

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, January 21st, 2020, at 6:00PM, in the Herkimer Town Hall located at 114 N. Prospect St., Herkimer, NY 13350.

02) Roll Call of Officers

Present: Supervisor-----Dominic Frank
Councilman-----Daniel Stalteri
Councilman-----Vito Carbone
Councilwoman-----Kathy Penree
Highway Supt.-----David McMannus
Attorney-----Christopher Bray
Codes Enforcer-----Ken Collis

Excused: Councilman-----Randy Kast
Deputy Attorney-----Kyle Crandall

03) Pledge of Allegiance to the Flag.

Councilwoman Penree led us in the Pledge of Allegiance to the Flag.

04) Reading of the Minutes.

Motion by Councilman Stalteri, seconded by Councilwoman Penree, to accept and place on file the minutes of the previous meetings held on January 6th and 13th of 2020 as written.

CARRIED AYES ALL

05) Public Meeting.

Supervisor Frank stated we will now open our public meeting and if anyone would like to address the board to please state you name, address, and tell us why you are here.

Benjamin M. Botelho, attorney at law for The Murray Law Firm, stated he is here to represent Horvath, who is the developer of the cell tower that has been in question. He stated the company he represents builds the towers and leases them to cell companies. He stated he sent the town quite a bit of information on this as well. He stated that the FCC is the only agency that is allowed to regulate cell towers and according to their standards this tower meets their requirements. This is because it is so high off the ground and gives off such a low frequency that they are considered exempt.

Arthur Kozacowski of 155 Eatonville Road stated he wants to see an impact study that shows homes are safe near these towers.

Councilman Stalteri stated the FCC is saying its safe according to their standards.

Mr. Botelho stated local and state governments cannot deny a permit because of radio frequencies. He stated this is a 4G regular cell tower not 5G.

Supervisor Frank asked where we are with the construction process.

Codes Enforcer Collis stated that the tower is up but not working yet.

Attorney Bray stated we can't put a stop work order for public safety when it meets all of the federal requirements.

Councilman Stalteri stated per the FCC regulations, where the tower is puts everyone out of harm's way.

Supervisor Frank asked Mr. Kozacowski if he has spoken to any of our federal representatives yet? Arthur replied stating that he tried to call Brindisi's office but the staff was non-responsive and everyone kept sending him in different directions.

Mr. Kozacowski stated he wants to know why the residents we not notified and stated he wants compensation for his property value decreasing because of this.

Codes Enforcer Collis stated that there was a notice put in the paper and that because it was so far away from everyone that it wouldn't harm anyone. He apologized for not sending notices individually to the residents.

Supervisor Frank apologized for the Town not giving proper notice as well.

Motion by Councilman Stalteri, seconded by Councilwoman Penree to close the public meeting.

CARRIED AYES ALL

06) Petitions and Communications.

Motion by Councilman Carbone, seconded by Councilman Stalteri, to accept and place on file all the petitions and communications 6A through N listed below.

- A.) A letter dated January 9, 2020 from Herkimer County Personnel Officer, Steven Billings, concerning the 2019 Annual Report of the former Herkimer County Self-Insured Workers' Compensation Plan.
Supervisor Frank stated this is the annual report for self-insured workers' that we were once involved with.
- B.) A letter dated January 9, 2020 from Kevin Murphy of the Wladis Law Firm concerning the Town of Schuyler Zoning Board holding a public hearing on January 21, 2020 for the review of the SunEast Watkins Road Solar Farm proposal.
Supervisor Frank stated there is a public hearing going on in Schuyler as we speak. Planning Board Chairman Mark Gaworecki is attending for us.
- C.) A letter dated January 9, 2020 from the NYS Gaming Commission and Division of Charitable Gaming concerning a raffle consent form for the Otter Lake Fire Department.
- D.) A letter dated January 9, 2020 from Town Justice Karl Manne to Supervisor Frank concerning the Herkimer Town Court Audit schedule.
Supervisor Frank stated we have been put on notice from our court to schedule another audit to get on the proper schedule.
- E.) Letters dated January 10th and 13th of 2020 from Charter Communications Director of Government Affairs concerning upcoming changes in service.
- F.) A letter dated January 13, 2020 from NYSDOH District Engineer, Chris Demme, concerning the SEQR Lead Agency Determination for the West Herkimer Water District Formation.
Supervisor Frank stated we were granted the lead agency from the Department of Health.
- G.) An email received January 14, 2020 from National Grid's Regional Account Services for the Mohawk Valley, Steven Coleman, concerning National Grid's 2020 Paving letter and schedule.
Supervisor Frank stated National Grid sent a survey asking for a list of our paving schedule. He asked Highway Supt. McMannus to supply them with this information.
- H.) A letter dated January 16, 2020 from Jaqueline Phillips Murray of the Murray Law Firm concerning the Horvath Communication Building permit in regard to the construction of a wireless telecommunications facility located at 5967 State Route 5 in the Town of Herkimer.
Supervisor Frank stated this was presented to us.
- I.) The Herkimer County Sales Tax Apportionment Summary for the 2019 Fourth Quarter based on the 2019 Tax Roll from Herkimer County Treasurer, Kimberlee Enea.
- J.) A letter dated January 17, 2020 from Supervisor Frank to Edward Burgess, Manager of the Division of Local Government and School Accountability for the State of New York Office of the State Comptroller concerning a request for an extension of the filing of the Town of Herkimer's 2019 Annual Update Document and Financial Report.
Supervisor Frank this is customary and we make this request every year.
- K.) A letter dated January 17, 2020 from Supervisor Frank to the Empire State Development Corporation Regional Director, Michael Reese, concerning a status report for the East Herkimer Sewer District Project.
Supervisor Frank stated this is annual update to the holder of our funds for the East Herkimer Sewer District and that he has asked for an extension of our due date.
- L.) An email dated January 17, 2020 from the AOT Director of Office Operations, Bonnie Becker, concerning a message from Governor Cuomo on Cyber Security.
- M.) An email dated January 21, 2020 from the Herkimer-Oneida Counties Comprehensive Planning Program Principal Planner, Robert Koslosky, concerning a Watershed Management Plan Survey.
Supervisor Frank stated that we have received another survey that he will fill out.
- N.) Letters dated January 21, 2020 from Supervisor Frank to Senator Seward and Assemblyman Smullen asking for funding and support of the East Herkimer Sewer District.
Supervisor Frank stated he sent letters out asking for financial support for the East Herkimer Sewer District to lessen the debt on these entities.

CARRIED AYES ALL

07) Routing.

Motion by Councilman Carbone, seconded by Councilman Salteri to accept and place on file all of the routed material of USDA News Release for Funding Available to deploy high-speed broadband internet, American Cancer Society study on Cellular Towers and Local Government Official's Guide to Transmitting Antenna RF Emission Safety: Rules, Procedures, and Practical Guidance.

CARRIED AYES ALL

08) Resolutions.

Supervisor Frank he has several transfers for tonight to even up the 2019 books. He also wanted to remind the board that there will be two audits tonight; one for the rest of the 2019 bills that are reflected within these transfers and one for the 2020 bills thus far.

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file all the recommended transfers by Supervisor Frank.

CARRIED AYES ALL

Supervisor Frank stated this resolution is to establish the Town of Herkimer as the as the Lead Agency for the SEQRA and if all in favor this will allow me to sign the forms to proceed.

Motion by Councilman Stalteri, seconded by Councilman Carbone to approve Resolution No. 9 of 2020- East Herkimer Sewer District SEQRA and NEPA Lead Agency Status.

CARRIED AYES ALL

09) Old Business.

Appointments for 2020:

Supervisor Frank stated he spoke with Jodi Rivers on who she would like to appoint and upon her recommendation that Deb Wright be appointed her Deputy Water Clerk and Deputy Receiver of Taxes.

Motion by Councilman Stalteri, seconded by Councilwoman Penree, upon the recommendation of Water Clerk Jodi Rivers that Deb Wright be appointed as the Town of Herkimer Deputy Water Clerks for a one-year term, 01/01/20 to 12/31/20.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone, upon the recommendation of Receiver of Taxes Jodi Rivers that Deb Wright be appointed as the Town of Herkimer Deputy Receiver of Taxes for a one-year term, 01/01/20 to 12/31/20.

Deputy Town Clerk for a one-year term, 01/01/20 to 12/31/20.

Clerk DeMetro stated she still has to find someone to be her deputy.

TABLED

Deputy Registrar of Vital Statistics for a one-year term, 01/01/20 to 12/31/20.

Clerk DeMetro stated she would like to table this as well until she finds a Deputy Town Clerk.

TABLED

Town Sole Assessor for a six-year term, 01/01/20 to 09/30/25.

The board agreed to table this at this time as we are waiting on a signed contract.

TABLE

Supervisor Frank stated he reached out to Dr. DeCarlo and he has agreed to continue being the Town's Health Officer for another two-year term.

Motion by Councilman Stalteri, seconded by Councilwoman Penree, upon the recommendation of the Town Board to appoint Dr. DeCarlo as the Health Officer for a two-year term, 01/01/20-12/31/21.

CARRIED AYES ALL

Water District: Supervisor Frank stated we had a water meeting today and after working with the software company they have answered questions that we've had and now all bills are in line to where they should be.

Mckennan Road Enhancement Project: Supervisor Frank stated our engineer sent us an idea of where to place the pump but it is in the right of way of the County. Legislature Robert Schrader was very helpful on getting the County Highway Department to the table for us. Our engineer doesn't think this location will be a problem for them and has asked that Highway Supt. McManus review where they would like the site to be. The survey still isn't done but is expected to be done on the 27th or 28th of this month. The application has been made for the title insurance for when the survey is done and we will close on these properties. Shortly after that we can have the field work begin. We need to have the clearing done to be able to get the boring samples.

West Herkimer Water: Supervisor Frank stated the engineer sent out a note indicating he'd like to meet with their attorney and us to set up public meetings to inform the people that would be in the district. Supervisor Frank stated he will coordinate with Councilman Stalteri, Attorney Bray to meet with them.

East Herkimer Sewer District: Supervisor Frank stated as previously discussed we are starting the SEQR process. He also stated that he emailed the Northern Border Regional Commissioner asking for an extension. He received a response back stating that this project was suppose to be for three years instead of two anyways and he will correct it on his end. We will have until the end of 2021 to finish this project.

Dog Control: DCO Erica Dunton stated she wanted to touch base with the board now that the chickens are gone. She stated she is still receiving complaints that the dog is barking. Councilman Stalteri stated that per our codes for our noise ordinance that if a dog is barking for fifteen minutes or more than we can ticket them. He stated regardless of the chickens or not, you have to control your animal.

Solar Project on Sokol Road: Planning Board Chairman Mark Gaworecki stated there were no comments made during the public hearing in Schuyler. He stated that there was a notice in the newspaper and letters were sent out to the three residents that have adjoining properties.

Steuben Hill Road:

Codes: Codes Enforcer Collis stated he would like to apologize for his oversight with the cell tower. Attorney Bray stated we have no procedure in place for these types of things. Supervisor Frank stated we will work to get that in our Zoning Ordinance. Attorney Bray stated we should also have a law that protects us for battery storage systems. These types of batteries are very dangerous and are common for starting fires. He stated solar farms are using them to store power and he thinks it would be beneficial for us to have NYSERTA give us a presentation on these and to help advise us with creating a local law. The board agreed.

NYMIR Risk Control Resurvey Report: Attorney Bray stated there have been many concerns about internet security breaches and advised the board to make sure our data is secure. Supervisor Frank will make sure our IT service is where it should be.

Strategic Plan: Councilwoman Penree asked if this could be taken off of our agenda. Supervisor Frank agreed stating the County is engaging in a Strategic Plan that we have agreed to participate in so we should see what comes of that before we do anything on our own anyways.

Website: Councilwoman Penree asked where we were with the website. Clerk DeMetro stated she has not had time to work on this and doesn't know when she will. Supervisor Frank stated he will set up a meeting to discuss what still needs to be completed.

Dog Control Local Law: Attorney Bray stated he is gathering information for this.

Subdivision Local Law:

10) **New Business.**

Supervisor Frank stated the Supervisor's dinner is this Thursday in Little Falls and if anyone is interested in attending to please let him know.

Clerk DeMetro stated in petitions and communications we received a request for consent to sell raffle tickets in our town for the Otter Lake Fire Department. The board agreed to allow this. Motion by Councilwoman Penree, seconded by Councilman Stalter to approve the consent form. Councilman Carbone abstained from the vote.

CARRIED AYES ALL

11) **Reports.**

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Sales Tax Report.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Planning Board Minutes dated August 20, 2019.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Town Justice Report for December, 2019 from Karl Manne.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file the Trial Balance Report dated January 21, 2020 for 2019.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Revenue and Expense report dated January 21, 2020 for 2019.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Trial Balance Report dated January 21, 2020 for 2020.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file the Revenue and Expense report dated January 21, 2020 for 2020.

CARRIED AYES ALL

11) **Purchase orders and Audit.**

Motion by Councilman Carbone, seconded by Councilman Stalteri to approve the Audit dated January 21, 2020 for 2019.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri to approve the Audit dated January 21, 2020 for 2020.

CARRIED AYES ALL

12) **Adjourn.**

Motion by Councilman Carbone, seconded by Councilwoman Penree, that the Regular Meeting of the Herkimer Town Board be adjourned until the next Regular Meeting to be held on Tuesday, February 3rd, 2020 at 6:00PM.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk