

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, June 21, 2021, at 6:00PM, in the Herkimer Town Hall located at 114 N. Prospect Street, Herkimer, New York 13350.

02) Roll Call of Officers

Present: Supervisor-----Dominic Frank
Councilman-----Daniel Stalteri
Councilwoman-----Kathy Penree
Attorney-----Christopher Bray
Codes Enforcer-----Ken Collis

Excused: Councilman-----Randy Kast
Councilman-----Vito Carbone
Deputy Attorney-----Kyle Crandall
Highway Superintendent---David McManus

03)**Pledge of Allegiance to the Flag.**
Councilwoman Penree led us in the Pledge of Allegiance to the Flag.

04)**Reading of the Minutes.**
Motion by Councilwoman Penree, seconded by Councilman Stalteri, to accept and place on file the minutes of the Regular Meeting held on June 07, 2021 as written.

CARRIED AYES ALL
05)**Public Hearing: CDBG for West Herkimer Water District
Resolution No. 18 of 2021- to Open Public Hearing**

Motion by Councilman Stalteri, seconded by Councilwoman Penree to close the public hearing.
CARRIED AYES ALL

CDBG West Herkimer Water District. There were no comments at this time
Resolution No. 19 of 2021- to Close Public Meeting

Motion by Councilman Penree, seconded by Councilman Stalteri to close the public hearing.
CARRIED AYES ALL

06)**Public Meeting.**
Supervisor Frank stated if anyone from the public would like to address the board to please state your name, address and tell us why you are here.

Tyme Ferri, the founder and CPO of Pantheon Collective LLC spoke to the board to introduce himself and his business partner Thomas Kupiec, from 7 West Whitesboro Street, Suite A in Yorkville, NY.
Tyme stated that he was in attendance to introduce himself and his partner to the town Board and introduce his plan for a product development of Adult Use Cannabis. He stated that he needs the board's approval before starting and opening adult use Cannabis site in Herkimer. Tyme also stated that they were looking into the former Kmart building. Councilwoman Penree asked if there was any kind of deadline or time frame they are looking at. Tyme stated that they don't have a certain time frame but they would like to move forward. He also stated that they have experience in five different states, and they are hoping if they go through with Herkimer that they will bring 100 jobs to this area. Supervisor Frank stated that the Kmart building is out of the town's jurisdiction due to the location being in the Village of Herkimer. He also stated that they have no requirements for them because of the building being out of the town's Jurisdiction. He also stated that they would have to meet with the Village. Tyme stated that he wanted to get to know the Board members because the Pantheon Collective LLC is going to be community based and wants to get to know the people who are responsible for this area. He stated that they are waiting to move

forward. Supervisor Frank asked what kind of business it would be. Tyme stated that it would be a consumption and cultivation project, and that they will be teamed up with the NCIA. Supervisor Frank asked if they would be selling to different retailers. Tyme stated that there would be three retail dispensaries. Codes Enforcer Collis questions about the possibility of an odor from the production in the area. Tyme stated that there will be little to no odor in the area with their controlled environment. He also stated that the hours would be normal day hours but may vary. He is also hopeful that this would bring about scholarship possibilities to the schools in the area as well. Councilman Stalteri asked if they would be turning the building into a greenhouse. Tyme stated that it would be all indoor based for cultivation, and the production would be all contained as well. Code's enforcer Collis asked if the building is already taken by someone else. Tyme stated that they contacted the realtor and said that past inquiries have fallen through and the last time they check no one was in contract for the building. Supervisor Frank inquired if it would be for recreational use only. Tyme stated it would be for Recreational use only. Supervisor Frank stated that NYS sent out a thing stating that there would be a time frame from when it is legalized to when they start. Tyme stated that it was legalized in March and they are trying to delegate to get officials and get the application process started. He is hoping to state building after the application process and be able to move forward. He stated that it is still a scary concept to some people and they would have 24-hour surveillance with 24 hours of Onsite security personnel as well. Councilwoman Penree asked if they have presented to the Village yet. Tyme stated that they have not and are waiting for the next Village meeting. Supervisor Frank asked if they want the town to keep it to themselves until the meeting with the Village. Tyme stated that he wants to have open communication but they wanted to set up meet and greets first. Councilwoman Penree asked if they are using the same name in all of the different states. Across all five states the name is Patheon Collective LLC. Supervisor Frank asked why they chose Herkimer. Tyme stated that he is originally from upstate New York in the Boonville area. He stated that it's nice to be closer to home as well as the demographics play a factor. He stated that he also wants to bring jobs and revenue to the area. Supervisor Frank asked if there was anyone else who wished to address the board at this time to state their names, address and why they are there. No one else wished to address the board at this time.

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 Councilwoman Penree, to accept and place on file all the petitions and communications 7A-J listed below.

- A. A letter dated June 4, 2021 from EFPR Group, CPAs, PLLC Partner, Douglas Zimmerman, concerning the Coronavirus State and Local Fiscal Recovery Fund and the services they provide to comply with the federal requirements.
- B. A letter dated June 7, 2021 from Supervisor Frank to the Office of the NYS Comptroller Division of Local Government and School Accountability concerning the Town of Herkimer's Corrective Action Plan and Audit Response Letter for May 2021 Report. Supervisor Frank stated that he has responded to the COVID audit.
- C. A letter dated June 7, 2021 from the New York State Dept. of Taxation & Finance, real Property Analyst Brian Moon, regarding the final State Equalization rate. Supervisor Frank stated that he believes the rate is below 90. He also stated that he has had a conversation with the assessor.
- D. A letter dated June 10 2021 from resident Wanda Ingraham, from 117 Piper Road, regarding her concerns of a tree that has fallen and caused damage to her roofs. Supervisor Frank stated that he has had a conversation with Highway Superintendent McManus. Highway Superintendent McManus is aware of the situation and he is going to measure t make sure the tree is on private property as soon as possible.
- E. A letter dated June 14, 2021 from the Town of Herkimer, Supervisor Dominic Frank, to Senators Charles Schumer, and Kirsten Gillibrand, regarding the support of the request to construct a new, innovative nursing home in East Herkimer, to replace the outdated VHS facility.

- F. A letter dated June 15, 2021 from the Friends of Historic Herkimer County President, James Greiner and Treasurer, Katherine Nichols, thanking the Town for its contribution in support of the NYS Herkimer Jail Restoration & Tourism Development Project.
- G. A letter dated June 15, 2021 from Supervisor Frank to Mayor Netti and the members of the Village Board concerning the transitioning of the Village water customers living in Beardslee Ave, Highland Ave., and Steuben Hill Road neighborhoods and also the discrepancies in our current water bill from the Village. Supervisor Frank stated that they will go into executive session to discuss the negotiations with the Village.
- H. A letter dated June 21, 2021 from Town of Herkimer Supervisor Dominic Frank to the Commissioner regarding the support of Herkimer County's request for funding via the Empire State Development to assist the Eastern Mohawk Valley Regional Water transmission Main.
- I. A Certificate of Liability Insurance for Owens Property Maintenance effective 7/15/2020 through 7/15/2022.
- J. A notice regarding the 28th Annual New York State Releaf Conference to be held on Friday, July 23, 2021.

CARRIED AYES ALL

08)Resolutions and Local Laws.

A. Resolution No. 20 of 2021-West Herkimer Water District Project.

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and get the resolution relative to the West Herkimer Water District on the floor.

A representative from Barton and Loguidice, Emily Procopio, stated that before covid hit they were forming a transmission to connect the five communities. Now that things are opening back up, they were given the okay, and said that they received news that the grant funding will be distributed. She also stated that the bid will take place in April of 2022, and the water would be turned on in the water district in 2024. She stated that there would be funding available through the entire process and construction.

CARRIED AYES ALL

09)Old Business.

Chips: Supervisor Frank stated that the Highway Department has been behind the motel working on the roads, doing the slurry seal, and the sealing on the roads. He also stated that this week they will be starting on Mckennan Road. Highway Superintendent McManus has been doing a shared service agreement with other companies to get more information on placing the big rocks. East German Street Extension Emergency Road Repair Project: Supervisor Frank stated that there is no update on this project. Councilwoman Penree stated that she would reach out to Highway Superintendent McManus.

Water Districts:

Mckennan Road Enhancement Project: Supervisor Frank stated that the second soil boring is complete due to the suspicion of the Town having expansion rock up there. He stated that the results came back say we had shale up there.

West Herkimer Water: Supervisor Frank stated that he would have a conversation with Town Clerk DeMetro about the copy of the map.

East Herkimer Sewer District: Supervisor Frank stated that with the easements they should hear from the public entity soon. He also stated that the pump would be on their property, and Dan is working on it. Supervisor Frank stated that one issue he has had is that they need to get a permit from the DEC for access to cross Beaver Brook. He stated that since it is private property, he needs applications from the Town as well as an application from the land owners to move forward. Attorney Bray stated that he is still trying to get things moving forward. He also stated that the Landbank has picked up their check for the property on Main Rd. Supervisor Frank stated that they would go into executive session to discuss it further.

Codes: Codes Enforcer Collis stated that last week that Town Clerk DeMetro was looking through minutes and found out that the salvage yard is zoned as industrial and it seems that it was never changed. Supervisor Frank asked if that means they are doing sand and gravel. Codes Enforcer Collis stated that they can do whatever they want without needing a zoning variance. He also stated that would be discussing other topics at the meeting on Wednesday. He also stated that he is currently trying to get the correct permits to close down Rubino's. He stated that the

property out front has gotten worse than before, and he does not care, and won't clean it up. Codes Enforcer Collis stated that he will inspect the property next week, and will discuss what is needed to close it down with Attorney Bray. Supervisor Frank stated that he noticed there was a pit in the back with cars back there. Codes Enforcer Collis stated that there is junk all over, and he refused to do anything about it. Councilwoman Penree ask if the utilities are okay. Codes Enforcer Collis stated that the utilities have not gotten any better, water was black, and there are days when they have no electricity.

NYMIR Risk Control Resurvey Report-

***POLICES AND PROCEDURES:** Lease Agreement for Town office tenant, Certificates of Insurance for Contractors. ***FIRE SAFETY:** Fire Alarm for Highway Garage.

Supervisor Frank stated that they are working on the report. He also stated that Highway Superintendent McManus is installing electronics that were suggested. Supervisor Frank stated that they have or are in the process of taking care of the condensation on the sprinkler system. Supervisor Frank stated that we have 60 days to respond, which leaves us thirty days left. Attorney Bray stated that the local law on roads that he was talking about states that the Town and Highway cannot be sued if a notice is given prior. He stated that it requires written notice, and if it is not taken care of, they may be subject to liability issues. Councilman Stalteri asked if there is any way we could have the law reduce the chance of having liability issues.

Councilwoman Penree asked who the written notice would go to. Attorney Bray stated that it would go to the Highway Superintendent or the Town Clerk, but if it goes the Superintendent first, he will have to send it to the Town Clerk. Councilwoman Penree ask if there was any way the notice can go to both the town clerk and the superintendent so it does not get lost or forgotten about. Attorney Bray stated that the highway superintendent has 10 days to get it to the town clerk. Councilman Stalteri asked if it was an email or if it could be time stamped to make sure when know when the complaint is received. Supervisor Frank stated that three years ago NYMIR helped create a policy to record all complaints that are received. He also stated that the policy made it so whoever received the complaint had to record it, whether it was a board member, supervisor, clerk. He also stated that he has talked to Clerk DeMetro and Superintendent McManus. Councilman Stalteri asked if they could make a request of the Highway Superintendent or the Town Clerk to put on the agenda and put together a report of any complaints they have received before each meeting. Attorney Bray stated that as an elected official it should be done but it does not have to be. Councilman Stalteri asked if they can ask them or make a formal request because the board should get a report to know any complaints that have been received. Supervisor Frank stated that there are manuals and a video in the other room they could look through. Councilman Stalteri stated that he is sure there must be something that makes it a legal obligation to the town board for liability concerns so that all departments have documentation of complaints. He also stated that there was that car accident that did not happen in the town but the road was bad and they tried to sue the town anyway. Supervisor Frank asked Attorney Bray to draft a law, and to find out what the responsibility is of reporting. Attorney Bray stated that Town Boards are permitted to cast other responsibilities as long as it does not interfere with their duties. He also stated that the Superintendent would oversee it but he will double check it. Councilman Stalteri asked how can the town board have more authority, since this is a time period of change it is our duty to wherever we can be held to the highest standard of whoever wins or loses.

Landbank:

Dog Control Local Law: Tabled

Subdivision Local Law: Tabled

SunEast Solar Project: Tabled

09) New Business.

Councilman Stalteri stated that he and updates about the Town Park. He stated that Bill Ray's been going up to clean and he's been doing a great job. Councilman Stalteri stated that both the basketball and tennis courts are paved, the polls are in, and they are waiting for the surfacing to be done. He also stated that the start day is July 12th due to the weather, but they promise to start and finish the resurfacing. He also stated that they set up a plan with the college to have the people playing tennis come down and put the nets up. He stated that hopefully by mid- July they will both be done and they can do a ribbon cutting. Councilman Stalteri stated that he wants to make sure we have the Summer recreational program is at the park this year, and that he would contact Jodi. Councilwoman Penree ask if there is any time

they have to wait before they are used. Councilman Stalteri stated that when it is dry it is good to go.

Attorney Bray stated that he is working on the BAN requests, but he needed more description. He also stated that by the next meeting he will hopefully have a Bond resolution.

10) Reports.

Motion by Councilwoman Penree, seconded by Councilman Stalteri, to accept and place on file the American Recovery Act of Assurances of Compliance with Civil Rights Requirements.

CARRIED AYES ALL

Supervisor Frank stated that in order for the Town of Herkimer to apply for funding website, he needed more information and upload for both. Supervisor Frank stated that New York State applied for an extension for when they can send out money to less than 50,000 people. He stated that the state wants to earn their interest.

Motion by Councilman Stalteri, seconded by Councilwoman Penree, to accept and place on file the American Recovery Act of the US Department of the Treasury Coronavirus State and Local Fiscal recovery funds.

CARRIED AYES ALL

Supervisor Frank stated that this is to understand all of the hoops they need to go through to spend their money.

Motion by Councilman Stalteri, seconded by Councilwoman Penree, to accept and place on file the Bank Reconciliation report for May, 2021.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept and place on file the Cash reports for May 2021.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri, to accept and place on file the Water & Sewer Meeting Minutes Dated June 15, 2021.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree, to accept and place on file the Town of Herkimer 2021 Final State and/or Class Equalization dated June 7, 2021.

CARRIED AYES ALL

Supervisor Frank stated that he spoke with Daniel Maxwell the town assessor, who informed him that the Galinski program has been fired. Dan also stated that there is no exemption form in the Town of Herkimer. Town Assessor Maxwell stated that their attorney called him and said that they need a pilot of exemption form. Attorney Bray said it was dismissed. Supervisor Frank stated that they are waiting for Article 78.

Motion by Councilwoman Penree, seconded by Councilman Stalteri, to accept and place on file the Town Justice reports from town Justices Michael Petucci and Karl Manne for May, 2021.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri, to accept and place on file the DCO report for May, 2021 from DCO Erica Dunton.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri, to accept and place on file the NYMIR Annual Liability Insurance Renewal.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept and place on file the Trial Balance report dated June 21, 2021.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Stalteri to accept and place on file the Revenue and Expense report dated June 21, 2021.

CARRIED AYES ALL

11) Purchase orders approvals and Audit.
There were no purchase orders for tonight.

Motion by Councilman Stalteri, seconded by Councilwoman Penree to accept and place on file the audit dated June 21, 2021.

CARRIED AYES ALL

Councilman Stalteri recused himself from the Hummels bill.

Motion by Councilwoman Penree, seconded by Councilman Stalteri to go into executive session.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman Penree to close executive session.

CARRIED AYES ALL

12) Adjourn.

Motion by Councilman Stalteri, seconded by Councilwoman Penree, that the Regular Meeting of the Herkimer Town Board be adjourned until the next Regular Meeting to be held Monday, July 6, 2021 at 6:00PM at the Town Hall.

CARRIED AYES ALL

Danielle M. Beach, Deputy Town Clerk