

Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, September 19th, 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-----Randy Kast
 Councilman-----Daniel Stateri
 Councilman-----Vito Carbone
 Councilwoman-----Kathy Penree
 Highway Supt.-----Ken Ward
 Park Supervisor-----Kathi Nasypany
 Attorney-----Christopher Bray

Excused: Codes Enforcer-----Ken Collis
 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 Stateri, to accept and place on file the minutes of the previous regular meeting held on September 6, 2022 as written.

CARRIED AYES ALL

05) Public Hearing- Proposed Local Law No. 2 of 2022 to override the tax cap.

Supervisor Frank read the public hearing legal notice for the proposed Local Law No. 2 of 2022 to override the tax cap. Supervisor Frank stated we do this annually so if we needed to override the tax cap this would allow us to do so. He then asked if anyone would like to address the board in regards to this matter. He asked Clerk DeMetro if anyone has been in or contacted the Town in regards to this proposed local law? She replied no one has contacted her. With no one coming forward to speak, Supervisor Frank stated he would entertain a motion to close the public hearing.

Motion by Councilman Stateri, seconded by Councilwoman Penree to close the public hearing.

CARRIED AYES ALL

Public Hearing- to consider Zoning Change along Gros Boulevard.

Supervisor Frank read the public hearing legal notice to consider the Zoning change along Gros Boulevard. He then asked if anyone would like to address the board in regards to this matter. He asked Clerk DeMetro if anyone has been in or contacted the Town in regards to this matter? She replied no one has contacted her. With no one coming forward to speak, Supervisor Frank stated he would entertain a motion to close the public hearing.

Motion by Councilwoman Penree seconded by Councilman Stateri to close the public hearing.

CARRIED AYES ALL

Public Hearing- Proposed Local Law No. 3 of 2022 for Cannabis Zoning Regulations

Supervisor Frank read the public hearing legal notice for the proposed Local Law No. 3 of 2022 for Cannabis Zoning Regulations in the Town of Herkimer. He then asked if anyone would like to address the board in regards to this matter. He asked Clerk DeMetro if anyone has been in or contacted the Town in regards to this to this matter? She replied no one has contacted her. With no one coming forward to speak, Supervisor Frank stated he would entertain a motion to close the public hearing.

Motion by Councilman Carbone, seconded by Councilwoman Penree 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.

Michael Angelo Tirado of 288 Kast Hill Road stated he moved here in 2009 and has had big problems with his neighbors. He stated there are ferrell cats that are coming from his neighbors that have ruined screens in his windows, been urinating on his porch and doors, attacking his dogs and that keep setting his security alarms off. He stated they had chicken that are also constantly coming on his property and making a mess as well. The chicken cope is only fifty feet from his property and it is supposed to be two-hundred feet away. He stated because of these animals it is drawing foxes, coyotes, and even bears to start coming around. He stated his yard is fenced in and his animals and property is not protected. He has asked the neighbors to keep their animals on their own property. He stated another issue he has is with them burning some sort of stove all year long. This is causing smoke to come into his house making it hard to breath. He stated this has been an on-going issue that he has tried to resolve by talking to them and he has made several calls to Codes Enforcer Collis who has not responded. Supervisor Frank stated the Town does not have cat local law and he will follow-up with Codes Enforcer Collis in regards to the wood burning and chicken cope being in accordance with our local laws.

Town Park Supervisor Kathi Nasypany stated she is here to give the board an update on the progress with the farmers' market. She stated she is going to send out 58 letters to local farmers and possibly interested participants. She asked what the board thought in regards to having a fee or not? Supervisor Frank asked if she could come in during our budget preparations to discuss this. Councilwoman Penree asked if they would each have to be insured. Mrs. Nasypany stated yes insurance is required for vendors. Mrs. Nasypany will get estimated costs together to review with the board. Councilman Stateri stated he would like to remind her that the Town Park usually closes at the end of October.

Richard Pamitcher of 2481 Steuben Hill Road stated he owns the Rest Cop Shop and currently is working out of Dolgeville but would like to bring the business to Steuben Hill Road. He stated it is currently zoned Residential. He stated he has spoken to Codes Enforcer Collis and attended a Planning Board meeting. He was advised to fill out a Special Authorization Application and has done so. Planning Board Chair Mark Gaworecki stated this does not fall within our zoning regulations for a home business therefore it was recommended that a Special Authorization Application be submitted to allow the business to operate in a residential area. Councilman Carbone asked if they will need to add a building on the property for this? Mr. Pamitcher stated he the property already has a building on it that it can be used for. Attorney Bray stated we will need to hold a public hearing for this. Supervisor Frank asked that the Planning board meet again and give a report to the board. The board agreed to set the public hearing for the second meeting in October.

Frank Spatto of 3776 State Route 168 in Mohawk handed out a letter and read it out loud to the board. He stated the Town of Schuyler is unlawfully closed Oak Hill road. He stated because of the solar project he is denied access to his property. He stated he has a camp that has been in his family for years that now they have no access to. Supervisor Frank asked who owns the land currently. Mr. Spatto replied stating the Sokols own the land and lease it out. He expressed his concerns from a study done on the Bellinger Brook Water Shed. He stated he has made the County aware as well as the Town of Schuyler. He stated Councilwoman Penree asked if this is more of a civil matter? Attorney Bray replied stating that yes it is.

Ron Scalise asked if everything is set now for the change of zoning on Gros Boulevard now that the public hearing is complete? Attorney Bray stated the last thing that needs to be done before the board can approve it is the SEQR. There is a portion Mr. Scalise will need to do as well as the Town to do. He will provide the forms. Supervisor Frank also recommended that letters be sent to the those impacted by this decision before we vote. Clerk DeMetro will do so.

Motion by Councilwoman Penree, seconded by Councilman Carbone 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 7A though D listed below.

- A. A Notice of Amendment of Off-Site Commercial Solar Photovoltaic Policy dated September 7, 2022 from the Herkimer County IDA.
- B. A letter dated September 9, 2022 from the Town of Webb Supervisor, Bonnie Baker, concerning the option for taxpayers to make payments with interest on their taxes.
- C. A letter received September 13, 2022 from the Business & Professionals Association of Herkimer asking for sponsorship of upcoming holiday celebrations in the community. Councilman Stalteri stated he will donate on behalf of the Town.
- D. A written statement dated September 15, 2022 from Marlene and Thomas Malaglowicz concerning issues with a neighbor’s dog. Supervisor Frank stated this is Dog Control issue. Clerk DeMetro stated DCO Dunton is aware.

CARRIED AYES ALL

07) Routed.

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file Phase 1 Environmental Site Assessment for 160 Pine Grove Road dated September 15, 2022. Councilman Stalteri stated this gave a good description of the property. Supervisor Frank agreed stating it was very useful information. Supervisor Frank stated he spoke to a DEC agent who is very familiar with the 1996 spill. He promised to send Supervisor Frank an email of the status but has verbally communicated that this is not closed because not enough soil samples were collected. He was also told that the owner is responsible. Attorney Bray will contact the seller's lawyer and advise him of what we were told needs to be done to remedy the situation. He stated he also needs to follow-up on the status of the title as well. Supervisor Frank asked if a SEQR would be required. Attorney bray replied stating yes it will be and that there are three parts to it.

CARRIED AYES ALL

08) Resolutions and Local Laws.

Motion by Councilman Kast, seconded Councilman Stalteri to accept, place on file and approve Resolution No. 25 of 2022 to schedule a public hearing for the Special Authorization request on Steuben Hill Road for the ability to have an undercoating business on the property.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stalteri to accept, place on file and approve Resolution No. 26 of 2022 for Local Law No. 2 of 2022 to override the tax cap.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept, place on file and approve Resolution No. 27 of 2022 for Local Law No. 3 of 2022 Cannabis Regulations in the Town of Herkimer.

CARRIED AYES ALL

09) Old Business.

Water District: Water Supt. Ward stated everything is doing good. Supervisor Frank stated in the audit tonight you will see water bills for Lowe’s, McKennan and East Herkimer Water districts. The McKennan one is getting closer but is still higher than we are billing. Hopefully now that the repairs have been made, the next bill will even out for us.
McKennan Road Enhancement Project: Attorney Bray stated we are waiting to hear back from the County. Supervisor Frank stated the plans are being reviewed within the state system, county and fire district.

West Herkimer Water: Supervisor Frank stated the IDA has submitted a grant for more funding for the transmission line. He signed it conditionally so they could apply for the funding but it needs to be amended because of two issues; one is the IMA stated the water authority is the vendor but that we are to maintain it and the second issue is the IMA states if the people do not pay their water bills then it will be leveled on their taxes. He stated neither of these can be possible since we are not going to be billing for this district.

East Herkimer Sewer District: Attorney Bray stated everything that has been asked for has been sent to the State Comptroller. Attorney Bray stated as we all know the Wright easement is complete and the school voted to approve the easement and will get it signed and to us this week. He stated the last time he had communication about the Lahey property was on 9/4 and he is still waiting on the title so he will follow-up on both. Supervisor Frank stated he was on a conference call with the USDA and our consultant engineer and it seems that everything is there and all questions have been answered.

East German Street Extension Road Project: Supervisor Frank stated we have asked the engineer to give us information relative to the cost entailed to make the repairs so we can do a cost analysis of what the best option is; make the repairs, buy the homes or give the homes alternate access from Route 28. The idea is to get the numbers so we can discuss what our options to do what is best. Supervisor Frank stated winter is coming so we need to decide what we are going to do for the residents to have access to their homes. He stated he has also contacted a grant writer through CT Male who will be meeting him at the site on the 26th at 3 o'clock to do a walk through. All are welcome. Councilwoman Penree asked what they are thinking because winter is coming soon and she fears being able to have access to her home? Supervisor Frank stated we will know more once we get the report. Councilman Stateri suggested that Councilwoman Penree email questions she may have so that he can review them with the consultant engineer to better be able to answer them. Councilman Stateri stated he spoke to the diver because we never received the video from the dive and he informed us that there was an issues with his hard drive and he lost everything on it. The engineers said the water has dropped off so we can see the bottom now so it's not needed but we should probably ask for a refund from the diver. Attorney Bray will reach out to the diver in regards to a refund. Councilman Kast asked if we have had any discussion about contacting the army corps of engineers. He stated if they could help us they would get it done fast. Councilman Stateri stated he will discuss this with our engineer. Supervisor Frank stated he did speak to Assemblyman Smullen about his stream intervention plan last week and he is working on a three county initiative to help municipalities gain access to maintain the streams and creeks. Assemblyman Smullen had expressed using our situation as a test phase so we will see what he has to offer.

Shells Bush Road Solar Project: Supervisor Frank stated the developer and consultant attorney got into a disagreement over billing and to have more money put in escrow. The developer supplied a check to resolve this issue. Supervisor Frank stated our consultant attorney advised us not to make a negative declaration because there was some indication of a native American settlement. The developer submitted a report to SHPO but they have thirty days to review and respond so our consultant recommended that we wait to make a declaration until this time period is up and the end of next month. Councilman Kast stated one of the residents across the road has voiced that they do not want to the solar project there. Councilwoman Penree stated another resident had contacted her as well saying the same.

Sprinkler System Water Break: Tabled.

Codes: Tabled.

Piper Road: Supervisor Frank stated he has a meeting set with the consultant on Wednesday at one o'clock to go over the scope of the project and contract.

SunEast Solar Project: Supervisor Frank stated we still do not have a signed decommissioning agreement and we have agreed to open an account with the Town of Schuyler Supervisor at Adirondack bank for two-hundred dollars that will be deposited electronically. He stated both towns supervisors will need to sign checks that are written. This is a checking account that is non-interest bearing.

Landbank: Nothing new to discuss.

Town Park: Previously discussed.

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.
Review of 2011 Investment Policy: Tabled.

ARPA Funding: Supervisor Frank stated he has till the end of the month to submit another update.
Fireworks: Supervisor Frank stated we received the final donation of \$1,000 that we were waiting for from Foltsbrook. He will have a final report for the board at our next meeting.
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.

10) New Business.

Supervisor Frank stated he will be working with budget officer Marcia Baylor on the Tentative budget that has to be submitted to the Town Clerk by the end of the month.

Councilwoman Penree stated she will be attending the countywide mitigation meeting on Monday at 7:00PM.

Supervisor Frank stated we have our annual NYMIR inspection set for October 21st for the Highway Garage and Town office. He reminded everyone to please get their trainings up to date with Clerk DeMetro.

Supervisor Frank stated he had prior obligations next month and has asked the board their opinion on having the meetings on Tuesdays (the 4th and the 18th) in October. The board agreed. Clerk DeMetro will make the proper announcements for such.

Supervisor Frank stated our Bookkeeper Amanda Viscomi has been unable to print payroll from her new computer. We have tried to work with the software program as well as our IT guy but cannot seem to get it to work. It has been recommended that we get Mrs. Viscomi a desktop printer (HP M507) for her to be able to print from her new computer. Clerk DeMetro will research the cost as well as look into when our lease is up on the current copier we have in the office.

1.1) Reports.

Motion by Councilman Carbone, seconded by Councilman Stateri to accept and place on file the Renewal State of Emergency for Eat German Street Ext. dated 9/19/22. Supervisor Frank stated this has be done every thirty days. Councilwoman Penree recused herself from the vote.

CARRIED AYES ALL

Motion by Councilman Stateri, seconded by Councilman Kast to accept and place on file the NYS SAM Facilities Program through Assemblyman Smullen. Supervisor Frank stated Assemblyman Smullen has allocated \$50k to us for equipment and this is the form we had to submit. It was submitted today.

CARRIED AYES ALL

Motion by Councilman Stateri, seconded by Councilwoman Penree to accept and place on file the Sprinkler Inspection Report dated 8/29/2022.

CARRIED AYES ALL

Motion by Councilman Stateri, seconded by Councilwoman Penree to accept and place on file the Appraisal of the property located at 160 Pine Grove Road dated 9/7/2022.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stateri to accept and place on file the Emergency Orders dated 9/9, 9/14 and 9/19 for East German St. Ext.
Councilwoman Penree recused herself from the vote.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file the DCO Report for August, 2022 from DCO Erica Dunton.
Councilman Stalteri stated he would like to note that only one of these complaints was outside of the Village.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept and place on file the Trial Balance Report dated September 19, 2022.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Revenue and Expense Report dated September 19, 2022.

CARRIED AYES ALL

11) Purchase orders and Audit.

There were no purchase orders for this meeting.

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept and place on file the Audit dated September 19, 2022.

CARRIED AYES ALL

12) Adjourn.

Motion by Councilman Kast, seconded by Councilman Carbone, that the Regular Meeting of the Herkimer Town Board be adjourned until the next Regular Meeting to be held on Tuesday, October 4, 2022 at 6:00PM.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk