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

**March 1, 2022**

**Open Public Hearing**

Supervisor JoEllen Schermerhorn opened the public hearing at 6:00 PM at the Municipal Building located at 3542 Rte. 42, Lexington. Supervisor Schermerhorn read the proposed Local Law No. 1 of 2022 “Allowing Members of the Town Board to Participate in Town Board Meetings via Videoconference from Locations Outside the Town of Lexington Boundary Lines.”

**Present:** Supervisor JoEllen Schermerhorn

Council Members Bradley Jenkins

William Pushman

Bennett Wine

Michael Barcone ( zoom)

Superintendent of Highways Kevin Simmons

Town Clerk Charlotte Jaeger

Town Attorney Tal Rappleyea (zoom)

**Others Present:** Jack & Kathy Jordan, Lubko & Nancy Kizyma, Robert Hermance, Chris Dwon, Paul & Liza Dwon, Bob Heuthe, Taris Charysyn, Shelly, Lynn Byrne, Sarah Mitchell Davison, James, Helen Kerr, and Mike Ryan from the Mountain Eagle

Supervisor Schermerhorn read the proposed law.

**Local Law No. 1 of 2022**

**Allowing Members of the Town of Lexington Town Board to Participate in Town Board Meetings via Videoconference from Locations Outside the Town of Lexington Boundary Lines**

Local Law No 1 of the year 2022

Town of Lexington, County of Greene

A local law to authorize members of the Town Board to participate in town board meetings videoconferencing from locations outside the Town of Lexington’s geographical limits

**Section 1. Legislative intent**

It is the intent of this local law to give town board members the authority to participate in town board meetings via videoconference from locations that fall outside the town’s geographical boundaries.

Videoconferencing has proven to be an effective and useful tool for town board Meetings that allows members to participate despite issues such as inclement weather, illness, or travel plans. Videoconferencing also helps ameliorate potential quorum issues so that the town is able to address business and matters in a more timely fashion.

Although Public Officers Law 102 expressly allows members of a public body to attend and participate in meetings using videoconferencing, Town Law 62 states that town board meetings must take place within the town thereby making it unclear if a town board member may participate via videoconference from a location out sided the town’s boundaries. This local law is meant to expressly provide that authority to members of the town board.

**Section 2. Authority**

This local law is adopted pursuant to Municipal Home Rule Law 10 which expressly authorizes the town board to adopt a local law superseding any provision of Town Law relating to the property, affairs or government of the town.

**Section 3. Videoconferencing from Outside Town Limits**

The Town Board of the Town of Lexington hereby supersedes Town Law 62 to expressly allow town board members to participate in town board meetings using videoconferencing from locations that fall outside the geographical limitations of the town.

**Section 4. Severability**

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm, or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section 5. Effective date**

This local law shall take effect immediately upon filing with the Secretary of State.

**Public Comments**

Robert asked if the Association of Towns has lawyers to interpret Town law. Supervisor Schermerhorn said yes and the Town had passed a resolution to do business over zoom but the Governor has stopped that. Town Attorney Rappleyea said that he spoke to the AOT and he is fully aware of it and he is for it. Council Member Jenkins asked Town Attorney Tal Rappleyea about the planning board and zoning board. Tal said that it could be extended to those boards. Robert asked if someone could be out of the country. Tal said that there was no limitation. Nancy asked if zoom would continue. She thought this was just a covid thing. She does not think this is very good for the community because there is no interaction. Kathy thought it was fine for the public but does not feel it should be for Town Board members. Kathy wanted to know if the Town Board initiated this law. Supervisor Schermerhorn said that this would be a good idea and that the law was one that was already written. Jack said that you should be proud to live here and that they should be at the meetings in person. Jack believes Town Board members should be out interacting with the town and that they are paying board members to be here. Jack asked if Michael is allowed to vote and Tal said no because the local law has not passed yet. Lynn said welcome to 2022 and she is for it since it does enable people to participate. Taris wanted to know if there is a stipulation that allows for not having anybody taking advantage of this for months at a time. He thinks 6 months would be taking advantage of the law. Tal said that is comes down to what is your primary residence, where you have your drivers license, where you pay your taxes, and where you intend to return to. Kathy asked if having a PO Box would count and Tal said no. Robert said that his son owns a place on North Lexington and if he gets a PO Box here would he be a resident here. Tal said for the third time that you need to have a drivers license here, if this is the place you always plan to return to and if on your taxes you put Lexington as your primary residence and pay your taxes here. Kathy wanted to know why we have to have this law and why we can’t keep things the way they are. Tal said that they are doing this so that if members are needed for a quorum they can vote via videoconferencing. Kathy wanted to know if this could be put out to the Towns people to vote on. Tal said no that this does not qualify to be put to a referendum in New York state. Council Member Wine asked if Kathy got a petition together could they change the law and Tal said no. Nancy asked if Board Members are on vacation do they have to attend? Supervisor Schermerhorn said no that they don’t have to, but some members do. Council Member Pushman asked if any other towns had passed a law like this. Tal said that there are probably many in New York State but he is not sure about Greene County. Supervisor Schermerhorn asked Taris about the planning board having a law like this. Taris said that if someone is going to take advantage then he disagrees but if someone has a valid excuse then he would agree with it. Tal said that someone can be elected and they could just not show up for their term. Council Member Pushman feels that zoom is a pain in the neck because of technical difficulties and he knows people in other towns that think the meetings are lengthened because of it. Council Member Wine asked Council Member Pushman if anyone has taken advantage of this so far? Council Member Pushman said no but he is afraid that it can happen. Larry asked if the town would still zoom for the public and the answer was yes. Bradley feels that Bennett had to be away for a legitimate reason and he likes that Bennett was able to still attend the meetings via zoom. Council Member Wine said if someone is missing meetings for not legitimate reasons then when officials are thought to not be doing their jobs there are elections. James thinks this enables Board members to do their job. James works remotely and he wholeheartedly supports this. Council Member Barcone said that the board meets for emergencies and to open bids and these meetings usually happen during work hours and this allows board members to attend and keep daily operations moving. Taris said that planning board meetings can be difficult via zoom when looking at maps and things. Kathy read a letter and believes town board members need to be at meetings in person. It is extremely difficult to have conversations with board members if they are not here and sometimes because of technical difficulties you can’t always hear. There are only 12 meetings a year and members are paid to be there. She is against the law. Helen does not have a problem with zoom meeting if it happens once in awhile. She does not think a member should be able to zoom for 6 or 8 months. She thinks that members miss a lot by not being in town and it is hard to talk to officials if they are not here.

**Close Public Hearing**

On a motion by Council Member William Pushman, seconded by Council Member Bennett Wine and with none opposed Supervisor Schermerhorn closed the public hearing at 6:44 pm.

**Open Regular Board Meeting**

Supervisor Schermerhorn opened the meeting at 6:44 PM followed by the Pledge of Allegiance to the American Flag. There was a moment of silence in memory of Emil Banks and Alida Bloodgood. There was also a moment of silence for the Ukrainian people.

**RESOLUTION # 26-22**

**Accept February1, 2022 Minutes**

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

ADOPTED: Ayes – 4- Jenkins, Pushman, Schermerhorn, & Wine

Nays - 0

Abstain-1 – Barcone

Therefore this Town Board moves to accept the February 1, 2022 minutes as presented.

**RESOLUTION # 27-22**

**Accept January 2022 Financial Report**

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

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

Nays - 0

Abstain-1 - Barcone

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

**Highway Report**

Highway Superintendent Kevin Simmons said that Howard Road hasn’t really been moving that much. The truck that broke down last month was fixed. Another truck broke down but it was repaired by the

highway department. Tal said that the 2 remaining properties agreed to the driveways since the Town is

closing part of Howard road.

**RESOLUTION # 28-22**

**Undertaking – McCullar and Mangiamele**

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

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

Nays - 0

Abstain-1 – Barcone

Therefore this Town Board approves the following Undertaking.

**UNDERTAKING**

For the benefit of

**Owners McCullar and Mangiamele of Property located at Howard, Lexington, NY**

In connection with work affecting driveway access, easements and cub cuts into Sate Route 42.

**WHEREAS,** the undersigned, JoEllen Schermerhorn, Supervisor of the Town of Lexington, is a duly organized New York State “Municipal Corporation” having the power and authority to layout, create and establish public highways within the State of New York, pursuant to the New York State Highway, Town, and General Municipal Laws (hereinafter referred to as “Town”) from time to time receives permits from the New York State Department of Transportation (hereinafter referred to as the “NYSDOT”) and otherwise conducts activities and operations upon highways and/or within right -of -way controlled by the State of new York for such purposes as the obstruction, installation, construction, maintenance and/or operation of facilities; and

**WHEREAS,** the Town acknowledges that certain properties located on Howard Road, Town of Lexington have had access to such properties restricted due to slope failure on Howard Road, and

**WHEREAS,** the Town is working to restore appropriated access to such properties by obtaining easements, constructing new driveways and obtaining curb cuts to Route 42 for such purposes.

**NOW, THEREFORE,** in relation to the above referenced projects, the Town hereby agrees to the following:

1. **Easements.** The Town shall negotiate with the respective Owners of property on Howard Road to allow access to other Owner's property along State Route 42.

2. **Construction.** The Town shall construct driveways for access of the two respective Owners in accordance with generally accepted standards for driveway.

3. **Curb Cuts.** The Owner shall obtain with the assistance of the Town from NYSDOT curb cut permits for each of the driveways from NYSDOT into State Route 42.

**RESOLUTION # 29-22**

**2021 Audit of Town Clerk/Tax Collector Financial Report**

On a motion by Council Member William Pushman, seconded by Council Member Bennett Wine the following was,

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

Nays – 0

Abstain-1 – Barcone

Therefore this Town Board accepts the audit of the Town Clerk/Tax Collector financial report done by

Supervisor Schermerhorn and Council Member Bradley Jenkins.

**Zoning Board Secretary**

Supervisor Schermerhorn received a letter of interest from Kim McGalliard to be the Zoning Board Secretary. Supervisor Schermerhorn appointed Kim McGalliard the Zoning Board Secretary with a $500 stipend for the year.

**Request to recognize Tunis Rappleyea Jr on Spruceton Road**

Bob Heuthe spoke to Supervisor Schermerhorn and sent an email requesting that Tunis Rappleyea Jr.

be recognized for giving the ultimate sacrifice in Vietnam. Supervisor Schermerhorn read the letter.

She mentioned that there is a plaque on the West Kill firehouse since he was a volunteer. There was some conversation about recognizing others from the Town. Anthony Mangano’s name was brought up.

Town Attorney Rappleyea said to ask the County Legislature to name a section of the road in memory of Tunis. He said that as a cousin of Tunis he would be greatly honored. Bob Heuthe attended the meeting via zoom. Council Member Pushman said to go ahead with this and then see if any other people come forward. Supervisor Schermerhorn said that she would contact the Greene County Legislature and report back at the next meeting.

**Fire Company Report**

Fire Chief Paul Dwon said that there were 15 incidents last month 9 of which were over President’s weekend. There was a STR that had a carbon monoxide incident and they did have detectors that did go off. It took an hour and a half to get a hold of a contact person. They did get a binder with the STRs in town and Liza will do a spreadsheet by address. They used the Landing zone for the helicopter again. Enforcement for the short term rentals is still a concern. There have been issues with cars parking in roadways among other things.

**Short Term Rentals**

Supervisor Schermerhorn said that the Town is coming up with a STR Committee they are looking for a couple of more people. Council Member Barcone said that he would definitely be on it. Council Member Pushman asked how many STRs the Town has. There are 50 applications at this time. There are 7 out of 10 which leaves 3 more spots available. Kathy asked why the Town wants to have more rentals and Supervisor Schermerhorn said that it’s not that the Town wants more but that they are already here. Robert asked if the Town would close people down if they do not make it in the cap. Council Member Wine said that’s the idea. Council Member Barcone said that the Town of Lexington is the only Town that has this strong of a law regarding short term rentals and that the committee worked very hard to come up with this law. Now the Town is putting together another committee to deal with short term rental grievances. Supervisor Schermerhorn thanked Council Member Barcone and the short term rental law committee for their hard work and that this Law is a work in progress. Lubko asked what the term for short term rental is. Supervisor Schermerhorn said that it is 30 days. It was also asked how the Town knows if people are renting out their houses. CouncilMember Wine said by looking on websites like VRBO , Airbnb, etc, your neighbors, and there are companies too, though they can be costly.

**RESOLUTION # 30-22**

**Local Law No. 1 of 2022 Allowing Members of the Town Board to Participate in Town Board Meetings via Videoconference from Locations Outside of the Town of Lexington Boundary Lines**

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

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

Nays - 1- Pushman

Abstain-1-Barcone

Therefore this Town Board moves to adopt Local Law No. 1 of 2022 which will allow Board Members to participate in meetings via videoconferencing.

**Health Officer Report**

Health Officer Liza Dwon said that she ordered 2 AEDS for the Town. One for the municipal building and one for the highway garage. Once they come in Liza will set up a class on how to use them. The covid cases are going down and hospitalization rates though there have been 11 deaths in Greene County in February. The mask requirements for schools is ending on Wednesday March 2nd. Swift 911 is a notification system that the County has and it’s available to all residents. You can download the app on your phone. The information is located on the Greene County website.

<https://www.greenegovernment.com/departments/emergency-services/swift-911-registration>

**Bonnie’s Trails**

DEP approved the Kiosk and it should be in sometime in May. The trail starts off of South Beech Ridge

Road and the property is owned by DEP. The trails are good for cross country skiing and hiking. Council Member Jenkins mentioned that parking is a problem since there is not a lot of space for cars. Council Member Wine thanked the highway department for doing a good job at keeping the parking space clean. There are volunteers that help maintain the trails.

**Farmers Market**

Lynn B. said that Bev Dezan, Lynn Lofflin, and Sarah Mitchell Davidson along with herself worked the Farmers market last year and they had a manager. They have just under $2,000 to start the market off with this season. They started a once a month pop up for crafts people in the area. The holiday market was very successful and she thanked Devon Russ and Moira Taylor for helping with that. They are looking for a new market manager and volunteers for this summer. Sarah said that there are some things they wanted to do a little different this year. They want to create 4 special events to fall on Holiday weekends and have demos and that they are aiming for kid friendly activities/crafts and have live music and raffles too. Examples of the special market demos would be maple syrup, pumpkins, corn, etc. They would extend the time by an hour for holiday markets. They would like to have food trucks and welcome new vendors. The idea is to promote community and to celebrate seasonal products.

**Code Enforcement Report**

Town Council Members have reports. There was one C of O search and two permits issued. There was also some figures regarding the asbestos “encapsulation” within a limited area of containment which ranged from $15,000 to $35,000.

**Nominations for Coalition of Watershed Towns Committee**

Supervisor Schermerhorn said that they are looking for one more person to nominate. So far they have Steve Walker from Windham and David Kukle from Hunter and alternate Greg Cross from Prattsville and they are looking for one more alternate.

**RESOLUTION # 31-22**

**Audit Committee Report**

On a motion by Council Member Bennett Wine, seconded by Council Member William Pushman the following was,

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

Nays - 0

Abstain-1 - Barcone

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

**Highway Fund** No. 20Through No. 41 = $ 28,845.95

**General Fund** No. 45Through No. 67 = $ 11,685.52

**Lighting District** No. 2Through No. 2 = $ 298.10

**Sewer District** No. 9 Through No. 12 = $ 1,075.49

**Adjourn**

On a motion by Council Member Bradley Jenkins, seconded by Council Member Bennett Wine and with no further business and with none opposed Supervisor Schermerhorn adjourned the meeting at 7:54 pm.

Respectfully Submitted,

Charlotte Jaeger, Town Clerk