

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, May 3, 2021, at 6:00PM telephonically and virtually.

**02) Roll Call of Officers**

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

Excused: Councilman-----Daniel Stalteri  
Councilman-----Randy Kast  
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 April 19, 2021 as written.

CARRIED AYES ALL

**05) 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.  
No one from the public wished to speak.

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

CARRIED AYES ALL

**06) Petitions and Communications.**

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

- A. An email sent on April 20, 2021, from Community Development Manager, Jim Thatcher, relative to submitting additional information per the NYS-DHSES request, and in respect to the Town funding request for the Project Scoping sub application.  
Supervisor Frank stated that Homeland Security asked us some questions relative to the grant to fund an engineering study on Piper Road and Folts Rd.
- B. An email dated April 28, 2021, regarding a Notice for the Contract Award for the East Herkimer Sewer District.  
Supervisor Frank stated that this is a notice for when we do get around to awarding contracts in East Herkimer through the grant.
- C. An email from the New York State Comptroller, regarding the recognition of the Town of Herkimer's submission for the Annual Update Document for the year 2020.  
Supervisor Frank stated that we have filed our Annual Update Financial Report.
- D. An email dated April 30, 2021 from Charter Communications director, Alice Kim, regarding the channel rebranding for Spectrum as of June 1<sup>st</sup>.
- E. An email dated May 1, 2021 from The System for Award Management (SAM) Administrator, regarding the submitted entity registration for the Town of Herkimer in the U.S. Government's System for Award Management.
- F. A letter dated May 2, 2021 from Charter Communications Director, Alice Kim regarding monthly pricing changes for Spectrum effective on June 2, 2021.

CARRIED AYES ALL

**07) Routing.**

RFI- Town of Herkimer, West Canada Creek Landslide Prevention Scoping Project.

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the RFI for the town of Herkimer, West Canada Creek Landslide Prevention Scoping Project.

CARRIED AYES ALL

Supervisor Frank stated that this report is relative to item A in petitions and communications. He also stated that it is full of photos relative to this are and are enlightening as to why we need to come up with a mitigation plan.

Annual Financial Report Update Document.

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Annual Financial report Update Document.

CARRIED AYES ALL

Supervisor Frank stated that last year was difficult for us and we did not do as much as we usually do. The result was that we had a good financial year including all the things we had to cut down on. He also stated the cuts they took helped with the budget.

**08) Resolutions and Local Laws:** None

**09) Old Business.**

CHIPS 2021: Supervisor Frank stated that he would be reluctant to go forward to recommending any of the CHIPS projects. He also stated that he has talked to Highway Superintendent McManus. He stated that it is relative to the East German Extension Emergency Road Project, and that Highway Superintendent McManus has received quotes relative to the cracks and quotes for the restacking of the Riprap on the bank or the West Canada that support the road.

Water District:  
Mckennan Road Enhancement Project: Supervisor Frank stated that the Preliminary costs are coming in higher than our original projections were because of material costs. He also stated that there is difficulty in getting some of the materials and when it is available the prices are higher. The Consultant Engineer is asking the Board to look at the two existing pumps now and after the project is completed. Supervisor Frank stated that the two pumps, after the project is completed would not be needed. The engineer consultant is asking if to save money in anticipation the material cost increase, if we would leave the two pumps upright, even though they are not operational. The specifications call for them to be demolished and taken away. Supervisor Frank spoke with Highway Superintendent McManus, and he is thinking that the pump on Steuben Road is on private property and it is something that the residents put in to get water. He thinks it should be their responsibility to deal with the pump once it is no longer operational. The other pump is the responsibility of the Town. Supervisor Frank stated that through his conversation with Highway Superintendent McManus the other pump is the responsibility of the town and that it can be taken out and repurposed by the Water Department and that the Cinderblock block house can be taken down by the Highway Department. Supervisor Frank stated that he would welcome comments in terms of whether they should continue to include them into the cost of the project.

West Herkimer Water: Supervisor Frank stated that they should receive the mylar survey by the end of the month.

East Herkimer Sewer District: Supervisor Frank stated that they have received quotes from the consultant engineers for the soil boring. He also stated that they have received two bids for the project. Supervisor Frank stated that the Consultant Engineer is asking that they award the contract. The lower bid is from Aztech Environmental which is \$10,954.64. Supervisor Frank stated that the SJB Services bid \$15,620. He also stated that Atlantic Testing decided not to bid. The Consultant engineer has reviewed the lower bid and assures us it includes everything that is required, including insurance level is met and it is the same company who did the Soil Boring on Mckennan Rd. The Consultant Engineer wants the board to award the contract to Aztech Environmental, which is also Supervisor Franks recommendation as well.

Motion by Councilman Carbone, seconded by Councilwoman Penree to award the East Herkimer Soil Boring to Aztech Environmental.

CARRIED AYES ALL

Supervisor Frank stated that he would inform the Consultant Engineers that they will award the contract to Aztech Environmental.

Codes: Code Enforcer Collis asked the board on the study for Piper Road. He asked if they maybe want people to take down their houses for the study. Supervisor Frank stated that there will be a study and the engineers will give the Town three strategies as to how to mitigate the situation. Supervisor does not know for sure but one of those strategies could be people taking down their houses. Codes Enforcer Collis stated that the lady in the first mobile home was deeded the second mobile home and they were thinking of putting house on the land there, but the wife is adamant about putting a house there. Supervisor Frank stated that they will find out if the study is funded, and then they will hire someone to do the study, and hopefully get the strategies by the end of the year. Supervisor Frank stated that we might not have money for a couple years between getting the funding and then fixing the problem.

NYMIR: Supervisor Frank stated that they had a new risk assessment at the office and garage in the previous week. He also stated he is waiting for the exit interview with the inspector. He stated that he is unaware or anything that he may have saw at the garage, but he does know that the Inspector spoke to Deputy Clerk Beach about a couple of things. Supervisor Frank stated that he is going to wait for the interview and report to address them.

Landbank: Supervisor Frank stated that he is working with them to work on another payment for the Zombie II Grant. Grant source has put money in our account based on the dynamics we live with today. Supervisor Frank stated that he is unsure if there is enough money in the account to pay the Zombie people everything that they need to get paid. He also stated that last month they had bills of \$35,000 but only had \$24,000 in the bank so we paid them what we could, but we have a balance of what we owe them and in addition to everything that has occurred between January to end of March. Supervisor Frank stated that we have all the documentation substantiating their claims, now we just need to have the money to pay them, which will only be the Grant Money. Supervisor Frank asked Attorney Bray if they are any closer to closing on our Property, we need for the sewer district. Attorney Bray stated that we are, and he has emailed Tolga. He stated that he only needs the resolution that authorizes the sale. He stated that he believes that is the last item he needs to clean the title for the Town and take possession of the property. He also stated that he should have more information in a couple of days.

Dog Control Local Law: Tabled

SunEast Solar Project: Tabled

Subdivision Local Law: Tabled

#### 10) New Business.

Supervisor Frank stated that later they will see the purchase orders relative to the Town Park Basketball and Tennis Courts renovations. He also stated that the basketball court are mostly funded through the grant they received through the WADAS Foundation. The town has received the money as of May 3, 2021. Supervisor Frank stated that it is great working with these people because they pay first, and they substantiate that we spend the money where we said we would. Supervisor Frank stated that we were rewarded \$45,000 and the bidding came in for \$64,000. He also stated that the tennis court is strictly on our money which is \$91,000. He is proposing that we band for the entire court work as well as the overage for basketball side which is \$111,000. He stated that we have \$200,000 in our budget in band proceeds, and we are trying to buy Arthur Street as well. He believes that we would have enough to purchase Arthur Street.

Zombie II Grant Codes Pilot Program:

Supervisor Frank and Codes Enforcer Collis attended a meeting with Zombie Quarterback and codes enforcer assigned to our area. He also stated that they spoke about how they will take a load off of Code Enforcer Collis as it related to Zombie work identifying Zombie Properties, as well as gathering information to get us to a point where we would have to decide on how to proceed. They are asking to sign on with the Pilot Project which includes us to mitigate Zombie Properties before they become Zombie properties. He also stated

that before they roll out to the entire county, they want us to iron out any kinks with us first. Supervisor Frank stated that the grant has been extended towards the end of November, in start the process the identification process and start the interworking between our Codes enforcer and their codes enforcer to see how it works and adjust based on their thinking, so by November we can easily roll out this program to the rest of the county. Codes Enforcer Collis stated that they are going to put this information on a mobile device that we would have to buy through the grant and that he would have to mark off on the device at these properties and submit it to their system where it will print a letter that goes out to them and in 14 days another letter will be sent. In 30 days, it gets more stricter, and Codes Enforcer Collis is unsure if they will take him to court and make them turn the property over to them. He also stated that he could use the machine for our own purposes as well. Codes Enforcer Collis believes we should get into it. Supervisor Frank stated that they would need to get a shared services agreement with the Landbank. He also stated that by Home rule the Town of Herkimer has the sole responsibility of these inspections and to share they need the agreement, so it can be legally okay through the landbank to work with Codes Enforcer Collis to work together. Attorney Bray stated that he thinks they should look with NYVMIR for a shared agreement. He also stated that they could put one together and have the Landbank look it over. Attorney Bray stated that he can put something together and send it to Supervisor Frank. Supervisor Frank stated that this process is to get the situation to the point where the Town decides what to happen.

Motion by Councilman Carbone, seconded by Councilwoman Penree to enter a Shared Agreement with the Great Mohawk Valley Landbank to enter the Pilot Program and give the supervisor authorization to enter into the agreement.

CARRIED AYES ALL

Councilman Carbone asked the supervisor if the shortage of chlorination will affect the Town. Supervisor Frank stated that he does not know the answer. He also stated that he would reach out to Scott Blaise tomorrow.

Codes Enforcer Collis stated that in East Herkimer we have a Wildlife Rehabilitator. He stated that in the residential area a neighbor complained. He also stated that the wildlife rehabilitator has five sheds that she did not get a permit for them. Codes Enforcer Collis stated that he would talk to her, but she must get rid of the sheds and get a permit for one. Legally they need space, and she does not have that to have that many sheds. He stated that the lady is licensed through the DEC.

Supervisor Frank asked Attorney Bray to put together a contract together with the Village regarding the pool being opened and supply the Village with money so they could use it any way they so choose whether it be hire lifeguards or spend it on the chlorine. Attorney Bray stated that he the resolution refers to the contract, but he has not found the contract. He also stated that he would reach out to Nick to create contract relative to a lump sum of money to use at pool at there discretion.

#### 11) Reports

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Warren Ramie Surveying for the Proposed New West Herkimer Water District dated April 13, 2021.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Herkimer County Sales Tax Report dated April 15, 2021.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Town of Herkimer Sales Tax Report dated April 23, 2021.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Trial Balance Report dated April 30, 2021.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Revenue and Expense report dated April 30, 2021.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Town Clerks Monthly Report dated April 30, 2021.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Dog Control Report from DCO Erica Dunton for April 2021.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Bond Counsel Execution Report dated February 8, 2021.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Zombie II Grant Extension Report Granted April 27, 2021.

CARRIED AYES ALL

**11) Purchase orders and Audit.  
Purchase Orders.**

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file a purchase order for Excavating and Installing of Pavement for the Town Park Tennis Courts.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file a purchase order for the Resurfacing of the Town Park Tennis Courts.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file a purchase order for Excavating and Installing of Pavement for the Town Park Basketball Court.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file a purchase order for the Resurfacing of the Town Park Basketball Court.

CARRIED AYES ALL

Supervisor Frank stated that the entire project for both courts would be \$155,909 of which a grant for \$44,676. He also stated to do everything we would have to borrow \$111,233 for the rest of the project. Towards that amount we have a grant of \$46,000 for the basketball court. Councilwoman Penree stated that she did not remember that it was going to be that much more over the amount of the grant. Supervisor Frank stated that the Basketball court \$64,000 with the grant of \$45,000 so

the basketball court was \$19,000 more than what they anticipated. He also stated that the \$19,000 added to the Tennis Courts which was \$91,000 that brings them to the \$111,000. Supervisor Frank stated that they put the \$200,000 in the budget to borrow we did think that some went to the park and the property on Arthur Street. Supervisor Frank thinks that after everything we will have \$8,000 left for Arthur Street. Supervisor Frank stated that they do not know any other expenses or know the plan yet.

Councilman Carbone stated that a while ago they fixed the tennis courts and the kids ruined. He stated his concerns that it might happen again, and he does not want to spend the money and see the same thing happen to it. Supervisor Frank stated that they could lock the gate and they would need to get a key to use it. Councilwoman Penree asked if they did not vote on it tonight if it would hold up the work. Supervisor Frank stated there would be a scale to do them both at the same time, and it would be the same contractor. He also stated that there is nothing Superintendent can do for the tennis court, but he could help save \$5,500 if Highway Superintendent McManus could do. Councilman Carbone asked if they could make the motion but can deduct the \$5,500 if Dave can do it. Supervisor Frank stated that there are deducts available is Highway Superintendent McManus can perform some of the scope of work.

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept the purchase orders with a request that DPW be asked to review the scope of work and if they can perform some of the work the purchase orders can be less, or we can pay the maximum price of the purchase orders.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to accept and place on file the Audit dated April 30, 2021.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilwoman Penree to close the public meeting and go into executive session.

CARRIED AYES ALL

**12) Adjourn.**

Motion by Councilman Carbone, seconded by Councilwoman Penree to adjourn to May 17, 2021. No discussion. All were in favor.

CARRIED AYES ALL

*Danielle Beach, Herkimer Town Deputy Clerk*