

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, September 21, 2020, at 6:00PM at the East Herkimer Fire Department located at 193 Main Road in Herkimer.

02) Roll Call of Officers

Present: Supervisor-----Dominic Frank
 Councilwoman-----Kathy Penree
 Councilman-----Daniel Stalteri
 Attorney-----Christopher Bray
 Codes Enforcer-----Ken Collis

Excused: Councilman-----Vito Carbone
 Councilman-----Randy Kast
 Highway Supt.-----David McMannus
 Deputy Attorney-----Kyle Crandall

03) Pledge of Allegiance to the Flag.

Councilman Stalteri 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 September 8, 2020 as written.

CARRIED AYES ALL

05) Public Hearing.

Supervisor Frank read the legal notice for the public hearing on Local Law No. 2 of 2020 to override the tax cap. He then explained that this is customary and done every year in case we have the potential over override the tax cap set by NYS. We are just starting budget negotiations now. No one from the public wished to comment.

Motion by Councilman Stalteri, seconded by Councilwoman Penree to close the Public Hearing.

CARRIED AYES ALL

06) 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.

Donna Morris of Shells Bush Road stated she would like to bring to the board's attention the horse feces that are left on the roads. She stated they should be required to have a bag behind them and have it enforced. She stated anyone who has a dog has to pick up, why should this be any different. She is sick of having it brought into her home because it is on the roads. She was advised at the last meeting to contact her legislator and she did so. Legislator Mark Gaworecki stated he had spoken with the County Attorney regarding this and it is her thought that it would still be a town law that would need to be passed even though it is a county road. She also said that these types of laws are very hard to enforce because they feel they are being discriminated against. Mrs. Morris stated that she heard a bishop is who controls them. Councilman Stalteri suggested that we get in touch with him to come to some sort of resolution. He asked that Mrs. Morris get us the contact information for the bishop. Councilwoman Penree asked if this is a seasonal issue? Mrs. Morris stated it is a constant issue year around. Supervisor Frank agreed the first thing we should do is try to contact the bishop and make a request to him. Mrs. Morris will try to get this information for us.

Bill Ray of 628 McKennan Road asked why hasn't his road been patched. He stated it has a rough surface and has pot holes. Elaine Ray stated the weeds have not been cut and there are no ditches. No maintenance has been done. The board will follow up with Highway Supt. McMannus.

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

CARRIED AYES ALL

07) Petitions and Communications.

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

- A.) A letter dated September 9, 2020 from Attorney Allyson Phillips, concerning the SunEast Watkins Road Solar Project.
Supervisor Frank stated this is a letter from the attorney SunEast addressing some of the issues that were brought up.
- B.) A letter dated September 10, 2020 from Constructure Technologies concerning the Statutory Gross Receipts for August 2020.
- C.) An email dated September 14, 2020 from Kevin Murphy, of the Wladis Law Firm, concerning the invoices for counsel for the SunEast Solar Project.
Supervisor Frank stated the Town of Schuyler will pay for the work that has been done our behalf out of the escrow account.
Motion by Councilwoman Penree, seconded Councilman Stalteri to allow Supervisor Frank to sign off on the bill to be paid by the Town of Schuyler.

CARRIED AYES ALL

- D.) A letter dated September 14, 2020 from the Greater Mohawk Valley Land Bank, Inc. to the Herkimer County Legislature Chairman, Vincent Bono, asking the Legislature to reconsider the vote of not to renew the IMA with the GMVLB.
Supervisor Frank stated this is a letter from the Landbank to the County regarding their relationship.
- E.) A Memorandum of Record dated September 15, 2020 from the Northern Border Regional Commission concerning the grant agreement extension.
Supervisor Frank stated we did receive our grant extension agreement doesn't expire till 2021.
- F.) A letter dated September 15, 2020 from Douglas Goodfriend, of our Bond Counsel, concerning the Water Transmission Main Improvement proposed sale of bonds.
Supervisor Frank stated this is a proposal from bond council on how to finance what isn't going to be covered by the grant. We are going to get more quotes and compare them.
- G.) A letter dated September 21, 2020 from Herkimer Central School Superintendent, Robert Miller, requesting permission to use the town playground facility.
Supervisor Frank stated the School District is asking to use our playground while theirs is under construction. Councilman Stalteri stated we had the basketball hoops taken down due to neighbors complaining due to covid. Councilwoman Penree stated she believes as of today the Governor is now allowing basketball under the new guidelines.
Motion by Councilwoman Penree, seconded by Councilman Stalteri to the school to use the Town Playground and allow them to maintain the fields if they want to sue them.

CARRIED AYES ALL

- H.) A letter from CEO of Nagle Astro turf Company, Paul Nagle, concerning the maintenance of our tennis courts.

CARRIED AYES ALL

07) Routing.

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file Proposed FEMA Flood Insurance Rate Map and Flood Insurance Study report for Herkimer County. Codes Enforcer Collis stated he responded back today. Supervisor Frank did as well.

CARRIED AYES ALL

08) Resolutions.

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept, place on file and approve all three of the transfers recommended by Supervisor Frank.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept, place on file and approve resolution No. 22 of 2020 to override the tax levy limit.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept, place on file and approve resolution No. 23 of 2020 declaring the Town Board to be the lead agency in the SEQOR for the DYNO Solar Project.

Councilwoman Penree stated she has some question from the application. Adjacent to a Fishing Access and the scenic byway. She stated the from the Planning Board Meeting Minutes it states that they could provide benefits to fifteen hundred homes but in the application, it stated that the HCCC and the County will be the only ones benefiting from it. Attorney Christopher Baiamonte from the Wladis Law Firm stated all the powered generated will go to the College and County. Councilwoman Penree asked for the aquatic count as being next to the West Canada Creek. Mr. Baiamonte stated there is a sliver of land between the river and the project that the parcel is on. Councilwoman Penree asked who owns this parcel between. Mr. Baiamonte replied stating either the State or DEC. Councilwoman Penree stated there is a spot currently used for hunting or fishing. There is a designated fishing access. She also asked who currently owns the property and who the potential buyer is? Mr. Baiamonte stated it is owned by a trust for the Aney family and he is unsure of a potential buyer. He also stated that what they do is negotiate a decommissioning agreement to protect the Town and this would bind the applicant and any of its successors. Councilwoman Penree stated she understands but the owner of the hyrdodame had previously informed the board of the intentions of purchasing this property and putting a solar project there. Our concern is he has not been compliant with the State on maintaining the hyrdodame. Mr. Baiamonte stated he doesn't think they have to Councilwoman Penree asked what sort of tree line will be done for the residents on Shells Bush Road? Mr. Baiamonte stated they plan to plant trees but CT Male who is the Towns Engineer was not satisfied with what they were proposing and is in communication with them regarding it. Councilwoman Penree also asked how far from the property line will the panels be placed. Mr. Baiamonte stated he believes it is a fifty-foot set back from the property line. Supervisor Frank asked how the road visual would be affected for the scenic byway? Mr. Baiamonte replied stating they haven't come to a resolution yet but he will forward the discussions regarding it thus far. Councilwoman Penree asked if there would be any possible erosion issues. Planning Board Chairman Mark Gaworecki stated no, because the project is furth enough back. Councilman Stalteri asked if only the College and County would benefit from this project? Mr. Gaworecki stated yes, the County and College will receive lower rates and there will be pilot programs for the school and town. Councilwoman Penree asked where they would be tying in? Mr. Baiamonte replied stating there is an existing pole on the property and then National Grid will connect it to the plant.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri to approve notification to the residents within the area of the solar project. Mr. Baiamonte will notify the Village of Herkimer and will also issue notice in detail of the project to the residents when our next meeting will be help on the project.

CARRIED AYES ALL

09) Old Business.

Water District:

Mckennan Road Enhancement Project: Supervisor Frank stated we had the Bid Opening for the clearing of the property for the access road and water tank. Advertisement was in the paper and we sent out letters to all local companies. We received two submittals back and Supervisor Frank is recommending that we award the contract to John Werczynski. The surveyor will stake out the boundary lines. This cost will be covered within our grant. Attorney Bray will put together a contract and make sure we have everything correct for our reward letter.
Motion by Councilman Stalteri, seconded by Councilwoman Penree to give Supervisor Frank the authority to enter into a contract in accordance with the bid guidelines.

CARRIED AYES ALL

West Herkimer Water: Supervisor Frank stated he has spoken with the consultant engineer and asked where we are with the district forming. We will need to file the formed district with the County. Attorney Bray will follow up with them on this. Schuyler votes on it tomorrow.

East Herkimer Sewer District: Supervisor Frank stated he is unsure if the survey work is complete or not yet. He also stated the Village approved to amend the Sewer Contract to add a thirty-day notice of any rate change and also a thirty-year term for the contract.

Motion by Councilman Stateri, seconded by Councilwoman Penree to give Supervisor Frank the authority to sign the agreed upon Sewer Contract with the amendments. Attorney Bray will review it before Supervisor Frank signs it.

CARRIED AYES ALL

Steuben Hill Road:

Solar Project on Sokol Road:

Codes: Councilwoman Penree asked is the septic issue on Pine Grove Road has been resolved? Codes Enforcer Collis stated the tenant has moved out and the Town highway dumped a load off gravel. There have been no more complaints since then.

Supervisor Frank stated the letter and reports of violations have been sent out to the Glenridge Motel owner. Attorney Bray stated the owner will have thirty days to complete everything that has been listed. If he fails to do so then his application will be automatically denied. Councilman Stateri asked what happens if they do not fix everything and the application is denied. Attorney Bray stated they would need to reapply for a license and we would be able to fine him for being in violation of the law. He also stated we would need to bring them to court in order to close the Motel down. Councilman Stateri asked if we are obligated to notify the occupants that the owner is not compliant. Attorney Bray stated that is not required in our local law. Councilman Stateri stated we need to ask residents to make a list of complaints and to try to get the complaints they have given to the State Police. Councilman Stateri stated we should have the next step in the process ready for if they do not comply within the thirty days. This has been an ongoing issue that we need to keep on top of.

NYMIR Risk Control Resurvey Report: Supervisor Frank stated we had our annual sprinkler inspect and have a quote for some needed repairs and will get them fixed.

Landbank: Supervisor Frank stated he reached out to them to provide the Town to documentation necessary to issue the first installment payment.

Dog Control Local Law: Tabled

Subdivision Local Law: Tabled

SunEast Solar Project: Supervisor Frank stated Schuyler meets tomorrow on this.

DYNO Solar Project:

Court Grant:

10) **New Business.**

Supervisor Frank stated we have submitted the 2021 Tentative Budget to the Clerk DeMtro and should start scheduling meetings with the department heads. The board will work together to decide on a date and time.

Motion by Councilman Stateri, seconded by Councilwoman Penree to accept and place on file the 2021 Tentative Budget.

CARRIED AYES ALL

11) **Reports.**

Motion by Councilwoman Penree, seconded by Councilman Stateri to accept and place on file the M&S Fire Protection Annual Sprinkler Inspection.

CARRIED AYES ALL

Motion by Councilman Stateri, seconded by Councilwoman Penree to accept and place on file the Glen Ridge Motel Codes Enforcement Officer, Fire Commissioner, and Health Officer Reports.

CARRIED AYES ALL

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

CARRIED AYES ALL

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

CARRIED AYES ALL

11) Purchase orders and Audit.

Supervisor Frank stated we have three purchase orders for tonight from Highway Supt. McManus. They are to purchase sand for winter, blacktop patchwork, and for two snow plow poles. The board approved them.

Motion by Councilman Stalteri, seconded by Councilwoman Penree to approve the audit dated September 8, 2020. Councilman Stalteri recused himself from the Hummel's bill.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to approve the audit dated September 21, 2020.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to go into executive session to discuss personnel.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to close executive session with no decisions made.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to approve to recall Ted Borek and Mike Walz as of 9/28/2020 to resume their designated Town Highway positions and their duties as assigned of Highway Superintendent McManus.

CARRIES AYES ALL

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, October 5th, 2020 at 6:00PM. The next meeting is tentatively scheduled for a virtual and telephonically meeting.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk