

A regular meeting of the Town Board of the Town of Moreau was held on January 28, 2014 in the Town of Moreau Municipal Building, 351 Reynolds Road, Moreau, New York.

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

The Town Clerk called the roll.

#### **Town Board Members Present**

Robert J. Vittengl, Jr.	Councilman
Bob Prendergast	Councilman
Gina LeClair	Councilwoman
Todd Kusnierz	Councilman
Preston L. Jenkins, Jr.	Supervisor

#### **Town Board Members Absent**

None

**Also Present:** Jeanne Fleury, Town Clerk; Paul Joseph, Highway Superintendent; Karla Buettner, Attorney for the Town; Amy Alfonso, Recreation Director; Town Residents: Bob Kory, Dave Wilson, Kay Ely, Jenn & Don Lindsey, Floyd Smith, Bobbi Spaulding, David & Judith Huff, Rich Morris, William Ramsey, John Naja, Patrick Cashion, Betty Wimetite, Opal Ferguson, Ron Rosati, Kathie Spangler, Bobby Dick, John Telisky, Adele Kurtz; Joan Lentini from Lake Luzerne; and Harry G. Gutheil, Jr., Village Resident

Supervisor Jenkins led the Pledge of Allegiance.

Supervisor Jenkins welcomed everyone to the meeting and asked everyone to turn off or silence all electronic devices.

#### **MINUTES**

The minutes of January 14<sup>th</sup> were presented to the Town Board in advance of the meeting for their review, comment, correction and approval.

#### **MINUTES – JANUARY 14, 2014 – REGULAR TOWN BOARD MEETING**

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair to amend the minutes of January 14<sup>th</sup> on page 25 by changing the title of Ryan Belair from Part-Time Recreation Assistant to Part-Time Recreation Leader.

Roll call vote resulted as follows:

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

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair to approve the minutes of January 14<sup>th</sup> as amended.

Roll call vote resulted as follows:

Councilman Vittengl	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman Prendergast	Yes

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Supervisor Jenkins

Yes

### **FUTURE MEETINGS/WORKSHOPS SCHEDULED**

Councilman Prendergast said he would like to set up an interview session so the Town Board could interview applicants for the new position in the Water Department. He talked with Jesse Fish, Water Superintendent, and Jesse said any time was good with him.

An interview session was scheduled for February 5<sup>th</sup> starting at 6:30 p.m. with 10 minute time slots to interview candidates.

Councilman Prendergast said there were ten applicants to be interviewed.

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

Bobbi Spaulding thought it would be a good idea if the proposed sewer district extension was paid for by all property owners in the Town. If we get commercial development as the result of the sewer then it will benefit everyone in one way or another. Without commercial development the community will be stagnant. She asked the Town Board to rethink the financing of the sewer district extension project so it can go through.

Supervisor Jenkins replied that a legal opinion would have to be obtained from the Town's Attorney on this. He said the district extension would have to be reformed and there is a process that would have to be followed and he wasn't sure where that would put us in terms of financing.

Attorney Buettner stated that the district would have to be enlarged to incorporate everybody. The way the law is written, is that those who benefit from the use of the infrastructure have to pay for it. While economic development is good for the Town and if taxes go down as more commercial businesses come into the Town, the property owners who are not within Extension 4 of Sewer District 1 are not directly benefitting from the infrastructure that would be put in. The Town is applying through the EFC for financing. There is no guaranty that we will get the financing since the district won't be formed by the February 3<sup>rd</sup> deadline. It would take about two months to form a brand new district and Jason Denno from EFC didn't know if that would allow us to get funding this year or not. So it may be a done deal at that point. Legally the whole Town can't do it unless the whole Town benefits from the sewer infrastructure.

Bobbi Spaulding said it is unfortunate, because without sewer the Town is stagnant. She mentioned how high school students sit in study halls three times a day, because of the loss of staff over the years. What happens here with this Board affects the School District and in turn affects our kids.

Councilman Kusnierz stated there is a comptroller's opinion that reads that the creation of a district must have a direct benefit on those in the district. What complicates things here in Moreau is that there is an Agricultural District in our Town and State Law prohibits the implementation of ad valorem fees for sewer or water for members of the Agricultural District and there are a lot of land owners that fall into that category. He said he doesn't know how that would impact a referendum or creation of a district and that is something they would have to look at.

Attorney Buettner said right now the referendum would only be on the district as it was presented and voted on, so we would have to nullify all the resolutions the Board adopted including the bonding resolution and start from scratch.

Supervisor Jenkins stated that there has been a great deal of conversation with a lot of people about all of the flaws of this whole process and people have said that economic development keeps coming up in the conversations so why doesn't the whole Town participate. He said it would be a long time before sewer

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could be extended to a great deal of the Town and the chances of it ever being installed out in the agricultural district isn't very likely.

William Ramsey asked if there has been any interest shown in the Route 9 corridor from major developments.

Supervisor Jenkins said about every thirty days, but nothing ever happens. He also said there has been a lot of interest in the past. He thinks what will happen is that, people will want to put apartments along Route 9 and it isn't zoned for that. He said they have looked at the "Village Concept" and where that may be allowed, but they aren't looking for apartments along Route 9. There is some beautiful land along Route 9 and there is a potential for the future in that area.

A woman in the audience said she heard it said that it was voted on. She asked who voted on it, three Board Members. She understands that there are "three people" who have a vested interest in whether this gets passed or not and they should have abstained from the vote. She asked how many Board Members actually voted on it.

Supervisor Jenkins asked if she was referring to the vote on the creation of the Sewer District and the woman responded yes. Supervisor Jenkins then said that five Board Members were present and four out of five voted on it.

The woman said three out of the four have a vested interest in Route 9 and whether or not this gets passed.

Councilman Kusnierz stated that on December 26<sup>th</sup> only three people voted.

The woman said that those three people have a vested interest in this and they should have abstained, because it benefits them.

Supervisor Jenkins said that none of the three would benefit from it.

The woman stated that they own property along Route 9 and if the sewer goes through they will get more money for their property and they are going to sit back and laugh at everybody else who is going to be left holding the bill for this.

Supervisor Jenkins replied that everybody is going to benefit from it.

The woman said "Where on Bluebird Road"? She said she is going to be paying a hefty fee for thirty years and she doesn't think it is fair for any of them and she doesn't want it. She said that taxes have just been raised and now they want to strap them with a \$600.00 bill for thirty years. Some of them aren't going to be here in thirty years and they are going to leave their property to their children and they are going to be left to pay the \$600.00 a year and where is that fair? She said "those three people" should have abstained from the vote."

Supervisor Jenkins said she was entitled to that opinion.

Harry Gutheil stated that he thinks sewer would be nice and he thinks a lot of the people who signed the petition would like sewer, but it is incumbent upon the Board to put something forward that is affordable. He said if they take the 286 parcels in the district and divide it into the \$14,115,000 it is almost \$50,000.00 per parcel for sewer. It is too expensive. He suggested that the Board look for grant money and do a median household income study and it wasn't done. He said he spent a lot of time reviewing the Map, Plan and Report and there are EDU's figured in that aren't even built yet or plans filed for yet and he doesn't know how they can technically be charged, which means others will be paying more. He said that even if the sewer does go through, in this economy we aren't going to have a gold rush coming in. It isn't

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what Moreau will attract. He said they could pick up probably close to \$80 less per EDU just by getting the bond payment right. It was off by \$146,000.00 if you amortize it a straight 30 years and if you use the Municipal Finance Rule it would be even less. He said questions haven't been answered and there were answers that weren't clear and it isn't the way to put a project together. He thinks the Town Board needs to go back to the drawing board. He suggested that they go back to the one or two developers who were going to put sewer in to a certain point in the district and then maybe it would cut down one mile or more of infrastructure and maybe we would have to just put in the main. He said there is a huge expense for the laterals. He said maybe a project will come along and they will put in their own line if the main is there.

Supervisor Jenkins replied that all Federal funds for sewer go through the EFC. When we applied if we had downsized the district to certain areas or if we had done a separate population count and averaged the median household income for that versus using accounting median income that we had to use it would make some difference in getting some grant money. In 2012 we applied for sewer through the CFA in the amount of \$2.1 million and we were denied. If this sewer district extension is voted down the funding may not be there and it may not be there on February 3<sup>rd</sup> we don't know yet. We are asking for an extension, but we were told before by the EFC that there wouldn't be any extensions. He said he wrote a letter to the President and CEO of the organization asking them to consider an extension and Jason Denno from the EFC is trying to get an extension for us. If we don't get an extension it is basically over, but we will still hold a vote on April 1<sup>st</sup>.

Harry Gutheil stated that the Town would still be on the IUP. He told the Town Board a month ago to do a median household income study and they didn't do it and they wasted a month.

Supervisor Jenkins replied no. They will go back to the permanent schedule and the annual list is recreated every year on April 1<sup>st</sup> and it is supposed to be finalized on October 1<sup>st</sup>. We never really got notice until the first part of December when we were told where we stood. It wasn't a very easy process to go through. He asked if any other Board Member had anything to say.

Councilwoman LeClair said there seemed to be some confusion over who has an interest along Route 9. She said she doesn't personally have one. She owns a house on Sisson Road and she has one son who rents an apartment in Hudson Falls and one who is away at college. She isn't related in any way to any other LeClairs other than her sons.

The woman who spoke up earlier replied that she said there are some members on the Board who have a vested interest in whether this gets passed or not. She emphasized the word "some". She said again that they should have abstained.

Dave Rogge said he must have missed something in the whole scope of this sewer district. It was his understanding that we were doing this, so larger businesses will come in and fill up the Route 9 corridor. He said that if a large commercial entity comes in and becomes "X" number of EDU's then the annual cost for all of the residences along Bluebird Road would be reduced by a certain amount of money. He said there wasn't any talk about this. It was just said that the cost would be "X" amount of dollars per year for 30 years. Why wouldn't the annual cost drop if the Route 9 corridor fills up with businesses?

Supervisor Jenkins replied that it would. He said he thought Councilman Kusnierz mentioned at a previous meeting that we would need more users. The engineer over-estimated the debt. Everything he does is a conservative approach. It might be closer to \$500.00 and most of that reduction would be the debt portion. There aren't any guarantees that anybody is going to come here next month or next year. In his opinion there will be some commercial development. How much is unknown. He said there has been some discussion about major developments, but they never materialized. Almost two years ago the Buck Group came in with a mixed use proposal on 125 acres off of Route 9 and it would probably have created as many EDU's as are on the list and cut the cost. A major user of sewer in the industrial park would cut the cost. The current company in the industrial park pays on about 70 EDU's right now, so it would have little impact on that company.

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Rich Morris said he asked Tim Burley at a previous meeting if 500 EDU's were added at the \$600.00 annual charge where would the money go and Tim Burley said it would go towards future areas and funding.

Supervisor Jenkins said that is not what the Town Board would do with the money, he doesn't think. He said that is an engineer's approach.

Rich Morris said he was amazed to find that when he went throughout the district with a petition every house he went to they signed. There were only two people out of all the homes he went to that didn't want to sign the petition. He said Reginald Wren on Bluebird Road just spent \$10,000.00 on a brand new septic system that will be good for the next 30 years. He said Overhead Door on Route 9 just built a brand new building and has a new septic system that he said is financed as part of his mortgage. Rich said that everyone agrees that they want affordable sewer as it will benefit everyone. He asked why they need 11 miles of laterals put in and why can't just a sewer main be installed and have everyone town-wide share in the cost. Those who opt in would pay for the cost of the sewer main. That is what the Board has to figure out.

This concluded the 15 minute public comment period.

#### **HIGHWAY DEPARTMENT REQUESTS**

At a Town Board Meeting held on December 30, 2013 the Town Board authorized the purchase of a 2002 GMC C-8500 Bucket Truck from Cassone Leasing at a cost not to exceed \$20,050.00. When the Highway Superintendent went to purchase this truck he found that it had already been sold. Cassone has a 2002 ~~GMC~~ **Freightliner** C85 Bucket Truck for sale that is in better condition than the other one and they are willing to sell it to the Town for the same amount of money. The Town Board was polled verbally and they were in agreement with this truck being purchased. The verbal approval needs to be ratified by resolution. **[Amended 2/11/14 jf]**

A motion was made by Councilwoman LeClair and seconded by Councilman Vittengl authorizing the purchase of a 2002 GMC C85 Bucket Truck from Cassone Leasing at a cost not to exceed \$20,050.00.

Roll call vote resulted as follows:

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

#### **RECREATION DEPARTMENT REQUESTS**

Councilwoman LeClair stated that last year between herself and the garden coach they spent about \$150.00 on organic pesticides and fertilizer that was used by all the gardeners. The gardeners wanted to give them money towards these purchases and they declined acceptance of their money and told them that they would cover the cost. The gardeners said they were willing to spend \$10.00 or \$15.00 for their beds and with that money the pesticides, fertilizers and twine and stakes to mark the beds could be purchased. Therefore, Councilwoman LeClair said she is requesting to charge \$15.00 per garden bed and the funds would be used to purchase supplies for the community garden.

A motion was made by Councilman Vittengl and seconded by Councilwoman LeClair authorizing the charge of \$15.00 per garden bed and for the fee to be utilized to purchase supplies for the community garden.

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Councilman Kusnierz said he realizes that this is a nominal fee, but residents in the Town of Moreau pay taxes and included in those taxes is support for our recreational facilities so our residents are already paying for their use of the park and we don't need to charge.

Councilwoman LeClair said that last year she spent about \$100.00 and Natalie spent about \$40.00 or \$50.00 and they donated the supplies purchased. However, some of the gardeners were uncomfortable accepting this donation and one tried several times to try and give her money to cover her cost of the supplies purchased. Councilwoman LeClair said she didn't want to come back to the Town Board and ask for reimbursement. The gardeners said they were willing to help pay for it. She said that if the supplies could be paid for from the recreation fund then fine.

Councilman Kusnierz said we always accept donations for use of our recreational facility. If the gardeners want to donate by way of materials, equipment or funding it would be welcomed.

Councilman Vittengl withdrew his motion and Councilwoman LeClair withdrew her second.

### **PEP Grant - Recreation**

Joan Lentini was present with Amy Alfonso, Recreation Director, to ask the Board about an approval or contract for use of the Water District 2, Nolan Road Pump House, for the storage of rowing equipment that would be used by the Rowing Club. At the January 14<sup>th</sup> Town Board Meeting Joan Lentini and her partner Ken Santucci presented their Rowing Club proposal to the Town Board and the Town Board said they would address it at the next meeting.

Attorney Buettner said she spoke with Joan and Ken, but there isn't any contract yet. There is some information that is pending from the Town Assessor. It was her understanding that the area around the pump house would be leased by the Rowing Club and not the pump house itself and that a dock would be put in by someone other than the Town.

Amy Alfonso asked if this means they couldn't move forward with the Rowing Club until a contract was in place.

Attorney Buettner replied that the Town would only be providing a contract to allow the Rowing Club to use the area around the pump house to store their boats and equipment and that this was not a Town program. The Rowing Club would also have to add the Town of Moreau as an additional insured on their insurance certificate. It would be similar to the contracts the Town signs with Little League or the Soccer Club.

Councilman Kusnierz asked who was applying for the PEP Grant.

Amy Alfonso stated that the South Glens Falls Central School District has been giving the Town \$10,000.00 a year for the past three years from the grant money they receive. Amy said she submitted some ideas to the Town Board on what she would like to spend the money on.

Councilman Kusnierz asked if he understood correctly that Amy was asking the Town Board for approval to spend the grant money received from the South Glens Falls School District and Amy replied yes.

Councilwoman LeClair said she didn't think they answered Amy's question about moving forward with promotional meetings regarding the Rowing Club.

Attorney Buettner replied that they could move forward with informational meetings, but they couldn't use the land around the pump house without a contract.

Supervisor Jenkins asked Amy if she was asking for approval to spend up to \$3,920.00 to start with.

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Amy Alfonso replied yes to purchase kayaks and paddles, etc.

Amy Alfonso approached the Town Board bench and an informal discussion ensued between them. Conversations amongst members of the audience commenced. This resulted in the Town Clerk being unable to take notes on the conversation and the conversation was not audible enough to transcribe from the audio of the meeting.

Following their discussion the following action was taken.

A motion was made by Councilman Vittengl and seconded by Councilwoman LeClair authorizing Amy Alfonso to purchase up to \$10,000.00 worth of recreational equipment as listed in her information to the Town Board out of the PEP Grant money that was received from the South Glens Falls Central School District.

Roll call vote resulted as follows:

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

#### **WATER DEPARTMENT REQUESTS**

None

#### **PRE-DEMOLITION ASBESTOS INSPECTION QUOTES NOLAN ROAD WELL HOUSE**

The following quotes were received for inspection of pre-demolition asbestos and lead paint inspection at the Nolan Road pump house:

Alpine Environmental Services	\$1,450.00
Aztech Technologies, Inc.	\$3,250.00 (Includes \$1,062.50 Lab Charges)
Van Vleet, LLC	\$1,682.00

Supervisor Jenkins stated that Alpine Environmental Services originally submitted a price of \$1,000.00, but they didn't inspect the site. Their quote was returned to them and they added \$450.00 to the quote and returned it to us. He said that Councilman Vittengl wasn't really comfortable with their quote and how they handled it. He prefers to go with Van Vleet for \$1,682.00. Van Vleet and Aztech inspected the site.

Councilwoman LeClair said she doesn't remember the Town Board discussing the demolition of the building.

Supervisor Jenkins said they may not demolish it. That is the purpose of the inspection. According to our Building Inspector this has to be done before we can do anything with the Building.

Councilwoman LeClair stated "they don't need our building".

Supervisor Jenkins said that there are two wells there that pose an imminent danger for us and we have had people in and out of the building and it is a hazardous situation. Whether we tear it down or not, at some point, we need to do something with those wells and the first process is to worry about the chemicals in the building.

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Councilman Vittengl stated that some of the roof is rotted and has to be removed. There are also the wells that have to be filled in. To dismantle the building and start taking it apart you have to address the environmental issues such as lead paint and asbestos. It has to be inspected for the existence of these.

Councilwoman LeClair said again that she didn't know that the Town Board had considered demolishing the building.

Councilman Kusnierz asked Councilman Vittengl to elaborate on why he wanted to go with the higher priced quote.

Councilman Vittengl stated that the quote from Alpine came in at \$1,000.00 and since it was quite a bit less than the other quotes he contacted Alpine and asked if they included an inspection for the lead paint and they said no they were just going to inspect for asbestos. They then submitted a second quote for \$1,450.00. However, they never did do a site visit to see the paint peeling off the ceiling. He was afraid that Alpine would come in and say that there was an additional cost of \$1,000.00 for this or \$500.00 for that.

Councilman Kusnierz said he knows there are regulations through the NYS Uniform Building & Fire Prevention Code for work done on potentially hazardous sites. He asked if it is mandated that municipalities do this prior to demolition.

Councilman Vittengl said that if our employees go there we don't want to expose them to a hazard and in talking with our Building Inspector he said the way to do it was to have this inspection done first and then proceed.

Councilman Kusnierz asked if it was going to be sub-contracted out wouldn't we require them to be certified to do this and then we wouldn't have to be involved in this at all.

Councilman Vittengl said that if asbestos was found in the building then we would hire out to a company that specializes in asbestos to do the work. If the test results come back that there isn't any asbestos or lead paint then our employees can do it. The first step is to determine if it is safe or not.

Attorney Buettner stated that the Department of Labor regulates that an asbestos survey must be done first before demolition of a building whether it is a municipal building or not.

A motion was made by Councilwoman LeClair and seconded by Councilman Vittengl to accept the proposal from Hanson Van Vleet in the amount of \$1,682.00 to conduct a pre-demolition survey for lead paint and asbestos in the Water District 2 pump house and for this expense to come out of account II8310.4.

Roll call vote resulted as follows:

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

#### **TOWN CLERK'S REQUESTS**

The Town Clerk obtained the following quotes for the purchase of desks for the two Deputy Town Clerks:

WB Mason	\$1,780.40
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Seeley Office Systems	\$2,353.94
Charlie's Office Furniture, Inc.	\$1,980.62

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair authorizing the purchase of two desks for the Deputy Town Clerks from WB Mason per their quote of \$1,780.40 including delivery and set up out of accounts A1330.2 and A1410.2.

Roll call vote resulted as follows:

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

### **SELECT IT PROPOSAL**

A motion was made by Councilwoman LeClair and seconded by Councilman Vittengl authorizing the Supervisor to sign a contract with Kost IT pending final approval by the Town's legal counsel.

Roll call vote resulted as follows:

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

### **RECREATION PARK TRAILS**

Councilwoman LeClair stated that the Village of Fort Edward is ready to enter into a contract with the Town of Moreau for the creation/usage of recreational trails on property acquired by the Town a few years ago that adjoins the Town Rec. Park and on the Village of Fort Edward water shed property. She asked if the Town Board was ready to have Attorney Buettner draw up a contract.

Attorney Buettner said she spoke with the attorney for the Village of Fort Edward today and it was news to her that the Village of Fort Edward was ready to move forward with a contract. She was not instructed to do so. There are still quite a few questions to be answered. A lot of their property is in a water shed area and they have to find out what NYS DEC will allow. There may be a lot of land that isn't usable. The attorney for Fort Edward suggested a meeting with Attorney Buettner and Councilwoman LeClair to work out the details.

Councilwoman LeClair said that she thought they were willing to go.

Attorney Buettner said they were supportive of this project, but there are details that have to be work out.

### **EXTENSION 4 OF SEWER DISTRICT 1**

Supervisor Jenkins stated that a resolution was prepared by Attorney Buettner and the Clerk has accepted the resolution to move ahead with a vote. The vote has to take place between March 28<sup>th</sup> and April 9<sup>th</sup>. He said April 1<sup>st</sup> fits our schedule. The election would be held here. We will notify all parties that are landowners in the district as to the time of voting, which will be 12 Noon until 8:00 p.m. An electronic voting machine will be used. There will be a proposition "Resolution establishing Extension No. 4 of Sewer District No. 1 with the Town of Moreau be approved" and the vote will be yes or no on this proposition. He asked the Town Board Members to vote on the resolution prepared by the attorney.

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Councilman Kusnierz stated that when there are propositions that are put forth by the School District on their budget they include the dollar amount that the voters are voting on. It is more detailed than how this proposition is worded. He asked if they could include the amount of the project in the proposition.

Attorney Buettner said they could.

Councilman Kusnierz said the more information that is available up to the time of the vote the better. He said frankly, as he reads the proposition he thinks a lot of the people who signed the petition would vote for it, because they want sewer and they want affordable sewer. He said it is important that they know that they are voting on a sewer project with a specific price tag.

Councilman Kusnierz said he would like to see the proposition worded as follows:

“Shall the resolution entitled: Resolution Establishing Extension No. 4 of Sewer District No. 1 within the Town of Moreau be approved in the maximum amount as proposed to be \$14,115,000?”

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

**RESOLUTION  
TOWN BOARD  
TOWN OF MOREAU**

SUBJECT: RESOLUTION OF THE TOWN OF MOREAU, NEW YORK,  
ADOPTED JANUARY 28, 2014, PROVIDING FOR SUBMISSION OF A PROPOSITION AT A  
SPECIAL ELECTION TO BE HELD ON APRIL 1, 2014, TO APPROVE THE RESOLUTION  
HERETOFORE ADOPTED BY THE TOWN BOARD OF SAID TOWN ON DECEMBER 26, 2013,  
SUBJECT TO PERMISSIVE REFERENDUM

RESOLVED BY THE TOWN BOARD OF THE TOWN OF MOREAU, IN THE COUNTY OF  
SARATOGA, NEW YORK, AS FOLLOWS:

Section 1. A Special Election shall be held on April 1, 2014, at the Town of Moreau Municipal Complex, 351 Reynolds Road, Moreau, New York, at 12:00 PM, and the polls shall remain open until 8:00 PM or as much longer as may be necessary to enable the voters then present to cast their votes.

Section 2. The Town Clerk shall cause the Notice of such Special Election to be published at least once in The Post Star, a newspaper having a general circulation in the Town and hereby designated as the official newspaper of the Town, and to be posted on the sign board of the Town maintained pursuant to subdivision 6 of section 30 of the Town Law, said publication and posting to be at least ten (10) days before such Special Election.

Section 3. The Town Clerk is hereby authorized and directed to include in the Notice of Special Election, notice that the Town Board will submit at the said Special Election, a Proposition for approval or disapproval of the Resolution hereinafter referred to in such Notice.

Section 4. At said Special Election, the vote upon the said Proposition shall be by separate ballot on voting machines and the only persons qualified to vote upon said Proposition shall be the owners of taxable real property situate in the proposed District as shown upon the latest completed assessment roll of the Town, including corporations which, for such purpose, shall be entitled to

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one vote to be cast by an officer or agent of said corporation, or such other duly authorized person designated by an appropriate resolution of such corporation.

Section 5. Said Notice shall be in substantially the following form:

TOWN OF MOREAU, NEW YORK  
NOTICE OF SPECIAL ELECTION  
JANUARY 28, 2014

NOTICE IS HEREBY GIVEN that a Special Election will be held on April 1, 2014, in the Town of Moreau, in the County of Saratoga, New York, at the Town of Moreau Municipal Complex, 351 Reynolds Road, Moreau, New York, and voting will be limited to owners of taxable real property situate in the proposed Extension No. 4 of Sewer District No. 1, as shown upon the latest completed assessment roll of the Town, including corporations which, for such purpose, shall be entitled to one vote to be cast by an officer or agent of such corporation, or such other duly authorized person designated by an appropriate resolution of such corporation, and the polls shall remain open from 12:00 PM to 8:00 PM, or for such longer period of time as may be necessary to enable the voters then present to cast their ballots. At said Special Election, the following Proposition is to be voted upon:

PROPOSITION

SHALL the resolution entitled: "Resolution Establishing Extension No. 4 of Sewer District No. 1 Within the Town of Moreau," with the maximum amount of the project as proposed in the amount of \$14,115,000 BE APPROVED?

an abstract of such resolution, concisely stating the purpose and effect thereof, being as follows:

FIRST: RECITING that a general Map, Plan and Report for the proposed establishment of Extension No. 4 of Sewer District No. 1, in the Town of Moreau, in the County of Saratoga ("District" and "Town," respectively), consisting of the installation of sewer infrastructure as more specifically identified in the Map, Plan and Report on file in the Town Clerk's Office, including land or rights in land, original equipment, machinery, furnishings, services, appurtenances, related site work and ancillary costs (the "Sewer Improvement"); that an Order was duly adopted by said Town Board on December 12, 2013, reciting the filing of said Map, Plan and Report, the description of the boundaries of the District in a manner sufficient to identify the lands included therein, the maximum amount proposed to be expended for the construction of said Sewer Improvement, the Town's proposed method of financing, and specifying the time and place of a public hearing to hear all persons interested in the subject thereof concerning the same, that a certified copy of such Order was duly published, posted and filed, that said public hearing was duly held on December 26, 2013, at the time and place specified;

SECOND: RESOLVING AND DETERMINING that (a) the Notice of Public Hearing was published, posted and filed as required by law, and is otherwise sufficient; (b) all the property and property owners included within the proposed establishment of the District are benefited thereby; (c) all the property and property owners benefited are included within the limits of said proposed establishment of the District; and (d) it is in the public interest to establish the District.

THIRD: APPROVING the establishment of the District and the construction of improvements therein as described; DESIGNATING the District as Extension No. 4 of Sewer District No. 1 in the Town of Moreau and DESCRIBING the District in a manner sufficient to identify the lands included therein;

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FOURTH: RESOLVING that the maximum amount proposed to be expended for the construction of Extension No. 4 is estimated to be \$14,115,000.00 and the plan of financing includes the issuance of \$14,115,000 serial bonds from the Clean Water State Revolving Fund ("CWSRF") and the New York State Environmental Facilities Corporation ("EFC") maturing in annual installments over a period not exceeding thirty (30) years;

FIFTH: FURTHER RESOLVING the permission of the State Comptroller is not required with respect to the District because the estimated cost of the District to the Typical Property (as defined in the Town Law) is not above the Average Estimated Cost to the Typical Properties for the establishment of similar types of districts, as computed by the State Comptroller; and

SIXTH: STATING that the resolution dated December 26, 2013 was subject to permissive referendum; and

SEVENTH: STATING that a valid petition for referendum was filed with the Town Clerk at 3:50 p.m. on January 24, 2014; and

EIGHTH: STATING that said Proposition shall appear on the voting machines to be used for voting at said Special Election in substantially the same form:

PROPOSITION

YES

NO

SHALL the resolution entitled: "Resolution Establishing Extension No. 4 of Sewer District No. 1 Within the Town of Moreau," with the maximum amount of the project as proposed in the amount of \$14,115,000 BE APPROVED?

By order of the Town Board of the  
Town of Moreau in the County of Saratoga,  
New York

Dated:

Jeanne M. Fleury  
Town Clerk

Section 6. Forthwith after the Special Election is held, pursuant to section 209-e of the Town Law, the Town Clerk shall prepare and file a certificate stating that a referendum was held pursuant to the provisions of said section and certifying the results of the voting on the Proposition submitted at such Special Election in the office of the County Clerk of Saratoga County and in the office of the Department of Audit and Control in Albany.

Section 7. This resolution shall take effect immediately.

Roll call vote resulted as follows:

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

Councilman Kusnierz stated that there is no question that all Board Members understand that the secret to keeping the Town of Moreau an affordable place to live is getting commercial development along Route

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9 and that won't come until we get infrastructure there, which includes sewer. The difference amongst them is philosophical, how it should be accomplished. He said most everyone knows how he voted on it. He had two reasons for voting the way he did. He said that through no fault of the Town and through pressures put on us by established guidelines and requirements by the State to apply for the funding it was coming at us very quickly. There wasn't enough information available to the public, through no fault of the Town Board. There were a lot of unknowns. He said it could have been presented a little differently and more clearly and more concisely. Various scenarios could have been spelled out and depending on the number of people that sign on what the actual annual debt service would be and what the annual operation and maintenance cost might be. One of the things that concerned him was that they looped developments into the project in an effort to keep costs down and his philosophy is that as long as we are enabling developments in the community then we are going against the long term goal of reducing taxes and making Moreau more affordable. The focus should be on commercial development along Route 9. If you have a project that includes 1/3 of the land that is residential then that is pushing us in the wrong direction. He said several years ago they had an opportunity spend taxpayer's dollars for a new Town Hall and a new Highway Garage and he had asked for it to go to a public vote and it was agreed upon by a split vote by this Board. He said they can never go wrong if they get direct community input on a project, especially of this magnitude, when it costs over than three times more than what they spent on the last referendum. He said that while it may jeopardize the project or postpone us accomplishing that goal, it is the right way to go. He appreciates the community that is directly impacted by this project for presenting a petition to the Town Board so that those in the district will have an opportunity to vote on it and it will give the Town Board a clear direction on what the next step should be for them.

#### **ALCOHOLIC BEVERAGE LICENSE APPLICATION NOTICE OF INTENT TO APPLY – TAMI-JO'S GROCERY & DELI**

Tami-Jo Blondo submitted a Notice of Intent to the Town Clerk to apply for an Alcoholic Beverage License through the NYS Liquor Authority to sell wine and beer at Tami-Jo's Grocery & Deli located at 36 Feeder Dam Road in the Town of Moreau.

Supervisor Jenkins asked the Town Clerk if there is any reason to delay the approval of the application.

The Town Clerk advised that she did not hear back from the Building Inspector/Code Enforcement Officer and she hasn't heard anything negative about the business or applicant.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair declaring that they do not object to the Notice of Intent received from Tami-Jo Blondo to apply for an alcoholic beverage license through the NYS Liquor Authority for her business located at 36 Feeder Dam Road known as Tami-Jo's Grocery & Deli, Inc.

Roll call vote resulted as follows:

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

#### **STORM WATER MANAGEMENT AGREEMENT FOR PHASE II SISSON RESERVE HOUSING PROJECT**

Attorney Buettner stated that as part of their financing Sisson Reserve needs a Storm Water Management Agreement in place with the Town in order for them to move forward with Phase II. It is similar to what was done in Phase I. Sisson Reserve will maintain and manage the storm water system and the Town has a perpetual easement to allow us to go onto the property if we need to.

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A motion was made by Councilman Vittengl and seconded by Councilwoman LeClair authorizing the Supervisor to sign the Storm Water Management Facility Maintenance Agreement and Perpetual Easement for Phase II of Sisson Reserve Apartments.

Roll call vote resulted as follows:

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

#### **COLD STORAGE BUILDING AT THE REC. PARK – CHANGE IN AWARD OF CONTRACT**

At a meeting of the Town Board held on November 12, 2013 the Town Board accepted a bid from The Shed Shop in the amount of \$25,855.00 for a cold storage building to be erected in the Harry J. Betar Jr. Recreational Park. The Shed Shop does not have the required Workmen's Compensation to move forward with the project.

The next lowest bidder was S & L Builders, LLC in the amount of \$26,450.00 plus the cost of an overhead door.

Supervisor Jenkins asked how much the overhead door would be and there was no answer.

Councilman Kusnierz asked if the Board Members had received paperwork on this, because he didn't get any in his mailbox.

Councilman Vittengl explained that the paperwork was given out for the November 12<sup>th</sup> Board Meeting when The Shed Shop bid was awarded. He said it would be okay to table this until the next meeting. Supervisor Jenkins agreed to the tabling of this, because there is only a difference of \$1,100.00 between the bid from S & L and Garden Time. In the meantime Councilman Vittengl will get prices on an overhead door.

#### **AUTHORIZE SUPERVISOR TO SIGN AGREEMENT FOR LEGAL SERVICES CWSRF INTENDED USE PLAN**

Supervisor Jenkins stated that we have prices for local counsel of \$50,000.00 and bond counsel of \$40,300.00. Legal counsel would only be needed if the sewer project moves ahead. The legal services agreement has to be approved as part of the financing application.

Harry Gutheil asked what fund this money will be paid out of.

Supervisor Jenkins said if the sewer district isn't built then we won't be using a bond counsel or any particular legal services that haven't already been done.

Harry Gutheil asked if it would come out of the general fund and Supervisor Jenkins said he wasn't sure.

Harry Gutheil asked if any bills paid so far have been paid out of the general fund and Supervisor Jenkins replied no they have been paid out of the Sewer District 1 Fund. We set it aside in a separate account so we can recover it.

Harry Gutheil asked why 20% of the contract is going to be subbed to an out of town firm.

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Attorney Buettner replied it has to be a MWBE certified firm and Bartlett, Pontiff, Stewart & Rhodes is not a MWBE certified firm. The way it is done is that you sub out a portion of the work to a MWBE certified firm to that portion of the work.

Harry Gutheil asked if aren't there any MWBE certified firms in the Glens Falls area so we can keep the money in the region.

Attorney Buettner replied no not that do this kind of work.

Harry Gutheil said it is an easement right?

Attorney Buettner replied yes, but it is municipal work.

Councilman Kusnierz asked what the total amount was going to be.

Attorney Buettner replied up to \$90,000.00 for bond counsel for short term and long term financing based on the \$14,115,000.00 funding and local counsel work, which includes legal work that has been done so far and that is work on forming the district and future legal work. The reason the MWBE has to be a part of this is because the contract is over \$25,000.00. They have always tried to keep their contracts under \$25,000.00 in the past. In 2012 the law changed and now if you are over \$25,000.00 you have to do this.

Harry Gutheil asked again if they have to go to Oswego to find an MWBE certified bond counsel.

Attorney Buettner replied "believe it or not". She told Harry Gutheil that if he had an idea for another local law firm that wants to do this, she would be glad to know who they are. This law firm in Oswego was on the list and came highly recommended and worked for Tim Burley before on projects very similar to this one.

A motion was made by Councilwoman LeClair and seconded by Councilman Vittengl authorizing the Supervisor to sign an amendment to the agreement for legal services between the Town of Moreau and Bartlett, Pontiff, Stewart & Rhodes, P.C. for the 2013 and 2014 years for legal services relating to Sewer District No. 1 of Extension No. 4 and bond counsel for project financing.

Councilman Kusnierz asked how they were going to pay for this.

Supervisor Jenkins said it would be built into the contract. If it isn't approved we aren't going to spend it.

Roll call vote resulted as follows:

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

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

Bobby Dick stated that years ago Lake George talked about a sewer district. He said obviously it is never going to get cheaper to build a sewer district, but it isn't on his dime (he isn't part of the proposed district) so he certainly can't tell people what to do. He said that he takes exception though to the comment made by Harry Gutheil that Moreau isn't that kind of town and it seemed to infer that we don't like all those big things and we are just a bunch of "local yokels". He said if you build it, it will come. He recalled a situation in NYC where it got too crowded and Citi Bank went to Long Island City an area where nobody went to and now everybody is in Long Island City. We have to be progressive and if we can afford a sewer

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system then it would be a good idea to do so. He said again that if we build it they will come, but it may not be tomorrow. The economy can't stay stagnant forever and even in this bad economy things are still being built and things are happening. He said it is something to consider.

John Naja asked how it will impact the Landmark and other motels in Moreau financially. He asked how the EDU's will be applied to the motel industry. How much can he expect to pay on a 77 unit motel?

Supervisor Jenkins said that Mr. Naja isn't on the Town water yet and if he was they could take his water usage and determine how much would go into the sewer system. That is how they monitor it for major users. Saratoga County Sewer District has a list of businesses and how they calculate their sewer charge. He said restaurants may be calculated on number of tables and how many meals they serve a day. A household is simple it is one EDU.

John Naja said he was told that it may cost him as much as \$16,000.00 a year and that amount could be a hardship on his business.

Supervisor Jenkins said he had no idea what the number would be. He said he would talk to Saratoga County Sewer District and find out what a motel similar to the Landmark pays and try to come up with an estimate for him.

John Telisky asked what Kost IT is going to charge the Town.

Supervisor Jenkins replied about \$330.00 a month.

John Telisky said that in December he asked the Town Board if they would consider finding another company to help market the Moreau Industrial Park and try to get businesses in there. He asked if anything has been done about this. He said the firm the Town is using now isn't looking out for our interests they are looking out for their own interests.

Supervisor Jenkins stated that wasn't true. He has had quite a few dealings with them last year, but nothing has come of it. He said the other problem is that there are nine lots in the Moreau Industrial Park that we own and the acreage is about 50/50 between the Town of Moreau and the LLC that owns the other half. It isn't a simple process. He said there was a meeting to discuss issues and how we address this and whether we should reform a partnership and they will have to come before this Board and have a discussion if they come up with anything. He said that if a major company was interested we would have to partner with them, because it could involve several of their lots and some of our lots. There have been some small businesses interested in the park, but everyone wanted a small lot in the middle of one major parcel that we have a potential for. He said that if John had some more input he should stop in and see him and they could discuss some ideas he may have.

John Telisky said no, he was just saying that we should get a different vendor to help us market the park. The one we are using is marketing all the sites around us and if they bring in a company to look at say seven sites what do they care which one they pick. He said if the Town of Moreau had somebody like Ed Bartholomew who "had his hands full of the Civic Center" then we would have somebody looking out for our interest and there would be no middle man and we wouldn't have to deal with an enterprise that is marketing everybody else.

Betty Wimette who lives in Lamplighter Acres Mobile Home Park asked who will be allowed to vote on the sewer district.

Attorney Buettner replied that it has to be a property owner as of the last assessment roll and they would get one vote. The owner of Lamplighter Acres would get one vote. If the property owner happens to be a corporation it is still one vote and that corporation has to have a resolution authorizing the property owner to vote.

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Betty Wimette said that should be so stated so they don't all show up to vote.

Attorney Buettner said there will be notices posted on the Town's website and in the Post Star and in Town Hall and it will specifically identify who is eligible to vote.

William Ramsey referred to the use of the Nolan Road pump station property and the river for a rowing club. He asked where all the cars are going to park. He asked why the gate blocking the road can't be taken down and let them park down the road by the pump station and then a fence could be put around the building.

Supervisor Jenkins said the gate was put up probably to prevent people from driving down there and illegally dumping as has happened in the past. He wasn't here when the fence was put up so he isn't sure why it was put up. He thinks the gate will remain, but may be opened and closed seasonally. That has to be determined yet.

Councilman Vittengl stated that eventually there will be hiking and biking trails down through there leading to the Moreau Lake State Park. It is a project in the works.

Councilman Kusnierz said the contract we directed legal counsel to draw up will be for one year and if problems or concerns arise throughout the year then they will be considered before the contract is renewed.

Adele Kurtz asked if there is more than one property owner on a deed for a piece of property in proposed Extension No. 4 of Sewer District No. 1 then how many can vote.

Supervisor Jenkins replied that only one can vote.

Attorney Buettner stated that she has to research that question.

Adele Kurtz asked if a corporation will be required to submit a resolution as to who is authorized to vote on their behalf in advance of the vote or can they turn it in when they go to vote.

Supervisor Jenkins said he was sure there would be verification required and there will be a master list of all the properties and a list of who can sign.

Councilwoman LeClair said that Mr. Naja had questions and she is sure there are more people who have questions and we are asking people to vote on something and we don't have easy access to answers right now. She wondered if they should go back through the minutes and compile a list of questions that have been raised by the public and allow people to submit questions and have Tim Burley and Attorney Buettner work on answers to the questions. Then people could access the questions and answers via the Town's website or in Town Hall. She would like some instrument that they could create to get answers to questions they may have.

Councilman Kusnierz said that Councilwoman LeClair made a good point. Maybe we should hold a workshop three or four weeks before the vote and have our engineer here and present the questions that have been raised and get answers from the engineer.

Councilwoman LeClair asked if they did hold a workshop could they mail a notice of the workshop to everyone that is eligible to vote.

Councilman Kusnierz said it would be better if they established an informational meeting and let someone else present the information and not the Town Board.

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Supervisor Jenkins said that we should know within 20 days if the EFC is going to give us an extension or not.

Councilwoman LeClair said they could schedule a workshop for beyond the 20 day period and cancel it if they had to.

No action was taken on scheduling a workshop.

### **COMMITTEE REPORTS**

Councilwoman LeClair reported that she met with Joe Patricke on the Sign Law.

Councilwoman LeClair stated that she spoke with Joe Patricke about a flag for the municipal building and it will have to wait until spring as the ground is frozen.

Councilman Kusnierz reported that the Town received an agricultural farmland planning grant through the NYS Department of Agriculture & Markets and the Town hired Chazen Company to put together a farmland protection plan. After public input that plan was put together and discussed on January 15<sup>th</sup> with some recommendations for the Town in an effort to preserve and promote the agricultural district in the Town. He said an interesting fact that came out of this is that out of the 35,000 acres in Saratoga County that are contained within Agricultural District #1 8,400 acres are located in the Town of Moreau and that is about ¼ of the County's Agricultural District. That tells us how much of impact and influence agriculture still has in our community. They put forth some recommendations for the Town to consider. The primary one, Councilman Kusnierz said, was a recommendation to form an advisory committee that would provide recommendations to the Town Planning Board and Town Board on various issues. He spoke with Supervisor Jenkins and Councilwoman LeClair after the meeting and they agreed this was a good idea. Councilman Kusnierz recommended moving forward with the creation of an advisory committee and that an ad be placed in the newspaper seeking Town residents who might be interested in serving.

No objections were raised from the other Town Board Members over this ad being run.

### **SUPERVISOR'S ITEMS**

Supervisor Jenkins reported receiving an e-mail from Roger Aarons from Youth Baseball. They sent the Town a check for \$10,000.00 towards the little league concession stand. He will send a thank you letter.

The Dog Control Officer has requested authorization to carry pepper spray.

Attorney Buettner said the pepper spray would have to be an approved spray by NYS DOH, the person who is carrying the pepper spray must be over the age of 18 and not have been convicted of a felony or an assault and a person can possess pepper spray for protection of person or property and can only be used for self defense. Agriculture & Markets Law allows a person to destroy a dog if there is an imminent threat to serious physical injury so technically there is no reason why they can't use it.

Supervisor Jenkins said there hasn't been any Dog Control Officer attacked in the past six years by a dog so he doesn't see a reason for them to carry it.

Councilman Prendergast said he wouldn't recommend it. They have to be trained on using it and there is a liability issue if anybody catches the spray while he is trying to subdue a dog. It is very nasty stuff.

Supervisor Jenkins agreed.

Attorney Buettner said that by the power of WiFi she had answer to the question posed by Adele Kurtz earlier in the evening. She stated that each tenant by the entirety, joint tenant or tenant in common, each

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gets one vote. Therefore, if a husband and wife own property jointly then they would each get a vote. She added that if one person owns six pieces of property that person only gets one vote.

Supervisor Jenkins stated that the Dog Control Officer wants to know where he is supposed to take an injured dog. He said that it hasn't happened very often, but when it has they were taken to the Emergency Animal Clinic on Fawn Road and the bills were very expensive, but it is about the only place to take them 24/7.

There were no other suggestions other than the Emergency Animal Clinic.

A motion was made by Councilman Vittengl and seconded by Councilman Prendergast to adjourn the meeting at 8:40 p.m.

Roll call vote resulted as follows:

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

Meeting adjourned.

Respectfully submitted,

Jeanne Fleury  
Town Clerk