

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, August 7, 2023, at 6:00PM at the Town Hall located at 114 N. Prospect Street, Herkimer, New York 13350.

**02) Roll Call of Officers**

Present: Supervisor-----Dominic Frank  
 Councilman-----Daniel Stateri  
 Councilman-----Randy Kast  
 Councilman-----Vito Carbone  
 Councilwoman-----Kathleen DeCarlo  
 Highway Supt.-----Ken Ward  
 Attorney-----Christopher Bray  
 Codes Enforcer-----Ken Collis

Excused: Deputy Attorney-----Kyle Crandall  
 Town Park Supervisor-----Kathi Nasypany

**03) Pledge of Allegiance to the Flag.**

Councilwoman DeCarlo led us in the Pledge of Allegiance to the Flag.

**04) Reading of the Minutes.**

Motion by Councilman Carbone, seconded by Councilwoman DeCarlo, to accept and place on file the minutes of the previous meeting held on July 17, 2023 as written.

CARRIED AYES ALL

**05) Public Meeting.**

Supervisor Frank stated if anyone would like to address the board to please state you name, address, and tell us why you are here.

Bill Penree of East German Street Extension stating he is wondering the progress of the road. Supervisor Frank stated that as of July, the town has taken a position of getting funding to purchase the property and return the area to a rural setting. Supervisor Frank also stated that the road is not going to be repaired and it will end where the road currently is, and will be out for surveys, and to get appraisals.

Supervisor Frank stated the town will start talking to residents of this plan. He stated the town has received your letter wanting to be bought out. Our intent is to buy out but they are trying to figure out how to do it. Councilman Kast stated that they are not forcing anyone to sell their houses. Bill Penree mentioned that he can't access his house, and can't spend another winter there. Property renders no use to him. Bill Penree mentioned his concerns of having COPD and it being hard to walk. He stated he will not be able to spend another winter there. Supervisor Frank asked Attorney Bray to arrange for the appraisals by Don McHarris.

Bill Penree also mentioned a fence issue with his neighbor. The fence is falling down and needs to be moved back three feet because it's on town property. Codes Enforcer Collis stated that the neighbor will get an appearance ticket and it will be done this week. Highway Superintendent Ward will reach out again. He stated he has reached out to three different places for quotes but has not received anything.

Judy Boniface of the Oak Hill Cemetery Committee stated she is here to discuss why the request she submitted for an elderly woman was tabled? She stated there were thirty-plots purchased by the Town of Herkimer for \$800. Since 2004 eight people have been buried there. She stated this woman is 90 years old, has been a lifelong resident of the Town of Herkimer besides when she was away in the army for 2 years and wants to be buried in the veteran's section of the cemetery but she is not indigent. If she was indigent the County would pay for a veteran to be buried. She stated she thinks the board should reconsider the requirements for veterans who want to be buried there. Supervisor Frank stated the Supervisor Frank stated it is up to the board to decide if they would like to change the requirements and we will discuss this further under old business. Councilman Stateri

asked resident Bill Penree for advice since he has a veteran as well. Mr. Penree stated how long are you going to wait to use them? He thinks we should let them be used.

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

CARRIED AYES ALL

**06) Petitions and Communications.**

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

- A. A Certificate of Liability Insurance dated July 7, 2023 for Verizon Communication effective from 6/30/2023 through 6/30/2024.
  - B. A letter dated July 14, 2023 from Assemblyman Smullen in support of our Consolidated Funding Applications.
  - C. A letter dated July 17, 2023 from Herkimer County Treasurer, Kimberlee Enea, concerning the Sales Tax Apportionment Summary for the second quarter for 2023 based on the 2022 tax roll.
  - D. A letter dated July 17, 2023 from Supervisor Frank to Kathleen DeCarlo stating her appointment as Town Councilwoman effective August 1, 2023.
  - E. Letters dated July 18, 2023 from Supervisor Frank to residents; Dolores Walawender, William Walawender, and William Penree concerning the situation of the road on East German Street Extension. This letter is in reference to what we were talking about with Bill Penree.
  - F. A letter dated July 21, 2023 from the Association of Towns concerning our membership dues for 2023.
  - G. A letter dated July 23, 2023 from the Herkimer County Fair Association inviting us to attend the opening ceremony on August 15<sup>th</sup>.
  - H. Letters dated July 24<sup>th</sup> and 25<sup>th</sup> from Supervisor Frank and Deputy Supervisor Stalteri in support of the Village of Herkimer's Historic Brookwood Park Revitalization Grant Application and their New York Main Street Grant Application. Supervisor Frank stated these are letter of support of the Village for grant funding.
  - I. A letter dated July 24, 2023 from Cameron B. Daniels of Ferrara Fiorenza PC concerning the handling of matters related to the litigation with the Herkimer Housing Authority. Supervisor Frank stated he has not responded yet until Attorney Bray looks at it. Attorney Bray reviewed it and stated it looks correct. He stated the cost will be split 50/50 between the school and the Town.  
Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo to allow Supervisor Frank to sign the agreement.
- CARRIED AYES ALL
- J. A letter dated August 1, 2023 from Charter Communications Director of Government Affairs, Alice Kim, concerning upcoming changes in service.
  - K. A letter sent August 1, 2023 from Supervisor Frank to Ms. Cataldo of the Edwin J. Wadas Foundation in support of the Village of Ilion's proposal to renovate the David P. Whalen Sports Complex.
  - L. A letter dated August 2, 2023 from Executive Director William Rabbia of the Oneida-Herkimer Solid Waste Authority regarding the Regional Demolition Program.  
Supervisor Frank stated we should keep this in mind for the Zoller Ave home.

CARRIED AYES ALL

**07) Routing.**

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file NYMIR's 2022 Annual Report.

CARRIED AYES ALL

**08) Resolutions.**

**09) Old Business.**

Water District: Highway Supt. Ward stated we have turned off the water for 936 Steuben Hill Road. He also stated the meters were read last week and Water Clerk Rivers will be sending out the bills soon. He also stated that he met with Jason from TI Sales to discuss the new software

that's available. He stated this is the software we discussed before but he thought was too expensive. Since then they agreed to drop the price for smaller water districts. The price would \$4,802 for three years. He stated the price will only stay until November and then it will go back up so we need to decide before then. The software we have will no longer be compatible with Neptune meters we have. Ti sales reassured they will help us as much as they can if we decided against it. Supervisor Frank asked what the advantages are. Highway Supt. Ward stated everything will pretty much stay the same. Councilman Stalteri asked if the new system helps find leaks. Ward stated it will work the same as we have now being that it will find leaks when we read the meters. Supervisor Frank stated we do have a contract with NY Rural Water to come and help us find leaks that are on the main. Councilwoman DeCarlo asked the cost after the three years is up? Councilman Kast asked if this has to be paid in a lump sum or over the three years. Ward stated he isn't sure but will ask about both of these questions. Supervisor Frank asked to keep this on old business.

Motion by Councilman Kast, seconded by Councilman Stalteri to table this until we get more information.

CARRIED AYES ALL

Mckennan Road Enhancement Project: Supervisor Frank stated we are waiting for the local DOH to review this for us. We have already answered all of the questions the regional DOH had.

West Herkimer Water: Supervisor Frank stated he has nothing new to report.

East Herkimer Sewer District: Attorney Bray stated we now own the Lahey property. He stated he hasn't file it yet because he is waiting on a copy of the survey map that he requested so he can do both at the same time. Attorney Bray also stated he emailed the comptroller everything that they asked for and we are waiting for a response still. He stated he sent the deed to Supervisor Frank and our engineer to complete and process a permit through the DEC. Supervisor Frank stated he will send it to the Northern Board Regional Commission for notice to proceed then we can get the final plans to be able to go out for bid. Highway Supt. Ward stated a resident wants to know if they can hook up to the sewer line this is east of Gros boulevard. Supervisor Frank stated the residents would bear the cost to do so. Supervisor Frank stated the USDA loan was approved for 38 years at 2.8%. He stated he has a conference call this week and that we have thirty-days to accept it or not.

East German Street Extension: Supervisor Frank stated we have previously discussed this.

Codes: Codes Enforcer Collis stated he had three permits go out for a fences, barn and one is pending for a new house to be built on Cookhill Road. He also stated he will go up this week to get the people out of 936 Steuben Hill Road. He will take the State Police with him.

Landbank: There were three homes built so far. The fourth one is being built now.

Zoller Ave: Attorney Bray stated he had a telephone call with Jim Hutton and he has emailed him a copy of the deed to sign off and a letter of explanation of the quick claim deed to transfer the interest of the Town. He stated he continues to say he will cooperate and sign. Her stated he also has to get the current owners signature, Frank Torres of FB Torres LLC, as well. The taxes still have not been paid and are over \$20k now but the county has agreed to waive this fee if we take it over.

Piper Road: Supervisor Frank stated we are waiting for the report on the cost for the sheet piling to be presented to determine the cost. There are a few steps they have to take to get proposal. The town should have the report by the end of the month.

Subdivision Local Law: Tabled.

Shells Bush Road Solar Project: Supervisor Frank stated we will further discuss this under new business.

Cell Towers' and Town Zoning Ordinance: Tabled.

Updating Zoning Ordinance: Tabled.

ARPA Funding (Exercise Trail): Supervisor Frank stated in communications with our consultant and under reports we have draft of the trail. He asked the board to review the layout to proceed. Councilman Stalteri stated the Fitness Court will be coming Thursday. He also stated the wind screens will be delivered to the Town Garage from BSN this week. He asked that Highway Supt. Ward verify with him when they come in. Ward agreed to do so.

Fireworks: Supervisor Frank stated we need to discuss the balance owed from the fireworks. He stated there is roughly \$4,400 in expenses after donations. ICAN has asked that we split the cost left over. Councilman Kast stated that seems fair and will cost us less than last year. Supervisor Frank stated he understands but ICAN had indicated that they would cover whatever cost was left

over. This will need to be further discussed. Supervisor Frank stated if we continue to do the fireworks with ICAN an agreement needs to be in place so we have clear understanding of roles and cost. The board agreed to table this for now.

EPA Testing East Herkimer Water District: Supervisor Frank stated new box for testing came today. Highway Supt. Ward said he would take care of it.

Negotiations with Teamsters: Councilman Stalteri stated Deputy Attorney Crandall will be at our next meeting to review it.

160 Pine Grove Road: Supervisor Frank stated the fire system has been installed and the property is well lite. Councilman Kast stated all of the windows have been drilled shut and the doors have been locked. He also stated two young men were playing basketball at the town park and had asked about the possibly of playing basketball in the gym of the old elementary school.

Councilman Stalteri stated he received a call from our Town Park Supervisor who stated there was dog feces on the tennis court. It has since been taken care off but we should have dog doo dispenser's places around the town park. The board agreed and asked him to get some quotes of such.

Herkimer County Mitigation Plan: Supervisor Frank stated he has nothing new to report.  
Farmers Market: Supervisor Frank stated we have nothing new to report.

Oak Hill Cemetery: Supervisor Frank mentioned the Veteran Plots. Councilman Kast stated that he has no problems with changing so they do not have to be indigent. Councilman Carbone stated to open ½ for indigent Veterans, and the other half do not need to be. Supervisor Frank agreed with Councilman Carbone. Attorney Bray stated that would have to apply to town for approval. The board discussed reserving a burial for Joan Parsinsage. The board agreed to have 11 plots for veterans and 10 for indigent veterans.

Motion by Councilman Carbone, seconded by Councilwoman DeCarlo to allow 11 plots be used for veterans who are not indigent, honorably discharged, and who are a resident of the Town of Herkimer, the remaining 10 plots will be saved for veterans who are indigent, honorably discharged, and were a resident of the Town of Herkimer.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Kast to allow Joan Parsons to have one of the plots at Oak Hill Cemetery owned by the Town of Herkimer.

CARRIED AYES ALL

#### 10) New Business.

Full time employee insurance contribution: Supervisor Frank stated although we have agreed with the drop in cost to contribute for health insurance towards health insurance. We have received verbal permission from the Teamsters for this. We have implemented this with the new cost of a poly for highway employees will be 30% of the cost of a policy.

Motion by Councilman Kast, seconded by Councilman Stalteri to approve and have on file that 30% of the cost of the policy for the Town of Herkimer Highway Employees.

CARRIED AYES ALL

Update Zoning Map: Supervisor Frank stated the Oneida Herkimer Planning Board has indicated that there are funds available that can be dedicated to updating zoning maps. They have asked that we verify what we have to make sure everything is correct when it is sent to them. Councilman Kast and Codes Enforcer Collis agreed to meet on August 14, 2023 at 2:30PM to review the map.

Water Billing Software: Supervisor Frank stated this was previously discussed.

Reimbursement Agreement for Shells Bush Road Solar Project: Supervisor Frank stated this is the new agreement with the new developer. He stated our consultant attorney has reviewed it and agrees everything is the same as before.

Motion by Councilman Kast, seconded by Councilman Stalteri to allow Supervisor Frank to sign the Reimbursement Agreement for Shells Bush Road Solar Project.

CARRIED AYES ALL

Firstnet Cell Service: Highway Supt. Ward stated he rode around the town and found that the service works good. Supervisor Frank asked that he set up a time with the representative to come and make a presentation to those who are also interested. Ward will do so.

**11) Reports.**

Motion by Councilman Kast, seconded by Councilman Stalteri to accept and place on file the Map of Trail and brochure of lights for Town Park.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilwoman DeCarlo to move forward with the map of trail.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stalteri to accept and place on file the Comp Alliance Loss Control Survey dated 7/25/23.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stalteri to accept and place on file the Town of Herkimer Sales Tax Report dated 7/26/23. Supervisor Frank stated it looks good.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stalteri to accept and place on file the NYS Consolidated Funding Application for Park Expansion dated 7/26/23.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stalteri to accept and place on file the NYS Consolidated Funding Application for Smart Growth Planning dated 7/26/23.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stalteri to accept, place on file the NYS Consolidated Funding Application for the West Canada Creek East German Street Extension Flood Resiliency and Mitigation Project dated 7/27/23.

Supervisor Frank stated all three of the consolidated funding applications will be awarded in late November or early December.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stalteri to accept, place on file and approve the funding offer USDA Rural Development Preliminary Eligibility Determination for the East Herkimer Sewer District dated 7/27/23. Supervisor Frank will notify the USDA of the town board's approval within the fifteen-time period.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Kast to accept and place on file the NYMIR Cybersecurity Assessment Results & Recommended Actions dated 8/1/23.

Supervisor Frank stated for one part of the report he understands but needs the second part explained better. He is waiting for a response from our IT guy.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Kast to accept and place on file the Wladis Law Firm Invoice Report dated 08/01/23.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman DeCarlo to accept and place on file the Cash Report for June, 2023 dated 8/2/23.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Bank Reconciliation Report for June, 2023 from Budget Officer Baylor.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stalteri to accept and place on file the Emergency Orders 7/21, 7/26, 7/31 and 8/5 for East German Street Extension. Supervisor Frank stated Homeland Security reached out asking why we haven't closed the road and Supervisor Frank replied stating we cannot close it because we have utilities there.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stalteri to accept and place on file the Town Clerks Report for July, 2023 from Clerk DeMetro.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Town Justice Reports for July, 2023 from Justice Manne.

CARRIED AYES ALL

Motion by Councilwoman DeCarlo, seconded by Councilman Stalteri to accept and place on file the Trial Balance Report dated August 6, 2023.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilman Stalteri to accept and place on file the Revenue and Expense Report dated August 6, 2023.

CARRIED AYES ALL

**11) Purchase orders and Audit.**

There were no purchase orders submitted for this meeting.

Motion by Councilwoman DeCarlo, seconded by Councilman Kast to accept and place on file the Audit dated August 7, 2023. Councilman Stalteri recused himself from the Hummel's bill.

CARRIED AYES ALL

Motion by Councilman Kast, seconded by Councilwoman DeCarlo, that the Regular Meeting of the Herkimer Town Board be adjourned until the next Regular meeting to be held on Monday, August 21<sup>st</sup>, 2023 at 6:00PM.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk