

01) 05 Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, October 2, 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 (via Zoom)
Councilman-----Randy Kast
Councilman-----Vito Carbone
Councilwoman-----Kathleen DeCarlo
Highway Supt.-----Ken Ward
Attorney-----Christopher Bray
Codes Enforcer-----Ken Collis
Dog Control Officer-----Erica Dunton

Excused: Deputy Attorney-----Kyle Crandall
Town Park Supervisor-----Kathi Nasypany

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 Councilwoman DeCarlo, seconded by Councilman Carbone, to accept and place on file the minutes of the previous meeting held on September 18, 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.

Bill Pells of 932 Steuben Hill Road stated he has lived there with his wife for fifty years that is next to the Entwistles home, who recently deceased. The people who have come in now come and go at all hours of the day. The house is in despair with high grass and trash all over the place. He stated the back door has been left open and there are major health hazard concerns. Supervisor Frank stated we are familiar with this house and the situation. He stated the house has been condemned and the dogs have been removed. The people have also left the home. Mr. Pells stated there is still people coming and going but not staying there. Supervisor Frank stated we will need to refer to our property maintenance law where we usually have our highway guys mow the lawn and bill the owner but in this case there is no one to send a bill to in this situation. This would go for the same as cleaning up the trash. Highway Supt. Ward stated he would not feel comfortable having his guys doing anything up there because it is unsafe. Legislator Robert Schrader stated he has gotten a few calls for complaints because of this property. The neighbors are appalled at how it is. He stated codes needs to be enforced and it needs to get cleaned up. He stated to keep track of any expenses and send a bill of them to the county so a lien can be put against the property. That way when the property is sold the town can be paid back. He stated the Town needs to take action and board up the property so this doesn't get even worse. Attorney Bray stated he will talk to Codes Enforcer Collis and he will look into on how to move forward. He stated he is concerned because it is private property. Mr. Schrader stated that's why the town has a property maintenance law. Patricia Wells stated this is gotten out of hand and the trash is attracting rodents. She stated he main concern is health. Supervisor Frank asked if our health officer has been on site. Codes Enforcer Collis stated he has not been up there and he doesn't think he is needed in this situation because this property needs to be clean up. He thinks we need an outside agency to come and clean it up. Councilman Stalteri stated our property maintenance law allows us to hire out a subcontractor to clean it up because he agrees that our highway department shouldn't do because it is unsafe but we will need to give the property owner notice. Codes Enforcer Collis stated he will work to get bids to get it cleaned up. Supervisor Frank asked Attorney Bray to work on how we get on the property. Bray stated we will need a resolution to authorize the town to go on the property to board it up.

Councilman Stalteri asked if we gain additional right when a property is condemned because it is a public safety issue? He stated he would think this would give us more authority to do more to get some action done. Bray will look into this for us. Supervisor Frank stated we will schedule a Special Meeting for the board to meet next week to pass this resolution at a minimum to get the property cleaned up and mowed.

Bill Penree of 1211 East German Street Extension stated he wants to know the status of this neighbor's fence. Supervisor Frank stated Codes Enforcer Collis and himself met with his neighbor last week and she is supposed to have it repaired by October 25th. Mr. Penree stated she is not allowed on his property. Supervisor Frank asked if it can be fixed from her side of the fence. Mr. Penree state this is her problem and she will have to figure it out. She would not let him on her property before so she's not allowed on his. Codes Enforcer Collis stated he told her that she has to take care of the whole fence.

Delores Walawender of 1219 East German Street Extension asked if the Town has received the appraisals yet and if so when would the residents get them. Attorney Bray stated we received them last week and the residents can have them now if they'd like. Copies were given to Bill Penree and Delores Walawender.

Legislator Robert Schrader stated three dogs were taken to the humane society from the house at 936 Steuben Hill Road and he doesn't think it was right for a homeless guy to be helping with it. He thinks only town staff should take care of it. DCO Erica Dunton stated the dogs were very difficult to handle and the homeless guy was able to make it an easier transition. Attorney Bray stated Ms. Dunton is a private contractor for the town and may delegate duties she feels is necessary.

Motion by Councilman Kast, seconded by Councilwoman DeCarlo to close the public meeting.

CARRIED AYES ALL

06) Petitions and Communications.

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

- A. A letter dated September 25, 2023 from Supervisor Frank to Michael Ray concerning his last day as a seasonal employee for the Highway Department.
- B. A letter dated September 29, 2023 from Charter Communication Director of Government Affairs, Alice Kim, concerning upcoming changes in service.
- C. A letter from the Times Telegram Editor, Kevin Hogan, concerning the USPS will be delivering the Times Telegram beginning October 23rd.

CARRIED AYES ALL

07) Routing.

Motion by Councilman Kast, seconded by Councilman Carbone to accept and place on file the routed material of an Executed Copy of the PILOT from the Herkimer County IDA for HCCC Solar, LLC.

CARRIED AYES ALL

08) Resolutions.

Motion by Councilman Kast, seconded by Councilman Carbone to accept, place on file and approve Resolution No. 36 of 2023 for NYCLASS Municipal Cooperation Resolution.

Supervisor Frank stated Councilwoman DeCarlo and himself attended a workshop meeting sponsored by Herkimer County and the Economic Development Agency where they discussed NYCLASS. This is similar to NYMIR and Comp Alliance who we use for our liability and workers comp. It is national organization that has recently created NYCLASS for New York. He stated this is a safe organization where all money is collateralized or insured through the FDIC. The County and the Town of Webb have put money into it. The interest rate is 4% where we are only getting .5% in the bank right now. We could possibly get a better yield. Supervisor Frank and Councilwoman DeCarlo both recommend that we invest some money into. Councilwoman DeCarlo stated this sounds financially secure with no minimum to invest Supervisor Frank stated because we are a municipality

there are only certain things we can do with funds so this seems like a good option for us to explore more. Supervisor Frank stated this resolution will give us the ability to talk to these people more.

CARRIED AYES ALL

09) Old Business.

Water District: Highway Supt. Ward stated everything has been pretty quiet. The Village finished flushing their hydrants so we are going to schedule to do ours as well. He stated he will work with Clerk DelMetro on getting this scheduled.

Mckennan Road Enhancement Project: Supervisor Frank stated we are still waiting on the DOH to make comment.

West Herkimer Water: Supervisor Frank stated there has nothing new to report other than that he reached out to our consultant engineer but hasn't had received a response back yet.

East Herkimer Sewer District: Supervisor Frank stated the joint application is in front of the army corp of engineers. The USDA has approved it.

East German Street Extension: Supervisor Frank stated we previously talked about that we received the appraisals and they are under reports on the agenda.

Codes: Codes Enforcer Collis stated he needs to know if our consultant engineer has reviewed the solar project paperwork for the Shells Bush Road Solar Project? Supervisor Frank stated he has not heard anything and will reach out again. We need to know this is ok before we can approve the permit. Highway Supt. Ward stated he saw a request come in for dig safely and the lines have been marked. Supervisor Frank stated he will reach out to them about this since the permit has not been issued yet.

Landbank: Councilman Stalteri asked if Codes Enforcer Collis was able to take a look at the back corner trailer? Collis replied stating that he has and will condemn it. He stated the tenant was not very cooperative and that they landowner needs to be informed before we can condemn it. Highway Supt. Ward stated we will have some issues with getting the site work done since the contractor that won the bid has said since the Landbank kept changing their date so now he won't be able to do it till spring.

Zoller Ave: Councilman Kast stated he contacted A&Z Environmental about the asbestos but they deemed the house unsafe so they could not do it. This also makes it so we cannot utilize the authority to tear it down. He stated now we are just waiting on estimates to tear it down.

Attorney Bray stated we are waiting on the county agreement for the back taxes. He stated the deed has now been recorded with us as the current owners. Councilman Kast stated we will still need an agreement with the neighbor to have access on their property to tear it down.

Piper Road: Supervisor Frank stated the surveys were supposed to be done last week.

Subdivision Local Law: Tabled.

Shells Bush Road Solar Project: Tabled.

ARPA Funding (Exercise Trail): Supervisor Frank stated we have some things under reports for this.

Updating Zoning Ordinance: Tabled.

Updating Zoning Map: Supervisor Frank stated we are waiting on the County Planning to give us a draft.

Fireworks: Tabled.

Negotiations with Teamsters: Supervisor Frank stated they will be meeting on Wednesday at 3:00.

East Herkimer Volunteer Fire Department using 160 Pine Grove Road for training: Supervisor

Frank stated this was already discussed.

160 Pine Grove Road: Supervisor Frank stated we have received insurance requirements for the EHVFD to use the building for training. He stated we will review what we have and what was sent to us for a facility use application and make changes accordingly. Attorney Bray this is a recommendation to mitigate the risk but the town is covered no matter what. Supervisor Frank asked what if we change the use of the property? Attorney Bray replied stating this is a revocable license so we would just have to let know. Councilman Kast asked if other local fire departments come train with them do they need to provide this form as well? Bray replied stating yes, to cover ourselves.

Supervisor Frank stated we will need an estimate for repairs relative to the vandalism to the building. He stated insurance has asked for the police report and we have one for the equipment. Councilman Kast stated we should have contractors gives us quotes for the repairs. Supervisor Frank agreed stated we only need an estimate for insurance. Highway Supt. Ward asked if we are

working on the boiler because we will need to get it up and running to be inspected per NYVMIR. Councilman Stateri stated we will need a minimum temperature required for the fire alarm system to work properly. Councilman Kast stated he will work to get it fired up. He is unsure if there are any issues with it but he will try.

Herkimer County Mitigation Plan: Supervisor Frank stated he has nothing new to report. Phones through AT&T: Highway Supt. Ward stated he put a call out to the company and they are supposed to be setting something up for us. He reached out to the Sheriff's department and they are happy with this service so far.

Signs entering the Town: Supervisor Frank stated he reached out to some sign makers.

Farmers Market: Supervisor Frank stated we met with Town Park Supervisor Nasypany last week and she had some kid activities set. We meet again on the 17th.

Extending term lengths postcard: Supervisor Frank stated we will get something out towards the end of the month.

Parking/Driveways on Town Roads: Highway Supt. Ward stated he has the law that they Village has and the hours are pretty much the same as ours. He stated we need a local law and thinks there should be no parking on Pine Grove Road from Main Road to Gros Boulevard. Attorney Bray suggested checking the state highway law. Councilman Kast also suggested reaching out to the County to see what they have.

Charging stations for electric cars: Supervisor Frank stated Highway Supt. Ward and himself met with a company called Luck Grove who toured here, our town park and highway garage. Under reports are three proposals to install equipment at each location. He stated they write the grants to cover the cost of the equipment and installation but there is an annual fee for the software. Eh software is what allows us to charge customers. We would need to sell enough to cover the cost of the software. He has asked how many of these vehicles are in our area that would utilize this. They are working on getting this information for us. The board also noted that we will need more information on which types of vehicles they will work for, the maintenance required, and if our insurance would be increased? Supervisor Frank will ask these questions.

Trick or Treating hours: Clerk DeMetro stated she reached out to the Village and we both have agreed trick or treating will be 5-7:00PM on Tuesday, October 31st. The EHVFD will be holding their Halloween party that same night from 6-8:00PM.

Green Houses: Codes Enforcer Collis stated this is allowed in R-2 but doesn't say the size that is allowed. It also asks in our zoning ordinance if it will change the character of the neighborhood? He stated he could ask that they put a fence up. The other concern was the heating plant is supposed to be at least a hundred-feet from any property line and it won't be. He stated it is a six-acre lot and the green house will be 30ft by 100ft. Supervisor Frank asked if there was a site plan? Collis stated no but he will ask them for one.

High School Homecoming Parade: Highway Supt. Ward stated this is all taken care of.

10) New Business.

Mirror Lake Dam: Supervisor Frank stated the DEC filed a permit with the Army Corp of Engineers to dismantle the dam at Mirror Lake. The DEC wants to do this.

Friends of Town of Herkimer/Not for Profit: Supervisor Frank stated he has been thinking that we should create a not for. He stated with this new building we might be able to get some grants that municipalities cannot get but a non for profit can get. Attorney Bray will further look into this for us.

11) Reports.

September 26 County and Mohawk Valley Economic Development District Meeting: Supervisor Frank stated Councilwoman DeCarlo and himself attended the County and Mohawk Valley Economic Development District Meeting. There were some reps there from rural water that gave us the impression they could help with plan water infrastructure problems and maybe they could help us develop a plan. He stated they also spoke about cyber security and Herkimer Next.

Application for more than 3 dogs from Barbara Smith dated 9/22/23.

Determination letter dated October 2, 2023 from Erica Duntun from Smith Application.

Determination letter dated September 25, 2023 from Kenneth Collis from Smith Application.

Supervisor Frank stated an application for more than three dogs was received on 9/22/23 and per our Dog Control Local Law passed in 2021 our DCO and Codes Enforcer must go inspect the

residence. The letters from both for a recommendation at deny are also included for tonight. Codes Enforcer Collis stated when they went to inspect on the agreed upon time with the applicant, she wasn't home. DCO Dunton stated she then called the applicant who stated she was at work and didn't need to be there for the inspection. Dunton explained she observed three dogs that were inside the home but she was unable to go in and inspect it. There were also three additional dogs outside in makeshift pens on the property. There was no food or water for the dogs outside. She stated one dog was found on State Route 28 and taken to the shelter but it was unlicensed and the owner already had three dogs licensed so in order to get a license she needed to apply for more. With the condition of the dogs at the shelter and the findings from the inspection, Dunton recommends that the applicant not be allowed to have more than three dogs. Codes Enforcer Collis stated he did a survey of the property upon inspection and it was loaded with antiques and miscellaneous items all over the place making it a fire hazard. The dog pens were makeshift in the woods and inadequate for a dog to be living so for these reasons he also does not recommend more than three dogs allowed to this applicant. Clerk DeMetro will send the denial notice to the applicant and DCO Dunton will then remove all unlicensed dogs from the property.

Motion by Councilman Carbone, seconded by Councilman Kast to accept and place on file the Plans for the Town Park Trail. Supervisor Frank stated we are anticipating shortly to be out to bid and because we are moving so much earth we need to meet certain requirements.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Carbone to accept and place on file the 2024 Tentative Budget. Supervisor Frank stated the tentative budget was submitted to the Town Clerk on 9/29/23 within the timeframe required by law.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Carbone to accept and place on file the East Herkimer Sewer District Letter of Conditions Wastewater Application dated 9/27/23.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Carbone to accept and place on file the East Herkimer Sewer District Intent to Meet Conditions.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Kast to accept and place on file the East Herkimer Sewer District Request to Obligate Funds.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman DeCarlo to accept and place on file the Appraisals for 1211, 1215 and 1219 East German Street Extension.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Kast to accept and place on file the Barton and Loguidice contract for supplemental Service for Town Park Trail. Supervisor Frank stated this is for the cement pad and lighting being added in.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman DeCarlo to accept and place on file the Town Park Trail Short Form EAF.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman DeCarlo to accept and place on file the Town Park Trail SHPO Notification.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman DeCarlo to accept and place on file the Town of Herkimer's Fiscal Stress Score.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman DeCarlo to accept and place on file the Emergency Orders 9/19, 9/24, and 9/29 for East German Street Extension.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Carbone to accept and place on file the Renewal State of Emergency Declaration for East German Street Extension dated 9/29/23.

CARRIED AYES ALL

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

CARRIED AYES ALL

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

CARRIED AYES ALL

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

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stateri to accept and place on file the Town Clerks Report for August, 2023 from Clerk DeMetro.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Kast to accept and place on file the Trial Balance Report dated October 1, 2023.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman DeCarlo to accept and place on file the Revenue and Expense Report dated October 1, 2023.

CARRIED AYES ALL

Supervisor Frank stated we will need to set up a workshop meeting to review the preliminary budget as a board and another meeting to meet with the department heads. The board agreed to meet on for the workshop meeting as a board on Tuesday, October 10th at 4:00PM and with the department heads on Thursday, October 12th starting at 3:30PM.

Supervisor Frank stated we will also hold a special meeting on Thursday, October 12th at 3:00PM so we can pass a resolution giving us access to 936 Steuben Hill Road.

Highway Supt. Ward stated he reached out to Spohns Disposal to confirm for trash days and was told they didn't have us on the schedule so we had to go with Humpf this time which was about \$20 more each dumpster for a drop fee.

Councilman Carbone stated the HPD had reached out to him requesting jurisdiction to serve all of East Herkimer with no cost to the Town. He stated if the troopers are unable to respond the local police back them up but can only hold them until the troopers get there as it is not their jurisdiction. Councilman Stalteri stated we should have a letter from the Village board requesting this with more information. Attorney Bray stated we could create and inter-municipal agreement. Supervisor Frank suggested we also reach out to Kathy Carney at the school as well.

11) Purchase orders and Audit.

There are three purchase orders that were submitted for this meeting.

- 1.) Karl Manne to Attend AOT Conference and Training in NYC in February, 2024. **TABLED**
- 2.) Michael Petucci Attend AOT Conference and Training in NYC in February, 2024. **TABLED**

Motion by Councilman Carbone, seconded by Councilman Kast to accept and place on file the Audit dated October 2, 2023.

CARRIED AYES ALL

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, October 16th, 2023 at 6:00PM.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk