

A regular meeting of the Town Board of the Town of Moreau was held on September 28, 2021 in the Town of Moreau Municipal Building, 351 Reynolds Road, Moreau, NY.

The meeting was held live as well as broadcast via Zoom.

The Supervisor called the meeting to order at 7:05 p.m.

The Town Clerk called the roll.

**Town Board Members Present**

John Hogan	Councilmember
Alan VanTassel	Councilmember
John Donohue Jr.	Councilmember
Theodore T. Kusnierz, Jr.	Supervisor

**Town Board Members Absent**

Kyle Noonan	Councilmember
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**Also present:** Leeann McCabe, Town Clerk; Karla Buettner, Attorney for the Town; Town Historian, Brigid Martin; Chad Arnold, Post Star Reporter; Town Residents: Ty & Vicky Hall and Patrick Killian; Others: Justin Grassi and Matthew Vars

The Supervisor welcomed everyone and led the Pledge of Allegiance.

**APPROVAL OF MINUTES**

The minutes from August 24, 2021 (2 sets) and September 14, 2021 were prepared and presented to the Town Board prior to the meeting for their review, comment, correction and approval.

**Resolution #2021-292**

A motion was made by Councilmember Hogan, seconded by Councilmember VanTassel and carried, to approve the minutes from August 24, 2021 (2 sets) as prepared.

Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Absent
Councilmember VanTassel	Aye
Councilmember Donohue	Abstain
Supervisor Kusnierz	Aye

**Resolution #2021-293**

A motion was made by Councilmember Hogan, seconded by Councilmember Donohue and carried, to approve the minutes from September 14, 2021 as prepared.

Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Absent
Councilmember VanTassel	Abstain
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

**COVID-19 UPDATE**

The Supervisor reported the following numbers at the County level:

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Individuals 12 and older who have received at least one dose of the vaccine is at 84.5%  
Individuals 18 and older who have received at least one dose of the vaccine is at 85.2%  
Individuals 65 and older who have received at least one dose of the vaccine is at 95.8%  
Individuals 12 and older who have had the series complete is at 79.8%  
Individuals 18 and older who have had the series complete is at 80.6%  
Individuals 65 and older who have had the series complete is at 90.3%

The seven-day average rolling testing positivity rate is at 2.9%  
There are currently 350 active cases in Saratoga County.

In the Town of Moreau:  
There are 26 active cases

In the Village of South Glens Falls:  
There are 7 active cases

The Supervisor stated that he had a conversation with Dan Kuhles, Commissioner of Public Health for Saratoga County, asking for a booster clinic in the Town of Moreau. He has agreed to hold a booster clinic for the third dose on October 7, 2021 from 9:00 a.m. to 3:30 p.m. at the Town Hall. The booster clinic will be for individuals who are qualified to receive the third dose and if it has been six months since their second dose of the Pfizer vaccine.

The Supervisor stated that the vaccination clinic held at St. Michael's Church was well attended. He thanked the Church and Father Tony Childs for allowing the use of their parish.

#### **SOLAR PILOT AGREEMENT**

The Supervisor stated that the Town had received a letter from Nexamp, Inc. with regard to their Bakers Falls LLC solar project in the Industrial Park. He stated, that within the letter, the Town is required to decide whether or not they would be utilizing a PILOT program. The Supervisor stated that he was given authority from the Town Board to let them know that the Town would be entering into a payment in lieu of taxes agreement (PILOT) in connection with this project. He stated that there is language that has been included in the draft Solar Law. He stated that the project is making its way through the Planning Board. He stated that the Town needs to get the Local Law in place, so the Town is ready when the project is completed. The Supervisor recommended that the Town move forward with a PILOT law and asked Counsel to have it ready for the next Town Board meeting. Attorney Buettner stated that she would have the law ready for the next Town Board meeting, at which time a public hearing can be set.

#### **TOWN OF MOREAU LANDFILL**

The Supervisor stated that he had received a call from Steve Acquario, Executive Director for the Association of Counties, making him aware that the State has been cataloging various environmental issues across the State, and one that they've highlighted as a priority for remediation is the Town of Moreau closed landfill. He strongly recommended that the Town Board be in support of seeking cost recovery for the remediation. Mr. Acquario will be working with the federal government to seek out grant funds as well as funds through New York State. The Supervisor stated that this is an effort to protect the ground water. He stated that this was as a result of the Clean Water Infrastructure Act of 2017 and has been an ongoing project for years. The Supervisor recommended that the Town be supportive in seeking cost recovery for remediation.

#### **Resolution #2021-294**

A motion was made by Councilmember Hogan, seconded by Councilmember VanTassel and carried, that the Town of Moreau is in support of seeking cost recovery funds for the purpose of remediation of the Town's inactive landfill, which has been designated as a priority under the New York State inactive landfill initiative dated May 20, 2021.

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Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Absent
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

### **WATER DEPARTMENT**

The Supervisor stated that the Town Attorney has been working with his office, as well as with the Town Clerk's office, to draft a deferred payment agreement. He stated that statutorily the Town is obligated to make this available to the residents, due the act of the legislature. The Supervisor stated that Counsel had provided a draft agreement. Attorney Buettner stated that in the midst of the pandemic the Legislature created a law for a utility moratorium. She stated that any utility, such as with water and electricity, residents can self-certify that they can't pay due to financial circumstances caused by the pandemic. She stated that the municipality or provider is required to offer a deferred payment agreement. She stated that the state of emergency expired in June, however, the law extended the moratorium protection for six months after the state of emergency ended. She stated that December 21, 2021 is the last day of the additional six months. Attorney Buettner stated that all of the water customers received a notice with their billing, advising that if they feel they are entitled to the deferred payment plan or need help, to please advise. She stated that there has been one request for a deferred payment agreement. She stated that the Town Board has before them a formal agreement. The Town Board needs to decide how long they want the agreement to last. Some municipalities are giving folks until December 21, 2021 and some are having it go longer. She stated that was the first question that needs to be answered. She also stated that they need to decide if they want to offer them to make monthly payments or to defer payment until the end of the deferred period. This permits them to work with the Town. The Town can't terminate service, assess penalties or relevy. Councilmember VanTassel was in favor of offering both options. Councilmember Hogan stated that he agreed with offering both options but was inclined to give them until the end of the year to pay vs. December 21, 2021. The Town Board was in agreement with December 31, 2021 and offering both options of payment. Councilmember Hogan asked if once the Supervisor is authorized to sign the agreement, will it be for all of the agreements. Attorney Buettner stated that he would need authorization to sign each one separately.

### **Resolution #2021-295**

A motion was made by Councilmember VanTassel, seconded by Councilmember Hogan and carried, to adopt a Town of Moreau Deferred Water Payment Agreement as discussed.

Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Absent
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

### **Resolution #2021-296**

A motion was made by Councilmember VanTassel, seconded by Councilmember Hogan and carried, authorizing the Supervisor to sign the Deferred Payment Agreement with the one nameless customer as discussed.

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Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Absent
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

The Water Superintendent submitted a request for (48) 5/8” radio read meters for new housing. The request stated that there is only one vendor for these meters. The following quote was received:

Ferguson Water Works Clifton Park, NY	\$10,704.00
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**Resolution #2021-297**

A motion was made by Councilmember Hogan, seconded by Councilmember VanTassel and carried, authorizing the purchase of (48) 5/8” radio read water meters from Ferguson Water Works at a cost of \$10,704.00. The expense will be paid from 8310.2, which has a balance of \$17,200.00 as of October 1, 2021.

Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Absent
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

The Water Superintendent submitted a request to purchase a trailer for the water department lawn mower. He submitted the following quotes:

Versatile Trailor Sales Wilton, NY	\$1,946.00
Lowe’s Glens Falls, NY	\$1,799.00
Tractor Supply Saratoga Springs, NY	\$1,999.99

The expense would be paid from account 8310.2, which has a balance of \$6,496.00 as of October. The Water Superintendent recommended the purchase be made from Versatile Trailor Sales.

The Supervisor stated that the Town authorized this purchase out of the 2020 budget, and it could have taken place on October 15<sup>th</sup> of that year. He stated that it wasn’t purchased. He stated, that because it was authorized in 2020, they didn’t budget for it this year. The Supervisor recommended that this be included in the 2022 budget. Councilmember Hogan agreed but stated that the Water Superintendent has been using his own trailer. The Supervisor stated that he had just been made aware of that and that for many reasons he shouldn’t be using his own equipment. Councilmember Hogan suggested that the Recreation Department may have a trailer he could use to transport the mower. Councilmember VanTassel stated that there was more information and that he wasn’t anxious to move on this tonight until he gets the rest of the story. The Water Superintendent’s request was tabled.

The Supervisor stated that the Water Committee is working on a description for the Water Superintendent position and will get it to the Clerk so she can post the advertisement.

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**SEWER – SCHERMERHORN RESIDENTIAL HOLDINGS, LP**

The Supervisor stated that there was a request from an out of district user to be a part of the Town’s sewer district. He stated that the Town has been working with Schermerhorn Residential Holdings and Special Counsel has been working with their Counsel.

**Resolution #2021-298**

A motion was made by Councilmember VanTassel, seconded by Councilmember Hogan and carried, authorizing the acceptance of the outside sewer district agreement.

Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Absent
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

**Resolution #2021-299**

A motion was made by Councilmember VanTassel, seconded by Councilmember Hogan and carried, authorizing the Supervisor to sign the agreement after final Attorney review.

Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Absent
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

**TRANSFER STATION**

A request was submitted for the repair of the loader at the Transfer Station. The Supervisor stated that there is a leak in the hydraulic cylinders. The following quotes were received:

VJP Enterprises 353 Gurnsprings Road Gansevoort, NY	\$1,800.00 3-4 day turn-around
Motive Power & Pain Warren St. Glens Falls, NY	No Quote – 1 week until it could be provided and with a 1-2 week turn-around
New Hampshire Hydraulic	\$2,000.00 +/- 17-22 working day turn-around

The expense would be paid from account TS8160.4, which has a balance of \$64,256.73 as of August 31, 2021. The recommendation from the Transfer Station was to utilize VJP Enterprises.

**Resolution #2021-300**

A motion was made by Councilmember Hogan, seconded by Councilmember VanTassel and carried, authorizing VJP Enterprises for the repair of the loader at the transfer station at a cost not to exceed \$1,950.00. The expense will be paid from account TS8160.4.

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Councilmember Donohue stated that they keep putting money into the piece of junk and they need to think about what they're going to do going forward. The Supervisor stated that he was open to suggestions in getting a piece of equipment.

Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Absent
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

**PUD – JACK HALL PLUMBING & HEATING, INC.**

The Supervisor stated that the Town had received a request from Jack Hall Plumbing and Heating, Inc. to consider a Route 9 Planned Unit Development (PUD). The Supervisor stated that they're aware the Town is looking to update its Zoning but because the timeline is a ways out, they're requesting a PUD to relocate their business to Route 9, between Merritt and Jacobie Roads. The Supervisor stated that the Town Board's role is not to approve or disapprove, but to forward it to the Planning Board for review.

Justin Grassi, representing Ty Hall, addressed the Town Board. He stated that they would like to have the flexibility to wait for the Town to update the current Zoning Ordinance, which would likely permit what they're requesting, however, the business is continuing to grow, and they can't wait for a new Zoning Ordinance. The PUD would have two uses, one for regular offices and one for the storage of the vehicles. The Supervisor stated that it's the Town Board's duty to send this to the Planning Board for review and once it comes back to the Town Board, there will be extensive back and forth with the applicant. Attorney Buettner asked if this project was only in the commercial district or partially in the R-1 district. Mr. Grassi stated where the facility is proposed would fall just within a small portion of the R-1 district. Attorney Buettner stated that she asked because PUD's are not permitted in an R-1 district. She stated that it was something he could speak to the Planning Board about. He stated that the homes were included in the PUD as a buffer but don't have to be included.

**Resolution #2021-301**

A motion was made by Councilmember Hogan, seconded by Councilmember VanTassel and carried, to refer the Planned Unit Development (PUD) application submitted by Jack Hall Plumbing & Heating, Inc. to the Planning Board.

Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Absent
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

**ZONING BOARD ADMINISTRATOR**

The Supervisor stated that the Zoning Administrator had requested some changes to the contract. Attorney Buettner stated that she has been in contact with the Zoning Administrator and she has some concerns. This agenda item was tabled.

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### **HIGHWAY DEPARTMENT**

The Highway Superintendent submitted a request to purchase diesel fuel in the amount of \$19,000.00 from Main Care Energy. The purchase would be made under State Contract #PC69482 and would be paid from account DB5142.460.

### **Resolution #2021-302**

A motion was made by Councilmember Hogan, seconded by Councilmember VanTassel and carried, authorizing the purchase of diesel fuel from Main Care Energy in the amount of \$19,000.00. The purchase will be made from State Contract #PC69482 and will be paid from account DB5142.460.

Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Absent
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

The Supervisor stated that he had received information regarding a Fleet Card Program but had questions on it. He stated that it's like a credit card for emergency uses. He didn't want to take action on it tonight and wanted to wait until he had more information.

The Supervisor received notification from the CSEA, which is the union that represents the Non-elected Highway employees, that they are submitting a request for formal negotiations to the contract, which sunsets on December 31, 2021. They've asked for three things. They'd like a list of all employees in the bargaining unit; they would also like to know if an employee receives longevity, to indicate the amount; they would like a summary of the Health Insurance Plans and rates. The Supervisor stated that his office had reached out to the Insurance Committee to see if they wish to meet with the Town's service provider. Councilmember Hogan stated that he's happy to look through the paperwork. The Supervisor stated, that once the Town Board decides what they want to do with the health insurance, they can get the information to the Highway Department. He stated that he would like to get that sorted out sooner rather than later for budget purposes.

### **SUPERVISOR ITEMS**

The Supervisor stated that he wanted to let the Town Board and public know that he received correspondence dated September 17, 2021 from the office of the Saratoga County Treasurer regarding legislation on the Statewide COVID-19 moratorium on utilities. The correspondence was to make sure the Town's are aware of the moratorium. The Supervisor read the letter aloud.

The Supervisor stated that he had received correspondence from New York State Department of Labor regarding expanded legal obligations under the New York State prevailing wage laws. He asked Attorney Buettner if that would affect the sewer project that's already under contract. She stated that it shouldn't because it's already in the contract.

The Supervisor stated, regarding the sale of 61 Hudson Street, that he had okayed MC Environmental Services to do an environmental review to let the Town know what's there and what the Town has to do to get it out.

The Supervisor stated that he had received an email from Vicky Brown, Director of the Department of Social Services for Saratoga County, passing along information relating to the HEAP season. This year's HEAP program is opening this year on October 1, 2021. Anyone needing more information should reach out to the Supervisor's office.

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The Supervisor stated that the question came up, since the Town no longer has a substitute crossing guard, if they want to advertise.

### **Resolution #2021-303**

A motion was made by Councilmember VanTassel, seconded by Councilmember Hogan and carried, authorizing the Town Clerk to advertise for substitute crossing guards through the Post Star and on the Town's website.

Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Absent
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

The Supervisor stated that he had correspondence from the Town of Queensbury Water Department, that the actual cost for production of water in 2020 was \$1.09/1,000 gallons. The 2020 budget rate was \$1.17/1,000 gallons. This gives the Town a credit of \$0.08/1,000 gallons for the year 2020. The metered usage for 2020 was 220,040,500 gallons, which equates to a credit of \$17,603.24. This will be credited to the Town on their fall bill.

The Supervisor reported that sales tax receipts Countywide for September were just under 12.2 million dollars, which is about 19% more than what they did last year. He stated that the Town has just received a sales tax check in the amount of \$310,869.00, which is significantly above last year. He stated that it was good news and that it's going in the right direction now.

The Supervisor stated that the Town has deposited \$125,000.00 into the account for DASNY. This was the grant that he had applied for and received from Carrie Woerner for the spray pad. He stated that she and her staff have been incredible to work with.

The Town Clerk received correspondence in relation to elections at the middle school. Although they agreed back in January to allow the use of the building, the rooms are occupied, and they can only allow the use of the foyer. The Supervisor stated that he had spoken with the Commissioner of Elections and that this is an issue between the Board of Elections and the school district.

The Supervisor reported that there was a HAZMAT response on Old Saratoga Road last evening. He had received the call from the Saratoga County Emergency Services Commissioner, letting the Town know that they responded to a complaint of a foul odor. At 7:00 p.m. last evening they did a reverse 911 call, letting the residents know that they should stay indoors and keep their windows closed. The all clear was given at 12:45 a.m. after the HAZMAT teams and the County Sheriff's Department flew a drone over the area to find the source of the odor. There was training at the closed McGregor Prison and tear gas was being used. The Supervisor stated that he hadn't been made aware of this and that this wasn't the first time it's been a problem for the residents. He stated that he placed a call to the Deputy Commissioner of the Department of Corrections this afternoon. He hasn't heard back yet but hopes to have a conversation with her tomorrow.

### **COMMITTEE REPORTS**

Councilmember VanTassel gave an update from the personnel committee stating that the Building Inspector and Zoning Administrator have nailed down the candidates for the Building Inspector's Clerk position to 4 or 5.



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Councilmember Hogan spoke to the Board members about community gardens. Peter Olesheski was approached by Shelly Wise who requested to utilize space in front of the Town's Annex building for a community garden. He stated, that although there are things that still need to be worked out, there is a deadline for her to apply for a grant. He stated the deadline was October 1, 2021. He stated that Councilmember VanTassel had reached out to Gina LeClair to see what some of the issues were with the community garden that the Town had in the Park. His opinion was that they should allow this to go forward and that Shelly Wise should have the opportunity to apply for the grant. Councilmember VanTassel was okay with her applying for a grant, but if she gets the funding, they'll have to set some ground rules. The Supervisor stated that there's so much land at the Recreation Park, he would like to see it down there. Councilmember Hogan stated that the Historian was in favor of the garden being here and reached out to Shelly Wise. He commented that people could come here at their leisure instead of working within the times that the Recreation Park is open. Councilmember VanTassel stated that they can work out details once she gets the money. Councilmember Donohue was supportive as well. Councilmember Hogan asked if they needed a resolution authorizing Shelly Wise to apply for the grant. Attorney Buettner stated that the Town couldn't authorize someone who isn't an employee of the Town. She asked if the applicant is the Town of Moreau. Councilmember Hogan didn't believe so. Attorney Buettner stated that the Recreation Leader could be the person who applies for the grant but also stated that the Town should know what the grant is. She stated that there are different kinds of grants that the Town would need to know. Is it a matching grant, an in-kind grant? The Supervisor recommended that they have a local business sponsor the project. Attorney Buettner stated, that if she wants to apply for a grant, the Town can't say yes or no to her. Councilmember Hogan believed that Ms. Wise was just looking for the Town's support, so that if she received the funds, she could move forward. Attorney Buettner stated that she could be told that the Town Board is supportive of the concept. Councilmember Hogan stated that he would reach out to her and let her know.

A motion was made by Councilmember Hogan, seconded by Councilmember VanTassel and carried, to adjourn to executive session at 8:15 p.m. to discuss a contract negotiation with the City of Glens Falls regarding sewer capacity; to receive an update on a Town Hall litigation; and, the employment history of an unnamed Town employee.

Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Absent
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

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

The Town Board returned from executive session at 9:00 p.m. with the Supervisor noting that no action was taken in executive session.

## **OTHER BUSINESS**

### **Resolution #2021-304**

A motion was made by Councilmember Hogan, seconded by Councilmember VanTassel and carried, to establish Town Board budget workshop dates of October 6, 2021 and October 7, 2021, both at 5:30 p.m.

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Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Absent
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

The Supervisor commented, that at the Board meeting on October 12, 2021, they can determine if they need another workshop.

Councilmember Donohue stated that he had asked at the last meeting that they schedule another workshop to discuss the draft solar law. He was told that it was premature because they were waiting on guidance from Ag & Markets and NYSERDA. Since that meeting, he had reached out to the Commissioner of Ag & Markets and he wasn't aware of any collaboration between them and NYSERDA. He also emailed NYSERDA and is waiting to hear back from them. He asked that they schedule a workshop and get things moving again. The Supervisor asked if he spoke with the Commissioner and Councilmember Donohue corrected his statement to say that he spoke with someone in the Commissioner's office. The Supervisor stated that he had spoken with the Commissioner on Friday and spoke with his office again this morning. He stated, to be clear, in his conversations with the Commissioner, the agency was committed to working with NYSERDA to come up with viable regulations to protect the farmland in New York State. He stated that he stands by that and didn't characterize his conversation any other way. He stated, according to the Commissioner, that there has been back and forth correspondence with Councilmember Donohue and that office and that he wasn't aware of the correspondence. The Supervisor stated that it was clear he didn't want to be part of the discussion on it, so at this time he's not supportive of scheduling a workshop. Councilmember Donohue stated, that the reason he didn't keep him up on the communications is that he only shared the information with those that wanted to move it forward. Councilmember VanTassel stated that he would like to digest the information that came late today. Attorney Buettner asked for copies of the emails because she's the one drafting the local law.

### **PRIVELEGE OF THE FLOOR**

Patrick Killian addressed the Town Board. He stated that he has been working diligently with Ag & Markets and NYSERDA over the last few weeks trying to get things set up so they can get some answers. He stated that some of the laws that Ag& Markets has, have standards that are already in place. He asked if there were any new questions the Town Board has that he could answer. Mr. Killian also commented that he might be interested in the Town's loader if they decide to sell it. He commented that the Town could rent one from Fink at exit 17 for about \$50.00 per hour. Mr. Killian asked about the diesel fuel and booking. The Supervisor explained that it's purchased under State contract with no taxes.

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A motion was made by Councilmember Hogan, seconded by Councilmember Donohue and carried, to close the meeting for the evening at 9:18 p.m.

Asked if all in favor, the following responses were given:

Councilmember Hogan	Aye
Councilmember Noonan	Absent
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

Meeting adjourned.

Respectfully submitted,

Leeann McCabe  
Town Clerk