

A regular meeting of the Town Board of the Town of Moreau was held on September 22, 2009 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.

The Town Clerk called the roll, which resulted in the following Town Board Members being present or absent:

**Town Board Members Present**

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

**Town Board Members Absent**

Bob Prendergast

**Also Present:** Jeanne Fleury, Town Clerk; Peggy Jenkins, Assessor; Jesse Fish, Water Superintendent; Joe Patricke, Building Inspector and Code Enforcement Officer; Martin D. Auffredou, Attorney for the Town; Garry Robinson, Engineer for Hal Leonelli; Hal Leonelli, Developer; Nick Reisman, Post Star Reporter; Town Residents: Michael Chowske, Octave Flores, William & Rebecca Amadon, Carol Bromley, Jack Passinault, Sharon Danielsen, Reed Antis, Nate Jenkins, Adele Kurtz, Shelley Englert, John Telisky; Village Residents: Harry G. Gutheil, Jr. and Brigid Martin; representing South Glens Falls Girl's Softball, Danielle Bourdeau; and representing "Reality Check", Jamie Bates, Samantha Ronca, Alex Smith, Lauren Rowland and Melissa MacDonald

Supervisor Jenkins led the Pledge of Allegiance to the Flag.

**MINUTES**

The minutes of September 8, 2009 were prepared and distributed by the Town Clerk to the Town Board in advance of the meeting for the Town Board to review, comment, correct and approve.

**MINUTES – SEPTEMBER 8, 2009 – REGULAR TOWN BOARD MEETING**

No comments or corrections.

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair to approve the minutes of September 8, 2009 as prepared.

Roll call vote resulted as follows:

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

**MEETINGS/WORKSHOPS SCHEDULED**

The Town Board Workshop to discuss the proposed Outdoor Hydronic Heater Law that was originally scheduled for October 15<sup>th</sup> at 7:00 p.m. was re-scheduled to October 19<sup>th</sup> at 7:00 p.m. in Town Hall.

The Town Board scheduled Budget Workshops to be held on October 21, 2009 and October 28, 2009 at 7:00 p.m. in Town Hall.

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The month-end meeting of the Town Board was scheduled for October 27, 2009 at 6:00 p.m. in Town Hall.

### **15 MINUTE PUBLIC COMMENT PERIOD**

Octave Flores residing at 516 Selfridge Road presented a petition to the Town Board containing 16 signatures from people living along Selfridge Road, one from Route 9, one from Gansevoort Road and two from Reynolds Road in the Town of Moreau.

The purpose of the petition is to “request the enactment of a law restricting the discharge of firearms on residential property in the Town and restrict new ranges” as follows:

1. “Discharge of a firearm on any property in a residential zone will not be allowed unless the property is over 15 acres. Additionally, the creation of any new range, open or closed, in a residential zone will not be allowed. Ranges, open or closed, public or private, that are recognized as being organized prior to 2008 will be grandfathered.”
2. “For all other properties, the discharge of firearms remains restricted to 500 feet from a dwelling in accordance with NYS Law. Additionally, the creation of any new range, public or private, open or closed, less than 1,500 feet from a dwelling will require a Town Building Permit and regular inspections. The entire property site must be posted “Live Range” with an adequate and safe back stop. The owner must own 1,500 feet beyond the back stop on properties less than 15 acres. The noise created at the range cannot exceed the Town of Moreau’s Noise Ordinance restrictions. The hours of use at the range will be restricted to 9 am to 6 pm the entire week.”

Mr. Flores reported that his neighbor, Mr. Collins, is using his backyard as a firing range for target practice. Mr. Flores’ home is 482 feet from the Collins home. DEC has been called in and they found that the area he uses for target practice is 500 feet from neighboring homes at least. ATV’s use the woods out behind the target that Mr. Collins is shooting at. There is a berme made with a dirt pile behind the target, but Mr. Flores is concerned that if Mr. Collins misses his target he doesn’t know what he might hit. The range is not posted and Mr. Flores is concerned about safety.

**Mr. Flores has been part of the 4H Shooting Sports for 12-15 years, a member of the Rifle & Shotgun Instructors of New York State, member of the National Pistol Instructors and has experience in setting up ranges. [Added per the request of Councilwoman LeClair 10/13/09 jf]**

The Town Board accepted the petition from Mr. Flores and thanked him for the information. They will review the request.

Carol Bromley from 370 Fortsville Road spoke next. Mrs. Bromley stated that beaver dams are restricting water flow in a stream that she and other homeowners draw water from for their homes and they are having difficulty getting a permit to get rid of the beavers. She asked when the public water was going to come their way.

Supervisor Jenkins advised that the Town’s first line of funding is from the Environmental Facilities Corp. (EFC) and if that doesn’t work then they will pursue financing through the USDA. We should know October 1<sup>st</sup> where we are at with funding. If we get funding the earliest that we could begin construction on a public water system in that area would be spring of 2010 and construction completion would be in a minimum of 120 days. However, funding has to be in place first.

Carol Bromley said it was her understanding that the Town has to supply them with tanks of water if they run out.

Supervisor Jenkins said this was possible, but they would have to go through New York State Department of Health for that.

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William Amadon from 352 Fortsville Road stated that their water is not drinkable. The Town hooked up mobile homes off Fortsville Road to a public water supply so they shouldn't have to wait another year to be hooked up. He stated that in the 1940's it was a clear running brook, but not any longer with all the additional farms. He was told for two years that public water was coming.

Councilman ~~Kusnierz~~ **Cumm** asked if the State working on the culverts along the Northway was having an effect on it. **[Amended 10/13/09 jf]**

William Amadon said no, they opened up the brook and are working on the other one. Beavers are the problem. He said that he wasn't averse to drilling a well, but he hesitates to do this since his neighbors have drilled wells recently and one went down 700 feet and only got two gallons per minute. The Bolesh family drilled five wells and all are substandard so they have to truck water in.

Councilman Kusnierz asked Attorney Auffredou if this could be fast tracked if NYS DOH deems it a health issue and an emergency situation.

Attorney Auffredou said perhaps, but the Town Board can't get around having to do the map, plan and report and district creation process. The only difference it would make would be that the Board wouldn't have to worry about justification for the extension.

Sharon Danielsen from 376 Fortsville Road who works for NYS DOH said the water is unsafe. It has tested positive for fecal coliform. She hasn't tested for protozoan yet that come from calves and could make their way into the water. If protozoan does get into the water then there is no way to get rid of them. She changes the filters twice a month at a cost of \$27.00 each. There isn't any water pressure on the second story of her home. It is an urgent situation.

Councilman Cumm asked her if their chlorinator is still working.

Sharon Danielsen replied yes, but it won't kill protozoan only bacteria and she fears that one day the whole system will fail.

Councilman Kusnierz mentioned the \$27 billion that was earmarked over the next two years for public works projects. He asked the Supervisor if he could contact the Governor and outline the issues these people are facing and ask the Governor to consider this project with this funding.

Supervisor Jenkins stated that basically we have already dealt with this, but we still have to go through NYS DEC and DOH it is a point system. It is a nationwide program that is meant to take the politics out of it. We have to work within the system. This project is estimated at around \$1.3 million and the Town doesn't have the money to do it.

Councilman Kusnierz asked Supervisor Jenkins if he reached out to NYS DOH and Supervisor Jenkins said yes, they have been down to the site and so has the USDA.

William Amadon stated that the Town has called their water supply system a community system and forced them to follow the rules and if need be they may have to pursue a class action suit.

Councilman Cumm asked Mr. Amadon when the system was put in and the answer was the 1940's. The system was originally put in to water the cows and provide for a family of four or five people. Over the years the property has been sold to different families and now there are several families sharing the system.

Councilman Kusnierz asked Attorney Auffredou about the General Municipal Law and the section that pertains to public water systems and the difference between Article 12 and 12A.

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Attorney Auffredou stated that a group of people can petition the Board, but there still has to be a funding mechanism in place. If the people want to move ahead without the Town Board then the people who are served by the district created must pay the costs for operations and maintenance and in this case it appears it would be cost prohibitive for them.

Attorney Auffredou further stated that the district could borrow the money and seek reimbursement through the EFC, but the Town can't incur the debt, the district has to incur the debt.

Councilman Cumm asked if the district is the people affected and Attorney Auffredou replied yes.

Attorney Auffredou asked Supervisor Jenkins if he could contact NYS DOH and request that a representative attend an upcoming meeting of the Board so the Town Board and NYS DOH could discuss and work on a short term solution.

Supervisor Jenkins replied that he thought that NYS DOH was supportive, but they have to follow the same rules and it still has to go through the IUP's. He stated that the next step after the EFC would be the USDA. We have all the cost analysis and information ready to go.

Attorney Auffredou stated that the Town Board has been through a number of district creations/formations and extensions. Once the funding is in place they should be able to form a district relatively quickly.

Councilman Kusnierz asked if the Town could do a Bond Anticipation Note (BAN) and borrow the money from the Landfill Closure Fund and if so, would it impact our ranking?

Attorney Auffredou stated that his initial reaction is that the Board should shy away from doing this. In order to do an inter-fund loan generally there has to be a town-wide benefit and this is clearly not the case here.

This concluded the 15 minute public comment period.

### **WATER DISTRICT 1 EXTENSION 2 – GARRY ROBINSON, P.E. – HAL LEONELLI PROJECT**

Garry Robinson, Engineer for Hal Leonelli, addressed the Town Board next. He handed out revised maps of the proposed Water District 1, Extension 2 for a project that has been approved by the Town Planning Board for a 144 Unit Apartment Complex located along Sisson Road. It is one parcel right now. The next step is to extend the water district to include the parcel. There are some lots located along Sisson Road that are serviced with water right now, but not within the boundaries of the current Water District 1 and there has been desire expressed by the Town to include these lots and bring them within the boundaries of Water District 1. In addition the extension would include other lots located along Sisson Road and any lots that were not wholly included in the original boundaries of Water District 1. There were some lots that were only partially within Water District 1 when the original district boundary lines were drawn. This is a precursor to a water supply application that they have to submit on behalf of the Town. In the application they have to include water flows and water demands and every time there is a change in lots that are going to be included the water supply application would have to be changed so they would like to establish what is going to be included before they start the water supply application.

In reply to a question from Supervisor Jenkins, Garry Robinson stated that part of the agreement was that they would extend the water line to the 12 inch line on Bluebird Road that goes to the industrial park. The first phase of the Leonelli apartments was in extension 1 and this would be extension 2 to Water District 1.

Councilman Kusnierz asked what the benefit to the Town is.

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Garry Robinson replied it would serve water to the Leonelli Apartment Complex Project, which was agreed to some time ago. The other benefit would be the people who are not included right now would beand it would clean up the district boundaries so they are complete. While it is not required by law to be included in a district, New York Department of Environmental Conservation (DEC) prefers that all water services be included in a district or a separate contract or some arrangement with the people.

Supervisor Jenkins stated the other benefit would be that we could put Water District 1 customers on water from Queensbury and then we would have one source and it would cut costs for people in Water District 1.

Councilman Kusnierz asked Garry Robinson if he reached out to the land owners along Sisson Road.

Garry Robinson replied that when the first phase of the Leonelli project was in progress they sent out letters to each homeowner that was not in the district, but getting water and explained what they were doing and asked them to sign the letters and send them back saying it was okay. They received two responses out of ten. This was anticipated, because they were getting water and there wasn't any changes proposed to this or the rates so there was no motivation for them to do this. There was also an informational meeting held at Town Hall and they were given notice and no one showed up. Again if they were getting water already and there wasn't going to be a change in cost why would they show up.

This concluded the discussion on the proposed extension to Water District 1.

#### **REED ANTIS – POSTAL ZIP CODE AND SALES TAX REVENUE**

Reed Antis sent the Board information on zip codes and sales tax and it appears he said that we are getting credit for the sales tax.

Supervisor Jenkins talked to some car dealers in the Town and he found that their computer software does not tie into sales tax so the way they account for it is the sales person is supposed to enter the location. His concern is that we are losing sales tax revenue because of the 12828 zip code. There is the same problem with internet sales. Unless they are able to access NYS Sales Tax System and enter the address and select Saratoga County then we wouldn't get credit for the sales tax. We aren't the only Town with this problem.

Discussion followed on how the sales tax system works on the internet.

Reed Antis said it sounds like NYS Dept. of Taxation and Finance needs to bring this to the attention of businesses.

Councilman Kusnierz said it would be the responsibility of the vendors to enter the correct taxing jurisdiction.

Reed Antis said he hoped this information would clear up some of the issues.

Councilwoman LeClair stated that perhaps the newsletter could be used to get this information out there.

#### **SOUTH GLENS FALLS GIRL'S SOFTBALL – DANIELLE BOURDEAU**

Danielle Bourdeau was present to discuss with the Board the additional \$1,156.10 that the Town paid to Curtis Lumber supposedly for the additional cost for pressure treated lumber to build the dugouts at the quads in the Harry J. Betar Jr. Recreational Park and that the Town asked for reimbursement for from Girl's Softball. She stated that Afsco Fence quoted them \$8,450.00 and they quoted the Town \$10,720.00. Danielle stated that Girl's Softball put in the extra \$725.00 so that the cost to the Town wouldn't exceed the \$10,000.00 threshold that would require the Town to go out to bid and would allow the project to be completed by in time for the April 25<sup>th</sup> opening of the season. She stated that the

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additional cost was not from the pressure treated lumber, but rather the labor. There is fascia that has to be put on in the spring. The cost will be about \$500.00 and they want a professional to do it. Mike Bock, Treasurer said that whatever is agreed upon tonight he will deliver a check to the Town tomorrow for the difference.

Supervisor Jenkins said the Board's concern was that we approved a certain amount and it went over. We don't allow department heads to do this without prior approval.

Danielle Bourdeau advised that they incurred \$780.00 of expenses during the week of the project.

Danielle also stated that they did object to paying \$35.00 a game for lining and maintaining the fields for their fall ball games. The fields aren't being maintained the best way they can only because there isn't enough staffing. It is more than a one man job when there are sixteen games four at 9:00, 11:00, 1:00 and 3:00. They need to water the fields. There have been umpires that have approached her about the batter's boxes and home plate. She is concerned about somebody getting hurt. They are willing to work with the Town lining fields, etc. She stated that we have a beautiful park down there and she is very proud of it and the 277 girls that get to play there every season. It is important to her how we present it. Softball is willing to pay the \$1,156.10 and Mike Bock will deliver a check to the Town in the morning.

Councilman Cumm asked if she was looking for the Town to pay to finish the soffits and Danielle replied yes.

Councilman Kusnierz asked why our staff can't do that on their off season.

Danielle stated that Keith Kreppein has said that we should use vinyl for the fascia and he has offered to do it.

Councilman Cumm asked if he would provide the labor for free and Danielle Bourdeau said probably. He asked her to ask Keith what his contribution would be on this project.

Councilman Kusnierz said he would abstain from any discussion involving Keith Kreppein to avoid a conflict of interest.

Councilman Kusnierz asked Danielle to put her concerns in writing and Supervisor Jenkins said they could address them at the next meeting.

Danielle stated that Shawn and Katie Bain are part of their softball community and they would love to help anyway they could with the memorial for Allison Bain.

Danielle thanked the Town Board for their time.

### **REALITY CHECK SMOKE FREE MOVIES CAMPAIGN**

Following a presentation by several young ladies the following resolution was adopted on a motion by Councilman Cumm and seconded by Councilwoman LeClair:

WHEREAS, tobacco use is the leading cause of preventable death and disability in the United States;

WHEREAS, exposure to smoking in movies is the primary influence of half of all new adolescent smokers;

WHEREAS, the U.S. Centers for Disease Control and Prevention in 2002, 2003 and 2005 listed smoking in movies as the primary reason why the decline in teen smoking rates has stalled;

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WHEREAS, the National PTA, World Health Organization, American Medical Association, American Academy of Pediatrics, American Legacy Foundation, American Academy of Allergy, Asthma, and Immunology, Society for Adolescent Medicine and others including the Los Angeles Department of Health Services, US Public Interest Research Group and Interfaith Center for Corporate Responsibility have endorsed the smoke free movies solution, which include;

**1. Rate new smoking movies "R"**

Any film that shows or implies tobacco should be rated "R". The only exceptions should be when the presentation of tobacco clearly and unambiguously reflects the dangers and consequences of tobacco use or is necessary to represent the smoking of a real historical figure.

**2. Certify no pay-offs**

The producers should post a certificate in the closing credits declaring that nobody on the production received anything of value (cash money, free cigarettes or other gifts, free publicity, interest-free loans or anything else) from anyone in exchange for using or displaying tobacco.

**3. Require strong anti-smoking ads**

Studios and theaters should require a genuinely strong anti-smoking ad (not one produced by a tobacco company) to run before any film with any tobacco presence, in any distribution channel, regardless of its MPAA rating.

**4. Stop identifying tobacco brands**

There should be no tobacco brand identification nor the presence of tobacco brand imagery (such as billboards) in the background of any movie scene.

WHEREAS, twenty-seven state Attorneys General have written the Motion Picture Association of America urging Hollywood to play an active role in reducing the number of children who smoke because of smoking in movies, and

NOW, THEREFORE, BE IT RESOLVED, that the Town of Moreau endorse Reality Check's smoke free movies campaign, and will continue to support future efforts Reality Check and the Attorney General on this matter.

Roll call vote resulted as follows:

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

**MEMORIAL TREE IN HARRY J. BETAR RECREATIONAL PARK IN MEMORY OF ALLISON BAIN**

In memory of Allison Bain the staff of Tower 6 at the Glens Falls Hospital would like to donate a flowering crab apple tree and plant it in the Harry J. Betar Jr. Recreational Park. They worked closely with Dr. Bain.

A motion was made by Councilwoman LeClair and seconded by Councilman Cumm to accept this donation of a flowering crab apple tree to be planted in the Harry J. Betar Jr. Recreational Park in memory of Allison Bain from the staff in Tower 6 at the Glens Falls Hospital.

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Roll call vote resulted as follows:

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

### **PASSIVE RECREATION PARK GRANT**

Councilwoman LeClair reported that she submitted the grant application for the passive recreation park and the following resolution is required to be submitted for this grant.

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

WHEREAS, the Town Board of the Town of Moreau ("Town") desires to study and produce a site master plan for a 48+/- acre parcel of land along the Hudson River and more particularly located east of Farnan Road and south of Bluebird Road in the Town of Moreau; and

WHEREAS, the Town is considering creating a Passive Recreation Park at the subject parcel; and

WHEREAS, the Town has issued a Request for Proposals for the preparation of the master plan and feasibility report for the Passive Recreation Park; and

WHEREAS, the Town desires to obtain funding for the feasibility study through the New York State Environmental Protection Fund – Local Waterfront Revitalization Program;

NOW, THEREFORE, it is hereby resolved that the Town Supervisor is authorized to execute and file all necessary grant application materials for the Local Waterfront Revitalization Program in order to obtain financial assistance for the preparation of the master plan and feasibility report for the Passive Recreation Park.

Roll call vote resulted as follows:

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

### **TD BANKNORTH MUNICIPAL MASTER SIGNATURE CERTIFICATE**

Supervisor Jenkins advised that for all the Town's accounts at the bank we only need one master signature certificate so he needed a motion authorizing himself and Councilwoman (Deputy Supervisor) LeClair to sign the signature certificate.

A motion was made by Councilman Cumm and seconded by Councilman Kusnierz authorizing the Supervisor and Deputy Supervisor to sign the TD Banknorth Municipal Master Signature Certificate.

Roll call vote resulted as follows:

Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman Cumm	Yes

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Councilman Prendergast	Absent
Supervisor Jenkins	Yes

**EXAMINATION OF COURT RECORDS RESOLUTION**

Supervisor Jenkins stated our Account Clerk, Fran Thibodeau, conducted an audit of the Justice Court records and prepared a report and copied the Town Board. A resolution is required stating that the audit is done and it will be filed with the State Comptroller.

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair acknowledging that the required examination of the 2008 Town of Moreau Justice Court's records has been completed.

Roll call vote resulted as follows:

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

**APPLICATION LAND DEVELOPMENT ACTIVITY – ESTABLISH \$50.00 FEE**

Joe Patricke reminded the Board that last February the Town Board passed the Storm Water Law for any land disturbance of one acre or more and part of the law requires that we have a permit authorizing people to start work on land activity and included was a place for the Town to establish a fee. Anytime there is land activity by a developer we have the developer pay for the cost for the review and an inspector to go on the job. Therefore, he recommended a minimal fee of \$50.00 for the administrative portion.

Councilman Kusnierz asked why we are establishing a fee other than personnel has to inspect the site or issue a permit.

Joe Patricke stated that the developer will pay for an inspector and observation. Some Towns are going to use the fee to recoup the cost for their own inspector, but we always have an observation person from an engineering firm on-site. Why the \$50.00? The law recommends a fee and he came up with the \$50.00.

Councilman Kusnierz asked if somebody in an Ag District wanted to expand their greenhouse and it would require the disturbance of land that exceeds one acre would they be required to pay the fee.

Joe Patricke said he didn't believe that landowners in an Ag District would have to pay the fee for land disturbance.

Councilman Kusnierz read what defines agricultural activity and according to what he reads they would have to be charged a \$50.00 fee.

Joe Patricke replied that nobody in an Ag District pay fees.

Councilman Kusnierz said under the change in the code they would.

Joe Patricke said he didn't know the answer to this question.

Attorney Auffredou said he would like to look at it and talk with Joe.

Supervisor Jenkins suggested they table this until the next meeting.

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### **RECREATION DEPARTMENT REQUESTS**

The Town Board at a previous meeting authorized the purchase of fifty flag football jerseys from Northwind Graphics at a cost not to exceed \$512.50 and fourteen more shirts had to be purchased making the actual cost \$658.00. Approval is needed for the additional \$145.50.

A motion was made by Councilwoman LeClair and seconded by Councilman Cumm authorizing the additional fourteen flag football jerseys at an additional cost of \$145.50.

Roll call vote resulted as follows:

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

Steve Gram, Recreation Director, requested permission to purchase a Broyhill tow behind sprayer (100 gallon) used from Tee Bird Golf Club for the sum of \$500.00. He also submitted a quote for a new one from Northern Tool & Equipment for the sum of \$1,399.00 for a 55 gallon one and \$2,999.00 for a 200 gallon one.

This sprayer would be used by the Recreation Department to fertilize the fields in the Rec. Park.

Councilman Kusnierz didn't recall budgeting money for this.

Councilwoman LeClair stated that this came about, because we now have an employee who is licensed to spray and Steve Gram and other full-time Rec. employees are working on their licensing. We may not see a cost savings this year due to the cost of the equipment, but she anticipates a significant difference in cost and the Rec. Department will be able to spray more fields at more convenient times. We have had issues with the companies that have sprayed and fertilized for us so if we can do it in-house we will at least have control over it.

Councilman Kusnierz said he was very sensitive over the Town getting into the business of spraying down there. There has been history of problems in the past and he didn't know if it was a good idea for the Town to engage in spraying when we can have somebody else do it that has their own insurance and license that would protect the Town. Would we have additional exposure if we were to put down herbicides and pesticides especially if they are a restricted use?

Attorney Auffredou replied yes. It is a question of cost savings vs. risk.

Councilman Kusnierz said there seems to be an ongoing problem down there over manpower and he questioned if they had the time to do spraying on top of everything else required down there.

Councilman Kusnierz said he wasn't totally against upgrading our equipment down there, but it should be within the parameters of the budget that we establish each year. We are coming into a new fiscal year. He didn't have a problem budgeting for it down the road, but we shouldn't make a purchase on something we didn't intend or budget for and it is something we don't have to take up right now especially in these tough economic times.

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Councilwoman LeClair said it came up, because the piece became available. He didn't go looking for one. We considered the difference in price.

Steve Gram stated that they could do the whole park for \$4,600.00 vs. half the park for \$6,800.00.

Supervisor Jenkins said there is a balance in the equipment account of \$9,112.00. He asked Steve Gram what his anticipated equipment purchase was between now and the end of the year.

Steve Gram said his department had to pay for the truck they got from the Water Department.

Councilman Cumm said that since we don't know how much we are going to have to pay for the truck he suggested holding off on buying the sprayer this year.

This purchase was tabled.

Councilwoman LeClair stated that Andy Laing applied to serve as a member of the Recreation Commission and one current member hasn't attended the last six to eight meetings. The Town Board wanted the Recreation Commission to ask that member if they wanted to step down. At the Recreation Commission Meeting held Monday they asked the Town Board to handle this. It was her opinion that if there is someone who is willing to serve and attend meetings that perhaps we should appoint that person and ask the member who is not attending the meetings to step down as a regular member and serve as an alternate.

Councilman Kusnierz said he received an e-mail from the current commission member and the e-mail has the indications that they still think they are on the Recreation Commission.

Councilwoman LeClair said that is because nobody has contacted that person.

Councilman Kusnierz said the code is clear that the Town Board can remove the commission member.

Supervisor Jenkins suggested they wait until the next meeting and Attorney Auffredou concurred that they should follow due process.

Councilwoman LeClair asked if the Board wanted to appoint Andy Laing as an alternate.

A motion was made by Councilman Cumm and seconded by Councilman Kusnierz appointing Andy Laing as an alternate member on the Recreation Commission.

Roll call vote resulted as follows:

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

Councilwoman LeClair stated that the coca-cola machines are still stored in the quad building. She would like a letter sent to the vendor alerting them that they have until a certain date to come remove them or they become the property of the Town. We have been trying since last spring to get them to remove them.

Attorney Auffredou said there is a provision in NYS Law known as the "abandoned property law". He suggested they send a letter telling the vendor that they have until "x" date to remove them or we will deem that they have abandoned the property to the Town.

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Supervisor Jenkins asked Councilwoman LeClair to send the letter as liaison to the Recreation Commission.

Attorney Auffredou said if they don't respond then send a second letter notifying them that we are putting the machines up for auction.

Councilman Kusnierz said to give them 10 business days.

Discussion reverted back to what Danielle Bourdeau mentioned about objecting to paying \$35.00 per game and complaint about fields not being irrigated properly and a low spot in the batter's box and home plate.

Steve Gram stated that they want to line the fields themselves to save money. They wanted to line them during the week and the Rec. Department line them on weekends. To him it didn't make sense. If we are going to line them then we should do them all the time.

Councilwoman LeClair said it wasn't so much the quality of the work being done it was the fact that they had so many games on a Saturday they were concerned about getting things done, because we only have one person working.

Steve Gram stated that during the year, during tournaments everyone is working.

Councilwoman LeClair said no, Danielle was talking about the next few weekends when there are sixteen games and they are so closely backed up that one person couldn't get it done in time.

Councilwoman LeClair said she and Steve Gram discussed maybe having Royce Pixley help out.

Councilman Kusnierz told Steve Gram that he asked Girl's Softball to put their concerns in writing and he asked Steve Gram to review them when received and respond in writing to the Town Board on their concerns.

#### **HIGHWAY DEPARTMENT REQUESTS**

None

#### **ROLL-OFF CONTAINER AND DISPOSAL BIDS**

Supervisor Jenkins said he needs to get together with Attorney Auffredou and review the current contract and bid specifications and maybe make some changes to shorten them a little.

#### **15 MINUTE PUBLIC COMMENT PERIOD**

Reed Antis asked Councilman Cumm if he heard back from the County about Fernwood. He asked if there was a way to get a resolution passed to remove Fernwood from the County Website.

Councilman Cumm said he was reluctant to remove Fernwood from the Town of Moreau, because it is part of our history. The more he thinks about it he thinks why not keep it.

Reed Antis said he didn't think there was a lot of history to it.

Councilman Cumm stated there appears to be a lot of history according to the articles Reed copied the Board on.

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Reed Antis said the history is to the civic association, but not to a hamlet or an unincorporated area in the Town of Moreau.

Supervisor Jenkins said he would need more feedback from Mike Valentine before he makes a decision. It is a question of removing it or putting up a sign. We have signs up for other hamlets.

Reed Antis stated that his research shows there wasn't any community other than a civic association. In talking with two other historians in our county it makes no sense.

Supervisor Jenkins said the area was pretty defined.

Harry Gutheil stated that he was present in regards to the executive session later in the meeting re: the Article 7. He requested information from the Town and Office of Real Property. He has no idea what the Town is doing in regards to a settlement agreement. He looked at the attorney bills and sees no indication that an appraisal has been ordered and paid for and would hate to read in the paper that we settled and gave up millions of dollars in assessment without an appraisal.

Supervisor Jenkins said Lou Lewis did one himself and had someone else review it and adjust what he did. It wasn't a complete appraisal that we would use in court, but it was looking at all the complexes and coming up with values.

Harry Gutheil said one of the hydros is a hundred million facility. He didn't know if they were settling on one or three and he was looking at the impacts on the other two.

Supervisor Jenkins said two are going to stay as they are and only the Spier Falls one is going to change.

Harry Gutheil asked who the negotiator is.

Supervisor Jenkins said it was himself, Peggy and Tom Uncher. He had one meeting with an attorney from the company and the President of the company. Tom Uncher is Vice President of the company. It was in consult with Attorney Lewis and Attorney Auffredou.

Harry Gutheil asked how it will affect the reval and asked if there will be an appraisal done on the hydros.

Supervisor Jenkins said all the hydros will be appraised in reval.

Harry Gutheil asked when they expected to send out RFP's for an appraisal firm.

Supervisor Jenkins said GAR is going to do them.

Harry Gutheil asked if they were qualified to do this and Supervisor Jenkins said yes. He asked if they have courtroom experience in defending hydro values and the answer from Peggy was they have someone on staff with courtroom experience.

Councilman Kusnierz asked if it was with specialty properties and Peggy replied yes.

Harry Gutheil said he hoped any settlement wouldn't bypass any revaluation process, because if it does then it comes down to two people allowing a major utility firm negotiating their revaluation number and if you do that then you should afford that opportunity to everybody else in the Town.

He asked if the complex properties are going to be revalued. Supervisor Jenkins replied yes, by GAR.

Harry Gutheil asked at what price, he has seen nothing on what they are going to charge us to evaluate those properties.

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Peggy Jenkins replied it is in the contract.

Harry Gutheil said the copy of the contract he got specifically excluded complex properties.

Peggy Jenkins said that GAR followed up with a letter to the Board explaining what it would be.

Harry Gutheil said a letter he read, read that for \$15,000.00 they would review the values and if they thought they needed a revaluation they would submit a proposal to do the revaluations. He asked if anybody recollected this.

Supervisor Jenkins said he would pull out the contract in the morning.

Harry Gutheil asked if all of that isn't done then how are you going to come out with the impact notices if you don't know what the roll is going to be. If you haven't done the highly complex properties how can you have an accurate impact notice? There was no reply and he asked if anybody cared to answer this question.

Councilman Kusnierz said that was an issue he raised during the process and subsequently he didn't vote for the reval. There were many reasons why he didn't vote for a reval, but that was an issue he was very concerned about.

Harry Gutheil stated the last one the transmission and distribution was settled and he requested the settlement agreement and it wasn't made available to the public and he was denied his request for the information and it was determined that it wouldn't be "foilable" until it was signed by all the parties. He then found out it was filed in the County Clerk's Office and he didn't get a copy. He asked if this one was going to be made available to the public for comment before it was voted on.

Supervisor Jenkins replied no. It is part of the negotiation process that until you have a final document you don't want to release information that is critical. It is a very important process and told Harry Gutheil that he has been there.

Harry Gutheil said he hoped they were bargaining for cheap electricity for the community. We are paying fossil fuel rates. We are paying a blended rate between hydro nuclear and fossil fuel. We have five hydros in our Town and that is something we should take advantage of. He knows historically in negotiations with the energy companies they have a number they want to get to and that is the extent of the negotiations.

Harry Gutheil stated that when there is a vote he hoped all five Board Members would be present so we know how our representatives view this issue.

Adele Kurtz asked where the Woodstone Pellet Manufacturing Company was at in regards to siting in our industrial park.

Supervisor Jenkins said that the LLC that owns the lots gave them an option extension. We don't have any control over it. He had some doubts where it was going right now.

Adele Kurtz asked if the extension was to build, complete the project or to exercise their option.

Supervisor Jenkins said an extension to close on the option.

### **COMMITTEE REPORTS**

Councilwoman LeClair on behalf of the Highway Department spoke with Kurt Woodcock the Town Highway Superintendent for Wilton and they want to have a memorial plaque made in Steve Barody's

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memory and install it on a concrete pad that is underneath the light by the flag at the Moreau Highway Garage. There would be no cost to the Town of Moreau.

The Town Board didn't have any objection to this and thought it was good idea.

### **SUPERVISOR'S ITEMS**

Supervisor Jenkins said he received a request from a person interested in renting the Town's building on Route 197, but he wanted to run a business out of it and zoning wouldn't allow this. He wanted the Town Board to be aware of this request.

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair to adjourn to executive session at 8:50 p.m. to discuss a potential tenant for the Moreau Industrial Park who has requested privacy and discussing this in open session could affect the value or price or competitive value or price of the various lots that are going to be discussed and to discuss the Article 7 - Brookfield Power with possible action to be taken.

Roll call vote resulted as follows:

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

The Town Clerk did not sit in on the executive session.

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair to close the executive session and re-open the regular meeting at 9:34 p.m.

Roll call vote resulted as follows:

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

(Present for this portion of meeting besides the Town Board and Supervisor were Shelley Englert, Harry Gutheil, Adele Kurtz and John Telisky).

Supervisor Jenkins advised that the Town Board won't make a decision to vote tonight. They are scheduling a special meeting for tomorrow night at 7:00 p.m. depending on whether or not Councilman Prendergast can attend as he suffered some injuries. If he doesn't show then it will be a meeting that won't last very long.

Councilman Kusnierz said he thought they weren't going to meet unless Councilman Prendergast could attend.

Supervisor Jenkins stated that they wouldn't, but how would they notify the public?

John Telisky suggested the Town's website and Attorney Auffredou suggested posting it on the door to Town Hall.

Harry Gutheil asked if there would be public discussion.

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Supervisor Jenkins said that the Board would go into executive session and then go back into regular session and he would let the Board decide if they want to allow the public to comment.

Harry Gutheil said he had a chance to refresh his memory on the GAR contract and it specifically excludes complex properties and that they will look at the values for \$15,000.00 and if they think they need to be revised then they will submit estimates.

Supervisor Jenkins said he thought there was an amendment to that, but would have to look at the contract tomorrow and let him know.

Adele Kurtz asked if the special meeting will only include the settlement negotiations or other items as well.

Supervisor Jenkins said the meeting is strictly to act on this Article 7 case.

Harry Gutheil asked if time was of the essence that required this special meeting.

Supervisor Jenkins said we have to have some information ready for the courts by the end of November if we don't settle with them. If we don't settle then we have to get an appraisal that is acceptable in court.

Harry Gutheil said that the courts are generally lenient upon asking for extensions and changing the scheduling.

Attorney Auffredou said that was true, but this has been a very thorough, comprehensive process that the Board has engaged in and with respect to what the Board is going to look at tomorrow night it is time to make a decision and there is no reason to delay a decision any longer on this matter on what is before the Board.

Supervisor Jenkins said Councilwoman LeClair will be leaving Town Friday so we would still be short a Board Member for two weeks.

John Telisky asked what the reason was for expediting it.

Attorney Auffredou said he didn't see it as expediting it. He sees it as a process that has taken a considerable amount of time and the Board with special counsel is ready to make a decision.

Supervisor Jenkins said that if Councilman Prendergast was here tonight he would ask for a vote.

Councilman Kusnierz stated that as we continue down this road and not made a decision it has been a benefit to the Town along the way.

John Telisky said the Board was calling a special meeting and not doing it at a general forum so they were expediting the process.

Attorney Auffredou stated that if there was a full compliment of the Board here tonight then they were prepared to take action. Since there isn't a full compliment of the Board tonight they called a special meeting so there is a full compliment of the Board to take the action tomorrow that they were prepared to make tonight. That isn't expediting it.

Adele Kurtz asked if their decision was going to be to approve the settlement as presented or go forward with the litigation.

Supervisor Jenkins said those are the only two options.

Adele Kurtz said the negotiating is done then.

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Supervisor Jenkins stated that things have been negotiated for the past year and we made a lot of progress, but he doubted it would go any further at this point. If we don't have a vote to approve it then he would assume that litigation would move forward. They are following advice of legal counsel. If we don't accept it then he will provide leadership to us.

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair to adjourn the meeting at 9:42 p.m.

Roll call vote resulted as follows:

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

Meeting adjourned.

Respectfully submitted,

Jeanne Fleury  
Town Clerk