

Minutes of the Town Board Meeting held at the Community Center on April 15, 2021 at 7:30PM

Present: Frank Palermo, Supervisor  
Thomas Burke, Tyler Etzel and Robert Hunter, Council

Absent: None

Also Present: Joseph McKay, Attorney for the Town; Joseph Gianzero, Parks Director; Elan Luding and John Smith, Library Board; Maria Hunter, Beautification Committee; Sandra Capriglione, Village Planning Board, Kevin Watson, Police Chief

**I. Public Input:**

Sandra Capriglione asked questions about the Parks Committee Minutes from their meeting held on March 16. Under Item 3B asked if there is a cost estimate for the company that will be doing the borings and Supervisor Palermo stated one has not been received it. Mrs. Capriglione asked if it will be paid for from the bond and Supervisor Palermo stated it would be. Under Item 5c, the flyer for the First Responder Appreciation Day event says “Woodbury Residents Only” but at the last Village Board meeting Rey Hernandez stated non-resident family members will also be welcome. Supervisor Palermo suggested she speak to the Parks Committee and added that non-residents do use our facilities (sporting events). He noted he does not know what the Parks Committee has planned but he does not believe they will be using the swimming area where passes are required. Mrs. Capriglione asked how many are expected to attend the event adding that as of March 22 the State requirement is it cannot be more than 200 in attendance. Supervisor Palermo stated he does not know but will be sure that the Parks Committee is aware that all guidelines much be followed. Mrs. Capriglione stated that since it was publicly stated that non-residents would be permitted, she is concerned about how control will be kept.

Mary Ratkowski stated in the Parks Committee Meeting minutes it states that the proceeds of the 5K will go to the food pantry. She is the individual that runs the food pantry and no one has approached her about any of this. She finds it odd that this decision was made without first conferring with the Food Pantry and she stressed adamantly that the food pantry is “off politics” and will not be a “political puppet”. She also stressed the community has been extremely generous since COVID started and she does not want to see that suffer. When there is leftover food at the pantry she has always brought it to the lifeguards. Supervisor Palermo stated he will speak to the Parks Committee about giving the donation to a different entity if the food pantry does not want it. Mrs. Ratkowski stated she did not say that but wants it clear that the food pantry is not a political thing. Supervisor Palermo stated if that is the case then when people make comments on social media about particular people bringing food to the pantry it should not be publicized. Mrs. Ratkowski stated it does not matter where or who the money comes from and she feels Supervisor Palermo is misinterpreting and twisting what she is saying. Supervisor Palermo stated he does not understand why Mrs. Ratkowski feels this is political but he finds it interesting that Beth Zoumas puts on Facebook© when We Are Woodbury (WAW) donates there, which he feels could be construed as political. Mrs. Ratkowski stated that post had something to do with asking the bagel store to donate their unsold bagels to the pantry. Councilman Burke stated this event was being discussed on a subcommittee level with the Parks Committee. He noted the Town Board has not been involved in any of its planning and it have nothing to do with politics. He hears the comments made by Mrs. Ratkowski and he will be sure to pass her sentiment unto the Parks Committee.

Teresa Luongo stated she is the Vice President of WAW, which is a non-political group that anyone is welcome to join. She read the minutes of the last Parks Committee meeting and it states that

WAW will be collecting the funds for the 4K but this is not true so she would like it to be corrected. Supervisor Palermo stated Mrs. Luongo would need to appear before the Parks Committee and request they correct their minutes.

Maria Hunter stated she will be notifying the Parks Committee Secretary of the errors in the minutes about WAW. Regarding the agenda for tonight meeting, Items III-d and III-g she noted nothing was on the Towns website for these items and Supervisor Palermo stated the Board will be discussing them publicly. The Senior Center item he would like the Town Board to make a decision on regarding the trips they want to plan. Mrs. Hunter then stated Rey Hernandez and Brandon Calore are committee chairs that are running the First Responders Appreciation Day event and stressed nothing as been finalize and it is still a work in progress. The date was made public so the community could be aware. She is on the committee representing the Beautification Committee, which is purchasing décor for the event. She added the Town Board does not have everything about the event because it is still being worked on but all committee members can be contacted if there are any questions. The food pantry was going to be contacted after the event to see if they wanted the cash collected or a gift card purchased for the amount. She feels all this debating is premature. She then noted this is “Public Safety Telecommunications” week and she recognized those in our department as being the finest in all the area. Supervisor Palermo asked Mrs. Hunter if anyone serving on the subcommittee is running for office and Mrs. Hunter stated no one was.

## II. Administrative Business:

### a. Acceptance of Minutes:

Motion was offered by Councilman Burke, seconded by Councilman Hunter, to accept receipt of the minutes of the meeting held April 1,2021.

**ADOPTED**      AYES    4            Palermo, Burke, Etzel, Hunter  
                      NOES    0

### b. Approval of Abstract:

Motion was offered by Councilman Etzel, seconded by Councilman Burke, to approve Abstract 8 containing vouchers 210451 – 210531 and totaling \$289,188.77.

**ADOPTED**      AYES    4            Palermo, Burke, Etzel, Hunter  
                      NOES    0

### c. Approval of Budget Modification:

Motion was offered by Councilman Hunter, seconded by Supervisor Palermo, to approve modifications to the 2021 budget of the following funds:

- General Fund – increasing A599 (Appropriated Fund Balance) by \$8800 and increasing A1680.200 (Central Data Processing Equipment) by \$8800;
- General Fund/Parkland Reserve Fund – increasing A599 (Appropriated Fund Balance) by \$80,000, A9901.900 (Transfer to Other Funds) by \$160,000 and decreasing A9710.703 (JPB Pool Serial Bonds Interest) by \$80,000; increasing CM5031 (Interfund Transfer) by \$160,000 and increasing CM962 (Budgetary Provisions for Other Uses) by \$160,000.

**ADOPTED**      AYES    4            Palermo, Burke, Etzel, Hunter  
                      NOES    0

Supervisor Palermo then explained the purpose of the budget modifications.

## III. New Business:

a. Authorize Town Clerk to Advertise for Bids – Propane:

Motion was offered by Councilman Etzel, seconded by Councilman Burke, to authorize the Town Clerk to advertise for bids for the supply of propane at the Community Center for the 2021/2022 season (July 1, 2021 – June 30, 2023). Bids will be accepted until 10AM on May 20, 2021.

**ADOPTED**      AYES    4            Palermo, Burke, Etzel, Hunter  
                     NOES    0

b. Authorize Town Clerk to Advertise for Bids - Fuel Oil #2:

Motion was offered by Councilman Hunter, seconded by Councilman Etzel, to authorize the Town Clerk to advertise for bids for the supply of Fuel Oil #2 for the Animal Shelter, Police Department and Central Valley Library for the 2021/2022 season (July 1, 2021 – June 30, 2022). The bid will not include maintenance.

**ADOPTED**      AYES    4            Palermo, Burke, Etzel, Hunter  
                     NOES    0

c. Renewal of Service Agreement - Stratagem Security:

Motion was offered by Supervisor Palermo, seconded by Councilman Burke, to authorize the Supervisor to sign a one-year service agreement with Stratagem Security for the preventative and remedial services of the alarm systems located at the Courthouse, Supervisor’s Office, Assessor’s Office, Parks Department/Clerk Office, Central Valley Library, Highland Mills Library, Community Center and Police Department Camera System at a cost of \$7,742.70.

**ADOPTED**      AYES    4            Palermo, Burke, Etzel, Hunter  
                     NOES    0

d. Receive/Award Bids - John P Burke Memorial Pool Renovations:

A bid opening was held on March 16, 2021 (bid notice was printed in the Times Herald Record on January 29, 2021) for the renovations to the John P Burke Memorial Pool and the following bids were received:

Main Line Commercial Pools, King of Prussia, PA	\$2,558,000 with start date of 08/01/21
Premier Pool Renovations, Plymouth Meeting, PA	\$2,598,175 with start date of 05/15/21

Engineer Fusco has reviewed the bids and recommends the project be awarded to Main Line Commercial Pools in the amount of \$2,558,000 with a construction start date of August 16, 2021 and completion to be May 10, 2022. Attorney McKay stated he has reviewed the bid packet, spoke to Engineer Fusco and he has no objection. Councilman Burke asked Supervisor Palermo if he spoke to Engineer Fusco about continuing with the borings and Supervisor Palermo stated he did and they will continue. Supervisor Palermo stated he also spoke with Superintendent Weyant and was told that all the dirt leveling has been completed by his Department so now additional dirt will be coming in from the construction project across from the police. Councilman Burke noted the bids received does not include any of the electric work, which will be expensive. Supervisor Palermo stated since the bid came in lower than the amount that was bonded the payments made to the bond will not affect the tax base for a few years. Motion was then offered by Councilman Burke, seconded by Supervisor Palermo, to award the bid per Engineer Fusco’s recommendation.

**ADOPTED**      AYES    4            Palermo, Burke, Etzel, Hunter  
                     NOES    0

e. Adoption of Local Law - Removal of Utility Poles:

Supervisor Palermo stated one written comment was received from Orange & Rockland. Attorney McKay stated he spoke with them and an amendment was made to the law based on the comment. Motion was offered by Councilman Hunter, seconded by Councilman Burke, to adopt the following resolution which will adopt Local Law 1 of 2021 entitled "Removal of Utility Poles":

**WHEREAS**, a resolution was duly adopted by the Town Board on December 30, 2020, scheduling a public hearing to be held by said Governing Body on January 21, 2021 at 7:30PM, to hear all interested parties on a proposed local law which will create a new Chapter 249 of the Town Code entitled "Removal of Utility Poles" requiring utility companies to remove inactive, broken or replaced utility poles within the Town"; and

**WHEREAS**, on December 30, 2020, the Town Board designated itself as Lead Agency with respect to the SEQRA review of the foregoing proposed local law, preliminarily classified the proposed action as an Unlisted action under SEQRA, and scheduled a SEQRA public hearing with respect to the action; and

**WHEREAS**, notice of said public hearing was duly advertised in the Times Herald-Record, the official newspaper of said Town, on January 12, 2021 according to law; and

**WHEREAS**, said public hearing was duly held on January 21 (then continued to February 4), at or about 7:30PM virtually, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof; and

**WHEREAS**, the Town Board has reviewed the proposed local law, the short environmental assessment form prepared in connection therewith, and considered the public comment provided at the aforesaid public hearings, and after due deliberation thereon.

**NOW, THEREFORE, BE IT HEREBY**

**RESOLVED** by the Town Board of the Town of Woodbury that:

- 1) the proposed local law constitutes an Unlisted action pursuant to SEQRA;
- 2) the proposed local law has no significant adverse environmental impacts and the Town Board hereby issues a negative declaration thereon;
- 3) the adoption of the proposed local law is in the best interests of the residents of the Town, and the Town Board hereby adopts said Local Law No. 1 of 2021, entitled "A local law to create a new Chapter 249 of the Town Code entitled 'Removal of Utility Poles' requiring utility companies to remove inactive, broken or replaced utility poles within the Town"; and
- 4) the Town Clerk is hereby directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Woodbury, and to give due notice of the adoption of said Local Law to the Secretary of State of New York.

**ADOPTED BY ROLL CALL AS FOLLOWS:**

Supervisor Palermo	YES
Councilman Burke	YES
Councilman Etzel	YES
Councilwoman Hernandez	ABSENT
Councilman Hunter	YES

Supervisor Palermo noted that zombie poles have been removed throughout town. A representative told him that Frontier was removing the poles as they had a lot of resistance from Middletown and Wawayanda, who passed similar laws to this one.

f. Adoption of Local Law - Parades and Motorcades:

Motion was offered by Supervisor Palermo, seconded by Councilman Burke, to adopt the following resolution which will adopt Local Law 2 of 2021 entitled "Parades and Motorcades":

**WHEREAS**, a resolution was duly adopted by the Town Board on March 4, 2021, scheduling a public hearing to be held by said Governing Body on April 1, 2021 at 7:30PM, to hear all interested parties on a proposed local law which will repeal and replace Chapter 221 entitled “Parades and Motorcades”; and

**WHEREAS**, notice of said public hearing was duly advertised in the Times Herald-Record, the official newspaper of said Town, on March 26, 2021 according to law; and

**WHEREAS**, said public hearing was duly held on April 1, at or about 7:30PM, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law, or any part thereof; and

**WHEREAS**, the Town Board has reviewed the proposed local law, the short environmental assessment form prepared in connection therewith, and considered the public comment provided at the aforesaid public hearings, and after due deliberation thereon.

**NOW, THEREFORE, BE IT HEREBY**

**RESOLVED** by the Town Board of the Town of Woodbury that:

- 1) the proposed local law is classified as an unlisted action under SEQRA; it has no significant adverse environmental impacts and issues a negative declaration thereon;
- 2) that the adoption of the proposed local law is in the best interests of the residents of the Town and hereby adopted Local Law 2 of 2021 entitled “Local Law Repealing and Replacing Chapter 221 of the Town Code of the Town of Woodbury, New York entitled ‘Parades and Motorcades’”; and
- 3) hereby directs that the Town Clerk enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of Woodbury, and to give notice of the adoption of said Local Law to the Secretary of State of New York.

**ADOPTED BY ROLL CALL AS FOLLOWS:**

Supervisor Palermo	YES
Councilman Burke	YES
Councilman Etzel	YES
Councilwoman Hernandez	ABSENT
Councilman Hunter	YES

g. Town Board Discussion Regarding Senior Center:

Supervisor Palermo stated he wanted to discuss with the Town Board requests from senior to go on trips. Cornwall has recently posted some upcoming trips and word has spread throughout the County that they are having trouble selling tickets. He would like some type of policy in place that requires participants show proof of vaccination and suggested Woodbury does not plan any trips until mid-August. Councilman Hunter asked how many seniors have shown an interest and Supervisor Palermo stated he does not have exact numbers. Councilman Etzel asked about how many and Supervisor Palermo stated he has not been made aware. He asked the Board to think about this issue for further discussion at the next meeting. Councilman Burke stated his initial thought is the type of trip being planned needs to be known as well as some places also require proof of vaccination in order to enter. Councilman Hunter suggested the topic be discussed in the summer prior to the trips being planned to see what the restrictions are at that time. All Board members agreed and Supervisor Palermo stated he would like the Senior Center know the way the Board feels.

**IV. Old Business:**

a. Parks Committee:

Supervisor Palermo stated at the last meeting the Board entered into an executive session to discuss a matter of personnel. At which, the Board unanimous voted to remove Susan Lynch from the Parks Committee effective immediately. It was not announced at the last meeting publicly to give him the opportunity to send her a letter before she heard it at the meeting. He then noted that Councilwoman Hernandez is looking for approval to start a composing program on April 22. This ties into the Climate Smart Committee Task Force that she has been working on and the program will run for six weeks. All agreed that it was a good idea. It was noted the Library is also involved in this program.

#### **V. Department Reports:**

a. Supervisor Report – March 2021

Motion was offered by Councilman Hunter, seconded by Councilman Etzel, to approve the March 2021 Supervisor's Report with receipts totaling \$85,247.76 and disbursements totaling \$961,043.30.

**ADOPTED**      AYES    4            Palermo, Burke, Etzel, Hunter  
                     NOES    0

b. Town Clerk's Report – March 2021

c. ACO Report – March 2021

d. Police/Communications Report – March 2021

e. Library Board Minutes – March 23, 2021; Library Director Report – March 2021

f. Parks Committee Minutes – March 16, 2021

g. Parks, Building/Grounds Report – March 2021

h. Beautification Committee Minutes – March 11, 2021

i. Budget vs. Actual – March 2021

#### **VI. Board Meeting Comments:**

Councilman Hunter announced that this week is National EMS Fire Police Dispatch week. He noted they are on call 24/7 and are the unsung heroes of our community. He cannot say enough about our dispatchers and they all deserve recognition. He then recognized all the work the staff of the Buildings/Grounds Department has done during the month of March.

Councilman Etzel commended Director Gianzero for the great job he did this past month and he looks forward to a lot more great things.

Councilman Burke thanked the Buildings/Ground Department for the great job they are doing. At the last meeting Councilwoman Hernandez mentioned that April is Autism Awareness month and at the recent Parks Committee meeting there was a discussion about erecting blue lights at Town properties. He asked for an update and Director Gianzero stated it has been done at the gazebo, police station, libraries and courthouse. Councilman Burke also acknowledge the Highway Department for the great job they did at the pool. This past weekend he donated blood at the blood drive hosted by the Village.

Director Gianzero thanked all for the acknowledgment of this department and stressed his department is a team that works as a team.

Supervisor Palermo stated the Town has received two grants for the Police Department – \$75K for tactical team training and \$50K for a K9 bomb dog. The lifecycle of a bomb dog is only eight years and Zeke will be turning six this year and will be decommissioned in two year. It takes over a year to train a bomb dog so by the time the new one comes into service one will be retiring. He believes that

Sergeant Correa will be in charge of this division in our department. The grant pays for the dog and a vehicle and there is no matching requirement. He hopes that future Boards continue this program and makes sure that at least two bomb dogs are on staff at all times.

**8:33PM - Executive Session:**

Motion was offered by Councilman Burke, seconded by Councilman Etzel, to enter into an executive session pursuant to Public Officers Law Section 105 to discuss one item relating to a resignation agreement with an employee and to meet with attorney.

**ADOPTED**      AYES    4            Palermo, Burke, Etzel, Hunter  
                     NOES    0

**VII. Adjournment:**

No information was provided to the clerk regarding adjournment.

Desiree Potvin, Town Clerk

## LOCAL LAW 1 OF 2021

### A LOCAL LAW CREATING A NEW CHAPTER 249 OF THE TOWN CODE OF THE TOWN OF WOODBURY, NEW YORK ENTITLED "REMOVAL OF UTILITY POLES", REQUIRING UTILITY COMPANIES TO REMOVE INACTIVE, BROKEN OR REPLACED UTILITY POLES WITHIN THE TOWN

Be it enacted by the Town Board of Woodbury, County of Orange, State of New York, as follows:

**Section 1. New Law Created.** New Chapter 249 of the Town Code entitled "Removal of Utility Poles" shall be and hereby is created by this Local Law as follows:

#### **Chapter 249. Removal of Utility Poles**

##### §1 - Findings: legislative intent.

- A. The Town Board hereby finds and determines that public utility companies place poles on highways, streets, roads and rights-of-way within the Town of Woodbury to facilitate the delivery of electric, telephone, cable television, and other telecommunications services to the residents of the Town.
- B. The Town Board hereby finds and determines that local governments have the authority to regulate their highways, streets, roads and rights-of-way to protect the public.
- C. The Town Board hereby finds and determines that utility poles are damaged from time to time.
- D. The Town Board hereby finds and determines that public safety can be compromised when utility lines and equipment remain affixed to utility poles that are weathered or otherwise damaged.
- E. The Town Board hereby finds and determines that when a new pole is installed, a utility's delay in removing lines and equipment from the old pole also delays the removal of the pole itself, which causes a proliferation of aesthetically unpleasant double poles along highways, streets, roads, and rights-of-way, and sometimes obstructs the paths of pedestrians.
- F. The Town Board hereby finds and determines that the interest of the public is best served by cooperation and communication between public utilities and the Town Board.
- G. In enacting this chapter, the Town Board deems this chapter to be an exercise of the police power of the Town of Woodbury for the preservation and protection of public safety and is enacted pursuant to the authority contained in the Highway Law, Town Law, and Municipal Home Rule Law of the State of New York.
- H. The purpose of this chapter is to require utilities that use highways, streets, roads and rights-of-way within the Town to promptly remove their plants, cables, lines, equipment, and terminals from old and damaged poles and to further require the prompt removal of double poles once all plants, cables, lines, equipment, and terminals have been removed.

##### §2 - Definitions.

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

**ENFORCEMENT OFFICER** - The Town of Woodbury Town Board, or the department or individual it designates, from time to time, for the enforcement of this local law.

**DANGEROUS/DAMAGED POLE** - Any utility pole that is structurally compromised due to weather, a traffic incident, and/or age and poses a potential threat to public safety.



**DOUBLE POLE** - Any utility pole which is attached or in close proximity to a new utility pole.

**PLANT** - The cables, terminals, conductors and other fixtures necessary for transmitting electric, telephone, cable television or other telecommunications service.

**PUBLIC UTILITY** - Any corporation, authority, or other entity that provides electric, telephone, cable television, or other service, including telecommunications service, to the residents of the Town of Woodbury.

**REMOVE, REMOVAL** - Extrication of an entire utility pole including any of its moorings and appurtenances or, where necessary, the cutting of a utility pole flush to the ground, and the filling and grading of any hole or opening left after such extrication or cutting in a manner that leaves a level grade safe for vehicle and pedestrian travel.

**UTILITY POLE** - A column or post used to support service lines for a public utility.

**WRITTEN NOTIFICATION/WRITTEN NOTICE** - A writing directed to a representative of a public utility, who may be designated by the utility to receive such notice, sent by regular mail, facsimile transmission or electronic mail.

§3 - Notification requirements.

No person, firm or corporation subject to the jurisdiction and regulation of the New York State Public Service Commission ("PSC") shall place or erect any pole for any purpose on any highway, street, road or right-of-way within the Town, or change the location of any existing pole on any highway, street, road or right-of-way within the Town, without first having provided notification to the Town.

§4 - Department notification; time frame for removal.

- A. When the Enforcement Officer is properly notified of the pending installation of a utility pole which is directly next to or in close proximity to another utility pole on a highway, street, road, or right-of-way within the Town, the Enforcement Officer will provide written notice to the public utility which has the top plant on the double pole that the plant must be removed within 30 days or be subject to penalty. Upon the removal of each plant, the Enforcement Officer shall provide written notice to the public utility that owns the subsequent plant on the pole that the plant must be removed within 30 days or be subject to penalty. The last utility to remove its plant is responsible for removing the double pole within an additional 30 days. Failure to comply with the requirements of this provision may result in penalties as provided for in section 6 of this chapter.
- B. When the Enforcement Officer determines that a utility pole on a highway, street, road or right-of-way within the Town, is damaged and poses a potential threat to public safety, the Enforcement Officer shall provide written notice to any public utility with a plant on the damaged pole that it must remove its plant from the pole within 15 days or be subject to a penalty as provided for in section 6 of this chapter. The last utility to remove its plant is responsible for removing the double pole. Failure to comply with the requirements of this provision may result in penalties as provided for in section 6 of this chapter. The effected utility may present documentary evidence to the Town in the form of a report from a licensed engineer certifying that the plant and/or pole is not a threat to public safety within ten days (10)

from the date of the Enforcement Officer's notification. In the event that the Enforcement Officer is satisfied that the plant and/or pole no longer poses a threat to public safety, he shall have the discretion to withdraw the removal notice.

- C. When the Enforcement Officer determines that a double pole is on a highway, street, road or right-of-way within the Town, the Enforcement Officer will provide written notice to the public utility which has the top plant on the double pole that the plant must be removed within 30 days or be subject to penalty. Upon the removal of each plant, the Enforcement Officer shall provide written notice to the public utility that owns the subsequent plant on the pole that the plant must be removed within 30 days or be subject to penalty. The last utility to remove its plant is responsible for removing the double pole within an additional 60 days. Failure to comply with the requirements of this provision may result in penalties as provided for in section 6 of this chapter.

#### §5 - Extensions authorized; temporary emergency suspension.

- A. Notwithstanding any provision of this chapter to the contrary, the Enforcement Officer may extend the time frame of any written notice provided under this chapter for an additional period not exceeding the original statutory time frame set forth in this chapter. The public utility shall make a request for an extension in writing to the Enforcement Officer prior to the expiration of the time frame contained in the original written notice, together with the basis for the request. The Enforcement Officer shall determine whether the request for extension should be granted or denied, and provide a written response to the public utility. In such instances where the request is granted, the Enforcement Officers shall issue another written notice, which shall then be applicable instead of the previously issued notice.
- B. In the event of an emergency that affects the repair, replacement, removal, or installation of utility poles or plants, the Town Supervisor may temporarily suspend the deadlines in sections 4 and 6 of this chapter for periods not exceeding 30 days.

#### §6 - Penalties for offenses.

- A. Any public utility that fails to remove its plant from a damaged pole within 15 days of receiving notification from the Town, shall be punished by a fine of up to \$250 for each such violation. Each day that the violation continues shall be deemed a separate violation. Notwithstanding anything to the contrary contained in this Chapter, no such fines or penalties shall be assessed for violations of this Chapter that occur within six (6) months as a result of natural disasters, major weather events and similar circumstances affecting the Town.
- B. Any public utility that fails to remove a double pole within 90 days of receiving notification from the Town, shall be punished by a fine of \$1,000 per full calendar month that the violation continues.
- C. Any person, firm, corporation or public utility convicted of a violation of the provisions of this chapter, other than those set forth in Sections A or B above, shall be guilty of a violation for a first conviction, punishable by a fine not exceeding \$1,000; for a second or subsequent conviction, punishable by a fine not exceeding \$2,000. Every day that the violation continues shall be deemed a separate violation.
- D. If a person, firm, corporation or public utility violates the provisions of this chapter, the Town Attorney may commence an action in the name of the Town of Woodbury in a court of competent jurisdiction seeking any remedy provided by law or equity, including any civil and/or injunction proceeding necessary to enforce compliance and/or enjoin noncompliance with this chapter. Such action may seek to remove damaged poles and/or double poles, or to remove

plants from such poles, the imposition of civil penalties as authorized by this chapter, the recovery of costs of the action and such other remedies as may be necessary to prevent or enjoin a dangerous condition from existing on a highway, street, road, or right-of-way within the Town.

**§7 - Applicability.**

- A. This chapter shall apply to all utility poles located on any highway, street, road or right-of-way within the Town, and to all utility poles installed hereafter.
- B. The provisions of this chapter shall be deemed to supplement applicable state and local laws, ordinances, codes and regulations; and nothing in this chapter shall be deemed to abolish, impair, supersede or replace existing remedies of the Town, county or state or existing requirements of any other applicable state or local laws, ordinances, codes or regulations. In case of conflict between any provision of this chapter and any applicable state or local law, ordinance, code or regulation, the more restrictive or stringent provision or requirement shall prevail.

**Section 2. Separability**

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Woodbury hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

**Section 3. Repeal**

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

**Section 4. Effective Date**

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.

LOCAL LAW 2 OF 2021

**A LOCAL LAW REPEALING AND REPLACING CHAPTER 221 OF THE TOWN CODE OF THE TOWN OF WOODBURY, NEW YORK ENTITLED "PARADES AND MOTORCADES"**

Be it enacted by the Town Board of Woodbury, County of Orange, State of New York, as follows:

**SECTION 1 Title.**

This local law shall be referred to as "A Local Law Repealing and Replacing § 221 of the Town of Woodbury Code, Entitled Parades and Motorcades."

**SECTION 2 Amendments.**

Chapter 221 shall be and hereby is repealed in its entirety and replaced with the following:

**§221-1 Definitions.**

Whenever used in this chapter, unless a different meaning clearly appears from the context or unless a different meaning is stated in a definition applicable to only a portion of this chapter, the following terms shall have the meanings indicated:

**MOTORCADE** An organized procession containing 10 or more vehicles, except funeral processions, upon any public street or sidewalk.

**PARADE** Any march or procession consisting of 10 or more people, animals or vehicles, or combination thereof, except funeral processions, upon any public street or sidewalk, which does not comply with normal and usual traffic regulations or controls.

**PERSON** Any individual, firm, partnership, association or corporation other than the town and a public corporation.

**TOWN** The Town of Woodbury.

**§221-2 Prohibited acts.**

- A. It shall be unlawful for any person to conduct a parade or motorcade in or upon any public street or sidewalk in the town or to knowingly participate in any such parade or motorcade unless and until a permit to conduct such parade or motorcade has been obtained from the Town Board.
- B. No permit shall be issued authorizing the conduct of a parade or motorcade which the Town Board finds is proposed to be held for the sole purpose of advertising any product, goods, wares, merchandise or event and is designed to be held purely for private profit.
- C. No person shall knowingly join or participate in any parade or motorcade conducted under permit from the Town Board in violation of any of the terms of said permit nor knowingly join or participate in any permitted parade or motorcade without the consent and over the objection of the permittee nor in any manner interfere with its progress or orderly conduct.

**§221-3 Application for permit.**

Any person who wants to conduct a parade or motorcade shall apply to the Town Board for a permit at least 30 days in advance of the date of the proposed parade or motorcade. The Town Board may, in its

discretion, consider any application for a permit to conduct a parade or motorcade which is filed less than 30 days prior to the date such parade or motorcade is to be conducted. The application for such permit shall be made in writing on a form approved by the Town Board.

In order to ensure that adequate arrangements may be made for the proper policing of the parade or motorcade, the application shall contain the following information:

- A. The name of the applicant, the sponsoring organization, the parade or motorcade chairman and the addresses and telephone numbers of each.
- B. The purpose of the parade or motorcade, the date when it is proposed to be conducted, the location of the assembly area, the location of the disbanding area, the route to be traveled and the approximate time when the parade or motorcade will assemble, start and terminate.
- C. A description of the individual floats, marching units, vehicles and bands, including a description of any sound amplification equipment to be used.
- D. Each application shall be accompanied by the required application fee, as may be set by the Town Board from time to time, and the execution of an insurance/indemnification/escrow agreement sufficient to cover the Town's actual costs in facilitating all privately-organized parades or motorcades within the town.
- E. Such other information as the Town Board may deem reasonably necessary.

**§221-4 Approval or denial of permit.**

In determining whether or not the Town Board will approve a parade or motorcade permit, the Board may consider, among other things, whether:

- A. The time, route and size of the parade or motorcade will disrupt to an unreasonable extent the movement of other traffic.
- B. The parade or motorcade is of a size or nature that requires the diversion of so great a number of police officers of the Town to properly police the line of movement and the areas contiguous thereto that allowing the parade or motorcade would deny reasonable police protection to the town.
- C. Such parade or motorcade will interfere with another parade or motorcade for which a permit has been issued.
- D. The information contained in the application is found to be false or nonexistent in any material detail.
- E. The applicant refuses to agree to abide by or comply with all conditions of the permit.

**§221-5 Contents of permit.**

The Town Board, in approving a permit for a parade or motorcade, shall specify the following:

- A. The assembly area and time therefor.
- B. The starting time.
- C. The minimum and maximum speeds.
- D. The route of the parade or motorcade.
- E. What portions of streets to be traversed may be occupied by such parade or motorcade.
- F. The maximum number of platoons or units and the maximum and minimum intervals of space to be maintained between the units of such parade or motorcade.
- G. The maximum length of such parade or motorcade in miles or fractions thereof.
- H. The disbanding area and disbanding time.
- I. The number of persons required to monitor the parade or motorcade.
- J. The number and type of vehicles, if any.

- K. The material and maximum size of any sign, banner, placard or carrying device therefor.
- L. That the materials used in the construction of floats used in any parade shall be of fire-retardant materials.
- M. That the permittee shall advise all participants in the parade or motorcade, either orally or by written notice, of the terms and conditions of the permit prior to the commencement of such parade or motorcade.
- N. That the amplification of sound permitted to be emitted from sound trucks or bullhorns shall be fixed and not variable.
- O. That the parade or motorcade shall continue to move at a fixed rate of speed and that any willful delay or willful stopping of said parade or motorcade, except when reasonably required for the safe and orderly conduct of the parade or motorcade, shall constitute a violation of the permit.
- P. Such other requirements as are found by the Town Board to be reasonably necessary for the protection of persons or property.

**§221-6 Issuance of permit by Town Clerk.**

Upon the approval of a permit by the Town Board, the Town Clerk shall review the application to ensure that it is complete, containing payment of fees and escrow funds, that any required agreements and proof of insurance have been provided, and that any other requirements imposed by the Town Board have been met. If the application is determined to be complete, the Town Clerk shall issue a permit.

**§221-7 Revocation of permit.**

Any permit for a parade or motorcade issued pursuant to this chapter may be summarily revoked by the Town Board or Chief of Police at any time when, by reason of disaster, public calamity, riot or other emergency, the Town Board or Chief of Police determines that the safety of the public or property requires such revocation. Notice of such action revoking a permit shall be delivered in writing to the permittee by personal service or by certified mail.

**§221-8 Penalties for offenses.**

- A. A violation of this chapter shall constitute a traffic infraction, and any person violating this chapter shall be liable to a fine of not more than \$250 or to imprisonment for not more than 15 days, or both, for each such violation.
- B. A violation of this chapter shall also be considered a violation of the Penal Law, § 240.20, and any person violating this chapter shall also be liable to a fine of \$250 or to imprisonment for not more than 15 days, or both, for each such violation.”

**SECTION 3. Separability**

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board of the Town of Woodbury hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

**SECTION 4. Repeal**

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

**SECTION 5.     **Effective Date****

This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.