STATE OF NEW YORK

DEPARTMENT OF STATE

APPEARANCE ENHANCEMENT COMMITTEE

Notice of Public Hearing Pursuant to Part W.W. of Chapter 56 of the Laws of 2022, proposed resolution authorizing the use of video conferencing and written procedures governing members and public attendance.

PUBLIC COMMENT MEETING

DATE: May 23, 2022 at 10:37 A.m.

VENUE: WebEx

BEFORE: MICHELLE BRENNER, CHAIR

Reported by Becky Foster
APPEARANCES:

MICHELLE BRENNER, Chair
MICHAEL SHANNON, Host
DENISE TIDINGS, Co-host
LISA HELMER, Co-host
ERIN HUNDLEY, Board Member
LEEANNE SHADE, Board Member
SHIRLEY CHENG, Board Member
ANTHONY FIORE, Board Member
SHANNON MAGUIRE
DAVID MOSSBERG
ALISON LACY
NICOLE HADSELL
EMILY LUPE
ERNITA GANTT
KIMBERLY KUSTER-SMITH
(The meeting commenced at 10:37 a.m.)

M. BRENNER: All right. Good morning. I'd like to call the meeting to order. Today is Monday, May 23rd, 2022. This is an open meeting of the New York State Appearance Enhancement Advisory Committee that is being held remotely. This remote meeting is conducted in accordance with the governor's executive order relating to the COVID pandemic and as authorized by Chapter 417 of the Laws of 2021, Chapter 1 of the Laws of 2022 and Part W.W. of Chapter 56 of the Laws of 2022.

I am Michelle D'Allaird Brenner and the chair of the New York State Appearance Enhancement Advisory Committee. The time is now ten thirty-eight and I will begin by taking attendance. First do we have Shirley Cheng?

D. TIDINGS: We do but do you want me to unmute her?

M. BRENNER: That's your call. If I can -- I'm --.

D. TIDINGS: Shirley, you're unmuted. Shirley? Shirley?

S. CHENG: Hi, I'm here.
D. TIDINGS: Okay.

M. BRENNER: Thank you,

Shirley. Anthony Fiore? Anthony? Anthony?

A. FIORE: I am here.

M. BRENNER: Thank you,

Anthony. Erin Hundley?

E. HUNDLEY: Here.

M. BRENNER: Thank you, Erin.

And lastly Leeanne Shade?

L. SHADE: Yes, here.

M. BRENNER: Thank you,

Leeanne. We do have five members present for the advisory board so we are able to declare a quorum.

Moving to today's agenda, next on the agenda is Public Hearing Pursuant to Part W.W. of Chapter 56 of the Laws of 2022. Proposed resolution authorizing the use of video conferencing and written procedures governing member and public attendance. This is to be led by -- the discussion to be led by David Mossberg. David?

D. MOSSBERG: Good morning everybody. The time now is approximately ten forty on May 23rd, 2022. This is a public hearing conducted by the New York State Appearance Advisory Board pursuant to Section 103A of the
Public Officers Law for the purposes of receiving public comment on the proposed adoption by the committee of a resolution that, one, authorizes the use of video conference. And, two, establishes the written procedures of governing member and public attendance for meetings of the appearance enhancement advisory board as well as all committees, subcommittees of the board now existing or herein after.

As authorized by the chair, I will serve as the hearing official for today's meeting. Section 103A of the public officers law authorizes a public body to allow its members to participate in a meeting remotely under extraordinary circumstances at locations that do not allow for in-person physical attendance by the public provided that the public body adopts a resolution authorizing such remote attendance and establishes written procedures governing member and public attendance consistent with Section 103 of the public officers law.

If adopted, the proposed resolution would allow the appearance enhancement advisory board any and all committees or subcommittees of the board now existing or herein after to use
video conferencing to conduct business in a manner that is authorized by Section 103 of the public officers law which are those circumstances where a member is unable to physically be present at a meeting due to an extraordinary circumstance provided that the physical location where the member is attending is not open to the public.

The second purpose is to establish written procedures governing the member and public attendance of such meetings. The proposed resolution would also confirm that the advisory board continue to authorize the board at any and all committees and committees now existing or herein after to use video conferencing to conduct hearings where each member wishing to attend or participate is physically present and such a meeting is open to the public.

The notice of today's meeting was properly noticed as well as posted on the Department of State's website. All persons wishing to present comments today please indicate by raising your hand on the Webex and we will call on you in order. Please note that as this meeting is part of an open meeting, this video is being recorded and will be posted on the department's
website later.

At this point, if there's any members of the public, meaning not on the board, that would wish to provide public comment on the proposed resolution as well as the draft procedures that have been posted on your website or, sorry, on the department's website, please indicate by raising your hand or typing something into a chat function please.

Just giving everyone a moment. It doesn't look like anyone's raising their hand or wishing to provide a public comment. Let the record reflect it is now approximately ten forty-three a.m. on May 23rd. No members of the public are present or have wished to provide public comment on the proposed resolution or the written draft procedures. I therefore declare the hearing closed, and it will be up to the board. Thank you very much everybody.

So I know that was probably quick and a little bit awkward, but the next item on the agenda is to discuss basically the public comments. Didn't receive any and also to provide the members of the board a little bit additional background on Part W.W. and to address any
questions that the board members may have.

So as everyone knows, we are conducting this hearing today virtually without a location for the member to attend. That's pursuant to governor's executive order relating to the COVID pandemic which authorizes board members in certain circumstances to appear entirely virtually without an opportunity for an in-person public location. That is permissible so long as there is continuing state of emergency. And then during the state of emergency the board can appear virtually as we are doing today.

The current state of emergency is scheduled to expire on June 18th which is why we're having this meeting today remotely so that we could also hold the public hearing pursuant to Part W.W. What Part W.W. authorizes is that at a certain point we hope that there will no longer be a continued state of emergency in which case every public body will have to go back to having in-person meetings where the public is allowed to attend in person in the same location as any of the board members.

So the board members may recall pre-COVID we would usually meet certainly in
Albany, New York using video conference and all
the board members would attend there. What Part
W.W. does is it permits board members, if the
board chooses, to adopt a resolution that would
authorize a board member under an extraordinary
circumstance to appear virtually in a remote
location that would not be open to the public.

The requirements would be that the
rest of the board, however, would have to meet at
a location that is accessible to the public. So
by way of example, five members present today, if
this was after June 18th and there was no public
emergency, everyone would have to be at either
Albany, New York or Hauppauge, another office
that's open to the public.

The additional sort of four members
or three members, if they wanted to appear and
participate, they could at their home or office or
some other location due to that extraordinary
circumstance though the purpose of the meeting was
to, one, satisfy the requirements of Part W.W.
that requires a public hearing so that members of
the public can actually comment on whether or not
the board should adopt the resolution. And then,
two, by public comment on if there is a resolution
to allow video conferencing on what those specific
written procedures are.

So as drafted, the draft
resolution, a new draft written policy, for
example, allows board members an extraordinary
circumstance which includes disability, illness,
caregiving responsibility and any other
significant or unexpected factor or event which
precludes such members' physical attendance at the
meeting.

So if a board member, for example,
satisfies that condition they can follow the
written procedures and they would be able to
appear virtually under the Part W.W. requirement
though they would have to be on video the entire
time. So as board members today are calling in or
not using their camera that wouldn't be
permissible after June 14th if the state of
emergency isn't continued.

So that was the purpose of the Part
W.W. requirement, the public hearing, the draft
resolution and the draft written procedures. Does
any of the board members have any questions?

M. BRENNER: No.

S. CHENG: No.
D. MOSSBERG: So as the secretary of state doesn't have a vote on this board, if the board would like to move forward and allow this, again it's optional, I would recommend that a board member, one, make a motion on the -- on the resolution ... the written procedure. And then a second motion we ... 

M. BRENNER: I would absolutely make a motion to accept.

S. CHENG: I'll second.

CHAIRMAN BRENNER: As well as a motion to adopt.

S. CHENG: Second.

D. MOSSBERG: And I believe some of the board members are technically there so you have to say yes or oppose or abstain. So I -- I don't know, Michelle, if you'd want to like ask each board member what they want to do.

M. BRENNER: Certainly. Yes. I'll start -- first, Shirley, if you're still present and --?

S. CHENG: I'll approve.

M. BRENNER: Great. Thank you. Okay. Anthony?

A. FIORE: I approve.
M. BRENNER: Great. Erin, I think I heard you before but if you could approve or disapprove?

E. HUNDLEY: Approve.

M. BRENNER: Leeanne?

L. SHADE: Yes, I approve.

M. BRENNER: Okay. David, all board members have approved.

D. MOSSBERG: Okay. So what we'll do is we are required to post the committee's resolution as well as our procedures on the department's website. And so we'll be able to handle that. And, of course, if any of the board members have questions later on feel free to reach out.

M. BRENNER: David, thank you so much. Next on our agenda briefly is new business with our next meeting date. Denise.

D. TIDINGS: Hi, Michelle. Yes, I'd just like to mention that our next meeting date is scheduled for Monday, June 13th at ten thirty a.m. If anyone has any conflicts please let me know as soon as possible as I do believe we're going forward with that meeting. Thank you.

M. BRENNER: Perfect. Thank
you. And given that all board members are present, we do have a quorum. I will ask them for a motion to adjourn today's meeting. All in favor please say aye.

BOARD MEMBERS: Aye.

M. BRENNER: Excellent.

Thank you everyone. And, David, thank you very much for your time. Today's meeting is now adjourned and we'll see everybody on June 13th.

Have a great day.

(The meeting adjourned at 10:53 a.m.)
STATE OF NEW YORK

I, BECKY FOSTER, do hereby certify that the foregoing was reported by me, in the cause, at the time and place, as stated in the caption hereto, at Page 1 hereof; that the foregoing typewritten transcription consisting of pages 1 through 13, is a true record of all proceedings had at the hearing.

IN WITNESS WHEREOF, I have hereunto subscribed my name, this the 6th day of June, 2022.

Becky Foster
BECKY FOSTER, Reporter
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