

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, December 20, 2021 at 6:00PM at the Herkimer Town Hall located at 114 North Prospect Street in Herkimer and virtually through Zoom.

02) Roll Call of Officers

Present: Supervisor-----Dominic Frank
 Councilman-----Randy Kast (by Zoom)
 Councilman-----Daniel Stalteri
 Councilwoman-----Kathy Penree
 Attorney-----Christopher Bray

Excused: Councilman-----Vito Carbone
 Codes Enforcer-----Ken Collis
 Highway Supt.-----David McManus
 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 Councilman Stalteri seconded by Councilwoman Penree, to accept and place on file the minutes of the previous Regular Meeting held on December 6, 2021 as written.

CARRIED AYES ALL

05) Public Hearing on Local Law No. 3 of 2021- Dog Control Local Law.

Supervisor Frank stated anyone from the public who would wish to address the board relative to Local Law No. 3 of 2021 to please state your name, address and tell us why you are here.
With no one from the public wishing to address the board I would entertain a motion to close the public hearing on Local Law No. 3 of 2021.

Motion by Councilwoman Penree seconded by Councilman Stalteri to close the public hearing on Local Law No. 3 of 2021.

CARRIED AYES ALL

06) Public Hearing on Local Law No. 4 of 2021- Opt-out of Marijuana Law.

Supervisor Frank stated anyone from the public who would wish to address the board relative to Local Law No. 4 of 2021 to please state your name, address and tell us why you are here.

Alan Glocka of 5282 Brookfield Road, Lee Center, New York stated he is a teacher and is concerned about the spread of marijuana and cannabis. He feels it could create a public health hazard and also create easier access for our youth. Supervisor Frank thanked him for his comment.

Motion by Councilman Stalteri seconded by Councilwoman Penree to close the public hearing on Local Law No. 4 of 2021.

CARRIED AYES ALL

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.
No one from the public wished to speak.

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

CARRIED AYES ALL

08) Petitions and Communications.

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

- A. A letter dated December 3, 2021 from Laberge Group President, Richard Laberge, concerning Preparing for Success in 2022.
- B. An email received December 8, 2021 from the Office of the New State Comptroller Manager of the Date Management Unit, Mary Berghela, approving our request for the AUD extension.
Supervisor Frank stated the State approved our request of an extension for the AUD until the end of April.
- C. A letter dated December 13, 2021 from Supervisor Frank to the USDA concerning the 2022 budget for the Highland/Beardslee Avenue Sanitary Sewer District.
- D. A certificate of canvass of election of fire officers for the East Herkimer Fire District Commission dated December 14, 2021.
- E. A letter dated December 15, 2021 from Supervisor Frank to The Edwin J. Wadas Foundation Executive Director, Victoria Cataldo, thanking them for the support of the Basketball Court and our plans for 2022.
Supervisor Frank stated this wraps up our Wadas Foundation for the basketball courts construction and installation of the baskets. It shows the details of what we spent, as well as the canceled checks, invoices and ect.
- F. A report and resolution dated December 15, 2021 from the Herkimer County Legislature concerning the County Equalization Rates for the 2021 Assessment Rolls.
- G. A letter dated December 17, 2021 from Supervisor Frank to the USDA Rural Development Loan Specialist, Alan Gregory, concerning the Town of Herkimer contracting and authorizing PRIME AE Group of NY for engineering services and assistance with the funding application for the East Herkimer Sewer District.
- H. A notice of cancellation of the public hearing scheduled December 15, 2021 by the Town of Schuyler in regards to the SunEast application for a one-year extension of the Special Use Permit and Site Plan approvals. This will now be rescheduled for December 28, 2021 at 6:00 PM.

CARRIED AYES ALL

07) Routing.

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept and place on file the New York State Department of Environmental Conservation Report on various Dams with the canal.

CARRIED AYES ALL

08) Resolutions and Local Laws:

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept, place on file and approve Resolution No. 40 of 2021 for the Dog Control Local Law.
Councilwoman Penree and Supervisor Frank thanked Dan Stalteri and Attorney Bray for their hard work and research to get this done.

A roll call was taken:

	AYE	NO	ABSENT
Supervisor Frank	<u> X </u>	—	—
Councilman Stalteri	<u> X </u>	—	—
Councilman Kast	<u> X </u>	—	—
Councilman Carbone	—	—	<u> X </u>
Councilwoman Penree	<u> X </u>	—	—
Total:	<u> 4 </u>	—	<u> 1 </u>

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept, place on file and approve Resolution No. 41 of 2021 for the to Opt-Out of the Marijuana Law.

For discussion Attorney Bray stated there is an online tracker that is keeping track for who has or plans to opt-in or not. So far 1/3 of the municipalities in the stated have opted out. The Village of Herkimer is not going to opt-out. Mohawk, German Flatts and Ilion are opting out and the Village

and Town of Frankfort will allow it. As a sales tax revenue if we do not opt-in and the Village does than only the Village would get the whole 3%. If we do opt-in we would half of that. Supervisor Frank stated he feels we are operating from a point of strength and that this seems to be happening anyways so we might as well get the revenue. Councilman Penree asked what the regulations are for opting in? Supervisor Frank stated the regulations are the same as smoking Tabaco except you cannot spoke this in a car. Attorney Bray agreed and stated if we opt-in we can make a local law with restrictions that are reasonable.

Motion by Councilman Stalteri, seconded by Councilwoman Penree to withdraw his motion to approve Resolution No. 41 of 2021.

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Motion by Councilman Stalteri, seconded by Councilman Kast to table Resolution No. 41 of 2021.

CARRIED AYES ALL

09) Old Business.

CHIPS 2021: Supervisor Frank stated we received the money today. We received what we budgeted for.

East German Street Extension Emergency Road Repair Project: Supervisor Frank stated he has nothing new to report.

Water District: Ken Ward stated the pilot valve has been removed and just needs to be mailed out to be replaced. Chris Demy inspected the water tower the generator wouldn't start. He stated last year he was able to override it but this year it didn't work so it will have to get it serviced. We will set up to have it annually serviced from now on. For now, we have been refilling it manually.

Mckennan Road Enhancement Project: Supervisor Frank stated we need a contract with the Village for water. Attorney Bray stated he started drafting the contract. He stated he will need Ken Ward's assistance for some things. Supervisor Frank stated he has been in touch with resident for the easement and he said he needed to consult with his attorney. He hasn't heard back from him yet. Ken Ward stated we had an inspection with Chris Demy and he has set us up for sampling sites. We will have to sampling there once a month. Supervisor Frank stated we will need a contract with the Village for the monthly sample testing. He stated we shut off Vick's water off and nothing changed so we are still searching for the leak.

West Herkimer Water: Nothing new to report.

East Herkimer Sewer District: Attorney Bray stated he received a response from the comptroller and he asked about eleven points of question. He hasn't responded yet but is working on it. He stated as far as the easements that he hasn't heard from the other trustee with Mr. Layhe who was supposed to be contacting him. Deb Wright is on board; we just need to get her signature.

Codes:
NYMIR:

Land Bank: Supervisor Frank stated in petitions and communications there is a water quality report that they asked for. They need it for the funding source. There is a planning board meeting set up for the 29th at 6:00 PM.

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

Subdivision Local Law: Tabled.

SunEast Solar Project: Attorney Bray stated he followed up with the attorneys regarding the fee and other things we've asked for and they will be following up on them for us.

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 nothing new to report.

Valley Residential Water: Supervisor Frank stated we haven't heard anything from them.

Supervisor Frank will follow-up with them.

AOT Designation of Delegate: Tabled.

Assessment Review Board Member: Supervisor Frank stated we still need to find someone for this.

10) New Business.

Councilwoman Penree asked if Clerk DeMetro and herself could start working on the possibility of having a firework display.

11) Reports.

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file the Signed Engagement of Legal Services with Ferrar Fiorenza PC.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept and place on file the Annual Drinking Water Quality Report for 2020 Village of Herkimer.

Supervisor Frank stated Scott Blais doesn't have to turn in the 2021 report until May, 2022 so this is the most current one.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept and place on file the signed Geotechnical Consultant Services Change Order

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept and place on file the Town Justices' Report for November, 2021 from Justice Petucci.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file the Trial Balance Report date December 17, 2021.

CARRIED AYES ALL

Motion by Councilwoman Penree seconded by Councilman Stalteri to accept and place on file the Revenue and Expense Report dated December 17, 2021.

CARRIED AYES ALL

12) Purchase orders and Audit.

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

Motion by Councilman Stalteri, seconded by Councilwoman Penree to approve the audit dated December 20, 2021. Councilman Stalteri recused himself from the Hummel's bill.

CARRIED AYES ALL

Motion by Councilman Stalteri, 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 Special Meeting to be held on Monday, December 29th, 2021 at 6:00PM at the Town Hall located at 114 N. Prospect Street in Herkimer or virtually through Zoom.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk