

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, May 17, 2021 at 6:00PM telephonically and virtually.

**02) Roll Call of Officers**

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

Excused: Councilman-----Daniel Stateri  
Highway Supt.-----David McManus  
Deputy Attorney-----Kyle Crandall

03) **Pledge of Allegiance to the Flag.**  
Supervisor Frank 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 May 17, 2021 as written.

CARRIED AYES ALL

05) **Reading of the Minutes.**  
Motion by Councilwoman Penree, seconded by Councilman Carbone, to accept and place on file the minutes of the Special Meeting held on May 06, 2021 as written.

CARRIED AYES ALL

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

County Legislature Gaworecki, who lives at 107 East Street, stated that he is wondering if there is a long-term plan for the treatment of the streets. He also stated that the current plan is not the best option for a long-term treatment. Supervisor Frank stated that the Board approved some highway at the Special Meeting on May 06, 2021. He also stated that he knows we are redoing the western part of Mckennan Rd. In East Herkimer some roads are just going to be crack sealed, and some will be both crack and slurry sealed. Supervisor Frank stated that in a discussion with Highway Superintendent McManus for a long-term solution to the roads in question, although we have not received it, our plan is to select roads that would need long term repair and tie that into future CHIP Funding. He stated that January 1<sup>st</sup>, in 2022 our plan is to work with the new Highway Superintendent to come up with a long-term solution for all roads. He also stated the roads need sealed cracks to prevent any further damage County Legislature Gaworecki stated that Main Road Hill is seeping water. He believes that the seeping water will cause the structure to get weaker. Supervisor Frank stated that he would discuss it at the water meeting.

Michael Lennon who lives on Arthur Street stated that the purchase of his building came in a lot lower than he expected. He also stated that he has not heard anything in six weeks. Supervisor Frank stated that he knows that Attorney Bray has been in contact with his Attorney relative to the purchase of the building located on Arthur Street. He also stated that it is still their intent to purchase the building and that a one of board members wanted to walk through the building. Landowner Michael Lennon stated that the property value is listed at \$129,000 and the Town is offering only \$80,000. Supervisor Frank Stated that based on the information they are bound with what they can do and can't comment on this matter during a public meeting. Councilman Kast stated that the town is still interested but it just takes time.

County Legislature Schrader, who lives on Dickie Ave in Herkimer stated that the 3107 State Route request regarding. the gravel pit inquiry. Supervisor Frank stated that he knows the owner would like to establish the sand and gravel pit. He also stated that there are two letters in petitions and communications indicating that there is an intent to establish the pit. Based on NYS law only the DEC can initiate the review relative to mining. He also stated that there has been a mine there in the past. County Legislature Schrader stated that he was told it was shut down because there was not enough product to mine in that area. He asked if the DEC is going to do some core samples to see if there is enough there. He also is wondering how far they are going to dig down and if they are just getting a permit. Codes Enforcer Collis stated that he can assure then that the DEC will do a very thorough search before they issue a permit. He also stated that they will talk with the neighbors as they did with the Talerico's gravel pit. Codes Enforcer Collis stated that he has contacted Doolen, and his plan is to run both businesses there, and possibly do away with the Salvage Yard if the sand and gravel pit does well. Councilwoman Penree stated that the application does not ask what supply there is just the acreage. Code's enforcer Collis stated that zoning is not conducive to mining. He also stated that when the house was built, he requested that the zoning be changed. County Legislature Schrader asked how can he do both and shut one down if the other is going well. County Legislature Schrader stated that the salvage yard has been nothing but problems including the smell form them burning wire and the plastic, and the banging around at 7 in the morning. Codes Enforcer Collis stated that the DEC can recommend if it's a good place to go, and with the zoning we can put a stop to it. He also stated that he can't find where they changed the zoning.

CARRIED AYES ALL

**07) Petitions and Communications.**

Motion by Councilwoman Penree, seconded by Councilman Carbone, to accept and place on file all the petitions and communications 7B through G listed below.

- A. A letter dated April 23, 2021 from the Edwin J. Wadas Foundation, Inc., Executive Director, Victoria L. Cataldo, regarding the approval of the Town of Herkimer's grant request for enhancing the youth sports program.

Motion by Councilman Kast, seconded by Councilwoman Penree to remove item A from Petitions and Communications from public content of the meeting.

CARRIED AYES ALL

- B. A letter received from Business & Professional Association of Herkimer, Inc., Treasures, Jennifer Parmon, regarding the preparation for the Herkimer's 2021 Annual Street Festival, Herkimer Diamond Days.
- C. An email sent on May 3, 2021 from the System for Award Management Administrator to confirm the Town of Herkimer's activated registration in the U.S. federal government's System for Award Management (SAM).
- D. A letter dated May 12, 2021 from the New York State Department of Environmental Conservation, Environmental Analyst, Todd J. Phillips, regarding the lead agency request by DEC for the Doolen Sand and Gravel project.
- E. A document regarding, part one of an SEQR for the Doolen Sand and Gravel Project. Supervisor Frank stated that items D and E were related to the discussion they had with County Legislature Schrader.
- F. A letter dated May 14, 2021 from Charter Communications, Director of Government Affairs Alice J. Kim, regarding Spectrum TV choice package changes.
- G. A document regarding a Blue Cross Blue Shield Settlement.

CARRIED AYES ALL

**07) Routing.**

**08) Resolutions and Local Laws:**

Resolution Amending 2021 Budget.

Motion by Councilman Kast, seconded by Councilwoman Penree to accept and place on file the Resolution Amending 2021 Budget.

## CARRIED AYES ALL

Supervisor Frank stated that we have a resolution to amend our budget to accept and bring in the money from the Wadas Foundation relative to amend the Summer Youth item to spend the money.

**09) Old Business.**

CHIPS 2021: Supervisor Frank stated that as previously discussed with County Legislature Gaworecki, on May 06, 2021, we discussed redoing Mckennan Road from the Water Tower west to the town line. He also stated that in east Herkimer the plan is to crack seal some roads, and other roads will get some slurry seal as well as crack seal.

East German Street Extension Emergency Road repair Project: Supervisor Frank stated that he has not had a conversation with Highway Superintendent McManus, but he has been searching for firms that has the equipment large enough to reposition the rocks to stabilize the bank. He also stated that Highway Superintendent McManus has received quotes to resurface the road, but wants to take care of the rocks first. He also stated That once the rocks are done, they will take care of the road.

Water District: Tabled

Mckennan Road Enhancement Project: Supervisor Frank asked Attorney Bray if anything has been finalized relative to the Mckennan Road Enhancement Project. Attorney Bray stated that he has had a conversation with the County Attorney. He also stated that he needs to provide an updated draft of the easement to the county so they can approve the easement, then they can go forward and present it to the landowners and have the landowner sign off. Relative to the bond counsel Attorney Bray stated that he was able to adjust the meeting time to accommodate Chris Lawton. He also stated that according to Chris Lawton and consultant engineers, they want to push these bond counsels forward for West Herkimer Water, He also stated that Schuyler is in a holding pattern but the Town of Herkimer should move ahead. Attorney Bray stated that the bond counsel is going to work directly with Chris Lawton's Office to come up with a resolution. He believes it is only going to be one resolution for a two-piece project. One is the transmission line in which all towns are going to sharing the cost, and the other is the distribution system that includes the 68 residents. Attorney Bray stated that the question came up if they were going to do two separate resolutions, but since the distribution center is a minimal cost, they are going to lump them together for one entire project. He also stated the cost on the higher end, with all funding, they will bond for less. The bond counsel targeted the meeting on June 7<sup>th</sup> to present the bond resolution.

West Herkimer Water:

East Herkimer Sewer District: Attorney bray stated that the bond counsel is held up with the State comptroller. He stated that there is a jam with the State Comptroller. They still need additional items from us. Attorney Bray stated that he needs to meet with the Bond Counsel and was hoping to meet at the town Office to get the copies he needs. Supervisor Frank stated he could also send him a list and he can look for them for him as well. Attorney bray stated that he does not think he has a complete SEQR folder. He stated that the engineers did a lot of stuff and he does not think he has copies of everything. Supervisor Frank stated that he did the farm land SEQR first. He also stated that they found an alternative route for the pipes which ended up being a little cheaper, and then did another SEQR because the pipes were going a different direction, which may be our official SEQR. Attorney Bray stated that bond counsel recommends him calling all the time to push it through. Supervisor Frank stated that they are currently working on the soil boring which will help cement the actual plan. Once it is complete, they will have the bid packets together. He also stated the only other item underway is obtaining the easements form the two areas. Supervisor frank asked the consultant engineers if they could write him up something that he can speak the landowners about. Attorney Bray stated that once we have approval form the Comptroller, they will be ready to go. Attorney Bray stated that the purchase of 156 Main Rd, and the documents are drafted. He also stated that he had a conversation of Attorney Rose to get his approval, once they are approved, he will answer Tolga's email and set the closing date.

Codes: Code Enforcer Collis stated that he tried to call Todd Phillips on the gravel pit, but he is working out of the office and hasn't had a return phone call. He also stated that he would try to call again to get more information. Code Enforcer Collis also stated that he talked to Rubino's. He informed them that they have two weeks to clean up the property, before he starts to give out fines by the end of the month.

NYMIR:

Landbank: Supervisor Frank stated that relative to zombie grant, he is working with the funding source and our account will get an electronic deposit and then we can work with the grant people to identify the cost and reimburse them. He also stated that we were going to look at the zombie grant relative to the shared service agreements. Attorney Bray stated he will follow up on the shared agreement. Supervisor Frank asked Codes Enforcer Collis if Frankfort has looked into the Zombie Pilot Program. Codes Enforcer Collis stated that they have a meeting, but has not heard anything from them. He also stated that Alyssa talked to Carly about it last week and said they were interested.

Dog Control Local Law: Tabled

SunEast Solar Project: Tabled

Subdivision Local Law: Tabled

**10) New Business.**

Supervisor Frank stated that the State of NY is going through another consolidated fiscal application process, which means more grant funding. He also stated that it is tied to salt running into the streams, which means that sand and salt location today may be running into Beaver Brook, which would run into Mohawk River. He asked the consultant groups to map out where Beaver Brook runs into the salt and sand are. He also stated that if such money available, and criteria surrounds environmental issues, we may be eligible for the funding, and we will apply for it.

Supervisor Frank stated that he does not know if the Village is opening the pool. He stated that we thought we should have a contract with them to support the pool. Attorney Bray stated that he left Nick a message, and will send a remind. He stated that he's sure that he got the message and he will follow up to see if they plan to open the pool, and see his thoughts on a contract to support said pool.

Supervisor Frank stated that he was sent from the community foundation to determine the need for broadband in Herkimer Oneida County areas. He stated that they have an area that a mile and a half of Route 28, where spectrum stopped and started on other side of the Former County Home. Those people have no broadband, and years ago resident came to the meeting, and met with Mark Butler. He also stated that they brought in the contract they had with Time Warner, and got out of their area. He also stated that residents have continued to pursue this issue. Resident Vincenzo Russo has championed the cause, and obtained a quote from Spectrum to see how much they would contribute to find out how much the residents would have to contribute. He also stated that when he received the note he forwarded it to Russo, and would hard mail to send it to the folks on Route 28 to make a phone call to participate in the survey. Supervisor Frank asked Deputy Clerk Beach about getting information from Assessor Maxwell to know if the letters have gone out. Deputy Clerk Beach stated that Assessor Maxwell and I were able to get the correct information for some of the addresses in question, and the letters were mailed on Friday May 14, 2021. Supervisor Frank has reached out asking if they would partake in the survey, in order to get more input, the better the data would be.

**11) Reports**

Motion by Councilwoman Penree, seconded by Councilman Kast to accept and place on file the Bank Reconciliation Report dated March 2021.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Cash Report dated March 2021.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Carbone to accept and place on file the Town Justice report from Town Justice Karl Manne dated April 2021.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Town Justice Report from Town Justice Michael Petucci dated April 2021.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Trial Balance Report dated May 17, 2021.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman Penree to accept and place on file the Revenue and Expense report dated May 17, 2021.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman Penree to accept and place on file the Certificate of Workers' Compensation Insurance for Central Paving dated May 5, 2021.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman Penree to accept and place on file the Insurance Coverages for Central Paving for the Basketball/Tennis. Court Renovations dated May 5, 2021.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Certificate of Liability Insurance from Herkimer Central School District dated May 5, 2021.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman Penree to accept and place on file the Soil Boring for the East Herkimer Sewer District by Aztech dated May 10, 2021.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman Penree to accept and place on file the Executed Contract for the East Herkimer Sewer District Soil Boring dated May 7, 2021.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Executed contract for the Town Park Basketball Court excavating and installing pavement.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman Penree to accept and place on file the executed contract for the Town Park Basketball Court Resurfacing.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the executed contract for the Town Park Tennis Courts Excavating and Installing pavement.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the executed contract for the Town Park Tennis Courts Resurfacing.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Application Form for DEC Permits relative to the East Herkimer Sewer District.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the Copier Internal hard disk drive cleaning dated May 12, 2021.

CARRIED AYES ALL

Motion by Councilwoman Penree, seconded by Councilman Carbone to accept and place on file the NYS Comptroller COVID Impact Audit Report.

Supervisor Frank Stated that during 2021 they paid the revenue and expenses, and he has 90 days to respond to the State. He also stated that they received compliments that we did a good job keeping track and the projects in 2021 we were very conservative with, especially with the raised taxes and decreases in expenses.

CARRIED AYES ALL

Councilman Carbone asked Supervisor Frank if they were able to deduct the money off the total as the DPW will grade and reseed after the completion of the project. Supervisor frank stated that Highway Superintendent McManus can do the work and save the \$4,500.

**12) Purchase orders and Audit.**

Purchase Orders.

- 1. Removing and Re-installing the Guard Rail on Piper Road and Osborne Hill Road. Audit dated May 17, 2021. Purchase order is pending.

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the audit dated May 17, 2021.

CARRIED AYES ALL

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

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman Penree to go into executive session. Discussion : No decisions were made in executive discussion. All in favor

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman Penree to close executive session and resume the public meeting of the town of Herkimer. All in favor.

CARRIED AYES ALL

**13) Adjourn.**

Motion by Councilman Carbone, seconded by Councilwoman Penree to adjourn to June 7, 2021. No discussion. All were in favor.

CARRIED AYES ALL

*Danielle Beach, Herkimer Town Deputy Clerk*