

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, November 15, 2021 at 6:00PM at the Herkimer Town Hall located at 114 North Prospect Street in Herkimer.

02) Roll Call of Officers

Present: Supervisor-----Dominic Frank
Councilman-----Randy Kast
Councilwoman-----Kathy Penree
Councilman-----Vito Carbone
Attorney-----Christopher Bray
Codes Enforcer-----Ken Collis

Excused: Councilman-----Daniel Stalteri
Highway Supt.-----David McMannus
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 Councilwoman Penree, to accept and place on file the minutes of the previous Regular Meeting held on November 1, 2021 as written.

CARRIED AYES ALL

05) Public Hearing.

Supervisor Frank state anyone from the public who would like to address the board regarding the public hearing on Local Law No. 3 of 2021 for Dog Control to please stated your name, address and any comments you may have.
Attorney Bray stated Councilman Stalteri, DCO Erica Dunton, Attorney Crandall and himself have been discussing this proposed local law. He is recommending that we continue working on it and wait to pass it.

Motion by Councilman Stalteri, seconded by Councilman Carbone to close the public hearing for on Local Law No. 3 of 2021 for Dog Control.
CARRIED AYES ALL

06) Public Informational Meeting on NYS’s Marihuana Regulation and Taxation Act.

Supervisor Frank handed out a booklet of a slideshow held by the AOT. He stated this breaks down and explains the law more. He stated it explains that it can be used for recreation use for adults age twenty-one and over. He stated it will be regulated by the State who will have boards to enforce it. This will have to notify the Town that they are applying for a license for either retail, distribution, cultivation or onsite consumption. If the Town does not opt-out, then this will be allowed in our Town. We would be able to set local laws to regulate it. He stated it is similar to tobacco use and where you can and cannot smoke it in the community, although you are not allowed to smoke while driving. The taxing formulation is passed by the state down to the County and Towns.
Attorney Bray stated the Town is allowed to opt-out before 12/31/21 and will not be able to do so afterwards. Once you are opted in, you cannot go back and opt-out. He stated this only applies for areas outside of the Village and that the Village will have to decide whether they choose to opt out or in as well. If the Town opts out and the Village opts in, then the Village will get all of the sales tax revenue and the Town won't get any. The sales tax is 9%, 4% goes to the County and 75% of that 4% would go to the municipalities.

07) Public Meeting.

Supervisor Frank stated anyone from the public who would wish to address the board to please state your name, address and tell us why you are here.
Chris Lawton from Barton& Luguidice stated he is here to give us an update on the West Herkimer Water District Project. He stated the County has paid for the survey and got reimbursed for it in October. There is nothing more needed survey wise for the Town of Herkimer. Two weeks ago

started the second phase. Our timeline that we hope for is to design through the winter and have the final design but summer. The goal is for 2022 to design, have approval, and have the bids by the end of next year and then in 2023 start construction. The County discussed purchasing the pipe all at once to save on costs. You would need engineer services for the design, bidding and construction phases. Supervisor Frank asked if the reporting would be included in this. Mr. Lawton replied stating that they recommend a financial firm to maintain the releasing of the funds. He will provide some that he recommends to us.

Motion by Councilman Carbone, seconded by Councilwoman Penree to engage Barton&Loguidice for the West Herkimer Water District Project.

Three students were also present:
Jacob Huyke, Brian Reile and Dylan Hart.

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

CARRIED AYES ALL

08) Petitions and Communications.

Motion by Councilwoman Penree, seconded by Councilman Carbone, to accept and place on file all the petitions and communications 8A through G listed below.

- A. A letter dated October 31, 2021 from USDA of Rural Development Loan Technician, Elvedina Kopic, concerning documents needed as a condition of our loan.
- B. A certificate of liability insurance dated November 1, 2021 for Tesla Energy Operations, Inc. effective 10/31/2021 thought 10/31/2022.
- C. A letter received November 2, 2021 from the NYS Department of Labor concerning the Notice of Expanding Legal Obligations Under NYS Prevailing Wage Laws.
- D. An email dated November 3, 2021 from the Greater Mohawk Valley Land Bank concerning an upcoming Code Enforcement Training.
- E. An email received November 10, 2021 from Association of Towns Office Assistant Brittany Hernandez, concerning an important update on Cannabis Opt-Out Laws.
- F. An email received November 15, 2021 from Herkimer County Director of Emergency Services, John Raymond, concerning a NYS Office of Emergency Management Tier-3 Training Opportunity.
- G. A letter received November 15, 2021 from MOVAC asking for a donation.

CARRIED AYES ALL

07) Routing.

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Oneida-Herkimer Solid Waste Authority Proposed 2022 Budget item being routed

CARRIED AYES ALL

08) Resolutions and Local Laws:

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept, place on file and approve Resolution No. 36 of 2021 for water/sewer Ijen list.

CARRIED AYES ALL

09) Old Business.

CHIPS 2021: Supervisor Frank stated we are just waiting for the money to come in.

East German Street Extension Emergency Road Repair Project: Supervisor Frank stated he knows our engineering firm has been out within the last couple of weeks.

Water District: Supervisor Frank asked the status with Valley Residential. Ken Ward stated they are working on getting someone else out there to fix it. Mr. Ward also stated we have turned the water off on Hyland/Bearslee Ave. to listen for leaks and we may have located one that goes across lots. We are hoping to know more this week.

Mckennan Road Enhancement Project: Attorney Bray stated he has sent the Hazelwoods the information that they requested but he hasn't heard anything back yet. The Simpsons are happy

with the location of the tank. Attorney Bray will follow-up with the County to check for any sightline issues.

West Herkimer Water: Previously discussed.
East Herkimer Sewer District: Attorney Bray stated he spoke with the State comptroller today and they asked for financing letters for out proposed funding and interest rate. He stated they are in the process and working on it. They understand our timeline. He will send them this information. Codes: Codes Enforcer Collis stated he is still working on some of the issues but has not updates at this time. He stated he reached out to social services three times and has not heard back from them. Clerk DeMetro recommended sending a letter to have written notice on file.

NYMIR:

Land Bank:

Dog Control Local Law: Attorney Bray stated we are working on it.

Subdivision Local Law: Tabled.

SunEast Solar Project: Supervisor Frank stated there is nothing new to report.

Active Fire Department Members Tax Exemption: Councilman Kast stated he will reach back out to them about this.

Annual Court Audit for 2021: Supervisor Frank stated Councilman Stalteri has scheduled this.

Cell Towers and Town Zoning ordinance: Attorney Bray stated he has no new information on this.
Valley Residential Water: Previously discussed.

AOT Designation of Delegate: Tabled.

10) New Business.

Assessment Review Board Member: Supervisor Frank stated one of our member has moved out of our Town so we need to find a replacement for him.

Special Authorization Application Fee: Supervisor Frank stated we recently passes the application but never associated a fee with it. The board agreed to set the fee at \$3350.00.

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept, place on file and approve the Special Authorization Application Fee of \$3350.00.

CARRIED AYES ALL

11) Reports.

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Contract Extension for Zombie Grant. Supervisor Frank stated the Zombie Grant has been extended through April of 2022. He stated the final report will be done by the end of December.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the DCO Report for October, 2021 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 for October, 2021 from Justice Manne and Justice Petucci.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Trial Balance Report date November 14, 2021.

CARRIED AYES ALL

Motion by Councilman Carbone seconded by Councilwoman Penree to accept and place on file the Revenue and Expense Report dated November 15, 2021.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept, place on file and adopt the 2022 Preliminary Budget.

CARRIED AYES ALL

12) Purchase orders and Audit.

Purchase Order: There were no purchase orders submitted for this meeting.

Motion by Councilman Kast, seconded by Councilwoman Penree to approve the audit dated November 15, 2021.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Kast to go into executive session to discuss negotiations and pending litigation.

CARRIED AYES ALL

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

CARRIED AYES ALL

13) Adjourn.

Motion by Councilwoman Penree, seconded by Councilman Stalteri to adjourn until our next Regular Meeting to be held on Monday, December 6th, 2021 at 6:00PM at the Town Hall located at 114 N. Prospect Street in Herkimer.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk.