A regular meeting of the Town Board of the Town of Moreau was held at 7:00 p.m. on October 13, 2026, at the Moreau Municipal Building, 351 Reynolds Road, Moreau, Saratoga County, New York.

The meeting was held in person and called to order by the Supervisor at 7:00 p.m. with an attendance roll call and Pledge of Allegiance.

PRESENT:	John Donohue	Councilmember
	Laura Garrant	Councilmember
	Patrick Killian	Councilmember
	Mark Stewart	Councilmember
	Jesse A. Fish, Jr.	Supervisor
ALSO PRESENT:	Erin Trombley	Town Clerk
	Reed Antis	Town Historian
	Chris Abrams	Highway Superintendent
	Elizabeth Bennett	Confidential Secretary

OTHERS PRESENT: Hayley Gundersen (So ADK Softball), Elizabeth Belair (So ADK Softball), Richie Wiltshire, Bruce Lant (So. Glens Falls Fire Co), Christopher Whann, Kathy Naftaly (Crandall Library), John Cox (So. Glens Falls Fire Co.), Matt Stanton, Molly Wheeler, Korie Harris, Todd Harris, Brian Ostrander (Crandall Library), David Rogge (Lamplighter Acres), Jimmy Cordiner (Lady Bulldogs), Lindsay Fredette, Mike Trzaskos (So Glens Falls Girls Softball), Maureen Dennis (Schermerhorn Real Estate Holdings), Alex Quigan, Brittney Sprague (So Glens Falls Girls Softball)

CRANDALL PUBLIC LIBRARY PRESENTATION

Supervisor Fish announced that there would be a presentation by Crandall Public Library before moving into the agenda for the meeting. He invited the library Director to address those in attendance.

Kathy Naftaly said she had good news. She said the library generates 36.6% of its funding through foundations and investment income, which helps keep taxpayer impact low. For 2027 she said they were asking for 63.4% from contributing municipalities. For expense increases she said there would be 3% staff raises, increased healthcare benefit costs, increases in NY State Retirement costs, increased operating expenses such as natural gas. Overall Ms. Naftaly said the total budget increase was about 2.75% in 2027 over 2026, which would be approximately .378 cents per thousand for Moreau taxpayers.

Services she described that are provided by Crandall Public Library include children's programs for infants to teens, a twenty-something group, many popular programs for senior citizens (including electronics training), classes, music, movies, lectures, and outreach to constituents from their 30s to 50s. She said there were books and many electronic resources like movies, music, audio books and more available for those with a library card.

Ms. Naftaly said three Trustees of the Library were present to answer questions. Trustee (and Town Historian) Reed Antis suggested Ms. Naftaly talk about the library's connection to the Moreau Community Center. She said the Community Center's Director, Donna Nichols, is on their Board, and that lots of library programs are hosted at the Community Center including electronics training. She said an Outreach Librarian, Frida, takes materials to remote sites, and that sometimes she thinks of the Moreau Community Center as a branch of the library. When asked the total budget for 2027, the Director said the total is $6,186,608, about $160,000 more than 2026, and Moreau's portion of the total is $893,362. She added that there were no new positions created in the new budget, and only existing openings would be filled. Someone commented that the total budget was a lot of money, and compared it to the total Town budget of $7.9 million.

PUBLIC HEARING – SEWER CHARGES

The Supervisor said the Town Board had made changes to the Town code regulating sewer and established a public hearing for sewer in 2026. He said they would open the hearing that night and leave it open for comments. He said that a budget workshop for water and sewer would be held later that week. He said after the workshop and before the next meeting, another notice would be published if rates will have changed. He mentioned that comments had been submitted by email which would be included in the meeting minutes (see appendix). He asked the Town Clerk to read a resolution. She read:

> **"BE IT RESOLVED** that the town board hereby opens a public hearing to take comments on proposed 2027 sewer charges pursuant to town Code Section 115-70."

Resolution 348-2026 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue to adopt the resolution as read.

Asked if all were in favor, the responses were as follows:

Councilmember Donohue	Aye
Councilmember Garrant	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Supervisor Fish	Aye

The motion carried 5:0.

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Supervisor Fish opened the floor for comments.

Maureen Dennis provided handouts to the Board (see appendix), and asked if a sewer budget was prepared, and whether EDU rates would change for Sewer District 1, Extensions 1-4 or 5. She stated that she believed the Home of the Good Shepherd's sewer usage was "grossly understated" based on their water use. She said 82% of users in Extensions 1-4 were Schermerhorn properties. She said Home of the Good Shepherd uses 7x the volume of water. She cited some figures from the Water & Sewer Operator's monthly reports and said the figures don't work out correctly based on EDUs. She made reference to a large fund balance, and said it was her understanding that Extension 5 had been running a negative fund balance since December 2025. She said if money was borrowed from the other Extensions to make up the shortage, this is allowed but must be repaid.

Ms. Dennis continued, saying the financial report from the Comptroller's office for 2025 showed a fund balance lower than what was passed by Board resolution in December. She said Extensions 1-4 would have rents of $255,000, and the last bill from the City of Glens Falls for sewer processing was $151,000, which included the Moreau Industrial Park flowing to Glens Falls for 10 months, and the second largest user in Extension 5, which is Bluebird terrace Mobile Home Park which flowed North until October 24, 2025, according to Ms. Dennis. She estimated, based on billings from quarters 1 & 2 from Saratoga County, that the total billing for sewer by the Saratoga County Sewer District would be $129,000. She estimated debt service for Extension 5 at about $200,000. She went on to say that she did not believe the EDU count would cover those expenditures, and that expenditures would be $130,000 more than billings, creating a negative fund balance.

Ms. Dennis questioned calculations from the Moreau Industrial Park. She mentioned payroll, a pickup truck, and a pump in the 2026 budget. She asked how much of the pump had been billed to the Industrial Park so far in 2026. She guessed $6,000 in the first half of 2026. She said it would be about $13,000 by the end of the year. She said grants are projected at $22,000, and payroll for Extensions 1-4 is 90%. She asked how it is possible Extension 5 is only responsible for about 5% of the labor. She mentioned that the Town is responsible for the grinder pumps in Extension5 for the life of the bond, which she said had 28 years left. She posited that the benefits would mirror payroll, but said they did not; that benefits are set at 80% for Extensions 104, with 10% for

the Moreau Industrial Park, and 10% for Extension 5. She asked if the Moreau Industrial Park would be back-billed to May 2025 to bring billing into alignment with the EDU rate local law.

Councilmember Stewart said he would like to correct billing. He said they should follow the Town law that was in place at the time. Whether it would be billed or not he said would be a decision of the Board. Ms. Dennis said the same applies to Extension5 because only 42 users at 600.5 EDUs were billed in that Extension in 2026 compared to the 711 that the Board approved on April 8, 2025. He said the elephant in the room was a Comptroller's Audit Report published in 2018 from audits of 2015 and 2017 that noted that the source of the fund balance was overstated.

Ms. Dennis said she and Councilmember Stewart had talked and at the time the City of Glens Falls bill had not been received. She said Extension 5 was not billed for effluent that went North to Glens Falls from 2022-2025. She asked how it was possible that Extension 5 is contributing 5% more of the effluent flowing South. She called it unfair and illegal. She said she asks questions and is told people are working on it, but that she didn't believe they were. She said she would be back for the budget workshop later in the week.

UPCOMING NEWS AND ANNOUNCEMENTS

Supervisor Fish said some brush had recently been chipped at the Transfer Station and they were unable to find anyone to buy it. He said Grasshopper Gardens was willing to take it and provided bags of grass seed in exchange.

APPROVAL OF MINUTES

The Supervisor asked the Town Clerk to read the following resolution:

> **"BE IT RESOLVED** that the town board accepts and approves the minutes for the month-end audit meeting held on September 22, 2026 as submitted." Ms. Trombley indicated that Councilmember Garrant had not been present.

Resolution 349-2026 A motion was made by Councilmember Donohue, seconded by Councilmember Killian to adopt the resolution as read.

Asked if all were in favor, the responses were as follows:

Councilmember Donohue	Aye
Councilmember Garrant	Abstained
Councilmember Killian	Aye
Councilmember Stewart	Aye
Supervisor Fish	Aye

The motion carried 4:0.

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The Town Clerk read:

> "**BE IT RESOLVED**, that the town board accepts and approves the minutes for the regular town board meeting held on September 22, 2026 as submitted."

Resolution 350-2026 A motion was made by Councilmember Garrant, seconded by Councilmember Stewart to adopt the resolution as read.

Asked if all were in favor, the responses were as follows:

Councilmember Donohue	Aye
Councilmember Garrant	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Supervisor Fish	Aye

The motion carried 5:0.

PRIVILEGE OF THE FLOOR
No comments were made.

BAKERS FALLS SOLAR - PILOT

Supervisor Fish said the Sole Assessor and Town Board had been discussing a PILOT (payment in lieu of taxes) for the Bakers Falls Solar project in the Moreau Industrial Park, that a value had been set, and crafted language for an agreement that the Assessor was happy with and that can be used in future similar agreements. He asked the Town Clerk to read a prepared resolution. She read:

> **"BE IT RESOLVED**, that the town board authorizes the supervisor to sign the payment in lieu of taxes agreement between the town of Moreau and Baker Falls Solar LLC."

Resolution 351-2026 A motion was made by Councilmember Garrant, seconded by Councilmember Killian to adopt the resolution as read.

Asked if all were in favor, the responses were as follows:

Councilmember Donohue	Aye
Councilmember Garrant	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Supervisor Fish	Aye

The motion carried 5:0.

HIGHWAY DEPARTMENT

Supervisor Fish said the Highway Superintendent was getting quotes for annual tree cutting. He said Saratoga County had a contract with Richard Sears Tree Service, which the Town uses, and the Town contract would expire at the end of the year. He said the Superintendent wanted to use the lower County contract rate.

Supervisor Fish said the Superintendent was looking for 18 new tires for around $6,700 on a State contract. The Town Clerk read the following:

> "**BE IT RESOLVED**, that the town board authorizes the Highway Superintendent to purchase the following 18 Goodyear tires through New York State contract PC 70514 at a cost not to exceed $6,700.82 to be paid from account DB 5130.492." Items listed included:

225/70R 19.5 (Steer)	1 @ $343.82 = $343.82
11R 22.5 (Drive)	6 @ $389.00 = $2,334.00
11R 24.5 (Drive)	5 @ $409.00 = $2,045.00
320/85R 24 (AG)	1 @ $519.00 = $519.00
380/85R 24 (G)	1 @ $630.00 = $630.00
LT 275/70R 18 (Drive)	4 @ $207.25 = $829.00

Resolution 352-2026 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue to adopt the resolution as read.

Asked if all were in favor, the responses were as follows:

Councilmember Donohue	Aye
Councilmember Garrant	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Supervisor Fish	Aye

The motion carried 5:0.

Discussion: Councilmember Killian asked is recaps could be used for any of the listed tires. Highway Superintendent Abrams said they usually use radials, which they do not like to recap, especially because they work on hot asphalt. The Councilmember asked if Mr. Abrams knew the difference in cost. Mr. Abrams said he did not.

RECREATION DEPARTMENT

Supervisor Fish said that at the last meeting, action on a tournament point system was tabled so input could be sought from the affected organizations. The Supervisor asked if any feedback had been received. Councilmember Stewart said Recreation Director Brogan reported the only recommended change was to the hosted prior tournaments, restoring it to 1 point per tournament, with a maximum of 2 points.

With the Supervisor's permission, representatives of the softball organizations were invited to comment on the proposed action.

Hayley Gundersen of Southern ADK Softball said she had spoken with the Recreation Director and was told it would go back to the Board about how to apply points to an organization that is a league and not a team. Councilmember Stewart said a league would be represented by a home team for the purpose of drawing their dates. He said the purpose was to take the Board our of the process and to give final discretion to the Recreation Director. Councilmember Donohue said the point system was meant as a guide for the Recreation Director, and the point system will only be available to groups with a verifiable roster. He restated that the Recreation Director has sole discretion and that the goal was to get as many kids playing at the Recreation Park as possible.

Ms. Gunderson asked for clarification on the number of points earned by hosting a previous tournaments. Councilmember Stewart said the proposal is a prior tournament is 1 point with a maximum of 2 points for up to 3 years for a potential of 6 maximum total points.

Supervisor Fish asked the Town Clerk to read the resolution. She read:

> "**BE IT RESOLVED**, that the town board hereby adopts the October 7, 2026 revision of the tournament point system used to determine prioritization for field assignments and tournament hosting to be put into effect immediately."

Resolution 353-2026 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue to adopt the resolution as read.

Asked if all were in favor, the responses were as follows:

Councilmember Donohue	Aye
Councilmember Garrant	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Supervisor Fish	Aye

The motion carried 5:0.

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The Supervisor asked the Clerk to read the following:

> **"BE IT RESOLVED,** that the town board authorizes the supervisor to sign the 2026 revocable license agreement with South Glens Falls Girls Softball for the term of March 31 through October 31, 2026."

Resolution 354-2026 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue to adopt the resolution as read.

Asked if all were in favor, the responses were as follows:

Councilmember Donohue	Aye
Councilmember Garrant	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Supervisor Fish	Aye

The motion carried 5:0.

———

The Supervisor said they had an agreement to accept baseball batting cages but due to errors in the document and the Town's attorney hadn't reviewed it yet, further action was tabled.

SUPERVISOR'S OFFICE

The Supervisor said that Judge McCabe brought it to his attention that the carpets in the Court and Town Hall had not been cleaned in a long time and needed attention. The Supervisor said he had obtained quotes and asked the Town Clerk to read a prepared resolution. She read:

> **"BE IT RESOLVED,** that the town board authorizes the supervisor to sign the October 8, 2026 quote from North Country Janitorial for the acceptance of carpet cleaning services as provided in said quote for an amount not to exceed $960 to be paid from account A1620.401. 0."

Resolution 355-2026 A motion was made by Councilmember Donohue, seconded by Councilmember Killian to adopt the resolution as read.

Asked if all were in favor, the responses were as follows:

Councilmember Donohue	Aye

Councilmember Garrant	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Supervisor Fish	Aye

The motion carried 5:0.

FLAG DONATION

The Supervisor turned over introduction of the topic to Councilmember Donohue. The Councilmember said they had received a Breast Cancer Awareness flag, and that it would be hung once it was approved by the Board because it was received a little bit late to fly for the entire month of October. He expressed support for flying the flag. The Town Clerk read a prepared resolution:

> **"BE IT RESOLVED,** that in its exercise of government speech, the Town Board endorses the Breast Cancer Awareness flag, which was reviewed during the town board meeting held on October 13, 2026, to be flown on the town's commemorative flagpole from October 14 to 31, 2026, and
>
> **BE IT FURTHER RESOLVED** that the Town Board accepts the donations of donation of such Breast Cancer Awareness flag of suitable size and quality for this purpose from Jeremy Brogan."

Resolution 356-2026 A motion was made by Councilmember Donohue, seconded by Councilmember Killian to adopt the resolution as read.

Asked if all were in favor, the responses were as follows:

Councilmember Donohue	Aye
Councilmember Garrant	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Supervisor Fish	Aye

The motion carried 5:0.

MONTHLY DEPARTMENT REPORTS

The Town Clerk read the following:

> **"BE IT RESOLVED,** that the town board hereby accepts the monthly department reports from the following departments: Assessor; Building, Planning and Development; Town Clerk; Recreation; Highway; Water & Sewer; Transfer Station; and Dog Control."

Resolution 357-2026 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue to adopt the resolution as read.

Asked if all were in favor, the responses were as follows:

Councilmember Donohue	Aye
Councilmember Garrant	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Supervisor Fish	Aye

The motion carried 5:0.

PRIVILEGE OF THE FLOOR
No comments were made.

COMMMITTEE REPORTS

Councilmember Killian said the baby changing stations, air conditioning for the server room, and door for the Building, Planning & Development Department office were ready to go to bid.

Councilmembers Stewart and Garrant declined to give updates.

Councilmember Donohue said the pickleball court was almost complete with nets expected later that week. He said fencing needed to be tightened as well. He thanked O'Connor Construction for doing a fantastic job, and to the Recreation Department crew for work they have done. He said there was one more piece of playground equipment to install.

Supervisor Fish said the Michaels Group would be starting work on the Arrowhead development on Bluebird Road. He said he was glad to see this finally moving forward.

EXECUTIVE SESSION
No executive session was required.

ADJOURNMENT

Resolution 358-2026 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue to adjourn the meeting.

Asked if all were in favor, the responses were as follows:

Councilmember Donohue	Aye
Councilmember Garrant	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Supervisor Fish	Aye

The motion carried 5:0. The meeting was adjourned at 7:47 PM.

Respectfully submitted,
Erin Trombley
Erin Trombley
Town Clerk

Young / Sommer LLC

ATTORNEYS AT LAW

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October 13, 2026

Via Email and Hand Delivery

Members of the Town Board
Town of Moreau, Town Hall
351 Reynolds Road
Moreau, New York 12828

Re: 2027 Proposed Sewer Charges – Comments for Public Hearing Record

Dear Members of the Moreau Town Board:

As you know this firm represents Schermerhorn Residential Holdings, LP and its affiliated entities (collectively, Schermerhorn). Schermerhorn offers the following comments for the Town Board's consideration and inclusion in the official record of proceedings related to the proposed 2027 Sewer Charges.

1. Inclusion of Prior Comments on Proposed Local Law No. 4

By letter dated August 25,2026, Schermerhorn submitted written comments on proposed Local Law No. 4 of 2026 (the "Proposed Local Law") which would amending Section 115 -70 of the Moreau Town Code. A copy of the August 25, 2026, comment letter (the "August Comment Letter") is appended hereto as **Tab A** for inclusion in the official record of proceedings on this matter. The August Comment Letter included a copy of the last amendment to the Sewer Use Law that was enacted by Local Law No. 4 of 2025 (the "2025 Amendment"). By its terms, the 2025 Amendment became effective upon filing with the New York Department of State. A copy of the 2025 Amendments, as filed with the New York Department of State, was appended to the letter as Tab 1.

The 2025 Amendments included an express requirement that the Town Board prepare a budget for each sewer district and extension and that it be available for public review *before* it adopts a sewer charge for that service area. *See* Tab 1, Section 115-70 (B) ("Notice of the public hearing shall be published in a newspaper of general circulation within the Town, and posted on

the Town's website, at least five days prior to the public hearing which shall be held at the first Town Board meeting that is held in the month of October provided that a proposed budget for the sewer district or extension has been prepared and made available for public review.")(emphasis added). This language was included in the local law that was filed with the Department of State and has the force of law.

The language was added to the local law in response to comments that had been received on the Introductory version of the local law. When it was brought to the Town's attention that it had a different version of the local law posted on its website, the Town did not post the correct, legally effective version online. It filed a purported "correction" with the New York State Department of State on September 3, 2026 (*after* the August Comment letter was receive) in an effort to illegally amend the Sewer Use Law with no notice to the public, or care for applicable procedure and the requirements of the N. Y. Municipal Home Rule Law. A copy of the illegal and ineffective "correction" is attached hereto as **Tab B**. The requirement that budgets be prepared and available for public review was illegally omitted from the "corrected version".

N.Y. General Municipal Law requires that local laws be filed within twenty (20) days of their enactment. *See* N.Y. Home Rule Law §21(1). The 2025 Amendments were adopted with revisions that were suggested during the public hearing process and became effective upon filing with the New York Department of State on March 28, 2025. If the Town Board wants to amend the local law to eliminate the substantive requirement that a proposed budget for each sewer district and extension be prepared and made available for public review before a new sewer rate is adopted, it must do so by the adoption of a new local law.[1]

Again, the Town Board feigns the appearance of transparency by holding a public hearing but denies the public the most basic information that is necessary to provide meaningful comments on the sewer charges it is proposing. This repeated practice must end.

2. The Town Board did not Properly Notice the Public Hearing

The 2025 Amendments (and illegal "correction" that was recently filed with the New York Department of State) require that notice of a public hearing on proposed new sewer charges must be published in a newspaper of general circulation within the Town, and posted on the Town's website, at least five (5) days prior to the public hearing. However, the notice of tonight's public hearing was not posted to the Town's website until Friday, October 9, 2026. This was verbally confirmed by the Town Clerk in a telephone call earlier today. In addition, the notice was not published in the newspaper until Saturday, October 10, 2026 (three [3] calendar days and only one [1] business day before the public hearing). Agenda materials, including a proposed resolution approving the new sewer charges, were not available until yesterday, Monday October 12, 2026; a federal holiday that the Town observed by closing Town Hall.

[1]It is not clear why the Town Board is so intent on eliminating this requirement, as a budget provides the only rational basis to determine sewer charges for each district and extension.

In sum, there is no dispute the Town Board has not provided the requisite notice which, as detailed below, has exacerbated the ongoing difficulty members of the public have had obtaining access to records, remining informed about opportunities for public comment, and participating in the public process that is mandated for every town that operates public utility systems. As such, the Town Board should forego any decision on sewer charges until the public has had the minimum required notice, open access to related records, and a meaningful opportunity to comment.

3. The Town's Failure to Respond to Schermerhorn's Past FOIL Appeal and Request for Access to Records Relevant to this Public Hearing

In addition to the confusion caused by the Town's apparent unofficial and illegal "revision" of the Sewer Use Law and lack of public notice, Schermerhorn has been left unable to provide meaningful comments on the proposed sewer charges due to the Town's failure to produce records that are publicly accessible under FOIL. For months, Schermerhorn has sought access to water and sewer bills, records reflecting capital charges, total billings, total number of gallons of water used, late fees if applicable, the Town's Fund Balance Resolution, and method of determining related fund balances. The documents were requested to allow Schermerhorn to determine how parcels were being charged and how fund balances were being properly accounted for and allocated among the six various sewer districts and extensions.

To date, the Town has not provided *any* response to many of Schermerhorn's FOIL requests. Schermerhorn appealed to the Town's constructive denial of access, and the Town again refused to respond to its appeal within the time required by the statute. A copy of Schermerhorn's August 2026 FOIL Appeal is attached hereto as **Tab C** for inclusion in the official record of proceedings on this matter.

On October 1, 2026, Maureen Dennis, Operations Manager for Schermerhorn, submitted two (2) new FOIL request for records; 1) for the fund balance allocation the Town's six different sewer districts and extensions, and 2) the Formal Report prepared by MM&BCO. The Town Clerk waited for the maximum amount of time permitted under law to even acknowledge receipt of the requests. This response stated the Town would confirm in twenty (20) business days if it had documents that were responsive to the request. Despite repeated attempts to follow up, including an offer to travel to Town Hall to review documents in person, no response was received. Today, on October 13, 2026, Ms. Dennis reached out again asking to review the documents that were requested so she could prepare comments for the public hearing. Again, she was denied access.

The Town's repeated, willful violation of FOIL deprives the public of its right to observe and participate in the governmental process. It's failure to make decisions regarding sewer charges, fund balance allocations, and related cost expenditures, in a transparent manner erodes the public trust and leaves its residents guessing as to whether there is a proper or rational basis for the Town Board's actions. Unfortunately, as set forth in more detail in the August Comment Letter and FOIL Appeal, and the additional comments below, the few records that have come to light indicate a contrary conclusion.

4. The Town's Failure to Account for and Redress Existing and Past Violations

In the 2025 Annual Financial Report recently submitted to the New York State Comptroller's Office, the Town reported a combined fund balance of $1,765,894 for all six (6) sewer districts and extensions in the Town. This differs from the fund balance reported by the Town Board in the Fund Balance Resolution adopted on December 30, 2025 (appended to the FOIL Appeal at Tab C), which upon information and belief, wrongfully included capital funds which were used to supplement a negative fund balance in Sewer District Extension No. 5.

While the Town properly accounted for these capital funds after being called out by the New York State Comptroller, the Town has made no effort to account for other money that appears to have been misappropriated from the fund balance for Sewer District Extension Nos. 1 through 4; for, among other things, capital expenditures and Operation and Maintenance costs (O&M) for Sewer District Extension No. 5, including but not limited to upgrades to the Bluebird Village Pump Station and effluent discharges from Sewer District Extension No. 5 to the City of Glens Falls dating from 2022-2025.

As set forth in the FOIL Appeal Letter, if this was a loan between districts, there is a requirement that the money be paid back and that this be reflected in the budget for each respective district (which it is not). That money could then be allocated to the expenses of District Extension Nos. 1 through 4, or, to reduce the sewer charges to users within those districts so it can be in accord with the Town's adopted Fund Balance Resolution. If the Town will not acknowledge the appropriations from the fund balances for District Extension Nos. 1 through 4 were loans and reflect this in budgets for each of the respective district extensions, then the only logical conclusion is that the Town has been using "sewer charges" as a way to impose an unauthorized tax on users within Sewer District Extension Nos. through 4 and then illegally gifting that money to other districts and extensions. Unfortunately, it appears history is repeating itself.

Although the Town Board is now proposing to reduce the 2026 EDU rate for users within District Extension Nos. 1 through 4, it does not account for the estimated $524,000.00 that is now missing from the fund balances for District Extensions No. 1 through 4. It also does not explain how Sewer District Extension Nos. 1 through 4 are being allocated 90% of the Town's sewer related labor costs when it has recently been acknowledged Sewer District No. 1 "require[es] greater monitoring and reporting" (*see* Loca Law No. 4 of 2026) and the Town has obligated itself to maintain and repair grinder pumps in district Extension No. 5 (a cost that is incurred by individual users in District Extension Nos. 1 through 4). Under these circumstances it is not clear how the Town can allocate 90% of its sewer-related labor costs to users within District Extension Nos. 1 through 4. The resulting sewer charge has no rational basis and should, therefore, be revised.

The new demands *outside* of District Extension Nos. 1 through 4 have also caused the Town to hire an additional staff person, purchase a spare pump for the Farnan Road Pump Station (at an actual cost of $50,430.68), and allocate money for a new truck. It is unclear how the Town is providing for these new expenditures considering the Town has reported a Negative Fund Balance for District Extension No. 5 and has changed the methodology for charging users in the Moreau Industrial Park, resulting in less revenue. *See* August Comment Letter, p. 3-4.

In sum, the limited information that is available to the public does not establish a rational basis for the proposed 2027 sewer charges. The Town must prepare and make publicly available budgets for each district extension and report their respective fund balances. It must then establish rates that accurately reflect each extension's actual expenses and revenues and comply with the Town's adopted Fund Balance Resolution.

Again, a thoughtful and comprehensive plan is needed to lay the groundwork for reasonable and rational sewer use charges going forward, and to redress past violations that have resulted in inequitable and illegal billings and cost allocations that favor some users and punish others. We look forward to working with the Town Board through that process.

Very Truly Yours,



Allyson M. Phillips

Cc: Richard Schermerhonrn, Schermerhorn Residential Holdings
Erin Tromley, Town of Moreau Town Clerk
Glen Bruening, Esq, Town Attorney

TAB A

Young / Sommer LLC

ATTORNEYS AT LAW

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August 25, 2026

Via Email

Members of the Town Board
Town of Moreau, Town Hall
351 Reynolds Road
Moreau, New York 12828

Re: Proposed Local Law No. 4 of 2026 – Comments for Public Hearing Record

Dear Members of the Moreau Town Board:

As you know this firm represents Schermerhorn Residential Holdings, LP and it's affiliated entities (collectively, Schermerhorn). Schermerhorn offers the following comments for the Town Board's consideration and inclusion in the official record of proceedings related to Proposed Local Law No. 4 of 2026 (the "Proposed Local Law") which would amending Section 115 -70 of the Moreau Town Code.

1. Conflicting and Misleading Versions of the Sewer Use Law

The Proposed Local Law purports to revise Section 115-70 of Chapter 115 of the Moreau Town Code, also known as the "Sewer Use Law". The Sewer Use Law was last amended by Local Law No. 4 of 2025 (the "2025 Amendment"). By its terms, the 2025 Amendment became effective upon filing with the New York Department of State. A copy of the 2025 Amendments, as filed with the New York Department of State, is appended here as **Tab 1**[1]. The 2025 Amendments revised certain sections of Chapter 115, including Section 115-70 ("Sewer Charges"), Section 115-71 ("Billing"), and Section 115-75 ("Agreements for service outside of the sewer district of extension"). It is noted the 2025 Amendments included an express requirement that the Town Board prepare a budget for each sewer district and extension and that it be available for public

[1]Local Law No. 4 of 2005 that is filed with the New York Department of State begins with amendments to Section 115-70 which is confirmed by the notation "Attachment page 1").

review *before* it adopts a sewer charge for that service area. *See* Tab 1, Section 115-70 (B) ("Notice of the public hearing shall be published in a newspaper of general circulation within the Town, and posted on the Town's website, at least five days prior to the public hearing which shall be held at the first Town Board meeting that is held in the month of October provided that a proposed budget for the sewer district or extension has been prepared and made available for public review.")(emphasis added). This language was included in the local law that was filed with the Department of State and has the force of law.

Regardless, the Town has posted a different version of Section 115-70 on its website that does not require that budgets be prepared for public review before annual sewer charges are adopted. *See* "Local Law No. 4 of 2025 – Sewer Regulations, rev. – Adopted 3/25/26" on the Town of Moreau website.[2] At Section 115-70(B), this version states: "Notice of the public hearing shall be published in a newspaper of general circulation within the Town, and posted on the Town's website, at least five days prior to the public hearing which shall be held at the first Town Board meeting that is held in the month of October." Again, the requirement that budgets be prepared and available for public review has been omitted from this version despite it being part of the local law that was filed with the New York Department of State and currently in effect. It is noted that this version has a "rev." notation next to it, indicating it has been revised but how and by whom is not known or disclosed. This is obviously concerning as are "revisions" made to other Town record, including its meeting minutes which we brought to the Town Board's attention by letter dated August 21, 2026.

This is obviously very concerning and misleading to the public. The Town has an unadopted, incorrect version of its Sewer Use Law on the Town website. It also has published an incorrect version on E-Codes website which also conveniently omits the budget requirement, despite misleadingly stating it incorporates the 2025 Amendments. *See* E-Codes, Town of Moreau, Code 2026-2-24. Part II General Legislation, Chapter 115 Sewer Regulations, Article XI Charges, Section 115-70 ("Sewer Charges").[3] It is noted this version also has different language in Sections 115-70 (A) (1) through (3), thereby creating a second, unofficial version of the local law that does not accord with the lawfully adopted 2025 Amendments. The Town Board must ensure that correct version of the sewer use law are posted and available to the public so that they can understand and meaningfully comment on any proposed amendments – such as the amendment that is the subject of tonight's public hearing.

2. Town's Failure to Respond to Schermerhorn's FOIL Appeal Leaving it Unable to Offer Meaningful Comments on the Proposed Local Law

In addition to the confusion caused by the Town's apparent unofficial and illegal "revision" of the Sewer Use Law, Schermerhorn has been left unable to provide meaningful comments on the proposed amendment due to the Town's failure to produce records that should be publicly

[2] townofmoreau.org/local_laws.asp (last visited August 25, 2026).

[3] https://ecode360.com/39443366 (last visited August 25, 2026).

accessible under FOIL. On May 14, 2026, over three (3) months ago, Schermerhorn requested copies of water and sewer bills for Sewer District 1 for fiscal years 2015 through 2026 and any other records reflecting capital charges, total billings, total number of gallons of water used, and late fees if applicable. The documents were requested to determine how parcels in Sewer District 1 were being charged, including the methodology and rate, and to determine how the purported fund balance approved for Sewer District 1 was calculated.

To date, the Town has not provided *any* response to this FOIL request (and others related to the Town's practice of determining sewer charges and related fund balances). The Town's failure to respond constitutes a constructive denial of access to records in violation of Article 7 of the New York State Public Officer's Law (the "Freedom of Information Law" or "FOIL"). Schermerhorn appealed to the Town's denial of access, and the Town again refused to respond with the time required by the statute. This willful violation of the law is compounded by the Town's decision to schedule a public hearing on a Sewer Use Law amendment at the same time it is wrongfully withholding documents that would allow Schermerhorn a meaningful opportunity to comment on the Proposed Local Law. This pattern constitutes a knowing and willful violation of Schermerhorn's rights to access record, to meaningfully observe the Town Board's deliberations and to participate in the local law adoption process. Schermerhorn is currently reviewing this matter and is prepared to pursue all available legal remedies to redress its rights.

3. <u>The Town's Failure to Redress Existing and Past Violations of the Sewer Use Law</u>

Town Board Resolution 159-2025, adopted on April 8, 2025, and attached here as **Tab 2**, required that properties in Sewer District 1- Moreau Industrial Park – be charged an Equivalent Dwelling Unit ("EDU") rate of $270 per EDU. This rate accords with the rate schedule that is currently posted on the Town Website under "Water Department". Pursuant to a report prepared by LaBerge in October 2023, Hexion was assigned 91 EDUs. A map with parcel ID's and acreage (including other vacant parcels in Sewer District 1) is also posted to the Town website under legal notices. In total, the Town's own records indicate a total of approximately 127.5 EDUs in Sewer District 1. At a rate of $270 per EDU, that would have resulted in a total charge of $34,447.68 for Sewer District 1. Regardless, documents the Town *has* elected to produce under FOIL disclose the Town has, since November 2024, been billing Sewer District 1 based on flow measured by a sewer effluent meter. Using this methodology, Sewer District 1 was only charged $16,238.88 – thereby demonstrating the users in Sewer District 1 have been significantly underbilled.

This problem persists in 2026. For the first three months of 2026, Sewer District 1 has been billed based on metered effluent flow totaling $3,442.32. If the Town was charging Sewer District 1 as required by the Sewer Use Law, at the rate of $270 per EDU, the resulting charge would have been $2,870.64 per month or $8,611.92 for the same time-period. While this has repeatedly been brought to the Town's attention, no action has been taken to remedy its practice of chronically underbilling Sewer District 1 and the resulting impact that has had on the allocation of sewer fund balances (which the Town has artificially allocated based on *billings* that do not accord with the Sewer Use Law).

Instead, the Town Board now proposes a Sewer Use Amendment that may have the effect of codifying a lower, subsidized, sewer charge for Sewer District 1. This is perplexing considering the preamble to the Proposed Local Law acknowledges industrial sewage discharges require greater monitoring and reporting, and thereby, greater costs to operate and maintain. It is impossible to know how the Town intends to account for these costs in a new sewer charge or rate for Sewer District 1 as the Town has repeatedly failed to prepare and publish a budget for this sewer district, or any of the Town's distinct and independent sewer service areas. Regardless, its act of amending the Sewer Use Law to adopt a methodology that has, when applied illegally, resulted in a reduced sewer charge for industrial users is per se arbitrary and capricious when the pre-amble to the law acknowledges these users generate unique costs that are not attributable to domestic users.

Based on the foregoing, we respectfully request that the Town Board consider these comments before taking action to amend the Sewer Use Law. A thoughtful and comprehensive plan that not only lays groundwork for reasonable and rational sewer use charges in the future, must be accompanied by an equally comprehensive plan to redress past violations that have resulted in inequitable and illegal billings and cost allocations that favor some users and punish others. We look forward to working with the Town Board through that process.

We request that a copy of this letter be included in the official record of proceedings on the Proposed Local Law.

Very Truly Yours,

Allyson M. Phillips

Allyson M. Phillips

Cc: Richard Schermerhonrn, Schermerhorn Residential Holdings
Erin Tromley, Town of Moreau Town Clerk
Glen Bruening, Esq, Town Attorney

TAB 1

New York State Department of State
Division of Corporations, State Records and Uniform Commercial Code
One Commerce Plaza, 99 Washington Avenue
Albany, NY 12231-0001
www.dos.ny.gov

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of Moreau

Local Law No. 4 **of the year 20**25

A local law AMENDING CHAPTER 115 OF THE MOREAU TOWN CODE RELATING TO SEWER
(Insert Title)
REGULATIONS

FILED
STATE RECORDS
MAR 28 2025
DEPARTMENT OF STATE

Be it enacted by the Town Board **of the**
(Name of Legislative Body)

☐ **County** ☐ **City** ☒ **Town** ☐ **Village**
(Select one:)

of Moreau **as follows:**

Section 1. Authority.

This Local Law amending portions of Chapter 115 of the Code of the Town of Moreau relating to sewer regulations is adopted pursuant to Section 10 of the New York State Municipal Home Rule Law and General Municipal Law Article 14-F.

Section 2. Town Code Section 115-8 (A) is amended by repealing the definition of SEWER RATES AND CHARGES.

Section 3. Town Code Section 115-63 is repealed and a new Section 115-63 is enacted to read as follows:

§ 115-63. Penalties for offenses.

A. Any person who fails to comply with any provision of Articles III through VIII of this Chapter shall be guilty of a violation, and each day of such violation shall be deemed a separate and distinct violation, and every conviction of such violation shall be punished by a fine not exceeding $250 or by imprisonment for a term not exceeding 15 days, or both. The Town Board may designate one or more Town officials or employees to commence appropriate judicial proceedings.

B. In addition to the penalties set forth in paragraph A, any person who fails to comply with any provision of Articles III through VIII of this Chapter shall be subject to a civil penalty not exceeding $500 per day that such non-compliance continues. Such civil penalty, plus the cost to the Town to enforce compliance with this Chapter, plus the

Dept. of State Local Law Index # 4 of the year 2025

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 2025 of the ~~(County)(City)~~(Town)~~(Village)~~ of Moreau was duly passed by the Town of Moreau Town Board on March 25 2025, in accordance with the applicable provisions of law.

(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)

(Name of Legislative Body)

(repassed after disapproval) by the _____ and was deemed duly adopted

(Elective Chief Executive Officer)*

on _____ 20[ ][ ], in accordance w ith the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)

(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____ 20____.

(Elective Chief Executive Officer)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)

(Name of Legislative Body)

(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

*Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)
I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

(Seal)

Date: March 27, 2025

cost to the Town to repair or replace any damage to the sewer system caused by such non-compliance, shall be recovered in a civil action brought in the name of the Town in a court of competent jurisdiction, including as a small claim in justice court, as authorized by the Town Board.

Section 4. Town Code Section 115-70 is repealed and a new Section 115-70 is enacted to read as follows:

§ 115-70. Sewer charges.

A. The Town Board shall by resolution set the charges to be paid by the owner or owners of all properties within each sewer district or extension which shall include:

(1) a charge relating to the total cost of operation and maintenance of the sewer system serving the sewer district or extension, as set forth in the adopted budget for said district or extension and allocated on an equitable basis in just proportion to the benefit conferred on the property by the sewer system,

(2) a charge for the payment of the interest on and amortization of, or payment of, indebtedness which has been or shall be incurred for the construction of the sewer system serving the sewer district or extension (other than indebtedness, and the interest thereon, which is to be paid in the first instance from assessments upon benefited real property) , as set forth in the adopted budget for said district or extension and allocated on an equitable basis in just proportion to the benefit conferred on the property by the sewer system, and

(3) any additional charges including but not limited to those applicable to future or proposed connections to the sewer system, tappings, permits, inspections, new capacity allocations, pre-treatment, late payments, and penalties.

B. A Town Board resolution setting sewer charges for the upcoming calendar year shall be adopted only after a public hearing. Notice of the public hearing shall be published in a newspaper of general circulation within the Town, and posted on the Town's website, at least five days prior to the public hearing which shall be held at the first Town Board meeting that is held in the month of October provided that a proposed budget for the sewer district or extension has been prepared and made available for public review. The Town Board resolution setting the charges for the upcoming calendar year shall be adopted at the second meeting of the Town Board held in the month of October, and such charges shall remain in effect until amended by a subsequent resolution.

C. Charges relating to operation and maintenance costs and charges relating to capital costs shall be set using a schedule of equivalent dwelling units (EDU) based on the benefit conferred on the property by the sewer system. Generally, the greater the use of the system by a particular property the higher number of EDUs it will be assigned. The Town Board resolution approving the sewer charges shall also approve the EDU schedule, and the EDU schedule shall be posted on the Town's website.

D. The charge relating to capital costs shall be paid by owners of all properties located within the district or extension regardless of whether the property is connected to the sewer system.

E. Properties located outside the sewer district or extension that are connected to the sewer system shall pay the same costs as properties located within the district or extension.

Section 5. Town Code Section 115-71 is repealed and a new Section 115-71 is enacted to read as follows:

§ 115-71. Billing.

A. Sewer charges shall begin to accrue as of January 1 each year for use in that year and shall be billed as early in the year as practicable as determined by the Town Board.

B. Property owners shall be billed annually but the Town Board may authorize monthly or semi-annual payments for properties assigned 20 or more EDUs. Charges shall be paid within 30 days of the billing, and late payments shall be subject to a late payment fee of ten percent per month after the initial 30-day payment period. Any payment accepted for an amount less than the amount due as stated on the bill shall be subject to the late payment fee on the original amount stated on the bill. Failure to receive a bill shall not relieve the property owner of the obligation to pay the sewer charges.

C. The charges shall constitute a lien upon the real property served by the sewer system, and such lien shall be prior and superior to every other lien or claim except the lien of an existing tax, assessment or other lawful charge imposed by or for the State or a political subdivision or district.

D. Delinquent sewer charges may be collected through municipal property assessments imposed pursuant to Section 452 of the General Municipal Law.

Section 6. Town Code Section 115-75 is repealed and a new Section 115-75 is enacted to read as follows:

§ 115-75. Agreements for service outside of the sewer district or extension.

Properties located outside the sewer district or an extension may be allowed to connect to the sewer system if the owner of the property first enters into a written agreement approved by the Town Board that commits the owner and successors to comply with this Chapter and commits the property to be included in a future sewer extension.

Section 7. Severability.

The invalidity or unenforceability of any provision of this Local Law by a valid judgement of any court of competent jurisdiction shall not affect the validity or enforceability of any other provision.

Section 8. Effective Date.

This Local Law shall take effect upon filing in the office of the New York State Secretary of State.

TAB 2

A regular meeting of the Town Board of the Town of Moreau was held at 7:00 p.m. on April 8, 2025 at the Moreau Municipal Building, 351 Reynolds Road, Moreau, Saratoga County, New York.

The meeting was held in person. The Supervisor called the meeting to order at 7:00 p.m. with an attendance roll call and the Pledge of Allegiance.

PRESENT:	Patrick Killian	Councilmember
	Kyle Noonan	Councilmember
	Mark Stewart	Councilmember
	Jesse A. Fish, Jr.	Supervisor
ALSO PRESENT:	Erin Trombley	Town Clerk
	Glen Bruening	Town Counsel
	Chris Abrams	Highway Superintendent
	Elizabeth Bennett	Confidential Secretary
	Jeremy Brogan	Recreation Director
	Kristian Mechanick	Water Superintendent

OTHERS PRESENT: Michelle DelSignore, Jeremy Archart, Bill Ramsey, Greg Hewlett (The Pines), Charlene Hewlett, Dave Rogge (Lamplighter Acres), Richie Wiltshire, Kevin Ostrander, Maureen Dennis (Schermerhorn Real Estate Holdings), Alex Portal (Post-Star)

FUTURE MEETINGS
No future meetings were set.

PUBLIC COMMENT PERIOD
No comments were made.

APPROVAL OF MINUTES
Since Councilmembers Killian and Noonan were not present for the March 14, 2025 meeting and Councilmember Donohue was absent at this meeting, a vote to accept the March 14 minutes was tabled.

OLD BUSINESS

Supervisor Fish asked the Town Clerk to read a resolution.

> "**Be it resolved** that the Town Board closes the public hearing on Sewer Rates."

Resolution 159-2025 A motion was made by Councilmember Stewart, seconded by Councilmember Killian to accept the resolution as read.

Asked if all were in favor, the responses were as follows:

Councilmember Donohue	Absent
Councilmember Killian	Aye
Councilmember Noonan	Aye
Councilmember Stewart	Aye
Supervisor Fish	Aye

The motion carried 4:0.

Discussion: The Supervisor said the Board had worked with the Town engineers to make some changes to the proposed EDU schedule, and asked if the Board wanted to discuss anything about the format of the EDUs. Councilmember Stewart said the updated document addressed some of the businesses previous discussed, and included language that would allow the Board to make additions if business types not included in the document join the district. Car washes and schools are different in that use would be calculated because developing an

accurate EDU would be too complicated, he said. Councilmember Killian agreed that use going through a meter made sense versus square footage calculations. Supervisor Fish added that in the case of a warehouse with no water or sewer, the rate would be calculated by square footage, and if water is added, the facility can be re-evaluated.

The Supervisor asked the Town Clerk to read a prepared resolution. She read:

"**WHEREAS** Town Law Section 198 (1) (h) and (j) authorize the Town Board to establish charges, fees or rates to be paid for connections and related services required to access the Town Sewer System; and

WHEREAS Town Law Section 198 (1) (l) authorizes the Town Board to establish sewer use charges consistent with Article 14-f of the General Municipal Law to raise revenue to pay the expenses of the Town Sewer System; and

WHEREAS Moreau Town Code Section 115-70 requires the Town Board by Resolution to periodically establish sewer charges relating to (1) operation and maintenance costs, (2) capital costs, and (3) any additional charges including but not limited to those applicable to connections, tappings, permits, inspections, capacity, pre-treatment, late payments, and penalties; and

WHEREAS the sewer charges relating to operation and maintenance costs and capital costs are to be set using a schedule of equivalent dwelling units (EDU) based on the benefit conferred on the property by the Sewer System; and

WHEREAS the estimated operation and maintenance cost attributable to Sewer District 1 and Extensions 1 through 4 is $138,000 in the current year without reserves, and the estimated capital cost attributable to Sewer District 1 Extensions 1 through 4 is $0 (zero) in the current year; and

WHEREAS the estimated operation and maintenance cost attributable to Sewer District 1 Extension 5 is $158,000 in the current year without reserves, and the estimated capital cost attributable to Sewer District 1 Extension 5 is $278,000 in the current year; and

WHEREAS the Town Board commenced a Public Hearing on February 25, 2025, continued the hearing on March 11, March 25 and April 8, 2025 and, after hearing all interested persons, closed the public hearing this date; and,

WHEREAS the adoption of this Resolution is a Type II action under the State Environmental Quality Review Act for which no further review is required.

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

1. The Town Board hereby adopts the schedule for assigning equivalent dwelling units (EDU) as set forth in the Equivalent Dwelling Unit Schedule attached to this Resolution.

2. The Town Board hereby establishes a sewer use charge of $270 per EDU for all users of Sewer District 1 and Extensions 1 through 4. Any surplus remaining at the end of the year shall remain in a separate fund for use by Sewer District 1 and Extensions 1 through 4.

3. The Town Board hereby establishes a sewer use charge of $650 per EDU for all users of Sewer District 1 Extension 5. Any surplus remaining at the end of the year shall remain in a separate fund for use by Sewer District 1 Extension 5.

4. The Town Board hereby establishes a schedule of all sewer charges, including any charges for

TOWN OF MOREAU
SCHEDULE OF SEWER CHARGES
ADOPTED 4/8/2025

SEWER RATE

DISTRICT 1 AND EXTENSIONS 1, 2, 3, AND 4 OPERATION & MAINTENANCE	$270 PER EDU
DISTRICT 1, EXTENSION 5 DEBT SERVICE OPERATION & MAINTENANCE **CALCULATED PER RATE RESOLUTION	$750 PER EDU

SERVICE LINES AND CONNECTIONS

PERMIT APPLICATION	$50.00
INSPECTION OF APPROVED CONTRACTOR TAP	$50.00
MISCELLANEOUS INSPECTION (15-MINUTE MINIMUM INTERVALS)	$200 PER HOUR
NEW SEWER LINE INSPECTION (PER FOOT)	$1.00

ACCOUNT TRANSFER FEE $50.00

DISCHARGE RESTRICTIONS

LANDOWNER SHALL BE RESPONSIBLE FOR ANY REPAIR COSTS ASSOCIATED WITH PROHIBITED DISCHARGE AS DETERMINED BY THE TOWN WATER & SEWER OPERATOR.

SEWER SERVICE CAPACITY FEE $3,000.00

MAINTENANCE AND REPAIR OF DISTRICT OWNED GRINDER PUMPS AND SERVICE LINES

IF, IN THE OPINION OF THE WATER & SEWER OPERATOR, GRINDER PUMP OR SEWER SERVICE LINE REPAIRS ARE REQUIRED AS A RESULT OF A FAILURE TO COMPLY WITH APPLICABLE REGULATIONS, ALL INSPECTION AND REPAIR COSTS SHALL BE THE RESPONSIBILITY OF THE LANDOWNER.

INDIVIDUAL LANDOWNERS ARE RESPONSIBLE FOR ALL MAINTANCE AND REPAIR OF PRIVATELY OWNED/INSTALLED GRINDER PUMPS, SERVICE LINES, AND/OR TOWN INSTALLED GRINDER PUMPS AND SERVICE LINES WHICH ARE RELOCATED OR ALTERED BY THE LANDOWNER, WITHOUT OBTAINING A PERMIT. A REVISED EASEMENT, IF NECESSARY, WOULD BE REQUIRED TO ACCESS THE GRINDER PUMP AND LINES.

PENALTIES

LATE PAYMENT PENALTIES	10% PER MONTH
RE-LEVY SURCHARGE (PER ACCOUNT)	$50.00
PENALTIES FOR OFFENSES	$250.00 PER DAY PER OFFENSE

TAB B

OFFICE OF THE
TOWN CLERK &
RECEIVER OF TAXES

Erin Trombley
townclerk@townofmoreauny.gov

Maria Jennings
Kristine LaBrake
Deputies

TOWNOFMOREAU.ORG

TOWN OF MOREAU
SARATOGA COUNTY, NY

TOWN BOARD
Jesse A. Fish, Jr.
Supervisor
Mark Stewart
Deputy Supervisor
John Donohue
Councilmember
Laura Garrant
Councilmember
Pat Killian
Councilmember

September 3, 2026

NYS Department of State
Division of Corporations, State Records & Uniform Commercial Code
One Commerce Plaza, 99 Washington Ave.
Albany, NY 12231-0001

Correction

To whom it may concern,

It has come to my attention that I filed the incorrect version of our Local Law 4 of 2025 last March. The correct version was noticed, included in the relevant meeting agenda, approved by the Board, and submitted to General Code. The correct, approved version of Local Law 4 of 2025 is enclosed herewith.

The law was/is posted here on the Town website:

https://www.townofmoreau.org/Proposed-Local-Law-4-2025-03-10.pdf

It was included in pages 45-48 of the March 25, 2025 agenda here:

https://www.townofmoreau.org/2025-3-25_AgendaDocs.pdf

Please advise of additional steps I should take to remedy this mistake.

Thank you and I apologize for any confusion.

Sincerely,

Erin Trombley
Town Clerk / Receiver of Taxes

Encl.
CC: Town Counsel

TOWN OF MOREAU
PROPOSED LOCAL LAW NO. 4 OF 2025
A LOCAL LAW AMENDING CHAPTER 115 OF THE MOREAU TOWN CODE RELATING TO SEWER REGULATIONS

Be it Enacted by the Moreau Town Board as Follows:

Section 1. Authority.

This Local Law amending portions of Chapter 115 of the Code of the Town of Moreau relating to sewer regulations is adopted pursuant to Section 10 of the New York State Municipal Home Rule Law and General Municipal Law Article 14-F.

Section 2. Town Code Section 115-8 (A) is amended by repealing the definition of SEWER RATES AND CHARGES.

Section 3. Town Code Section 115-63 is repealed and a new Section 115-63 is enacted to read as follows:

§ 115-63. Penalties for offenses.

A. Any person who fails to comply with any provision of Articles III through VIII of this Chapter shall be guilty of a violation, and each day of such violation shall be deemed a separate and distinct violation, and every conviction of such violation shall be punished by a fine not exceeding $250 or by imprisonment for a term not exceeding 15 days, or both. The Town Board may designate one or more Town officials or employees to commence appropriate judicial proceedings.

B. In addition to the penalties set forth in paragraph A, any person who fails to comply with any provision of Articles III through VIII of this Chapter shall be subject to a civil penalty not exceeding $500 per day that such non-compliance continues. Such civil penalty, plus the cost to the Town to enforce compliance with this Chapter, plus the cost to the Town to repair or replace any damage to the sewer system caused by such non-compliance, shall be recovered in a civil action brought in the name of the Town in a court of competent jurisdiction, including as a small claim in justice court, as authorized by the Town Board.

Section 4. Town Code Section 115-70 is repealed and a new Section 115-70 is enacted to read as follows:

§ 115-70. Sewer charges.

A. The Town Board shall by resolution set the charges to be paid by the owner or owners of all properties within each sewer district or extension which shall include:

(1) a charge relating to the cost of operation and maintenance of each sewer district or extension in just proportion to the benefit conferred on the property by the sewer system,

(2) a charge relating to the capital cost of constructing each sewer district or extension, including the principal and interest on debt incurred, in just proportion to the benefit conferred on the property by the sewer system, and

(3) any additional charges including but not limited to those applicable to connections, tappings, permits, inspections, capacity, pre-treatment, late payments, and penalties.

B. A Town Board resolution setting sewer charges for the upcoming calendar year shall be adopted only after a public hearing. Notice of the public hearing shall be published in a newspaper of general circulation within the Town, and posted on the Town's website, at least five days prior to the public hearing which shall be held at the first Town Board meeting that is held in the month of October. The Town Board resolution setting the charges for the upcoming calendar year shall be adopted at the second meeting of the Town Board held in the month of October, and such charges shall remain in effect until amended by a subsequent resolution.

C. Charges relating to operation and maintenance costs and charges relating to capital costs shall be set using a schedule of equivalent dwelling units (EDU) based on the benefit conferred on the property by the sewer system. Generally, the greater the use of the system by a particular property the higher number of EDUs it will be assigned. The Town Board resolution approving the sewer charges shall also approve the EDU schedule, and the EDU schedule shall be posted on the Town's website.

D. The charge relating to capital costs shall be paid by owners of all properties located within the district or extension regardless of whether the property is connected to the sewer system.

E. Properties located outside the sewer district or extension that are connected to the sewer system shall pay the same costs as properties located within the district or extension.

Section 5. Town Code Section 115-71 is repealed and a new Section 115-71 is enacted to read as follows:

§ 115-71. Billing.

A. Sewer charges shall begin to accrue as of January 1 each year for use in that year and shall be billed as early in the year as practicable as determined by the Town Board.

B. Property owners shall be billed annually but the Town Board may authorize monthly or semi-annual payments for properties assigned 20 or more EDUs. Charges shall be paid within 30 days of the billing, and late payments shall be subject to a late payment fee of ten percent per month after the initial 30-day payment period. Any payment accepted for an amount less than the amount due as stated on the bill shall be subject to the late payment fee on the original amount stated on the bill. Failure to receive a bill shall not relieve the property owner of the obligation to pay the sewer charges.

C. The charges shall constitute a lien upon the real property served by the sewer system, and such lien shall be prior and superior to every other lien or claim except the lien of an existing tax, assessment or other lawful charge imposed by or for the State or a political subdivision or district.

D. Delinquent sewer charges may be collected through municipal property assessments imposed pursuant to Section 452 of the General Municipal Law.

Section 6. Town Code Section 115-75 is repealed and a new Section 115-75 is enacted to read as follows:

§ 115-75. Agreements for service outside of the sewer district or extension.

Properties located outside the sewer district or an extension may be allowed to connect to the sewer system if the owner of the property first enters into a written agreement approved by the Town Board that commits the owner and successors to comply with this Chapter and commits the property to be included in a future sewer extension.

Section 7. Severability.

The invalidity or unenforceability of any provision of this Local Law by a valid judgement of any court of competent jurisdiction shall not affect the validity or enforceability of any other provision.

Section 8. Effective Date.

This Local Law shall take effect upon filing in the office of the New York State Secretary of State.

N:\Clients\MOREAU, Town\Town Code\2025-LL4-Sewer-Regulations\Proposed-Local-Law-4-2025-03-17.doc

TAB C

Young / Sommer LLC

ATTORNEYS AT LAW

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Phone: 518-438-9907 • Fax: 518-438-9914

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Allyson M. Phillips, Partner
Writer's Telephone Extension: 257
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August 6, 2026

VIA EMAIL & FEDERAL EXPRESS

Town Supervisor Jesse A. Fisch, Jr.
Town of Moreau, Town Hall
351 Reynolds Road
Moreau, New York 12828

Re: Freedom of Information Law ("FOIL") – Appeal Schermerhorn Residential Holdings– Appeal from Denial of Access to Records FOIL Requests #3 and #5, April 23, 2026, and FOIL Requests # 7-13, and #15 dated and May 14, 2026

Dear Town Supervisor:

As you know, this firm represents Schermerhorn Residential Holdings, LP ("Schermerhorn") in connection with its ongoing efforts to obtain a transparent and truthful accounting and assessment of sewer and water fees in the Town of Moreau. In connection with this representation, I have reviewed the Town Records Access Officer's partial response to my client's FOIL request seeking records including water and sewer bills sent to specified users, vouchers for sewer service submitted to the City of Glens Falls, existing dept service, and other records required to support the Town's method for allocating fund balances among its various water and sewer districts and extensions. This letter shall serve as an appeal of the FOIL Response pursuant to N.Y. Public Officer's Law § 89(4). As set forth below, the Town's response to my client's FOIL was inadequate and did not comply with New York law.

I. Background

Schermerhorn submitted a series of FOIL requests to the Town of Moreau Records Access Officer on May 13, 2026. The records requested were necessary for Schermerhorn to understand how the Town Board calculated the fund balances that were recited on the record during April 28, 2026, meeting of the Moreau Town Board ("Town Board") and memorialized in Town Board Resolution 517-2025 ("Fund Balance Resolution") adopted on December 30, 2025. The Fund Balance Resolution (Attached hereto as **TAB 1**) acknowledged as follows:

> Based on guidance at the time of the creation of the Sewer District 1, Extension No. 5, monies collected were allocated to a single Sewer Account (GI). However, since these

districts were not officially consolidated, funds collected and expended should be separated by location.

The goal of this project is to establish three separate sewer funds:

- Fund GH shall be established for sewer revenues/ appropriations related to the Town of Moreau's Industrial Park. As of November 30, 2025, only one user shall be billed for sewer-related charges (Hexion).

- Fund GI shall be changed to include sewer revenues/ appropriations related to Sewer District 1, Extension No.'s 1-4.

- Fund GV shall be established for sewer revenues/ appropriations related to Sewer District 1, Extension No. 5 along the Route 9 Corridor.

See TAB 1, Fund Balance Resolution.[1]

The Fund Balance Resolution went on to explain the Town would "recogni[ze] revenues at the time of billing" and that it "used revenue/ expenditure information from 2023 through November 2025 to determine a percentage of total fund balance". *See* TAB1, Fund Balance Resolution. It then recites, "This percentage should be applied to the current fund balance of the GI fund so that this balance can be split into the three proposed funds". *Id.* Using this methodology, the Fund Balance Resolution established the following fund "balances" as of November 30, 2025:

- GH [Industrial Park/ Hexion/ Sewer District 1] - $59,248.60 Fund Balance (3.24%)

- GV [Sewer District 1, Extension No. 5] - $386,271.47 Fund Balance (includes Sewer Capital Project Funds) (21.18%)

- GI [Sewer District 1, Extension Nos. 1-4] - $1,378,617.37 Fund Balance (75.57%)

See id.

It is important to note that the balances that were established by the Fund Balance Resolution represent a significant increase from the sewer fund balance that was confirmed in an audit conducted by the New York State Comptroller's Office from January 1, 2015 to March 31, 2017. This audit report published in 2018 confirmed that the Town was bringing in excessive revenues over the amounts budgeted and that actual expenditures were much less than appropriations. *See* Audit Report, p. 5. The report concluded the Town Board "did not maintain

[1] While the Fund Balance resolution acknowledges that funds for districts which were not legally consolidated must be separately collected and expended, it only proposes the establishment of three sewer funds. However, there are six separate special sewer district service areas in the Town of Moreau; each established by separate act of the Town Board in accordance with its respective map, plan and report: District No. 1, District 1 – Extension No. 1, District 1 – Extension No. 2, District 1 – Extension No. 3, District 1 – Extension No. 4, and District 1 – Extension No. 5. Each special sewer district service area was formed by separate act of the Town Board in accordance with their respective maps, plans and reports.

a reasonable level of fund balance" and that it would be "appropriate to use surplus fund balances to help reduce the amounts needed to be raised by [] user fees for operations". *Id.*

However, the Town Board did not use surplus money in the sewer fund to reduce user fees for operations in Sewer District 1, Extensions 1 through 4. In fact, sewer rates for these users, the largest being Schermerhorn, were consistently increased in the years following the 2018 audit report. In a prior correspondence, Schermerhorn has objected to Town's practice of charging it unlawful and excessive sewer fees that have because, on its face, it seems to be an "unauthorized tax" not directly related to the cost of providing sewer service to its properties in Sewer District 1, Extension Nos. 1 through 4. *See Phillips v. Town of Clifton Park Water Auth.*, 286 AD2d 834 (3 Dept. 2021)("To the extent that fees charged are exacted for revenue purposes or to offset the cost of general governmental functions they are invalid as an unauthorized tax)(internal quotations omitted).

Most alarming, while the sewer use fees were increased, there was no accounting for any increase in the already excessive surplus sewer fund balance or allocation among the six separate and distinct sewer service areas established pursuant to N.Y. Town Law §§ 202, 202-a. The Audit published in 2018 reported there was an unexpended surplus sewer fund balance of $988,477 at the end of fiscal year 2016. From 2016 through the adoption of the Fund Balance Resolution in December 2025, the surplus in the sewer fund had grown to a combined total of $1,824,137.44 (with $1,378,617.37 of that total being allocated to Sewer District 1, Extension Nos. 1 though 4). While this increase is substantial, it is believed the *actual* surplus fund balance for Sewer District 1, Extension Nos. 1 thought 4 would have been far greater in December 2025 if the actual revenue that was collected by the Town from January 1, 2017 on, was properly accounted for and any expenditures from those funds were limited to legitimate purposes benefitting the users of Sewer District 1, Extension Nos. 1 through 4.[2]

The Town Board has never articulated why it "used revenue/ expenditure information from 2023 through November 2025 to determine a percentage of total fund balance" in December 2025. *See* TAB1, Fund Balance Resolution. The elephant in the room is that revenues and expenditures from the end of fiscal year 2017 to 2022 have been ignored and the excessive revenues extracted from users in Sewer District, Extensions 1 through 4 during this time period have never properly been accounted for.

During this same period, the Town Board embarked on a very lengthy and costly process to form Sewer District 1, Extension No. 5. This process began in 2016 and culminated in the district's formation in June 2018. At the time the district was formed, the maximum amount to be expended for the construction of Sewer District 1, Extension No. 5 was $16,000,000.00 and the Town Board resolved the annual debt service costs "will spread across the properties within Extension No. 5" and allocated among them on both an ad valorem basis and a parcel area basis. The annual operating and maintenance costs were projected to be $169,000.00 that would be allocated based on water usage among users in Extension No. 5. Pursuant to Town Law 209-c,

---

[2] Upon information and belief, the Town took in over $1,040,000.00 dollars in sewer use fees from 2017 through 2022. Payments made to the City of Glens Falls during the relevant period (a legitimate expense for Sewer District 1, Extensions 1 through 4) would have totaled approximately $80,000 per year and an additional $6,000 estimated for legitimate administrative expenses. This would have left an estimated total of approximately $524,000 in surplus sewer funds from 2017 through 2022 that remain unaccounted for.

the costs incurred to form District Extension No. 5, including the cost to prepare the map, plan and report, and any professional services incurred in support of the district formation (went through several repeated attempts), should have also been charged against the properties in that extension area.

However, it remains unclear how these costs, and many other costs associated with the formation and operation of Sewer District 1, Extension No, 5, have been paid by the Town and from what funds.[3]

In addition, the Town has assumed a special duty or responsibility to maintenance and repair of individual grinder pumps and sewer service lines that were installed on private properties in Sewer District, Extension No. 5. The obligation was memorialized in sewer use law amendments enacted by the Town Board though Local Law No. 2 of 2022. *See* Town of Moreau Sewer Use Law, § 155-78 (A) and (E). The Town has never articulated a public benefit to be served by this enactment, which is critical as the expenditure of sewer use revenues to maintain and repair individual grinder pumps and sewer service lines would typically be considered an impermissible gift of public funds as they are not intended to provide a benefit to the town, but to the individual private property owner. *See* N.Y. Comptroller Op. Nos. 82-304; 89-50. Moreover, the Town has never adopted a budget for Sewer District 1, Extension No. 5, that quantified the cost associated with this obligation or how revenue from Sewer District 1, Extension No. 5, could cover those costs, or any other necessary district expenditures (i.e., its debt service payments that began in fiscal year 2023).

II. The Subject FOIL Requests

A. FOIL Request #7-13, & 15 – May 14, 2026

On May 14, 2026, Schermerhorn, through its Operations Manager, Maureen Dennis, submitted a series of FOIL requests seeking records to establish how the beginning sewer fund balance in the Fund Balance Resolution was established and the corresponding percentage allocations. The specific requests that are the subject of this appeal are set forth below:

- FOIL #7 – All records, including documents, invoices, or any other supplemental information used by the Town to establish the beginning fund balances, including revenues and expenditures, by fund for GH, GV, and GI.

- FOIL #8 – Water and sewer bills for Sewer District 1 and Hexion for fiscal years 2015 through 2026, including sewer bills and water bills, and any other records reflecting capital charges, total billings, total number of gallons of water used, and late fees if applicable.

- FOIL #9 – Water and sewer bills for 87 users in Sewer District 1, Extension 5 for fiscal years 2022 through 2026, including records reflecting water usage by

[3] The inference is obvious that revenue generated from user fees in Sewer District 1, Extensions 1 though 4 were likely used to fund improvements in Sewer District 1, Extension 5. The Town has confirmed as much in the case of upgrades to the Bluebird Village pump station, an upgrade that was required by NYSDEC to discharge sewage from Sewer District 1, Extension 5 to the Town of Wilton. As well as Operation and Maintenance (O&M) charges from the City of Glens Falls from November of 2022 to October 2025.

number of gallons, capital costs, late fees, and total billings per account number.

- FOIL #10 – Water and sewer bills to users subject to Outside User Agreements for fiscal years 2015 through 2026, including any records reflecting total water billings and sewer billings, capital costs, late fees, and total number of gallons of water used each year per account number.

- FOIL #11 – Sewer Vouchers for fiscal years 2014 through 2025 documenting payments to City of Glens Falls for sewer service, including vouchers showing actual operation and maintenance costs and reconstruction charges.

- FOIL #12 – Records that show how or explain the Town's methodology for calculating how the water and sewer percentages shown on the chart entitled "2026 Water/ Sewer Breakdown" (attached as TAB 2) were determined, including any related calculations or purpose of bracket by GL Account number.

- FOIL #13 - Records that describe each general ledger account; Revenues: 2122, 2128 and 2401. Expenditures: 8110.01, 8110.2, 8110.4, 9000.8; 9030.8, 9010.8, 9060.8, and 9730. The request specifically includes any records that indicate or reflect its specific purpose, or the difference between sewer rents and charges.

- FOIL #15 – Records showing total debt amount for Sewer District 1 – Extension 5, including any loan documents detailing terms of repayment, interest amount and amortization schedule for each funding source.

B. **FOIL Requests #3 and #5 - April 23, 2026**

Schermerhorn also appeals from a denial of access to related records requested on April 23, 2026. The requested records included statements for each of the separate sewer district and extension areas, and records related to expenditures for the maintenance and repair of grinder pumps installed in Sewer District 1, Extension No. 5.

The records requested are summarized set forth below:

- FOIL #3 – Bank Statements associated with any sewer monies in all six separate district and extension areas (Sewer District 1, Sewer District 1 – Extension 1, Sewer District 1 – Extension 2, Sewer District 1 – Extension 3, Sewer District 1 – Extension 4, Sewer District 1 – Extension 5).

- FOIL #5 – Records relating to grinder pumps installed in Sewer District 1 – Extension 5, including: 1) A copy of all invoices charged to District 1, Extension No. 5 grinder pump repairs from November 1, 2022 to April 21, 2026; 2) general ledger account numbers for accounts to which labor and materials costs were charged; 3) account statements related to the purchase of grinder pumps and any repairs, including statements identifying the subject property and any vendor used, and statements/ invoices time sheets and invoices for any repairs to these grinder pumps; and 4) monthly water and sewer reports from November 2022 through April 2026.

III. The Town's Response

To date, the Town has failed to provide a meaningful response to Schermerhorn's FOIL requests. Instead, it has elected to either ignore the requests outright or produce piecemeal responses with records that were not requested. The Town responses which are the subject of this appeal are set forth below:

- Response to FOIL Request #3 – On April 16, 2026, the Town produce bank statements from Aarow Bank for a single account (#7615) during the period September 2025 through February 2026 were produced by the Town Records Officer. After repeated follow-up inquiries, the Town never confirmed if there were bank statements in the Town's possession for the other funds that were to be established pursuant to the Fund Balance Resolution, and if so, why they were being withheld. Therefore, the Town's partial response and failure to identify additional records that were being withheld constitutes a constructive denial of access to records.

- Response to FOIL Request #5 – On June 10, 2026, an "interim" response was provided by the Town Records Access Officer, which purported to include invoices for grinder pump repairs (Item 1) and monthly water and sewer reports from 11/2022 to 4/2026 (Item 4). However, the documents produced on June 10, 2026, did not include any invoices; instead, the Town produced copies of the Town Clerk's cash logs. On July 8, 2026, the Town provided a further response addressing Schermerhorn's requests for ledger account numbers that were used to pay costs associated with the installation and repair of grinder pumps (Item #3) and statements and invoices related to the purchase and repair of grinder pumps (Item 2). The response stated "no records matching the description of those requested are in the Town's possession". Upon information and belief, the Town purchased and installed 199grinder pumps on private property in Sewer District 1, Extension No. 5. Therefore, it is inconceivable that it would possess no statements or invoices related to their purchase and subsequent repairs. In an email transmitting the Town's official response, Erin Trombley stated as follows:

  > "The explanation for Item 2 is that invoicing repairs is a new process. For item #3, I'm told there are no account statements beyond those that have been provided.

This supplemental response does not acknowledge or address that invoices for the *purchase* of the grinder pumps were also requested. Similarly, the Town says it has no account statements beyond what was provided (presumably in response to FOIL #3) but does not acknowledge that FOIL #5 asked for records showing the *Town's* general ledger account number showing the origin of the funds that were used to pay for the grinder pumps and any necessary repairs.

On July 29, 2026, the Town Records Officer sent *another* partial response, this time producing twenty-seven (27) "repair" invoices from Siewert Equipment from May 6, 2026 to May 17, 2026, Action Septic from June 1, 2024 to February 4,

2026, and TBS Septic from May 7, 2025 to May 8, 2026. No invoices for the purchase of grinder pumps or other associated cost have been provided.

Again, the Town's partial response and failure to provide a response that addresses the actual records that were requested constitutes a constructive denial of access under FOIL.

- Response to FOIL Request #7 and #12 – The Records Access Officer responded to this request on July 8, 2026, purporting to produce documents that were responsive to the request. However, the documents that were produced were mere copies of the agenda items and Fund Balance Resolution from the Town Board meeting on December 30, 2025. These documents were provided to the Town in support of Schermerhorn's FOIL request. The Record Access Officer's act of "producing" those documents back to Schermerhorn does not constitute a valid, good faith response to the requests. If the requested records do not exist, the Town must confirm this in writing.

- No Response to FOIL Requests #8, #9, #10, #11, #13 and #15 – The Town has not provided *any* response to these requests. The Town's failure to respond constitutes a constructive denial of access to records in violation of FOIL. If these records do not exist, either because the Town is not billing other sewer users outside of District 1, Extensions 1 though 4, is not paying the City of Glens Falls as required by applicable and enforceable contracts, or properly accounting for revenues that it brings in and expenditures that it makes, it must confirm this in writing. If the Town does possess these records, but is withholding them from production it must state this and provide a proper explanation.

IV. The Purpose and Intent of the Open Meetings Law

It is well established that FOIL "imposes a broad duty of disclosure on government agencies." *Mothers on the Move, Inc. v. Messer*, 236 A.D.2d 408, 409–10 (2d Dep't 1997). Under the FOIL, all records of an agency are presumptively available for public inspection and copying. See *Matter of Data Tree, LLC. v. Romaine*, 9 N.Y.3d 454, 462 (2007). The statutorily stated policy behind FOIL is to promote "[t]he people's right to know the process of governmental decision- making and to review the documents and statistics leading to determinations." N.Y. Public Officer's Law § 84; *see also* Town Code § 54-2 [same]. There is a presumption that all agency records must be disclosed, and that FOIL shall be "liberally construed and its exemptions narrowly interpreted so that the public is granted maximum access to the records of government." *Mothers on the Move, Inc.*, 236 A.D.2d at 409–10. *See also Matter of Data Tree, LLC.*, 9 N.Y.3d at 462– 63.

It is well settled that the agency seeking to withhold records bears the burden of establishing that the withheld records are exempt from FOIL disclosure under a specific statutory provision. *See Washington Post Co. v. New York State Ins. Dep't*, 61 N.Y.2d 557, 565 (1984). If the agency "fails to prove that a statutory exemption applies, FOIL compels disclosure, not concealment." *See Data Tree, LLC v. Romaine*, 9 N.Y.3d 454, 463 (2007); *see also N.Y. Civil Liberties Union v. City of Schenectady*, 2 N.Y.3d 657, 661 (2004) (holding that

the agency's burden in this regard is only met where the agency articulates a particularized and specific justification for denying access). The Courts have held that the FOIL "creates a presumption of accessibility which may be overcome only if the responding government agency demonstrates convincingly that the materials being sought fall within specific statutory exceptions to discoverability." *Johnson Newspaper Corp. v. Stainkamp*, 94 A.D.2d 825, 826 (3d Dep't 1983).

Moreover, FOIL requires that the agency articulate a particularized and specific justification for denying access. *See W. Harlem Bus. Grp. v. Empire State Dev. Corp.*, 13 N.Y.3d 882, 885 (2009); *see also Church of Scientology of New York v. State,* 46 N.Y.2d 906, 908 (1979). The Court of Appeals has held that an agency cannot rely on "conclusory characterizations of the records sought" and recognized that blanket invocations essentially compel the record seeker into litigation to "obtain either the records sought or an explanation of [the] denial." *Harlem Bus. Grp.*, 13 N.Y.3d at 885. The Town's failure to produce the requested records, or to clearly articulate that the requested records do not exist, violates Schermerhorn's access to information under FOIL and infringes on its right to review the documents and data that form the basis for its decision making.

In response to this appeal, Schermerhorn requests that the requested documents be released. Transparency is key to understanding what has happened in the past and to prevent it from happening again in the future.

Conclusion

We ask the Town Board to produce all documents responsive to Schermerhorn's FOIL Requests and provide clarifications as to those records the Town maintains either do not exist or are not in its' possession. Per New York Public Officers Law § 4(a), if a response is not provided within 10 days of receipt of this appeal and/or the requested documents are again withheld, Schermerhorn reserves the right to exercise all available remedies permitted under law, including but not limited to seeking attorneys' fees related to obtaining the withheld records. We respectfully remind the Town that, if a Court finds that the Town had no "reasonable basis" for withholding said records, the Court "shall" assess, against the Town, reasonable attorney's fees and litigation costs incurred by the applicant. *See* Public Officers Law § 89(4)(C)(ii).

Very truly yours,

Allyson M. Phillips

Enclosures

Cc: Erin Tromley, Town of Moreau Town Clerk and Records Access Officer
Glen Bruening, Esq, Town Attorney
New York Dep't of State, Committee on Open Government
Alison M. Cupernall, New York State Comptroller's Office
Members of the Town of Moreau Town Board
Richard Schermerhorn, Schermerhorn Residential Holdings
Maureen Dennis, Schermerhorn Residential Holdings

TAB 1

- Eight (8) paperback books entitled Field Guide to the Birds of Eastern North America
- Building Department Desk."

Resolution 516-2025 A motion was made by Councilmember Donohue, seconded by Councilmember Killian to accept the resolution as read.

Asked if all were in favor, the responses were as follows:

Councilmember Donohue	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Supervisor Fish	Aye

The motion carried 4:0.

Supervisor Fish said Principal Account Clerk Cruz had been working on the sewer district fund separation, and had provided calculations to the Board. Supervisor Fish asked the Clerk to read the following resolution:

"**BE IT RESOLVED,** from the calculations and recommendations provided by the Principal Account Clerk on December 23, 2025, the Town Board hereby establishes three separate sewer funds, from the monies previously held in the original GI Sewer fund, as follows:

- GH - with a fund balance of $59,248.60
- GV - with a fund balance of $386,271.47, which includes Sewer Capital Project Funds
- GI - with a fund balance of $1,378,617.37

BE IT FURTHER RESOLVED, that, after November 30, 2025, all revenues collected shall be allocated to each fund based on monthly or annual billing; and all expenditures shall be allocated to each fund based on an annual percentage, including a 12-month period, established by billing figures."

Discussion: Councilmember Stewart said this was a step in the right direction, consolidating sewer extensions 1-4.

Resolution 517-2025 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue to accept the resolution as read.

Asked if all were in favor, the responses were as follows:

Councilmember Donohue	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Supervisor Fish	Aye

The motion carried 4:0.

Supervisor Fish said NY State requires all municipalities to operate a .gov website, and in connection with this, the Town needs .gov email addresses. He said that a quote had been obtained from StoredTech for this work. He asked the Clerk to read the resolution. She read:

"**BE IT RESOLVED,** that the Town Board authorizes the transfer of $4,200.00 from account A1620.2 to A1620.4."

Agenda
Town of Moreau
Town Board Meeting
December 30, 2025
7:00PM

6:45 p.m. Month End Audit Meeting
7:00 p.m. Regular Town Board Meeting
Roll Call / Pledge of Allegiance

1. Public Hearing – Proposed Local Law 13 of 2025

2. Set Future Meetings / Upcoming Events

3. Approval of Minutes
   - December 9, 2025 –Regular Town Board Meeting

Public Comment Period
***This is solely for comments and questions which pertain to agenda items.*

4. US Light Energy

5. Nexamp/Bakers Falls

6. Local Law 13 of 2025

7. Building, Planning and Development Office
   - Desk Purchase

8. Highway Department
   - Selfridge Rd Culvert Project – Change Order
   - Hydraulic Cylinder – Truck #11

9. Town Clerk's Office
   - BINGO License – Moreau Community Center

10. Assessor's Office Request
    - GAR Contract
    - Second Notice Mailing

11. Recreation Department Requests
    - John Deere Field Rake Engine

12. Supervisor's Office
    - Declare Surplus Items
    - Sewer Fund Separation
    - Email Domain Change
    - Town Designated Attorney
    - Glens Falls Sewer Agreement

Based on guidance at the time of the creation of the Sewer District 1, Extension No. 5, monies collected were allocated to a single Sewer Account (GI). However, since these districts were not officially consolidated, funds collected and expended should be separated by location.

The goal of this project is to establish three separate sewer funds:

- Fund GH shall be established for sewer revenues/appropriations related to the Town of Moreau's Industrial Park. As of November 30, 2025, only one user shall be billed for sewer-related charges (Hexion).
- Fund GI shall be changed to include sewer revenues/appropriations related to Sewer District 1, Extension No.'s 1-4.
- Fund GV shall be established for sewer revenues/appropriations related to Sewer District 1, Extension No. 5 along the Route 9 Corridor.

The separation of the monies currently held in the sewer fund (GI) is not a simple task. Though cash is held in two accounts (200-Cash and 203-Insured Cash Sweep), revenues for this account are delayed. The process involves recognizing revenues at the time of billing, receiving cash in the Town Clerk's Office during the months of water/sewer collection, then depositing that cash into the Operating Account in the next month.

To account for this issue, I used revenue/expenditure information from 2023 through November 2025 to determine a percentage of total fund balance. This percentage should be applied to the current fund balance of the GI fund so that this balance can be split into the three proposed funds.

If amenable, these funds could be established with the following amounts as of November 30, 2025. Revenues after that date shall be allocated to each fund based on the monthly/annual billing. Expenditures after that date shall be allocated to each fund based on an annual percentage established by billing figures. This percentage should include a 12-month period to capture seasonal changes, if applicable.

- GH - $59,248.60 Fund Balance
- GV - $386,271.47 Fund Balance (includes Sewer Capital Project Funds)
- GI - $1,378,617.37 Fund Balance

GH = Sewer Hexion	6.18%
GV = Sewer Dist. No. 5 (Rte 9)	13.44%
GI = Sewer Districts 1-4	80.38%

Starting Fund	GH	GV	GI	TOTAL
Fund Balance	33,070.97		1,069,294.73	1,102,365.70

Revenues	GH	GV	GI	TOTAL
2120	$ 24,971.96	$ 54,307.94	$ 324,797.06	$ 404,076.96
2122	$ 3,450.58	$ 7,504.16	$ 44,879.82	$ 55,834.56
2128	$ 278.53	$ 605.75	$ 3,622.74	$ 4,507.02
2401	$ 2,411.07	$ 5,243.50	$ 31,359.55	$ 39,014.12
	$ 31,112.14	$ 67,661.35	$ 404,659.17	$ 503,432.66

Expenditures	GH	GV	GI	TOTAL
8110.1	$ 255.95	$ 556.62	$ 3,328.98	$ 4,141.55
8110.2	$ 297.36	$ 646.67	$ 3,867.54	$ 4,811.57
8110.4	$ 13,682.10	$ 29,755.26	$ 177,955.91	$ 221,393.27
9000.8	$ 3.65	$ 7.93	$ 47.42	$ 59.00
9030.8	$ 15.59	$ 33.89	$ 202.71	$ 252.19
9060.8	$ 75.86	$ 164.97	$ 986.64	$ 1,227.47
9730	$ -	$ 96,500.00	$ -	$ 96,500.00
	$ 14,330.51	$ 127,665.34	$ 186,389.20	$ 328,385.05

Ending Fund	GH	GV	GI	TOTAL
Fund Balance	49,852.60	(60,003.99)	1,287,564.70	1,277,413.31

2023 Billing	GH	GV	GI	TOTAL
12/31/2023	$ 2,111.76	$ 5,982.48	$ 26,428.92	$ 34,523.16
11/30/2023	$ 2,348.64	$ 6,310.08	$ 26,428.92	$ 35,087.64
10/31/2023	$ 1,895.04	$ 5,664.96	$ 26,428.92	$ 33,988.92
9/30/2023	$ 2,046.24	$ 6,864.48	$ 26,428.92	$ 35,339.64
8/31/2023	$ 1,743.84	$ 942.48	$ 26,428.92	$ 29,115.24
7/31/2023	$ 2,106.72	$ 1,078.56	$ 26,428.92	$ 29,614.20
6/30/2023	$ 2,066.40	$ 1,209.60	$ 26,428.92	$ 29,704.92
5/31/2023	$ 2,162.16	$ 1,300.32	$ 26,428.92	$ 29,891.40
4/30/2023	$ 1,703.52	$ 5,276.88	$ 26,428.92	$ 33,409.32
3/31/2023	$ 640.08	$ 5,377.68	$ 26,428.92	$ 32,446.68
2/28/2023	$ 3,215.52	$ 6,869.52	$ 26,428.92	$ 36,513.96
1/31/2023	$ 2,338.56	$ 6,168.96	$ 26,428.92	$ 34,936.44
	6.18%	13.44%	80.38%	

GH = Sewer Hexion	5.30%
GV = Sewer Dist. No. 5 (Rte 9)	31.37%
GI = Sewer Districts 1-4	63.33%

Starting Fund	GH	GV	GI	TOTAL
Fund Balance	49,852.60	(60,003.99)	1,287,564.70	1,277,413.31

Revenues	GH	GV	GI	TOTAL
2120	$ 28,180.19	$ 166,794.83	$ 336,726.71	$ 531,701.73
2122	$ 251.75	$ 1,490.08	$ 3,008.17	$ 4,750.00
2128	$ -	$ -	$ -	
2401	$ 2,317.51	$ 13,717.05	$ 27,692.09	$ 43,726.65
2706	$ 376.30	$ 2,227.27	$ 4,496.43	$ 7,100.00
	$ 31,125.75	$ 184,229.23	$ 371,923.40	$ 587,278.38

Expenditures	GH	GV	GI	TOTAL
8110.1	$ 269.45	$ 1,594.85	$ 3,219.70	$ 5,084.00
8110.2	$ 13,003.92	$ 76,968.48	$ 155,384.58	$ 245,356.98
8110.4	$ 13,169.88	$ 77,950.79	$ 157,367.65	$ 248,488.32
9000.8	$ 3.74	$ 22.12	$ 44.66	$ 70.52
9010.8	$ 50.88	$ 301.15	$ 607.97	$ 960.00
9030.8	$ 15.97	$ 94.50	$ 190.79	$ 301.26
9060.8	$ 97.15	$ 574.99	$ 1,160.80	$ 1,832.94
9730	$ -	$ 273,230.00	$ -	$ 273,230.00
	$ 26,610.99	$ 430,736.88	$ 317,976.15	$ 775,324.02

Ending Fund	GH	GV	GI	TOTAL
Fund Balance	54,367.36	(306,511.64)	1,341,511.95	1,089,367.67

2024 Billing	GH	GV	GI	TOTAL
12/31/2024	$ 856.80	$ 11,592.00	$ 27,318.06	$ 39,766.86
11/30/2024	$ 932.40	$ 15,724.80	$ 27,318.35	$ 43,975.55
10/31/2024	$ 2,756.88	$ 14,918.40	$ 27,318.35	$ 44,993.63
9/30/2024	$ 2,741.76	$ 10,584.00	$ 43,328.09	$ 56,653.85
8/31/2024	$ 2,378.88	$ 8,769.60	$ 26,428.92	$ 37,577.40
8/31/2024 SA	$ -	$ 30,114.00	$ -	$ 30,114.00
7/31/2024	$ 2,666.16	$ 9,021.60	$ 26,428.92	$ 38,116.68
6/30/2024	$ 2,772.00	$ 9,273.60	$ 26,428.92	$ 38,474.52
5/31/2024	$ 2,449.44	$ 8,467.20	$ 26,428.92	$ 37,345.56
4/30/2024	$ 2,605.68	$ 6,501.60	$ 26,428.92	$ 35,536.20
3/31/2024	$ 2,903.04	$ 7,121.52	$ 26,428.92	$ 36,453.48
2/29/2024	$ 2,685.52	$ 6,476.40	$ 26,428.92	$ 35,490.84
2/29/2024 SA	$ -	$ 20,805.12	$ -	$ 20,805.12
1/31/2024	$ 2,514.96	$ 7,454.16	$ 26,428.92	$ 36,398.04
	5.30%	31.37%	63.33%	

GH = Sewer Hexion	2.72%
GV = Sewer Dist. No. 5 (Rte 9)	47.53%
GI = Sewer Districts 1-4	49.75%

Starting Fund	GH	GV	GI	TOTAL
Fund Balance	54,367.36	(306,511.64)	1,341,511.95	1,089,367.67

Revenues	GH	GV	GI	TOTAL
2120	$ 16,223.76	$ 276,354.40	$ 244,565.13	$ 537,143.29
2122	$ 81.60	$ 1,425.90	$ 1,492.50	$ 3,000.00
2401	$ 6.64	$ 115.98	$ 121.40	$ 244.02
2701	$ 0.57	$ 9.98	$ 10.45	$ 21.00
	$ 16,312.57	$ 277,906.26	$ 246,189.48	$ 540,408.31

Expenditures	GH	GV	GI	TOTAL
8110.1	$ 597.49	$ 10,440.62	$ 10,928.27	$ 21,966.38
8110.2	$ 725.80	$ 12,682.90	$ 13,275.30	$ 26,684.00
8110.4	$ 10,007.13	$ 174,867.22	$ 183,034.81	$ 367,909.16
9000.8	$ 8.14	$ 142.29	$ 148.93	$ 299.36
9010.8	$ -	$ -	$ -	
9030.8	$ 34.83	$ 608.65	$ 637.09	$ 1,280.57
9060.8	$ 57.94	$ 1,012.37	$ 1,059.66	$ 2,129.97
9730	$ -	$ 277,941.00	$ -	$ 277,941.00
	$ 11,431.33	$ 477,695.05	$ 209,084.06	$ 698,210.44

Ending Fund	GH	GV	GI	TOTAL
Fund Balance	59,248.60	(506,300.43)	1,378,617.37	931,565.54
	6.36%	**-54.35%**	**147.99%**	

2025 Billing*	GH	GV	GI	TOTAL
9/30/2025	$ 1,229.76	$ 25,062.50	$ 22,063.83	$ 48,356.09
8/31/2025	$ 1,325.52	$ 25,062.50	$ 22,063.83	$ 48,451.85
8/31/2025 SA		$ 87,761.10	$ 180.00	$ 87,941.10
7/31/2025	$ 2,434.32	$ 25,062.50	$ 22,108.83	$ 49,605.65
6/30/2025	$ 1,436.40	$ 25,062.50	$ 22,108.83	$ 48,607.73
5/31/2025	$ 927.36	$ 7,308.00	$ 27,318.06	$ 35,553.42
4/30/2025	$ 1,249.92	$ 8,996.40	$ 27,318.06	$ 37,564.38
3/31/2025	$ 1,159.20	$ 7,887.60	$ 27,318.06	$ 36,364.86
2/28/2025 SA	$ -	$ 23,133.60	$ -	$ 23,133.60
2/28/2025	$ 1,073.52	$ 7,207.20	$ 27,318.06	$ 35,598.78
1/31/2025	$ 1,375.92	$ 8,568.00	$ 27,318.06	$ 37,261.98
12/31/2024	$ 856.80	$ 11,592.00	$ 27,318.06	$ 39,766.86
11/30/2024	$ 932.40	$ 16,724.80	$ 27,318.35	$ 43,975.55
10/31/2024	$ 2,756.88	$ 14,918.40	$ 27,318.35	$ 44,993.63
	2.72%	47.53%	49.75%	

* 12 month lookback

TAB 2

2026 Water / Sewer Breakdown

Water & Sewer		
CW	85.0%	$ -
GH	0.5%	$ -
GI	7.0%	$ -
GV	7.5%	$ -
		$ -

Sewer Only		
CW		
GH	3.0%	$ -
GI	46.0%	$ -
GV	51.0%	$ -
		$ -

GH & GV		
CW		
GH	6.25%	$ -
GI		
GV	93.75%	$ -
		$ -

GH & GI		
CW		
GH	7.0%	$ -
GI	93.0%	$ -
GV		
		$ -

GI & GV		
CW		
GH		
GI	48.0%	$ -
GV	52.0%	$ -
		$ -

Meter readings 2026:

	Ext 1-4 Vanburen	Est 5 & MIP Rt 9	MIP
Apr-26			
Starting	232,772,800	35,825,908	5,461,000
Ending	235,182,784	38,405,560	5,670,000
Produced	**2,409,984**	**2,579,652**	**209,000**
May-26			
Starting	235,268,144	38,485,876	5,680,000
Ending	237,735,142	41,045,680	5,883,000
Produced	**2,466,998**	**2,559,804**	**203,000**
Jun-26			
Starting	237,835,024	41,145,072	5,893,000
Ending	240,251,584	43,820,176	6,144,000
Produced	**2,416,560**	**2,675,104**	**251,000**
Jul-26			
Starting	240,334,592	43,906,800	6,153,000
Ending	242,864,400	46,609,452	6,455,000
Produced	**2,529,808**	**2,702,652**	**302,000**
Aug-26			
Starting	242,949,728	46,690,936	6,461,000
Ending	245,537,200	49,345,804	6,761,000
Produced	**2,587,472**	**2,654,868**	**300,000**
Sep-26			
Starting	245,625,280	49,423,248	6,766,000
Ending	248,171,744	52,032,028	7,091,000
Produced	**2,546,464**	**2,608,780**	**325,000**
	GI	**GV**	**GH**
	Ext 1-4 Vanburen	**Est 5 & MIP Rt 9**	**MIP**
Beginning	232,772,800	35,825,908	5,461,000
Ending	248,171,744	52,032,028	7,091,000
Totals **6 months**	15,398,944	16,206,120	1,630,000

		$ 62,393.56	**$ 8,965.00**	per $5.50	$ 124,787.12	807,176
			$ 6,275.50	per $3.85	$ 17,930.00	
			2,690	difference	$ 142,717.12	
	31,605,064					
total est **2026**	49%	51%	10%			

EDU's being charged 2026	873.67	600.5	91					
	$ 235,890.90	**$ 450,375.00**	**$ 17,930.00**	est				
debt prin		$ (282,652)	$ -					
SCSD @ $3.85		$ (149,745)	$ (6,276)					
Truck	$ (4,616)	$ (4,946)	$ (3,297)		2/24/2026	$ 65,944.00	94-2026	
Spare Fernun Rd		$ (47,279)	$ (3,152)		4/28/2026	$ 50,430.68	156-2026	
City GF est @ $3.77	$ (139,330)	$ -	$ -					
Benefits	$ (4,712)	$ (5,224)	$ (307)		10,243.00			
Personel	$ (10,174)	$ (11,280)	$ (664)					
Surplus/Deficit	**$ 77,060**	**$ (50,750)**	**$ 4,235**					

HOME OF THE GOOD SHEPARD:

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL		
2024	970.73	965.53	983.73	944.73	983.73	962.93	970.73	1046.13	978.53	996.73	905.73	905.73	11,614.96		21 EDU's
SEWER	644.00	644.00	644.00	644.00	644.00	644.00	644.00	644.00	644.00	644.00	644.00	644.00	7,728.00	SEWER	7728 $ 368.00
	326.73	321.53	339.73	300.73	339.73	318.93	326.73	402.13	334.53	352.73	261.73	261.73	3,886.96		644 PER MONTH
													56.00	CAP CHARGE	
													3,830.96	WATER	
													1,473.45	Div $2.60	
													1,473,446	# gallons	
2025	905.73	905.73	905.73	1053.93	2382.53	2702.19	3456.07	3159.67	2748.87	3089.47	2322.47	3162.27	26,794.66		
SEWER	644.00	644.00	644.00	644.00	780.08	780.08	780.08	780.08	780.08	780.08	780.08	780.08	8,816.64	SEWER	34.67 EDU's
	261.73	261.73	261.73	409.93	1,602.45	1,922.11	2,675.99	2,379.59	1,968.79	2,309.39	1,542.39	2,382.19	17,978.02		9360.9 $ 270.00
													56.00	CAP CHARGE	780.075 PER MONTH
													17,922.02	WATER	
													6,893.08	Div $2.60	
													6,893,085	# gallons	

SISSON RESERVE:

	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC	TOTAL		
2024	6340.11	6340.11	6340.11	6340.11	6340.11	6340.11	6340.11	6340.11	7637.51	6683.31	6930.31	6784.71	78,756.72		147 EDU's
SEWER	4,508.00	4,508.00	4,508.00	4,508.00	4,508.00	4,508.00	4,508.00	4,508.00	4,508.00	4,508.00	4,508.00	4,508.00	54,096.00	SEWER	54096 $ 368.00
	1,832.11	1,832.11	1,832.11	1,832.11	1,832.11	1,832.11	1,832.11	1,832.11	3,129.51	2,175.31	2,422.31	2,276.71	24,660.72		4508 PER MONTH
													56.00	CAP CHARGE	
													24,604.72	WATER	
													9,463.35	Div $2.60	
													9,463,354	# gallons	
2025	6990.11	6552.11	6828.91	6899.11	6537.71	5457.79	5803.59	5644.99	5426.59	5686.59	5140.59	5379.79	72,347.88		
SEWER	4,508.00	4,508.00	4,508.00	4,508.00	3,307.50	3,307.50	3,307.50	3,307.50	3,307.50	3,307.50	3,307.50	3,307.50	44,492.00	SEWER	147
	2,482.11	2,044.11	2,320.91	2,391.11	3,230.21	2,150.29	2,496.09	2,337.49	2,119.09	2,379.09	1,833.09	2,072.29	27,855.88		39690 $ 270.00
													56.00	CAP CHARGE	3307.5 PER MONTH
													27,799.88	WATER	
													10,692.26	Div $2.60	
													10,692,262	# gallons	

Jan-Dec	City GF BILLINGS	
2025	$ 151,690.00	MIP&Bluebird Terrace Mobile Park south 10/24/2025
2024	$ 214,438.00	Dist 1, Ext 5 still flowing majority to wilton 11/8/2024, except hexion & Bluebird terrace MHP (2nd largest user ext 5 per Bill Ryan letter to comptroller)
2023	$ 172,571.00	Dist 1, Ext 5 connected to wilton 11/8/2024 (meter at wilton Pump house not worked last two three months)
2022	$ 95,261.00	Dist 1, Ext 5 8/2022 and after all ext 5 connected to City GF on 11/1/2022
2021	$ 71,444.00	
2020	$ 85,447.00	
2019	$ 66,031.00	
2018	$ 82,861.00	
2017	$ 72,481.00	
2016	$ 75,865.00	
2015	$ 69,956.00	

MOREAU INDUSTRIA 10/24/2025 To ext 5 south to wilton

BB TERRACE TRAILE 10/24/2025 To ext 5 south to wilton

connections, tappings, permits, inspections, capacity, pre-treatment, late payments, and penalties, as set forth in the Schedule of Sewer Charges attached to this Resolution.

5. This Resolution shall take effect immediately."

Resolution 160-2025 A motion was made by Councilmember Stewart, seconded by Councilmember Killian to accept the resolution as read.

Discussion: Councilmember Stewart apologized and said he should have commented sooner, and that $650 per EDU doesn't leave much above the operating cost of extension 5, and that figures used for calculation didn't include maintenance required by the Town. He expressed concern that at $650 per EDU, long-term maintenance and emergency repairs would not be covered. He said with each grinder pump having a life expectancy of 7-12 years, and a conservative estimate of over 160 grinder pumps the Town is responsible for at approximately $6,500 each, the financial obligation is over $1,000,000 to change each pump once, and it's likely pumps will need to be replaced 2-3 times over the life of the loan. He said he did not believe the proposed rate would sufficiently cover these expenses. He also restated that the structure of the loan, the $278,000 figure per year, will increase over the life of the 30-year loan to over $400,000 per year. He said he thought some of the known maintenance cost should be charged at this time to avoid a large increase next year. He suggested raising the rate per EDU in extension 5 to $750. He said this approximate $75,000 delta would then be used on maintenance and repairs in the coming year, or be put aside for long-term maintenance the system will need.

Councilmember Killian said that maintenance on any motor is unpredictable and that he agreed with Councilmember Stewart that it was a better idea to increase the cost now in an effort to maintain transparency, rather than to say later that it was an expense that was missed in the early calculations. Councilmember Noonan said he had nothing to add. Councilmember Stewart proposed amending the third of the five resolved items to read, "3. The Town Board hereby establishes a sewer use charge of $750 per EDU for all users of Sewer District 1 Extension 5. Any surplus remaining at the end of the year shall remain in a separate fund for use by Sewer District 1 Extension 5." He said this change was the Board doing its due diligence to protect the extension 5 users, adding that to retain the $650 would be a good rate for now, but would be kicking the can of the actual expenses down the road. He said he believed the original figure proposed by the Town engineers was $976 per EDU. He said they are working to provide the best overall solution based on all the factors at play.

The revised motion:

WHEREAS Town Law Section 198 (1) (h) and (j) authorize the Town Board to establish charges, fees or rates to be paid for connections and related services required to access the Town Sewer System; and

WHEREAS Town Law Section 198 (1) (l) authorizes the Town Board to establish sewer use charges consistent with Article 14-f of the General Municipal Law to raise revenue to pay the expenses of the Town Sewer System; and

WHEREAS Moreau Town Code Section 115-70 requires the Town Board by Resolution to periodically establish sewer charges relating to (1) operation and maintenance costs, (2) capital costs, and (3) any additional charges including but not limited to those applicable to connections, tappings, permits, inspections, capacity, pre-treatment, late payments, and penalties; and

WHEREAS the sewer charges relating to operation and maintenance costs and capital costs are to be set using a schedule of equivalent dwelling units (EDU) based on the benefit conferred on the property by the Sewer System; and

WHEREAS the estimated operation and maintenance cost attributable to Sewer District 1 and Extensions 1 through 4 is $138,000 in the current year without reserves, and the estimated capital cost attributable to Sewer District 1 Extensions 1 through 4 is $0 (zero) in the current year; and

EDU	91	240	146	21	26	116	640
SB	[redacted]	197	30	[redacted]	17	114	640
	19.1%	30.8%	4.7%	25.0%	2.6%	17.8%	100.0%

Master							27,063,420	2021
	District 1 HEXION	District 1, Ext 2 BBV	District 1, Ext 1 SISSON	District 1, Ext 3 The Nest	District 1, Ext 3 Harrison Place	District 1, Ext 4 Harrison Quarry	TOTALS	
Jan	647,500	645,277	113,500	535,000	23,600	378,740	2,343,617	
Feb	657,000	608,507	102,900	511,000	49,900	285,830	2,215,137	
Actual	1,304,500	1,253,784	216,400	1,046,000	73,500	664,570	4,558,754	**2020** 2 months
Master	5,157,500	8,302,217	1,264,400	6,732,000	713,100	4,809,660	26,978,877	**2020** YEAR
	6,599,000	7,873,546	6,147,000	1,344,000	704,900	3,559,537	26,227,983	**2019**
	5,607,000	7,950,383	10,100,000	1,460,000	718,700	2,342,763	28,178,846	**2018**
	5,607,000	8,068,900	6,278,000	1,277,500	680,100	1,134,250	23,045,750	**2017**
	11,616,000	8,323,940	5,501,000	1,301,200	771,500	-	27,513,640	**2015**
	5,476,000	7,799,220	3,193,190	939,500	343,500	-	17,751,410	**2014**
	4,939,000	5,922,120	1,463,000	198,100	-	-	12,522,220	**2013**
	9,099,000	4,116,680	280	-	-	-	13,215,960	**2012**
	7,908,000	1,625,840	-	-	-	-	9,533,840	**2011**

						11/30/2025 Fund Balance
			Totals by Extension:	**EDU's Billed**	**% of Whole**	**$1,378,617.37**
District 1	Extension	1	SRH Harrison Village	241	27.99%	$385,884.77
District 1	Extension	1	Sisson Reserve	146	16.96%	$233,772.52
District 1	Extension	2	SRH Bluebird Village	240	27.87%	$384,283.59
District 1	Extension	3	SRH Harrison Place	26	3.02%	$41,630.72
District 1	Extension	3	The Nest Home Good Shepard	21	2.44%	$33,624.81
District 1	Extension	4	SRH Harrison Quarry	117	13.59%	$187,338.25
District 1	Extension	4	SRH Bluebird Trace	70	8.13%	$112,082.71
				861	**100.00%**	**$1,378,617.37**
			TOTALS by owner:			
			Schermerhorn	694	80.60%	$1,111,220.04
			Sisson Reserve	146	16.96%	$233,772.52
			The Nest Home Good	21	2.44%	$33,624.81
				861	**100.00%**	**$1,378,617.37**

BORDEN (HEXION) (MOMENTIVE) CHEMICAL SEWER BILLING HISTORY

YEAR	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTALS
2015	2,290.00	2,710.00	6,680.00	7,880.00	5,590.00	5,320.00	6,070.00	5,865.00	4,995.00	3,010.00	3,410.00	4,260.00	**58,080.00**
2016	3,945.00	7,515.00	8,225.00	7,765.00	4,130.00	3,560.00	3,305.00	3,400.00	2,870.00	3,400.00	3,210.00	3,350.00	**54,675.00**
2017	3,200.00	2,670.00	2,430.00	2,050.00	2,085.00	2,180.00	2,650.00	2,390.00	2,455.00	2,295.00	1,795.00	1,735.00	**27,935.00**
2018	1,800.00	1,765.00	2,435.00	2,905.00	2,630.00	2,225.00	2,720.00	2,610.00	2,820.00	2,760.00	2,090.00	1,275.00	**28,035.00**
2019	1,945.00	2,235.00	3,070.00	4,465.00	3,865.00	2,435.00	2,560.00	2,790.00	1,685.00	3,320.00	2,040.00	2,585.00	**32,995.00**
2020	3,237.50	3,285.00	3,662.50	1,786.00	2,146.50	1,691.50	1,681.00	1,795.50	1,513.00	1,810.50	1,648.00	1,530.50	**25,787.50**
2021	1,273.00	1,302.50	1,320.00	1,215.50	993.00	1,659.50	1,864.00	1,951.50	1,984.50	2,160.00	2,425.00	1,521.00	**19,669.50**
2022	2,101.60	1,548.61	1,723.50	2,126.06	2,183.82	1,757.17	2,283.97	2,194.82	2,235.00	1,678.55	414.61	2,717.55	**22,965.26**
2023	2,338.56	3,215.52	640.08	1,703.52	2,162.16	2,066.40	2,106.72	1,743.84	2,046.24	1,895.04	2,348.64	2,111.76	**24,378.48**
2024	2,514.96	2,585.52	2,903.04	2,605.68	2,449.44	2,772.00	2,666.16	2,378.88	2,741.76	2,756.88	932.40	856.80	**28,163.52**
2025	1,375.92	1,073.52	1,159.20	1,249.92	927.36	1,436.40	2,434.32	1,325.52	1,229.76	1,577.52	856.80	1,592.64	**16,238.88**
2026	1053.36	1,033.20	1,355.76	1,053.36	1,123.92	1,234.80							**6,854.40**

BORDEN (HEXION) (MOMENTIVE) CHEMICAL SEWER CONSUMPTION HISTORY

YEAR	JANUARY	FEBRUARY	MARCH	APRIL	MAY	JUNE	JULY	AUGUST	SEPTEMBER	OCTOBER	NOVEMBER	DECEMBER	TOTALS
2015	458,000	542,000	1,336,000	1,576,000	1,118,000	1,064,000	1,214,000	1,173,000	999,000	602,000	682,000	852,000	**11,616,000**
2016	789,000	1,503,000	1,645,000	1,553,000	826,000	712,000	661,000	680,000	574,000	680,000	642,000	670,000	**10,935,000**
2017	640,000	534,000	486,000	410,000	417,000	436,000	530,000	478,000	491,000	459,000	359,000	367,000	**5,607,000**
2018	360,000	353,000	487,000	581,000	526,000	445,000	544,000	522,000	564,000	552,000	418,000	255,000	**5,607,000**
2019	389,000	447,000	614,000	893,000	773,000	487,000	512,000	558,000	337,000	664,000	408,000	517,000	**6,599,000**
2020	647,500	657,000	732,500	357,200	429,300	338,300	336,200	359,100	302,600	362,100	329,600	306,100	**5,157,500**
2021	254,600	260,500	264,000	243,100	198,600	331,900	372,800	390,300	396,900	432,000	485,000	304,200	**3,933,900**
2022	420,319	309,721	344,700	425,212	436,763	351,434	456,794	438,963	447,000	335,709	82,921	543,510	**4,593,046**
2023	464,000	638,000	321,000	338,000	429,000	410,000	418,000	346,000	406,000	376,000	466,000	419,000	**5,031,000**
2024	499,000	513,000	576,000	517,000	486,000	550,000	529,000	472,000	544,000	547,000	185,000	170,000	**5,588,000**
2025	273,000	213,000	230,000	248,000	184,000	285,000	483,000	263,000	244,000	313,000	170,000	316,000	**3,222,000**
2026	209,000	205,000	269,000	209,000	223,000	245,000							**1,360,000**

NYSERDA would do. Councilman Noonan asked if this was the same program which awarded Queensbury $50,000.00 and Ms. Falchi replied that it is.

Ms. Falchi was thanked for her presentation.

SARATOGA COUNTY PROSPERITY PARTNERSHIP-ECONOMIC DEVELOPMENT PLAN-MOU

The Supervisor commented that there were some issues with the Memorandum of Understanding. The first being no dollar values for the Town's costs with the plan. He commented that the program is free to the Town but that the Town would be responsible for mailings and such. He stated that it was confirmed, that they didn't believe it would be more than $1,000.00.

He stated that the Town would need to create an Economic Development Committee and commented that there are two Board members on the newly created Economic, Small Business and Technology Development Committee. He suggested the Committee should consist of a minimum with those two Board members and expand it by three and draw from a key business partner and from folks who would be helpful in putting a plan together. Councilman VanTassel stated that the gentleman who had given the presentation might have a recommendation as to who should be on the Committee.

The Supervisor commented that Counsel was aware of wording in the agreement that gives exclusive right to the SCPP to accept or reject any advice offered by the Committee or any member of the Committee at any time and for any reason. He stated that he knew this wasn't true and that the language could be pulled out.

Resolution #2018-181

A motion was made by Councilman VanTassel and seconded by Councilman Noonan authorizing the Supervisor to sign the Participation Agreement with Saratoga County Prosperity Partnership Next Wave Communities, subject to Counsel's review of the agreement.

Roll call vote resulted as follows:

Councilman Hogan	Aye
Councilman VanTassel	Aye
Councilwoman LeClair	Aye
Councilman Noonan	Aye
Supervisor Kusnierz	Aye

FUND BALANCE POLICY

The Supervisor commented on the history of the Town's fund balance. He stated that he had voted against the budget in 2015 because the sales tax collected exceeded the budgeted amount by approximately $500,000.00. He didn't think that was appropriate and also commented that the Town didn't provide the additional sales tax back to the County, which he had supported every year he has been in office. He also stated that he was respectful of the decisions that were made by the Board at that time. The Supervisor stated that the previous Town Supervisor had asked for an audit, which resulted in the State Comptroller's audit for 2015 and 2016. The excess money reported by the Comptroller's office has prompted calls from emergency responders looking for extra funding. He stated that in 2009 the Town had $3,900,000.00 in fund balance and it is now at $815,000.00. He stated that he believes the Town is moving in the direction that the Comptroller's office would like the Town to move. He mentioned again that the report was for the fiscal years 2015 and 2016 and that the Town has since taken action for this year's budget. He commented that the Fire Protection Tax has been eliminated and that the Town was still able to increase funding for first responders. The Supervisor stated that the Town has fund balance in the water and sewer districts but also stated that the Town doesn't have access to those funds for the purpose of running the government. The funds can only be used for the maintenance and repair of the water and sewer districts. The Supervisor stated that there are two issues, which the Comptroller asked the Town to move forward

on. One was a Fund Balance Policy. He stated that the Board members had a copy of the draft Policy and asked that they review the document, for potential adoption at either the next regular Town Board meeting or the one that follows. The Supervisor gave a quick synopsis of the draft Policy.

HIGHWAY REQUESTS

The Highway Superintendent provided three quotes for a 2019 Tandem Truck, equipped with plows and sanding equipment. The quote summary sheet made mention that this was a budgeted item for 2018.

The following quotes were received:

Mohawk Valley Freightliner 703 Oriskany Blvd., PO Box 201 Yorkville, NY 13495-0201	$225,623.79
Viking Cives (USA) – Freightliner 14331 Mill Street Harrisville, NY 13648	$228,421.15
Viking Cives (USA) – Western Star 14331 Mill Street Harrisville, NY 13648	$240,860.15

The Highway Superintendent's recommendation was Mohawk Valley Freightliner. He stated that at the time the quotes were given, the price of steel was down. He commented that the price of steel is going up and will result in an increase of $12,000 - $15,000 if they wait.

Resolution #2018-182

A motion was made by Councilwoman LeClair and seconded by Councilman VanTassel authorizing the purchase of a 2019 Tandem Truck, equipped with plow and sanding equipment, from Mohawk Valley Freightliner at a cost of $225,623.79. This purchase will be made from account DB5130.2, which has a balance of $257,120.00 as of May 3, 2018.

Roll call vote resulted as follows:

Councilman Hogan	Aye
Councilman VanTassel	Aye
Councilwoman LeClair	Aye
Councilman Noonan	Aye
Supervisor Kusnierz	Aye

The Highway Superintendent provided three quotes for a 24" Planer attachment for a Bobcat Skidsteer.

The following quotes were received:

Bobcat of Saratoga 1279 Route 9 Gansevoort, NY 12831	$17,987.65
Capital Tractor, Inc. 1135 State Route 29 Greenwich, NY 12834	$20,788.00
SEI, Inc. (Stephenson Equipment, Inc.) 10 Industry Drive Waterford, NY 12188	$24,095.00

of people that attended. The decision the Board needs to make now is whether or not to accept the Map Plan and Report as it has been designed, suggest modifications to it, or take no action.

Supervisor Kusnierz also stated he listened to a presentation from the Hudson Headwaters Health Network Representative, to the Planning Board, on the building they want to build. The issue of sewers was mentioned several times. He stated that they would love to "tie in" with the sewer as part of the construction of the building. Because we do not have sewer infrastructure now in our commercial corridor, they have to design a conventional sewer system. The additional cost for them to do this is $85,000. This is money that they have to come up with, up front. They would be using prime real estate to put a separate building on it for the sewer system.

One of the major concerns of the eleven residential property owners was that they may be forced to sell their homes because of the cost of the sewer infrastructure. He stated that it is not the Boards intention to force these people out of their homes because they can't afford to stay there. Supervisor Kusnierz stated he was going to suggest something, and with the Board's feedback they will be able to come to a conclusion on how to move forward. Supervisor Kusnierz suggested that they take out all residential properties from the Map, Plan and Report. Also, to have the engineers update the Map Plan and Report with these residential properties taken out. The engineers would then present it to the Board for review and another public hearing would be scheduled. He stated that a business has the option to expand, to cover the costs of the sewer. The residential home owner doesn't have the ability to increase the revenue coming to their lot unless they sell the property.

Councilman Noonan stated that he supported taking the residential properties out of the Map, Plan and Report. Councilman Hogan also agreed to take the residential properties out. Councilman Vantassel agreed to have the Map, Plan and Report revised to remove the residential properties also. Supervisor Kusnierz stated he would ask the engineers to revise the Map, Plan and Report.

FUND BALANCE POLICY

Supervisor Kusnierz stated that they needed to move forward on the resolution for the Fund Balance Policy. He stated that the resolution would comply with the State Comptroller's office. The Supervisor read the resolution aloud as follows:

The Town Board will strive to meet a minimum level of unrestricted fund balance in the General Fund – A Account, Town Outside fund – B Account, Highway fund – DB Account, with no less than 3 months of the average operating expenditures of these funds.

The Town Board will also strive to meet a minimum level of unrestricted fund balance in the Sewer Districts, Water Districts and Transfer Station accounts, at no less than 3 months of the average operating expenditures of these funds plus the reasonable amount of funds which will allow for the regular upkeep and maintenance of depreciating infrastructure and outstanding debt.

The Town Board will strive to carry forward no more than 25% of next years' appropriations as unrestricted fund balance from one year to the next, and to adhere to this policy, the Town may transfer monies from fund balance to appropriately established reserves in those respective funds.

RESOLUTION # 2018- 196

A motion was made by Councilman Vantassel and seconded by Councilman Hogan to adopt the foregoing Fund Balance Policy as read by the Supervisor:

Roll call vote resulted as follows:

Councilman Hogan	Aye
Councilman VanTassel	Aye
Councilman Noonan	Aye