

## REGULAR MEETING OF THE TOWN BOARD

Town Supervisor David C. Lyon announced that the Public Hearing scheduled to be held at 7:30 PM on November 21, 2002 at the Palmyra Town Hall for Charlene Roberts' Special Use Authorization has been cancelled due to the withdrawal of the application by the applicant.

**PUBLIC  
HEARING  
CANCELLED – C.  
ROBERTS**

The regular meeting of the Town Board, Town of Palmyra, scheduled to be held on Thursday, November 21, 2002, at the Palmyra Town Hall, 1180 Canandaigua Road, Palmyra, NY, was called to order at 7:30 PM by Town Supervisor David C. 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:

**ROLL CALL**

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

Also present at this meeting:

Nelson F. Cook, Superintendent of Highways  
Tracey Curry, *Courier-Journal*  
Julie Philipp, *Daily Messenger*  
Ken Phillips, 3543 Walworth-Marion Road, Marion  
Dave Blankenberg, 1877 Welcher Road, Newark

### COMMUNICATIONS

**COMMUNICA-  
TIONS**

#### 1. Resignation of Town Councilmember

The Town Clerk announced receipt of written resignation from the Town Board from Town Councilmember Lynne Green, effective November 30, 2002.

**RESIGNATION  
OF TOWN  
COUNCILMAN**

#### 2. Resignation of Deputy Town Clerk

The Town Clerk announced receipt of written resignation from Deputy Town Clerk Carol D'Ambrosia, effective December 20, 2002.

**RESIGNATION  
OF DEPUTY  
TOWN CLERK**

**APPT. OF TEMP.  
CLERK**

3. Appointment of Temporary Clerk  
The Town Clerk announced the appointment of Lynne Green as a Temporary Clerk effective December 1, 2002 at a pay rate of \$16.04 per hour.

4. Wayne County Museums Open House December 1  
Participants include William Phelps General Store, Palmyra Historical Museum, and the Book of Mormon Historic Publication Site. 12 Noon to 5:00 PM.

**PETITION REC'D-  
LUSK RD SPEED  
LIMIT  
REDUCTION  
REQUEST**

5. Receipt of Petition from Lusk Road residents requesting speed reduction zone

"To Whom It May Concern: 11-16-02  
We, the residents of Lusk Rd. Palmyra N.Y. would like to have our speed limit reduced for the following reasons, to 40 MPH.

1. Sight distance for most of our driveways is not sufficient for safely using our driveways.
2. Lusk Rd. is .6/mile long with 2 35MPH curves almost equally dividing it into .20/mile segments."

Signed by:

Randy Loucks	4030 Lusk Road
Robert D. Canham	4102 Lusk Road
John J. Schoonmaker	4107 Lusk Road
Brenda DeToye	4103 Lusk Road
Millie Loucks	4007 Lusk Road
Richard F. Loucks	4007 Lusk Road
Albert Young	2484 Shilling Road
Thomas P. Spiak	4094 Lusk Road
Ronald S. Martin	4047 Lusk Road
Brenda J. Mousso-Martin	4047 Lusk Road

6. Invitation from Village – Village Board meeting – Empire Zone Designation

From Village Clerk Alicia Lynch – January 20, 2003 village board meeting, Village Hall, 7:00 PM. A representative will be on hand to discuss the Empire Zone Designation.

**MTN: APPR.  
MINUTES OF  
OCT. 24, 31 AND  
NOV. 7, 2002  
TOWN BOARD  
MTGS.**

Motion by Michael Lambrix to approve the minutes of the October 24, October 31 and November 7, 2002 Town Board meetings.

Second: James Welch

Carried:

Unanimously, except that Councilmember Nussbaumer abstained on the minutes from the November 7, 2002 meeting due to his absence.

**REPORTS OF STANDING COMMITTEES**

**Tourism and Development Committee – Lynne Green, Chair**

- 1. No report.

**Highway Committee – Michael Lambrix, Chair**

- 1. Wayne County Snow & Ice Agreement

Motion by Michael Lambrix to approve the 2002-2003 contract with the County of Wayne for snow and ice removal on county roads within the Town of Palmyra in the lump-sum fee per mile of \$3080 as follows:

**MTN: APRV.  
2002-2003  
WAYNE CO.  
SNOW & ICE  
AGR.**

**AGREEMENT  
SNOW AND ICE CONTROL ON COUNTY ROADS  
(2002-2003 Winter Season)**

THIS AGREEMENT made as of the 1<sup>st</sup> day of October, 2002, by and between the **COUNTY OF WAYNE** ("County"), a municipal corporation of the State of New York, with offices at the Wayne County Court House, 26 Church Street, Lyons, New York 14489, and **TOWN OF PALMYRA** ("Town"), a municipal corporation of the State of New York, with offices at 1180 Canandaigua Road, Palmyra, New York 14522.

WITNESSETH:

WHEREAS, pursuant to Section 135-a of the Highway Law of the State of New York, the Wayne County Board of Supervisors and the Town Board of the Town of Palmyra have duly approved and authorized a contract between the County and the Town for the control of snow and ice conditions on County roads;

WHEREAS, the County in accordance with Wayne County Board of Supervisors Resolution No. 806-02, enacted October 15, 2002, for the provision of equipment and crew for snow and ice control on County Highways during the 2002-2003 winter season, and

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth, the parties agree as follows:

1. TERM

The term of this agreement shall commence on October 1, 2002, and end on May 30, 2003.

2. SCOPE OF SERVICES

A. The Town shall furnish all personnel, equipment, materials and do all work necessary for the removal of snow from all County roads within the boundaries of the Town and for sanding or otherwise treating such roads for the purpose of removing the danger of ice and snow to the extent necessary to provide reasonable passage and movement of vehicles over such roads. The

Town also shall furnish, erect, maintain, and dismantle snow fences on such places on said roads as the Town Superintendent of Highways deems advisable. Compensation for all services performed pursuant to the provisions of this subparagraph shall be paid in accordance with Paragraph4(a) below.

B. All work shall be performed in accordance with methods and procedures approved by the County Superintendent of Highways.

C. The County Superintendent of Highways may, upon written order, stop the work under any part of this agreement if the work of control of snow and ice by the Town is inadequate or unsatisfactory and not being performed in the best interest of the public.

### 3. DESIGNATION OF TOWN REPRESENTATIVE

The Town shall designate and hereby does designate the Town Superintendent of Highways as the representative of the Town who shall be in responsible charge and shall have supervision of the performance of the work under this agreement.

### 4. COMPENSATION AND PAYMENT

A. For all work and services provided by the Town pursuant to Paragraph 2(a) above, the County shall pay the Town in accordance with the Schedule of Town Base Amounts and the NYS Department of Transportation "J" Mile Snow & Ice Payment System as set forth and described in "**Appendix A**" of this agreement.

### 5. ASSIGNMENT AND SUBCONTRACTING

The Town shall not assign or transfer this agreement or any interest arising herein, and shall not enter into subcontract for the performance of the services provided for herein, without the prior written consent of the County .

### 6. INDEMNIFICATION BY COUNTY

A. Except as provided hereafter, the County shall indemnify and hold harmless the Town for any and all liability for damages for personal injury, injury to property, or wrongful death for losses arising from or occasioned by the manner of performance of the functions under this agreement.

B. In no event shall the County be obligated to defend, indemnify or hold harmless the Town in any action, proceeding, claim or demand for bodily injury, property damage, personal injury or wrongful death arising out of the actions of town employees and the operation of town vehicles and equipment while engaged in the performance of snow and ice control functions and the erection, maintenance and dismantlement of snow fences under this agreement.

C. The Town shall be entitled to representation by the County Attorney in any claim described in Paragraph 6 (a), above, provided, however, that the Town shall be entitled to defend itself any such action, proceeding, claim, or demand whenever the County Attorney determines, based upon this investigation and review of the facts and circumstances of the case, that representation by the County Attorney would be inappropriate, or whenever a court of competent jurisdiction determines that a conflict of interest exists and

that the Town is entitled to defend the action itself,' the County shall reimburse the Town for any and all reasonable costs and expenses, including, but not limited to, counsel fees and disbursements.

D. The County shall not indemnify or save harmless the Town with respect to punitive or exemplary damages.

E. The County's obligation to indemnify and save harmless shall be conditioned upon (i) delivery to the County Attorney and to the County Superintendent of Highways of a copy of any claim, summons, complaint, process, notice, demand, or other pleading within ten days after the Town is served with such document and (ii) the full cooperation of the Town in such action, proceeding; claim, or demand and in the defense of any action, proceeding, claim or demand against the County based on the same act or omission, and in the prosecution of any appeal.

#### 7. INDEMNIFICATION BY TOWN

Notwithstanding the limits of any policy of insurance provided or maintained by the Town, the Town shall defend, indemnify, and hold harmless the County and its officers, employees, and agents ,from any and all claims, actions, proceedings, liabilities, damages, and costs (including, but not limited to, attorneys' fees) of every kind and nature arising out of or resulting from the actions of town employees and the operation of town vehicles and equipment while engaged in the performance of snow , and ice control functions and the erection maintenance and dismantlement of snow fences under this agreement.

#### SECTION 8. INSURANCE

A. The Town, at its own cost and expense, shall procure and maintain the following insurance coverages with limits of liability not less than the limits specified:

##### Commercial General Liability

Premises/Operations

Products/Completed Operations Contractual Liability

Independent Contractors Personal Injury

Broad Form Property Damage

Bodily Injury and Property Damage Limit	\$1,000,000 each occurrence
Products/Completed Operations Limit	\$1,000,000 aggregate
Personal Injury and Advertising Injury Limit	\$1,000,000 each person or organization
General Aggregate Limit	\$2,000,000

The County of Wayne and its officers, employees, and agents shall be named as Additional Insureds on a direct primary basis under the policy issued

for these coverages by the use of Endorsement CG2026, Additional Insured Designated Person or Organization.

Automobile Liability

Owned, Hired and Non-Owned Autos  
Combined Single Limit for Bodily Injury  
and Property damage \$1,000,000 each accident

Workers' Compensation and Employers' Liability  
Statutory coverage complying with New York  
Workers' Compensation Law

B. It is expressly understood and agreed by the Town that the insurance requirements specified above, except for Professional Liability, contemplate the use of occurrence liability forms. If claims-made coverage is evidenced to satisfy any of the specified requirements, the Town shall comply with the following requirements:

1. If the claims-made coverage terms designate a specific retroactive date, the Town shall maintain a retroactive date which is not later than the earlier of (a) the date of the commencement of the term of this agreement, or (b) the original coverage retroactive date for the Town's first claims-made policy for each and every coverage provided on a claim-made basis;
2. For the duration of this agreement or any subsequent renewals, if the retroactive date is advanced or if the policy is materially changed, cancelled or not renewed, the Town shall purchase, at its own expense, an Extended Reporting Endorsement. This endorsement must provide an Extended Reporting Period ("Tail" coverage) in compliance with the minimum standards prescribed by the Insurance Department of the State of New York in Regulation No.121 (11 NYCRR 73) or its subsequent amendments or revisions;
3. Upon termination of the services provided to the County by the Town, the Town shall maintain such claims-made coverage without interruption for a period of time equal to the length of any Extended Reporting Period requirement as specified above. If the retroactive date is advanced or if the policy is materially changed, cancelled, or not renewed during this period of time, the Town shall purchase, at its own expense, an Extended Reporting Endorsement that is in compliance with the minimum insurance standards prescribed by the Insurance Department of the State of New York in Regulation No.121 (11 NYCRR 73) or its subsequent amendments or revisions.

C. The insurance carriers providing the above coverages shall be licensed to do so in New York State and shall also be rated no lower than "B+" by the most recent Best's Key Rating Guide or Best's Agent's Guide or must be otherwise acceptable to the County Board of Supervisors.

D. Upon execution of this Agreement, the Town shall furnish the County with original Certificates of Insurance evidencing that policies of insurance are maintained which conform to the insurance requirements set out above.

All insurance policies required herein shall be specifically endorsed to provide that in the event of cancellation, non-renewal or material change on the part of the insurer, 30 days prior written notice shall be provided to the County of Wayne, Office of the County Attorney, County Courthouse, 26 Church Street, Lyons, New York 14489, and the inclusion of such an endorsement shall be confirmed on the Certificate of Insurance required herein.

The Town shall use the Wayne County Standard Insurance Certificate Form furnished by the County, a copy of which is attached hereto and marked "**Appendix B**", except that an ACORD form Certificate of Insurance may be used provided the acknowledgment set forth in Section VI on the County Standard Insurance Certificate is added verbatim to the form and the ACORD Certificate provides for thirty (30) days notice of cancellation, non-renewal or material change to Wayne County, in the event of cancellation by the insurer, in accordance with the requirements above.

#### 9. PARAGRAPH HEADINGS

The paragraph headings in this agreement are inserted for convenience of reference only and are not be construed as defining, modifying, or limiting, in any way, the scope or intent of the provisions of the agreement.

#### 10. ENTIRE AGREEMENT

It is understood and agreed that this entire agreement of the parties is contained herein and that this agreement supersedes all oral agreements and negotiations between the parties relating to the subject matter thereof. Any alterations, amendments, deletions, or waivers of the provisions of this agreement shall be valid only when expressed in writing and duly signed by the parties.

Second: David Nussbaumer

Carried: Unanimously

#### **Planning Committee – James Welch, Chair**

**MTN: APRV. CEO  
NOV. REPORT**

##### 1. CEO Monthly Report

Motion by James Welch to approve the CEO's monthly report for November 2002 as submitted.

Second: Michael Lambrix

Carried: Unanimously

#### **Zoning Committee – David Nussbaumer, Chair**

**MTN: ZONING  
BD. APPT.**

Motion by David Nussbaumer to reappoint Donald J. Seier, 2364 Maple Avenue, Palmyra, to a term of service on the Town of Palmyra Zoning Board of Appeals, to expire September 30, 2007.

Second by: James Welch

Carried: Unanimously

**AGENDA ITEMS**

## 1. Assessor's Monthly Report

**MTN: APPR.  
ASSESSOR'S  
NOV 2002  
REPORT**

Motion by Michael Lambrix to approve the Assessor's monthly report for November 2002 as submitted.

Second: David Nussbaumer

Carried: Unanimously

## 2. Garnsey-Shilling Area Water District – Agreement with Stuart Brown Associates – grant consultant

**MTN TO  
APRV:  
GSAWD AGR  
STUART  
BROWN  
ASSOCIATES**

Motion by Michael Lambrix to approve the agreement with Stuart Brown Associates for grant consultation services on the Garnsey-Shilling Area Water District as follows:

**TOWN OF PALMYRA  
GARNSEY-SHILLING AREA WATER DISTRICT  
RURAL DEVELOPMENT APPLICATION AND  
PROJECT MANAGEMENT SERVICES**

A. Grant Assistance Services

In order to assist the Town of Palmyra in securing financial assistance from Rural Development for the construction of improvements to the public water system serving the Town of Palmyra Garnsey-Shilling Area Water District, the consultant will coordinate the completion of the application package specified in the letter of November 6, 2002 from USDA to Supervisor Lyon. The consultant will coordinate this activity with the Town Board, Town Attorney, Bond Counsel and Project Engineer and will be responsible for preparing the Environmental Report and the Notices of Intent for submission to the NYS Department of Agriculture and Markets.

B. Project Management Services

In order to assist the Town of Palmyra in the implementation of the project to be assisted with funding from Rural Development for the construction of improvements to the public water supply system serving the Town of Palmyra Garnsey-Shilling Area Water District, the Consultant will carry out the following administrative activities.

1. Assist the Town in developing and maintaining the financial management system required to carry out the project.
2. Assist the Town in complying with all applicable Federal rules and regulations in carrying out the project.
3. Review all requests for payment and advise the Town regarding the disposition of these requests.
4. Prepare required grantee performance reports for submission to Rural Development.



5. Coordinate all project activities in accordance with program guidelines and provide reports to the Town throughout the project.
6. Serve as the agent of the Town in dealing with the Project Engineer, contractors and other project participants.
7. Advise the Town regarding procurement procedures, including the selection of the firm to prepare the single audit and the purchase of materials and contractual services.
8. Review all contract documents and recommend actions as may be appropriate.
9. Insure compliance with Federal requirements in the preparation of bid documents, advertising for bids and the selection of a contractor.
10. Attend pre-construction meetings, define Federal requirements and define the contractor's responsibilities.
11. Maintain contact with representatives of Rural Development to insure the effective administration of the project.
12. Assist the Town in obtaining interim financing to carry out the project and the necessary documents to obtain long term financing from Rural Development.
13. Prepare program amendments or modifications as may be required in order to respond to changing conditions and insure the timely implementation of the project.
14. Prepare the final close out documents for submission to Rural Development.

C. General Provisions

1. Under no circumstances shall the Town be obligated to pay for any services that may be performed under Section B above until such time as Rural Development has obligated funds for the project improvements and the Town has authorized the consultant, in writing, to provide these services.
2. The Consultant shall maintain the necessary staff to insure the orderly and efficient administration of the program.
3. The Consultant shall submit periodic progress reports to the Town summarizing the status of the program. Problem areas will be identified and actions taken to resolve these problems reported.
4. Town shall pay the Consultant the sum of \$5,000 for the completion of the application for submission to Rural Development. This payment is due and payable within thirty (30) days following the submission of the application.
5. The Town shall pay the Consultant the sum of \$5,000 for the completion of the Project Management Services. Progress payments for the completion of

these tasks shall be made in five equal installments consistent with the schedule of milestones appended hereto as Attachment A.

6. The Consultant acknowledges and agrees that the fee for its services indicated in Paragraph C, 4 and 5 above, shall not be increased for any reason without the prior written consent of the Town.
7. This contract shall terminate upon the acceptance by Rural Development of the final close out report or upon thirty (30) days written notice from one party to the other. Within thirty (30) days of the termination of the contract, the Consultant shall receive compensation for those project milestones which have been completed by the end of the thirty (30) day notice period.

**ATTACHMENT A**  
**Payment Schedule**

<b><u>Payment Number</u></b>	<b><u>Milestone</u></b>
1.	<b>Completion of 25 percent of construction.</b>
2.	<b>Completion of 50 percent of construction.</b>
3.	<b>Completion of 75 percent of construction</b>
4.	<b>Substantial completion of construction.</b>
5.	<b>Submission of final close-out report to RD.</b>

Second: Michael Lambrix Carried: Unanimously

3. Garnsey-Shilling Area Water District – Authorize Stuart Brown Associates to submit application to Rural Development

**MTN. TO  
AUTHORIZE  
STUART BROWN  
ASSOCIATES TO  
SUBMIT GSAWD  
APPLICATION TO  
RURAL DEV.**

Motion by David Nussbaumer to authorize consultant Stuart Brown to submit grant/loan applications to Rural Development on behalf of the Town of Palmyra for the Garnsey-Shilling Area Water District project.

Second: Michael Lambrix Carried: Unanimously

4. Garnsey-Shilling Area Water District – Agreement with Timothy McGill, Esq. – bond counsel

**MTN. TO APRV.  
AGR. WITH  
TIMOTHY  
MCGILL –  
GSAWD**

Motion by Michael Lambrix to approve the agreement with Timothy R. McGill, Esq. For bond counsel services on the Garnsey-Shilling Area Water District project, not to exceed \$5,000 as follows:

November 15,2002\*

Town Board of the  
Town of Palmyra  
Palmyra, New York

Dear Board Members:

I have agreed to serve as bond counsel to the Town of Palmyra, New York. Compensation for my services shall be on the following basis:

1. Each issuance of temporary debt (notes): base charge of \$500, plus \$.75 per thousand dollars of notes issued, payable upon issuance of such obligations; provided, however, that for a note issue through the NYS EFC Revolving Fund the base charge shall be increased by \$750;
2. Each issuance of permanent debt (bonds): base charge of \$2,000, plus \$1.10 per thousand dollars of bonds issued, payable upon issuance of such obligations; provided, however, that for a bond issue through the NYS EFC Revolving Fund or USDA Rural Development the base charge shall be increased by \$1,500;
3. Extraordinary services, conferences or meetings, if requested by the Town, such as arbitrage and rebate analysis, litigation, the drafting of legislation, negotiation and review of incidental contracts, proceedings or ruling requests before the Internal Revenue Service, and the like, or in the event debt is not issued: legal fee at regular hourly rates.

The fees for the services described under paragraphs 1 and 2 above include the preparation of all typical authorizing resolutions and documents and procedures. I would not undertake any such extraordinary services without your prior request.

\* For engagements extending beyond one year from the date hereof, fees will be adjusted annually by the change in the Consumer Price Index, All Urban Consumers -Northeast Urban Rate.

In addition to the legal fee, I render a statement at each closing for out-of-pocket disbursements, the largest of which are typically photocopying, courier services, telephone, fax transmissions and travel expenses, if required.

If acceptable, kindly execute the enclosed copy of this letter in the space provided and return it to me at your convenience. I appreciate this opportunity to be of service and look forward to working with the Town.

Second: David Nussbaumer

Carried: Unanimously

5. Garnsey-Shilling Area Water District – Agreement with MRB Group, Inc. – engineering

Motion by Michael Lambrix to authorize the Supervisor to sign the RD Contract and to approve the proposal for professional services with MRB Group, Inc. relative to the Garnsey-Shilling Area Water District not to exceed \$94,000.

Second: Michael Lambrix

Carried: Unanimously

6. Garnsey-Shilling Area Water District – Agreement with Paul T. Rubery for legal services

**MTN: APRV.  
AGR. WITH MRB  
GROUP & AUTH.  
SUPV TO SIGN  
RD CONTRACT –  
GSAWD**

**MTN: APRV.  
AGR. WITH P.T.  
RUBERY –  
GSAWD**

Motion by Michael Lambrix to approve the agreement with Paul T. Rubery for legal services relative to the Garnsey-Shilling Area Water District not to exceed \$7000.

Second: David Nussbaumer Carried Unanimously

**MTN: REFER  
LUSK RD.  
PETITION TO  
TRAFFIC  
SAFETY BOARD**

7. Lusk Road speed limit petition

Motion by Michael Lambrix to refer petition and request to lower speed limit on Lusk Road to 45 MPH to Traffic Safety Board for recommendation.

Second: James Welch Carried: Unanimously

**MTN: AUTH.  
FEASIBILITY  
STUDY, MRB  
GROUP FOR  
HYDESVILLE RD**

8. Hydesville Road water project – MRB Feasibility Study

Motion by David Nussbaumer to authorize the Feasibility Study (Phase I) for the Hydesville Road Interconnection with MRB Group, Inc. cost of which to be shared with the Town of Arcadia, not to exceed \$1300 for Palmyra’s share.

Second: Michael Lambrix Carried: Unanimously

**MTN: ACCEPT  
RESIGNATION  
OF TOWN  
COUNCILMAN**

9. Motion by David Nussbaumer to accept with regret the resignation of Town Board member Lynne Green.

Second: Michael Lambrix Carried – 4 ayes, Lynne Green abstained.

**MTN: ACCEPT  
RESIGNATION  
OF DEPUTY  
TOWN CLERK**

10. Motion by Michael Lambrix to accept with regret the resignation of Deputy Town Clerk Carol D’Ambrosia.

Second: David Nussbaumer Carried: Unanimously

**MTN: APPR.  
ABSTRACT #44**

Motion by David Nussbaumer to approve the claims and expenditures as shown on Abstract #44 as follows:

Voucher #'s	Total
3343 - 3449	\$63,385.54

Second: Michael Lambrix Carried:  
Unanimously, except that Supervisor Lyon abstained on voucher #3384.

At 7:50 PM Supervisor Lyon declared this meeting of the Town Board to be in recess.

**PUBLIC HEARING  
DAVE BLANKENBERG – SPECIAL USE AUTHORIZATION**

**PUBLIC  
HEARING:  
SPECIAL USE  
AUTH. APPL.  
DAVE  
BLANKENBERG  
– DECLARED  
OPEN**

At 8:00 PM Town Supervisor David Lyon declared open the Public Hearing to consider the Special Use Authorization Application of Dave Blankenberg.

The following were present at this Public Hearing:

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

Also present at this meeting:

- Nelson F. Cook, Superintendent of Highways
- Tracey Curry, *Courier-Journal*
- Julie Philipp, *Daily Messenger*
- Ken Phillips, 3543 Walworth-Marion Road, Marion
- Dave Blankenberg, 1877 Welcher Road, Newark

The Town Clerk read the Legal Notice as published in the Town’s Legal Newspaper, the *Courier-Journal*:

**LEGAL NOTICE  
TOWN OF PALMYRA  
DAVE BLANKENBERG – SPECIAL USE AUTHORIZATION**

**NOTICE IS HEREBY GIVEN**, that the Town Board of the Town of Palmyra will hold a Public Hearing on Thursday, November 21, 2002 at 7:30 PM at the Palmyra Town Hall, 1180 Canandaigua Road, Palmyra, NY to consider the application of Dave Blankenburg, 1877 Welcher Road, Newark, NY 14513, for a Special Use Authorization to operate an Automotive Repair Shop.

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 1666 NYS Route 21 North, and is bounded on the north by property reputedly owned by Raymond Snyder, Jr., Tax Parcel #65111-05-144896, on the east by property reputedly owned by Acorn Valley, LTD, Tax Parcel #65111-05-167877; on the south by property reputedly owned by 1649 Monroe Associates, Inc., Tax Parcel #65111-05-123860 and on the west by New York State 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, 9:00 AM – 5:00 PM.

By Order of the Town Board  
Dated: October 24, 2002  
Catherine C. Contant, Town Clerk

Supervisor Lyon asked Mr. Blankenberg to explain his application to the Board. Mr. Blankenberg stated he would like to open a vehicle repair shop in the rear of the building located at 1666 NYS Route 21 North, recently vacated by B&S Auto. He said this would be a general repair facility, light trucks and cars.

Councilman Welch asked Code Enforcement Officer Robert Grier if he has been in the building, Mr. Grier replied he had not. Mr. Welch questioned whether there is fire separation between the shop part of the building and the beauty salon in the front; Mr. Grier replied he didn't know. Mr. Welch stated this should be a part of the conditions. Councilman Green mentioned fumes. Mr. Welch asked Mr. Grier what the fire separation code is; Mr. Grier replied 5/8" drywall with a fire door. Mr. Blankenberg stated he believed there is a concrete block wall in between the auto shop area and the beauty shop.

Councilman Nussbaumer stated there should be a limit to the number of tires that can be on the property at one time. Mr. Blankenberg was asked his plans for tire removal. He plans on them being picked up every two weeks. He and his partner, Ken Phillips, are now employed at Midas in Canandaigua, and that's how often the tires are picked up. He plans to have new tires on consignment, maybe 50.

Mr. Nussbaumer stated that 30 used tires, plus 50 new ones ought to be plenty to have onsite, and that he'd like to see a limit of 80 tires written into the Special Use conditions.

Mr. Grier suggested Mr. Blankenberg might ask one of the tire suppliers for outside, lockable storage; Mr. Blankenberg said the

Planning Board made it clear there was to be no outside storage, and that he wouldn't trust it, anyway.

Mrs. Green asked if they would be doing minor body repair; Mr. Blankenberg replied they would be doing mechanical repairs only.

Mr. Nussbaumer explained to Mr. Blankenberg that if the Application is approved, he would need to sign his agreement to the Special Use Conditions before beginning operation; Mr. Blankenberg agreed.

Supervisor Lyon asked the Clerk to read the recommendations of the Wayne County Planning Board and the Town of Palmyra Planning Board. The recommendations were read as follows:

Excerpt of a letter to CEO Robert Grier dated October 31, 2002 from Bret DeRoo, Senior Planner, Wayne County Planning Board:

"At its regular meeting on October 30, 2002 the Wayne County Planning Board reviewed the above referenced referral and recommended its Approval."

Excerpt of a letter to Town Clerk Cathy Contant dated November 18, 2002 from Petra Anderson, Planning/Zoning Clerk:

"RE: David Blankenburg

At the November 12<sup>th</sup> meeting the Town Planning Board reviewed the application of David Blankenburg for a special use permit to operate an automobile repair shop at 1666 Route 21 North. The Board recommended approval of the application with the same conditions attached to the special use permit as the previous special use permit granted to B & S Auto in April 1998.

I have attached the minutes from the November 12<sup>th</sup> meeting and a copy of the conditions for B & S Auto's special use permit."

Supervisor Lyon asked if there were any more questions or comments about the Special Use Authorization Application for Dave Blankenberg; there being none, he declared the Public Hearing closed at 8:13 PM.

**PUBLIC HRG –  
DECLARED  
CLOSED**

Supervisor Lyon declared the Town Board meeting back in session at 8:13 PM.

**REGULAR  
BOARD  
MEETING –  
DECLARED  
BACK IN  
SESSION**

David Nussbaumer made the following motion:

**WHEREAS**, the findings of fact as determined by the Town Board, were as follows:

**MTN: APRV.  
SPECIAL USE  
AUTHORIZATION  
– DAVE  
BLANKENBERG**

1. The applicant intends to provide a service for the community.
2. The strict application of the provisions of the Ordinance would deprive the applicants of the reasonable use of the land and building for which the special use is sought.
3. The grant of the special use will not alter the essential character of the locality.

**NOW THEREFORE BE IT RESOLVED**, that the Town Board of the Town of Palmyra does approve a Special use Permit to Dave Blankenberg with the following conditions:

1. Repair areas will be confined to the inside of the building at 1666 NYS Route 21 North.
2. Repairs will be limited to automobiles and light trucks.
3. Storage; to include supplies, parts and vehicles; will be limited to the confines of the building.
4. No outside parking of vehicles will be allowed.
5. Disposal of all hazardous materials is to be off-site, in a timely fashion and in accordance with DEC disposal procedures.
6. Hours of operation will be Mon.-Tues.-Wed.& Fri. 8:00 AM - 5:00 PM; Thurs. 8:00 AM - 7:00 PM and Sat. 8:00 AM - 2:00 PM.
7. No parking along the side of the road will be allowed.
8. Applicant will conform with all regulations of the Zoning Ordinance of the Town of Palmyra at all times.
9. An annual inspection of the property will be done by the Town of Palmyra Code Enforcement Officer.
10. Total number of tires, new and used combined, not to exceed 80 at any one time.
11. This Special Use Authorization is limited to Dave Blankenberg only and is not transferable
12. This Special use Permit including Special Conditions must be agreed to and signed by the applicant in the presence of the Town Clerk or duly authorized Deputy.

Second: Michael Lambrix

Carried: Unanimously

**MTN: ADJ.  
MEETING**

Motion by David Nussbaumer to adjourn this meeting of the Town Board at 8:15 PM.

Second by: Michael Lambrix

Carried: Unanimously

Respectfully submitted,

Catherine C. Contant  
Town Clerk