of Instruction and Certification - August 10-11, Canandaigua

REPORTS OF STANDING COMMITTEES

Assessment Committee - Lynne Green, Chairman

1. Assessor Update

ASSESSOR'S REPORT

Lynne Green read the written report submitted by Ann Vingee Taber Sole Assessor, Town of Palmyra. Said report can be found in the folder entitled "Assessor Update/Code Enforcement Officer Update" and kept with these minutes

Highway Committee - David Nussbaumer, Chairman

1. Preliminary Municipal Auction report (held Saturday, May 15)

MUNICIPAL AUCTION PRELIM REPORT

Highway Superintendent Nelson Cook reported unofficial gross sales of 2.6 million dollars from the Equipment Auction. He will have final figures at the June meeting.

2. Highway Superintendent Update

Mr. Cook reported roadside mowing had started throughout the Town. Stafford Road is scheduled for resurfacing & shoulders next week, along with the shoulders on Jeffery Road. Topsoil and slope work will also be done. He expects all to be completed by the third week in June. Mr. Lambrix asked about VerPlank's property on the corner of NYS Rt. 21 North and Jeffery Road; Mr. Cook stated it would be taken care of this year.

**BUDGET
ADJ**

3. Budget Adjustment

Councilmember Nussbaumer moved to approve increasing the 1999 Budget for the following funds, explaining it is the amount of the Bond Anticipation Note (BAN) that was used to finance a portion of the sweeper:

DA Highway	DA5130.2/Machinery Equip	\$50,000.00
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Seconded by: Michael Lambrix Carried: Unanimously

Planning Committee - James Welch, Chairman

1. CEO Update

**CEO
UPDATE**

Mr. Grier submitted his schedule for May, to be kept with these minutes. He reported on several on-going projects and pending court cases.

**2. Proposal to remove and bioremediate
contaminated soil**

**SAW
ENVIRONMENTAL -
BIOREMEDIATION
PROPOSAL**

Mr. Jon Heerkens, Director of Geo Technical Services, SAW Environmental Services, Inc. asked to make a presentation to the Board in hopes of obtaining preliminary approval on his concept. Supervisor Lyon told him they would not be issuing any type of approvals tonight, but would listen to his proposal. Mr. Heerkens has been approached by several local businesses regarding removal of contaminated soil so that they may bring their operations into compliance with local, State and Federal codes. The proposal is to form a company to purchase the Steffen gravel pit property on NYS Route 21 North. This property has a very good base for this type of project.

Contaminated soil (predominately petroleum contaminants) would be trucked to this site, where it would be bioremediated, or neutralized. Gravel would be removed from the site to replace the contaminated soil at the original locations. When the soil is remediated it would be used for cover at the Steffen site. The benefit to the Town, according to Mr. Heerkens, is that services would remain in the Town, perhaps funding environmental escrows.

Councilmember Nussbaumer asked how long it takes to remediate the soil, and Mr. Heerkens replied one year.

Supervisor Lyon asked what was in it for the Town, that it sounds like they'd be bringing in bad soil and taking out good gravel. Mr. Heerkens replied the gravel pit would be properly restored by this process. He then asked the Board if the concept has potential, to which Supervisor Lyon replied that he didn't think he had a problem with it.

Zoning Committee - Michael Lambrix, Chairman

- 1. Proposed Local Law #2 of 1999 – Subject of Public Hearing

**MTN TO APPRV
LL#2 OF 1999 -
PROP NUISANCE
ABATEMENT
LAW**

Michael Lambrix made a motion to approve Proposed Local Law #2 of 1999 – The Property Nuisance Abatement Law of the Town of Palmyra, as follows:

Local Law #2 of 1999

The Property Nuisance Abatement Law of the Town of Palmyra

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Section 1. Title

This local law shall be known as "The Property Nuisance Abatement Law of the Town of Palmyra."

Section 2. Purposes.

Dangerous and unsafe buildings, structures, and premises threaten life and property in the Town of Palmyra and constitute nuisances. Premises, whether occupied or unoccupied by human beings, improved or not, may become nuisances, dangerous and unsafe, by reason of faulty design or construction, failure to maintain a proper state of repair, lack of proper sanitary facilities, lack of adequate lighting or ventilation, inability to heat properly, failure of adequate maintenance, fire damage, age or general deterioration, violation of state or local codes, laws, rules or regulations, or any combination of these or other factors that create a hazard to the community. This law provides for the safety, health, protection and general welfare of the persons and property of and in the Town of Palmyra by requiring that such unsafe premises be repaired, cured, cleared, cleaned, vacated or demolished.

Section 3. Declaration as public nuisances.

All unsafe premises within the terms of this law are hereby declared to be public nuisances and shall be repaired, cured, cleared, cleaned, vacated or demolished as hereinafter provided.

Section 4. Definitions

As used in this chapter, the following terms shall have the meanings indicated:

BUILDING - Any building, structure or portion thereof used for any or no purpose, whether vacant or occupied, including residential, business, agricultural or industrial purposes.

BUILDING INSPECTOR - The Building Inspector of the Town of Palmyra or such other person appointed by the Town Board to enforce the provisions of this law.

THE TOWN - The Town of Palmyra

THE TOWN BOARD - The Town Board of the Town of Palmyra

UNSAFE PREMISES - Real property and/or any improvements, buildings, structures, equipment thereon or installations therein, including electrical, gas, water, sewer or septic service, whether above or below ground surface, that have become or are so dilapidated, decayed, unsafe, unsanitary, a fire hazard or are likely to cause injury, sickness or disease and, therefore, are a danger to the health, safety or general welfare of those residing in or upon the property or adjacent same or to the citizens of the Town of Palmyra at large. "Unsafe premises" are further defined as properties that, because of their condition, are otherwise unsafe, unsanitary or dangerous to the people of the Town of Palmyra. "Unsafe properties" shall also be those properties that are in violation of the New York State Uniform Fire Prevention and Building Code, the New York State Public Health Law, the New York State Sanitary Code, and such violations of the Zoning Law of the Town of Palmyra and other local laws and ordinances declared to be public nuisances by the Town Board by resolution. "Unsafe premises" may include the whole or any portion of any real property described in a deed recorded in the Office of the Wayne County Clerk or on the tax rolls and tax map of the Town of Palmyra, Wayne County. "Unsafe premises" may be improved or unimproved real property, containing buildings and/or consisting of vacant land.

Section 5. Duties of Building Inspector.

When in his opinion or upon receipt of information that any property is or may become unsafe premises within the meaning of this law, the Building Inspector shall cause or make an inspection thereof and report, in writing, to the Town Board his findings and recommendations in regard to its being vacated, repaired, secured for safety purposes or demolished and removed.

Section 6. Town Board order.

The Town Board shall thereafter consider such report and by resolution determine, if, in its opinion and judgment, the report so warrants, that such building or premises is unsafe or dangerous and order its repair, if the same can be safely repaired, its securing for safety purposes and/or its demolition and removal and further order that a notice be served upon the persons designated in section 8 of this law and in the manner provided therein.

Section 7. Contents of notice.

This notice shall contain the following:

- A. A description of the premises.
- B. A statement of the particulars in which the building or property is unsafe or dangerous.

- C. A statement outlining the manner in which the building or property is to be made safe and secure or demolished and removed.
- D. An order that the repair, vacating, securing or removal of such building or condition (nuisance) shall commence within thirty (30) days of the service of the notice and shall be completed within sixty (60) days thereafter, unless for good cause shown such time shall be extended.
- E. A date, time and place for a hearing before the Town Board in relation to such dangerous or unsafe premises, which hearing shall be scheduled not less than five (5) business days from the date of service of the notice.
- F. A statement that, in the event of neglect or refusal to comply with the order to secure or demolish and remove or correct such condition (nuisance), the Town Board is authorized to provide for its repair, securing or its demolition and removal as the case may be. to assess all expenses thereof against the land on which it is located and/or to institute a special proceeding to collect the cost or repair, including legal and engineering expenses.

Section 8. Service of notice.

The notice required under this law shall be served upon the owner, his executors, legal representatives, agent, lessee, or any other person having a vested or contingent interest in such unsafe premises or building, as shown by the records of the town assessor or of the Wayne County Clerk. Service shall be made either personally or by registered or certified mail, addressed to the last known address, if any, of the owner, his executors, legal representative, agent, lessee, or other person having a vested or contingent interest in such unsafe premises or buildings as aforesaid identified. If service is made by registered or certified mail, a copy of the notice shall be posted on the premises.

Section 9. Filing of copy of notice.

A copy of the notice served as provided herein shall be filed in the office of the Clerk of the County of Wayne and with the Town Clerk of the Town of Palmyra

Section 10. Failure to comply.

In the event of the refusal or neglect of the person so notified to comply with said order of the Town Board and after the hearing, the Town Board shall provide for the repair, vacating, securing or demolition and removal, as the case may be, of such building or property, either by town employees or by contract. Except in emergency cases as provided for herein, any contract for repair, securing or demolition and removal, as the case may be, shall be awarded in accordance with the provisions of the General Municipal Law of the State of New York.

All expenses incurred by the town in connection with the proceedings to repair and secure or demolish and remove the unsafe building or property including the cost of actually removing such building or correcting such condition or nuisance or repairing the same shall be assessed against the land on which such building or condition or nuisance is located and shall

be levied and collected in the same manner as provided for in the Town Law for the levy and collection of town taxes or special ad valorem levies.

Section 12. Emergency cases.

Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property, unless an unsafe building or condition or nuisance is immediately repaired and secured or demolished, the Town Board may, by resolution, authorize the Building Inspector to cause immediately the repair, vacating, securing or demolition of such unsafe building or correction of such condition (nuisance). The expenses of such repair, vacating, securing or demolition or correction of such condition (nuisance) shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided for under section 11 of this chapter.

Section 13. Administrative liability; defense by Town Attorney.

No officer, agent or employee of the town shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent or employee of the town as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the Town Attorney until the final determination of the proceedings thereon.

Seconded: David Nussbaumer Carried: Unanimously

2. Proposed Infrastructure Inspection Agreement

Mr. Lambrix reported this Agreement is still in Committee and will be presented as soon as it's ready, perhaps by the June meeting.

3. Canaltown Park

Mr. Lambrix reported Mr. Morrison's reports and fees paid to the Town are now current.

AGENDA ITEMS

1. Election Machine Custodian Training

David Nussbaumer moved to approve \$160 for a two-day training session for Lyman Kaller, Election Machine Custodian to be held from 8:00 AM to 4:00 PM August 10 & 11 in Canandaigua.

Seconded by: Michael Lambrix Carried: Unanimously

2. Intermunicipal Agreement – Sewage Collection and Treatment Service

**MTN TO APPV
ELECTION
MACHINE
CUSTODIAN
TRAINING**

**MTN TO APPV
INTERMUNI
AGR FOR
SEWAGE
COLLECTION
AND
TREATMENT
SERVICE**

David Nussbaumer moved to approve the Intermunicipal Agreement for Sewage Collection and Treatment between the Town and Village of Palmyra.

Seconded by: Michael Lambrix Carried: Unanimously

3. Intermunicipal Agreement – Highway Services

Supervisor Lyon is awaiting the final draft of this agreement.

4. Sewer Meter pit quotes

David Nussbaumer moved to accept the quote from the low bidder, Rylbrook, Inc., of Macedon, NY in the amount of \$13,450.00. This project is to furnish and install the necessary equipment to record sanitary flows on Stafford Road from the Town into the Village of Palmyra.

Seconded by: Michael Lambrix Carried: Unanimously

5. Blue Cross – Blue Shield Tier Plan

Petra Anderson, Clerk to the Supervisor, reported to the Board that the Town had been notified its drug rider medical insurance premiums will be rising effective August 1, 1999. The Town must specify continuing the current drug coverage, due to increase 7.2%, or to switch to the new Three Tier Drug Coverage with a net increase of 1.7%. Michael Lambrix moved to switch to the Three Tier Drug Coverage effective August 1, 1999.

Seconded by: David Nussbaumer Carried: Unanimously

BUDGET ADJ

6. Budget Adjustments Supervisor Lyon reported the necessity of changing the budget to list payrolls for Becky Remington and Ron Hickman as separate line items. These items were budgeted for 1999 under contractual expense.

Michael Lambrix moved to approve increasing the 1999 Budget for the following funds:

General Fund	General Fund
SARA Grant/Cont Expense	SARA Grant/Pers Svcs
A1460.4 \$ 585.00	A1460.1 \$ 585.00

General Fund
 Shared Bldgs/Cont Exp
 A1620.4 \$ 1114.00

General Fund
 Shared Bldgs/Pers Svcs
 A1620.1 \$ 1114.00

Seconded by: Lynne Green

Carried: Unanimously

Following a review of the claims and expenditures, Michael Lambrix moved to approve payment of the expenditures as shown on Abstract #5 with totals as follows:

**MTN TO APPV
 PAYMENT OF
 CLAIMS**

<u>Account</u>	<u>Vouchers</u>	<u>Amount</u>
General	158 – 194	\$ 10,858.01
Part Town	77 - 98	2,122.75
DA Highway	168 – 195	14,271.74
DB Highway	18 – 26	3,836.34
FE East Water	1	925.00
FC Central Water	1	60,707.50
FX CWD Ext #1	1 – 2	9,366.99
FW Consolidated Water	3 – 4	17,168.16
HW Water Tank Project	7	14,526.20

Seconded by: David Nussbaumer

Carried: Unanimously

Michael Lambrix moved to adjourn this meeting of the Town Board.

**MOTION
 TO
 ADJOURN**

Seconded by: David Nussbaumer

Carried: Unanimously

Respectfully submitted,

Catherine C. Contant
 Deputy Town Clerk