

01) Supervisor Frank called to order the **Regular Meeting** of the Town Board of Herkimer held on Monday, February 6<sup>th</sup>, 2023, at 6:00PM telephonically and virtually.

**02) Roll Call of Officers**

Present: Supervisor-----Dominic Frank  
Councilman-----Daniel Stalteri  
Councilman-----Vito Carbone  
Highway Supt.-----Ken Ward

Excused: Councilman-----Randy Kast  
Deputy Attorney-----Kyle Crandall  
Attorney-----Christopher Bray  
Codes Enforcer-----Ken Collis

**03) Pledge of Allegiance to the Flag.**  
Councilman Carbone led us in the Pledge of Allegiance to the Flag.

**04) Reading of the Minutes.**  
Motion by Councilman Stalteri, seconded by Councilman Carbone, to accept and place on file the minutes of the previous meeting held on January 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.

John Piseck of the Herkimer County IDA handed out a map to the board and stated he is here to discuss a couple of topics going on in the community. The map is of the BOA (Brownfield Opportunity Assessment Grant) they got with the Village of Herkimer. It is close to \$200k and in conjunction with the EPA grant of \$200k so they have roughly \$400k to help look at and support new opportunities in the 32acre property in the downtown Village of Herkimer. We are going out to bid for a planner. This is a really go opportunity for the community to set a plan for more funding. It is a process and will take some time but will be good to get the ball moving. This area is in an opportunity zone. One concern is the Qaukenbush Property. We see a need to work as a group of the four taxing jurisdictions. Nobody has collected taxes on this property in over 20 years, with this boa opportunity we will be able to do some better assessments, stabilization and removal. We want to see what can we make happen here. If the current owners do not develop it, the IDA would be out this as part of their plan for the future with the BOA. Not sure where the current developer is with their plan and process but this is a good opportunity regardless.

He stated he would also to talk about 160 Pine Grove Road. This took longer that we would like to start since we were ready to start drilling in December but this won't happen till now in February. Once we get in there we will see where that is. He stated we went out to bid and got a planner, Weston and Sampson. Once we get the Phase II results in we will come in to meet with you and Weston and Sampson to plan the site the way you would like to. Hoping to get in there on Thursday to complete the drilling. Councilman Stalteri asked if the soil boring is done specific to just one location or throughout the property? Mr. Piseck replied stated it will just be done where the spill was. Usually when we do the soil borings we find that the spill has dissipated over time and goes away. Since this site has municipal water is a plus as well for this area. The only people we could go after for a full clean-up is the school district because they are who owned it at the time of the spill if it comes to that. The town would have to decide if you would want to sue the school for this. They probably have some sort of insurance to cover it. Typically, these kinds of spills are contained so hopefully it doesn't come to that.

We hired a firm called Venue Strategies to go around and set-up different venues. They look at the area to see what they think would succeed. We have seen so much success from the Nexis Center. They will review the County and let us know what they think. This study is done for all of Herkimer County for this.

Mr. Piseck asked if there has been any news with ELG for East Herkimer. Supervisor Frank stated he needs to meet with them still. Councilman Stalteri asked if any studies have been done concerning noise, pollution and ect. They will have to meet with our Planning Board as well. Mr. Piseck stated ELG is looking to move all its business from Frankfort to the East Herkimer. With this they will be improving the property as well. Supervisor Frank stated he will need to speak to them in regards to what more will be needed for the sewer district if they are doing more work there.

Town Park Supervisor Kathi Nasypany wanted to know if she could meet with the board to discuss her budget. She stated she has lots of ideas for the Summer Program if the board would like to have it. Supervisor Frank stated we want one but want you to develop it. The board will schedule a time to meet and discuss the budget with Nasypany. Supervisor Frank asked how it was going with the farmers' market? Nasypany responded stating three have responded yes so far and that she is planning on calling others to see where they are at.

Legislator Mark Gaworecki stated he is here to answer any questions the board may have about Quakenbush. Supervisor Frank stated he attended a meeting last week at the County Office Building on the subject of the Quakenbush Property and the potential of getting it back on the tax roll. He stated it has been off the tax roll since 2009. In 2009 the County had passed a resolution that made it tax exempt but when the Herkimer 9 took over the property transfer came through to our assessor as an LLC. So our Assessor Dan Maxwell spoke to their attorney and agreed it was taxable so he put it back on the tax roll. Supervisor Frank stated he received a call from real property after the tax bills came out stating it should not be on the tax role due to this resolution that we were unaware of. To our knowledge the bills that were sent out have not been paid and since then we have removed them from the tax roll. The meeting was the County expressing their interest of passing a resolution to put them back on the tax roll but has asked that all three other taxing entities sign an agreement stating the County would not be responsible for the back taxes. So typically if taxes are not paid on a property Councilman Stalteri asked what happens if the Herkimer 9 pays their taxes? Gaworecki stated then all taxing entities would be made whole. If they do not pay their taxes for two years then it will go back to the County will foreclose it with hopes of trying to have it developed. Gaworecki stated if we don't make it taxable then we can't foreclose on it. Councilman Stalteri asked about how much the cost would be for the taxes to the Town. Supervisor Frank responded stating it would be roughly \$1,500 for the Town but would be significantly more for the Village and School. Gaworecki stated we are hopeful they will pay and rumor is they are applying for grant funding for this project which taxes need to be paid in order to receive such grants. The County's has doubts that they will pay the taxes and are trying to avoid this expense. Supervisor Frank asked if we would be setting a precedent if we allowed this. Gaworecki stated he doesn't believe so. He also stated the County would like to vote on this before March 1<sup>st</sup> in order to have it on next year's tax roll. The board will further discuss this and get back to Mr. Gaworecki.

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

CARRIED AYES ALL

**06) Petitions and Communications.**

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

- A. A letter dated January 17, 2023 from NYS Office of the State Comptroller Assistant Counsel, Laura Crisafulli, to Herkimer County Legislature Clerk, Britney Viscomi, concerning the filing of the Town of Herkimer Establishment of the East Herkimer Sewer District.
- B. A letter dated January 19, 2023 from Herkimer County Treasurer Kimberlee Enea concerning the Herkimer County Sales Tax Apportionment Summary for 2022 for Quarter 4 based on 2021 Tax Roll.  
Supervisor Frank stated we are well on for making our budget.
- C. A letter dated January 19, 2023 from the NYSDOT Director of Region 2, Linda Lubej, concerning the designation of restricted highway for bridge replacement/repair and replace culverts for NY Route 5S, 5 and 168.

- D. A letter dated January 25, 2023 from Herkimer County Personnel Officer, Steven Billings, concerning the 2022 annual report of the former Herkimer County Self-Insured Workers' Compensation Plan.
- E. A letter received January 30, 2023 from Laberge Group concerning a 2023 Grant Survey.
- F. A letter dated January 30, 2023 from Charter Communications Director of Government Affairs, Alice Kim, concerning Charter Communications Notification.
- G. A letter dated February 1, 2023 from Supervisor Frank to State of New York Office of the State Comptroller Division of Local Government and School Accountability Manager, Mary Berghela, requesting an extension of the filing of the 2022 AUD and Financial Report. Supervisor Frank stated this letter is asking for an extension of our 2022 AUD and Financial Report. He stated he does this request every year and is hopeful it will be granted again.
- H. A letter dated February 1, 2023 from Justice Manne and Justice Petucci to Supervisor Frank concerning the Herkimer Town Court Audit.  
Supervisor Frank stated our Justices reminding us of the court audit. Councilman Stalteri stated he will get in touch with them and set up a time to do the audit.
- I. A letter dated February 2, 2023 from Acadia Insurance Company who insures Spohn's Disposal Service concerning an auto accident.  
Supervisor Frank stated there was a mishap up at the garage during our trash days' event, where one of the Spohn's trucks backed up over our fire hydrant. This is the insurance claim for that.
- J. A letter dated February 3, 2023 from Supervisor Frank to Gerald Gay informing him of the effective hire date as a seasonal employee for the Highway Department.

CARRIED AYES ALL

**07) Routing.**

**08) Resolutions.**

- Motion by Councilman Stalteri, seconded by Councilman Carbone to approve Resolution No. 9 of 2023- to revoke the previous resolution on the senior citizen exemption amount.

CARRIED AYES ALL

- Motion by Councilman Stalteri, seconded by Councilman Carbone to approve Resolution No. 10 of 2023- Passing the set amount for the senior citizen exemption.

CARRIED AYES ALL

- Resolution No. 11 of 2023- the formation of the East Herkimer Sewer District. Supervisor Frank he recommends that we tabled this for now until the details are squared away. The board agreed to wait till next month.

TABLED

**09) Old Business.**

Water District: Highway Superintendent Ken Ward stated we read the meters last week and he is waiting for Water Clerk Rivers to review them.

Mckennan Road Enhancement Project: Supervisor Frank stated we are waiting for the plans to be reviewed by the DOH. We asked for the status of this review but have not heard a response.

Highway Supt. Ward stated he spoke to Chris Demmy last week who assured him he will look at this by the end of February.

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

East Herkimer Sewer District: Supervisor Frank also stated the USDA has asked another question on the engineering and we are working on getting them this information. Supervisor Frank stated he has nothing new to report with the Lahey property. It is his understanding that paperwork was sent to him from the bank but we have yet to see this paperwork. The State Comptroller's Office is asking for questions so we are working on this as well. Supervisor Frank stated we received an email from the Landbank in regards to their eventual hookup asking about the CBDG grant for laterals to offset the cost of any residential user to fund their laterals. Supervisor Frank reached out to the group who wrote the lateral grant for West Herkimer to see if they would be interested. He stated he was informed today by Steve Smith that the Mohawk Valley Economic Development District, that there is an economic development agency of the federal government

that might be willing to look at this project relative to any increase in jobs that this project might foster. He thinks there might be some increase of jobs for ELG and Valley Health so there might be potentially more funding. Supervisor Frank will explore this more.

East German Street Extension: Councilman Stalteri stated the surveyor is monitoring this. He was told there was no movement and we are still waiting for the report.

Codes: Supervisor Frank stated he has nothing new to report.  
Zoller Ave:

Landbank: Councilman Stalteri stated he reached out to Tolga and asked for an update. They did go for rebid and received more bids and they were within the price range needed. Highway Supt. Ward stated they have not paid the late fees for the previous bill. Councilman Stalteri will follow-up with them on this matter.

Piper Road: Supervisor Frank stated the surveys and soil borings are complete.

NYMIR Risk Control Resurvey Report: Tabled.

Subdivision Local Law: Tabled.

Shells Bush Road Solar Project: Supervisor Frank stated under reports you will see the interconnection agreement with National Grid.

Cell Towers' and Town Zoning Ordinance: Tabled.

Updating Zoning Ordinance: Tabled.

ARPA Funding: Supervisor Frank stated the board needs to decide what they would like to do with the walking trail suggestion for around our Town Park.

Town Park: Supervisor Frank asked Attorney Bray if we have heard back from the sellers' attorney? Attorney Bray stated he had a conference call with the sellers' attorney and John Piseck of the Herkimer IDA and it appears the seller is ready to proceed with Phase II. The seller requested to be there when this is done. He also asked that the Town look for whatever funding is available to do the clean-up if need be but he understands that him being the owner would be responsible for what is not covered or taken off the purchase price. Bray stated he did see the insurance that came in from the engineers that will be doing this and he has seen an agreement signed by the engineer, although he thinks it needs to be marked up a little. We should have access soon. Once the agreement is signed, we can schedule the testing. He expects this to be able to happen within the next couple of weeks.  
Fireworks: Councilman Carbone stated he has nothing new to report.

#### **10) New Business.**

Town of Herkimer Senior Citizen Exemption: Supervisor Frank stated our Assessor Daniel Maxwell suggested that we consider capping this amount so it is not changing annually. The County is capped at \$18k and the Village and School are capped at \$15k. Councilman Stalteri stated ours should reflect the same as the School and Village to keep it consistent. The board agreed.

Supervisor Frank asked that Attorney Bray have two resolutions ready for our next meeting; 1. To revoke the existing capping amount and 2. To set the cap at \$15k.

Renewal of Teamsters Agreement: Supervisor Frank stated he received a call from our new teamsters' representative asking to start the renewal process. Supervisor Frank explained to him how our normal process is. Councilman Stalteri and Councilman Kast volunteered to work with them on these negotiations. Highway Supt. Ward stated he would like to see a probationary period added to the contract for new employees. Councilman Stalteri asked Ward to make a list of requests that can be addressed during negotiations.

BAR: Supervisor stated it has been brought to our attention that two of our Board of Assessment Review members are currently serving positions for the Village of Herkimer. According to the County as long as a majority is not elected or appointed, then it is acceptable for both to serve on the BAR since one was only the alternate for us. Supervisor Frank stated he wanted to make the board aware of the situation and get their thoughts on it. Councilman Stalteri stated he doesn't think it's a good representation for them or us to have them stay on. Je stated it has the appearance of a conflict of interest. Supervisor Frank stated he will call both individuals and let them know our thoughts on the situation and will report back to the board.

#### **11) Reports.**

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Interconnection Agreement for 164 Shells Bush Road HCC Solar Project. Supervisor Frank stated our consultant attorney reviewed it and it meets our requirements.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Sales Tax Report for 2023.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Emergency Orders dated 1/22, 1/27, 2/1, and 2/6 for East German Street Extension.

CARRIED AYES ALL

Motion by Councilman Stalteri, seconded by Councilman Carbone to accept and place on file the Renewal State of Emergency Declaration dated 2/5/23.

CARRIED AYES ALL

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

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Trial Balance Report dated February 5, 2023.

CARRIED AYES ALL

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Revenue and Expense Report dated February 5, 2023.

CARRIED AYES ALL

Supervisor Frank stated we have our tax levy money.

Supervisor Frank asked if we have anything from the Union. Councilman Stalteri stated we are waiting for the proposal from them. Once we do we will review it and then schedule a meeting.

Supervisor Frank also stated we have received the water testing kits. As you may remember last year we were notified that we were randomly selected to do this testing. The Village is aware and will be help us get this done.

**11) Purchase orders and Audit:**

Purchase Orders: Highway Supt. Ward stated he has one purchase order for a new water service at the Town Office. He stated he called three people for quotes but only one responded with one and that was Aldrich for \$7,500. The board agreed and approved the purchase order.

Motion by Councilman Carbone, seconded by Councilman Stalteri to accept and place on file the Audit dated February 6, 2023 for the end of year bills for 2022. Councilman Stalteri recused himself from the Hummel's bill.

CARRIED AYES ALL

**12) Adjourn.**

Motion by Councilman Carbone, seconded by Councilman Stalteri, that the Regular Meeting of the Herkimer Town Board be adjourned until the next Regular Meeting to be held on Tuesday, February 21<sup>st</sup>, 2023 at 6:00PM.

CARRIED AYES ALL

Jennifer M. DeMetro, Herkimer Town Clerk