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

**August 2, 2022 In Person & Via Zoom**

Deputy Supervisor Michael Barcone opened the Public Hearing & regular Town Board meeting at 6:06 pm followed by the Pledge of Allegiance to the American Flag.

**Present:** Supervisor JoEllen Schermerhorn

Council Members William Pushman Bradley Jenkins

Michael Barcone

Bennett Wine (zoom)

Town Clerk Charlotte Jaeger

Town Attorney Tal Rappleyea (zoom)

**Absent:** Superintendent of Highways Kevin Simmons

**Others Present:** John Falke, Paul & Liza Dwon ZOOM: Larry Russ, Shelly, & Mike Ryan from the Mountain Eagle

**Public Hearing**

The Public Hearing was held to go over the Town of Lexington Solar Energy System PILOT Law.

The law was recommended by Greene County so Towns would have a unified law. Attorney Tal Rappleyea went over the law and Supervisor JoEllen Schermerhorn confirmed that our zoning laws would still apply and Attorney Tal Rappleyea said that as long as it stays under 25 mega watt, over that if the Public Service Commission wants it the Town may not be able to stop it. The PILOT is a 15 year term.

**Close Public Hearing**

On a motion by Council Member William Pushman, seconded by Council Member Bradley Jenkins and with all in favor the public hearing was closed at 6:10 pm.

**RESOLUTION54-22**

**Accept July 5, 2022 Minutes**

On a motion by Council Member Bennett Wine, seconded by Supervisor JoEllen Schermerhorn the following was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays - 0

Therefore this Town Board moves to accept the Minutes from July l 5, 2022 meeting as presented.

**RESOLUTION #55-22**

**Financial Reports for June**

On a motion by Supervisor JoEllen Schermerhorn, seconded by Council Member Bennett Wine the following was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays - 0

Therefore this Town Board moves to accept the financial report through June 2022.

**Highway Report**

Highway Superintendent Kevin Simmons was not in attendance. Council Member Bradley Jenkins said that the highway crew was working on ditching and were working on Rusk Mountain Road.

**RESOLUTION # 56-22**

**Local Law No. 4 of 2022 Town of Lexington Solar Energy System PILOT Law**

On a motion by Council Member William Pushman, seconded by Council Member Bradley Jenkins the following was,

ADOPTED: Ayes –4 – Barcone, Jenkins, Pushman, & Schermerhorn

Nays -1 – Wine

Therefore this Town Board moves to adopt the Solar Energy System PILOT Law.

**Town of Lexington Solar Energy System PILOT Law**

**1. Title**

This Local Law may be cited as the “Solar Energy System PILOT Law of the Town of Lexington, NY

**2. Purpose**

This Local Law is adopted to ensure that the benefits of the community’s solar energy resource are available to the entire community, by promoting the installation of solar energy generating equipment through a payment-in-lieu-taxes (PILOT), granting reduced costs to system developers and energy consumers, and providing a revenue stream to the entire community.

**3. Authority**

This Local Law is adopted under the authority granted by

1. Article IX of the New York State Constitution, {2(c)(8),

2. New York Statute of Local Governments, {10 (5),

3. New York Municipal Home Rule Law, { 10 (1)(i) and (ii) and {10 (1)(a)(8), and

4. New York Real Property Tax Law{487(9).

**4. Definitions**

1.”Annual Payment” means the payment due under a PILOT Agreement entered into pursuant to

Real Property Tax Law {487(9).

2. “Annual Payment Date” means January1st of each year.

3. “Capacity” means the manufacturer’s nameplate capacity of the Solar Energy System as measured in kilowatts (kW) or megawatts (MW) AC.

4. “Owner” means the owner of the property on which a Solar Energy System is located or installed, their lessee, licensee or other person authorized to install and operate a Solar Energy System on the property.

5. “Residential Solar Energy Systems” means a Solar Energy System with a nameplate generating capacity less than 50 kW AC in size, installed on the roof or the property of a residential dwelling (including multi-family dwellings), and designed to serve that dwelling.

6. “Solar Energy Equipment” means collectors, controls, energy storage devices, heat pumps and pumps, heat exchangers, windmills, and other materials, hardware or equipment necessary to the process by which solar radiation is (i) collected, (ii) converted into another form of energy such as thermal, electrical, mechanical or chemical, (iii) stored, (iv) protected from unnecessary dissipation and (v) distributed. It does not include pipes, controls, insulation system of a building. It does include insulated glazing or insulation to the extent that such materials exceed the energy efficiency standards required by New York law.

7. “Solar Energy System” means an arrangement or combination of Solar Energy Equipment designed to provide heating, cooling, hot water, or mechanical, chemical, or electrical energy by the collection of solar energy and its conversion, storage, protection and distribution.

**5. PILOT Required**

1. The owner of a property on which a Solar Energy System is located or installed (including any improvement, reconstruction, or replacement thereof), shall enter into a PILOT Agreement with the Town of Lexington consistent with the terms of this Local Law, excepting,

a) Residential Solar Energy Systems

b) Solar Energy Systems that do not seek or qualify for an exemption from real property taxes pursuant to Real Property Tax Law { 487(4).

2. The Lessee or licensee of any owner of a property required to enter into a PILOT Agreement by this section, which owns or controls the Solar Energy System, may enter into the PILOT Agreement on behalf of the owner of the property.

3. Upon receipt of any notification from an owner or other person of intent to install a Solar Energy System, the Town Supervisor or his/her designee shall immediately, but in no case more than sixty days after receipt of the notification, notify the owner or other person or party of the requirement to enter into a PILOT Agreement pursuant to the terms of this Local Law.

4. Nothing in this Local Law shall exempt any requirement for compliance with state and local codes for the installation of any solar energy equipment or a solar energy system, or authorize the installation of any solar energy equipment or a solar energy system. All solar energy systems must file a Real Property Tax Exemption application pursuant to Real Property tax Law { 487 to receive a tax exemption.

**6. Contents of PILOT Agreements**

1. Each PILOT Agreement entered into shall include

a) Name and contact information of the Owner or other party authorized to act upon behalf of the Owner of the Solar Energy System.

b) The Tax ID for each parcel or portion of a parcel on which the Solar Energy System will be located.

c) A requirement for fifteen successive annual payment6s, to be paid commencing on the first Annual Payment Date after the effective date of the Real Property Tax Exemption granted pursuant to Real Property Tax Law { 487.

d) The Capacity of the Solar Energy System, and that if after the Commencement Date, the Capacity is increased as a result of the replacement or upgrade of existing Project equipment or property, the Annual Payments shall be increased on a pro rata basis for the remaining years of the Agreement.

e) That the parties agree that under the authority of Real Property Tax Law { 4876 the Solar Energy System shall be considered exempt form real property taxes for the fifteen-year live of the PILOT Agreement.

f) That the PILOT Agreement may not be assigned without the prior written consent of the Town of Lexington, which consent may not be unreasonably withheld if the Assignee has agreed in writing to accept all obligations of the Owner, except that the Owner may, with advance written notice to the Town of Lexington but without prior consent, assign its payment obligations under the PILOT Agreement to an affiliate of the Owner or to any party who has provided or is providing financing to the Owner for or related to the Solar Energy System, and has agreed in writing to accept all payment obligations of the Owner.

g) That a Notice of this Agreement may be recorded by the Owner at its expense, and that the Town of Lexington shall cooperate in the execution of any Notices or Assignments with the Owner and its successors.

h) That the Annual Payment shall be

i) For Solar Energy Systems with a Capacity greater than 50 KW, $8750.00 per MW of Capacity.

ii) Notwithstanding anything to the contrary the annual payment referenced herein shall constitute the entire Annual PILOT Payment due to all taxing authorities in the jurisdiction and shall be apportioned pursuant to the applicable tax rates in place at the time of execution of said PILOT Agreement.

iii) Notwithstanding anything to the contrary within this provision, the Annual PILOT Payment shall not include any special ad valorem levies and special assessments.

i) That the Annual Payment shall escalate two percent (2%) per year, starting with the second Annual Payment.

j) That if the Annual Payment is not paid when due, that upon failure to cure within thirty days, the Town of Lexington may cancel the PILOT Agreement without notice to the Owner, and the Solar Energy System shall thereafter be subject to taxation at its full assessed value.

**7. Severability**

Should any provision of this Local Law be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional or invalid.

**8. Effective Date**

This Local Law shall be effective upon its filing with the Secretary of State in accordance with the Municipal Home Rule Law, and shall apply to all solar energy systems constructed.

**RESOLUTION # 57-22**

**Honoring Tunis Edwin Rappleyea Jr**

On a motion by Council Member William Pushman, seconded by Council Member Bradley Jenkins the following was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays - 0

Therefore this Town Board moves to honor Tunis Rappleyea Jr. by naming a section of Spruceton Road

(County Road 6) in his memory.

**A RESOLUTION HONORING TUNIS EDWIN RAPPLEYEA JR.**

**WHEREAS,** Tunis Rappleyea Jr. resided in the Town of Lexington and many of the Rappleyea family have and some still do reside here; and

**WHEREAS,** Tunis Rappleya Jr. and his family resided along Spruceton Road also known as County Route 6; and

**WHEREAS,** it would be fitting to rename that section of Spruceton Road in memory of Tunis E. Rappleyea Jr. as he made the ultimate sacrifice for his Town and Country when he lost his life on November 22, 1967 in Vietnam. He was an Army Sergeant whose military occupation or specialty was

Infantry Direct Fire Crewman, attached to the 1st Cavalry Division, 2nd Battalion, 7th Cavalry, B Company.

**NOW THEREFORE,** be it resolved by the Town of Lexington Town Board that henceforth that this section of Spruceton Road shall be know as Tunis E. Rappleyea Jr. Memorial Road, starting

at Grant Gully Road and ending at Shoemaker Road.

**RESOLUTION #58-22**

**Health Care Proposal**

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

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays - 0

Therefor this Town Board moves to accept the Bronze 6 health care package with MVP that will go into effect December 1st with a cost of $69,541.92 rather than going with what we now have which would cost $79,408.24. The coverage is the same but there is a difference in the cost of the deductibles.

**American Rescue Plan Act**

The Town of Lexington received $39,640.90 which is the second payment and the Town is looking to pay for the helicopter pad and hopefully a walking path around the sewer district field.

**NYSDOT Reimbursement for N. Beech Ridge Rd.**

The Town finally received reimbursement from the State.

**NYS DEC Grant for Zero Emissions: EV Charging Stations**

Council Member Michael Barcone said that we may not be in the qualifying area for it and he is waiting to hear back to confirm this.

**Comprehensive Plan Update**

Supervior Schermerhorn said that the post cards are here and we are working on the mailing labels and some will be handed out in person.

**STR Committee**

Council Member Michael Barcone said that there is a meeting coming up and that they will work on definitions and they will talk to the Code Enforcement Officer about enforcement and inspections.

**Health Office Report**

Supervisor Schermerhorn said that Covid is out there and that there are test kits here at the Municipal Building if anyone needs them. Health Officer Liza Dwon said that as the covid strands change the symptoms can be milder.

**CEO Report**

The Town Board Members had reports to peruse at their convenience.

There was 1 Certificate of Occupancy or Compliance issued, 13 permits issued and 1 verbal property violation with a written directive to follow.

**RESOLUTION #58-22**

**Audit Committee Report**

On a motion by Council Member William Pushman, seconded by Council Member Michael Barcone

the following was,

ADOPTED: Ayes – 5 – Barcone, Jenkins, Pushman, Schermerhorn, & Wine

Nays - 0

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

**Highway Fund** No.122 Through No. 136 = $ 16,884.11

**General Fund** No. 186 Through No.212 = $ 7,726.40

**Lighting District** No. 7 Through No. 7 = $ 284.49

**Sewer District** No. 38 Through No.42 = $ 704.33

**Calendar of Events**

August 6, 2022 1 pm Karen Deeter Dedication of Brick Garden

August 13, 2022 15th Annual Tour of the Catskills bike race

August 13, 2022 10am - 1pm Farmers Market

August 20, 2022 12 pm Town picnic

August 23, 2022 6 am – 9 pm Special Election / Primary

September 6, 2022 6:00pm Town Board Meeting in person & via zoom

**Close Regular Meeting and Enter Executive Session**

On a motion by Supervisor Schermerhorn, seconded by Council Member Bradley Jenkins the meeting closed at 6:37 pm and went into executive session with all in favor. The executive session was necessary to talk about a legal matter. There will be no action taken.

**Close Executive Session and Open Regular Meeting**

On a motion by Council MemberWilliam Pushman, seconded by Council Member Bradley Jenkins and with all in favor the executive session ended and the regular meeting opened at7:03 pm.

**NO Parking Law**

Council Member Bradley Jenkins said that he thought there were several no parking laws for the Town of Lexington and he would like to have one law that would combine them all and that way they could be enforced and fines could be issued. Town Attorney Tal Rappleyea said that he could help with drafting the new law.

**Adjourn**

On a motion by Supervisor JoEllen Schermerhorn, seconded by Council Member Bennett Wine and with none opposed the meeting was adjourned at 7:05pm.

Respectfully Submitted,

Charlotte Jaeger, Town Clerk