

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, April 4<sup>th</sup>, 2022, at 6:00PM telephonically and virtually.

**02) Roll Call of Officers**

Present: Supervisor-----Dominic Frank  
 Councilman-----Randy Kast  
 Councilman-----Vito Carbone (came in at 7:00PM)  
 Councilwoman-----Kathy Penree  
 Highway Supt.-----Ken Ward  
 Attorney-----Christopher Bray  
 Codes Enforcer-----Ken Collis

Excused: Councilman-----Daniel Stalteri  
 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 Carbone, seconded by Councilman Kast, to accept and place on file the minutes of the previous regular meeting held on March 21, 2022 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 Councilwoman Penree, seconded by Councilman Kast to close the public meeting.

CARRIED AYES ALL

**06) Petitions and Communications.**

Motion by Councilwoman Penree, seconded by Councilman Kast, to accept and place on file all the petitions and communications 6A through H listed below.

- A. Letters dated March 18, 2022 from Comp Alliance Executive Director, Michael Kenneally, announcing the Town of Herkimer and East Herkimer VFD have qualified for the Comp Alliance Safe Workplace Award.
- B. Letters dated March 18<sup>th</sup>, 21<sup>st</sup>, 29<sup>th</sup>, 31<sup>st</sup> and April 1<sup>st</sup> of 2022 from Charter Communications Director of Government Affairs, Alice Kim, concerning upcoming changes in service.
- C. An email dated March 24, 2022 from NYS Empire State Development Economic Development Program Specialist for the Mohawk Valley Region, Mark Labuzetta, approving the extension to December 2023 for the East Herkimer Sewer Project. Supervisor Frank stated we do have an extension from the Empire State Development till the end of next year and it is noted that they don't plan on extending it again for us. Depending on how quickly the NYSDOH review takes will decide if we can stay on target for a completion date by the end of next year.
- D. A letter dated March 25, 2022 from Brandee Bray of the Herkimer Girls Youth Softball League requesting permission to use the softball fields at the Town Park for games and practices April 1, 2022 through August 31, 2022. Supervisor Frank stated the girls' softball league made a request to use the fields from 4/1 till 9/31 of this year. He stated he gave them permission form the 1<sup>st</sup> until now. Councilman Kast stated they will need to provide proof of insurance. Motion by Councilman Kast, seconded by Councilwoman Penree to approve the girls' softball leagues to use the town park from now until August 31, 2022 as long as they provide proper proof of insurance.

CARRIED AYES ALL

- E.** A letter dated March 25, 2022 from the Herkimer County Industrial Development Agency Chief Executive Officer, John Piseck, concerning the proposed deviation from Uniform Tax Exemption Policy by the Herkimer county Industrial Development Agency in connection with its proposed Nathan Galinski Apartments Preservation LLC Project.
- Supervisor Frank stated relative to the Galinski Apartments there was a conference call today at 3:30PM with Jim Wallace from the County, the Superintendent of Schools, the Mayor and Village Clerk of Herkimer. Several questions came up; within the proposed pilot there's some ambiguity in terms of the length of the pilot, they are asking 15 to 30 years. The Village is concerned about why the suggested pilot is using a net rent. The agreement is asking that the pilot be determined by the rent received minus the utilities versus the net assessment. There was also the discuss as to whether or not the property is actually tax exempt. There is a law suit going on right now. There was also a discussion about the actually population that lives there; how many are elderly. None of the taxing entities know the answer to that. There was also a discussion of how many of the units would meet the income requirements for being low income and how many are moderate income. You need a 9% ratio for it to qualify as low income. None of the taxing entities know the answer to this either. If there are non-elderly people there and if there are more than low income there, why would those people be included in the pilot, those people should be fully taxed. Jim Wallace is calling the IDA tomorrow with these concerns and on Wednesday the IDA board is meeting to discuss this with the representatives for Galinski.
- F.** An email received March 28, 2022 from NBT Insurance Senior Account Manager, Deborah Smith, concerning the 2022 Comp Alliance Participation Agreement Renewal.
- Supervisor Frank stated this has to do with our workers' comp insurance with separate policies for the Town of Herkimer and the East Herkimer Volunteer Fire Department. He stated it looks like a good deal and the premiums are going down.
- G.** A governmental insurance disclosure dated March 30, 2022 from NBT Insurance Agency for the Town of Herkimer.
- H.** Emails received April 1, 2022 from Jim Piccola from the NYSDOT concerning the Shells Bush Road Bridge.
- Supervisor Frank stated this is an email from the DOT that shows the Shells Bush Bridge maintenance appears to fall on the Town of Herkimer. What he doesn't understand is why? Legislator Mark Gaworecki stated he spoke to Jim Wallace about this and he said he will look into it. Highway Supt. Ward stated this brings concern because the expansion joint at the end of the bridge needs maintenance. He stated he knows that the black bridge that this bridge replaced was maintained by the Town of Herkimer and maybe that's why when this one was built we are expected to as well. Attorney Bray stated he will review this information further and give us his opinion.

CARRIED AYES ALL

**07) Routed.**

Motion by Councilwoman Penree, seconded by Councilman Kast to accept and place on file the Press Release from the Village of Herkimer concerning a Drinking Water Notice.

CARRIED AYES ALL

**08) Resolutions.**

Motion by Councilwoman Penree, seconded by Councilman Kast to accept, place on file and approve the transfer recommended by Supervisor Frank.

Supervisor Frank stated this is from the B fund for salary out of planning.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Kast to accept, place on file and approve Resolution No. 11 of 2022 for Local Law No. 1 of 2022 for the term lengths.

Attorney Bray stated the public hearing will be at our next regular meeting on April 18, 2022 at 6:05PM.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman Penree to accept, place on file and approve Resolution No. 12 of 2022 authorizing the purchase of real property from Lahey. Attorney Bray stated there is no contract yet but the agreement is for the purchase price to be the same as the appraised value. Councilman Kast stated shouldn't the sewer district being paying for this property? Attorney Bray stated the Town will need to sell it to the district once the district is formed.

CARRIED AYES ALL

**09) Old Business.**

Water District: Highway Superintendent Ken Ward stated he spoke to Rural Water and they will be coming tomorrow at no charge to help us look for the leaks on McKennan Road and in East Herkimer. He stated they brought up how we are not a member and recommend we become one. He stated he thinks it's worth the \$300 annual membership for the help of investigating potential leaks. The board agreed.

Motion by Councilman Kast, seconded by Councilwoman Penree to approve joining the Rural Water association.

CARRIED AYES ALL

Supervisor Frank stated Ron Scalise provided us a recent water bill that was received by one of his tenants. They are disputing the fees. Attorney Bray stated he will review it.

McKannan Road Enhancement Project: Highway Supt. Ward stated we had a phone conference with the engineers. He stated he took some chlorine samples at our McKennan Road pump house and up a couple houses from the end. In his opinion we have a 0.81 residual at the pump house which is very good. They are going to look into possibly us not having a chlorination system in the pump house which would save us some money. We also discussed sizing of some of the services to the homes that he thought were too big. He would like to see everything at one inch so it's easier to stock parts and make repairs. Supervisor Frank stated we also spoke about not changing the services for the houses from 919 Highland Ave. to George Greiner's house because they are currently fed with copper lines. Supervisor Frank stated we talked about a hut that is in the plans at the water tower and we thought it might be more realistic to have a building. The other thing discussed was the access road to the water tower to make it oil and stone so it will last better and have it paid through the grant but they thought this was something we would have to do ourselves when we do the road from McKennan Road down to the Village. Ward stated his concern was with a stone road that it will be washed out a lot from the water coming down the hill. Supervisor Frank also asked where we were with a supply contact and a testing contract with the Village. He has been unable to touch base with the Village Attorney Nick Macri.

West Herkimer Water: Supervisor Frank stated we had a discussion over a recent bill. This has to do with the municipal agreement. Attorney Bray stated the attorney on our behalf agreed that it should be evened out because the changes will be shared by everyone. They advised to hold off on paying the bill for now.

East Herkimer Sewer District: Supervisor Frank stated he sent an email to the consultant engineer because the Environmental Facilities Corp. (EFC) has a low interest loan program. EFC has changed its engineering requirements and what we have currently do not meet what they are requiring. Supervisor Frank is asking if we should spend the money to have the engineering plans to be updated because we are making an application to the USDA for a grant and low interest loan payment. On top of this we can apply to be WIIA Funding which is up to 25% of your unfunded cost. Right now we have a 2.6 million project, roughly 1 million is grant, so the WIIA funding would be 25% of the 1.6 million. He asked the consultant engineer to find out the timing of these things so we can make the best option. We have done everything on our end to apply for the USDA but the consultant still needs to finish his portion so we can submit this application. The goal is to get as much in funding as we can. Supervisor Frank asked Attorney Bray where we are with the formation of the district with the State Comptroller? Bray replied stating he has been in communication with him and submitted everything that was requested but needs touch base with him again to see if anything else is needed and what the status is.

East German Street Extension Road Project: Supervisor Frank stated he has nothing new to report. He asked Highway Supt. Ward if we had quotes recommended contractors from last year. Ward replied stating that he didn't think there was any that were willing to do the work because it was only going to be to move five large rocks.

Sprinkler System Water Break: Highway Supt. Ward stated dig safely will be here this week to map it out for us and hopefully we will get to work on this next week, weather permitting.

Codes: Codes Enforcer Collis stated he called and spoke to the neighbor who complained about the trailer park. He has pictures for proof for a public nuisance. Collis told him we are working it and something will be done. Supervisor Frank asked if we can get any of the police reports as proof as well. Attorney Bray stated it is very difficult to get these requests and that it can take months to get any response. Supervisor Frank stated he has reached out to the Landbank about this and also asked about their plan.

Landbank:

SunEast Solar Project: Tabled.

NYMIR Risk Control Resurvey Report: Supervisor Frank state he has nothing new to report.

Subdivision Local Law: Tabled.

Cell Towers' and Town Zoning Ordinance: Tabled.

Don Mitchell Bridge:

Cannabis Zoning Regulations: Supervisor Frank stated we met and discussed the potential things to regulate. Some of the things we discussed are hours of operation for retail and consumption from 8am to midnight for Monday through Saturday and noon till 9:00pm on Sunday, what we want for our own properties, the distance from a church and school both be 500 feet from the closest property line, how close to residential areas and the appearance. We still have to discuss and decide what we want to do for some of these things so we should meet again.

Review of 2011 Investment Policy: Supervisor Frank stated he spoke to the banks and sent the policy for review but he has not heard any response back yet.

Summer Youth Bureau: Supervisor Frank stated we need to decide if we are going to do it or not this year so we can let the county know.

ARPA Funding: Supervisor Frank stated he will try to do it this week.

Appointments for 2022: Supervisor Frank stated we still haven't found someone.

Supervisor Frank recommended that we table the Town Park Supervisor appointment for now for a one-year term, 01/01/22 to 12/31/22. He stated we have received a few more resumes. No body from the Town has applied.

TABLED

Fireworks: Councilwoman Penree stated she spoke to Nick Lanno from the College and they are interested in hosting.

Zoning: Supervisor Frank stated we have received a request from Ron Scalise for a zoning change on Gros Boulevard. He stated Deputy Attorney Crandall relative to the issue he is recommending the Town Board pass this to the Planning Board for review and thing pass it back to us, we then can set a public hearing. Attorney Bray stated he doesn't think we would need to give written notice to the residents but it would be good practice to do so. He stated the only thing that Deputy Crandall stated that might be needed is a SEQRA.

#### 10) **New Business.**

Highway Superintendent Ken Ward stated he has a form to go to highway school that he would like to attend. Supervisor Frank told Ward to fill out a purchase order.

Highway Superintendent stated he put an order in for the loader and was told it would take about a 280 days for it to arrive. He also stated the auction international auction will be done on the 15<sup>th</sup> so he will give an update on it at our next meeting.

#### 11) **Reports.**

Motion by Councilman Kast, seconded by Councilman Carbone to accept and place on file the Rezoning Application from Ron Scalise for Gros Boulevard.

Supervisor Frank stated we are forwarding this to the Planning Board for review.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Comp Alliance NYS Municipal Workers' Compensation Alliance Membership Agreement for the East Herkimer Fire Department.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman Penree to accept and place on file the Comp Alliance NYS Municipal Workers' Compensation Alliance Membership Agreement for the Town of Herkimer effective from July 1, 2022 to June 30, 2023.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman Penree to accept and place on file the NYS Homeland Security and Emergency Services Single Audit Certification Form. Supervisor Frank stated each year they ask if we received so much in federal funds and the answer is no.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Kast to accept and place on file the Bank Reconciliation Report for February, 2022.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Cash Report for February, 2022.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Water & Sewer Meeting Minutes dated March 22, 2022.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Water & Sewer Meeting Minutes dated March 22, 2022.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Town clerk Report for March, 2022 from Clerk DeMetro.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman Penree to accept and place on file the Trial Balance Report dated April 1, 2022.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Revenue and Expense Report dated April 1, 2022.

CARRIED AYES ALL

**11) Purchase orders and Audit.**

There are no purchase orders at this time.

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Audit dated April 4, 2022.

CARRIED AYES ALL

Councilman Kast recused himself from the Richard Kast bill.

**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, April 18, 2022 at 6:00PM.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk