

**REGULAR MEETING OF THE TOWN BOARD  
PALMYRA TOWN HALL  
January 28, 2021**

At 7:00 p.m., Supervisor Kenneth Miller called to order the Town Board meeting, scheduled for Thursday, January 28, 2021, at the Palmyra Town Hall, 1180 Canandaigua Rd, Palmyra, New York.

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

Upon roll call, the following Board members were present:

Kenneth Miller, Supervisor  
James Welch, Deputy Supervisor  
Brad Cook, Councilman  
Todd Pipitone, Councilman

Councilman Doug DeRue was absent.

Motion was made by Todd Pipitone to approve the minutes of the hearing and regular Town Board meeting which took place on December 29, 2020.

Second: Jim Welch                      Vote: 4 Ayes. Carried

Motion was made by Todd Pipitone to approve the minutes of the Town Board Organizational meeting which took place on January 7, 2021.

Second: Brad Cook                      Vote: 3 Ayes. Carried

Councilman Pipitone abstained as he had been absent from that meeting.

**ATTENDANCE**

Also attending was: EMS Representative Mike Catalano, Don Wilkinson, Marc Carrier, Richard & Nancy Hagar, Frank Vascukynas, and Casey Carpenter (WC Times).

**HEARING**

There was no official hearing this evening.

**GUEST SPEAKER**

Mike Catalano, our representative from the Wayne County EMS Advisory board reported that after the elections last month, he will remain vice chair, and Paul Harkness will remain chair of the Wayne County Advisory Board. Also reported was that Finger Lakes Ambulance was upset that they were not included in the decision to move ahead with utilizing an extra fly car in the county. Some discussion ensued, and it was suggested that we should start enforcing the "status board prioritizing" to perhaps get a quicker response time on calls.

**COMMUNICATIONS RECEIVED**

**Marc Carrier, Garnsey Rd.**

1-26-21  
 Town of Palmyra Board and Supervisor Miller,  
 Neighbors to Palmyra Landfill(s) and industrial chemicals

We have ongoing concerns as you all are very well aware of with extraordinary recorded documentation to this fact.

The handling of information and transparency on behalf of the Town remains in question to say the least, considering this conversation started nearly a decade ago with the Town of Palmyra's Board position to be they weren't sure they even owned property on Garnsey rd. Since then we have had dozens and dozens of troubling exchanges with Town ,State representatives regarding these properties, some of which have justified our grave concerns.

Several months ago during an open meeting Mr. Miller stated very briefly he had received a report regarding the landfill(s) and moved along with the meeting very quickly which has done time and time again when there is any mention of any new information about these dump areas.

The following month when asked about this report he stated ," that it was a draft and not open for public viewing."

We feel the need to remind Mr. Miller he is a Public employee, Speaking about a Public Document, regarding Publically owned Property, during a Public meeting, speaking to Public citizens. And Given the handling or more certainly the mishandling of any records, information , concerns or really anything to do with these dump areas from the time of their conception, you can understand and we hope forgive our skepticism.

To that point we have noticed the months since the last exchange the landfill has apparently been removed from the monthly meeting agenda from where it was placed as sign of good faith and transparency as the Town FINALLY ,with state intervention, and upon viewing had stated to one of us he was" returning to his office to put in a request for a spill team" was led to start looking at the heavy seepage onto neighboring lands and the likely ill effect that it has caused.

We would like to know who had made this determination, given that there has not been any discoveries to warrant this issue as settled in any stretch of the imagination. As a matter of fact the only action taken since it had appeared on the agenda was the recommendation of the landscape socks be placed at locations where heavy seepage has been occurring and documented for many decades. To follow was an article in the Wayne Times with Heading something to the effect " PUT A SOCK IN IT" and seemed to go on to scoff the neighbors for raising these again "grave" concerns.

Regarding the socks we are filing a FOIL request to the documentation that these are being inspected and replaced at the stipulated schedule.

We remind you as you prepare to discuss (?) a report provided to you before it would be released to the public, that you were formally made aware the report being prepared by LaBella as to the characterization of these dump areas had noted in their original records search they had not received a response to their FOIL request to the NYSDOH for information about these lands. As a side note we are still waiting for our request to be filled going on years now with an extension request being received every 3 months, having been told in conversation it's enormous, and a huge file with each letter stating "...records potentially responsive to your request are currently being reviewed for applicable exemptions legal privileges and responsiveness."

Lastly we are formally asking for a response to a question. We have done this in writing in the past, and have received no response . We will re-submit those as well. Our question, If it were possible, Has the Town of Palmyra ever entered into a Non disclosure agreement as part of any settlement regarding any landfill or dumping areas on or in these lands in discussion or any land in Palmyra?

2:20 p  
 TO NO  
 Made cc  
 He pai  
 c

Palmyra neighbors  
 Frank Vascukynas      Marc Carrier      Rick Hagar

*Frank P. Vascukynas*      *Marc Carrier*      *Mr. Mrs. Hagar*

CC: NYS Comptroller

**PUBLIC INPUT \***

The following statement will now be included on all public agendas:

*\*If you are attending a Town Board Meeting have not signed up for Public Participation Section of the Town Board Meeting pursuant to the rules which have been established (24 hrs prior to start of meeting), then you will not be able to express your opinion. As a courtesy to those who attend the Board Meeting, you are requested not to interrupt the meeting, and refrain from conversation that would interfere with those attending being able to hear the Board transact its business. If in fact someone interferes with the meeting or the conversation with other spectators should require a warning and if ignored, the person could be charged with Disorderly Conduct. For public hearings, speaking will be limited to topics on the agenda.*

**Mr. Carrier**, asked to add two additional points beyond his written communication: That he still needed to be careful where he removes his firewood (per conversation with representative from DEC), and that the fact that he has gotten no response from the DEC and their “large file” on the old landfill location causes them more concern.

The town clerk would like to note that the above-mentioned FOIL request in the written statement was not received until that evening at the meeting.

**Don Wilkins**, read the following statement regarding the upcoming Solar Law to be voted on this evening.

Town Board Meeting January 28,2021

On December21,2020at the regular town board meeting for the month there was a open public hearing with public comment for local law #2 2020 to adopt a law establishing zoning requirments for solar energy systems.

I appeared before this Town Board with at least 8 to 10 important points relating to this new proposed law that you are going to approve most likely tonight. It is my understanding that nothing relating to this law has changed since the public hearing 30 days ago. Nobody from the town contacted me to discuss any of the items that I had brought to your attention at the public hearing or any other kind of solution. There was documentation for every item that was listed and then some. Considerable time had been taken over the last 18 months to assemble this, plus I have also brought important points and questions at previous board meetings about solar. The public comment at these hearings appear to be just a mere formality to conform to State Law and it is quite troubling to any town resident with realistic issues about the new law or laws. This should also apply to any future public hearings for new town laws.

There has to be more time between the public comment period and when the law is passed so there is more transparency for the residents of the Town of Palmyra. This is really most important now that we have had a radical change in the federal government and along with the current state government pushing the green new deal that the town have proactive laws to for the protection order, conduct, safety, health, and well being of the persons and property in the Town of Palmyra. The town will most likely be overwhelmed with solar companies and they will probably want special treatment because of the new energy policies. All one has to do is look next door to Macedon and look back at the heated town board meetings with these type of companies and because of this conduct they had to amend their Solar laws. Hopefully the Town of Palmyra will keep concerned citizens informed way in advance of any type of solar farms plans or activity of any kind.

Thank You,

Don Wilkins  
2768 Newark-Marion Road  
Palmyra, New York

**REPORTS OF STANDING COMMITTEES****Supervision---Animal Control, Historian, Justices, and Finance: Kenneth Miller, Chairman**

- 1. WC Office of Treasurer and NYS Court of Appeals:** It has been found that Wayne County will reimburse all relevy charges related to property maintenance, repair and demolition costs (which were previously excluded).
- 2. NYMIR Cyber Liability Quote:** Supervisor Miller shared with the board the quote and list of cyber security coverage (additional to what town already has) as requested at the December meeting. Costs range from \$800 - \$12,000.00
- 3. Snow and Ice Removal at the Town Hall:** Warren Frederick has agreed to removing snow and ice on the front steps, front and south accessible ramps, and walk spaces between parking lots. This will be done by 8:00 AM. There is not actual contract as such, he will be submitting vouchers to the book keeper.
- 4. Assign Audit Teams:** Jim Welch and Doug DeRue will conduct the Town Clerk/Tax Collection audit, Ken Miller and Petra Anderson will conduct the Justice audit, and Brad Cook and Todd Pipitone will audit the Bookkeeper. The town clerk has the state forms and was asked to keep them until the teams conduct audits before the next board meeting.
- 5. Notice from State Comptroller:** We received notice from the OCS that they will be withholding tax revenues in Wayne County in quarterly installments to be deposited into accounts to help fund financially distressed hospitals and nursing homes. Supervisor Miller noted that this is above and beyond the 20% that Governor Cuomo already announced.
- 6. Update on Old Landfill:** E-mail from Dan Noll, PE, provided by Supervisor Miller, will become **(ATTACHMENT A)**
- 7. Thank you letter from Mercy Flight:** The Town received a thank you for the donation of \$500.00 to Mercy Flight Central. The President/CEO of Mercy Flight offered to visit and speak with the board at any time.

**Human Services: Town Clerk, Archives, and Town Hall Facility - Councilman Bradley Cook**

**1. Town Clerk Report for January:**

**TOWN CLERK’S OFFICE REPORT  
JANUARY 2021**

All four Petty Cash drawers were balanced to the penny and the memo is included with this monthly report. I balanced clerk’s checkbook, tax accounts, and all year end bank statements. The comptroller recommended audit check lists will be distributed to the board members this evening to be used for the audits of each department. These will be reported on at the regular February board meeting.

Through dog licensing in December, we sold 42 licenses (\$324), marriage licenses; 10 EZ Passes (\$250), hunting/fishing, vital record requests, FOIL requests, miscellaneous sales and code enforcement, etc- added an additional \$2,304.10. Total check disbursements for the month of December were \$2,878.10.

We are focused in January on tax collection as well as organizing and sorting thru files to be destroyed...when we are able to! We have also had quite a few time-consuming FOIL requests this month.

So far this month, we have collected \$1,757,814.10 of the \$5,317,086.84 tax warrant. We will expect an additional ½ of the warrant to be paid in the next few days by the mortgage companies, before month end!

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**MEMO TO:** Palmyra Town Board  
**FROM:** Irene Unterborn, Town Clerk/Tax Collector  
**DATE:** January 14, 2021  
**RE:** Reconciling of Town Clerk Funds

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As per annual request of the Town Board, the following collection drawers (cash used for change, etc) were reconciled on January 14, 2021:

**Town Clerk** drawer currently has \$100.00 (is also reconciled daily at closing)

**Water Collection** drawer currently has \$100.00 (is also reconciled at least twice weekly, before deposits)

**Tax Collection** drawer currently has \$100.00 (is also reconciled daily during both School and Town/County tax collection)

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**Petty Cash Fund** also has \$200.00 allocated. This money is locked in a drawer at the office, and used only when incidental cash purchases have been made (such as postage when sending something by certified mail or Thruway tolls to and from an approved seminar, etc.). Each paper receipt is kept when cash is dispensed. A voucher is prepared twice a year—or more often—if cash gets low. This voucher itemizes all receipts and what department is to be charged for the cost. On

January 14, 2021 the Petty Cash drawer contained \$141.07 in cash, and \$58.93 in receipts, equaling the \$200.00 allocated for the Petty Cash Fund.

**3. Building Update:** A thermometer was hung in the east hallway, outside the Supervisor's office, to help monitor personnel temperatures during this pandemic.

**Public Works: Highway Department, Equipment and Facilities -  
Councilman James Welch**

**1. Highway Department report for January:**

**HIGHWAY SUPERINTENDENT REPORT  
FOR TOWN BOARD MEETING  
01/28/21**

Since the 12/30/20 meeting we have completed the following work:

- **Plowing/Sanding** –To date this winter season we have made a total of 39 trips out of the barn.  
A comparison to this point of the past 5 winter seasons is below:
  - January 2020 - 50 trips.
  - January 2019 – 60 trips.
  - January 2018 - 69 trips.
  - January 2017 - 46 trips.
  - January 2016 - 23 trips.

Other miscellaneous items include:

- **Salt Orders** – So far for the month of January we have ordered 508 tons of salt. For the winter season we have ordered 1009 tons of our 2600-ton allotment, or approximately 38% of our allotment.
- **Advocacy Day - CHIPs Funding** – Our annual Advocacy Day in Albany typically scheduled for early March has been cancelled. However, we recently received information that NYS DOT will be releasing up to 15% of the 20% that they previously withheld from munis across NYS. I also understand that the Gov's proposed budget holds CHIPs and PAVE-NY programs flat at the same allotments as last year, which is good, but not sure about EWR money yet. Stay tuned.
- **Tree Work/Brush Mowing** – Over the past 30 days as weather has permitted, we have been brush-mowing on Jeffery Road, Walker Road, Desmith Road, Goldsmith Road, Schilling Road and Harris Road. However, the excavator recently broke down with a hydraulic overheating problem. We hope to be mowing again soon. We have also been removing many

dead trees and limbs on Desmith Road, Goldsmith Road and Schilling Road. We hope to continue with tree work as time and weather permit.

- **Personnel** – This past week, the highway department has been operating a little short-staffed. We currently have one staff member out on medical leave as of 1/12/21 and one out on illness starting this week. We have adjusted our plow routes accordingly.
- **Fleet Maintenance** – Over the past 30 days of snow plowing we have worked the bugs out of much of the truck fleet and we continue with general maintenance on the entire fleet after each plow run. We hope to soon start to bring in various 'summer'-related pieces of equipment for their annual servicing and maintenance work.
- **Palmyra Municipal Auction** – The date has been set for our 35<sup>th</sup> Annual event, Saturday May 8, 2021. I hope to have the Auction Contract on the March agenda for approval. I am also in hopes to setup another annual review of the Auction with RTI Staff for late February.
- **Village Budget** – It's budget season in the Village and I have my first budget meeting coming up soon.

Any questions, comments or concerns I will be glad to answer.

### **Town Development: IT & Phones, Fire Protection Contracts, and Strategic Plans - Councilman Doug DeRue**

Councilman DeRue was unable to attend this evening.

### **Government Operations: Assessor, Youth & Aging, and Code Enforcement / Planning Board - Councilman Todd Pipitone**

#### **1. Assessor's Office Report for January:**

#### **REPORT TO THE TOWN BOARD FROM THE ASSESSOR'S OFFICE January 26, 2021**

At the end of December Agricultural and non-profit exemption forms were mailed out to be returned on or before March 1, 2021. These are now starting to be returned. As you know the Sr. Citizens and low-income disability exemptions do not need to reapply this year due to covid-19 they will receive the same exemption amount as on the 2020 roll. A letter was sent to these tax payers informing them of this. They will need to apply for the 2022 roll and forms and notices will be sent out at the end of this year. Anyone who thinks they will qualify can still apply this year by March 1<sup>st</sup> for the 2021 Roll.

We have had quite a few people with questions about the Senior Citizens exemption as well as the Enhanced STAR since the Town and County tax bills have gone out. The Enhanced STAR exemption/credit limit for income is \$90,550 (this is the 2019 adjusted gross income). The senior Citizens exemption is only for those with low income. The income limits are as follows (income must fall below the limits): Pal/Mac school, \$26,900; Palmyra (town & Village), Wayne County and Newark School are \$21,900 and Marion School is \$17,725. All Schools require the owner(s) to be 65 by March 1<sup>st</sup> and the Town, County and village the owner(s) must be 65 by December 31<sup>st</sup>.

There is a resolution for tonight that allows me to send out a Senior Citizens application to those properties that have changed ownership or the owner has moved. This allows me to remove these exemptions.

Also tonight I am asking you to pass the resolution supporting a Town wide 2022 Reassessment. The original plan was to wait until 2023. However with the market the way it is at this time I will be claiming below 90% for my Level of Assessment (LOA) for 2021.

If you have any questions or concerns, I am in the office most of the time

**2. Code Enforcement/Zoning Office Report - January:** Code Enforcement Officer Pat Sheridan submitted a report to the Board Members that included a list of building permits and certificates of compliance for December 22, 2020 thru January 26, 2021.

It was noted by Supervisor Miller that CEO Pat Sheridan carefully reviewed each public comment made at the December 2020 hearing pertaining to what is now known as Local Law #1-2021.

**3. Minutes from Zoning Board Meeting from January:** There was no Zoning Board meeting in February.

**4. Minutes from Planning Board Meeting from January 11, 2021:** Minutes from the Planning Board meeting from January 11, 2021 were shared with the board.

Supervisor Miller asked to note that the Dept of Agriculture was authorized to go on town property to deal with infestations of fruit flies, and noted that the highway crews have been working in Aqueduct Park removing ash trees that are infested with the Emerald ash borer.



**AGENDA ITEMS**

**1. Approve: Resolution #5-2021:** Todd Pipitone made the motion to approve Resolution #5-2021, Authorizing The Assessor For The Town Of Palmyra To Perform And Undertake A 2022 Reassessment Update, as written below.

Second: Brad Cook

Vote: 4 Ayes. Carried

**RESOLUTION #5-2021: AUTHORIZING THE ASSESSOR  
FOR THE TOWN OF PALMYRA TO  
PERFORM AND UNDERTAKE A 2022 REASSESSMENT UPDATE**

**WHEREAS**, Section 305 of the New York State Real Property Tax Law mandates uniform and equitable assessments; and

**WHEREAS**, computer-assisted mass appraisal systems, technical advice, and financial assistance are available by cooperative agreement with the New York State Office of Real Property Tax and the Wayne County Real Property Tax Services Agency; and

**WHEREAS**, the last town-wide reassessment of our real property took place in 2019, and

**WHEREAS**, the Town Board is convinced that a reassessment is necessary to comply with Section 305 of the New York State Real Property Tax Law;

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of Palmyra, New York as follows:

SECTION 1. That the Assessor of the Town of Palmyra is hereby authorized to undertake and implement a revaluation/ update for the 2022 Assessment Roll.

SECTION 2. That the Town Board does hereby agree, in conjunction with the New York State Office of Real Property Tax Services Agency, to support the Town’s Assessment Staff in this reassessment.

This resolution shall take effect immediately.

DATED: January 28, 2021

**2. Approve: Resolution #6-2021:** Todd Pipitone made the motion to Adopt Provisions Of Executive Order 202.83 Suspending The Requirements Of Renewal Applications As A Condition To Granting Exemptions Under Sections 459-C And 467 Of The Real Property Tax Law, as written below.

Jim Welch seconded the motion, and a roll call vote was requested.

Councilman Welch	Aye	
Councilman Pipitone	Aye	
Councilman Cook	Aye	
Councilman DeRue	ABSENT	
Supervisor Miller	Aye	Vote: 4 Ayes. Carried

**RESOLUTION #6-2021: TO ADOPT PROVISIONS OF EXECUTIVE ORDER 202.83  
SUSPENDING THE REQUIREMENTS OF RENEWAL APPLICATIONS  
AS A CONDITION TO GRANTING EXEMPTIONS UNDER SECTIONS 459-C AND 467  
OF THE REAL PROPERTY TAX LAW**

**WHEREAS**, the Governor of the State of New York by Executive Order No. 202 dated March 7, 2020, declared a state disaster emergency for the entire State of New York; and

**WHEREAS**, both travel-related and community contact transmission of COVID-19 have been documented in New York State and are expected to continue; and

**WHEREAS**, pursuant to Section 29-a of Article 2-B of the Executive Law, New York State Governor Andrew Cuomo did issue Executive Order 202.83 dated December 18, 2020, which authorized, by local option, the governing body, to adopt the provisions of that Executive Order 202.83, which temporarily suspends or modifies, subdivisions 7, 7-a and 8 of section 459-c of the Real Property Tax Law and subdivisions 5, 5-a, 5-b, 5-c and 6 of section 467 of the Real Property Tax Law. The COVID-19 Emergency Eviction and Foreclosure Prevention Act of 2020 (Chapter 381 of the Laws of 2020) was signed into law by Governor Cuomo on December 28 mandating the provisions.

**NOW THEREFORE BE IT RESOLVED**, that pursuant to Executive Order 202.83 issued by New York State Governor Andrew Cuomo and Chapter 381 of the Laws of 2020, the Town Board of the Town of Palmyra hereby authorizes the Assessor to request an application where he or she has reason to believe that the applicant may have changed his or her primary residence, added an additional owner to the deed, transferred the property to a new owner, or died, and

**BE IT RESOLVED**, that the Town Clerk is hereby directed to forward a copy of this approved resolution to the Assessor.

**By Order of the Town Board at a Meeting on JANUARY 28, 2021**

**3. Approve: Resolution #7-2021:** Todd Pipitone made the motion to adopt Local Law #1-2021 to Adopt a Local Law Establishing Zoning Requirements for Solar Energy Systems, as written below.

Jim Welch seconded the motion, and a roll call vote was requested.

Councilman Welch	Aye	
Councilman Pipitone	Aye	
Councilman Cook	Aye	
Councilman DeRue	ABSENT	
Supervisor Miller	Aye	Vote: 4 Ayes. Carried

**RESOLUTION #7-2021**  
**ADOPTING LOCAL LAW #1-2021 TO ADOPT A LOCAL LAW ESTABLISHING**  
**ZONING REQUIREMENTS FOR SOLAR ENERGY SYSTEMS**

WHEREAS, a resolution was duly adopted by the Town Board of the Town of Palmyra on the 24th day of November, 2020, calling for a Public Hearing to be held by the Palmyra Town Board on the 29th day of December, 2020, at the Palmyra Town Hall, 1180 Canandaigua Road, Palmyra, New York, at 7:00 PM, to hear all interested parties on a proposed local law, "Local Law #2-2020 To Adopt A Local Law Establishing Zoning Requirements for Solar Energy Systems"; and

WHEREAS, notice of said Public Hearing was duly advertised in accordance with law; and

WHEREAS, said Public Hearing was duly held at the Palmyra Town Hall on the 24<sup>th</sup> day of November, 2020, at 7:00 PM, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed local law, or any parts thereof; and

WHEREAS, Local Law #1-2021 was originally introduced as Local Law #2-2020, and the number of this Local Law is amended to reflect the year of the adoption; and

WHEREAS, said proposed local law was referred to the Wayne County Planning Board pursuant to N.Y. General Municipal Law 239-m, which board returned the referral with general comments; and

WHEREAS, the Town Board of the Town of Palmyra, after due deliberation, finds it in the best interest of the Town to adopt said local law and that such new regulations will provide for and protect the safety, health and well-being of the persons and property in the Town of Palmyra; now, therefore, be it

RESOLVED, that the adoption of the local law constitutes an unlisted action pursuant to the New York State Environmental Quality Review Act, 6 N.Y.C.R.R. §

617.2, for which a long environmental assessment form was prepared and the Town Board has issued a negative declaration of environmental significance; and it is further

RESOLVED, by the Town Board of the Town of Palmyra that the Town Board hereby adopts said Local Law #1-2021, to; as set forth in the attached Local Law, "Local Law #1-2021 To Adopt A Local Law Establishing Zoning Requirements for Solar Energy Systems", which is incorporated herein and made a part hereof; and be it further

RESOLVED, that the Town Clerk of the Town of Palmyra be and hereby is directed to enter said Local Law into the minutes of this meeting and to give due notice of the adoption of said Local Law to the Secretary of State of the State of New York.

**By Order of the Town Board at a Meeting on January 28, 2021**

**4. Approve: Local Law #1-2021:** Todd Pipitone made the motion to Adopt a Local Law Establishing Zoning Requirements for Solar Energy Systems, as written below.

Brad Cook seconded the motion, and a roll call vote was requested.

Councilman Welch	Aye	
Councilman Pipitone	Aye	
Councilman Cook	Aye	
Councilman DeRue	ABSENT	
Supervisor Miller	Aye	Vote: 4 Ayes. Carried

**LOCAL LAW #1- 2021 TO ADOPT A LOCAL LAW ESTABLISHING ZONING REQUIREMENTS FOR SOLAR ENERGY SYSTEMS.**

BE IT ENACTED, by the Town Board of the Town of Palmyra, Wayne County, State of New York, as follows:

Section A. Authorization

This local law is enacted pursuant to the authority granted by New York State Town Law § 263 and Municipal Home Rule Law § 10, which authorize the Town to adopt local laws to provide for the government, protection, order, conduct, safety, health and well-being of the persons and property in the Town of Palmyra.

Section B. Legislative Findings and Purpose

The Town Board hereby finds the Town Zoning Code should be amended to establish zoning requirements for solar energy systems where none previously existed, that such zoning requirements would be in the best interest of the public health, safety, and well-being, and that such zoning requirements are consistent with the Town’s current comprehensive plan.

Section C. Amendment

Article II, Section 210 of the Town Zoning Regulations entitled "Definitions" shall be amended to insert and include the following definitions in alphabetical order:

BUILDING-INTEGRATED PHOTOVOLTAIC (BIPV) — The incorporation of photovoltaic (PV) material into a building's envelope. Technologies include PV shingles or tiles, PV laminates, and PV glass. Examples of placement include vertical facades, semi-transparent skylights, awnings, fixed awnings, and roofs.

GROUND-MOUNTED SYSTEM — A solar energy system that is anchored to the ground and attached to a pole or similar mounting system, detached from any other structure.

PRINCIPAL USE SYSTEM — Solar energy systems located on land primarily used to convert solar energy into electricity for offsite energy consumption.

ROOF-MOUNTED SYSTEM — A solar panel located on a roof of a permitted principal use or accessory structure.

SOLAR ENERGY EQUIPMENT — Energy storage devices, material, hardware, or electrical equipment and conduit associated with the production of electrical energy.

SOLAR ENERGY SYSTEM — A combination of both solar panels and solar energy equipment.

SOLAR PANEL — A device capable of collecting and converting solar energy into electrical energy.

A new Article VI, Section 699 shall be added to read as follows:

§ 699 Solar Energy Systems as Accessory Use / Structure.

A. Roof-Mounted Systems. Roof-mounted systems are permitted as an accessory use in all zoning districts when attached to lawfully permitted principal uses and accessory structures, subject to the following requirements:

- (1) Height. Solar energy systems shall not exceed maximum height restrictions within any zoning district.
- (2) Setback. Solar energy systems are subject to the setback requirements of the underlying zoning district.
- (3) Aesthetics. Solar installations shall incorporate the

following design requirements:

- a. Solar energy equipment shall be installed inside walls and attic spaces to reduce their visual impact.
  - b. Panels facing the front yard must be mounted at the same angle as the roof's surface with a maximum distance of 18 inches between the roof and highest edge of the system.
  - c. Solar panels affixed to a flat roof shall be placed below the line of sight from a public right of way.
- B. Ground-Mounted Systems. Ground-mounted solar energy systems are permitted as an accessory structure in all zoning districts, subject to the following requirements:
- (1) All ground-mounted solar panels in residential districts shall be installed in the side yard or rear yard.
  - (2) Lot size. Ground-mounted solar panels are only permitted on lots of 1 acre or greater.
  - (3) Setback. Ground-mounted solar panels are subject to setback requirements of the underlying zoning district.
  - (4) Height. Solar panels are restricted to the following heights when located at the following setbacks:

Ground-mounted Height and Setback Requirements	
Setback	Permissible Height
6-10 feet	6 feet
>10-15 feet	12 feet
>15 feet	15 feet

All height measurements are to be calculated when the solar energy system is oriented at maximum tilt.

- (5) Lot Coverage. The surface area of ground-mounted solar panels shall be included in lot coverage calculations.
- C. Building Integrated Photovoltaic (BIPV). BIPV materials shall be permitted in all zoning districts.

A new Article VI, Section 795 shall be added to read as follows:

§ 795 Solar Energy Systems as a Principal Use.

Principal Use Systems are permitted through the issuance of a special-use permit within the AR- Agricultural/Residential, HC- Highway Commercial, LI Industrial, R-1, R-2 Residential, RR- Rural Residential and PDD-Planned Development Overlay subject to the following requirements:

- A. Height and setback. Principal Use Systems shall adhere to the height and setback requirements of the underlying zoning district. Additional special-use permit process.
- B. Principal Use Systems shall be located on lots with a minimum lot size of 10 acres.
- C. All Principal Use Systems shall be enclosed by fencing to prevent unauthorized access. Warning signs with the owner's contact information shall be placed on the entrance and perimeter of the fencing. The height and type of fencing shall be determined by the special-use permit process.
- D. On-site electrical interconnection lines and distribution lines shall be placed underground, unless otherwise required by the utility.
- E. The removal of existing vegetation is limited to the extent necessary for the construction and maintenance of the solar installation.
- F. No Principal Use System shall be installed within 1,000 feet of a state road.
- G. No Principal Use System shall be installed within 1000 feet from a dwelling on the same property, or within 1000 feet from a neighboring dwelling unit, or within 1000 feet of the front setback of the property, or within 100 feet of the side and rear setback of the property.
- H. Additional special-use permit requirements. Principal Use System special-use permits shall not be approved unless the applicant provides the following:

- (1) Verification of utility notification. Foreseeable infrastructure upgrades shall be documented and submitted. Off-grid systems are exempt from this requirement.
- (2) Name, address, and contact information of the applicant, property owner(s), and agent submitting the proposed project.
- (3) If the property of the proposed project is to be leased, legal consent between all parties, specifying the use(s) of the land for the duration of the project, including easements and other agreements, shall be submitted.
- (4) Site Plan. Site plan approval is required by Town Planning Board. In addition to the requirements set forth in Article X, a site plan application shall address and include the following:
  - a. All access roads and paths required for the project are integrated into other uses on the property, if possible, and are not constructed with impervious materials.
  - b. Screening. The Solar Energy System shall be adequately screened to mitigate avoid adverse aesthetic impacts.
  - c. A soil erosion/drainage plan showing existing and finished grades and stormwater management plan approved by the Town Engineer.
- (5) Blueprints signed by a Professional Engineer or Registered Architect of the solar installation showing the layout of the system.
- (6) The equipment specification sheets shall be documented and submitted for all photovoltaic panels, significant components, mounting systems, and invertors that are to be installed.
- (7) Property Operation and Maintenance Plan. A property operation and maintenance plan is required, describing continuing photovoltaic maintenance and property upkeep, such as mowing, trimming, etc.



## (8) Decommissioning Plan.

- a. To ensure the proper removal of Principal Use Systems, a decommissioning plan shall be required. The plan shall include the removal of all infrastructures and the remediation of soil and vegetation back to its original state prior to construction, unless otherwise permitted. A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a Professional Engineer or contractor. Cost estimations shall take into account inflation. Such plan shall be implemented upon abandonment, cessation of activity, or in conjunction with removal of the Solar Energy System. Compliance with this plan shall be made a condition of special use permit, site plan, and building permit approval. Said plan shall address the following:
  - [1] The plan must provide that after the Solar Energy System is no longer in use as originally approved or is inadequately maintained, the Solar Energy System shall be removed, whether above or below ground, including fencing, infrastructure, pre-construction foundations, and piers, footers or other supports to be removed to a depth of forty-eight inches below the soil surface. The plan shall also address the disposition of underground electric lines, and provide for the restoration of grade, soil, and vegetation, to return the parcel to its original state.
  - [2] The plan shall identify the parties responsible for implementing the plan, including but not limited to the property owner, the applicant/permittee, or any subsequent owner of the Solar Energy System.
  - [3] The plan shall include an expected timeline for completion of removal of the Solar Energy System that shall be no longer than 180 days.
  - [4] A cost estimate detailing the projected cost of executing the decommissioning plan shall be prepared by a professional engineer and shall be approved by the Town's engineer. Cost estimations shall take inflation into account.

- [5] The plan shall provide for the periodic reevaluation of decommissioning costs during the Solar Energy System's lifetime by the applicant's engineer, and the plan shall allow for any corresponding increases or decreases in any surety in accordance therewith, as may be approved by the Town engineer.
- [6] The plan shall provide that if the Solar Energy System is not decommissioned upon discontinuance or abandonment, the Town or the Town's duly appointed representative or agent(s) may enter onto the property to remove the system and restore the property, and the Town may claim against the surety and/or assess and impose a lien against on the property to cover all costs incurred by the Town and its consultants in connection with any work or proceeding relating to such decommissioning, removal or restoration, in addition to any other remedies available to the Town.
- [7] The plan shall include the energy generating capacity of the Solar Energy System on an annual basis together with a provision that annually, on or before January 30th of each year, a report shall be furnished to the Town Code Enforcement Officer reporting the amount of energy generated by the Solar Energy System.
- [8] The plan shall be in a form of a recorded instrument legally binding on the owner of the Solar Energy System and to the real property on which it is installed and shall also include the requirement that it shall be binding on any subsequent transferees, successors, grantees, or assigns of the applicant and property owner. Proof of filing with the Wayne County Register of Deeds shall be provided to the Town.
- b. Surety. To protect the Town from the expense of removing the Principal Use System should the system be abandoned before being properly decommissioned in accordance with the decommissioning plan, the applicant shall be required to execute and file with the Town a bond or other form of surety that shall renew every three years in a form acceptable to the Town attorney and/or engineer, in an amount sufficient

to ensure the good faith performance of the terms and conditions of the special use permit, site plan, the decommissioning plan and the Town's consultant fees. The amount of the surety shall be no less than 125% of the cost of the removal of the Solar Energy System and restoration of the property with an escalator of 2% annually for the life of the Solar Energy System. In the event of abandonment, default or violation of the terms of the special use permit, its conditions, or the decommissioning plan, after thirty (30) days prior written notice and expiration of any applicable cure periods, the surety shall be forfeited to the Town, which shall be entitled to maintain an action thereon. The surety shall remain in full force and effect until restoration of the property as set forth in the decommissioning plan is completed. Any lapse or non-renewal of the surety or other failure to keep such surety in full force and effect shall entitle the Zoning Board of Appeals to revoke the special use permit granted hereunder, if such failure is not fully cured within thirty (30) days written notice to the applicant and owner of record. In the event ownership of the Solar Energy System is transferred to another party, the new owner shall file evidence of financial surety with the Town at the time of transfer, and every three years thereafter, as provided herein.

- I. Lot coverage. Principal Use Systems shall be limited to 35% lot coverage. The surface area of solar panels shall be included in lot coverage calculations. For the purposes of this Section only, a lot shall be defined as the lesser of the entire property or any leased portion thereof.
- J. Construction schedule. The applicant must submit a proposed schedule for the completion of the project, including the proposed start date and the proposed date of substantial completion, the expected date of connection to the power grid, and the expected date on which operation of the photovoltaic system shall commence.
- K. The Planning Board may waive, in its discretion and when reasonable, any requirements for site plan permit approval, and the Zoning Board of Appeals may waive, in its discretion and when reasonable, any requirements for a special-use permit,

upon finding that such waived requirements are not necessary in the interest of the public health, safety, and general welfare, or unnecessary or inapplicable given the circumstances of the proposed project.

- L. Abandonment and decommissioning.
- (1) Applicability and purpose. The purpose of this section is to provide for the safety, health, protection and general welfare of persons and property in the Town by requiring abandoned Solar Energy Systems to be removed pursuant to a decommissioning plan. The anticipated useful life of such systems, as well as the potential for solar companies to become insolvent and/or property owners being left with adequate resources to remove Solar Energy Systems creates an environment for Solar Energy Systems to be abandoned, creating a negative visual and environmental impact on the Town. Abandoned Solar Energy Systems may become unsafe by reason of their energy-producing capabilities and may become an attractive nuisance.
  - (2) Solar Energy Systems shall be deemed abandoned if construction is not completed after twelve (12) months of receiving all final approvals from the Town, or if the Solar Energy System at any time fails to generate and transmit electricity at a rate of more than ten percent (10%) of its rated capacity over a continuous period of twelve months. An abandoned Solar Energy System shall be decommissioned and removed pursuant to the approved decommissioning plan. Applications for extensions can be made to the Zoning Board of Appeals, which shall have authority to grant six-month extensions.
  - (3) Notice of Abandonment. The Code Enforcement Officer shall notify the permit holder and property owner, by certified mail, that the Solar Energy System has been deemed abandoned and the Town intends to revoke the special use permit within sixty (60) days of mailing said notice. The notice shall also state that the permittee and/or property owner may appeal the Code Enforcement Officer's determination within thirty (30) days to the Zoning Board of Appeals.

- a. In the event the permittee appeals the determination of the Code Enforcement Officer, the Zoning Board of Appeals shall schedule and conduct a public hearing within sixty (60) days. At such public hearing the Zoning Board of Appeals shall determine whether the Solar Energy System has been abandoned, whether to continue the special use permit with conditions, if any, or whether to revoke the special use permit and order removal of the Solar Energy System.
  - b. Upon revocation of the special use permit by the Zoning Board of Appeals, the decommissioning plan shall be implemented, and the system removed. If the permittee and/or property owner fails to fully implement the decommissioning plan, the Town Board may collect the required surety and use said funds to implement the decommissioning plan.
- (4) If the property owner and/or operator of the Solar Energy System fails to fully implement the decommissioning plan within the time set forth therein, the Town, upon thirty (30) days' written notice to the applicant and property owner, may maintain an action against the surety to provide for the restoration of the site in accordance with the decommissioning plan. All costs and expenses incurred by the Town in connection with any proceeding or work performed by the Town or its consultants to decommission and remove a Solar System, including legal costs and expenses, shall be reimbursed from the surety. Any costs incurred by the Town for decommissioning and removal that are not paid for or covered by the surety, including legal costs, shall be assessed against the property, shall become a lien and tax upon said property, shall be added to and become part of the taxes to be levied and assessed thereon and shall be enforced and collected, with interest, by the same officer and in the same manner, by the same proceedings, at the same time and with the same penalties as are provided by law for the collection and enforcement of real property taxes in the Town.

M. Additional Regulations.

- (1) No Solar Energy Systems shall be located within the following:
  - a. One-hundred-year flood hazard zones considered a V or AE Zone on the FEMA Flood Maps.

- b. Historic and/or culturally significant resources in an historic district or historic district transition zone.
- c. Within 100 feet of a freshwater wetland.

(2) Upon transfer of ownership of the Solar Energy System or the property, the new operator and/or property owner shall provide written notice of such transfer to the Town within thirty days of such transfer, and the new operator and/or property owner shall provide updated contact information to the Town and update all on-site signage. All requirements of this Article shall apply and be enforceable against the new operator and/or property owner.

N. Enforcement. Any violation of this Section shall be subject to the same civil and criminal penalties as provided for in Article I. In addition, the Town Board may maintain an action or proceeding at law or equity in a court of competent jurisdiction to compel compliance with the terms of this chapter, to restrain by injunction, or to prevent or abate any violation or illegal act, conduct, business or use in violation of this Chapter.

Section D. Validity and Severability

Should any word, section, clause, paragraph, sentence, part or provision of this local law be declared invalid by a court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

Section E. Repeal, Amendment and Supersession of Other Laws

All other ordinances or local laws of the Town of Palmyra which are in conflict with the provisions of this local law are hereby superseded or repealed to the extent necessary to give this local law force and effect during its effective period.

Section F. Effective Date

This Local Law will take effect upon filing in the office of the New York State Secretary of State.

**By Order of the Town Board at a Meeting on January 28, 2021**

**5. Approve: Standard Workday Resolution #8-2021: Standard Work Day and Reporting Resolution for Elected and Appointed Officials:** Todd Pipitone made the motion to approve Resolution #8-2021: Standard Work Day and Reporting Resolution for Elected and Appointed Officials.

Second: Brad Cook

Vote: 4 Ayes. Carried

This will be posted on the website, bulletin board, and at the Village Hall for 30 days.

**6. Approve: Resolution #9-2021 Authorization To Engage In Outside Counsel:** Todd Pipitone made the motion to approve the use of outside legal services regarding matters brought under Child Victims Act, as written:

Jim Welch seconded and asked if our NYMIR Insurance would cover it. Mr. Miller explained that NYMIR began our coverage a year after this alleged incident so it would not.

Again, seconded: Jim Welch Vote: 4 Ayes. Carried

**RESOLUTION #9-2021  
AUTHORIZATION TO ENGAGE IN OUTSIDE COUNSEL**

WHEREAS, the Town of Palmyra has identified a need for the assistance of outside legal counsel on matters brought under the Child Victims Act; and

WHEREAS, the Town Attorney has determined it to be in the best interests of the Town of Palmyra to pursue outside legal services regarding said issues; now, therefore be it

RESOLVED, that the Town Board of the Town of Palmyra authorizes the Town Attorney to retain outside legal counsel (Goldberg-Segalla) for the above stated purposes and further authorizes the Town Attorney / and or Town Supervisor to sign any Retainer Agreements and all other legal documents which may be required, subject to the review of the Town Attorney.

**By Order of the Town Board at a Meeting on January 28, 2021**

**7. Approve: 2021 NYMIR Cyber Liability Quote:** Todd Pipitone made the motion to approve the Supervisor to sign agreement for the NYMIR Cyber Liability coverage as summarized, for fee of \$8,230.58 per year. Jim Welch seconded to get it on the table to discuss.

After some discussion Brad Cook made the motion to table this decision until after more information is received.

Second: Todd Pipitone

Vote: 4 Ayes. Carried

**MOTION TO APPROVE CLAIMS AND EXPENDITURES**

Todd Pipitone made the motion to approve claims and expenditures for the month of January 2021, Vouchers #1 thru #116, totaling \$101,430.28.

Second: Brad Cook                      Vote: 4 Ayes. Carried

**MOTION TO ENTER INTO EXECUTIVE SESSION**

At 7:44 PM, Councilman Welch requested to enter into executive session to discuss current litigation.

Second: Todd Pipitone                      Vote: 4 Ayes. Carried

**MOTION TO EXIT EXECUTIVE SESSION**

At 8:25 PM, Councilman Welch made the motion to exit executive session.

Second: Brad Cook                      Vote: 4 Ayes. Carried

**MOTION TO ADJOURN**

At 8.26 PM, Todd Pipitone made the motion to adjourn the meeting.

Second: Brad Cook                      Vote: 4 Ayes. Carried



Respectfully submitted,

Irene Unterborn  
Town Clerk

**ATTACHMENT A**

**DAN KNOLL, PE FROM LABELLA,  
E-MAIL RE: OLD PALMYRA  
LANDFILL**

**Regular Town Board Meeting**  
**Thursday February 25, 2021**  
**7:00 PM - Palmyra Town Hall**