

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, July 17, 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-----	Randy Kast
Councilman-----	Vito Carbone
Highway Supt.-----	Ken Ward
Attorney-----	Christopher Bray
Town Park Supervisor-----	Kathi Nasypany
Codes Enforcer-----	Ken Collis

Excused: Deputy Attorney-----Kyle Crandall

03) Pledge of Allegiance to the Flag.

Councilman Kast 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 July 3, 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.

John Piseck of the Herkimer County IDA stated he is glad to see everything moving forward with 160 Pine Grove Road. He stated the next steps are to do a structure analysis and have the building drawn up. He stated the IDA will fund this at no cost to the Town as long as if there is a structure issue, the town has to be taken care of by the end of the year. He stated Weston&Sampson who has been working on this project will be able to do both the structure analysis and drawings for us.

Motion by Councilman Stalteri, seconded by Councilman Kast to accept the offer and agree to the terms for the Herkimer County IDA to fund the structure analysis and building drawing for 160 Pine Grove Road.

CARRIED AYES ALL

Supervisor Frank asked Mr. Piseck for an update on the West Herkimer Water. Supervisor Frank stated he reached out to Chris Lawton of Barton and Loguidice last month but have not received a response back. Mr. Piseck stated he is concerning about this project and how there were never hydraulic modeling reports produced which is needed to proceed. As of right now it is his understanding that Barton and Loguidice have stepped away from the project for the time being. Mr. Piseck stated we are still trying and have already secured funding towards this project but he is not sure how it will work. He stated the water is there but how were going to get it is what has become problematic. The engineer plans still need to be finalized. He stated at the moment the Herkimer County IDA has stopped looking for funding until we know more and we won't know more until the end of the month. He has met with the health department to explore different options such as wells.

Legislator Robert Schrader asked if there has been any news on the old Country Manner? Codes Enforcers Collis stated the individual who rented it is being sued by the Neighborhood center because they had trashed it. The neighborhood center is working to get it cleaned up. He was told they had lost their previous grant funding but are trying to get it back.

Town Park Supervisor Kathi Nasypany stated she didn't have the farmers' market last week due to the thunder storms but everything else is going well. She stated she was notified but a neighbor

that there has been night activity late in the evenings with banging sounds ect. Councilman Stalteri stated the building is secure and all of the windows have been screwed shut. He lives nearby and has not heard anything but will be on the lookout. Councilman Kast stated the new lights will be installed tomorrow and Councilman Stalteri stated the fire system will be installed tomorrow as well. Highway Supt. Ward stated he is making headway with Spectrum as well. He stated they needed some information that he was able to get from our IT guy Brian Keeler. He was told there would be a site visit within four to five days and then they will get back to him. Supervisor Frank stated Councilman Stalteri and himself met with the consultants to discuss the preliminary master (cite) plan. Councilman Stalteri stated Barton and Loguidice needs to give them the layout of the walking path so this could be more accurate. Supervisor Frank stated we also expressed a need for more parking than what is proposed.

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 F listed below.

- A. A letter dated June 30, 2023 from Supervisor Frank to the current owner and/or occupants of 936 Steuben Hill Road concerning the past due water bills and that the water service will be terminated if not paid in full within thirty days.
Supervisor Frank stated he sent a letter to the 936 Steuben Hill Road residence. The County has not taken ownership yet but it is on the list for the next round. Attorney Bray stated there have been rumors that the governor might being putting a moratorium and if this is the case then there will be no foreclosures which would mean the County will not take it over. We will have to see what happens.
- B. A letter dated July 7, 2023 from Charter Communications Director of Government Affairs, Alice Kim, concerning upcoming changes in service.
- C. A letter July 10, 2023 from NYSDOT Acting Director, Dawn Arnold, concerning the next quarterly 2023-24 CHIPS, PAVE-NY, EWR and POP reimbursements scheduled to be made on September 19, 2023.
Supervisor Frank state this is our CHIPS budget.
- D. A letter dated July 12, 2023 from Vincent DeBella of the Paravasti, Karl, Green & DeBella LLP, concerning the NYS Teamsters Council Health and Hospital Fund and the Town of Herkimer Audit.
Supervisor Frank stated we are arranging this.
- E. A letter dated July 14, 2023 from Oak Hill Cemetery Board Member, Judy Boniface, concerning a request for a veteran's burial plot.
Supervisor Frank stated we will further discuss this under new business.
- F. A letter dated July 17, 2023 from Supervisor Frank to Secretary of State Office of Planning Development and Community Infrastructure, Robert Rodriguez, expressing support of the Herkimer County IDA Brownfield Opportunity Area County-wide Pre-Planning Grant Application.

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 Amendment recommended by Supervisor Frank.
Supervisor Frank stated Highway Supt. Ward was successful in selling the backhoe and this amendment is to bring that money in. He stated we received the check today.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept place on file and approve Resolution No. 26 of 2023 for the Park Application to CFA.

Supervisor Frank stated we are asking for funding to modify the existing pavilion, to add handicap accessible bathrooms, to add a bocce ball court, to add a volleyball court, and to rehab the softball fields. The max we could ask for is \$500k so that's what we asked for. The Town would be responsible for a local match of 25% of what we use if we are granted this funding.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept place on file and approve Resolution No. 27 of 2023 for the NYS Smart Growth Comprehensive Planning Grant Program.

Supervisor Frank stated NYS wants you to have a comprehensive plan in order to score better and if we do so, this is a grant to get this done. We are asking \$100k to get this done and the local match is 10%.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept place on file and approve Resolution No. 28 of 2023 for the New York Green Innovation Grant Plan.

Supervisor Frank stated we have been told that the State is calling for a retreat and relocate for cases such as East German Street Ext. We are applying to two different grants funding to let the creek go its natural path and use the land for a possible park or fishing area. We are asking for two-million dollars and the local match is 10%.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept place on file and approve Resolution No. 29 of 2023 for the New York Climate Smart Communities Grant.

Supervisor Frank stated this is the second grant we are applying for that is directed towards funding for East German Street Extension. We are asking for one-million dollars that will require a 50% local match. We are hoping the money we have already spent and are spending will go towards our portion of local match.

CARRIED AYES ALL

Supervisor Frank stated all of these grants are due by July 28th. We are also expecting letters of support from our County and State officials.

09) Old Business.

Water District: Highway Supt. Ward stated there was a leak on Steuben Hill Road due to a resident having work done on their property and it disturbed the curb stop. The leak was fixed quickly by Central Paving.

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

McKennan Road Enhancement Project: Supervisor Frank stated our consultant engineer answered all of the questions regional had and it is now in the hands of local.

West Herkimer Water: Supervisor Frank stated we heard the status of this already.

East Herkimer Sewer District: Attorney Bray stated he is meeting tomorrow with Mr. Lahey to sign all the paperwork and he will find out who he wants the check payable to. He stated the bank doesn't get anything and has already agreed to the release. He also stated he spoke to the comptroller in regards to the permissive referendum. He is having them review everything for him. Supervisor Frank stated it seems we have answered all of the questions from the USDA and we have sent in the new sewer rates. One question he was unsure of so he has asked her to clarify. Once this is complete we can file a permit with the DEC to cross the stream, then we will get the final plans and can go out for bid.

East German Street Extension: Supervisor Frank stated he has drafted a letter to the residents letting them know we are going in the direction of retreat and relocate. He asked the board to please review this letter and give feedback so we can get them out by the end of the week.

Codes: Codes Enforcer Collis stated his report for 936 Steuben Hill Road is listed on the agenda under reports. He stated although the home is not condemnable, it is unsafe because it is a fire hazard. He stated he is unsure how to get them out of there. Supervisor Frank stated we have mailed certified letters to this address making them aware that the water will be turned off if the bill is not paid within thirty days. Codes Enforcer Collis stated unfortunately these people more

from place to place. He was told that they might be in a home of a resident who had recently passed away on Route 28 across from Mudville. Collis also stated there has been complaints of rats near the hotel in East Herkimer. Attorney Bray stated we should enforce our property maintenance law and write citations. This property is now in foreclosure so we should address the citations to the lender, fore they usually act faster to get things resolved.

Collis stated he was told of a party that is planned to be held on Eatonville Road and some of the residents are concerned. He made a call to the DOH who informed them that a permit would need to be obtained in order to sell food. Hopefully this will suffice as a deterrent of them having the event.

Landbank: Supervisor Frank stated he has nothing new to report.

Zoller Ave: Attorney Bray stated he has the agreements in place but still needs to get the signatures from everyone. He will work to get this done.

Piper Road: Supervisor Frank stated we are waiting for the contractor to send a proposal and contract for the second part of the project.

Subdivision Local Law: Tabled.

Shells Bush Road Solar Project: Supervisor Frank stated the new owners is racking up some legal bills with our attorney so we will be informing the new owners that they need to put money into the escrow account to cover these cost. Legislator Schrader stated he would like recommend that they get a bond from the federal bank because they are more secure.

Cell Towers' and Town Zoning Ordinance: Tabled.

Updating Zoning Ordinance: Tabled.

ARPA Funding (Exercise Trail): Supervisor Frank stated with the fitness court we will need to decide what artwork we would like to have. We have sent our logo to also have on there.

Councilman Stalteri suggested having pictures taken around town and using one of the landscapes as the background. The board agreed.

Fireworks: Clerk DeMetro stated we will be having a closing meeting tomorrow with ICAN.

EPA Testing East Herkimer Water District: Highway Supt. Ward stated he hasn't heard anything.

Negotiations with Teamsters: Supervisor Frank stated he spoke with Deputy Town Attorney Crandall last week and was informed they still do not have the final years' insurance cost but we will begin the negotiations without it.

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: Supervisor Frank stated this was previously discussed.

10) **New Business.**

First Net Cell Service Pricing Proposal: Supervisor Frank stated Highway Supt. Ward and himself met with the representative from First Net Cell Service to further discuss this. They work with AT&T and this service would give our phone numbers priority calling in the event of an emergency. The cost wouldn't be much different than what we pay now. This town would also be offered to all town employees and they would pay for this on their own if so they choose. Herkimer County's 911 Center is going to be using this service and the Sheriff is looking into this as well. Councilman Kast stated it seems like a better service for a better price so he sees no problem with it. Highway Supt. Ward stated he would like to test out the service before we make any decisions. The board agreed and Supervisor Frank will ask the representative to meet with the board for a presentation as well.

Oak Hill Cemetery burial plots requirements: Supervisor Frank stated this is in regards to the letter we received under petitions and communications. The request was from a member of the Oak Hill Cemetery Board in regards to an elderly woman expressing her interest in being buried there in one of the plots owned by the Town. Supervisor Frank stated the Town purchased thirty-two plots back in 1949 and eight have been used since then. There are requirements to obtain a plot owned by the town need to be approved by the Town Board first, are to be a town resident, a veteran with

honorable discharged and who is indigent. The person inquiring is a resident who was honorably discharged but is not indigent. Councilman Kast stated if the person does not meet the requirements than they cannot be buried there. Supervisor Frank asked that we table this until our next regular meeting.

11) Reports.

Motion by Councilman Carbone, seconded by Councilman Kast to accept and place on file the Certification Under Executive Order No. 16, NYS Department of State MWBE Compliance Form, and Sexual Harassment Prevention Certification Form signed and dated 7/17/23. Supervisor Frank stated these are required by NYS as a boiler plate.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Pine Grove Road Elementary School Reuse Preliminary Master Plan from Weston&Sampson.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stalteri to accept, place on file the Codes Inspection Report of 936 Steuben Hill Road dated 6/19/2023.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Carbone to accept, place on file the Northern Border Regional Commission Quarterly Report for dates April1-June30, 2023.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Kast to accept, place on file the NYS Homeland Security & Emergency Services Quarterly Progress Report dated 7/11/23. Supervisor Frank stated this is for the Piper Road Study.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Kast to accept, place on file the NYS Grants Gateway Registration Form for Administrators dated 7/6/23.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept, place on file the MWBE Third Quarter Report for McKennan Road Enhancement Project.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the DCO Report for June, 2023 from DCO Erica Dunton.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Town Clerks Report for June, 2023 from Clerk DeMetro.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Town Justice Reports for June, 2023 from Justice Manne and Justice Petucci.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Emergency Orders 7/6, 7/11, and 7/16 for East German Street Extension.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Trial Balance Report dated July 16, 2023.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Revenue and Expense Report dated July 16, 2023.

CARRIED AYES ALL

11) Purchase orders and Audit.

There is one purchase order for the fitness court that was submitted by Supervisor Frank and was previously approved at our last meeting.

Motion by Councilman Stalteri, seconded by Councilman Carbone to approve the purchase order for the fitness court.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Audit dated July 17, 2023.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to go into Executive Session to discuss litigation.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Carbone to adjourn Executive Session and resume regular meeting of Town Board. Discussion: No decisions were made in Executive Session.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stalteri to accept, place on file and approve Resolution No. 30 of 2023 to authorize the commencement of breach of contract litigation by Ferrara Fiorenze, PC against Herkimer Housing Associates as recommended by Town Attorney.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept, place on file and approve Resolution No. 31 of 2023 to authorize town Attorney Bray to enter into a stipulation to allow machine shops to operate within a commercial zone on NYS Route 28 in the Town of Herkimer.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Carbone to accept, place on file and approve Resolution No. 32 of 2023 to appoint Kathleen DeCarlo to fill the vacant Town Council position from August 1, 2023 through December 31, 2023.

CARRIED AYES ALL

12) Adjourn.

Motion by Councilman Carbone, seconded by Councilman Kast, that the Regular Meeting of the Herkimer Town Board be adjourned until the next Regular meeting to be held on Monday, August 7th, 2023 at 6:00PM.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk