

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, November 6, 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
Councilwoman-----Kathleen DeCarlo
Highway Supt.-----Ken Ward
Attorney-----Christopher Bray
Codes Enforcer-----Ken Collis
Dog Control Officer-----Erica Dunton
Health Officer-----Dr. Robert DeCarlo

Excused: Councilman-----Randy Kast
Councilman-----Vito Carbone
Deputy Attorney-----Kyle Crandall
Town Park Supervisor-----Kathi Nasypany
Dog Control Officer-----Erica Dunton

03) Pledge of Allegiance to the Flag.

Councilwoman DeCarlo led us in the Pledge of Allegiance to the Flag.

04) Reading of the Minutes.

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo, to accept and place on file the minutes of the previous regular meeting held on October 16, 2023 as written.

CARRIED AYES ALL

05) Public Hearing.

Supervisor Frank stated he would like to open the public hearing for discussion on the 2024 budget as it's in the preliminary stage. No one from the public wished to speak.

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo to close the public hearing.

CARRIED AYES ALL

06) 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.

MaryAnn Rice of 173 Eastonville Road stated she would like to apologize for letting her emotions get the best of her at the last meeting. She stated she had submitted a building permit to put a 24ft by 100ft greenhouse in at the end of Elm Avenue and Oldfield Drive. She stated they are selling their main business but want to keep the name. She would like to grow inside the greenhouse to be able to put flowers at the cemetery. She stated this property is zoned R-2 which allows greenhouses but her permit has been denied for different reasons; one of which is the heat plant but you need some sort of heat for a greenhouse. She stated her grandfather built those streets and wanted to make sure in all the deeds that businesses wouldn't be in there and she is not looking to change the neighborhood. She would not be selling out of the greenhouse so she would be the only one going in and out of there. There would be no employees. She stated she tried to do things the right way. She asked the board to think about it and advise her on how to proceed. Supervisor Frank asked what the definition of a heat plant is? Codes Enforcer Collis our zoning ordinance states that a heat plant has to be 100ft from any property lines and the way the building would be would make it only about 50ft. He stated the heating plant wasn't his main reason for denial and that his main reason for denial was that it would be used as a business, which is not allowed in a residential district. He stated he feels if this would be allowed it would cause more problems for the town. Supervisor Frank asked if people would be buying them to have them put on graves? He stated the recourse would be to apply to the Zoning Board of Appeals. MaryAnn Rice

stated there will not be any sales done at this location and that she would only be growing there. She stated she picked this location because it has water and electric hook up. She stated it would be a temporary fixture with crusher run for the base. Attorney Bray stated the Town Board cannot override the Codes Enforcer. Her options are to do an appeal to the ZBA or to apply for a use variance through the planning board.

Legislator Robert Schrader of 115 Dickie Avenue, stated he received a call from Ken Randall who has an issue in regards to a septic that was put in on his property. He explained that Mr. Randall had hired Central Plumbing to install a septic system. The proposed cost was \$26,100 and Mr. Randall paid \$12,000 up front. There was never a building permit or engineered plans for the work that was done. Central Plumbing started the work but did not finish so Mr. Randall had to hire and pay someone else to finish so he refused to pay Central Plumbing the remainder. Since then Mr. Randall, who is a veteran, had a stroke and is currently in the Folts Home. The family is looking to sell the home. During this process they found that Central Plumbing had put a mechanics lien against the house for \$38,000 without Mr. Randall's knowledge. Mr. Schrader stated he is working with the Veterans Association to help get Mr. Randall a lawyer. He is asking for the Town Board to consider banning Central Plumbing from doing business in the Town of Herkimer so they cannot continue to scam people. Clerk DeMetro stated she has heard a lot of complaints about this issue is that Central Plumbing has been charging 8.75% for sales tax when the sales tax for Herkimer County is 8.25%. Codes Enforcer Collis stated he reached out to the Department of Health as well in regards to this issue and was told that the permit is ultimately the responsibility of the land owner. Attorney Bray stated he will review our options on this issue and report back.

Mr. Schrader stated he would also like to thank the town board for their efforts in getting 936 Steuben Hill Road cleaned up. He stated it looks a lot better and that the company hired did a great job.

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

CARRIED AYES ALL

07) Petitions and Communications.

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo, to accept and place on file all the petitions and communications 7A through I listed below.

- A. A letter dated October 18, 2023 from Herkimer County Personnel Officer, Steve Billings, concerning a change to the NYS Civil Service Law.
- B. A letter dated October 19, 2023 from Herkimer County Treasurer, Kimberlee Enea, concerning the apportionment summary for the 2023 third quarter based on the 2022 Tax Roll.
- C. A letter dated October 24, 2023 from Supervisor Frank to highway employee, Donald Buckley, concerning his medical leave.
- D. A letter dated October 24, 2023 from Supervisor Frank to the Town Board advising the physical disconnections of municipal water to 202 Zoller Ave. as of September 30, 2023.
- E. A letter dated October 27, 2023 from Charter Communications Director of State Government Affairs, Alex Camarda, concerning change in service.
- F. A letter dated November 1, 2023 from Supervisor Frank to Vincent Gambacorta concerning him being hired as a seasonal highway employee.
- G. A letter received November 1, 2023 from Patti and Bill Pelz thanking the Town Board for cleaning up 936 Steuben Hill Road.
- H. A letter dated November 3, 2023 from Herkimer County Operations Manager, Victoria Adams, concerning a Notice of Project Inducement.
Supervisor Frank stated he believes this is a pilot agreement through the IDA for the Fuller Tool Machine Shop moving in on Route 28 from Newport.
- I. A postcard received November 6, 2023 from the Mohawk Valley Economic Development District concerning Offers with No Cost Local Government Technical Assistance.

CARRIED AYES ALL

08) Routing.

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo to accept and place on file the routed item of the Oneida-Herkimer Solid Waste Authority Proposed 2024 Budget.

CARREID AYES ALL

09) Resolutions.

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo to accept, place on file and approve Resolution No. 39 of 2023 for the Water/Sewer Tax Lien List for 2024 Town & County Bill. Supervisor Frank stated this is an annual resolution that we do. He stated there is about \$30k in past due bills for the East Herkimer, which is similar to past years. The McKenna Water District and the Highland & Beardslee Avenue Sewer District is about the same as usual, as well.

CARREID AYES ALL

10) Old Business.

Water District: Highway Supt. Ward stated we flushed the hydrants last month and everything went well. He also stated that he read meters last week and will check on a few that had high bills. He stated he will do the EPA testing the week of Thanksgiving.

McKenna Road Enhancement Project: Supervisor Frank stated he has nothing new to report and that we are still waiting on the DOH to make comment.

West Herkimer Water: Codes Enforcer Collis asked the status of this as some residents have reached out to him about it. Supervisor Frank stated he spoke to our consultant engineer who said this project is still moving forward. The holdup is The Authority needs to improve its equipment in order to accommodate this project. We have no idea when this will be.

East Herkimer Sewer District: Supervisor Frank stated he received an email from the Army Corp. of Engineers and has asked our consultant engineer to interpret it for us but thinks it seems positive. We are still waiting on the DEC.

East German Street Extension: Supervisor Frank stated he has nothing new to report. Highway Superintendent Ward stated the fencing is supposed to be done mid to the end of this month.

Codes: Codes Enforcer Collis stated the issue with Penree's neighbor has been taken care of. He stated he found that 936 Steuben Hill Road is has a mortgage on it through Berkshire Bank and going to be foreclosed. He reached out Berkshire Bank about seeing if they can get it cleaned up more. He is waiting for a call back. Councilman Stalteri stated he should let them know that they are in violation and will received fines if they do not act accordingly. Codes Enforcer Collis asked the status of the solar project on Shells Bush Road? Supervisor Frank responded stating our consultant engineer is waiting on the plans from the developer for the landscaping before a permit will be issued. Collis also stated he received a permit for Steet Ponte to put an electric charging station in.

Landbank: Councilman Stalteri stated he notified Tolga of a complaint received by a neighbor and they will be looking into it.

Zoller Ave: Supervisor Frank stated under reports you will see we have an agreement with the neighbor, as well as a report of three quotes obtained to take the house down. Councilman Stalteri stated Tolga said they need an inter-municipal agreement with the town in order to work with us on this project.

Piper Road: Supervisor Frank stated we are waiting for the report.

Subdivision Local Law: Tabled.

Shells Bush Road Solar Project: Supervisor Frank stated we have previously discussed the status of this.

160 Pine Grove Road: Councilman Stalteri stated we talked about getting heat for the fire alarm system and need to get this done. We need to close off this area to be heated. Supervisor Frank stated we are working with the IDA to get the as built drawings. He also stated he sent an email to the consultant letting them know an elevator will be needed in this building.

ARPA Funding (Exercise Trail): Supervisor Frank stated he is meeting with Town Park Supervisor Nasypany tomorrow to discuss the farmers market and how to celebrate when the trail is done.

Updating Zoning Ordinance: Tabled.

Updating Zoning Map: Supervisor Frank stated he is expecting a draft soon as there has been some communication with the Herkimer Oneida Planning Board about this.

Fireworks: Supervisor Frank stated Clerk DeMetro and himself met with Steve Bulger and it was a good meeting. Steve is going to speak with the College to see how they feel about having them again. ICAN is for working with us again this year to have the event.

Negotiations with Teamsters: Supervisor Frank stated we will have to go into executive session to discuss this later.

Farmers Market:

Herkimer County Mitigation Plan: Supervisor Frank stated he had sent this to everyone for review. Signs entering the Town: Supervisor Frank stated he is working on it.

Extending term lengths postcard: Supervisor Frank thanked Clerk DeMetro for her efforts of getting this done for us. He stated they looked great and we hope for a positive outcome.

Parking/Driveways on Town Roads: Attorney Bray stated he is working on it.

Charging stations for electric cars: Supervisor Frank stated he had sent out the questions we had but has not heard a response back yet.

Friends of Town of Herkimer/Not for Profit: Tabled.

Public Safety: Tabled.

10) New Business.

Adoption of the 2024 Budget: Supervisor Frank stated he printed a new preliminary budget for the board with some suggestions to help keep the tax rate down. The board reviewed them and agreed to the changed. Councilman Stalteri thanked Supervisor Frank for his hard work and for doing a great job with being fiscal responsible again this year.

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo to accept, place on file and approve the 2024 Preliminary Budget with the suggestions made by Supervisor Frank.

CARRIED AYES ALL

11) Reports.

Motion by Councilman Stalteri, seconded by Councilman DeCarlo to accept and place on file the Tax Cap Report. Supervisor Frank stated he would like to note that this was file prior to us adopting the budget.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman DeCarlo to accept and place on file the Herkimer Town Park Improvements Final Plans.

CARRIED AYES ALL

Motion by Councilwoman DeCarlo, seconded by Councilman Stalteri to accept and place on file the Herkimer Town Park Improvements Final Specs.

Attorney Bray stated everything looks good and this was written by our consultant so it should be.

CARRIED AYES ALL

Motion by Councilwoman DeCarlo, seconded by Councilman Stalteri to accept and place on file the Town of Herkimer East Herkimer Sewer District 90% Plans Part 1 of 2.

CARRIED AYES ALL

Motion by Councilwoman DeCarlo, seconded by Councilman Stalteri to accept and place on file the Town of Herkimer East Herkimer Sewer District 90% Specs and Bid Docs Part 2 of 2.

CARRIED AYES ALL

Motion by Councilwoman DeCarlo, seconded by Councilman Stalteri to accept and place on file the Quote for Repairs of the Vandalism at 160 Pine Grove Road.

Supervisor Frank stated he has passed this on to the state troopers and our insurance.

CARRIED AYES ALL

Motion by Councilwoman DeCarlo, seconded by Councilman Stalteri to accept and place on file the East Herkimer Fire District 2024 Budget Summary dated 10/17/23.

CARRIED AYES ALL

Motion by Councilwoman DeCarlo, seconded by Councilman Stalteri to accept and place on file the M&S Fire Protection Annual Inspection Report dated 10/22/23.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman DeCarlo to accept and place on file the License Agreement for Use of Common Shared Driveway from Michelse Milnar dated 10/24/23.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo to accept and place on file the 202 Zoller Avenue Demolition Estimates Report dated 10/24/23.

CARRIED AYES ALL

Motion by Councilwoman DeCarlo, seconded by Councilman Stalteri to accept and place on file the Town of Herkimer Sales Tax Report dated 10/24/23. Supervisor Frank stated we more than met our goal for this.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo to accept and place on file the Emergency Orders 10/19, 10/24, and 10/29 for East German Street Extension.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo to accept and place on file the Renewal State of Emergency Declaration date for East German Street Extension.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo to accept, place on file and approve the Wladis Law Firm bill for Professional Services in reference to DYNA Solar dated 11/1/23.

CARRIED AYES ALL

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

CARRIED AYES ALL

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

CARRIED AYES ALL

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

CARRIED AYES ALL

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

CARRIED AYES ALL

Highway Superintendent Ward stated he had received the revised quote for the truck that was ordered last year. He stated the price was \$365,346.59 in 2023 and now is \$378,081.00. This would give us a build slot within the first or second quarter of 2024. Councilman Stalteri asked if this is on the replacement equipment program? Ward replied stating, yes.

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo to approve the new quote for a truck for the highway department.

CARRIED AYES ALL

1.1) Purchase orders and Audit.

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

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

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo to approve both purchase orders from Michael Petucci and Karl Manne to attend AOT Conference and Training in NYC in February, 2024 for \$1,800 each.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo to accept and place on file the Audit dated November 6, 2023. Councilman Stalteri recused himself from the Hummel's bill.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo to go into executive session for negotiation and personnel reasons.

CARRIED AYES ALL

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

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo, that the Regular Meeting of the Herkimer Town Board be adjourned until the next Regular meeting to be held on Monday, November 20th, 2023 at 6:00PM.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk