

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Tuesday, September 8, 2020, at 6:00PM virtually and telephonically.

**02) Roll Call of Officers**

Present: Supervisor-----Dominic Frank  
Councilwoman-----Kathy Penree  
Councilman-----Vito Carbone  
Councilman-----Daniel Stalteri  
Councilman-----Randy Kast  
Attorney-----Christopher Bray  
Highway Supt.-----David McManus

Excused: Codes Enforcer-----Ken Collis  
Deputy Attorney-----Kyle Crandall

Also present was Kevin Murphy for the Wladis Law Firm.

**03) Pledge of Allegiance to the Flag.**  
Supervisor Frank led us in the Pledge of Allegiance to the Flag.

**04) Reading of the Minutes.**  
Motion by Councilman Stalteri seconded by Councilman Carbone, to accept and place on file the minutes of the previous meetings held on August 17, 2020 as written.

CARRIED AYES ALL

**05) Public Meeting.**  
Supervisor Frank stated anyone from the public who would like to speak during our public meeting, please state your name, address and tell us why you are hear.

Mitchell Scherr of 104 Elm Ave. stated he moved to East Herkimer in February of this year. He stated it is a great neighborhood but the only issue he has is with the Glen Ridge Motel. He has a child on the way and is concerned about sex offenders. He stated that he recently met the owner of the motel who was very disrespectful and acted as if he didn't care about the concerns of the neighbors. Mr. Scherr is asking if there is a town ordinance that could make him put an eight-foot fence around the motel parcel? He left the call before the board could respond.

Donna Morris of Shells Bush Road stated she would like the town consider having an ordinance that would make it so the horses that are on the roads would need to have a bag to collect their waste. She stated she is sick of having to clean up the mess from them that is left on the road at the end of her driveway. The neighbors are fed up with it. Councilman Kast stated this is a good place to start but that he would recommend contacting her county legislature because Shells Bush is a County road. She will do so and thanked everyone for their time.

Jon Cancellino of 100 Elm Ave. stated he witnessed the Codes Enforcer and the Health Dept. up there recently. Everyone has been putting up with a lot because of the motel and would like some answers on what is going to happen. Attorney Bray stated there was an inspection done on August 28<sup>th</sup> and every apartment was inspected. Two of the apartments we condemned. We are complying a list of all the deficiencies and per our Hotel/Motel Local Law the application is now denied because of these deficiencies, but the owner will have thirty days t correct them. If they are not corrected within the thirty days then the Town automatically denies the application and they would have to reapply. Mr. Cancellino stated there needs to certified people doing the work so it is done correctly. Attorney Bray responded stating it's the town's job to enforce it to meet codes. Supervisor Frank asked when the thirty days begins? Attorney Bray replied stating from when the owner is made aware of the deficiencies that need to be corrected. Codes Enforcer Collis stated he will get the report done this week.

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

**CARRIED AYES ALL**

**06) Petitions and Communications.**

Motion by Councilman Stateri, seconded by Councilman Carbone, to accept and place on file all the petitions and communications 7A-H listed below.

- A.) A letter dated August 10, 2020 from Constructure Technologies concerning the Statutory Gross Receipts for July 2020.
- B.) A letter dated August 13, 2020 from the Herkimer County Personnel Officer, Steven Billings, concerning the 2021 Workers' Comp Budget Figures.  
Supervisor Frank stated this shows the paydown with the County for workers' comp. It continues to go down and is a couple less than last year.
- C.) A letter dated August 17, 2020 from the NYS DOT Director of Local Programs Bureau, Peter Ryan, concerning the 2020-21 CHIPS, PAVE NY, and EWR reimbursements.  
Supervisor Frank stated this is showing how much money we will have from CHIPS.
- D.) An email dated August 24, 2020 from Herkimer County Director of Emergency Services, John Raymond, concerning DR-4472 Hazard Mitigation Grant Program Funding Opportunity.  
Supervisor Frank stated there is some mitigation money for damages due to the Halloween flood. He has been in touch with Highway Supt. McManus and John Raymond from the 911 Center stating that we would most likely apply for funding. He stated he would like to get Osborne Hill Road repaired and that we would need an engineer for this project. He stated CT Male seems most interested in the project.  
Supervisor Frank also stated our mitigation plans are to south of Piper Road. CT Male will be sending a proposal to add it to our mitigation plans and also combine the multiple plans we have all into one. Supervisor Frank stated he would like to include the Folts Road retaining walls. They have a grant writer and would also be able to include the engineering plans for Piper Road.
- E.) An email dated August 26, 2020 from Christopher Baiamonte of the Wladis Law Firm concerning the DynaSolar Project.  
Supervisor Frank asked Kevin Murphy if he would like to comment on this. Mr. Murphy stated he recommended that the Town Board be the lead agency for the SEQR on this versus our Planning Board. The reason behind this is because the Town Board has the final decision. He stated the Town is required to give notice to other involved agencies to see if they have an interest in the lead agency. They have thirty days to respond from our request.
- F.) A letter dated August 31, 2020 from NYSDOT Region 2 Director, Linda A. Lubey, concerning the designation of restricted highways.
- G.) An invitation to the unveiling of the Herkimer Project.  
Supervisor Frank stated this is an invite for the unveiling of the Herkimer Project. Supervisor Frank is unable to attend but Councilwomen Penree, Councilman Carbone and Councilman Stateri will be in attendance.
- H.) Herkimer County Flood Insurance Study and Rate Maps.

**CARRIED AYES ALL**

**07) Routing.**

Motion by Councilman Stateri, seconded by Councilwoman Penree to accept and place on file the NYMIRE 2019 Annual Report being routed.

**CARRIED AYES ALL**

**08) Resolutions.**

Attorney Bray stated this is set the public hearing to exceed the tax cap. The public hearing will be held on September 21<sup>st</sup> at 6:05PM at the East Herkimer Fire Dept.

Motion by Councilman Stateri, seconded by Councilwoman Penree to accept, place on file and approve resolution No. 21 of 2020.

**CARRIED AYES ALL**

Supervisor Frank stated relative to this we are on target with our budget process. Everyone was to have given their tentative budgets to Budget Officer Marcia Baylor by yesterday. We do this resolution every year.

**09) Old Business.**

Water District: Highway Supt. McManus stated there was a water leak on McKennan Road in front of Teachout's house. We had a hard time finding it because the wrong kind of line was run to their house. We are working on it and should have it fixed tomorrow.

McKennan Road Enhancement Project: Supervisor Frank stated we are having the bid opening on the 14<sup>th</sup> at 2:30 for the clearing of the access road and water tank. Letters were mailed out to local contractors and an add was placed in the paper.

West Herkimer Water: Supervisor Frank stated he hasn't heard anything new.  
East Herkimer Sewer District: Supervisor Frank stated we have a contract from the Village of Herkimer. Attorney Bray stated he read through this contract and went line by line with it compared to our previous one. He stated he only found to significant differences. The first was that they significantly raised the hook up fees. The commercial hook up fee is not what the problem is but the residential fee is quite high. Councilman Stalteri stated this district is commercial user based anyways. He also stated that although I do not agree with it, I think we need to get this agreement passed so we can get this project moving. Councilman Kast stated he doesn't believe they can dictate our district because doesn't their laws only apply to where they govern? Attorney Bray stated he believes by adding it in this contract is how they get around it. Councilman Stalteri stated he makes a motion to sign the contract with an amendment of adding a three-month notification of any rate changes. Councilman Kast seconded the motion. Attorney Bray stated we would need to sign it as it and then ask for an amendment after. Bray also stated that the second significant change that is different in this contract is the contract is only good for five years, when typically, they have been for forty years. Councilwoman Penree asked if that means they could decide not to service us anymore after the five years? Bray replied stating yes. Clerk DeMetro stated we should have a contract that will at least cover the life of the loans that we will have to take out to cover this project. Councilman Carbone asked if there was any explanation to why these changes were made. Bray replied stating no but we can request this information. Motion by Councilman Stalteri, seconded by Councilwoman Penree to withdraw the motions to sign the contract as written. Supervisor Frank stated he will make a call to find out. Attorney Bray will follow up with Bond Council to see if the five-year agreement is acceptable for bondage.

Motion by Councilman Carbone, seconded by Councilman Stalteri to table the agreement until we have more information.

CARRIED AYES ALL

Steuben Hill Road:

Solar Project on Sokol Road:

Codes:

NYMIR Risk Control Resurvey Report:

Landbank: Supervisor Frank stated we have a contract with the Landbank for tonight. He stated he reviewed it, as well as Attorney Bray and found no discrepancies. The board agreed to sign it.

Motion by Councilman Kast, seconded by Councilman Stalteri, to accept, place on file and approve Supervisor Frank to sign the contract.

CARRIED AYES ALL

Supervisor Frank asked what needs to be done to get the land deeded to the Town for the placement of the sewer line. Councilman Stalteri stated he was told by Tolga that all we need to do is have a letter requesting it and then the Landbank will approve it.

Councilman Stalteri stated he was asked if the board would reconsider forgiving the late fees of the water bill.

Motion by Councilman Stalteri, seconded by Councilwoman Penree to forgive the water late fees.

DOG Control Local Law: Attorney Bray stated he is still working on this.

Subdivision Local Law: Attorney Bray stated he is still working on this and wants to follow up with the planning board.

SunEast Solar Project: Supervisor Frank stated that Kevin Murphy suggested we wait for the Town of Schuyler to vote. They have a public hearing next week.

DYNO Solar Project:

Court Grant:

**10) New Business.**

Councilwoman Penree asked how we made out with the State Comptroller's Office. Supervisor Frank replied stating that we answered all of the questions they had and provided them with the information requested. The questions seemed to have to do with a FOIL request received from John Cancellino concerning the Town purchases anything from the Ward's.

Highway Supt. McManus stated he would like to bring the two guys back that he had to let go because we are going to need the help preparing for winter. Supervisor Frank stated he will review where we are with our budget. Supervisor Frank stated the summer budget is based on the sales tax and we are \$73,894 short so far this year and still have one more sales tax payment due. Councilman Stalteri estimates the next quarter will have a twelve to fifteen thousand shortage for tax revenue based on trending.

**11) Reports.**

Motion by Councilman Stalteri, seconded by Councilman Kast to accept and place on file the Water and Sewer Meeting Minutes dated August 18, 2020.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Carbone to accept and place on file the Bank Reconciliation Report for July, 2020.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Cash Report for July, 2020.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded Councilman Carbone single audit certification form.

CARRIED AYES ALL

Motion Councilwoman Penree, seconded by Councilman Carbone to approve payment to Wladis Law Firm for the SunEast Solar Project.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Dog Control Report for August, 2020 from DCO Erica Dunton.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Town Clerks Report for August, 2020 from Clerk DeMetro.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stalteri to accept and place on file the Town Justices' Reports for August, 2020.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Kast to accept and place on file the Trial Balance Report dated September 8, 2020.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Carbone to accept and place on file the Revenue and Expense Report dated September 8, 2020.

CARRIED AYES ALL

**11) Purchase orders and Audit.**

Supervisor Frank stated he has provided one purchase order for this evening for the purchase of sanitation machine to clean the offices. Supervisor Frank stated the ARC Herkimer received a grant to purchase PPE because of COVID and they were able to purchase a sprayer that would disinfect a whole room. He stated they are very satisfied with the product but had to wait for a while for it to come in. Councilwoman Penree stated she thinks there are cheaper alternatives. Supervisor Frank suggested he could see if the Court would incorporate it into their grant.

**12) Adjourn.**

Motion by Councilman Kast, seconded by Councilwoman Penree, that the Regular Meeting of the Herkimer Town Board be adjourned until the next Regular Meeting to be held on Monday September 21<sup>st</sup>, 2020 at 6:00PM at the East Herkimer Fire Department located at 193 Main Road in Herkimer.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk