**Town of Lexington Public Hearing and Town Board Meeting**

**In Person & Via Zoom June 6, 2023**

**Present:** Supervisor JoEllen Schermerhorn

Council Members Bradley Jenkins

Michael Barcone

Town Clerk Charlotte Jaeger

Town Attorney Tal Rappleyea (zoom)

**Absent:** Council Members William Pushman

Bennett Wine

Superintendent of Highways Kevin Simmons

**Others Present:** Paul & Liza Dwon, Nicole Pursell, Dan Hunyady, Anne Hall, Kim McGalliard, Chago & Vickie Betes, Larry Russ, Richard Zwerling, & Emma Wilcox **Zoom:** Joe Redmond, Carolyn Egas, Chris & Rebecca Yarger, Shelly, Moira & John, Hillary Kolos, Nancy Lainez, Richard Andur, Lynn Byrne, Sam, Alida Joy Way, & Mike Ryan from the Mountain Eagle.

**Open Public Hearing Local Law #4 of 2023**

**Amending the Establishment fo Regualtions Regarding Short Term Rentals**

Supervisor JoEllen Schermerhorn opened the public hearing at 6:00 PM at the Municipal Building located at 3542 Rte. 42, Lexington. Supervisor Schermerhorn asked Deputy Supervisor Michael Barcone to speak and he asked that people in person speak first and keep it to a minute and then let people on zoom speak. Daniel lives here and is retired, he has had a rental for almost 8 years and was not aware of the law until he received a notification so he sent a form in. He is retired and relies on the income. Igor wanted to know what the amendments are and Michael Barcone said that if there are any changes in information such as address or property manager, etc. the changes need to be filed with the Town within 5 days, the water test would need to be done every 3 years with an affidavit, if the owner is found to have 3 violations in a year the permit would be revoked, the owner needs to sign an affidavit regarding fire safety every year with the renewal, the Town can change the fees with a resolution, if there is more than one rental on a property there would need to be a permit for each one, and if you are a resident of Lexington there will not be a cap and the cap remains the same for non-residents. Proof of residency will be required so where you file your taxes and the address on your drivers license would be examples of proof. Councilman Bradley Jenkins asked about the renewal period and it is at the end of each year. Richard apologized that he did not know about the law right away and said thank you for the no cap for residents. Joe relies on the income to off set the cost of the home and he didn’t know about the law so received a violation letter and is now on the wait list. He is not against the law but he has had to cancel some of his contracts like snow removal, fire wood, etc. since he has not been able to rent his house. Anne moved to Lexington in 2015 and struggled how to build an income and started a business. She is the only full time resident on her road. The air bnbs are eating away at housing for local workers. She is in favor of the resident vs. non-resident distinction. Igor asked for clarification of the property manager. He specifically wanted to know if you are an owner and are the manager. If you are an owner and the manager and you should go away you would still need some one else listed as a manager. Carolyn has 2 seasonal cottages for rentals and was just curious about the changes. It was asked what the cap was and how was that number reached. And who enforces this. The Code Enforcement Officer does. Michael Barcone said the cap is at 62. The cap was set because we need to see what the market and community can bear. It was also asked how many properties can a property manager manage? Michael Barcone said that can be addressed at a later date. Larry said that Nicole said that most Towns use a cap of 10% and Larry thinks that once we take out the residents cap we might be at 12% - 15 %. Bob said that rentals can also drive property values down if there is a rental that had people that like to party into the wee hours and like to shoot guns at all hours. Chago wanted to know if there is a limit to the number of rentals non-residents could have. There is nothing in the law at this time but there is a first come first serve basis. Anne said that there is a need for long term rentals and it would help the community greatly. Supervisor Schermerhorn said that even a seasonal rental could benefit some people. Daniel said that he had put out a post for a long term rental and he didn’t find anyone that was interested in his micro-rental.

**Close Public Hearing**

On a motion by Council Member Michael Barcone, seconded by Supervisor JoEllen Schermerhorn and with none opposed the public hearing was closed at 6:47 pm.

**Open Town Board Meeting**

Supervisor Schermerhorn opened the Town Board meeting at 6:47 pm followed by the Pledge of Allegiance to the American Flag.

**RESOLUTION # 42-23**

**Accept May 2, 2023 Public Hearing & Meeting Minutes**

On a motion by Council Member Michael Barcone, seconded by Council Member Bradley Jenkinsthe following was,

ADOPTED: Ayes – 3- Barcone, Jenkins, & Schermerhorn

Nays - 0

Absent-2 – Pushman & Wine

Therefore this Town Board moves to accept the May 2, 2023 public hearing and meeting minutes as presented.

**RESOLUTION # 43-23**

**Accept April 2023 Financial Report**

On a motion by Council Member Bradley Jenkins, seconded by Council Member Michael Barcone the following was,

ADOPTED: Ayes – 3– Barcone, Jenkins, & Schermerhorn

Nays - 0

Absent-2 – Pushman & Wine

Therefore this Town Board moves to accept the Financial Report for April 2023.

**Highway Report**

Supervisor Schermerhorn said that the Highway Superintendent Kevin Simmons was away at a State meeting/ training. The State will be replacing 2 culverts on State Route 42 and it can take up to 3 months for the work to be finished and that the State is replacing guide rails on State Route 23 A. Cobleskill Stone will be blacktopping the town roads soon. Cobleskill Stone was on the Greene County bid.

**Comprehensive Plan Up Date**

Supervisor Schermerhorn wanted to let people know that there were Boards in the hallway to get feedback and please read the directions at the top. It was at the last Farmer’s Market. Kim said that they are considering putting it on-line. Supervisor Schermerhorn thanked the committee for their hard work.

**RESOLUTION # 44-23**

**Change July Meeting Date to July 5th**

On a motion by Council Member Bennett Wine, seconded by Council Member Bradley Jenkins the following was,

ADOPTED: Ayes – 3 – Barcone, Jenkins, & Schermerhorn

Nays – 0

Absent-2 – Pushman & Wine

Therefore this Town Board moves to change the date of the regular monthly meeting from July 4, 2023 to July 5, 2023.

**Ambulance District**

Supervisor Schermerhorn said that no one had come forward with a petition which means that the Town of Lexington now has an ambulance district. She asked Town Attorney Tal Rappleyea to explain the next steps. Town Attorney Tal Rappleyea said that he is working with Doug Van Deusen. They are looking at the legal description of the out bounds of all 3 towns together and we will have a contract with Shandaken. They have been working with the Department of Health and the State Comptrollers office and other Attorneys. The District will be comprised of Commissioners that will be elected. Each Town will have a seat. There will be public hearings for the 3 towns. The hope is to have a referendum on the ballot this year to elect Commissioners for next year.

**RESOLUTION # 45-23**

**Discard Broken Equipment**

On a motion by Council Member Michael Barcone, seconded by Council Member Bradley Jenkins the following was,

ADOPTED: Ayes – 3 – Barcone, Jenkins, & Schermerhorn

Nays – 0

Absent-2- Pushman & Wine

Therefore this Town Board moves to discard a broken office chair and HP Printer from the Municipal Building and anything that needs to be discarded from the highway department as well.

**SEQR Questions Re: Amending Local Law #3-21 (Short term rental Law)**

Town Attorney Tal Rappleyea asked the 11 questions on the short Environmental Assessment Form Part 2 -Impact Assessment and the Town Board members answered no to all of them which means there will not be an environmental impact.

**RESOLUTION # 46-23**

**Negative Declaration**

On a motion by Supervisor Schermerhorn, seconded by Council Member Michael Barcone the following was,

ADOPTED: Ayes – 3 – Barcone, Jenkins, and Schermerhorn

Nays - 0

Absent-2 – Pushman & Wine

Therefore this Town Board declares that there will not be any adverse environmental impacts as a result of passing this law amending the Town’s short term rental law.

**RESOLUTION #47-23**

**Local Law # 4-23 Enacting Amendments to the Town Short Term Rental Law**

On a motion by Council Member Bradley Jenkins, seconded by Council Member Michael Barcone the following was,

ADOPTED: Ayes – 3 – Barcone, Jenkins, & Schermerhorn

Nays - 0

Absent-2 – Pushman & Wine

Therefore this Town Board moves to adopt Local Law # 4-23 Amending the Establishment of Regulations Regarding Short Term Rentals.

**LOCAL LAW No. 4 OF 2023**

**TOWN OF LEXINGTON**

**AMENDING THE ESTABLISHMENT OF REGULATIONS REGARDING SHORT**

**TERM RENTALS**

Be it enacted by the Town of Lexington as follows:

**Section 1. Title**

This Local Law shall be known as “A Local Law Amending the Local Law Establishing

Regulations Regarding Short Term Rentals.”

**Section 2. Authorization**

This local law is enacted pursuant to the requirements set forth in the New York State Town

Law and Municipal Home Rule Law.

**Section 3. Definitions**

SHORT-TERM RENTAL AND VACATION RENTAL - Furnished apartments or living

units in a dwelling ordinarily occupied for residential purposes or otherwise directly by the

owner or through an owner's agent or hosting platform. Hereinafter referred to as “STR”.

HOSTED PROPERTY - owner resides on the property on which an STR is located.

UNHOSTED PROPERTY - owner not living on property but must have a Local Property

Manager- Person in charge of managing property.

OWNER AND/OR OPERATOR – Person or entity that owns the parcel of land on which

the STR is operated or the person or entity that conducts the business of the STR.

LOCAL PROPERTY MANAGER (LPM) – Person that lives within the Town or within

30 miles of the Unhosted Property STR. Responsibilities of the LPM include assuring that all

rules and regulations are met by guests including noise, parking and garbage disposal and shall

respond to all complaints from the Town or the public. Name, address and phone number of the

LPM must be filed with the permit application to the Town. Any change in the required

information shall be filed with the Town within five days of such change.

**Section 4. Regulations**

**A.** Every new STR must obtain a permit prior to commencing operation and every current

STR within the Town of Lexington must register for a permit from the Town Code

Enforcement Officer (CEO). The CEO, within 30 (thirty) days of the receipt of a

complete application, shall conduct an initial inspection of the following items and

upon successful completion, the initial permit shall be issued.

**i.** The applicant must provide a water test result of the potable water supply

of the rented dwelling that complies with Subpart 5-1 (non-community

water system) of the New York State Sanitary Code. Subsequent water tests

shall be required every three years with the submission of an affidavit

outlining the test procedure..

**ii.** The occupancy of the building utilized for the STR shall not exceed the

number of persons approved by the CEO based upon bedrooms, in

accordance with the New York State Building Code.

**iii.** STRs will be limited in occupancy to sleeping 15 persons or less. Any

establishment that can house and sleep more than 15 persons will not be

considered an STR and will be subject to the same rules and regulations as

hotels/motels.

**iv**. All parking for STRs must occur on the parcel. No parking on any roads

by STR guests, renters or visitors will be allowed. Failure to comply at all

times with the requirements herein shall result in a revocation of the permit

until remedied and approved by the CEO.

**v.** The applicant shall provide an emergency number on the application and

shall prominently post such number in the property. All emergency calls

from the Town or renters must be responded to within sixty (60) minutes.

**vi.** Proof of hazard/liability insurance in an appropriate amount is

recommended.

**Vii.**  Each permit shall have a term of one (1) year and must be renewed at the

expiration of one year, with the appropriate fee as set by resolution of the

Town Board from time to time and inspection by the CEO.

**B.**  The fee for such inspection shall beset by resolution of the Town Board from time to

time. Permits shall be applicable to one tax parcel only. If the STR covers more than

one parcel, the owner must obtain a permit for each parcel utilized as an STR. If there

are more than one STR on a parcel, each individual unit must have its own permit.

**C.** The owner of every STR within the Town of Lexington shall apply for an initial permit

within 180 days of the effective date of this local law. Failure to do so shall be

punishable by a civil fee in an amount to set by resolution of the Town Board.

**D .** STR permits shall be issued only to the property owner of the STR being registered.

**E.** Failure to meet New York State Sanitary Code Standards shall require that STR owner

or operator to notify guests of the failure, and provide potable bottled water to the

guests, until such time as the failure is remedied. Upon failure of a water test, STR

operator shall be required to submit a quarterly test for a period of one year to continue

operation.

**F.**  All current non-resident owners/operators of STRs may continue operation provided a

permit is timely obtained hereunder from the CEO. However thereafter, only ten (10)

further permits may be issued to new non-resident owners of STRs on a first-come-

first serve basis. The CEO shall maintain a list of interested non-resident owners who

may apply for a new permit when one becomes available after the tenth (10th) new non-

resident permit is issued. There shall be no cap for resident owners permits. The annual

renewal requirements set forth above shall also apply.

**G.** At any time a violation is issued, the host has thirty days to remedy the violation. If a

host receives three violations and the violations are not remedied and the host is still

renting the dwelling, revocation of said license will ensue. If the owner is found guilty

of having three violations in any calendar year, the permit shall be revoked. The CEO

shall inspect the STR after each violation.

1. First violation: warning

2. Second notice: $500

3. Thirds notice; $1000

4. Fourth notice ; $1500, etc.

**H.**  Fire safety requirements including smoke alarms, C02 alarms, and fire extinguishers,

in accordance with the most recent version to the National Fire Safety Code. Fire

extinguisher certification is required every 12 months. The owner/operator shall submit

an affidavit affirming that the property continues to be in compliance with the National

Fire Safety Code at the time of each renewal.

**I.**  The 911-Fire number of the rental property shall be prominently displayed at the curb

of the property in numerals at least 4 inches high.

**J.** In any STR with 5 bedrooms or more, placards must be placed within the rental,

delineating clear route of exit in case of emergency in every bedroom, to be affixed to

the back, inside surface of the bedroom door.

**K.** Information shall be prominently displayed stating: “Strict adherence to local

restrictions such as no trespassing on property boundaries outside of your hosts,

adherence to noise limitations after 10 PM, and proper garbage disposal in accordance

with the Town Zoning and other Local Laws, is essential for us to maintain our STR

license. Please help us by respecting these laws. In addition, please be sure to review

our house rules.”

**L.** A copy of the local law in regard to snow mobiles and ATVs will be prominently

displayed.

**Section 5. Enforcement**

**A.** Violations of this Local Law shall be enforced in the same manner of violations of the

Town Zoning Law.

**B.** A Review and Appeals Board is hereby formed to receive, investigate and make

determinations on complaints and/or appeals of determinations by the CEO. The

Committee shall include: one member from the Town Council, one member from the

planning board, one full time resident who does not own or run an STR, and two STR

owners, both of whom must be full-time town residents, and one of whom shall be a

member of a local association of STR owners. All members of the appeals board will

be appointed by the Town Council and shall use the same standards set forth in Town

Law §267-b (1) relating to interpretations and shall follow the same public hearing and

decision-making process as set forth in such section..

**Section 5. Effective**

This Local Law shall take effect immediately in accordance with the requirements of the

New York State Municipal Home Rule Law.

**DEP Contract for Highway Gargage**

Supervisor Schermerhorn said that she received a contract from DEP regarding the sale of the highway garage on Route 42 and had the Town Attorney Tal Rappleyea look it over and he said that it looked good. Supervisor Schermerhorn wanted to double check about housing the Town trucks. Council Member Bradley Jenkins said that he wanted to form a committee for the highway garage and he volunteered to be on it and though Bill Pushman and Superintendent of Highways Kevin Simmons should be on it as well. Supervisor Schermerhorn thought that was a great idea and she thought they might want to look at the old plans for a highway garage by the salt shed.

**NYS Ag & Markets**

The Town received the report of inspections of Dog Control Officers and Shelter Reports regarding Bruce Feml and everything was in order.

**NBT Bank Acounts**

Supervisor Schermerhorn said that she closed 4 accounts at NBT bank and moved the money to the appropriate accounts at the Bank of Greene County.

**NYMIR Check**

Supervisor Schermerhorn made it known that the Town of Lexington received a check in the amount of $3,943.00 from our insurance company since we did not have any incidents.

**Mortgage Tax**

The Town of Lexington will receive 26,573.56 from Greene County for mortgage tax collected.

**RESOLUTION # 48-23**

**Amend Dollar Amount of Block Grant**

On a motion by Council Member Bradley Jenkins, seconded by Council Member Michael Barcone the following was,

ADOPTED: Ayes – 3 – Barcon, Jenkins, & Schermrehorn

Nays - 0

Absent-2 – Pushman & Wine

Therefore this Town Board moves to lower the requested amount of the grant from $500,000.00 to $300,000.00.

**NYC Stream Bank Stabilization**

Supervisor Schermerhorn received notice that there will a stream bank stabilization project in West Kill near Wolf Road in the amount of $1, 073,000.00.

**Sexual Harrassment Policy**

Supervisor Schermerhorn received notice that the sexual harassment policy should be up dated so she has made the suggested changes.

**Greene County Hazardous Waste Collection**

Supervisor Schermerhorn announced that there would be a hazardous waste collection at the Athens Highway garage on June 24th for 8am to 1pm. The notice is on the Town’s website.

**AUD Report**

The Town of Lexington has received the Annual Financial Report Update Document for the fiscal year ended December 31, 2022. There is a copy on file in the Town Clerk’s Office if anyone is interested in viewing the 69 pages.

**RESOLUTION # 49-23**

**Accept the AUD Report**

On a motion by Council Member Michael Barcone, seconded by Council Member Bradley Jenkins the following was,

ADOPTED: Ayes – 3 – Barcone, Jenkins, & Schermerhorn

Nays - 0

Absent-2 – Pushman & Wine

Therefore this Town Board moves to accept the Annual Financial Report for the year 2022.

**Health Report**

Health Officer Liza Dwon sent notice that she would not be here but there is a stop the bleed class at the Hunter Library. Paul Dwon said anyone with breathing problems to stay inside and do not call 911 because of the smoke coming from Canada.

**CEO Report**

The Town Board Members had the reports from April and May to peruse at their convenience.

There were 2 Certificate of Occupancy or Compliance issued in April and 1 in May. There were 4 C of O searches in April and 4 in May. There were 2 building permits issued in April and 7 in May.

**RESOLUTION # 50-23**

**Audit Committee Report**

On a motion by Council Member Michael Barcone, seconded by Council Member Bradley Jenkins the following was,

ADOPTED: Ayes – 3 – Barcone, Jenkins, & Schermerhorn

Nays - 0

Absent-2 – Pushman & Wine

Therefore this Town Board moves to approve the paying of the following expenditures.

**Highway Fund** No. 79 Through No. 93 = $ 15,516.89

**General Fund** No.127 Through No. 163 = $ 28,855.64

**Lighting District** No. 6 Through No. 6 = $ 303.38

**Sewer District** No. 21 Through No. 28 = $ 3,231.64

**Public Be Heard**

Mark McCarrol said that he had been doing research on the Kindred Spirits painting and that he discovered the stone that the couple was standing on, there was an old tannery there, and the rocky gorge is on W. Saugerties Rd. There is a waterfall below and it comes down Platte Clove. There are 3 little falls. He found that the one tree still exists and believes it represents Thomas Cole’s life being cut short. Then you come up to Round Top Mountain where there is a place called churches ledge. He is still searching for one stone left in the painting. He has been in contact with the National Gallery of Art.

Igor asked when the new amendments will take place and it was answered as soon as the law is filed with the State.

**Adjourn**

On a motion by Council Member Bradley Jenkins, seconded by Council Member Michael Barcone and with no further business and with none opposed Supervisor Schermerhorn adjourned the meeting at 7:22pm.

Respectfully Submitted,

Charlotte Jaeger, Town Clerk

**Calendar of Events**

Household Hazardous Waste Collection in Athens 06/24/2023

Hunter Library Stop the Bleed Class 06/24/2023

Lexington Farmer’s Market 06/24/2023

July Monthly Town Board Meeting 07/05/2023