

Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, August 15<sup>th</sup>, 2022, at 6:00PM telephonically, virtually and/or in person at the Town Hall located at 114 N. Prospect Street in Herkimer.

**02) Roll Call of Officers**

Present: Supervisor-----Dominic Frank  
Councilman-----Daniel Stalteri  
Councilwoman-----Kathy Penree  
Highway Supt.-----Ken Ward  
Codes Enforcer-----Ken Collis  
Park Supervisor-----Kathi Nasypany  
Attorney-----Christopher Bray

Excused: Councilman-----Randy Kast  
Councilman-----Vito Carbone  
Deputy Attorney-----Kyle Crandall

**03) Pledge of Allegiance to the Flag.**

Councilman Stalteri led us in the Pledge of Allegiance to the Flag.

**04) Reading of the Minutes.**

Motion by Councilwoman Penree, seconded by Councilman Stalteri, to accept and place on file the minutes of the previous regular meeting held on August 1, 2022 as written.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri, to accept and place on file the minutes of the previous emergency meeting held on August 12, 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.

Ron Scalise stated he was here to check the status of the re-zoning for parcels on Gros Boulevard? Attorney Bray stated the surveyor dropped off maps for the Town Board and Planning Board to review. The only issue Attorney Bray saw is the property with the home address on Laurel Ave. should stay residential. Mr. Scalise agreed. He asked why only the front of his parcels would be zoning commercial? He would like to see the whole parcels changed, not just the front. The board understands and will ask the Planning Board to review at their scheduled meeting on Wednesday.

Chris Baiamonte stated he is here to give the board an update on the proposed Shells Bush Road solar project. He stated, as we all know they have resubmitted their application and negotiations took place for the consultants. Once that was settled on July 5<sup>th</sup> the Board voted to be the lead agency for SEORA. The Planning Board has met once on this and will meet again on Wednesday. The role of the Planning Board is to draft a report as to whether or not there is any impact on the Town, to verify that the developer is in the position to get an interconnection agreement, and to make sure there is an adequate amount of money for decommissioning. The developer proposed the bond be \$114k and the Towns consultant engineer proposed \$237k because our consultant did not incorporate the scrap value. The consultants are still in communication trying to come to an agreement. The developer won't get the interconnection agreement until the project is approved because it is costly for them to do so. Mr. Baiamonte stated the permit will be contingent on them getting this agreement. He stated the Town took lead agency on August 11<sup>th</sup> and has until August 31<sup>st</sup> to make a declaration of impact. Several agencies have responded with no issues. The Department of Conservation had some comments; one issue that was raised was how on the corner of the partial is in a flood plain and the project is on this. With this being an issue they will need a flood plain permit or have to adjust the project so it will not in the flood plain. Codes Enforcer Collis stated there is a FEMA Floodplain permit that they will need to fill out. Mr.

Baiamonte stated he has asked the developer for more time and to extend the declaration of impact decision by the board until September 19<sup>th</sup> so we can have more time to iron out these issues. He suggested we have the public hearing September 6<sup>th</sup> to see if any other issues arise and then can vote on the declaration at the following regular meeting on September 19<sup>th</sup>. He stated he asked the developer for more time from the date of August 31 till September 19. Councilwoman Penree asked if it is a common process to check the background of the developer? Mr. Baiamonte replied stating it is not part of their responsibility. Supervisor Frank stated we have some time before we have to make the declaration.

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept, place on file and approve the Resolution No. 20 of 2022 to set the public hearing for September 6, 2022 at 6:00PM.

CARRIED AYES ALL

Playground Supervisor Kathy Nasypany stated she has been doing more research for a potential farmer's market. She stated she met with Cooperative Extension and one thing they suggested was us having food trucks. She stated she is thinking we could send out a survey to local farmers to get more of a feel for it. She plans to do this in October. She stated some Farmers' Markets charge a fee and some don't, so we will have to decide what we would like to do. We would also have to see what farmers would accept coupons. Councilman Stalteri stated he thinks it would go over well. He also stated we need to cancel the work order for Spectrum, since we won't need it when we own the old school. This will save us a lot of money. Councilman Stalteri stated we are working on a short term and long term plan for the old school building.

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

CARRIED AYES ALL

**06) Petitions and Communications.**

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

- A. An email dated August 2, 2022 from NYSDOT of the Mohawk Valley Region, Beth Watts, concerning the Town Board as the Lead Agency for the SEQRA for the solar project on Shells Bush Road.
- B. A letter dated August 2, 2022 from NYS Agriculture and Markets Senior Environmental Analyst, Judy Littrell, concerning the Town Board as the Lead Agency for the SEQRA for the solar project on Shells Bush Road.
- C. A letter dated August 2, 2022 from Herkimer County Attorney, Lorraine Lewandrowski, concerning the Combined Notice of Findings of No Significant Impact and Notice of Intent to Request Release of Funds of the community Block Grant Coronavirus Aid, Relief and Economic Security.
- D. A letter dated August 3, 2022 from the Oneida-Herkimer Solid Waste Authority concerning the Regional Demolition Program.  
Councilman Stalteri stated the solid waste authority will provide the demo work that we have previously talked about. Codes Enforcer Collis stated he talked to them and we need to get the owner to sign over the property so we can pursue having it demolished. He will be sending a letter out to the owner's tomorrow. The letter will alert the owners' that due to the current condition of the home, tickets and violations will pile up until repairs are made or the property is signed over to the town. He stated the deadline to apply for the demolition is October 31<sup>st</sup>. Councilman Stalteri stated we should fill out the application to be on the list and if we have to decline it we can. This is an opportunity we do not want to miss. He stated the community is complaining about this property being a nuisance and unsafe, it needs to come down.
- E. Letters dated August 5, 2022 and August 15, 2022 from Charter Communication Director of Government Affairs, Alice Kim, concerning upcoming changes in service.
- F. A letter dated August 5, 2022 from Herkimer County Director of Emergency Services, John Raymond, concerning the county-wide hazard mitigation plan.

Supervisor Frank stated the County is updating the county litigation plan and as part of it they are asking us to update ours. We will need participation of a board member for this. Councilwoman Penree offered to be the primary representation and Supervisor Frank will be the alternate. Supervisor Frank will write the county letting them know of such.

Motion by Councilman Stalteri, seconded Councilwoman Penree to approve Councilwoman Penree as the delegate and Supervisor Frank as the alternate.

CARRIED AYES ALL

G. A letter dated August 8, 2022 from Laberge Group President, Richard Laberge, concerning budgeting and planning for grants.

H. An email received August 10, 2022 from NYSDEC Program Aide of Region 6, Brittany Stoots, concerning the 239 Review of the Shells Bush Road Solar Project.

I. A letter dated August 11, 2022 from Herkimer County Personnel Officer, Steven Billings, concerning the 2023 Workers' Comp Budget Figures.

CARRIED AYES ALL

**07) Routed.**

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file the 2021 NYMIR Annual Report.

CARRIED AYES ALL

**08) Resolutions and Local Laws.**

**09) Old Business.**

Water District: Water Supt. Ward stated we have been checking the meter on Highland Ave. and it is running 5-7k gallons a day.

Mckennan Road Enhancement Project: Supervisor Frank stated the plans are before the state funding source and the state regulatory agency. Attorney Bray stated the county is ready to have the addendum of the easement signed but they need to have a meeting to do so.

West Herkimer Water: Supervisor Frank stated we applied for grant laterals. He stated he hasn't heard anything back from the consultant about the memorandum of understanding.

East Herkimer Sewer District: Attorney Bray stated he will follow up with the State Comptroller. He stated the easements are almost done, just waiting on the school to sign. We have ordered the title insurance to purchase the Layhe property. He stated the USDA asked more questions so our consultant engineer is answering them for us.

East German Street Extension Road Project: Supervisor Frank stated in reports you will see the emergency order and declaration of emergency. Jon Raymond from the County filed our order with the State and was up on the road taking pictures. Councilman Stalteri stated he asked the engineer to reach out to the surveyor about money given to municipalities north of us that received FEMA funding due to the erosion.

Sprinkler System Water Break: Highway Supt. Ward stated he will get to it as soon as they can. Codes: Codes Enforcer Collis stated he received two permits for barns, one for a pool and one for a fence. He stated he had a problem on Highland Ave. where a shed was put up and now there are people living in it. He also had a couple on Grace Ave. put up a deck and put a new roof on without a permit so he stopped and talked to them and they should be in this week.

Piper Road: Supervisor Frank stated we sent out RFQ's and received four that are interested. We will need to go into executive session to review the bids that were open on the 4<sup>th</sup> and pick one based on the qualifications.

SunEast Solar Project: Codes Enforcer Collis stated we received a check and deposit it but it was returned back to us from our bank so we let them know and they sent a new check that has been deposited into our account. We still need the decommissioning agreement signed and bonded for as well as a connection agreement. Supervisor Frank advised that we will not issue a permit until we receive everything we need.

Landbank: Councilman Stalteri stated he was told that two of the modular homes are in production.

HCCC Solar: Supervisor Frank stated our consultant attorney spoke during our public meeting relative to this.

Town Park: nothing new to report.

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: Highway Supt. Ward stated he wants to get with Tioga for an estimate for to fix the expansion joint.

Cannabis Zoning Regulations: Councilwoman Penree asked what hours we will be following? The board agreed 8am to 7pm Monday through Saturday and noon to five on Sunday for consumption and normal business hours for retail. Attorney Bray stated he will contact the State to see if there is anything more advised for the signage and solicitation.

Review of 2011 Investment Policy: Supervisor Frank stated he is working on it.

ARPA Funding: Supervisor Frank stated we need to allocate our resources.

Fireworks: Councilwoman Penree stated we are waiting for an answer from Nick Lanno for a date for next year. Supervisor Frank stated he spoke with his contact from NBT insurance and we should be expecting a check this week.

Gros Blvd. Zoning: Supervisor Frank stated this was previously discussed.

Updated Zoning Ordinance: Supervisor Frank stated we need to have a workshop meeting on this.

Town Park: (Internet) Supervisor Frank stated we previously talked about this as well.

#### 10) New Business.

Supervisor Frank stated we are going start the budget process. Budget Officer Marcia Baylor is working on the usual note to everyone. Attorney Bray will do the resolution to exceed the tax cap.

#### 11) Reports.

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept and place on file the State of Emergency Declaration.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file the State of Emergency Order.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept and place on file the Northern Borders Regional Commission Federal Financial Report for 2019.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept and place on file the Northern Borders Regional Commission Federal Financial Report for 2021.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file the Planning Board Meeting Minutes dated June 22, 2022.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file the Check Paid in Full receipt for the Juvenile Delinquency matters.

Supervisor Frank stated this is the restitution for the damages done at the Town Park.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file the C.T. Male Associates Proposal for Phase 1ESA of 160 Pine Grove Road.

Supervisor Frank stated they will be contacting the realtor to do this.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file the DCO Report for July, 2022 from DCO Erica Dunton.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Town Justices Reports from August, 2022 from Justice Manne and Justice Petucci.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file the Trial Balance Report dated August 14, 2022.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept and place on file the Revenue and Expense Report dated August 14, 2022.

CARRIED AYES ALL

**11) Purchase orders and Audit.**

There was one purchase order for this meeting from Highway Supt. Ward for road sand. He stated prices have gone up so he got several quotes and also factored in the price of gas to haul it in. That being said he found it would be cheaper in the long run to buy from Herkimer.

Motion by Councilman Stalteri, seconded by Councilwoman Penree to approve the purchase order for road sand from Highway Supt. Ward.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file the Audit dated August 15, 2022. Councilman Stalteri recused himself from the Hummel's bill.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to go into executive session to discuss contractual arrangements.

CARRIED AYES ALL

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

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to have Supervisor Frank negotiate a contract with C.T. Male Engineering to provide professional services in relation to the West Canada Creek Landslide Prevention Scoping Project with the contracted fees to be within the FEMA grant amount. Supervisor Frank stated that the July 2022 RFQ process solicited qualifications included mailings to 15 different firms including MBE-WBE certified firms, and a legal notice newspaper advertisement in the Town's official newspaper. The process included several inquiries, the mailing of the RFQ to additional firms and resulted in four qualified firms submitting their firm's abilities to perform the required services. Supervisor Frank stated that the other firms not selected to provide services would be notified.

CARRIES AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to amend the contract with DCO Dunton to include a fee of \$1,200 per month effective August 1, 2022. Councilman Stalteri stated the newly adopted Town of Herkimer dog control local law has added new responsibilities for DCO Dutton. Supervisor Frank stated the DCO monthly fee has remained stagnant over the last several years.

CARRIED AYES ALL

**12) Adjourn.**

Motion by Councilman Stalteri, seconded by Councilwoman Penree, that the Regular Meeting of the Herkimer Town Board be adjourned until the next Regular Meeting to be held on Tuesday, September 6, 2022 at 6:00PM.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk.