

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, July 3, 2023, at 6:00PM at the Town Hall located at 114 N. Prospect Street, Herkimer, New York 13350.

02) Roll Call of Officers

Present: Supervisor-----Dominic Frank
Councilman-----Daniel Stalteri
Councilman-----Vito Carbone
Highway Supt.-----Ken Ward
Attorney-----Christopher Bray
Town Park Supervisor-----Kathi Nasypany

Excused: Councilman-----Randy Kast
Codes Enforcer-----Ken Collis
Deputy Attorney-----Kyle Crandall

03) Pledge of Allegiance to the Flag.

Councilman Carbone 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 meeting held on June 20, 2023 as written.

CARRIED AYES ALL

05) Public Meeting.

Supervisor Frank stated if anyone would like to address the board to please state you name, address, and tell us why you are here.

No one from the public wished to speak.

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

CARRIED AYES ALL

06) Petitions and Communications.

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

- A. A letter dated June 2, 2023 from the Herkimer County IDA Operations Manager, Victoria Adams, concerning a Notice of Project Inducement.
Supervisor Frank stated this is the SunEast Solar Project on Watkins Road that has been working with the Herkimer County IDA for a PILOT.
- B. A letter dated June 20, 2023 from NYSDEC Spills Program, Scott Reichinger, concerning the closure of Spill #9600356 at 160 Pine Grove Road in Herkimer.
Supervisor Frank stated this is good news that the spill has been closed for 160 Pine Grove Road from NYSDEC.
- C. A letter dated June 20, 2023 from Herkimer Police Chief, Michal Jory, applauding the efforts of DCO Erica Dunton.
Supervisor Frank stated this is a nice letter from Chief Jory on the good work that our DCO Erica Dunton is doing.
- D. A letter dated June 27, 2023 from Supervisor Frank to Michael Ray congratulating him for being hired as a seasonal employee.
- E. A letter dated June 28, 2023 from Charter Communications Director of Government Affairs, Alice Kim, concerning upcoming changes in service.
- F. A letter dated June 28, 2023 from National Grid to Supervisor Frank with notice of intent to terminate service supplied to 4105 State Route 5 in Frankfort.
Supervisor Frank stated this is from National Grid in regards to an unpaid service.
- G. A letter dated June, 2023 from Farm Credit East Executive Vice President, Thomas Cosgrove, congratulating us on receiving grant funding and asked that we publicize such.

Supervisor Frank stated we received \$500 from Farm Credit East and you will see under reports is a press release stating such.

CARRIED AYES ALL

07) Routing.
08) Resolutions.

Budget Amendments:

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept, place on file and approve both of the Budget Amendments recommended by Supervisor Frank.
 Supervisor Frank stated one of these is to bring in in the \$50k we will receive from Assemblyman Smullen through DASNY and one is to bring in the \$500 from Farm East Credit.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept place on file and approve all four of the Budget Transfers recommended by Supervisor Frank.

CARRIED AYES ALL

09) Old Business.

Water District: Highway Supt. Ward stated he received a call from the Village stating there was high water usage on Highland Ave. There was roughly twenty-one thousand gallons overnight. He stated he went and checked it out and didn't find anything. He found out one of the residents had a leak and has since taken care of it.

Highway Supt. Ward stated we also put a new service on Pine Grove Road.

Mckennan Road Enhancement Project: Supervisor Frank stated the regional reviewed and made comments. Our consultant engineer has addressed the comments and is also having his team review them before they submit to the NYSDOH. He is hoping they do so by the end of the week and then it will get submitted to the local DOH. Once all of this is complete they can go out for bid.

West Herkimer Water: nothing new to report.

East Herkimer Sewer District: Attorney Bray stated the permissive referendum is done and he will follow-up on what the next steps are. He stated in regards to the Lahey property he has all the documents and just needs to coordinate the signing. He will need a check for them as well.

Supervisor Frank said just to let him know who it has to be made out to and he will make sure it gets done. Supervisor Frank also stated our engineering has been submitted to the USDA and the USDA responded with what is needed and has to be returned by the 6th. One of the things they needed was a letter from Supervisor Frank stating the trailer park can hook up. He has taken care of this. Another thing they needs to be taken care of is all six properties involved with this project were sent letters that needed to be signed and returned to us. Five out of the six have done so.

The only one missing is from the Church of Latter Day Saints but he was able to speak to someone from the church and we are just waiting for the letter so we can get this concluded. Once this is complete the next step is to get a permit from the DEC to go through the creek and then we can go out for bid.

East German Street Extension: Supervisor Frank stated we had a meeting here with the Canal Corp and explained our situation and how we are looking for help to mitigate it. Councilman Stalteri took them to the site after and the creek was low so it gave a good view of the path of the creek flow and vegetation. The engineers said the creek is where it will be and stay. They also stated a plan will be coming out from NYS that will have funding with the mentality of retreat and relocate instead of trying to change the natural way creeks have rerouted. We have received a letter from resident Bill Penree stating that his intent is to be bought out and that he needs to be out winter. Councilman Stalteri stated we need to get the appraisals and also have fair market value. Supervisor Frank stated we have talked to a grant writer about looking at the option of ending the road where we are because potentially the end two residents have access and could stay in their homes. The electric poll is going to be relocated but we are unsure to where and when this will be done. Supervisor Frank stated that it is his interpretation that in the near future there will be funding from the state under climate change to address issues such as this.

Supervisor Frank also stated after we fixed this area before we had a study done to study the West Canada Creek Flood Plan. CT Male came back with a plan that we used to try to get mitigation funding from FEMA but we were denied. He stated we need to seriously consider to

return this area to how its naturally going. Councilman Stalteri stated we needs to take a direction and decide what direction we are going to go with this and the sooner we decide this the better. Supervisor Frank suggested that we get appraisals for all three of the homes in question and also to have an engineer put a plan together. Attorney Bray stated he made some calls on how to go about the appraisals and fair market value for these house. He waiting for calls back with answers on how to proceed. Councilman Stalteri stated he attended a training before that would give the town the authority to purchase properties due to the precedent due to the issues. Attorney Bray stated that NYS has a rising buyout and acquisition Policy for instances like this and Herkimer County is eligible for this.

Motion by Councilman Stalteri, seconded by Councilman Carbone to look into make a plan that would bring the creek to its natural origins to go down that path.

CARRIED AYES ALL

Codes: Supervisor Frank stated he has nothing new to report. Attorney Bray stated Codes Enforcer Collis wrote him asking if the public nuisance law can be used to help with our issues with the people at 936 Steuben Hill Road. Attorney Bray stated he doesn't believe this would fall under the public nuisance law and thinks the best way to go about it would be to request that the County appoint a Public Administrator, who would be Kim Enea and once she is appointed would give her the authority to evict the squatters. Attorney Bray stated he emailed Attorney Karl Manne for advice on how to proceed since he has dealt with this in the past. He also stated once the county takes ownership, the Town would be listed as a creditor of the estate, which means the money owed to us in taxes and water would be paid to us with the money made with the sale of the home. Councilman Stalteri stated we should be turning off the water since National Grid has turned off the power. Supervisor Frank agreed stating we are on the hook right now for a lot of money in past due water bills. Attorney Bray stated he would be cautious with turning off the water so we do not get sued over it.

Landbank: Councilman Stalteri stated he went to the meeting to see the progress of the homes being built at the modular home manufacture along with Tolga from the Landbank, some of the residents involved and the attorney general. He stated he is happy to report that two of the homes are completed and two more are being built now. He stated all four homes have been bought and paid for. Everyone seemed very happy with the progress and the see the homes. The manufacture would like the completed homes to be move off the lot as they are taking up room. He stated according to the Landbank they are on the verge of being cleared for the money to be releases so the site work and demolition can begin. The goal is to have all four of these homes in by the end of fall.

Zoller Ave: Attorney Bray stated he has no update to report on.

Piper Road: Supervisor Frank stated we have gotten approval within the original contract with the funding source to get a cost estimate for the sheet piling.

Subdivision Local Law: Tabled.

Shells Bush Road Solar Project: Supervisor Frank stated there is a new owners and out consultant attorney has been in touch with them on what is needed on our end for them to proceed.

Cell Towers' and Town Zoning Ordinance: Tabled.

Updating Zoning Ordinance: Tabled.

ARPA Funding (Exercise Trail): Supervisor Frank stated we a have agreed to use our ARPA funding on our Town Park and the other project we discussed was the Fitness Court. If we are going to proceed with the fitness court, they will need a purchase order from us. We did receive a grant of \$40k from the Fitness Court towards this and we have applied for a grant from the Wadas Foundation for the remainder balance. He stated the Wadas Foundation came back with some questions and it his understanding that they were looking for something to put proceeds to that would benefit children of all ages, where the fitness court is for ages fourteen and up which would cost an additional \$62k. Without the Wadas Founding grant we would be on the hook for the balance of \$224k. Supervisor Franks thought is that if we add on the studio court that maybe this would be more favorable to the Wadas Group. We have roughly \$80k in ARPA money left over as we are using \$150k towards the trail. He asked the board how they would like to proceed? Councilman Stalteri stated he thinks this would be a great addition to our Town Park with the trail we have coming.

Motion by Councilman Stalteri, seconded by Councilman Carbone to proceed with the Fitness Court.

CARRIED AYES ALL

Fireworks: Clerk DeMetro stated we had a great firework show that lasted twenty minutes long. She also stated she will be having a follow-up meeting to go over everything and close up this year's event. Councilman Stalteri thanked Councilman Carbone and Clerk DeMetro for their hard work and dedication to help have this again this year. He stated he has heard nothing but positive feedback from people. Councilman Carbone stated the only really complaints he heard was the price of food being too high. Supervisor Frank stated it was a great show and unfortunately the weather and air quality played an effect on the turnout this year. He hopes we can continue this event next year.

EPA Testing East Herkimer Water District: Highway Supt. Ward stated he hasn't heard anything. Negotiations with Teamsters: Councilman Stalteri stated we are just waiting on the final year of healthcare costs.

160 Pine Grove Road: Highway Supt. Ward stated the lights have not been put in yet but he will get together with our IT guy to get it done. Supervisor Frank stated the survey is complete and we had a preliminary review with the consultants. He stated we went over some of the comments made. There were 450 responses roughly 260 from inside the Village and 190 who were town. They are going to put together potential uses for the building based on the survey.

Exercise Trail at Town Park: Supervisor Frank stated last week we walked the park with our consultant engineer for the layout of the trail. We are waiting for the preliminary plan. We are also employing grant writer for the Town Park.

Herkimer County Mitigation Plan: Supervisor Frank stated he has nothing new to report.

Farmers Market: Park Supervisor Nasypany stated the farmers market has been going good. She stated we are expecting seven vendors and she will be doing a craft this Thursday for kids, in August she will do a scavenger hunt, and in September pumpkin carving. She stated this will give something for kids to do while their parents shop. The board agreed that this is a great idea. She also stated the food truck won't be coming back.

10) **New Business.**

Welcome Signs when entering the Town of Herkimer: Supervisor Frank stated it's been a while since we put up signs welcoming people to the Town of Herkimer. We have done this once in the past since he's been in office and two of them are gone. Councilman Stalteri stated he agrees we should get them. Supervisor Frank asked Highway Supt. Ward to get cost estimates for these with bigger signs on the main entrances to the Town and smaller ones for the roads that have less traffic. Ward will do so.

11) **Reports.**

Court Fees from 2020: Supervisor Frank stated back in 2020 when we needed a Justice to fill in and we had appointed Justice Nitka. She never held court so there was no money than she brought in but the State still wants the reports. Now that we have completed this we received a bill for those two months that were a combined total of roughly \$30k. He stated this was not budgeted for.

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept, place on file the Letter to residents from Highway Superintendent Ward on the use of Steel Wheels on Town Roads. Highway Supt. Ward this letter was produced by the County and he just revised and put our name in the place of the County's. Ward will get Clerk DeMetro a list of who to mail this out to.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept, place on file the Survey Map of the Herkimer Town Park dated 6/14/23. Supervisor Frank stated this is a topographic survey map.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept, place on file the Farm Credit East news release for the Town's Farmers Market dated 7/3/23.

Supervisor Frank stated since this was approved by out Park Supervisor he will get it submitted.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept, place on file the Partial Payment Request for the Piper Road Study.
Supervisor Frank stated this is for us getting our 75% from the first study.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept, place on file the Signed Agreement with the Herkimer School District for the Collection of School Taxes.
Supervisor Frank stated this is the same every year.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Bank Reconciliation Report for May, 2023 from Budget Officer Marcia Baylor.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Cash Report for May, 2023.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Renew State of Emergency Declaration dated 7/1/23 for East German St. Ext.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Emergency Orders 6/21, 6/26, and 7/1 for East German Street Extension.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Trial Balance Report dated July 3, 2023.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Revenue and Expense Report dated July 3, 2023.

CARRIED AYES ALL

Highway Supt. Ward stated he had a meeting with FirstNew last week. This service is with cell phones through AT&T. This service would give our phones preference to make calls first in and emergency setting. He wants to check out the service and see if its reliable. The projected cost is \$45 a line per month. Supervisor Frank stated right now we are paying roughly \$125 a month for two lines. Ward also stated Herkimer County 911 is going with this service. The board agreed to meet with the representative to get more information.

11) Purchase orders and Audit.

There are no purchase orders for this meetings.

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Audit dated July 3, 2023.

CARRIED AYES ALL

12) Adjourn.

Motion by Councilman Stalteri, seconded by Councilman Carbone, that the Regular Meeting of the Herkimer Town Board be adjourned until the next Regular meeting to be held on Monday, July 17th, 2023 at 6:00PM.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk