

A regular meeting of the Town Board of the Town of Moreau was held on June 28, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

Supervisor Jenkins called the meeting to order at 7:00 p.m.

Deputy Town Clerk Leeann McCabe called the roll.

Town Board Members Present

Tom Cumm	Councilman
Bob Prendergast	Councilman
Gina LeClair	Councilwoman
Todd Kusnierz	Councilman
Preston Jenkins	Supervisor

Town Board Members Absent

None

Also Present: Leeann McCabe, Deputy Town Clerk; Stefanie D. Bitter, Attorney representing the Town from Bartlett, Pontiff, Stewart & Rhodes; Stephen Gram, Recreation Director; Paul Joseph, Highway Superintendent; Peggy Jenkins, Assessor; Jesse Fish, Water Superintendent; Joe Patricke, Building Inspector/Code Enforcement Officer; Michael O'Connor, Attorney representing Va Va Voom; Joseph Bianchine, ABD Engineers representing Va Va Voom; Ron Zimmerman, Planning Board Member and Town Resident; Garth Baker, Recreation Commission Member and Village Resident; Elizabeth Lanfear, Recreation Commission Member and Town Resident; Robert J. Vittengl, Jr., Recreation Commission Member and Town Resident; David Taube, Post Star Reporter; Town Residents: Richard Hughes, Jared & Becky Amadon, Jeff & Terri-Jo Nicholson, Joe & Ann Stewart and Joey Stewart, Sandy Stanton, Kathleen Cech, Bruce Flayer, Virginia Livsey, Ron & Sandra King, Michael Kelly, Agnes Bskonyi, Jim McCormick, Howe Stanton, Opal Ferguson, Betty Wimette, Adele Kurtz; Jackie & Lanny Bashant; Village Residents: Megan Willis, Brittany Creel, Lauren Bovvego, Debbi Holden

Supervisor Jenkins led the Pledge of Allegiance.

Supervisor Jenkins welcomed everyone to the meeting and asked everyone to turn off or put on vibrate all electronic communication devices.

MINUTES

The following minutes were prepared and presented to the Town Board in advance of the meeting for their review, comment, correction and approval:

April 28th, May 17th, May 24th (2 Sets), June 7th, June 10th (2 Sets) and June 14th

Notation: The Town Clerk noticed an error in the minutes of June 9th after they were released to the Town Board for review and she notified the Town Board by e-mail of the error and that she had corrected the error. The minutes of June 9th as originally prepared read that Councilman Tom Cumm was present and Councilman Bob Prendergast was absent. In actuality, Councilman Bob Prendergast was present and Councilman Cumm was absent from that meeting.

It was noted by the board and the deputy town clerk that the minutes of June 9th were not on the agenda for approval at this meeting. Approval of the minutes of June 9th will be taken up at the July 12th meeting.

MINUTES – APRIL 28, 2011 – MONTH-END AUDIT MEETING

No comments or corrections.

A regular meeting of the Town Board of the Town of Moreau was held on June 28, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

A motion was made by Councilwoman LeClair and seconded by Councilman Cumm to approve the minutes of April 28th as prepared.

Roll call vote resulted as follows:

Councilman Prendergast	Abstain
Councilwoman LeClair	Yes
Councilman Kusnierz	Abstain
Councilman Cumm	Yes
Supervisor Jenkins	Yes

MINUTES – MAY 17, 2011 – TOWN BOARD WORKSHOP RE: PROPOSED PLANNED UNIT DEVELOPMENT BY VA VA VOOM

No comments or corrections.

A motion was made by Councilwoman LeClair and seconded by Councilman Prendergast to approve the minutes of May 17th as prepared.

Roll call vote resulted as follows:

Councilwoman LeClair	Yes
Councilman Kusnierz	Abstain
Councilman Cumm	Yes
Councilman Prendergast	Yes
Supervisor Jenkins	Yes

MINUTES – MAY 24, 2011 – TOWN BOARD MONTH-END AUDIT MEETING AT 6:30 P.M. AND MAY 24, 2011 – REGULAR TOWN BOARD MEETING AT 7:00 P.M.

No comments or corrections.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to approve both sets of minutes dated May 24th as prepared.

Roll call vote resulted as follows:

Councilman Kusnierz	Yes
Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Abstain
Supervisor Jenkins	Yes

MINUTES – JUNE 7, 2011 – TOWN BOARD WORKSHOP RE: PROPOSED REVISIONS TO SIGN LAW

No comments or corrections.

A motion was made by Councilwoman LeClair and seconded by Councilman Cumm to approve the minutes of June 7th as prepared.

Roll call vote resulted as follows:

Councilman Cumm	Yes
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Councilman Prendergast	Abstain
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Supervisor Jenkins	Yes

MINUTES – JUNE 10, 2011 – 2:00 P.M. – BID OPENING – CONTRACT 1 – WATER DISTRICT 1 EXTENSION 2 AND JUNE 10, 2011 – 2:30 P.M. – BID OPENING – CONTRACT 3 – WATER DISTRICT 1 EXTENSION 2

No comments or corrections.

Both sets of minutes dated June 10th were received and filed.

MINUTES – JUNE 14, 2011 – REGULAR TOWN BOARD MEETING

No comments or corrections.

A motion was made by Councilwoman LeClair and seconded by Councilman Cumm to approve the minutes of June 14th as prepared.

Roll call vote resulted as follows:

Councilman Prendergast	Abstain
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman Cumm	Yes
Supervisor Jenkins	Abstain

SET FUTURE MEETINGS AND WORKSHOPS

No meetings or workshops were scheduled.

It was noted that the month-end audit meeting of the Town Board would be held on July 26th at 6:30 p.m. in Town Hall.

15 MINUTE PUBLIC COMMENT PERIOD

Joe Stewart of Troop 99 of the Boy Scouts of America is working towards his Eagle Scout and one of the projects he would like to complete is the placement of two garden benches at the soccer field in the Harry J. Betar Jr. Recreational Park. He was present at this meeting to ask for board approval to undertake this project.

The estimated cost is \$467.00 for each bench plus the cost of cement.

He was thinking about holding a car wash to raise the funds for these benches. He could also ask for donations from businesses.

Councilwoman LeClair said the Eagle Scout program is wonderful and she thinks this is a wonderful idea.

Councilman Kusnierz suggested that the Town Board match whatever funds are raised. The Town Board has done this before. It would be an improvement to the park. He was willing to support the Town paying the balance.

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Supervisor Jenkins asked Joe Stewart to present a budget to the Town Board with cost estimates and then the board can move on it.

Supervisor Jenkins said it sounds like everyone is in favor of it and that everybody is behind the project.

The board members wished him luck on the project.

Councilman Kusnierz thanked Joe Stewart for taking the time to consider this community service.

Robert Gordon a resident of Hudson Falls resubmitted a request for a zoning change on property he owns at the corner of Bluebird Road and Fort Edward Road that is 7/10 of an acre. He said that Schermerhorn is currently building a 204 unit development on the northeast side of Bluebird Road and Fort Edward Road and in addition he is projecting a 66 unit development on the southwest corner. He said that this extensive development is changing the character of the neighborhood. He is trying to sell his property, but he doesn't believe that his property is suited any longer for residential use. He thinks it is more suited for commercial development, such as, a convenient store, restaurant or gas station.

Supervisor Jenkins said there is currently a zoning committee in place and he will submit his letter to them for consideration.

Brittany Creel addressed the board regarding a pit bull that attacked her daughter. She stated that the dog attacked her daughter on May 27th on Feeder Dam Road in the Town of Moreau. She stated that 20 days later the same dog attacked an 85 year old woman on Feeder Dam Road. She stated that the dog control officer that responded did not "accurately check the dog for shots" and the dog had expired shots. Her daughter's life was put in danger. She could have contracted rabies from that dog and they would have never known. Every time she called Mr. Styczynski he took three or four days to call her back. When he called her back his excuses were that he had a full-time job and this was not his real job and he doesn't have anything to do with this. When she asked for a copy of his report he directed her to Town Hall. She came into Town Hall and he had not filed a report. He then directed her to a woman in Ballston Spa. She called the woman in Ballston Spa eight times and left messages for this woman eight times. She never received a call back. This woman's name was Elizabeth Hurlihy. She went to town court and requested own dangerous dog hearing and she was told that the dog control officer was the one who needed to do that. She was directed back to Mr. Styczynski and he did not return her call. By this time the dog had attacked for the second time. At this point Trooper Hutter stepped in and did all the paperwork for her and Julia Scoville the other woman attacked. The dangerous dog hearing was held yesterday and the dog was given back to its owner.

Supervisor Jenkins replied that it was a judicial decision that the Town Board doesn't have any control over. He stated that he was aware of most of the facts and he feels very bad that this happened. He met with the dog control officer and he indicated at the first meeting that he didn't receive notice of the incident until the following Monday. He apologized if the dog control officer didn't return her calls and he would speak with him about this. The judge put a lot of restrictions on the dog.

Mrs. Creel asked what the policies or procedures of the dog control officer are. She asked this question of the dog control officer and he brushed her off every single time. He came to her in-laws house last Friday and notified her of the hearing yesterday and said he would see her there, but he didn't show up for the hearing. She thinks he neglected to check the dog's shot records and failed to check back in on the dog. She is disappointed in the judge's decision to return the dog to the owner. Her daughter received 36 stitches to her face. Mrs. Scoville is still going through eye surgery and has lost her tear duct. She wants an investigation into whether or not the dog control officer is doing his job properly.

Supervisor Jenkins stated he would get more details from the dog control officer and they will deal with the issue. The dog control officer does hold a part-time position. He doesn't know why he didn't call her back, but he would discuss this with the dog control officer. The court decision is something the Town

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Board can't do anything about. The judge made his decision based on facts.

Mrs. Creel stated that if she had gotten her dangerous dog hearing and he filed his paperwork then the dog would have been deemed a dangerous dog and it would have been put on restrictions, and the elderly lady who got hurt, wouldn't have gotten hurt.

Mrs. Creel asked if there is a one or two bite rule or is it case by case.

Supervisor Jenkins stated it is a court decision.

Councilwoman LeClair asked if this was something we could do within Town Code.

Mrs. Creel stated that the Village of South Glens Falls has a one bite rule. A person can't knowingly harbor an animal that has attacked a person where that person is allowed to be.

She stated that she has had numerous neighbors stop by and express concern about this and that the dog has been a nuisance. It has attacked two people. Her daughter will have a scar for life. She doesn't want this to happen to another child.

Supervisor Jenkins stated that this person has so many days to comply with the court order and if he doesn't comply then the dog will go down to the county animal shelter.

Mrs. Creel stated that she doesn't think there are strict enough regulations in the Town of Moreau for dogs that attack.

Councilman Kusnierz stated that there is a dangerous dog provision in the NYS Agriculture & Markets Law and municipalities can enact stricter regulations. He said that if Supervisor Jenkins was going to meet with the dog control officer he wanted to sit in on that meeting.

Supervisor Jenkins stated that they could meet with the dog control officer in executive session after the next meeting or Councilman Kusnierz could come in and meet with him.

Councilman Kusnierz stated that the first time he heard about this incident was when he read it in the newspaper. As an elected official representing this town, when there is an incident like this that has a public health impact, elected officials should be made aware of it immediately.

Supervisor Jenkins said he wasn't made aware of it right away either. He couldn't remember when the dog control officer came and spoke with him to tell him about the court case coming up. He said it could have been late last week.

Supervisor Jenkins asked if anyone else wanted to speak.

Megan Willis stated she was present to discuss the recreation fall soccer program. Accompanying her at this meeting were parents of children who participate in the fall soccer program. Megan Willis stated she obtained signatures from parents who want the program left as is and they do not want the random team assignments and they prefer the divisions by schools. She said that some parents were reluctant to sign the petition she circulated for fear of repercussions.

Ron King stated that he has coached youth wrestling and has three children and his son would rather play with his school mates. The recreation programs are for the children and if the children feel more comfortable playing with their friends from their school then they should be able to.

Steve Cassavant has two sons and has coached four soccer teams. Both of his boys met their best friends

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in kindergarten soccer and they were also within their school and developed their friendships. If random assignment to teams has to be done then he prefers that random assignment to teams be done at the higher level, maybe fourth and fifth grades.

Supervisor Jenkins stated that the board has gotten the message. Right now registrations are at about half of the normal number of sign ups. The board hasn't been involved in this, rather the recreation commission has.

Councilwoman LeClair stated that 245 registrations have been received and according to Steve Gram there are normally over 500 registrations by now. The public is telling us something and that is that they are not happy and we are trying to fix something that isn't broken and we should go back to the way it was.

Councilman Prendergast said he doesn't know why it was ever changed.

Councilwoman LeClair stated that Steve Gram is calling parents of children who have participated before and letting them know there is still time to sign their children up and he will let them know what the board decides about this.

Councilman Kusnierz asked who will put the teams together and Councilwoman LeClair replied that Steve Gram puts the teams together.

Councilman Kusnierz said that a comment was made that there hasn't ever been a problem with this soccer program and every year since he served this town there has been a problem with soccer sign ups.

Councilwoman LeClair stated there are 600 children who play and it will never go perfectly.

Councilman Kusnierz replied that the statement was made that there hasn't ever been a problem and that is not true.

Steve Gram agreed with Councilman Kusnierz by stating that the late sign ups are the problem.

Supervisor Jenkins said that the board is going to go back to the way it was done in the past. No objections were raised by the other board members.

VA VA VOOM – THE NEST PUD

A public hearing was held on June 9, 2011 for the purpose of considering the adoption of Local Law No. 3 of 2011, which if adopted would amend Chapter 149 "Zoning" of the Town of Moreau Code and the official zoning map of the Town of Moreau to change the existing zoning of an existing parcel of land from R-2 zoning to a Planned Unit Development (PUD) to be known as the "The Nest Senior Community PUD". The public hearing was held open and is being continued at this meeting.

Adele Kurtz said she spoke to everyone in the area surrounding the proposed project and not one single person was in favor of the project. She obtained signatures from everyone opposing the project. They all oppose the three story buildings and the density.

Adele Kurtz spoke about the acreage and what was subtracted out of the acreage for commercial buildings, etc. When Attorney O'Connor didn't agree with her figures Adele Kurtz read a portion of section 149-E of the PUD law "streets and parking shall not be included when computing the amount of common property."

Councilman Kusnierz stated that density is a major issue for him. Nobody has been able to confirm what the density is.

Adele Kurtz read from the town code again and stated that she hasn't seen any written exceptional

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justification for the exceptional density of this project.

Adele Kurtz stated they don't need 194 three story buildings. She asked the board to consider making the minimum age requirement 62 years of age rather than 55 and to not allow three story buildings, but only two story buildings.

Jeff Nicholson agreed with Adele Kurtz on the density. It is a big issue. He thought the setback was going to be 240 feet from his property line. If the law is signed into effect as it is the board is destroying his property value and quality of life.

Mike Kelly asked Supervisor Jenkins if he knew of any other exceptional nature other than we owe it to some of our seniors to approve this project and he asked what seniors.

Supervisor Jenkins stated, as he previously did, that this project was proposed by the NYS DOH. NYS DOH approached the Home of the Good Shepherd about building an enhanced senior facility in northern Saratoga County. There is a need here. He understands the concerns of the property owners, but the reasons are what they are. In regards to the 240 foot setback the Town Board is going to send a written recommendation to the Town Planning Board that they approve a 240 foot setback.

Jeff Nicholson asked the board to make the 240 foot setback part of the proposed local law before it is adopted.

Supervisor Jenkins said they could do that. It was noted that the setback was 225 feet not 240 feet. It would be on the front building and not the back building. The back building would have a setback of 151 feet.

Councilman Kusnierz asked Joe Patricke what his feelings were on the density of this project.

Joe Patricke said he recognizes the need of the enhanced assisted living building and he has been opposed to the density since the beginning. We have projects that were approved in this Town that were held to density below what is allowed by code. The idea that it is a senior facility with the enhanced and subsidized gives it some flexibility to look for more density. The balance of the 100 units always was a concern of his, because it puts it way over the density number.

Councilman Kusnierz asked Joe Patricke what he thought about the suggestion of making the minimum age 62.

Joe Patricke replied that he hadn't thought about it, but the board should give it some thought and he would look into it tomorrow.

Councilman Kusnierz stated that at the last meeting it was mentioned that portions of this project will not have to pay property taxes or recreation fees. At that meeting he asked counsel for the applicant if that is something they would be willing to negotiate and the reply was no. He asked Attorney O'Connor at this meeting if he had changed his position.

Attorney O'Connor stated that the assisted enhanced living building would be a 501C3 project and taxes would not be paid on that building. That building is also a commercial building and would not have to pay recreation fees.

Councilman Kusnierz asked Attorney O'Connor if his client was willing to look at it.

Attorney O'Connor replied that the apartments that are subsidized and market driven would be subject to a recreation fee and he hasn't disputed that. His comment at the last meeting was that they would pay

whatever they are required to pay.

Supervisor Jenkins advised that as part of the project the applicant will be installing an eight inch sewer

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line from Fort Edward Road to Sisson Road.

Councilman Kusnierz said this brings up another issue. He wasn't aware that the Town Board was interested, as a result of this project, to increase sewer capacity. He stated that according to a report from our engineer on waste water treatment, the only way the Town would have capacity with this project is if we amended our current agreement with the City of Glens Falls.

Supervisor Jenkins said that wasn't entirely true, because the amendment was designed for the next twenty years and it is ten years of financing. It is determining growth over the next twenty years. There is no cost to the Town to do this. Our engineer came up with a plan and our attorney drafted the contract. We are under no obligation to pay any money unless we choose to do it. The only thing that could happen is if we don't purchase after four years we could lose the capacity availability. The City of Glens Falls is making a long term commitment to the Town of Moreau to provide future capacity.

Joe Patricke stated that Lee Rosen did say at the last meeting that they would be paying taxes for fire protection.

Attorney O'Connor said there is a breakdown of what a 501C3 is exempt from paying. They would be exempt from paying school taxes, county taxes and a portion of the town taxes that are not ad valorem taxes. They would pay water district taxes, fire protection taxes, lighting district taxes and Mr. Rosen understands that.

Peggy Jenkins stated they would pay special district taxes.

Councilman Kusnierz asked if a company that was not a 501C3 entity developed the rest of the property then they would be subject to all taxes that every other taxpayer in this Town is subject to.

Peggy Jenkins said this was correct.

Supervisor Jenkins read a letter from Cheryl Collins in support of the project. The letter was already read into the record at the June 9th public hearing.

Jackie Bashant stated that she is not opposed to senior housing, but the proposed development would affect her quality of life. Did the developer look into properties that wouldn't disrupt residential areas?

She is adamantly opposed to a three story building. The Fire Department made the comment at the Zoning Board Meeting that it was a wood structure and it wasn't safe to build a wooden three story building.

Councilman Kusnierz stated that at previous meetings he expressed concerns over utilizing a PUD for this project, because when individuals come into our community and purchase property, they look at the zoning and potential uses allowed in that zoning area and they make an investment based on that information. When this board acts legislatively to do an end run around the zoning by allowing a PUD it has a major impact on the values down there. This type of project has a negative impact on the quality of life.

Ron Zimmerman said he was present representing the Planning Board. He stated they would be hard pressed to find anybody who is opposed to the project, but what they do have a problem with is the plan. It is cause for concern. It is not in keeping with the spirit of the PUD legislation that is on the books today. As a Planning Board he said they tried to "fair out" the overall difference between the proposed plan that the current zoning would allow and at the April meeting the overall negative impact of the project to the community. It would require an additional 26 acres, at that time, to make it come into

compliance with the current PUD legislation. When he asked at the last Planning Board Meeting what the current plan was in terms of the overall density delta they weren't able to come up with that number so he said the board should bring that up for discussion as to how far off the mark we might be today.

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Ron Zimmerman stated this project sets precedent for the Town and the Planning Board. He said the Planning Board will have no basis for a site plan review that tries to do a project that is in good keeping with all the community members and something you can be proud of, not the nature of the project, but the plan for the project. The three story buildings will not be in keeping with the character of the neighborhood. He said the Town Board has to take cautious and deliberate reflection on what this legislation says in terms of precedence not only for this project, but for future projects and future site plans as well.

Supervisor Jenkins addressed Ron Zimmerman and told him that he knows that the first time a vote was taken on this project at a Planning Board Meeting he voted against it. The second time the Planning Board voted on it he voted for it.

Ron Zimmerman interjected that the second time was a straw poll. His impression of what the Planning Board was doing that night was giving indication as to whether they thought the design, the changes to the design, the embellishments to the design, were going in the right direction, which he thought they were and he voted in support of. However, when they asked again for the Planning Board with the subsequent letter of favorable recommendation to the Town Board, as per the law, the second time he voted not in favor of it, because how can the Planning Board offer a favorable recommendation to the Town Board when the density is 26 acres below what it needs to be for this type of project, without any suggestions on how to alleviate that. That is not why he is on the Planning Board.

Councilwoman LeClair asked Ron Zimmerman if he was present as a spokesman for the Planning Board or as a member of the Planning Board.

Ron Zimmerman replied that he was present as a member of the community. He said it is a very good concept, but a very bad design.

Councilman Cumm stated that the Planning Board did approve this on a vote of five in favor and two opposed with one of the oppositions coming from Ron Zimmerman. The other opposition was due to the removal of the retail aspect of the project.

Councilman Kusnierz stated that at the April meeting of the Planning Board there were three Planning Board Members who were adamantly opposed to the density on the project.

Attorney O'Connor asked Councilman Kusnierz to repeat his statement and Councilman Kusnierz stated that there were three Planning Board Members who not only had concerns, but were opposed to the density on this project.

Supervisor Jenkins said he thought all the votes were 5 to 2.

Councilman Kusnierz said these were the concerns they voiced, he didn't say it was a vote. It was what they said on the record. When you take the vote, it is based on the entire project. What they were saying on the record was specific to the density, which seems to be what this whole issue hinges on.

Attorney O'Connor stated, just so the record was balanced, he knows that Mr. Zimmerman corrected his beginning statement in which he said that he was here speaking as a member of the Planning Board. The Planning Board has approved this project through the legislation that is before the board twice by a vote 5 to 2 in both cases. There was a switch as two members changed their votes. The change was because they took the commercial retail application out of this and that Planning Board Member thought it was a critical part of what he was approving; because part of what makes the project distinct is that they are trying to get people to live in place. The project sponsor gives up a lot when it says that this project is going to be dedicated to seniors, whether they live in the subsidized housing, the market housing, or in the

program of enhanced assisted senior living. That limits their market. If the board limits it further by saying that people can't start living there at age 55 you destroy the project. The height is the same height you allow for single family homes.

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Ron Zimmerman stated that the Planning Board did issue a favorable recommendation to the Town Board on one vote of 5 to 2 and then a subsequent favorable recommendation on a second vote of 5 to 2 that was after some changes to the design. This is the first time as a Planning Board Member that he has seen the proposed legislation.

Councilman Prendergast asked Joe Patricke if he has had conversations with Saratoga County Planning Board Members on this project.

Joe Patricke replied yes. He got mixed reactions. Mike Valentine, Senior Planner, had concerns on density and he listed his other concerns. Other members of the Saratoga County Planning Board didn't experience those same concerns, but they don't live here either.

Councilman Kusnierz asked Joe Patricke if he independently calculated the density to make sure what is being presented is factual.

Joe Patricke replied yes. He said there is a published letter that he did along with Attorney Auffredou, but he came up with the density number. The number is significantly less if you follow our code, his number was like they were 114 over code.

Councilman Kusnierz found this interesting, because at the last meeting a Planning Board Member asked counsel if he calculated density and he said he didn't know what the density was.

Joe Patricke replied that our density number was the presentation they got before this one. His density number was on the first response that the board got.

Councilman Kusnierz asked Joe Patricke if he independently, as a representative of this Town, calculated the density on the project as it appears right now, that the board is being asked to vote on.

Joe Patricke replied he has not.

Councilman Kusnierz stated that the Saratoga County Planning Board did have some comments on this project and he doesn't believe they have been addressed, because the Town received this from the Saratoga County Planning Board on Friday, June 24th.

Councilman Kusnierz stated that one of the points they made was that because this project is segmented there should be an entity, i.e., something along the lines of a homeowner's association that could maintain control of this project. He suggested that this kind of language be included in the local law.

Councilman Kusnierz said it was premature to act on this tonight, because there are other recommendations that they made that haven't been taken into consideration. They are experts in the planning field and it would make it a better project.

Joe Patricke asked if weren't they for site plan review and Attorney O'Connor replied yes.

Councilman Kusnierz stated that the first few were, but at the end of the letter they suggested that we have a homeowner's association and the only way to ensure that happens is to include it in the local law.

Joe Patricke stated that they also suggested that there be a cross connecting road.

Councilman Kusnierz said that at the last meeting he asked about a traffic study and there wasn't an independent study, but we had a consultant review the study done by the applicant and the board just

received it June 23rd. They had some issues that they pointed out that should be addressed in the local law or site plan review. They had concerns about adequate sight distance on Bluebird Road. They

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mentioned trip generation. This needs to be looked at. They suggested that the town have the applicant certify that adequate site distance will be provided for the three driveways. He asked if there is going to be three driveways or two and Attorney O'Connor replied two.

Councilman Kusnierz asked what the traffic consultant was reviewing if he saw three driveways and there are going to be two.

Joe Patricke replied that he reviewed the traffic study by Creighton Manning.

The applicant stated that it was based on the first concept plan that they presented, which had a much higher density. It included the retail and commercial use in there, so the traffic numbers that were generated by that were a lot higher than what they are today with the revised plan.

Councilman Kusnierz asked if this information isn't current then.

Attorney O'Connor replied that it is the worst case scenario. It is based on greater density than what is going to be built and it is based on three driveways rather than two. He said that the Saratoga County Planning Board met with Joe Patricke and that is where the two driveways came about.

Attorney O'Connor stated that all the items in the Saratoga County Planning Board letter will be reviewed when they go before the Planning Board for site plan approval.

Councilman Kusnierz said he was well aware that these were part of the Planning Board's prerogative, but it is something that he thinks should be part of the local law.

Supervisor Jenkins asked Attorney O'Connor to show him the measurements of the setbacks from the boundary lines on the map.

Attorney O'Connor reviewed the setbacks with Supervisor Jenkins. He showed Supervisor Jenkins where the Nicholson property is on the map and he showed him where one building would be 225 feet from the Nicholson property line. Part of the problem with the other buildings is that they don't know where another builder will want to build the other buildings. They can tell another developer that the buildings can't be closer than 100 feet from the other property lines.

Attorney O'Connor stipulated for the record that the building (he pointed out the building on the map) will be located 225 feet from the Nicholson property.

Attorney Stefanie Bitter said they could include that in the local law.

Supervisor Jenkins agreed that they needed to spell this out in the local law.

Councilman Kusnierz asked if the town approves the PUD then the Town Board no longer has authority on where the building will be located, right?

Attorney O'Connor and Supervisor Jenkins said the Planning Board does and Attorney Bitter concurred.

Councilman Kusnierz asked if it would be part of the site plan and Attorney O'Connor replied yes.

Ron Zimmerman stated that they needed to have this specific item added to the local law.

Supervisor Jenkins asked what the distance is "on the shortest one" and the answer was 117 feet and according to Attorney O'Connor the law requires 100 feet.

Bobbi Spaulding said she was delighted to hear about this project. She has an elderly friend who had to leave the community and is at the Glen and there is nothing more that she would like than to come home.

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She listened to the audios of the meetings and it sounds like the applicant made tons of accommodations. She was totally in support of the project. She said the people's concerns have been answered. She isn't getting any younger and hates to think she would have to leave town.

Councilman Kusnierz asked if she lives near the project.

Bobbi Spaulding said no, she doesn't, but she has been past the Wilton project and she has been to the Glen. She doesn't think these people are going to be bothering anybody.

Supervisor Jenkins asked for a motion to close the public hearing.

Adele Kurtz stated that the code reads that changes in the use for a PUD may be the subject for further site plan review by the Planning Board if such a condition is part of the final agreement. She stated that if there are no changes in the use of this property in the proposed legislation then the Planning Board loses that ability. She requested that this also be included in the proposed legislation.

Supervisor Jenkins asked Adele Kurtz why they would want to give the Planning Board the authority to change the use.

Adele Kurtz said to put it in the law so they don't have the authority.

Supervisor Jenkins said that is already the law.

Attorney O'Connor gave a response that wasn't entirely audible due to several people talking at one time. Adele Kurtz read the code again.

Attorney Bitter stated that if it is an entirely different project and it doesn't have anything to do with senior living as described in this local law it has to come back here, that is what they are identifying, what is allowable on this property.

Adele Kurtz said there wouldn't be any harm in putting that in the law.

Attorney Bitter replied that the law says that, "assisted enhanced senior residential building".

Adele Kurtz asked if the use was changed and the Planning Board did not want to do it, would it have to come down to the Town Board.

Attorney Bitter replied, right.

Kathleen Cech who resides on Burt Road near the intersection with Reservoir Road stated she lives fairly close to the property. She stated that she just moved recently back to South Glens Falls from the Malta area and they have this type of facility in Malta next to a residential area and it has enhanced the area, because it is a groomed campus. Landowners will have a little more protection, because in that groomed campus the people living there aren't going to let people come in and out. The homeowner's association will protect their interests, which also protect your interests.

Councilman Kusnierz stated he wants it made clear in the local law that establishes the PUD that there will be a homeowner's association that will be responsible for the other parts of that parcel that will be contained within the PUD, because it is a segmented project.

Councilman Prendergast stated that it seems like there were some additional steps taken tonight to keep these buildings away from neighbors, so the only issue really still at hand is density. What impact will this

project has on the community and specifically the neighbors? The numbers are higher than we wanted to see. The reason we are considering it is because it is something this community needs. He is convinced of

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that. He would like to see it proposed in another part of the Town, but he hasn't seen one proposed anywhere else and there is no guarantee that one will be proposed anywhere else. He said what kind of impact are we talking about? We are talking about a senior citizen complex. What does he envision for a senior complex? He knows what he desires and he knows what he would only put up with where he would live. If it meets his expectations, then he believes it will be quiet, because he wouldn't put up with anything other than that at his age. He asked Joe Patricke if he envisions anything other than that and Joe Patricke replied he doesn't. He went and looked at the other facilities. He asked Joe Patricke what he thought the impact would be and Joe Patricke replied that he believes the impact would be minimal. Councilman Prendergast said he doesn't envision high speeds on the roadways or loud music.

Joe Patricke stated that the density in this project can be higher, because the impact will be less. The impact on the schools is zero. As for the fire company, all the buildings will have sprinkler systems. He said granted the density is greater than what we normally allow, but the impacts are going to be minimal.

Councilman Prendergast said people want to use the word density, but they don't want to talk about the impact. It is not a mall.

Jackie Bashant stated that there is a lighting issue at night.

Supervisor Jenkins said according to the plans he didn't see how much more greener a complex could get.

Joe Patricke agreed that lights at the Schermerhorn complex are very bright.

Attorney O'Connor stated that the Planning Board should require downcast lighting. There isn't heavy traffic in these places at night so there isn't the same need for lighting as with the normal apartment complex. He spoke about the Cedars and how it is a subsidized housing facility in Queensbury. The first building at the Cedars had 62 units and the second building had 80 units and he has been told that half of the people own cars and they probably move their cars once a month. They have facilities for common meals and common activities and vans for transportation. The impacts are greatly different than a Schermerhorn project.

Supervisor Jenkins asked for a motion to close the public hearing.

Councilman Kusnierz said based on conversations he just heard tonight, he wants to make it clear, that the issue before them tonight is density from the perspective of what is currently allowed under our local law. Obviously there are other peripheral issues like traffic and things like that, that have an impact as a result of density, but that is not the major issue here. The major issue is that we have a zoning law in place and with what is in our current zoning law we can do a PUD subject to approval by the board and within the PUD law it allows us to go around how things are currently zoned. It has a framework in the PUD law that specifies how you can increase the density to a maximum level. What they are being asked to do tonight is to go even further past what is contained within our current PUD law, which would allow for 125 units, and bump it up to 194 units. That is a huge increase. He asked what the extenuating circumstances are that would make us go beyond our PUD law and increase the density to such a significant level. He can't come up with an answer that would allow him to support it.

Councilman Kusnierz also stated that at the last board meeting he pointed out some things that had to take place as part of the PUD approval process and things that had to take place before the Town Board could approve a PUD. One of the things he pointed out was in relation to recreational fees. At 6:50 p.m. tonight he was presented with a resolution and he doesn't know if it is the intent of the board to act on it tonight or not. He read in part the following: "Section 149-27(H)(2)(a) of the Moreau Zoning Code provides generally that for Planned Unit Developments which include dwelling units, the recreation fees per dwelling unit are to be established and amended by resolution of the Town Board; such fees are to be

paid at the time of the final PUD approval." He stated that if they read further down in the resolution it allows them to pay the fees down the road. He asked the board why they would want to allow them to do

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that and why was the board handed this resolution at 6:50 p.m. tonight?

Joe Patricke stated that on the payment of the fee at the time, all other recreation fees are payable upon site plan review or subdivision approval.

Councilman Kusnierz stated that doesn't apply to PUD's and Joe Patricke said he understood that.

Councilman Kusnierz asked who asked for this resolution and Joe Patricke replied he did.

Councilman Kusnierz asked on behalf of whom and Joe Patricke said he thought the law needed to be changed.

Councilman Kusnierz asked Joe Patricke if he meant on this particular project and Joe Patricke replied yes.

Councilman Kusnierz asked why he was just made aware of this at 6:50 p.m. today.

Supervisor Jenkins replied that he already explained this to him and it was because he printed it off the computer this afternoon, but it had been received several days earlier.

Councilman Kusnierz replied, he knows and there is a pattern of that.

Supervisor Jenkins told Councilman Kusnierz he could think that anytime he wants.

Councilman Kusnierz stated that he thinks that, because he asked for the agenda and had to call at 3:30 p.m. on Monday to get the agenda, and he wouldn't have gotten it, because he quotes: "your office was too busy with payroll". He asked if doesn't he do payroll every two weeks?

Supervisor Jenkins was surprised that the agenda wasn't available on Monday and asked if wasn't it on the website and Councilman Kusnierz replied no. Supervisor Jenkins stated that he didn't have any excuse for that, it usually is.

A comment was made by Councilman Kusnierz that wasn't audible on the audio and Supervisor Jenkins replied that he submitted enough information to him during the week that he thought he had a pretty good idea of what was on the agenda. He apologized.

Councilman Kusnierz said he did, but this is a significant thing, this resolution, is it on the agenda?

Councilman Prendergast said he talked to Joe Patricke about this issue and he thought it was the right thing to do.

Joe Patricke stated that it makes it consistent throughout all of our codes.

Councilman Cumm stated that the two market driven apartment buildings could take 30 years to build and maybe never. So to charge recreation fees now based on them owning the property and not knowing who the owners are going to be 20 or 30 years from now doesn't make sense.

Councilman Kusnierz stated that we will be out of potential recreation fees for this project that would have had recreation fees applied to them until the project is complete. The Town will not receive property taxes on the not-for-profit portion and the Town will not receive recreation fees on the 501C3 portion and the developer, he heard characterized, is giving up an awful lot. He does not agree with this.

Supervisor Jenkins asked for a motion to close the public hearing.

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Councilman Cumm made the motion to close the public hearing and it was seconded by Councilwoman LeClair.

Councilman Kusnierz asked if they were going to vote on the local law tonight. If they were going to make changes to the local law then they should keep the public hearing open.

Attorney Bitter stated that she wanted to talk about the text. She noted the changes in the setbacks relative to the residences. Her notes indicate that the setbacks from the Nicholson property would be 225 feet, from the McDonald property 117 feet and 100 feet from the others. Then there was discussion, she said, relative to the maintenance of the open area. She said they started to elaborate on a homeowner's association and she said that directing how that area was going to be maintained was more of a site plan issue.

Supervisor Jenkins told Attorney Bitter that the board wants that in the law.

Attorney Bitter then stated that there was discussion about a definition of assisted enhanced senior living and she wanted the board to be aware that this hasn't been completed yet.

Supervisor Jenkins asked if they wanted it defined as per NYS DOH definition.

Councilman Kusnierz replied if that is what the standard is.

Supervisor Jenkins asked Councilman Kusnierz if he thought there was anything else that should be included.

Councilman Kusnierz asked if there was going to be wording about having a central entity that would play the role of a homeowner's association and it would be spelled out.

Supervisor Jenkins asked Attorney Bitter if she had the wording for that and Attorney Bitter replied "the maintenance and upkeep of the common areas would be protected by the developer in the sense of an association or such".

Councilman Kusnierz said he would like to see the density as that which is provided for in our PUD law.

Supervisor Jenkins stated that was already defined in the buildings. That is the density.

Councilman Kusnierz asked if it was their intent to act on the local law tonight and Supervisor Jenkins replied yes.

Councilman Kusnierz said we have substantive changes to the local law.

Attorney Bitter replied that she sent Attorney Auffredou a text on the changes and he replied that they are within the parameters to move forward tonight.

Supervisor Jenkins asked the Deputy Town Clerk to call the roll.

Councilman Kusnierz stated that is not what the state law says. Substantive changes to the local law require a public hearing.

Attorney Bitter stated that she sent Attorney Auffredou a text and asked him if he considered the changes substantive and he said no.

Councilman Kusnierz stated that Attorney Auffredou was not here for the discussion.

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Attorney Bitter replied that she also asked him about the setbacks from the Nicholson and McDonald property lines just discussed, as well as, the maintenance and upkeep of the common areas.

Councilman Kusnierz asked Attorney Bitter to send a text to Attorney Auffredou and ask him what a substantive change is.

Attorney O'Connor stated that making the law more restrictive than what was proposed in the public notice is not a substantive change. All the changes that have been suggested and that the applicant said they don't have a real problem with make this more restrictive than what was proposed in the first place and they are not substantive changes.

Councilman Kusnierz stated that the state law says "substantive change" and let's go back to the public hearing.

Attorney O'Connor stated that you still have to have a common sense definition to what a substantive change is.

Councilman Kusnierz replied that he has a lot of common sense.

Lanny Bashant asked if ten years from now this development goes belly up, can someone purchase it and convert it to apartments.

Supervisor Jenkins replied no. However, he would assume that it would be possible to change any law. He would assume that the conversion of the buildings wouldn't be economically feasible. There would be lots of issues.

Supervisor Jenkins asked the Deputy Town Clerk to call the roll on the closing of the public hearing.

Roll call vote resulted as follows:

Councilman Kusnierz	No
Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Supervisor Jenkins	Yes

Attorney Bitter advised that the next step was the completion by the board of a long form EAF. Attorney Auffredou has advised that the board does not need to go through Part I, so she will read through Part II.

Councilman Kusnierz requested that they go through Part I of the long form EAF, because this is a major project in an area that it will have a significant impact on.

Before they proceeded with completing the EAF, Attorney Bitter excused herself from the meeting briefly. While she was gone the following discussion took place.

Supervisor Jenkins stated that this process started a long time ago and he is sure some people are happy and some aren't. If you take the plan from where it started to where it is now, the applicant has made a lot of effort to make this work out fine for the public. Input from the public helped the board make changes that added more protection for the surrounding landowners. We are fortunate to have a project coming into the Town that will provide a home for 64 seniors and add about 38 jobs in our community. The developer will be spending about \$7 million to build this facility. He thinks they have accomplished something good and he thanked everyone for their help in this matter.

Attorney Bitter re-entered the meeting and reported that Attorney Auffredou replied to the question about what is a substantive change. She reported that Attorney Auffredou said that something that goes in an entirely different direction. He feels that these changes are still within the nature of where we are within

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the parameters and does not feel they are substantive changes.

Attorney Bitter read the information on page 2 of Part I of the long form EAF, which was the project information and description of the action.

Attorney Bitter then read the questions in Part I of the long form EAF starting on page 3 and ending on page 10 of the long form EAF and read the answers to the questions.

Part I of the long form EAF was signed by Joseph J. Bianchine, Project Engineer/Sponsor.

Attorney Bitter proceeded to read the questions in Part II of the long form EAF starting on page 11 of the long form EAF and ending with page 21 of the long form EAF.

Attorney O'Connor asked Attorney Bitter if she was considering the re-zoning action itself or was she going beyond that and saying what the project will be after the site plan approval.

Attorney Bitter stated that she was listing it as the action that is identified here: "Change of zone from Residential R2 to". She was cut off by Councilman Prendergast when he said it was on the zoning action only.

Attorney O'Connor stated that the change in zoning itself won't result then in any physical change to the project site and he was told this was correct.

Councilman Kusnierz asked if wasn't this EAF on the local law and he was told that the local law is the change in zoning.

Councilman Kusnierz stated that it spells out in the local law the parameters.

Councilman Prendergast stated that they have been through this before. This is only on the re-zoning. He said that is where they have to be careful when they go through the review. We have to keep in mind that it is really only on the action and not the results.

Councilman Kusnierz said he thought it was on the local law.

Attorney Bitter replied that he was correct.

Councilman Kusnierz said the local law has an immediate impact on that area through zoning and environmentally.

Attorney Bitter replied that he was right, but for the parameters as established. Relative to the construction is the site plan.

The answers given to questions #1 through #18 in Part II of the long form EAF were "No".

Question #19 was answered "Yes" and the "Small to Moderate Impact" box was checked next to the example that reads "Proposed action will cause a change in the density of the land use" and the box was checked yes next to the example under the heading "Can Impact Be Mitigated by Project Change". The "Small to Moderate Impact" box was also checked yes under question #19 and next to the example "Development will create a demand for additional community services (e.g. schools, police and fire, etc.) and the "Can Impact Be Mitigated by Project Change" box was checked yes next to this example.

Question #20 was answered "No".

This concluded the Town Board's review of the long form EAF.

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Attorney Bitter stated that the Town Board could entertain a motion for a negative declaration with the understanding that it gives counsel authorization to draft a negative declaration at that time.

Councilman Prendergast made a motion to issue a negative declaration under SEQRA and it was seconded by Councilman Cumm.

Roll call vote resulted as follows:

Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Supervisor Jenkins	Yes

Attorney Bitter then read the local law with the changes made at this meeting to make sure that all the changes had been incorporated.

Attorney Bitter read the resolution before the board for adoption.

Councilman Kusnierz stated that it was pointed out in two portions of the resolution about the exceptional need in this community. He stated that no one on this board or the Planning Board ever received any documentation about the exceptional need.

Councilwoman LeClair stated that she lives on Sisson Road and she will, at some point, be looking out at the senior housing. Does she want that? No, she does not want that. She wants it to stay woods forever, but she doesn't own that property and she doesn't get to say that. Does she know that there is development coming? Yes, whether it comes with this project or something else. The impact with adjacent homes and traffic will be way less than with another apartment complex or housing complex. It fills a need within our community. Again, she said that she does not want to see this, but she doesn't have a say as to whether they can build on it or not. She will support it. It is needed in our community. She knows there is an impact on the number of units, but she will still support it. It is needed and it isn't the impact on the neighborhood that we are going to see with a different type of development.

Councilman Prendergast stated that he feels good about this. As long as he has been here he has seen quite a few boards do quite a bit of listening. We listen to people when they ask us to build more fields to play on in the recreation park and we do it. We do a lot of listening. This subject has been brought up many times over the years. It was even brought up formally, because we held special meetings and it was brought up during the meetings held on the comprehensive plan. Depending on whom you ask it is going to be a real concern. He feels good about being a part of this. This will take care of the people who are aging in our Town and who want to stay in our Town. You will see this more and more as the baby boomers look for them. It is going to be a good addition to the community. This type of density is not going to have the impact that you would see if we were going to build a mall. He is glad to be a part of this.

Councilman Cumm echoed Councilman Prendergast's comments. He served on the Board of Directors for the Moreau Community Center for ten years and one of the issues that a lot of seniors talked a lot about was having to sell their homes when they got older or when their spouse died, because there wasn't any affordable housing in Moreau. He mentioned his grandmother who lived in an assisted living home in Plattsburgh and even though it wasn't her own home, she was happy to be with friends she grew up with. When he ran for the Town Board four years ago, one of the things he campaigned on was increasing the number of senior affordable housing in Town. That was one of the first conversations he had with Supervisor Jenkins was how to increase the amount of senior housing in the Town. He thinks this is a

great project. He isn't happy with the density, but he doesn't think it will have anywhere near the impact that some neighbors feel it will have. He is in support of the project.

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Councilwoman LeClair stated that we keep saying seniors. Seniors are going to live there, but they are going to live next to their families. When she thinks about where she wants to live when she ages, it is near her grandchildren. If she has to move to the other end of town are her grandkids going to be able to stop and see her on their way home from school or ball games. It helps families stay connected.

Supervisor Jenkins asked Attorney Bitter if she wanted to establish a motion.

Attorney Bitter said she would identify making a motion to approve the resolution as read by her, which incorporates attachment 15, Chapter 149, with the changes she has identified.

Supervisor Jenkins asked if any board member wanted to make a motion.

Councilman Cumm made a motion and it was seconded by Councilman Prendergast to adopt the following resolution that adopts Local Law No. 3 of 2011.

Supervisor Jenkins asked if there were any comments from the board.

Councilman Kusnierz said he had several comments.

Councilman Kusnierz stated that unlike other board members he is very disappointed and very concerned about the action they were about to take here this evening, because of all the issues he has outlined throughout this project, with many meetings, workshops and discussions. What this project does in its' final form is set the Town up in the future for an uphill battle to be able to regulate PUD's in the community. There is not a corner in the community now that will be safe from this excessive density as the result of the action that is about to take place this evening. No one on this board disputes the fact how important senior housing is in our community. They have all campaigned on it. Some of them have acted on it on previous boards. Councilman Prendergast was on the board when they enacted a change in the local law that allowed for senior housing. There is nothing that would prevent this project from being sited there to provide senior housing and assisted living. It is just that the density that many of us would like to see is not agreeable to the developer and the reason for that is that it is purely financial. The higher the density the more they can make off this project. His feeling is that this board gave away the store on this project. What did we get back in return? We have no guarantee that one resident from this community will be able to live there. We gave up the opportunity for real property taxes by allowing a not-for-profit to come in there. We won't have those taxes. We won't have recreation fees. Had any other type of development gone in there we would have had recreation fees on that project. We all do things that we think are in the best interest of the community and he doesn't think this is in the best interest of the community as the project is presented here tonight. He won't take action for political gain. It is unfortunate that we have weakened future boards in this community with the action they are about take here tonight. He will be voting no on this project.

WHEREAS, the Town Board of the Town of Moreau ("Town Board") has been presented with an application by Va Va Voom, Inc., (the "Applicant") for the creation of a Planned Unit Development ("PUD") to be known as "The Nest Senior Community PUD" located on a 26.45± acre tract of land, identified as tax map parcel number 50-2- 19.1, with an address of 186-200 Bluebird Road (the "Subject Property"); and

WHEREAS, the Subject Property is located in a R-2 zoning district and under the Town of Moreau Zoning Law, Section 149-27(A)(3), PUD's are allowed in the R-2 zone; and

WHEREAS, the Applicant proposes to subdivide the Subject Property into four (4) lots and proposes allowed uses in the PUD of two (2) two-story, approximately 40,000 sf each assisted/enhanced

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senior residence buildings, each having 64 units, one (1) three-story 94 unit subsidized senior apartment building and two (2) three-story 50 unit each market rate senior apartment buildings; and

WHEREAS, pursuant to the Town of Moreau Zoning Law Section 149- 27(F)(I)(a), the PUD application was referred to the Town of Moreau Planning Board (the "Planning Board") for review and recommendation. The Planning Board conducted a public hearing and thereafter issued a favorable report and recommendation to the Town Board on April 27, 2011; and

WHEREAS, thereafter, as a result of comments and feedback from the Town Board and the public, the Applicant revised the PUD proposal and the revised PUD proposal was referred back to the Planning Board for further review; and

WHEREAS, on May 16, 2011 the Planning Board reviewed the revised PUD proposal and issued a supplemental favorable report and recommendation to the Town Board concerning the revised PUD proposal; and

WHEREAS, based upon the Planning Board's reports and recommendations as well as public meetings with the Applicant and the Applicant's representatives including a workshop session and feedback from the public, the Town Board caused to be prepared proposed Local Law No. 3 of 2011 - The Nest Senior Community PUD amending Chapter 149 "Zoning" of the Town of Moreau Code, adding Attachment 15 thereto; and

WHEREAS, Local Law No. 3 of 2011 sets forth the description of allowed uses by type and lot location within the PUD as well as the requirements for bulk, area and height for all structures within the PUD, parking requirements, minimum apartment unit sizes and other requirements; and

WHEREAS, a public hearing on proposed Local Law No. 3 of 2011 was duly advertised and thereafter conducted on June 9, 2011 at 7:00 pm at the Moreau Town Hall and was continued on June 28, 2011 at the Moreau Town Hall; and

WHEREAS, the Town Board has considered the public comments on proposed Local Law No. 3 of 2011 made and received through the public hearing process; and

WHEREAS, proposed Local Law No. 3 of 2011 was referred to the Saratoga County Planning Board for review and recommendation pursuant to General Municipal Law Section 239-M; and

WHEREAS, the Saratoga County Planning Board has issued a favorable recommendation regarding Local Law No. 3 of 2011; and

WHEREAS, the Town Board finds that the establishment of The Nest Senior Community PUD at the Subject Property offers needed housing opportunities for senior citizens within the Town of Moreau; and

WHEREAS, the Town Board finds that the need for senior housing including enhanced living facilities, subsidized senior apartments and market **rate** apartments are consistent with, and not contrary to, the goals, objectives and recommendations of the Town of Moreau Comprehensive Land Use Plan; and

WHEREAS, with regard to senior housing, the Town of Moreau Comprehensive Land Use Plan notes "Feedback from the community survey indicated, however, a need for additional senior citizen and affordable housing options"; includes within the objectives to "respond to the special needs and desires of all segments of the population", and includes the following recommendations: "focus on higher density housing for senior citizens", and "design a set of strategies to encourage affordable housing, including density bonuses, in exchange for a designated percentage of affordable units"; and

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WHEREAS, the Town Board finds that the proposed PUD meets the goals, objectives and requirements of Section 149-27 "Planned Unit Development Districts" of the Town of Moreau Zoning Law; and

WHEREAS, pursuant to Section 149-27(D), the Town Board has considered factors 1 through 11 in determining that exceptions to district standards in the R-2 zone should be allowed and particularly:

1. The need for senior housing facilities within the Town as called for and consistent with the Town's Comprehensive Land Use Plan.
2. The Subject Property is currently located within Water District No. 4 and the record establishes that the Town has available public water for the PUD.
3. The Applicant will be required to obtain an extension, at its expense, of the sewer district as a condition of the PUD approval.
4. The Creighton Manning traffic study indicates the PUD will present no impact on the transportation systems or road networks. The Planning Board may review any identified traffic impacts during site plan review.
5. There is ample open space and an opportunity for recreational and pedestrian circulation within the PUD which will be more defined during the site plan review process.
6. With adequate building setbacks in place, the character of the neighborhood will not be impacted nor will there be detrimental effects upon adjacent residential properties and/or the neighborhood in general.
7. The height limitation of the structures within the PUD is 38 ft. — measured from the elevation of the finished floor of the first floor of the structure - which is consistent with the height limitations for structures within the R-2 zone.
8. There are no identified impacts to local government services.
9. There are no identified impacts on environmental resources including wetlands, surface water, flood plains and plant and wildlife communities. All structures will be sufficiently set back from the known wetland and there is dedicated open space of approximately 4.0± acres.
10. The land is of a shape and topography to support the development of the PUD as proposed.
11. There are no other factors identified by the Town Board; and

WHEREAS, the Town Board finds that pursuant to Section 149-27(C)(2)(a)(2)(e) that density in excess of eight (8) dwellings per acre is appropriate and an exceptional justification has been demonstrated through the need for senior living facilities within the Town and the innovative approach to meeting that need as proposed by the Applicant;

WHEREAS, the Town Board has received and reviewed the report from the Highway Superintendent; and

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WHEREAS, the Town Board as Lead Agency has reviewed and completed a full or long Environmental Assessment Form for this Type 1 Action under the State Environmental Quality Review Act ("SEQRA") with its findings and conclusions as noted in Part 2 thereof; and

WHEREAS, upon further deliberation, the Town Board proposes to adopt Local Law No. 3 of 2011 establishing The Nest Senior Community PUD thereby amending Chapter 149 "Zoning" to include Attachment 15 thereof;

NOW, THEREFORE, it is hereby resolved as follows:

1. The Town Board authorizes the issuance and filing of a Negative Declaration for Local Law No. 3 of 2011 establishing The Nest Senior Community PUD under SEQRA consistent with the findings and conclusions in Part 2 of the EAF.
2. Local Law No. 3 of 2011 is hereby adopted and The Nest Senior Community PUD is hereby established upon the following conditions:
 - a. The Applicant, or its successors or assigns, must, at its cost provide and install all necessary infrastructure in order to provide potable water to the structures within the PUD and pay all necessary buy-in and connection fees.
 - b. The Applicant, or its successors and assigns, must obtain an extension of the sewer district to include the Subject Property and must pay all necessary buy-in, capacity and connection fees including any fees that may be associated with increasing the sewer capacity the Town has at the Glens Falls Sewer Treatment Plant.
 - c. The Applicant, or its successors and assigns, must secure final site plan approvals for each phase of development in accordance with the procedures set forth in Article VI, Site Plan Review for all development within the PUD.
 - d. The Applicant, or its successors and assigns, must secure final subdivision approval for the four lots in accordance with the Town of Moreau subdivision law.
 - e. The Town Board reserves the right to require performance bonds or other security as conditions of any building permits for structures within the PUD and as may be recommended by the Building Inspector/Code Enforcement Officer.
3. The official zoning map of the Town of Moreau shall be modified to reflect the zoning of the Subject Property to The Nest Senior Community PUD in accordance with Attachment 15 to Chapter 149.

BE IT FURTHER RESOLVED, that the Town Board hereby authorizes the Supervisor, Town Clerk and Attorney for the Town to make such minor modifications to the Local Law documents as they may deem necessary, and thereafter, are directed to execute and file the said documents as required by law and to take all the necessary actions for the promulgation thereof.

A regular meeting of the Town Board of the Town of Moreau was held on June 28, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	No
Councilman Cumm	Yes
Supervisor Jenkins	Yes

Betty Wimette stated that she would like to thank the four members of the board.

Adele Kurtz asked if this was a public comment period and Betty Wimette said it was going to be, because Adele put up her hand to speak.

Councilman Kusnierz also asked if it was a public comment period and Betty Wimette stated that all she wanted to do was thank the four board members and that was all she wanted to say.

Supervisor Jenkins stated the board needed to move on with the agenda.

Attorney Bitter read the resolution for the recreation fees for "The Nest".

Councilman Kusnierz stated this isn't the way we should be circumventing our local law by providing preferential treatment to a special interest only and if this is the intent of the board to act in this fashion then we should amend the local law in general terms so all applicants are afforded the same treatment.

Supervisor Jenkins said he would be proposing a public hearing to amend the local law so all people would be afforded that treatment just like they do in the rest of our building code.

Councilman Prendergast stated we had to decide how to do this and it was suggested by the building inspector that we treat this developer like we do any other developer and to him it makes sense. We aren't giving special treatment to anybody. We are treating them like any other developer.

Councilman Kusnierz asked Joe Patricke what our current code requires for PUD fees.

Joe Patricke replied recreation fees are to be paid upon final approval.

Councilman Kusnierz replied, so that is the law.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to adopt the following resolution:

WHEREAS, Va Va Voom, Inc. has obtained approval from the Town Board of the Town of Moreau ("Town Board") for The Nest Senior Community Planned Unit Development ("PUD") located at tax map parcel #50-2-19.1 with an address of 186-200 Bluebird Road; and

WHEREAS, The Nest Senior Community PUD will be comprised of four (4) separate lots with phased development for assisted/enhanced senior residence buildings, three story subsidized senior apartment building and two (2) three story market rate senior apartment buildings; and

WHEREAS, Section 149-27(H) of the Moreau Zoning Code addresses parks, open spaces and natural features; land dedication/recreation fees; and

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WHEREAS, Section 149-27(H)(2)(a) of the Moreau Zoning Code provides generally that for Planned Unit Developments which include dwelling units, the recreation fees per dwelling unit are to be established and amended by resolution of the Town Board; such fees are to be paid at the time of the final PUD approval; and

WHEREAS, the record is well established that The Nest Senior Community PUD will be developed in phases and it is unlikely that the phases of the PUD which include dwelling units will be developed in the near future; and

WHEREAS, the Town Board finds that Section 149-27(H) of the Moreau Zoning Code does not contemplate the development of a PUD such as The Nest Senior Community PUD which is a multi-phased PUD for senior living accommodations; and

WHEREAS, the Town Board finds that payment of the recreation fees for The Nest Senior Community PUD should be connected with the final site plan approval for each phase within the PUD;

NOW, THEREFORE, IT IS HEREBY RESOLVED that payment of the recreation fees for those phases of The Nest Senior Community PUD which include dwelling units shall be paid at the time site plan approval is issued for each phase of development within the PUD.

Roll call vote resulted as follows:

Councilwoman LeClair	Yes
Councilman Kusnierz	No
Councilman Cumm	Yes
Councilman Prendergast	Yes
Supervisor Jenkins	Yes

HIGHWAY DEPARTMENT REQUESTS

The highway superintendent submitted a memo to the Town Board requesting the Town Board to send out RFP's for engineering services in regards to the repair and/or replacement of a culvert on Clark Road. This culvert is 360 feet west of Selfridge Road which allows the North Branch to flow under Clark Road. This culvert was inspected in September of 2005. It was recommended at that time for a complete replacement of the 84 inch metal culvert pipe for best long term options.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair authorizing Request for Proposals to be sent out for engineering services in regards to the Clark Road culvert.

Roll call vote resulted as follows:

Councilman Kusnierz	Yes
Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Supervisor Jenkins	Yes

A request was received from the highway superintendent to purchase diesel fuel from Warex Terminals under state contract in the amount of \$20,000.00 out of account DB5142.460 that had a balance of \$47,559.53 as of 6/1/11.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair authorizing the purchase of diesel fuel from Warex Terminals under state contract in an amount not to exceed of

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\$20,000.00 out of account DB5142.460.

Councilman Kusnierz asked Paul Joseph how long it will last and Paul replied three months.

Roll call vote resulted as follows:

Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	No
Supervisor Jenkins	Yes

Councilman Kusnierz voted no, because he said there will be six Town Board Meetings between now and the time that amount will be needed. We don't need to approve that high of a figure.

A request was received from the highway superintendent to purchase gasoline from G.A. Bove & Sons, Inc. under state contract in the amount of \$10,000.00 out of account DB5142.460 that had a balance of \$47,559.53 as of 6/1/11.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair authorizing the purchase of gasoline from G.A. Bove & Sons, Inc. under state contract out of account DB5142.460 in an amount not to exceed \$10,000.00.

Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	No
Councilman Cumm	Yes
Supervisor Jenkins	Yes

Councilman Kusnierz voted no for the same reason given above for the purchase of diesel fuel.

A request was received from the highway superintendent for the purchase of asphalt concrete for driveway aprons and shimming for the upcoming paving season in the amount of \$15,000.00 from Palette Stone, Peckham Materials and/or Pompa Bros. under Saratoga County Contract #11-PWAC-3R out of account DB5110.493 that had a balance of \$27,644.61 as of 6/1/11.

Councilman Cumm asked Paul Joseph if they were still using stone on the driveway aprons and if this is what they were ordering and the answer was no.

Supervisor Jenkins asked for a motion and second.

A motion was made by Councilman Cumm and seconded by Councilman Prendergast authorizing the purchase of asphalt concrete for driveway aprons and shimming for the upcoming paving season in the amount not to exceed of \$15,000.00 from Palette Stone, Peckham Materials and/or Pompa Bros. under Saratoga County Contract #11-PWAC-3R out of account DB5110.493 .

Supervisor Jenkins asked for a roll call vote.

Councilman Kusnierz asked how many aprons it would do and Paul Joseph said it would last about half the season.

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Roll call vote resulted as follows:

Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman Cumm	Yes
Councilman Prendergast	Yes
Supervisor Jenkins	Yes

The highway superintendent submitted a memo to the Town Board informing them that he would be hiring part-time summer help to assist with the flagging on road projects. The reasons are due to scheduled vacations and one out on disability.

Councilman Prendergast asked if this was different than other years.

Paul Joseph replied that they have done it in the past.

Councilman Kusnierz asked Paul Joseph if he was going to advertise.

Paul Joseph said he was going to offer the positions to people who worked as wing people last winter first and then advertise if he has to.

Councilman Kusnierz asked what the rate per hour was and Paul Joseph replied \$10.00 per hour.

A request was received from the highway superintendent to enter into a contract with Gorman Bros. under Saratoga County contract #11-PWPR-28R out of account DB5112.493.1 for pavement reclamation on Old West Road from NYS Route 9 east to Washburn Road in the amount of \$40,880.00.

Councilman Prendergast asked if money was budgeted for this and Paul Joseph replied yes.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing the highway superintendent to enter into a contract with Gorman Bros. under Saratoga County contract #11-PWPR-28R out of account DB5112.493.1 for pavement reclamation on Old West Road from NYS Route 9 east to Washburn Road in the amount of \$40,880.00.

Roll call vote resulted as follows:

Councilman Kusnierz	Yes
Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Supervisor Jenkins	Yes

The highway superintendent submitted a memo to the Town Board requesting that the contract for tree and stump removal be extended another year with Richard Sears Tree Experts. There is a balance of \$15,000.00 allocated for tree and stump removal in account DB5110.457 as of 6/1/11.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing a one year extension to the contract with Richard Sears Tree Experts for tree and stump removal in town right-of-ways at the same rate as the previous contract.

Roll call vote resulted as follows:

Councilman Cumm	Yes
Councilman Prendergast	Yes

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Councilwoman LeClair	Yes
Councilman Kusnierz	No
Supervisor Jenkins	Yes

Councilman Kusnierz voted no, because he thinks that a request for proposals should go out each year.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing the supervisor to sign the one year extension to the contract with Richard Sears Tree Experts for tree and stump removal in town right-of-ways.

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	No
Councilman Cumm	Yes
Supervisor Jenkins	Yes

A request was received from the highway superintendent to purchase \$5,000.00 worth of culvert pipe for various town projects from Chemung Supply and Lane Enterprises under Saratoga County Contract #10-PWP-21R out of account DB5110.497 that had a balance of \$12,000.00. The highway superintendent noted that price and availability will determine where the purchase is made.

Councilman Kusnierz asked how many culverts he was going to get. Paul Joseph replied 28 and that was only a fraction of what was needed and they would cost about \$3,500.00.

Councilman Kusnierz asked what size and Paul Joseph replied that it would vary from 10 inch up to 24 inches.

Councilman Kusnierz said in the past the board normally got a list of culvert pipes, their sizes and the dollar amount. He had a problem giving blanket approval for \$5,000.00.

Councilman Prendergast asked Paul Joseph if he could supply the board with this list and Paul Joseph replied yes.

Supervisor Jenkins said they could give tentative approval upon receipt of the list and if the list met the approval of the board members then the highway superintendent could go ahead and make this purchase.

Councilman Kusnierz said this was okay, but in the future he wants the list ahead of time.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing the purchase of culvert pipe from Chemung Supply and Lane Enterprises under Saratoga County Contract #10-PWP-21R out of account DB5110.497 in an amount not to exceed \$5,000.00.

Roll call vote resulted as follows:

Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman Cumm	Yes
Councilman Prendergast	Yes
Supervisor Jenkins	Yes

NO PARKING SIGNS – TANGLEWOOD DRIVE/NORTH ROAD/HUDSON DRIVE

Supervisor Jenkins stated that a proposed change to our local law will be forthcoming and upon receipt a public hearing could be scheduled to amend our local law.

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RECREATION DEPARTMENT REQUESTS

Supervisor Jenkins reported that the only request received from the recreation department was a request to hire Josh Hay at \$10.00 per hour as baseball sports specialist with no pre-employment physical needed.

Councilwoman LeClair stated that Bob Bogdan is volunteering his time to lead the baseball and he would like a person to help him with the teams and the kids. This is what Josh Hay would do.

Councilman Kusnierz asked how he was selected.

Councilwoman LeClair said she didn't know.

Supervisor Jenkins said last year he thought Bob Bogdan made a recommended to Steve on who to hire.

Councilman Prendergast said he would like to ask Steve Gram if Josh Hay had an application in with all the rest.

This request was tabled until it could be discussed with Steve Gram.

WATER DEPARTMENT REQUESTS

Jesse Fish reported that he ordered the new fire hydrant as discussed at the last meeting and it cost a little over \$400.00 and he was just waiting for it to arrive so it could be installed.

LOADER/BACKHOE BIDS

Four bids were received for a backhoe/loader purchase for the water department on May 26, 2011. The low bidder was Nortrax who bid a 2011 John Deere 310J at a cost of \$60,775.00 minus an allowance for a trade in of \$12,100.00 for a total purchase price of \$48,675.00.

Nortrax also bid a lease option of \$16,968.00 due upon delivery with another payment of \$16,968.00 due one year later and a final payment of \$16,968.00 due two years after the delivery date with interest being charged at 4.55%.

Councilman Prendergast asked how much was in the account for this purchase.

Supervisor Jenkins stated that equipment wise there was about \$48,000.00 in all the water accounts. He stated that there is a great deal of cash in those accounts earning very little interest so he thought it would make more sense to purchase it outright rather than lease it at 4.55%.

Councilman Kusnierz stated that this is a big purchase item and they had to make sure they could justify the purchase or lease. He did some checking and talked with Jesse Fish about it. One of the more important things it would be used for is water hook ups. "He tried to get a handle on what we have done in the past two years for water hook ups, but he knows it is kind of difficult because Jean gets the money, but doesn't know what it equates to, how many hook ups, whether it is one developer and all that." He got an estimate from Fran and it looks like in 2010 we did five hookups and to-date we did two in Water District 6. He also looked at Jesse's report and one was done recently. There is some need for it, but he also looked at the monies available in the water accounts and he wants the board to be aware that in Water District 6 there is a huge payment coming due in the amount of \$128,000.00 at the end of the month. That will really bring that account down significantly.

Supervisor Jenkins said there will still be quite a bit of money left in that account.

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Councilman Kusnierz didn't think it was the right time to purchase a backhoe. He said they could rent one for around \$350.00 a day or \$900.00 for a whole week and whole month for \$2,700.00. That is a long ways from the purchase price.

Supervisor Jenkins asked him what the water department would use to remove snow from around the fire hydrants in the winter months.

Councilman Kusnierz said he wouldn't be opposed, if it was that big of a job, to contract out to somebody to do the snowplowing. He said we are paying the water superintendent over \$40,000.00 a year plus another \$50,000.00 for a machine.

Supervisor Jenkins asked how many fire hydrants are there and Jesse Fish said he didn't have an exact number, but it was over 100.

Councilman Kusnierz said they could go out to bid on that.

Supervisor Jenkins said he knows what it costs to have a driveway plowed so he wonders how much it would cost to plow out 100 plus hydrants. He said they probably could send out requests for preliminary prices to find out.

Jesse Fish asked why they want to put out to bid something that they have been doing all along.

Councilman Kusnierz said he didn't think it was cost effective.

Jesse Fish stated that they also had valve boxes to dig up and be repaired, valves to be replaced, a couple of hydrants that need to be replaced. There is work for this machine that hasn't been done. Anytime there is an emergency like a water line break they would have to go out and get a machine and in the meantime there is a problem. It is necessary to have the proper equipment to do a good job. He doesn't know of a water department or a department of public works that doesn't have a backhoe. He thinks it is a good purchase. He doesn't think they will ever find a price like this in the future. The price is good and the time is right.

Councilman Kusnierz stated that our water department has one full-time employee and other water departments have pretty good size staff. When we have those kinds of projects, we need help to get the job done. One way we can work on that is, the highway department, they sent two people down to help on the last installation and we were using a machine we already own.

Jesse Fish stated that the water department has had one in the past and there was always something we could use it for and if not then there were other departments that we could share the services with.

Councilman Kusnierz asked if the highway department has shared the use of one in the past and Jesse Fish said highway has used it before and Paul Joseph said his department has used the one in the water department quite a bit.

Councilman Kusnierz asked why they couldn't share the cost between departments then. He was trying to look at it from a taxpayer's standpoint and trying to justify the machine. He has a tough time trying to justify the machine for just the water department.

Discussion followed on the cost sharing aspect.

Councilman Prendergast said if the water department needs a backhoe then he wasn't comfortable sharing the cost with the highway department.

Councilman Cumm stated the water superintendent could charge the highway department for use of the

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backhoe and Councilman Prendergast concurred.

Councilwoman LeClair agreed and said that she would prefer to have Jesse Fish responsible for it and that department own it and if the highway department needs to use it then the water department could bill the highway department for the use of the machine at an hourly rate that everybody agrees on.

Paul Joseph said that is one thing he learned at his training school and that is that he is supposed to charge each department for work the highway department performs for that department in order to keep the books straight.

Councilman Prendergast made a motion authorizing the purchase of a 2011 John Deere Backhoe/Loader 310J from Nortrax at a cost not to exceed \$48,675.00 for the water department.

The motion was seconded by Councilman Cumm.

Roll call vote resulted as follows:

Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	No
Supervisor Jenkins	Yes

Councilman Kusnierz voted no, because he thought there was a more economical way to get the machine and it was a lot of money for the limited use it would get for installation of water lines. He would rather see the money go towards water rate reductions for our water customers.

**PROPOSED HIGHWAY GARAGE EAF, NEGATIVE DECLARATION & RESOLUTION
CAPITAL RESERVE FUND/AWARD CONTRACTS 1, 2, 3, 4 & 5**

Supervisor Jenkins stated that the bids are in for the proposed highway garage. There are five construction contracts with recommended alternates for a total of \$1,112,808.00. The bids came in under the budget that the voters approved of \$1.4 million. He stated that we will be able to build a salt shed and install fire sprinklers in the old building and maybe a few other things under this capital project.

Councilman Kusnierz asked if this project includes a salt shed.

Supervisor Jenkins replied that we have money left in the budget so we will build a salt shed. We will have \$280,000.00 left to build the salt shed and do a few other things, so we will be going out to bid on that at some point during the project. He stated that the following contracts would be awarded:

The general construction contract will go to TMG, LLC who bid \$768,162.00.

The electrical contract will go to TMG, LLC who bid \$149,800.00.

The mechanical contract will go to Danz who bid \$105,000.00

The plumbing contract will go to Crisafulli who bid \$62,000.00

The Fire Protection contract will go to Pro Fire Suppression who bid \$27,846.00.

Supervisor Jenkins stated that our engineer, Jim Mitchell, recommends awarding the above contracts. Joe Patricke has been through all the costs analysis with Jim Mitchell. Jim Mitchell has met with these contractors and checked the references of these contractors and found their references favorable.

Attorney Bitter advised that the board needed to complete a short form EAF for this project. Attorney Bitter proceeded to read the description of the project from Part I of the short form EAF as follows:
"Construction of a new highway garage at 1543 Route 9. Construction of a new highway garage

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approximately 14,000 square feet at the existing Town of Moreau Highway Department Complex.” She then proceeded to read the questions in Part II of the short form EAF and read recommended answers, which were all no and the Town Board agreed with these answers. The question that read “other impacts” was answered “non-applicable”.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair to issue a negative declaration under SEQRA.

Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Absent *
Councilman Cumm	Yes
Supervisor Jenkins	Yes

*Councilman Kusnierz had left the meeting briefly during this roll call.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to adopt the following resolution:

WHEREAS, by resolution dated July 27, 2010 the Town Board of the Town of Moreau ("Town Board") established a capital reserve fund for financing the cost of construction of a new Town of Moreau Highway Garage Building ("Reserve Fund") under Section 6-c of the General Municipal Law of the State of New York; and

WHEREAS, by resolution dated November 9, 2010 the Town Board authorized the transfer of up to One Million Four Hundred Thousand Dollars (\$1,400,000.00) from the Landfill Betterment Capital Project Fund into the Reserve Fund; and

WHEREAS, the Town Board caused to have designed a new Highway Garage and associated facilities, and, thereafter, solicited bids from contractors for the various aspects of the construction of the new Highway Garage and associated facilities; and

WHEREAS, the Town Board desires to move forward with the construction of the new Highway Garage and associated facilities, has reviewed the bids submitted by the contractors for the various aspects of the construction of the new Highway Department Garage and associated facilities and has received recommendations concerning same from the Town Engineer; and

WHEREAS, the Town Board has reviewed and completed a Short Environmental Assessment Form under the State Environmental Quality Review Act ("SEQRA") for this unlisted action - the construction of the proposed new Highway Garage and associated facilities; and

WHEREAS, the Town Board having further deliberated on this matter;

NOW, THEREFORE, BE IT RESOLVED, as follows:

Subject to the finalization and execution of contract documents, the Town Board awards the following bids:

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	Contract Description	Bid Awarded To	Contract Amount Awarded
Contract #1	General Construction	TMG, LLC	\$768,162.00
Contract #2	Electrical	TMG, LLC	\$149,800.00
Contract #3	Mechanical	Family Danz Heating and A/C, Inc.	\$105,000.00
Contract #4	Plumbing	Crisafulli Bros. & Heating Contractors, Inc.	\$62,000.00
Contract #5	Fire Protection	Pro Fire Suppression, LLC	\$27,846.00

AND BE IT FURTHER RESOLVED, that the Town Board hereby adopts a negative declaration under SEQRA for the project; and

BE IT FURTHER RESOLVED, that subject to audit and control payment for the contracts shall be made from those funds presently in the Reserve Fund.

Roll call vote resulted as follows:

Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Supervisor Jenkins	Yes

SURVEY – W. J. ROURKE – STAKE OUT SITE OF PROPOSED HIGHWAY GARAGE BUILDING

Supervisor Jenkins reported that four RFP's were mailed out and one quote was received. Bolster and Associates replied, but declined to submit a proposal and explained why, which was read by Supervisor Jenkins.

The one quote that was received was from W. J. Rourke Associates in the amount of \$1,750.00 for stake out of the site of the proposed highway garage building, grades, elevation and bench mark.

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair to accept the quote from W. J. Rourke Associates in an amount not to exceed \$1,750.00 to stake out the site of the proposed highway garage building, grades, elevation and bench mark.

Roll call vote resulted as follows:

Councilman Kusnierz	Yes
Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Supervisor Jenkins	Yes

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ADDENDUM TO FACILITY AGREEMENT WITH CITY OF GLENS FALLS

Supervisor Jenkins stated that we have a current agreement with the City of Glens Falls for the current sewer usage we have right now. We requested some additional capacity and the city has offered us a 10 year agreement and at the end of the 10 years if we don't take the one million gallons the contract is null and void.

Councilman Prendergast asked if Tim Burley had reviewed the addendum and Supervisor Jenkins advised that Tim Burley drafted most of it and Attorney Auffredou reviewed it.

Attorney Bitter read the addendum.

Supervisor Jenkins stated the Glens Falls City Sewer and Water Commission is ready to sign the addendum. It is an agreement that benefits the town and the city hopes it benefits them in the long run and other than that there is no financial commitment on the part of the town at this point. He asked for a motion to approve this and authorize him to sign it.

Councilman Kusnierz asked how the figures in the addendum compare to what our goal is for build out in our commercial corridor.

Supervisor Jenkins gave a reply that couldn't be transcribed from the audio, except that he did say we have an established rate of \$8.05 per EDU currently and we hope to lower that rate to around \$7.00 per EDU. Our cost is \$5.78 per EDU that we pay the city.

Councilman Kusnierz asked if that rate takes into account maintenance and Supervisor Jenkins said it is a capital item and not an operating item. The City of Glens Falls proposed a maximum of \$7.00 and we added 15%. We haven't established that rate, but that is about where we will be and as a board we have to make that decision soon.

Supervisor Jenkins stated we won't buy capacity until we need it and we will be collecting money from developers.

Supervisor Jenkins asked for a motion and second.

Councilman Cumm made a motion and it was seconded by Councilwoman LeClair authorizing the supervisor to sign the addendum to the facility agreement with the City of Glens Falls.

Roll call vote resulted as follows:

Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Supervisor Jenkins	Yes

Supervisor Jenkins thanked Jack Diamond for his cooperation in this process.

TKC ADDITIONAL LANDFILL MAINTENANCE REPAIR TIEMS

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair authorizing additional landfill repair work by TKC in the amount of \$6,893.00.

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Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Abstain
Councilman Cumm	Yes
Supervisor Jenkins	Yes

Councilman Kusnierz abstained from the vote, because he said that in his conversations with the supervisor's office he said he wouldn't oppose it, but he thinks when we are spending \$20,000.00 and it isn't an emergency we should put it out to bid and try to get a little better deal on it.

NEW YORK FIRE & SIGNAL – FIRE EXTINGUISHER INSPECTIONS

A motion was made by Councilwoman LeClair and seconded by Councilman Cumm to accept the quote from New York Fire & Signal to recharge the fire extinguishers in town buildings.

Roll call vote resulted as follows:

Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman Cumm	Yes
Councilman Prendergast	Yes
Supervisor Jenkins	Yes

DECRESCENTE DISTRIBUTING CO., INC. – EXTENSION OF CONTRACT – VENDING MACHINES @REC. PARK

A request was made by recreation director to extend the contract for vending machine services with DeCrescente Distributing Co., Inc.

Supervisor Jenkins noted that there is a small rate increase.

Councilman Kusnierz asked if they could put this on hold until Steve Gram was available to answer questions that he has. One thing he would like to know is how much money the town has taken in off of this.

Supervisor Jenkins agreed and said he would get that information.

This item was tabled.

ALCOHOLIC BEVERAGE LICENSE RENEWAL – HUMBUGG'S

Supervisor Jenkins stated that Humbugg's is requesting the town to waive the 30 day waiting period for their application for renewal of their liquor license through the NYS Liquor Authority.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to waive the 30 day waiting period for renewal of the liquor license for Keith Champagne D/B/A Humbugg's Food and Spirits through the NYS Liquor Authority.

Roll call vote resulted as follows:

Councilman Kusnierz	Yes
Councilman Cumm	Yes

A regular meeting of the Town Board of the Town of Moreau was held on June 28, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Supervisor Jenkins	Yes

BINGO LICENSE RENEWAL – MOREAU COMMUNITY CENTER

A bingo license renewal was received from the Moreau Community Center and it was before the Town Board for approval.

The Deputy Town Clerk read the questions in the Findings and Determinations Statement and the Town Board answered the questions.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair authorizing the issuance of a bingo license renewal to Moreau Community Center.

Roll call vote resulted as follows:

Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Supervisor Jenkins	Yes

SOUTH GLENS FALLS POST OFFICE – POSSIBLE CLOSURE

Supervisor Jenkins reported that he attended a meeting at the South Glens Falls High School last Friday evening regarding the possible closure of the South Glens Falls Post Office. He spoke at the meeting and presented some data to the postal service representatives. He also sent letters to our two Senators and Village Mayor, Keith Donohue, has contacted our congressman. He said they are working on it in hopes of stopping the closure.

FINAL REPORT RE: REC. PARK LIGHTING GRANT

Supervisor Jenkins stated that a CPA has to do an agreed upon procedure review for the lighting grant we received for the rec. Park. Five RFP's were sent out and only one response was received and that was from Jenkins, Beecher & Bethel. Supervisor Jenkins stated he was going to abstain from voting on this. He doesn't have any financial interest, but his name is still on the letterhead and it doesn't appear that he is independent, but he thinks he is.

Councilman Kusnierz asked if anyone followed up on the other companies that RFP's were sent to.

Supervisor Jenkins stated that Fran Thibodeau sent the RFP's out and this one was the only one she got back. He doesn't know why they didn't submit a quote. It is not an audit procedure. It is a review of data. They have to go through the invoices and compare them to the contract and those types of issues.

A motion was made by Councilman Cumm and seconded by Councilman Prendergast to accept the proposal from Jenkins, Beecher & Bethel in the amount of \$750.00 to perform a review of the lighting grant for the Rec. Park.

Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes

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Councilman Cumm	Yes
Supervisor Jenkins	Abstain

COMMITTEE REPORTS

Councilman Kusnierz reported on an incident that took place in our rec. park over the weekend involving a pellet gun.

Supervisor Jenkins stated that it has been taken care of. There were two four wheelers in the park also and they were asked to stop and they did. The State Police came. Ed Tracy and somebody else were there. They called him and he talked to the State Police and the State Police said that one was unregistered and they were going to be ticketed, but after the fact it was found that they weren't ticketed. They were middle aged people who said they got off track in the woods and ended up in the park. The State Police suggested we not press charges, so we didn't this time. There were four wheelers in the park again last night, but by the time the Sheriff arrived they were gone. He takes the position that if they get caught we should press charges and they should go to court. Maybe if we penalize a couple of people it will deter others. The staff has been instructed not to approach them and to stay away from them so we don't have the situation we had last year.

Councilman Kusnierz asked that a rec. liaison be contacted in the future.

Councilman Cumm asked that the entire board be informed.

Supervisor Jenkins stated that he notified the insurance company about the article in the newspaper regarding the dog bite incident and the potential for some litigation.

15 MINUTE PUBLIC COMMENT PERIOD

Elizabeth Lanfear asked Supervisor Jenkins if he had a figure on the Hatchery Road culvert project yet.

Supervisor Jenkins replied no and that he would have to get it from the highway superintendent.

SUPERVISOR ITEMS

Supervisor Jenkins stated that we need to borrow some money for the Water District 1 Extension 2 water project until we have short term financing in place. The last time we did this we borrowed from two other water districts. He suggested borrowing \$100,000.00 from Water District 2 and Water District 4 and pay those districts 2% interest, which is above the going rate. He then said we are getting that interest rate on a c.d., but our investment account is earning less than that. The short term financing should be final the first week of September. Queensbury will have to give us an extension on our contract, because the EFC says that if we are going to owe them for 30 years then we need a 30 year contract with Queensbury.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing a loan in the amount of \$100,000.00 from Water District 2 and Water District 4, at an interest rate of 2%, into the Water District 1 Extension 2 Capital Reserve Project fund.

Roll call vote resulted as follows:

Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman Cumm	Yes
Councilman Prendergast	Yes

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Supervisor Jenkins Yes

Supervisor Jenkins stated that the Winch Farm is applying for the 2011 County Farm Land Protection Open Space Grant. They applied in 2010 and have not changed anything in their grant application from last year to this year. He will be putting this on the agenda for the next meeting to adopt a resolution supporting the Winch Family in their application for this grant.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to adjourn to executive session at 11:20 p.m. to discuss the employment history/performance of a particular unnamed former employee who is seeking employment of some sort, and to discuss the Hendel, First American, Lebowitz and Crawford Article 7's, and possible litigation.

Roll call vote resulted as follows:

Councilman Kusnierz	Yes
Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Supervisor Jenkins	Yes

The Town Board did not make a motion to close the executive session and re-open the regular meeting. The Town Board went from the executive session and right back into an open session at 11:50 p.m.

In the open session the following action was taken:

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair authorizing the attorney for the town to enter into a stipulation of settlement in the matter of the Article 7 with First American with the terms of the settlement to include the taxable year 2007/2008 with the original value at \$1,402,300.00 reduced by \$152,300.00 for a total of \$ 1,250,000.00 and the refund from the Town being \$719.63 with no interest.

Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman Cumm	Yes
Supervisor Jenkins	Yes

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair authorizing the attorney for the town to enter into a stipulation of settlement in the matter of the Article 7 with Crawford with the terms to include the years of 2010 and 2011 with the original value at \$340,000.00 reduced to \$175,000.00 with no refund, no interest, because no taxes have been paid.

Roll call vote resulted as follows:

Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman Cumm	Yes
Councilman Prendergast	Yes
Supervisor Jenkins	Yes

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair authorizing the attorney for the town to enter into a stipulation of settlement in the matter of the Article 7 with

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Hendel with the terms to include the year of 2008 with the shopping center's original value at \$1,256,100.00 reduction of \$456,100.00 to a new assessment of \$800,000.00 and the bank's original assessment being \$140,000.00 reduction of \$31,200.00 to a new assessment of \$108,800.00 and for the year 2009 the shopping center's original value at \$1,256,100.00 reduction of \$461,100.00 to a new value of \$795,000.00 and for 2009 the bank's original assessment \$140,000.00 staying the same no reductions and for 2010 the shopping center's original value at \$3,875,000.00 reduction of \$1,375,000.00 new value

\$2,500,000.00 and the bank being \$450,000.00 no reduction, no change and for 2011 the shopping center being \$ 2,5000,000.00 and the bank \$450,000.00 with a total refund from the town being \$2,971.09 with no interest.

Roll call vote resulted as follows:

Councilman Kusnierz	Yes
Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Supervisor Jenkins	Yes

A motion was made Councilman Cumm and seconded by Councilwoman LeClair authorizing the assessor to send out RFP's for appraisal services regarding the Lebowitz property.

Roll call vote resulted as follows:

Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Supervisor Jenkins	Yes

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to adjourn the meeting at 11:54 p.m.

Roll call vote resulted as follows:

Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman Cumm	Yes
Councilman Prendergast	Yes
Supervisor Jenkins	Yes

Meeting adjourned.

Respectfully submitted,

Jeanne Fleury
Town Clerk