

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, November 16, 2020, at 6:00PM telephonically and virtually

02) Roll Call of Officers

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

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

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 Carbone seconded by Councilman Stateri, to accept and place on file the minutes of the previous meetings held on November 2, 2020 as written.

CARRIED AYES ALL

05) Public Hearing.

Supervisor Frank read the Public Hearing Notice for Local Law No. 3 of 2020 to raise water rates in the Town of Herkimer. He asked if anyone would like to speak relative to this proposed local law Supervisor Frank stated with no one from the public wishing to speak he would entertain a motion to close the public hearing.

Motion by Councilman Carbone, 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 to please state your name, address and tell us why you are hear.

Mike Lennon from Herkimer Pallet stated he was wondering the status for the process of purchasing the property from him for the Highway Garage. Supervisor Frank stated we have an appraisal on the way but we haven't received it yet. He stated we will further discuss this in executive session later in the evening but will be in contact with Mr. Lennon in the near future.

Robert Schrader stated he noticed there has been progress with the hydro-plant and he was wondering if we had heard anything. He stated you can see work is being done there. Supervisor Frank stated he received a call from a contractor who was wanting to talk to our assessor about knowing where the access roads are. He stated this is an overall attempt to get the plant back running and online. Mr. Schrader stated that would be great to help to alleviate further problems downstream. He also asked what the status was of the solar project on Shells Bush Road. Supervisor Frank stated per the developer's instructions they have ceased development.

Frank Spatto stated there has been lots on discrepancies with the Town of Schuyler with the process for the Solar Project. He stated his biggest concern is being able to access his property at the end of Sokol Road. This is his only access. He also stated the Town of Schuyler does not have an enacting clause which would render the local law invalid. He also stated the Zoning Law was not filed with the State, the resolution was but not the law. Some of these areas were re-zoned CT without the owners even knowing. He stated this project will cause further problems for the Bellinger Brook floodplain and there is also a conflict of interest for one of the members on the Zoning Board. He stated Mrs. Goodhines is no longer in favor of it. He is asking the board to not rush this decision and to please listen to everyone's concerns.

Jason Dickey, who is a representative for SunEast, stated Mr. Spatto has been very involved with this project. He stated this project has been reviewed by engineers and comments were made. There were issues with flooding and the SEQRA was reapproved.

Julie Todd stated as far as our property being zoned as a CT district, the landowners never asked for that and were never told about the change. She stated in 1954 the Sokol Road became inactive when the thruway was put in. To get to Mr. Spatto's property was done so by traveling through our person property down a cow path.

Tom Todd stated there is a petition being circulated that was solely dependent on what people were told and many of those things were not true. These people were given false information.

Councilwoman Penree stated we can't control the narrative of what others will see. She asked why Mr. and Mrs. Todd were in favor of the project.

Mrs. Todd replied stating that this is the way the world is going and our property is a private place where no one will even see it.

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

CARRIED AYES ALL

07) Petitions and Communications.

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

- A.) A letter dated October 30, 2020 from The Oneida-Herkimer Solid Waste Authority concerning the Proposed 2021 Budget.
- B.) A certificate of liability insurance dated 10/30/2020 for Tesla Energy Operations, Inc. effective 10/31/2020 through 10/31/2021.
- C.) An email dated November 2, 2020 from NYS LGSA Monitoring system concerning the submission of the status of the Tax Cap Form at 7:24PM for the Town of Herkimer fiscal year ending on 12/31/2021.
- D.) A letter dated November 6, 2020 from CEG CME Engineering Group concerning the East German Street Extension Emergency Road Repair Project.
Councilwoman Penree asked if the recommended cracks to be filled in by December would be done? Highway Supt. McManus stated we are working on it and just waiting for a dry day to do it. Councilman Stalteri stated we should ask this engineering group for an inspection after the work is completed as well. McManus stated we will do a temporary fill in now and then will complete it properly in the spring. He also stated the equipment we have isn't big enough to reach over the side for the riprap repairs. He agreed with Councilman Stalteri about having the work inspected after completion of what they have recommended.
- E.) Letters dated November 7 & 13, 2020 from Charter Communication Director of Government Affairs, Alice Kim concerning upcoming changes in service.
- F.) A petition and map submitted by Frank Spatto on November 16, 2020 with over two hundred signatures opposing the Watkins Road Solar Project.

CARRIED AYES ALL

07) Routing.

08) Resolutions.

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept, place on file and approve resolution No. 29 of 2020 of the Water and Sewer Lien List. Supervisor Frank stated this is our annual lien list from our Receiver of Taxes who will submit it to the County. Councilman Stalteri asked how six quarters can be on here and because of this it has significantly high amounts.

Supervisor Frank stated you need to have missed so many quarters for it to go on the tax levy and since they had only two last year it didn't qualify. When it carried over, it made it the two from last year and the four from this year. He stated most of these on the list are habitual. Councilman Stalteri stated we should be following our water rules and regulations and send shut off letters to those who are not paying on time. Supervisor Frank stated we will further discuss this at our next water meeting.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept, place on file and approve resolution No. 30 of 2020 to pass Local Law No. 3 of 2020 to raise water rates.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept, place on file and approve resolution No. 31 of 2020 for the JCAP Grant for funding for the Court.
Supervisor Frank stated there was some verbiage that needed to be changed so that's why we are doing this again.

CARRIED AYES ALL

Frank Spatto asked if people could still speak relative to the Sokol Road Solar Project. He stated people have been trying to get in and were unsuccessful. Attorney Bray stated he would like to refer to Kevin Murphy for this but it is his recommendation that we re-open the public hearing for those who were trying to get in. Kevin Murphy agreed stating he thinks it is prudent to hear everyone's input.

Motion by Councilwoman Penree, seconded by Councilman Carbone to re-open the public meeting.

CARRIED AYES ALL

John Treen joined the call and stated that he is calling on behalf of his aunt, Caroline Goodhines, who is not well and no wants out of the solar project. He stated no one is understanding that they want to put a fifty-foot road in and will be taking out sixteen acres of pines. He stated they were misinformed and have family remains that are in the pines. He stated they have spoken to SunEast and they don't seem to care about our concerns. It's not fair that we have to lose all of the wooded area that has been there for generations. They are going to be putting in thirty-foot poles with high voltage. Councilman Stalteri asked if this property is in the Town of Herkimer or Town of Schuyler? Mr. Treen replied stating the Town of Schuyler. Supervisor Frank asked if there was a contract with his aunt? Mr. Treen replied stating yes, but our contract does not say that it's for a fifty-foot roadway and for taking out the pines. The contract was for thirty-five acres for solar in our fields, not a roadway. He stated they have hired an attorney. Councilman Stalteri asked if the Town of Schuyler has moved forward and are, they waiting on us? Kevin Murphy stated the Town of Schuyler has moved forward but we do not have to make a decision tonight if we would prefer to wait. He stated they are the lead agency on the SEQRA and found a negative declaration. Councilman Stalteri asked if these questions, concerns with the petitions and map have been brought up to the Town of Schuyler? Kevin Murphy replied stating he believes all of the same issues have been brought up to them as well. He stated two of the parcels are in the Town of Schuyler and one is in the Town of Herkimer. A lot of the questions and concerns are for the parcels located within the Town of Schuyler. Councilman Stalteri asked if the Town of Schuyler addressed the concerns of Mr. Treen? Kevin Murphy replied stating Mr. Treen is not the owner and the owner was at the meeting in Schuyler last week. Councilman Stalteri asked if this road affects the project? Mr. Murphy replied stating the design in the Town of Herkimer for this project does not affect this road in the Town of Herkimer. The project would only disturb where the old highway was in the Town of Herkimer.

Nicole Todd of 188 Sokol Road stated she has lived here for her whole twenty-seven years of life and that the roadway of concern in the Town of Herkimer has only ever been as dirt road for a cow path. She stated it has had a fence up.

Councilwoman Penree asked Mr. Murphy if there were any concerns with the notices, wrongful filing, and enacting law that were brought up by Mr. Spatto? Mr. Murphy replied stating he does not believe there are any issues and the ones he has been aware of have been corrected. Attorney Bray stated he did review our resolution as well as the Town of Schuyler's and they all do have the enacting clause properly in them. Councilwoman Penree stated all this information has been very enlightening to hear and that she would like to further look at the petitions and map to see who in the Town of Herkimer has signed them. Councilman Carbone and Councilman Stalteri agreed with wanting to review these items further.

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

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept, place on file and table resolution No. 32 of 2020.

A roll call was taken:

	Ayes	Nos	Absent
Supervisor Frank	_____	X _____	_____
Councilman Stalteri	X _____	_____	_____
Councilman Carbone	X _____	_____	_____
Councilwoman Penree	X _____	_____	_____
Councilman Kast	_____	_____	X _____
Total:	3 _____	1 _____	1 _____

Tabled.
CARRIED AYES ALL

09) Old Business.

Water District: Highway Supt. McManus stated nothing is new at the time and that they are just getting readings now. Supervisor Frank stated we are looking for roughly four-hundred and fifty gallons for the East Herkimer Water District. McManus stated sixty-five gallons was estimated for when the hydrants that were flushed. He also stated ELG is still at half staff due to the pandemic so they aren't using as much water. Councilman Stalteri asked if the water tower is metered because it replenishes itself? McManus replied no we just keep track of it with the master meter but we could put a meter on it. Councilman Stalteri stated we should get a price. McManus will do so.

McKenna Road Enhancement Project: Supervisor Frank stated Attorney Bray, Jeff Trisjack and himself met with the landowners to discuss the location of the pump. They were agreeable to meet with us and open to the idea.

West Herkimer Water: Supervisor Frank stated we have a standard engagement letter but will need more information to prepare it.

East Herkimer Sewer District: Supervisor Frank stated we have a purchase agreement with the landbank. Attorney Bray stated the landbanks attorney's only issue was arguing that we need an abstract but us having title insurance Attorney Bray does not think its necessary. He will follow up with the landbanks attorney to get this squared away. Bray also stated he has been in contract with Bond Council whose objective it to push things through to the State Comptroller.

Solar Project on Sokol Road: Previously discussed.
Codes: Councilman Stalteri asked if the leak at the motel has been fixed yet. Codes Enforcer Collis stated it has not been fixed yet and there are still people living there. The owner has contacted people but has not been able to find anyone to do the work. Attorney Bray stated we had a court date and will discuss this in executive session. Councilman Carbone stated there is a trailer parked at apartment eighteen that people are living in. Collis will look into this.

Codes Enforcer Collis stated on a good note, there are two new houses being built, one on Cook Hill Road and one on Schrader Hill Road.

NYMIR Risk Control Resurvey Report:

Landbank:

Dog Control Local Law: Tabled.

Subdivision Local Law: Tabled.

10) New Business.

11) Reports.

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Water System Improvements Project Soil Boring Bid Quotes.

Supervisor stated the commendation from our consultant engineer was to accept the Aztec bid for \$16,596.62.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and approve the Aztec bid for \$16,596.62 for the soil boring.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept, place on file the 2021 Budget for the Highland/Beardslee Ave. Sanitary Sewer District.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Town Justices Reports' for October, 2020.

CARRIED AYES ALL

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

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file the Trial Balance Report dated November 13, 2020.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Revenue and Expense Report dated November 13, 2020.

CARRIED AYES ALL

11) Purchase orders and Audit.

There was one purchase order for tonight from Highway Supt. McManus for a hydraulic pump for the brakes in the New Holland loader. The cost is \$1,406.60 and there's only one place around here that does it, Tracey Equipment. This is where we got the loader from. McManus stated we need this piece of equipment to load sand.

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept, place on file and approve the purchase of a hydraulic pump for the brakes in the New Holland loader.

CARRIED AYES ALL

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

CARRIED AYES ALL

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

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 Monday, December 7th, 2020 at 6:00PM. The next meeting is scheduled as a virtual and telephonically meeting.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk