

**PUBLIC HEARING
TERRI YOUNG – SPECIAL USE AUTHORIZATION**

The Public Hearing scheduled to be held on Thursday, September 26, 2002 at the Palmyra Town Hall, Palmyra, New York to consider the application of Terri Young, 3113 Shilling Road, for a special use authorization to operate a barber shop in her home was called to order at 8:00 PM by Town Supervisor David Lyon.

**PUBLIC HRG – T.
YOUNG – SPECIAL
USE
AUTHORIZATION**

Those present at this public hearing:

Town Board Members: David C. Lyon, Supervisor
David Nussbaumer, Councilmember
Lynne Green, Councilmember
Michael Lambrix, Councilmember
James Welch, Councilmember

Also present at this public hearing:

Robert A. Grier, Code Enforcement Officer
Terri Young, 3113 Shilling Road, Palmyra
Sylvia Lyon, Palmyra
Tracey Curry, *Courier-Journal*
Julie Philipp, *Daily Messenger*

The legal notice was read by the Town Clerk as follows:

LEGAL NOTICE

**TOWN OF PALMYRA
TERRI YOUNG – SPECIAL USE AUTHORIZATION**

NOTICE IS HEREBY GIVEN, that the Town Board of the Town of Palmyra will hold a Public Hearing on Thursday, September 26, 2002 at 8:00 PM at the Palmyra Town Hall, 1180 Canandaigua Road, Palmyra, NY to consider the application of Terri Young, 3113 Shilling Road, Marion, NY 14505, for a Special Use Authorization to operate a Barber Shop at her home.

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 3113 Shilling Road, and is bounded on the north by property reputedly owned by Penny Vanlare, Tax Parcel #65003-00-742687, on the east by Shilling Road, and on the south and west by property reputedly owned by James Redmond, Tax Parcel #65113-00-711613.

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, 9:00 AM – 5:00 PM.

By Order of the Town Board
Dated: August 22, 2002
Catherine C. Contant, Town Clerk

Supervisor Lyon asked Ms. Young to tell the Board about her project. Ms. Young explained she would like to operate a barber shop out of the front porch in her home on a part-time, appointment-only basis. She expects appointments 3 days per week.

Councilmember Nussbaumer asked how many clients would be there at one time, and Ms. Young replied at the most one coming, one going. Mr. Nussbaumer asked if there is enough room for cars, and Ms. Young said yes.

Supervisor Lyon opened the floor to public comment; there was none.

Mr. Nussbaumer explained to Ms. Young that if the Board approves her request for a special use authorization, the Board would require a list of conditions to be adhered to, which she would need to sign in agreement before beginning operation.

Code Enforcement Officer Robert Grier commented that this is a normal in-home business operation.

**PUBLIC HRG
CLOSED**

Supervisor Lyon asked if there were any more questions or comments about the proposed Special Use Authorization application from Ms. Young. Hearing none, he declared the hearing closed at 8:05 PM.

REGULAR MEETING OF THE TOWN BOARD

**REGULAR
MEETING
CALL TO
ORDER**

The regular meeting of the Town Board, Town of Palmyra, scheduled to be held on Thursday, September 26, 2002, at the Palmyra Town Hall, 1180 Canandaigua Road, Palmyra, NY, was called to order at 8:06 PM by Town Supervisor David C. Lyon.

**PLEDGE OF
ALLEGIANCE**

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

Upon roll call, the following board members were present:

ROLL CALL

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

Also present at this meeting:

Robert A. Grier, Code Enforcement Officer
 Sylvia Lyon, Palmyra
 Tracey Curry, *Courier-Journal*
 Julie Philipp, *Daily Messenger*

COMMUNICATIONS

**COMMUNI-
CATIONS**

1. Rabies Clinic
 To be held at the Macedon Highway Garage on October 3, 7–9 PM,
 and at the Marion Highway Garage on October 4, 7-9 PM.

2. New hire
 Town Clerk Cathy Contant announced the appointment of Joan
 Gates as Deputy Clerk, effective September 23, 2002. Ms. Gates
 will work in the Town Clerk’s Office and the Assessor’s Office.

**APPT –
JOAN
GATES**

Motion by David Nussbaumer to approve the minutes of the August
 22, 2002 Town Board meeting.
 Second: Michael Lambrix

Carried: Unanimously

**MTN –
APPRV
MINUTES
OF
6/22/2002**

REPORTS OF STANDING COMMITTEES

Tourism and Development Committee – Lynne Green, Chair

**TOURISM
COMM.**

1. Committee Chair Lynne Green explained her desire to establish
 a clock museum at the Town Hall from the collection of Palmyra
 residents Mr. and Mrs. Bavis. She would like to apply for grants
 and other sources of funding to build cases for display of the
 cuckoo clocks. The Board agreed informally to allow Ms. Green
 to look into the project without using Town funds.

2. Canal Guide Advertising
 Motion by Lynne Green to purchase advertising in the next New
 York State Canal Guide in an amount not to exceed \$200,
 expense to be shared equally with the Village of Palmyra.

**MTN: NYS
CANAL
GUIDE AD
WITH
VILLAGE**

CEO REPORT

Second: David Nussbaumer

Carried: Unanimously

Highway Committee – Michael Lambrix, Chair

- 1. No report at this time.

MASTER PLAN UPDATE

Planning Committee – James Welch, Chair

- 1. CEO Robert Grier’s monthly schedule for September was distributed to the Board, and is on file at the Clerk’s office.

Zoning Committee – David Nussbaumer, Chair

- 1. Master Plan update

Committee Chairman Nussbaumer advised the Board that the Master Plan Committee has disbanded. Mayor Daly outlined the steps to be taken:

“The Master Plan Committee (Mike Boesel, Steve Cleason, Jim Elliott, Dave Nussbaumer, Cindy Surline, Vicky Daly) has had its final meeting. The conclusions reached and the next steps are as follows:

- The Master Plan must be revisited because of technical shortcomings in the SEQR process (as per Paul Rubery).
- The Committee concluded that the best course of action was to redo the SEQR and redo the steps necessary to complete the process. To that end, the Town of Palmyra will act as lead agency in the SEQR process. The Town will also obtain the services of an attorney knowledgeable in this area of law. We will be required to split the cost of this service. The Village will receive appropriate paperwork for out agreement to that arrangement.
- The process will continue through the public hearing(s), discussion and passage by both municipalities.
- It is the Committee’s recommendation that the Master Plan for which the new SEQR will be written and which will go to the public is the one which has already been approved by the Town and Village.
- It is my strong feeling that any change in village zoning ordinances should occur only after the Master Plan has been approved.”

SPECIAL USE AUTHORIZATION – T. YOUNG

AGENDA ITEMS

ASSESSOR’S REPORT

- 1. Special Use Authorization, T. Young – Subject of Public Hearing

Councilmember David Nussbaumer made a motion to approve the Special Use Authorization application submitted by Terri Young with conditions to be drawn up by Mr. Nussbaumer and CEO Robert Grier.

Second: Michael Lambrix

Carried: Unanimously

- 2. Assessor’s Monthly Report

Received and on file in the Town Clerk's office.

3. Tentative Budget – 2003

The Tentative Budget for 2003 was presented to the Town Board by the Town Clerk.

Motion to accept the Tentative Budget for 2003 by David Nussbaumer.

Second: Michael Lambrix

Carried: Unanimously

**MTN –
ACCEPT 2003
TENTATIVE
BUDGET**

4. Power Personnel Lease Agreement

Motion by David Nussbaumer to authorize the Supervisor to sign the new Lease Agreement with Power Personnel as follows:

**MTN: POWER
PERSONNEL
LEASE AGR**

REAL ESTATE LEASE

This Lease Agreement (this "Lease") is dated October 1, 2002, by and between Town of Palmyra ("Landlord"), and Power Personnel ("Tenant"). The parties agree as follows:

PREMISES. Landlord, in consideration of the lease payments provided in this Lease, leases to Tenant two rooms in the landlord's building as agreed. (the "Premises") located at 1180 Canandaigua Rd, Palmyra, NY 14522.

TERM. The lease term will begin on October 1, 2002 and will terminate on September 30, 2002. This lease supercedes all previous lease agreements between Landlord and Tenant.

LEASE PAYMENTS. Tenant shall pay to Landlord monthly installments of \$450.00, payable in advance on the fourth day of each month. Lease payments shall be made to the Landlord at 1180 Canandaigua Rd, Palmyra, NY 14522, which address may be changed from time to time by the Landlord.

SECURITY DEPOSIT. At the time of the signing of this Lease, Tenant shall pay to Landlord, in trust, a security deposit of \$450.00 to be held and disbursed for Tenant damages to the Premises (if any) as provided by law.

POSSESSION. Tenant shall be entitled to possession on the first day of the term of this Lease, and shall yield possession to Landlord on the last day of the term of this Lease, unless otherwise agreed by both parties in writing. At the expiration of the term, Tenant shall remove its goods and effects and peaceably yield up the Premises to Landlord in as good a condition as when delivered to Tenant, ordinary wear and tear excepted.

PROPERTY INSURANCE. Landlord and Tenant shall each maintain appropriate insurance for their respective interests in the Premises and property located on the Premises. Landlord shall be named as an additional insured in such policies. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies. Tenant shall also maintain any other insurance which Landlord may reasonably require for the protection of Landlord's interest in the Premises. Tenant is responsible for maintaining casualty insurance on its own property.

LIABILITY INSURANCE. Tenant shall maintain liability insurance on the Premises in a total aggregate sum of at least \$0.00. Tenant shall deliver appropriate evidence to Landlord as proof that adequate insurance is in force issued by companies reasonably satisfactory to Landlord. Landlord shall receive advance written notice from the insurer prior to any termination of such insurance policies.

RENEWAL TERMS. This Lease shall automatically renew for an additional period of one year, unless either party gives written notice of termination no later than 15 days prior to the end of the term or renewal term. The lease terms during any such renewal term shall be the same as those contained in this Lease except that the lease installment payments shall be \$450.00 per month.

UTILITIES AND SERVICES.

Landlord shall be responsible for the following utilities and services in connection with the Premises:

- electricity
- water and sewer
- gas
- heating
- garbage and trash disposal
- janitorial services

Tenant shall be responsible for the following utilities and services in connection with the Premises:

- telephone service
- initial or end-lease communications costs; telephone or data lines to be installed or removed.

Tenant acknowledges that Landlord has fully explained to Tenant the utility rates, charges and services for which Tenant will be required to pay to Landlord (if any), other than those to be paid directly to the third-party provider.

TAXES. Taxes attributable to the Premises or the use of the Premises shall be allocated as follows:

REAL ESTATE TAXES. Landlord shall pay all real estate taxes and assessments for the Premises.

PERSONAL TAXES. Landlord shall pay all personal taxes and any other charges which may be levied against the Premises and which are attributable to Tenant's use of the Premises, along with all sales and/or use taxes (if any) that may be due in connection with lease payments.

TERMINATION UPON SALE OF PREMISES. Notwithstanding any other provision of this Lease, Landlord may terminate this lease upon 30 days' written notice to Tenant that the Premises have been sold.

DESTRUCTION OR CONDEMNATION OF PREMISES. If the Premises are partially destroyed by fire or other casualty to an extent that prevents the conducting of Tenant's use of the Premises in a normal manner, and if the damage is reasonably repairable within sixty days after the occurrence of the destruction, and if the cost of repair is less than \$0.00, Landlord shall repair the Premises and a just proportion of the lease payments shall abate during the period of the repair according to the extent to which the Premises have been rendered untenable. However, if the damage is not repairable within sixty days, or if the cost of repair is \$0.00 or more, or if Landlord is prevented from

repairing the damage by forces beyond Landlord's control, or if the property is condemned, this Lease shall terminate upon twenty days' written notice of such event or condition by either party and any unearned rent paid in advance by Tenant shall be apportioned and refunded to it. Tenant shall give Landlord immediate notice of any damage to the Premises.

DEFAULTS. Tenant shall be in default of this Lease if Tenant fails to fulfill any lease obligation or term by which Tenant is bound. Subject to any governing provisions of law to the contrary, if Tenant fails to cure any financial obligation within 5 days (or any other obligation within 10 days) after written notice of such default is provided by Landlord to Tenant, Landlord may take possession of the Premises without further notice (to the extent permitted by law), and without prejudicing Landlord's rights to damages. In the alternative, Landlord may elect to cure any default and the cost of such action shall be added to Tenant's financial obligations under this Lease. Tenant shall pay all costs, damages, and expenses (including reasonable attorney fees and expenses) suffered by Landlord by reason of Tenant's defaults. All sums of money or charges required to be paid by Tenant under this Lease shall be additional rent, whether or not such sums or charges are designated as "additional rent". The rights provided by this paragraph are cumulative in nature and are in addition to any other rights afforded by law.

LATE PAYMENTS. For any payment that is not paid within 15 days after its due date, Tenant shall pay a late fee of \$20.00.

HOLDOVER. If Tenant maintains possession of the Premises for any period after the termination of this Lease ("Holdover Period"), Tenant shall pay to Landlord lease payment(s) during the Holdover Period at a rate equal to the normal payment rate set forth in the Renewal Terms paragraph.

CUMULATIVE RIGHTS. The rights of the parties under this Lease are cumulative, and shall not be construed as exclusive unless otherwise required by law.

NON-SUFFICIENT FUNDS. Tenant shall be charged \$15.00 for each check that is returned to Landlord for lack of sufficient funds.

REMODELING OR STRUCTURAL IMPROVEMENTS. Tenant shall have the obligation to conduct any construction or remodeling (at Tenant's expense) that may be required to use the Premises as specified above. Tenant may also construct such fixtures on the Premises (at Tenant's expense) that appropriately facilitate its use for such purposes. Such construction shall be undertaken and such fixtures may be erected only with the prior written consent of the Landlord which shall not be unreasonably withheld. Tenant shall not install awnings or advertisements on any part of the Premises without Landlord's prior written consent. At the end of the lease term, Tenant shall be entitled to remove (or at the request of Landlord shall remove) such fixtures, and shall restore the Premises to substantially the same condition of the Premises at the commencement of this Lease.

Tenant may install one window or door at their expense between their two offices to be approved by the Palmyra Town Code Enforcement Officer.

ACCESS BY LANDLORD TO PREMISES. Subject to Tenant's consent (which shall not be unreasonably withheld), Landlord shall have the right to enter the Premises to make inspections, provide necessary services, or show the unit to prospective buyers, mortgagees, tenants or workers. However, Landlord does not assume any liability for the care or supervision of the Premises. As provided

by law, in the case of an emergency, Landlord may enter the Premises without Tenant's consent. During the last three months of this Lease, or any extension of this Lease, Landlord shall be allowed to display the usual "To Let" signs and show the Premises to prospective tenants.

INDEMNITY REGARDING USE OF PREMISES. To the extent permitted by law, Tenant agrees to indemnify, hold harmless, and defend Landlord from and against any and all losses, claims, liabilities, and expenses, including reasonable attorney fees, if any, which Landlord may suffer or incur in connection with Tenant's possession, use or misuse of the Premises, except Landlord's act or negligence.

DANGEROUS MATERIALS. Tenant shall not keep or have on the Premises any article or thing of a dangerous, flammable, or explosive character that might substantially increase the danger of fire on the Premises, or that might be considered hazardous by a responsible insurance company, unless the prior written consent of Landlord is obtained and proof of adequate insurance protection is provided by Tenant to Landlord.

COMPLIANCE WITH REGULATIONS. Tenant shall promptly comply with all laws, ordinances, requirements and regulations of the federal, state, county, municipal and other authorities, and the fire insurance underwriters. However, Tenant shall not by this provision be required to make alterations to the exterior of the building or alterations of a structural nature.

MECHANICS LIENS. Neither the Tenant nor anyone claiming through the Tenant shall have the right to file mechanics liens or any other kind of lien on the Premises and the filing of this Lease constitutes notice that such liens are invalid. Further, Tenant agrees to (1) give actual advance notice to any contractors, subcontractors or suppliers of goods, labor, or services that such liens will not be valid, and (2) take whatever additional steps that are necessary in order to keep the premises free of all liens resulting from construction done by or for the Tenant.

SUBORDINATION OF LEASE. This Lease is subordinate to any mortgage that now exists, or may be given later by Landlord, with respect to the Premises.

ASSIGNABILITY/SUBLETTING. Tenant may not assign or sublease any interest in the Premises, nor effect a change in the majority ownership of the Tenant (from the ownership existing at the inception of this lease), nor assign, mortgage or pledge this Lease, without the prior written consent of Landlord, which shall not be unreasonably withheld.

NOTICE. Notices under this Lease shall not be deemed valid unless given or served in writing and forwarded by mail, postage prepaid, addressed as follows:

LANDLORD:

Town of Palmyra
1180 Canandaigua Rd
Palmyra, NY 14522

TENANT:

Power Personnel
1344 University Ave
Rochester, NY 14522

Such addresses may be changed from time to time by either party by providing notice as set forth above. Notices mailed in accordance with the above provisions shall be deemed received on the third day after posting.

GOVERNING LAW. This Lease shall be construed in accordance with the laws of the State of New York.

ENTIRE AGREEMENT/AMENDMENT. This Lease Agreement contains the entire agreement of the parties and there are no other promises, conditions, understandings or other agreements, whether oral or written, relating to the subject matter of this Lease. This Lease may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

SEVERABILITY. If any portion of this Lease shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Lease is invalid or unenforceable, but that by limiting such provision, it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

WAIVER. The failure of either party to enforce any provisions of this Lease shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Lease.

BINDING EFFECT. The provisions of this Lease shall be binding upon and inure to the benefit of both parties and their respective legal representatives, successors and assigns.

Second: Michael Lambrix Carried: Unanimously

5. Set Public Hearing Date – Palmyra Fire Department, East Palmyra Fire Department, Port Gibson Fire Department
Motion by Michael Lambrix to set Thursday, October 24 at 8:00 PM at the East Palmyra Fire Hall as the time, date and location to hold a public hearing to consider the fire contracts with the Village of Palmyra, East Palmyra and Port Gibson for the year 2003.

MTN: SET PUBLIC HRG DATE – FIRE CONTRACTS

Second: David Nussbaumer Carried: Unanimously

6. Approval to apply for grant for Hydesville Road water with Arcadia
Motion by Michael Lambrix to apply for a grant with the Town of Arcadia with the intent of extending public water on Hydesville Road in the Towns of Palmyra and Arcadia.

MTN: APPLY FOR WATER GRANT WITH ARCADIA ON HYDESVILLE RD.

Second: David Nussbaumer Carried: Unanimously

7. Teleconference – Calling All Clerks – Thursday, Oct. 3, Wayne Co. CCE

MTN: CLERK'S CONFERENCE FEES

Motion by David Lyon to have the Town pay registration fees for any Town employee who wishes to attend the Teleconference entitled "Calling All Clerks" to be held Thursday, October 3, 2002 at the Wayne County Cooperative Extension on NYS Route 88 in Newark at a cost of \$10.00 per person.

Second: Michael Lambrix Carried: Unanimously

**MTN: TAX
COLLECTORS'
CONFERENCE
FEES**

8. Tax Collectors and Receivers Conference – Oct. 23, Canandaigua

Motion by David Nussbaumer to have the Town pay registration fees for any Town employee who wishes to attend the Tax Collectors and Receivers Conference to be held October 23, 2002 at Canandaigua Inn on the Lake in Canandaigua, NY at a cost of \$50 per person.

Second: Michael Lambrix Carried: 4 ayes; Lynne Green abstained as she will attend this conference.

**MTN:
DEFERRED
COMP MODEL
PLAN**

9. Resolution – Deferred Compensation Model Plan

Motion by David Nussbaumer as follows:

Resolution to Amend and Restate the Deferred Compensation Model Plan

WHEREAS, the New York State Deferred Compensation Board (the "Board"), pursuant to Section 5 of the New York Finance Law ("Section 5") and the Regulations of the New York State Deferred Compensation Board (the "Regulations"), has promulgated the Model Deferred Compensation Plan for Employees of the Town of Palmyra (the "Model Plan") and offers the Model Plan for adoption by local employers;

WHEREAS, The Town of Palmyra, pursuant to Section 5 and the Regulations, has adopted and currently administers the Model Plan known as the Deferred Compensation Plan for Employees of the Town of Palmyra;

WHEREAS, effective January 1, 2002, the Board amended the Model Plan to adopt provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001 ("EGTRRA") as they apply to the Model Plan and to adopt modifications that update certain administrative provisions to accommodate prospective state-of-the-art methods and procedures;

WHEREAS, the Board has offered for adoption the amended and restated Model Plan to each Model Plan sponsored by a local employer in accordance with the Regulations; and

WHEREAS, upon due deliberation, the Town of Palmyra has concluded that it is prudent and appropriate to amend the Deferred Compensation Plan for Employees of the Town of Palmyra by adopting the amended and restated Model Plan.

NOW, THEREFORE, BE IT

RESOLVED, that the Town of Palmyra hereby amends the Deferred Compensation Plan for Employees of the Town of Palmyra effective September 26, 2002 by adopting the amended and restated Model Plan effective January 1, 2002, in the form attached hereto as Exhibit A.

IN WITNESS WHEREOF, the undersigned have executed this Resolution in Wayne County, New York this September 26, 2002 and directed that it be filed as appropriate.

Second: Michael Lambrix

Carried: Unanimously

10. Set Public Hearing date – Preliminary Budget 2003

Motion by David Lyon to Set Thursday, November 7 at 7:30 PM at the Palmyra Town Hall as the date, time and location to hold a public hearing on the Tentative 2003 Budget for the Town of Palmyra.

**MTN: SET
PUBLIC HRG
DATE – 2003
TENTATIVE
BUDGET**

Second: Michael Lambrix

Carried: Unanimously

11. Next meeting

Supervisor Lyon announced there will be a Budget Workshop on October 7 at 7:30 PM at the Town Hall.

Motion by David Nussbaumer to approve payment of vouchers and claims as shown on Abstract 42 as follows:

**MTN: APRV
ABSTRACT
#42**

Voucher #'s	Total
3157 - 3263	\$65,464.06

Second: Michael Lambrix

Carried: Unanimously

Motion by David Nussbaumer to adjourn this meeting of the Town Board at 8:37 PM.

MTN TO ADJ.

Second by: Michael Lambrix

Carried: Unanimously

Respectfully submitted,

Catherine C. Contant
Town Clerk