

July 8, 2020
Town of Erin Board Meeting

Supervisor Schmidt called the regular meeting of the Erin Town Board to order on this date at 6:30 PM. She then asked the Clerk to call the roll.

MEMBERS PRESENT: William VanRiper, Jr., Randy Evans, Daniel Delorme, Michael Shutts, Dawn Schmidt.

PUBLIC PRESENT: Barbara Burlew, Paul V. Campbell, Gary, Karen, & Patrick Hoose Saukas, Mark Margeson, Charles Wolfe, Dave Wood, Tom Ogden, Maria Simons, Kevin Hoskins, Darryl McKibbin, Dale Dolaway, Crystal McKibbin.

PUBLIC PRESENT ON ZOOM: Christopher Moss, Jay Schissell, Karen Benjamin.

Supervisor Schmidt welcomed everyone and the Pledge of Allegiance was recited.

The Hearing of the Public was moved to the beginning of the Board Meeting.

HEARING OF THE PUBLIC

Paul Campbell-25 Red Chalk Rd. – He is for this. Has been in the center of four bordering properties with 4-wheelers for the better part of two years. It is intense and goes on for 6, 7, 8 hours. There is no recourse and requires no permit.

Donna Vergason-Laurel Hill Rd.-Totally agrees with Paul. Has been in the middle of all of this and it is outrageous. Something needs to be done.

Josh Blauvelt-Park Station Rd.-It is a nuisance. Any reasonable person can enjoy themselves with a muffler on their vehicle, but when they run around incessantly with straight pipes, he sees no need for that. He is for the noise ordinance.

Patrick Hoose Saukas-447 Jones Rd.-Main concern is for students that practice musical instruments with a noise ordinance limit at 90 decibels.

Wade Smith-Park Station Rd.-Noise travels up the valley and goes on for hours. A shame the Town doesn't do something.

Dale Dolaway-730 Federal Rd.-Agrees with some of the noise ordinance, but doesn't agree how it is focused toward 4-wheelers. If they are riding on the road there is a State Law for that. Do you have a decibel meter?

Supervisor Schmidt-No we do not.

John McCracken-Not really focusing on decibels. A meter requires training and calibration. It has to be a reoccurring nuisance. If it is time and time again you can be held accountable. Troopers have nothing to go by.

Dale Dolaway-After a certain hour it would be considered disturbing the peace.

Dan Delorme-It is not 90 decibels at the source. If you aren't creating what is defined as excessive/repeated noise this ordinance does not apply to you.

Tom Ogden-Sandbank Rd.-Excessive noise, repeatedly racing, all day Friday, Saturday, Sunday. If it wasn't repeated, a little noise is okay.

Darryl McKibbin-19 Church St.-Isn't there already a time for noise set in the code? Shouldn't be told you can only work on something for two hours on the weekend. Feels that should not be in effect. People move out to the county so they could do something. Need to say something to neighbors.

John McCracken-Neighbors have been spoken to by several people. People don't have respect

for their neighbors.

Supervisor Schmidt-20% of the residents are not necessarily neighborly. It is not just in one area. It is not just ATV's.

Paul Campbell-Originally concerned because he hunts and shoots long range and was afraid it would be a double edged sword used against him. Agricultural equipment and any kind of legal firearm activity is acceptable.

Charles Wolfe-1357 Breesport Rd.-Some people may have moved to Erin knowing there was no noise ordinance in place. Does not have too much of a problem with wording in Section 5. There is room for improvement. Section 6-Construction is very well worded. References a letter he had written to the Board pointing out areas with room for improvement. Feels a club was created with this law. It is all left to the discretion of law enforcement that shows up. Need clear cut standards that anyone can abide by. Agrees all day/every day is annoying. Deals with road noise due to where he chose to live.

John McCracken-It is not the one time. If a ticket is issued, they will have their day in court. Evidence will need to be supplied. First time is a verbal/written warning.

Charles Wolfe-That is how you plan it, but that is not in the enforcement section.

John McCracken-Any law can be tweaked. We need something to start with.

Charles Wolfe-Moved away from decibel meters and changed wording throughout the law. Under the definition of excessive noise it doesn't say it has to be 90 decibels because the word "or" is in there. So it is anything that a reasonable person would consider to be annoying. That is a wide open definition open to interpretation. There is nothing specific it has to be this, this and this and you are guilty.

John McCracken-There was a long discussion about that.

Dan Delorme-It has gone through legal review to protect the Town.

Darry McKibbin-The word repeated gets to him. Raised over 6 children and they make noise. Neighbors have complained about kids playing in their own backyard. This could be considered repeated noise.

Dale Dolaway-Who is called if this law is passed?

John McCracken-Himself, Trooper's or Sherriff Department.

Jay Schissell (Zoom)-Kellogg Rd. -There is a big difference between the sound kids can make and an ATV running for hours. Trying to find some kind of reasonable level. Most people move to the country for the quiet. Town of Horseheads has a very reasonable noise code. Interested to see what kind of response they get being not as rural. It is not one or two people being bothered by the ATV noise. Appreciates the Town looking into this for the people that have had their lifestyle diminished the last several years.

Chis Moss (Zoom)-A local law is only going to be as good as the paper it is written on. When law enforcement responds to these complaints they can always find the section in the penal law on harassment or misconduct. A local law is established to be enforced on a local level. Code Enforcement Officer would, most likely, be responsible for writing the violation. Might find State Police and Sherriff Department will not want to write a ticket under a local law, but prefer to do so under the penal law. Normally noise ordinances are established for cities or areas where neighbors are close together. Local law might not address what Town is trying to address without having assistance from law enforcement. With a local law, make sure Judge is on board. It is a problem everywhere. Enforcement mechanism is tough. Will not have instant gratification after passing this law.

Maria Simons-26 Staples Rd. -Can hear noise from parent's house five acres away. She chose to live here. They have 4-wheelers, snowmobiles, motorcycles. Why penalize everyone because some people aren't respectful. The world is trying to take everything away from the kids. Feels there shouldn't be a problem with noise during the day, but at night, after 10-11 o'clock is reasonable.

Rosanne Dipetta-1264 Breesport North Chemung Rd.-People have been confined since March.

She is curious if people are more stir crazy and anxious to get out more this year due to the virus and if there could be a timeframe set for just this year.

Dan Delorme-Explained the start of this law was written a year ago.

Josh Blauvelt-Feels the law isn't intended to ruin kid's fun.

Kevin Hoskins-1356 Breesport Rd.-Law seems to be pointed toward 4-wheelers. High performance are louder and designed to run that way. Is there a provision for that in order to practice their sport?

Supervisor Schmidt-Explained it is not just geared toward 4-wheelers.

Randy Evans-It doesn't matter what you are running if it is done all day, every day and bothering neighbors.

Supervisor Schmidt-If you are law abiding it will not affect you. Park Station is a gem for the county and it was tormented last year with noise.

Jay Schissell-You have to start somewhere and that is what we are trying to do here. Feels this is a great endeavor. Thank you to the Town for the online availability. Encourages the people in the audience to speak up so everyone online can hear them.

With no further comments from the public Supervisor Schmidt closed this portion of the meeting.

A motion was made by D. Delorme and seconded by R. Evans to pay the audited bills as they appear on the General Fund Abstract 7, #125-139, totaling \$13,835.00; and the Highway Fund Abstract 7, #97-109, totaling \$10,786.95; and the Street Lighting Fund Abstract 7, #135, totaling \$157.08; and the Trust & Agency Fund Abstract 7, #7, totaling \$1,527.97.

Motion Carried: Ayes: W. VanRiper, Jr., R. Evans, D. Delorme, M. Shutts, D. Schmidt. Nays: None.

A motion was made by D. Delorme and seconded by W. VanRiper, Jr. to dispense with the reading of the minutes from the regular Board Meeting on June 10, 2020 and the Public Hearing and Special Meeting on June 24, 2020 and approve the minutes.

Motion Carried: Ayes: W. VanRiper, Jr., R. Evans, D. Delorme, M. Shutts, D. Schmidt. Nays: None.

COMMUNICATIONS

- A letter was received from Charles Wolfe regarding Local Law No. 1 of 2020 and was distributed to all Board Members.

AGENDA FOR THE TOWN OF ERIN BOARD MEETING JULY 8, 2020;

1. RESOLUTION 27-2020 TO APPROVE LOCAL LAW NO. 1 OF 2020
2. RESOLUTION 28-2020 TO ADOPT THE CHEMUNG COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN

RESOLUTION 27-2020

RESOLUTION TO APPROVE LOCAL LAW NO. 1 OF 2020

Resolution By: D. Delorme

Second By: D. Schmidt

BE IT RESOLVED to approve Local Law No. 1 of 2020 the Good Neighbor Law to allow each resident to enjoy the use of his/her respective property for leisure and other activities without disturbing the use of a neighbor's property.

WHEREAS, the Town of Erin Town Board wishes to adopt a local law to allow each resident to enjoy the use of his/her respective property for leisure and other activities without disturbing the use of a neighbor's property; and

WHEREAS, this law does not intend to interfere with residents' allowable use and enjoyment of their homes and property, but to promote a safe and peaceful environment for all town residents; and

WHEREAS, Local Law No. 1 of 2020 Good Neighbor Law, thereof in its final form having been upon the desks of members of the Town Board for at least seven (7) calendar days, exclusive of Sunday, prior to this day, and a public hearing having been held on June 24, 2020 at 6:00 p.m. before the Town of Erin Town Board upon public notice provided by law, and the said proposed local law having been read in its final form at this meeting; and

NOW, THEREFORE, the Town of Erin Town Board, County of Chemung, State of New York hereby adopts and enacts to wit:

LOCAL LAW NO. 1 OF 2020

GOOD NEIGHBOR LAW

Section 1. Intent. The purpose of this Local Law is to protect the public health, welfare, safety, peace, and tranquility by regulating unreasonably loud and disturbing noises and sounds that are determined by the Town Board to be of a character, intensity, or duration as to be detrimental to the peace of the residents of the Town of Erin. The Town Board intends to improve and promote the quality of life in the community, and in the exercise of its lawful enforcement in this regard, the Town Board does hereby enact the following Local Law. It is the intent of the Town Board that this Local Law will be liberally constructed so as to effectuate the purpose described herein. The Town Board also acknowledges that Article 25-AA of the New

York State Agriculture and Markets Law would create exemptions to a farm from the provisions of this Local Law.

Section 2. Definitions. As used in this Local Law, the following terms and phrases shall have the meanings indicated below.

Decibel (dB). A unit for measuring the volume of a sound as determined by a sound testing instrument. For purposes of this Local Law, a decibel level exceeding 90 dB shall be a nuisance noise.

Emergency. A public disaster or calamity or an exposure of any person or property to imminent danger.

Emergency Signal Device. Any ongoing siren, whistle, air horn, or similar device, the use of which on emergency vehicles is permitted by Subdivision 26 of § 375 of the New York State Vehicle and Traffic Law.

Excessive Noise. Incessant or repeated sounds that have the effect of endangering or injuring the safety or health of humans or animals or annoys or disturbs a reasonable person of normal sensitivity or endangers or injures personal or real property or any sound in excess of 90 dB that is annoying, a nuisance, or causes alarm to a reasonable person of normal sensitivity.

Motor Vehicle. Device in, upon, or by which any person or property is or may be transported or drawn, which is propelled by any power other than muscular power, except vehicles which run only upon rails or tracks. This definition shall include, but is not limited to, trucks, buses, automobiles, vans, motorcycles, motor-driven cycles, motor scooters, dune buggies, snowmobiles, all-terrain vehicles, go-carts, mini bikes, trail/dirt bikes, and all other types of motorized recreational vehicles.

Public Right-of-Way. Any street, avenue, boulevard, road, highway, sidewalk, alley, or easement that is owned, leased, or controlled by a governmental entity.

Public Space. Any real property or structures thereon that are owned, leased, or controlled by any entity.

Real Property Line. Imaginary line, including its vertical extension, that separates a parcel of real property from another.

Section 3. Prohibited Acts. No person shall make, continue, or cause to be made or continued, any excessive noise.

Section 4. Sound Reproduction Devices.

A. No person shall operate or use, or cause to be operated or used, any sound reproduction device for commercial or business purposes.

B. No person shall use or operate, or permit to be used or operated, any radio, television, phonograph, compact disk player, musical instrument, or other machine or device for producing, reproducing, or amplifying of sound with louder volume than is necessary for convenient hearing for the persons who are voluntarily listeners thereto.

C. It shall be prima facie evidence of a violation of this Section if sound emanating from a machine or device is:

(1) audible beyond the property lines of the premises upon which it is being used between the hours listed below:

Sunday	11 p.m. through 7 a.m.	Monday
Monday	11 p.m. through 7 a.m.	Tuesday
Tuesday	11 p.m. through 7 a.m.	Wednesday

Wednesday	11 p.m. through 7 a.m.	Thursday
Thursday	11 p.m. through 7 a.m.	Friday
Friday	1 a.m. through 7 a.m.	Saturday
Saturday	1 a.m. through 7 a.m.	Sunday

(2) audible at a distance of 50 feet beyond the property line of the premises upon which it is being used between the hours of 7:00 a.m. and 11:00 p.m. of the same day.

(3) audible at a distance of 50 feet from a machine or device if operated from a motor vehicle on a public street.

(4) audible at a distance of 50 feet from a machine or device when operated in a public park or other public place.

D. Provisions of this Section shall not apply to the following:

- (1) Funeral processions or use of such devices by a church.
- (2) The production of music in connection with any parade authorized under any provision of law.
- (3) Any musical performance upon a public place that is allowable by law.
- (4) The use of amplifiers or other sound-producing instruments or equipment in connection with any religious or political activities or permitted athletic competition or recreational event as permitted by law.

Section 5. Motor Vehicles.

A. No person shall operate, or cause to be operated, any motor vehicle in a manner that the sound emitted is excessive noise as defined in this Local Law.

B. The excessive noise is audible at a distance of 25 feet or more from the vehicle when operated on a public street or in a park or other public place.

C. This Section shall not apply to those motor vehicles being operated upon a public street or roadway to which Section 386 of the New York State Vehicle and Traffic Law applies (motor vehicle sound level limits).

D. This Section shall apply to all motor vehicles as defined in this Local Law, whether or not duly licensed and/or registered.

Section 6. Construction. No person shall engage in, or permit any person to be engaged in, construction activities which create excessive noise at the property limits of the construction site between the hours of 11:00 p.m. of one day and 5:00 a.m. the following day on any day of the week. This Section shall not apply to

A. Emergency work or action by public service utilities.

B. In the case of emergency so declared by the Code Enforcement Officer, Fire Department, or Police Department, construction activities directly connected to the abatement of such emergency may be undertaken.

C. When the sound is not audible across a real property boundary.

Section 7. Exceptions.

A. The provisions of this Local Law shall not apply to the following:

(1) Agricultural activities as recognized by New York State Agricultural and Markets Law Article 25-AA.

(2) Discharging of firearms for the purposes of hunting or any legal firearm activity. This activity shall be during the hours and distances permitted and posted by the New York State Department of Environmental Conservation.

Section 8. Administration and Enforcement.

A. The Town of Erin shall administer this law and enforcement shall be in some instances by the Town of Erin Code Enforcement Officer, but also by any authorized police enforcement agency.

B. Any violation of this Local Law shall be cause for an enforcement document to be issued to the violator and/or property owner.

C. Any person in violation of this Local Law shall be guilty of a violation, and upon conviction, shall be punished by a fine not less than One Hundred Fifty Dollars (\$150.00) but not more than Three Hundred Fifty Dollars (\$350.00) or by imprisonment for up to fifteen (15) days, or both. Each day shall constitute a separate offence punishable by a like fine or penalty as herein set forth.

Section 9. Authority. This local law is enacted by the Town Board pursuant to its authority to adopt local laws under Article IX of the New York State Constitution and Municipal Home Rules Law § 10.

Section 10. Inconsistent Laws. All laws inconsistent with any provision or provisions of this law are hereby repealed.

Section 11. Severability. If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law, or the application thereof to any person, firm, or corporation or circumstance, is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, 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 12. Effective Date. This local law shall take effect immediately upon filing with the New York State Secretary of State.

BY ORDER OF THE TOWN BOARD OF THE TOWN OF ERIN

Motion Carried: Ayes: W. VanRiper, Jr., R. Evans, D. Delorme, M. Shutts, D. Schmidt. Nays: None.

RESOLUTION 28-2020

RESOLUTION TO ADOPT THE CHEMUNG COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN

Resolution By: R. Evans

Seconded By: W. VanRiper, Jr.

WHEREAS, the Town of Erin, with the assistance from H2O Partners and Chemung County Office of Fire and Emergency Management, has gathered information and prepared the Chemung County Multi-Jurisdictional Hazard Mitigation Plan; and

WHEREAS, the Chemung County Multi-Jurisdictional Hazard Mitigation Plan has been prepared in accordance with the Disaster Mitigation Act of 2000; and

WHEREAS, Town of Erin is a local unit of government that has afforded the citizens an opportunity to comment and provide input in the Plan and the actions in the Plan; and

WHEREAS, Town of Erin have reviewed the Plan and affirms that the Plan will be updated no less than every five years;

NOW THEREFORE, BE IT RESOLVED by Town of Erin Town Board that Town of Erin adopts the Chemung County Multi-Jurisdictional Hazard Mitigation Plan as this jurisdiction's Natural Hazard Mitigation Plan, and resolves to execute the actions in the Plan.

Motion Carried: Ayes: W. VanRiper, Jr., R. Evans, D. Delorme, M. Shutts, D. Schmidt. Nays: None.

COMMITTEE REPORTS

Town Attorney-No report

Planning Board-Deda Cedar-Will start meeting again the 4th Monday of the month at 6:30 pm. Meetings are open to the public and social distancing guidelines will be followed. Reiterated that the Noise Ordinance will help those that do have problems.

Parks, Recreation and Senior Committee-Deda Cedar- Little Library is open and being used. One shelf was turned into a pantry. Someone left ten pairs of kid shoes. Baseball, recreation, and Senior Committees are unsure of if/when they can meet again due to social distancing.

Code Enforcement-John McCracken-Reminded everyone that the Town of Erin is in shared services with the City of Elmira. If a City of Elmira vehicle is seen during the day, it is most likely Brandon.

Issued 50+ warnings for tall grass, unlicensed vehicles, etc. during the Corona virus. Starting Monday, appearance tickets will be issued.

Highway Superintendent-Steve Tyler- We have been grading roads, putting down dust control, replacing signs as needed and repairing equipment. A pipe was replaced on Park Station Road that was damaged by loggers. A check for \$221.00 was given to the Town Clerk for the cost of the repairs. No progress on hiring additional highway worker.

County Representatives-Mark Margeson-Was able to get some money for new computers. Budget meeting was held and information was provided on sales tax, room tax, and the extra cost involved with the Covid situation. The County is projecting between \$3-10 million shortfall in revenue for this year/coming New Year. County has the ability to make up the difference but not for a number of years. There is a tightening of budgets. City has shared service agreements with the County and it hasn't worked out very well. County is trying to find ways to manage their budget in advance. The State could potentially come down with money after Covid. Money has been lost due to sales tax and various types of revenue. Hoping it will be disseminated to the counties to be distributed. Be aware. Be engaged. Ask questions. Pay attention to things. It is unfortunate laws need to be passed because of a few. It is a nuisance issue. Applaud for the work done on the ordinance and also applaud the residents that came/participated in the meeting.

Maria Simons-Asked if there was going to be an increase in property taxes due to Covid.

Mark Margeson-County is doing everything in advance to keep it down.

Dan Delorme-Questioned distribution of sales tax with online purchases.

Mark Margeson-Supposed to be getting 4% out of the 8% sales tax, but it is extremely difficult to track.

Supervisor- Schmidt-We have already planned for 20-30% cut. The Town's biggest expense are the roads. Town is right on track where it needs to be. Have never planned on sales tax money for our budget.

OLD BUSINESS

Dan Delorme- June 19th schools had to turn in the physical addresses of students that don't have broadband to the State in order to position hotspots this fall. On June 26th the FCC gave Charter a monopoly on broadband in this area. Charter has until September 2021 to provide statewide broadband for rural communities. It is important for secondary education, telemedicine and also to be a part of meetings and conversations. A form will be put on the Town's website-if your children are eligible for free/reduced lunch, if you are over 65 years old, if you receive SSI-you automatically qualify for broadband for \$17.99/month, WIFI is an additional \$5.00/month. People are encouraged to fill out the form because it will validate that we are underserved as a community for internet.

Supervisor Schmidt-The pole heights need to be increased in order to attach the high-speed internet. Charter and Spectrum are keeping the mapping close to their vest. Erin is one of the most rural community towns in all of Chemung County.

Jay Schissell-Thank you Supervisor and Board for professionalism and willingness to serve the Town in a difficult time. Appreciate the efforts.

Josh Blauvelt-On the Board of Fire Commissioners-A hotspot was put in at the fire department at the end of last semester and was just taken out this last week. School children could access the internet from the north side parking lot. Information could be downloaded there and work done at home.

Karen Benjamin-Becky Lane-Interested in getting Spectrum to her house. Spectrum said it was too far to bring it to the house. The problem is that the lines stop at the end of Becky Lane and they would have to drill under the road to get it up to her house from there. Still waiting to hear back from them.

Dan Delorme-Suggested emailing the Town Clerk in order to provide her with a phone number to call regarding this issue.

A motion was made by R. Evans and seconded by W. VanRiper, Jr. to adjourn the meeting at 7:53 PM.
Motion Carried: Ayes: W. VanRiper, Jr., R. Evans, D. Delorme, M. Shutts, D. Schmidt. Nays: None.