

TO: BOARD OF LEGISLATORS
COUNTY OF WESTCHESTER

Your Committee recommends passage of “A Local Law authorizing the use of videoconferencing for members of the County Board, its committees, and its subcommittees.”

Your Committee is aware that on April 9, 2022, Governor Hochul signed Chapter 56 of the Laws of 2022, relating to the New York State budget for the 2022-2023 fiscal year. This law also included an amendment to the Open Meetings Law (“OML”)—amending section 103(c) of Article 7 of the New York State Public Officers law, and adding a new section 103-a—enabling public bodies to expand, until July 1, 2024, the use of videoconferencing to conduct open meetings.

Your Committee understands that under the new State law, a county’s governing board—i.e., the County Board—may adopt a local law if it wishes to authorize its members, at the board’s discretion, to attend meetings through videoconferencing without disclosing their remote locations due to extraordinary circumstances. Such a local law would allow a member to participate in a meeting from a remote location that is not open to the public, provided that a quorum of board members is present in the same physical location or locations where the public can attend. The new State law explains that the term “extraordinary circumstances” includes “disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance” at a meeting.

Your Committee is aware that, prior to the passage of the new State law, the OML authorized remote participation in meetings by public body members through videoconferencing only if “an opportunity for the public to attend, listen and observe at any site at which a member

participates” was provided. The unprecedented nature of the COVID-19 pandemic demonstrated the unworkability of in-person meetings and public attendance at any location from which a member participated. Emergency declarations and authorizations during the height of the pandemic allowed public bodies to use remote means, such as videoconferencing and teleconferencing, on a temporary basis to conduct their open meetings. Currently, these measures are set to expire in the near future, pursuant to Chapters 1 and 56 of the New York State Laws of 2022 and Executive Order 11, which extends the state disaster emergency. The State disaster emergency, as extended by Executive Order 11, suspends requirements of the Open Meetings Law to allow public bodies to conduct remote meetings and may be extended for only 30 day increments.

Your Committee understands that with Chapter 56 of the Laws of 2022, the New York State Legislature modified the OML by adding section 103-a in an attempt to expand the pre-pandemic scope of videoconferencing, and make such videoconferencing available for a longer duration. Your Committee also understands the new State law provides that the in-person participation requirements do not apply during states of emergency declared at the state or local levels, if the public body determines that the circumstances necessitating the emergency declaration would affect or impair the ability to hold an in-person meeting.

Your Committee has been informed that in order to conduct meetings through videoconferencing pursuant to new OML § 103-a, the following conditions apply: the public body must establish written procedures that govern member and public attendance, setting forth the

contours of the “extraordinary circumstances” under which a member may participate through videoconferencing, and the public body must post the procedures conspicuously to its public website; any member videoconferencing into a meeting from a remote location not open to in-person public attendance due to extraordinary circumstances may not count towards a quorum, but may participate and vote in the meeting if there is a quorum of members convened at a location (or locations) open to the public; members must be heard, seen, and identified while the meeting is being conducted; the notice for the meeting must inform the public about the use of videoconferencing, and must provide instructions so the public can view and/or participate in—to the extent participation is permitted—the meeting and locate relevant records; the minutes of meetings involving videoconferencing must explicitly identify which, if any, members participated in the meeting remotely; all meetings conducted using videoconferencing must be recorded, with the recordings posted on or linked to the public body’s website within five business days, and must remain available on the site for at least five years; upon request, the recorded meetings must be transcribed; local public bodies using videoconferencing must maintain an official website; and meetings that are broadcast or videoconferenced must use technology that permits access by individuals with disabilities, consistent with the Americans with Disabilities Act.

Your Committee believes that it is in the best interests of the County to pass a local law authorizing the use of videoconferencing for members of the County Board, its committees, and its subcommittees, consistent with New York State Public Officers Law, Article 7, § 103-a, and the written procedures established by the County Board.

Finally, your Committee is informed that this Local Law does not meet the definition of an action under SEQRA and its implementing regulations 6 NYCRR Part 617. Please refer to the memorandum from the Department of Planning dated January 14, 2022, which is on file with the Clerk of the Board of Legislators.

Your Committee recommends adoption of this Local Law.

Dated: June 13, 2022
White Plains, New York

Will Mac
Nancy Barr
Celia O'Neil

SCM-05/11/2022

COMMITTEE ON
Legislation

Dated: June 13, 2022
White Plains, New York

The following members attended the meeting remotely, pursuant to Chapter 1 of the New York State Laws of 2022 and Executive Order 11, as extended, which authorize any public body to meet and take such action authorized by law without permitting in public-in-person access to meetings and authorize such meetings to be held remotely by conference call or similar service, provided that the public has the ability to view or listen to such proceeding and that such meetings are recorded and later transcribed.

Committee on:

Legislation

Handwritten signature of Vedat Daliri in black ink.Handwritten signature of Benjamin Bojinski in black ink.Handwritten signature of Mary Jane Skerrett in black ink.Handwritten signature of Cathleen By in black ink.

FISCAL IMPACT STATEMENT

SUBJECT: Video Conferencing (BOL)

NO FISCAL IMPACT PROJECTED

OPERATING BUDGET IMPACT

To Be Completed by Submitting Department and Reviewed by Budget

SECTION A - FUND

GENERAL FUND

AIRPORT FUND

SPECIAL DISTRICTS FUND

SECTION B - EXPENSES AND REVENUES

Total Current Year Expense \$ -

Total Current Year Revenue \$ -

Source of Funds (check one): Current Appropriations Transfer of Existing Appropriations

Additional Appropriations

Other (explain)

Identify Accounts: _____

Potential Related Operating Budget Expenses: Annual Amount \$ -

Describe: _____

Potential Related Operating Budget Revenues: Annual Amount \$ -

Describe: _____

Anticipated Savings to County and/or Impact on Department Operations:

Current Year: _____

Next Four Years: _____

Prepared by: Gideon Grande

Title: Deputy Director

Department: Budget

Date: June 13, 2022

Reviewed By: _____

Budget Director

Date: _____

6/13/22

LOCAL LAW INTRO. NO. - 2022

A LOCAL LAW authorizing the use of videoconferencing for members of the County Board, its committees, and its subcommittees.

BE IT ENACTED by the County Board of the County of Westchester as follows:

Section 1. Chapter 107 of the Laws of Westchester County is hereby amended to read as follows:

Sec. 107.101. Authorization for the use of videoconferencing to conduct meetings.

1. The County Board, its committees, and its subcommittees are authorized to use videoconferencing to conduct meetings in a manner consistent with the requirements set forth in New York State Public Officers Law, Article 7, §103-a, and subject to the following conditions:
 - a. A quorum of the County Board, committee, or subcommittee shall be physically present in the same physical location or locations where the public can attend;
 - b. Members of the County Board, its committees, and its subcommittees, at the discretion of the Chair of the County Board and under extraordinary circumstances, may participate in meetings through the use of videoconferencing from locations not accessible to the public. The County Board shall establish written procedures governing member and public attendance, and setting forth what constitutes “extraordinary circumstances” (which shall include disability, illness, caregiving responsibilities, or any other significant or unexpected factor or event which precludes the member’s physical attendance at a meeting), and the procedures for

the certification of extraordinary circumstances by members on a case-by-case basis. The written procedures shall be conspicuously posted on the public website of the County Board, committee, or subcommittee, as applicable;

- c. A member experiencing an extraordinary circumstance and participating in a meeting through videoconferencing need not (i) notice the remote location from which the member participates or (ii) allow for in-person physical attendance by the public at the member's remote location;
- d. Any member not physically present at a meeting and participating remotely in a meeting through the use of videoconferencing due to extraordinary circumstances shall not count towards a quorum; however, a member may participate and vote through the use of videoconferencing if there is a quorum of other members physically present at the meeting in the same physical location or locations where the public can attend;
- e. Except in the case of executive sessions, all members, including any member experiencing an extraordinary circumstance and participating in a meeting through videoconferencing, must be heard, seen, and identified while the meeting is being conducted;
- f. The minutes of meetings involving videoconferencing must include which, if any, members participated remotely;
- g. If videoconferencing is used to conduct a meeting, the public notice for the meeting shall (i) inform the public (A) that videoconferencing will be used, (B) where the public can view and/or participate in the meeting, (C) where required documents

and records will be posted or available, and (ii) identify the physical location for the meeting where the public can attend;

- h. Meetings conducted using videoconferencing shall be recorded and the recording shall be posted on or linked to the public website of the County Board, or of the relevant committee or subcommittee, within five (5) business days following the meeting, and shall remain so available for a minimum of five (5) years thereafter.

These recordings must be transcribed upon request;

- i. If videoconferencing is used to conduct a meeting, the County Board, committee, or subcommittee, as applicable, shall provide the public with the opportunity to view the meeting through video and participate, to the extent public participation is authorized, through videoconferencing in real time, and shall ensure that videoconferencing authorizes the same public participation or testimony as in-person participation or testimony.

- j. In person participation requirements for members shall not apply during a state disaster emergency declared by the Governor of New York, or a local state of emergency proclaimed by the Westchester County Executive, if the County Board determines that the circumstances necessitating the emergency declaration would affect or impair the ability of the County Board or its committees to hold in person meetings.

- 2. Severability. If any clause, sentence, paragraph, section, or part of this Local Law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to

the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 2. Effective Date.

This Local Law shall take effect immediately and shall expire and be deemed repealed July 1, 2024, unless extended.

SCM-05/11/2022