

Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Tuesday, September 6<sup>th</sup>, 2022, at 6:00PM telephonically, virtually 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  
 Councilman-----Vito Carbone  
 Councilwoman-----Kathy Penree  
 Highway Supt.-----Ken Ward  
 Codes Enforcer-----Ken Collis  
 Attorney-----Christopher Bray

Excused: Councilman-----Randy Kast  
 Deputy Attorney-----Kyle Crandall  
 Park Supervisor-----Kathi Nasypany

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

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

**04) Reading of the Minutes.**

Motion by Councilman Stalteri, seconded by Councilwoman Penree, to accept and place on file the minutes of the previous regular meeting held on August 15, 2022 as written.

CARRIED AYES ALL

**05) Public Hearing- Shells Bush Road Solar Project.**

Supervisor Frank read the public hearing legal notice for the Shells Bush Road Solar Project and asked if anyone would like to speak in regards to the proposed solar project.

Rob Risi of East German Street Ext. asked who is responsible for maintaining the property? Supervisor Frank stated the developer is responsible. Bill Penree of East German Street Ext. asked if they would be bonded? Supervisor Frank stated yes, they need to provide a decommissioning agreement and bond to cover it. Sally Durkee of East German Street Ext. asked what kind of lines will be put up to transfer the electricity and will there be any noise? Joe Murine of WNMRS stated we will be connecting into the existing lines of National Grid and he is not aware of any noise.

Supervisor Frank stated there has been some concerns brought to our attention by our consultant and one of them is the question to if there will be disruption to the flood plain or wetlands? Mr. Murine stated that they hired an expert in the flood plain. He stated through the DEC, FEMA and their expert there were no issues found. Codes Enforcer Collis stated he saw the overlay and the area in question is no longer in a flood plain. He stated he has verified this with the DEC. Mr. Penree asked if this flood plain includes if the Hinckley Reservoir broke or the 100-year flood. Mr. Collis stated this was not found to be an issue. Mr. Risi asked if any other locations were looked at for this project? Mr. Murine stated this location was selected because of its substation and because they are able to connect at an affordable rate. Mr. Penree asked who will benefit from this? Mr. Murine replied stating that the Village of Herkimer and Community Wellness are whom will be will benefit, as well as the Town and County from the tax benefits. Supervisor Frank stated the other concern that was raised was the possible historic artifacts. Mr. Murine stated there was a spot that was originally identified as an Owasco Indian site but they hired a consultant who saw no indication of a settlement and they will have the report on or before the 16<sup>th</sup>. Mrs. Obreza of Shells Bush Road stated she lives right across the road and that she would not like it right across from her home. She is also concerned about the traffic that it would cause. Mr. Murine showed everyone enlarged photos of the proposed project. He stated they will 5 to 6 foot in height evergreen trees planted that will grow in more in a few years. They plan to plant these at the start of the project. He stated there will be two rows of trees planted in hopes to block the view completely. He also stated there will be two entrances that will be gated off. Construction will last about sixteen weeks and once this is complete there will only be routine maintenance that will be about once a month. Mrs. Obreza stated this is will be detrimental if or when she is ready to sell her house. Mr. Murine stated there is no evidence that her statement is true. Councilman Carbone asked if there are health issues that have been linked from the solar farms. Mr. Murine stated no, they are all solid state

equipment and they are low voltage. Miss Durkee asked if in the event a larger transformer is needed, are there any health issues with them? Mr. Murine stated he can't say of any health issues that he is aware of. Councilwoman Penree asked where other projects that have done originate and if they have had any issues arise from them? Mr. Murine stated some of the solar project that they originated are; the one on North Gage Road, one for the City of Utica, one on Judd Road for Oneida county, one for the City of Amsterdam on Route 67 and most recently the Frankfort location. He also stated he has not had any issues arise from them with these entities. Mrs. Obreza asked if there will be any lights around the property? Mr. Murine stated this will not be a lighted site so there will not be any lights. Councilwoman Penree asked Mr. Murine what he means by the solar projects that they have originated? Mr. Murine replied stated we sell them after construction. Mrs. Obreza asked if the residents have any say on this? Supervisor Frank stated the Town Board decides because they are your elected representative to vote on your behalf.

Motion by Councilman Carbone, seconded by Councilman Stalteri 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.

Ron Scalise stated he was here to check the status of the re-zoning for parcels on Gros Boulevard? Attorney Bray stated he has a resolution for the board to later discuss and decide if they would like to proceed.

Rob Risi stated he would like to know the status of East German Street Ext.? Supervisor Frank stated we have engaged with a consultant engineer and we are waiting on a report for the remedy. Councilwoman Penree stated the engineer was here at our last meeting and explained that the material in the road needs to be lighter to take some weight off. Right now there is crusher run that's needs to be taken out and geofoam to be put in its place. They also suggested that a soldier wall be put in to help stabilize the sheet piling wall. The engineer said we could see additional movement of about 7-8inches. He also said the sheet piling wall will not fail but the old historic bridge wall could wash into the creek. Mrs. Obreza stated she has concerns about the trees stuck under the bridge. Highway Supt. Ward stated the bridge is inspected by NYS every year and that we are working on getting access to be able to get these trees removed.

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

CARRIED AYES ALL

**07) Petitions and Communications.**

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

- A. A letter dated July 26, 2022 from the Village of Herkimer Water/Sewer Superintendent, Scott Blais, concerning the cleaning of the Gravesville Transmission Line.
- B. A letter dated August 17, 2022 from Supervisor Frank to Herkimer County Director of Emergency Services, John Raymond, confirming the Town of Herkimer participating in the Herkimer County Multi-Jurisdiction Hazard Mitigation Plan update project.
- C. A letter dated August 18, 2022 from Supervisor Frank stating the Town of Herkimer selected C.T. Male Associates to engage with for the West Canada Creek Landslide Prevention Scoping Project.
- D. Letters dated August 18, 2022 from Supervisor Frank to Bergmann Architects, Engineers and Planners, Prime AE, and Prudent Engineering thanking them for their interest in the West Canada Prevention Scoping Project and that the Town Board choose not to engage with them for this project.
- E. A letter dated August 24, 2022 from Supervisor Frank to President and CEO of the Environmental Facilities Corporation, Maureen Coleman, supporting the Herkimer County IDA EFC Application request for funding to assist with the construction of the Eastern Mohawk Valley Regionally Water Transmission Main.

- F. A letter dated August 30, 2022 from Public Employer Risk Management Association concerning workers' compensation coverage and comprehensive workplace solutions.
- G. A letter dated August 31, 2022 from National Grid for notice of intention to terminate service supplied to A&Z Motel Corporation located at 5571 State Route 5 in Herkimer.
- H. A letter dated September 1, 2022 from Charter Communications Director of Government Affairs, Alice Kim, concerning upcoming changes.
- I. An email dated September 2, 2022 from Christopher Baiamonte of the Wladis Law Firm concerning the SunEast bond agreement and a cash bridge arrangement.

CARRIED AYES ALL

**07) Routed.**

**08) Resolutions and Local Laws.**

Motion by Councilman Carbone, seconded Councilwoman Penree to accept, place on file and approve Resolution No. 21 of 2022 for Local Law No. 2 of 2022 to override the tax cap.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept, place on file and approve Resolution No. 22 of 2022 to give Supervisor Frank authorization to sign the IMA for the West Herkimer Water Project. Attorney Bray stated we have council for this project so they will give their recommendations before Supervisor Frank will sign.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept, place on file and approve Resolution No. 23 of 2022 to set a public hearing for the proposed zoning change on Gros Boulevard.

CARRIED AYES ALL

Transfers: Supervisor Frank stated we have two transfers for tonight to cover the new arrangement with our Dog Control Officer and to cover the assessors contractual as we anticipate more legal costs.

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept, place on file and approve both transfers suggested by Supervisor Frank.

CARRIED AYES ALL

Budget Amendments: Supervisor Frank stated we have two budget amendments to bring in the additional revenue and expenses from our Fourth of July Celebration and for the BAN to purchase 160 Pine Grove Road.

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept, place on file and approve the two budget amendments recommended by Supervisor Frank.

CARRIED AYES ALL

**09) Old Business.**

DCO Proposed Contract: The board reviewed the proposed contract and changes that were made since the last one. Both the DCO and Town Board agreed to the changes and signed the agreement.

Water District: Water Supt. Ward stated we have a person who wants a new service put in on Pine Grove Road. He stated everything is still on track for Highland Ave.

Mckennan Road Enhancement Project: Attorney Bray stated he followed up with the county and they can't find it so he will be bringing them a new copy to sign.

West Herkimer Water:

East Herkimer Sewer District: Attorney Bray stated the State Comptroller was sent everything.

Bray stated the Wright easement is complete, we are waiting on the school to sign their easement and he will follow-up with them, and we should have the title back for the purchase of the Lahey property. He stated we sent the purchase offer for the Lahey property but it has still not been signed. Councilman Stalteri asked if we are in jeopardy of losing our funding? Supervisor

Frank stated yes we are. He also stated the state funding was extended till December, 2023. This is the last extension to be granted for the \$440k. Northern Border also extended till December, 2023. He stated we might also have an issue by not having a local match. We are applying for USDA funding that they are still reviewing.

East German Street Extension Road Project: Previously discussed.

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 the building permit applications and fees from the Landbank for the six modular homes. He stated they will need a septic system to be installed for this project. Supervisor Frank stated they also still need to fix the water issues. Councilman Stalteri stated he will follow up with them and that he heard the first two homes will be ready to be delivered in November.

Collis also stated he sent out a couple of letters to residents on Piper Road, Zoller Ave., and Highland Ave. for codes violations and they have until the end of the week to respond.

Councilman Stalteri asked if the property on Zoller Ave. has been condemned? Collis replied stating yes, it has been. Stalteri stated we need to enforce our property maintenance law.

Piper Road: Supervisor Frank stated you will see in our correspondence to engage with our consultant to do the report for us.

SunEast Solar Project: Supervisor Frank stated our consultant attorney is reaching out for the decommissioning agreement. That's all we need and the bond money so we are getting close. Landbank: Previously discussed.

HCCC Solar: Supervisor Frank stated this is the Shells Bush Road Solar Project that we previously discussed. Dominic Pavia of WMR Services stated he would like to point out that we have agreed on the decommissioning agreement, we have alleviated any floodplain concerns, and we are waiting documentation to also alleviate any historic archeological concerns.

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: Tabled.

Cannabis Zoning Regulations: Attorney Bray stated he has some more information of what the state already has regulations on. The board agreed to set a public hearing for this as Local Law No. 3 of 2022 at our next meeting on September 19, 2022.

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept, place on file and approve Resolution No. 24 of 2022 to set the public hearing on Local Law No. 3 of 2022 for Cannabis Zoning Regulation in the Town of Herkimer on September 19, 2022 at 6:12PM.

CARRIED AYES ALL

Review of 2011 Investment Policy: Supervisor Frank stated he has nothing new to report.

ARPA Funding: Supervisor Frank stated we got a note from the treasury stating we needed to upload more forms, so he will do so.

Fireworks: Supervisor Frank stated we received the \$1,000 check from NBT Mang Insurance.

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: Supervisor Frank stated the offer for the old school has been signed and an abstract has been ordered.

#### 10) New Business.

Fall Trash Days: Highway Supt. Ward suggested that we hold our Fall Trash Days on October 13, 14 and 15<sup>th</sup> this year. The board agreed. Ward will set the times and relay such information to Clerk DeMetro for official announcements and web site notices.

Motion by Councilman Stalteri, seconded by Councilman Carbone to approve the Fall Trash Days for October 13, 14 and 15<sup>th</sup>.

CARRIED AYES ALL

2023 Budget: Supervisor Frank announced the 2023 Budget Schedule.

**11) Reports.**

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the all of the reports listed on the agenda as follows:

Planning Board Meeting Minutes dated August 3, 2022.

Planning Board Report in regards to rezoning of Gros Boulevard dated August 17, 2022.

Water & Sewer Meeting Minutes dated August 23, 2022.

Fully executed contract for 160 Pine Grove Road.

SunEast and Conditional Approval for the Interconnection Agreement with National Grid.

CEG Report for East German Street Extension.

Emergency Orders for East German St. Ext. dated 8/20, 8/25, 8/30 and 9/4 of 2022.

Bank Reconciliation Report for July, 2022 from Budget Officer Marcia Baylor.

Cash Report for July, 2022 from Supervisor Frank.

Town Clerks Report for August, 2022 from Clerk DeMetro.

Town Justice Reports for August, 2022 from Justice Manne and Justice Petucci.

Trial Balance Report dated September 4, 2022.

Revenue and Expense Report dated September 4, 2022.

CARRIED AYES ALL

**11) Purchase orders and Audit.**

There were two purchase orders for this meeting; one for fence installation at 114 N. Prospect Street and one to seal and stripe the Town Office and Town Park Parking Lots.

Motion by Councilman Carbone, seconded by Councilwoman Penree to approve B&K out of Frankfurt to provide fencing at 114 N. Prospect Street, Herkimer as indicated on the proposal. Councilman Stalteri noted that the bidding process was in accordance with our purchasing policy.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to approve Pete Macri Paving to provide sealing and striping at both the Town Office located at 114 N. Prospect Street and at the Town Park as indicated on the proposal. Supervisor Frank noted that the two proposals from Pete Macri Paving in aggregate were less than each of the other two proposals from the other vendors in aggregate.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Audit dated September 6, 2022. Councilman Stalteri recused himself from the Hummel's bill.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to go into executive session to discuss contractual matters.

CARRIED AYES ALL

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

CARRIED AYES ALL

**12) Adjourn.**

Motion by Councilwoman Penree, seconded by Councilman Carbone, that the Regular Meeting of the Herkimer Town Board be adjourned until the next Regular Meeting to be held on Monday, September 19, 2022 at 6:00PM.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk