

Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Tuesday, October 4, 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 Stalteri
 Councilman-----Vito Carbone
 Highway Supt.-----Ken Ward
 Codes Enforcer-----Ken Collis
 Attorney-----Christopher Bray

Excused: Councilwoman-----Kathy Penree
 Deputy Attorney-----Kyle Crandall
 Park Supervisor-----Kathi Nasypany

Supervisor Frank stated he would like everyone to take a moment of silence for Councilwoman Kathy Penree as we keep her in our thoughts and prayers.

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 Carbone, seconded by Councilman Stalteri, to accept and place on file the minutes of the previous regular meeting held on September 19, 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.

Mark Gaworecki of 107 East Street stated he wanted to make the board aware that two properties in East Herkimer have high grass; one is the old store on Main Road and the other is on the corner of Main Road and Ward Street. Councilman Stalteri stated we will send a letter letting them know they have thirty-days to take care of it and if not we will have our highway department do it at our rate that will be billed to them. Attorney Bray will draft and mail the letters. MR. Gaworecki also stated that he spoke to someone at the Solid Waste Authority in regards to a program they offer to tear down homes for municipalities at a minimum cost. They do this between December and March. He thought this might be a good opportunity for the 202 Zoller Ave. home. Supervisor Frank stated Codes Enforcer Collis has met with the Solid Waste Authority as well and reported the same but we have to own the property. Collis stated he is having a hard time getting in contact with the owner. He stated we have sent letters, both certified and regular mail. Neither have been returned and there has been no response back yet. Mr. Gaworecki will look into the current status of this home to see if it will possibly be going up for taxes soon.

Jim Annuto stated he was wondering if the proposed zoning change would change the assessments. He stated he spoke with the County and the taxes wouldn't change but he wasn't sure if the assessment would be raised. Supervisor Frank stated he truly does not know the answer to this but her will find out for him. Mr. Annuto asked when this will take affect? Attorney Bray stated the Town needs to do the SEQR process and it would be effective after the board votes on it.

Patrick Kelly stated he is here on behalf of his mother who owns a property on Laurel Ave. that would be next to some of the properties being changed. His concern was the strip on property that touches Laurel Ave. Highway Supt. Ward stated this is a town right of way so nothing can be built on it. Mr. Kelly asked what the purpose of this proposed zoning change? Supervisor Frank stated we received a request from one of the property owners and the board didn't want to spot zone to the board reviewed the area and with the Planning Board recommendation formulated properties

that should be changed as well. Mr. Kelly asked what businesses will be going on these properties. Supervisor Frank stated one of the proposed business is Stompin' by Mike a tree cutting business.

Motion by Councilman Carbone seconded by Councilman Kast to close the public meeting.

CARRIED AYES ALL

06) Petitions and Communications.

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

- A. A letter dated September 19, 2022 from Congresswoman Claudia Tenney inviting Supervisor Frank to attend the October Agency Seminar with the Northern Border Regional Commission.
- B. A letter received September 23, 2022 from BRIDGES Community Engagement Coordinator, Abby Jenkins, concerning a recently passed NYS addendum to the Public Health Law prohibiting the use of combustible tobacco and cannabis in all public parks.
- C. A letter dated September 23, 2022 from Supervisor Frank to property owners on or near the proposed zoning changes of Gros Boulevard.
- D. Letters dated September 23 and 30, 2022 from Charter Communications Director of Government Affairs, Alice Kim concerning upcoming changes in service and programming notifications.
- E. A letter dated September 28, 2022 from Theodore Welter of Welter Realty, LLC concerning court-ordered tax refunds for Herkimer Management, LLC. Supervisor Frank stated there seems to be an argument with the settlement for the taxes for the K-mart property and indicating interest due. Attorney Bray stated it was required that 50% of total due by a certain date otherwise interest would be charged on the entire amount. He stated roughly 38% was paid by March 31st and within six days of that date it was raised to about 68% that had been paid. He stated he is working with our assessor to form a response and he will keep the board up to date with this as we go.
- F. A letter dated September 29, 2022 from NYS Parks, Recreation and Historic Preservation Scientist Archaeology, Jessica Schreyer, concerning the proposed solar project at 164 Shells Bush Road.

Supervisor Frank stated this is a letter from the NYS Parks, Recreation and Historic Preservation stating the proposed solar project on Shells Bush Road wouldn't need any additional archaeological work.

CARRIED AYES ALL

07) Routed.

08) Resolutions and Local Laws.

Transfers: Supervisor Frank stated most of the transfers are for us paying a larger portion of the BAN that we borrowed money for last year to purchase the pallet shop but we didn't end up getting it so we had to pay that money back. He stated we under budgeted for our insurance and our contractual was a little light. He stated we spent money we weren't planning on.

Motion by Councilman Stalteri, seconded by Councilman Carbone to approve all of the transfers recommended by Supervisor Frank.

CARRIED AYES ALL

Budget Amendments: Supervisor Frank stated we have two proposed budget amendments. One to bring the additional CHIPS funds that we are applying for.

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept, place on file and approve the budget amendment recommended by Supervisor Frank for additional CHIPS funds.

CARRIED AYES ALL

Supervisor Frank stated the second proposed budget amendment is to bring in an additional \$30k into escrow from the developers of the Shells Bush Road Solar Project to cover our fees.

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept, place on file and approve the budget amendment recommended by Supervisor Frank to bring in the extra \$30k for escrow from the developers of the Shells Bush Road Solar Project.

CARRIED AYES ALL

09) Old Business.

Water District: Water Supt. Ward stated he got a call from Scott Blais of the Village Water Department stating he noticed our reading was high for East Herkimer. He stated the tank was over and we are trying to get it to stop. They are still working on it. He stated Highland/Beardslee Ave. is staying steady.

McKenna Road Enhancement Project: Supervisor Frank stated the plans are still being reviewed.

Attorney Bray stated the County signed and he will file it and email us a copy for our records.

West Herkimer Water: Supervisor Frank stated he has nothing new to report besides that we got a bill back in February for edits over the agreement but our consultant attorney said not to pay it and they are looking into it for us. We are unsure if it is all our bill or should be divided up.

East Herkimer Sewer District: Supervisor Frank stated we got some more information from the State Comptroller. He stated he sent Attorney Bray the Northern Borders memo saying our project is good till September, 2023 and one from the Empire Development saying its good till December, 2023. He stated he couldn't find any of the letters to the property owners but he thinks everything that is needed is in the minutes. Attorney Bray agreed. Attorney Bray also stated he received the schools signed easement and that we have Deb Wright's done as well but we are still waiting on paperwork for the purchase Lahey property. He stated he has emailed Mr. Laheys legal representative several times and finally got a response back. He will be trying to connect with him to get this settled. He also stated we have the title report now and the only issue is a there is a mortgage on all of the property so we would have to get the bank to release this portion. Councilman Stalteri asked if we should start the process of taking this property by eminent domain since it is taking so long to get resolved. Supervisor Frank stated the USDA has another question in regards to the rate includes ours and the Villages maintenance fees. He stated he has answered this several times but will reply again.

East German Street Extension Road Project: Supervisor Frank stated we have asked the engineer to give us estimates for a temporary fix and a permanent fix so we have numbers to work with. He stated our other discussion was that after the highway took the weight off the road that it has stopped the wall from moving. Councilman Stalteri stated the survey showed no movement. They have recommended that three more readings be done to confirm no more movement is being made. If we are good after that still, then the engineer will propose the lightweight geofoam be put in place. Councilman Stalteri asked if the last two houses would be able to have permanent access to their homes by the alternate entrance through the states property? Highway Supt.

Ward stated he will look into this for us. Ward also stated that we will need more permanent fencing for the winter around where the road was dug out. The board advised him to get quotes for renting versus buying since we will need these barriers there for a long time.

Shells Bush Road Solar Project: Supervisor Frank stated he asked our consultant engineer to prepare a resolution for voting on the SEQR application at our next meeting, as well as a resolution for the special use agreement that will be filled with similar contingencies as SunEast. Sprinkler System Water Break: Highway Supt. Ward stated this has been repaired.

Codes: Codes Enforcer Collis stated the Annese Property is being bought by Keenan Trevor and James Tangorra who plan to have heavy equipment rentals there. The current action being taken right now is the DEC is letting them remove the tanks. Councilman Stalteri asked if there is any concern of the excavation being done at the bottom of the hill there that helps support the road of West German Street above? Collis replied stating the DEC is overseeing the project so he has not intervened. Highway Supt. Ward stated that it is a County Road and he will make them aware of the situation. Collis also stated he received the permit and illustration of the park. Supervisor Frank asked if the water situation has been rendered. Councilman Stalteri stated it hasn't been done yet but have till the end of October to do so. He stated the Landbank is waiting on the permits in order to get the funding they need to move forward with these issues. Councilman Stalteri asked if they have gotten demo permits for the condemned trailers yet? Collis replied stating they have not done so yet.

Supervisor Frank asked if they situation reported near Kast Bridge has been taken care of? Codes Enforcer Collis stated he went and looked at it and didn't see any issues. The chicken coop was 200 feet away like it's supposed to be.

Piper Road: Supervisor Frank stated he met with the CT Male engineers, Highway Supt. Ward and Councilwoman Penree last week and we are anticipating a report leading to a contract.

SunEast Solar Project: Supervisor Frank stated we almost have everything for issuance of the permit. They have paid the fee, we received record of the agreement for them with National Grid, the escrow account has been set up, and the decommissioning plan but we do not have the executed agreement for the plan.

Landbank: Supervisor Frank stated this was previously discussed.

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: Nothing new to report.

Review of 2011 Investment Policy: Tabled.

ARPA Funding: Supervisor Frank stated the reports have been uploaded.

Fireworks: Supervisor Frank stated we have the final budget under reports.

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

Updated Zoning Ordinance: Tabled.

Town Park: Supervisor Frank stated he has nothing new to report. Highway Supt. Ward stated Macri's Paving should be sealing and striping the town park parking lots this week.

10) **New Business.**

Supervisor Frank asked Highway Supt. Ward the status of the fence being put in at the Town Office? Ward replied stating it should be done soon and that he will follow-up on it.

11) **Reports.**

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Special Authorization recommendation from the Planning Board dated September 28, 2022.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stalteri to accept and place on file the Town of Herkimer's 2021 Fiscal Stress Score email and Reports.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the 2023 Tentative Budget. Supervisor Frank stated we will need to set up our budget meetings with the department heads. The board agreed to meet amongst themselves for a budget workshop meeting on Monday, October 10, 2022 at 3:00PM and on Tuesday, October 11, 2022 at 4:00PM with the department heads.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Planning Board Meeting Minutes date August 3, 2022.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stalteri to accept and place on file the Short Environmental Assessment Form for Zoning change on Gros Blvd. dated 9/23/22.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Bank Reconciliation Report for August, 2022.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Cash Report for August, 2022.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Emergency Orders dated 9/4, 9/29, 10/4 for East German St. Ext.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the 4th of July Celebration Final Report.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Town Clerks Report for September, 2022 from Clerk DeMetro.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Trial Balance Report dated October 4, 2022.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Revenue and Expense Report dated October 4, 2022.

CARRIED AYES ALL

11) Purchase orders and Audit:

There were no purchase orders for this meeting.

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Audit dated October 4, 2022.

CARRIED AYES ALL

12) Adjourn.

Motion by Councilman Stalteri, 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 18, 2022 at 6:00PM.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk