

A workshop was held by the Town Board of the Town of Moreau on January 11, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of discussing Chapter 28 of the Town of Moreau code, "Recreation Commission" and Chapter A156 of the Town of Moreau code, "Recreation Commission By-Laws" and whether or not to revise these chapters.

Supervisor Jenkins called the workshop to order at 6:30 p.m.

The Town Clerk called the roll.

**Town Board Members Present**

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

**Town Board Members Absent**

Tom Cumm	Councilman
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**Also Present:** Jeanne Fleury, Town Clerk; Martin D. Auffredou, Esq., attorney for the Town; Elizabeth Lanfear, Town resident and member of the Town of Moreau Recreation Commission; Vince Sporrer, Town Resident entered workshop at 6:49 p.m.; Lydia Wheeler, reporter for the Post Star entered the workshop at 6:58 p.m.; Jesse Fish, Water Superintendent entered workshop at 7:02 p.m.; Joe Patricke, Building Inspector/Code Enforcement Officer and Peggy Jenkins, Assessor entered workshop at 7:09 p.m.

Supervisor Jenkins stated that this workshop was being held at the request of Councilwoman LeClair who wanted the board to discuss the recreation code and decide if it needed revision or not.

Supervisor Jenkins stated that General Municipal Law, Article 13, Section 243, covers Recreation Commissions.

Attorney Auffredou advised that the Town's code, as written, is consistent with the General Municipal Law and the provisions in the General Municipal Law have been around a long time. The Town has a chapter in the Town Code that deals with the recreation commission and by-laws. The authority to create a recreation commission is outlined in section 243 of the General Municipal Law and once a recreation commission is created they have certain powers by statute and the Town Board can reserve certain powers. A question has been raised as to whether or not the powers reserved by the Town Board in the Town code are appropriate and he has concluded that they are. In his view, the larger question is not whether the Town code or by-laws are in need of revision, but whether or not the Town Board wants to continue with the recreation commission. Assuming the answer is yes, the question is, is the recreation commission functioning within the parameters of the Town code and by-laws. The Town Board has the authority to establish a recreation commission and it did so a long time ago when Vernon Green was the attorney for the Town. It appears that what he did was take section 243 and other provisions of the General Municipal Law and codified it for a local Town ordinance or chapter and the Town has been functioning under it for some time.

Supervisor Jenkins stated that section 28-5 of chapter 28 of the Town code, items A through D, give the Town Board power to overrule all the authority the recreation commission has and as such, what is the purpose of giving the Recreation Commission the authority to begin with.

Attorney Auffredou said there are opinions from the State Comptroller and Attorney General on this, but he sees section 28-5 as nothing more than the Town Board exercising its' ultimate authority to be fiscally responsible for what the recreation commission does. The recreation commission can do certain things, but it all has to be within budget and the Town Board has to approve its' purchases.

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Councilman Kusnierz said this was an imperative section of the code that needs to be retained. The Town Board members are elected, as opposed to the recreation commission members who are appointed. It is that distinction alone that ensures that the members of our community through the Town Board have exclusive financial control over what happens within and concerning our park.

Attorney Auffredou noted that in the General Municipal Law there is mention about the recreation commission having the authority to acquire real property and leasing real property, but he has to believe that this is subject to approval by the Town Board. He doesn't believe that the recreation commission can act as a legislative body on behalf of the Town and acquire interest in real property.

Supervisor Jenkins agreed with this statement and said that section 28-5 of chapter 28 of the Town code restricts anything that has to do with finances. He stated he doesn't have a problem with the code. It is written almost identical to the wording in section 243 of the General Municipal Law. He further stated that by the same token the recreation commission was created by a vote of the Town Board and it could be terminated the same way. We need to clarify what the recreation commission can and can't do. They get confused when they read the Town code that gives them all kinds of powers and duties and yet they don't get to use these powers and duties. He agreed with Councilman Kusnierz in that the Town Board, as elected officials, must authorize monies to be spent and the budget for the recreation department is created by the Town Board based on information presented to them from various people. He added that back when the recreation commission was created there wasn't any full-time staff in the recreation department nor was there a recreation director. The park was run by volunteers, students and maybe teachers from the school district that would run the programs and supervisor students. All we had was a beach and a playground and we didn't have the amenities we do now in the park.

Attorney Auffredou said it is a matter of philosophy. The statute reads that the Town Board has the authority to give the following to the Recreation Commission: "The power to equip, operate and maintain playgrounds and recreation centers". The board has to decide what that means. The board is not relinquishing financial control, the board cannot do that. A lot of Towns, Queensbury for example, don't struggle with the recreation commission over what they can and can't do. The Town of Moreau has always had a "hands on" approach, and at times that is a good thing, with the recreation park and the recreation commission. He is sure the Town of Queensbury retains all of their financial responsibility for the Town's recreation centers, playgrounds, etc. What he has been hearing from the board not only tonight, but in all the years as attorney for the Town, is that the Town Board wants to retain control over the policies, procedures and ideas that the recreation commission has. Does the board want to approve everything? Every time they want to institute a new program or piece of equipment does the board want to defer to them on that and when it comes time to expend money is it up to the board to approve that or does the board want more hands on with programming and everything they do.

Councilman Prendergast stated that it bothers him that the law, the way it reads now, in particular section 28-4, plants the seed that the commission can do all these things and then section 28-5 takes it all away.

Attorney Auffredou replied that section 28-4 is pretty specific, but their powers and duties are always in check, because the board retains the financial responsibility for them to exercise these powers. The board can't abdicate that.

Attorney Auffredou further stated that ultimately they can't do anything with a financial component without approval from the Town Board. That is the way the General Municipal Law is written.

Supervisor Jenkins stated that we should maintain a Recreation Commission. Recently he said that the recreation commission should bring to the Town Board any resolutions that they pass and the Town

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Board would review them and act on them. He thought perhaps the by-laws could be revised to define what the limits of the recreation commission are.

Attorney Auffredou stated that it is a matter of checks and balances. There is a recreation commission that has certain powers and if they abuse those powers the Town Board can check those powers without eliminating the commission.

Supervisor Jenkins gave the example of staffing. The Town Board does the hiring based on recommendation from the recreation director and the personnel committee. The Town Board should be the only one dealing with staff. This discussion has been held before and lately there hasn't been any problem in this area.

Supervisor Jenkins further stated that back in 2008 there was only four members on the commission and there was seldom a quorum at meetings. He thought at that time they needed to be brought back to an active status and the vacancies were filled. Since that time there has been a lot of ups and downs. There was discussion at a previous meeting of the Town Board about playground equipment and where it was needed more, the quad area in the recreation park or the beach area. He was of the opinion that the commission can be very useful.

Councilwoman LeClair stated that there has been a lot of confusion over what their powers are. Whether it is to direct the director on what to do or direct the staff. This all came about before there was staff or a director in the Recreation Department. Sometimes it seems that there are five board members and seven commission members and we are all giving instruction to the staff and sometimes that can be very difficult.

Elizabeth Lanfear interjected and disagreed with Councilwoman LeClair and said that there are five board members giving direction to the staff, but she would be hard pressed to show where all seven members of the recreation commission were giving direction to the staff.

Councilwoman LeClair stated that it may not be all seven commission members, but sometimes it feels like there is a "tug and a pull" about who is telling the director what to do.

Elizabeth Lanfear replied that there was only one commission member who ever gave direction to the staff in the rec. park and the rest of them haven't, it isn't their area.

Councilwoman LeClair stated that it was not necessarily at the park, but at the recreation commission meetings, at times, when the members have felt very argumentative with the recreation director and she named Elizabeth Lanfear as one for example.

Elizabeth Lanfear stated that as far as the financial aspect goes, it is the responsibility of the Town Board. She stated that the recreation commission has never had any problem with the Town Board having full financial oversight.

Councilman Prendergast asked for an opinion from Attorney Auffredou on how he feels about the way the code is written or the by-laws.

Attorney Auffredou replied that both could be tweaked a little, but nothing jumps out at him that says it needs to be changed. Both are consistent with the underlying intent of the General Municipal Law, which is that a recreation commission, if appointed, is responsible for creating policy for the use of recreation centers and for implementing recreation programs, ultimately subject to the Town Board's review for financial implications.

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Supervisor Jenkins stated that over the last three years we have gone back and forth and have had a very bad connection with the recreation commission. There has been a lack of communication and when there has been communication; there has been a disagreement over what was said or who said it. He stated again that the recreation commission should submit to the Town Board resolutions that they passed, then the Town Board would act on them one way or another. That is the kind of resolve he wants to see.

Councilman Kusnierz stated that he has had the great opportunity to be here over a decade and has served with several administrations and there is no question that each board has treated the commission in a slightly different fashion. In some instances, you could say that the board has shackled some of the efforts of the Recreation Commission, which has led us to this point where there is confusion and gray areas in what the commission thinks they can do and even confusion on the part of the Town Board. That is the reason for this workshop. There is no question that he wants to retain the recreation commission. Especially, when we will be increasing the size of our park with the additional 60 acres of land we have recently acquired. We will have more responsibilities down in the park and the commission can play a key role in assisting the Town Board in mapping out a five year plan and programs. As board members we should want to allow the recreation commission to have the opportunity to be free to come up with programs, but they have to run it by the Town Board whether it costs money or not. The by-laws are established and include language that requires that anyway. There are some things that the recreation commission has not done, that are their responsibility per the code. If the recreation commission steps up to the plate and meets their obligations, as it is currently contained in the local ordinance, it could foster an excellent working relationship with the Town Board to really move the park forward in a fashion that the recreation commission and Town Board would like to see. He stated that the recreation commission is supposed to meet eight times a year and in the past they haven't, because they couldn't get a quorum. Part of the problem over the lack of a quorum was because of frustration on the part of the commission members. They felt it was useless to come to meetings and make recommendations only for it to fall on deaf ~~years~~ ~~ears~~. They could point fingers at many different reasons why there hasn't been a good working relationship overall between the Town Board and recreation commission. Things have improved a lot, but there is still room for improvement. There is some language in the code that he knows Councilwoman LeClair has issues with and some of that could be changed, but they would be tinkering around the edges. As it stands right now, we can still move forward with an active Recreation Commission and if they give good ideas to the board in a fashion outlined in the code then a lot of the issues will go away.

**[Amended 1/25/11 jf]**

Vince Sporrer asked if the recreation director and recreation commission meet as one. It seems to him that there is a total disconnect between the commission, the director and the board.

Supervisor Jenkins stated that there are two members of the Town Board who serve as liaisons on the recreation commission and he suggests that they meet with two members of the recreation commission and go over the by-laws and try to get a better understanding.

Elizabeth Lanfear stated that the recreation commission has been asking the Town Board what they want from them and there hasn't been a consensus of the Town Board.

Supervisor Jenkins replied that he told her before, not too long ago, that the recreation commission should send resolutions to the Town Board and the Town Board would act on them and he still hasn't received that yet.

Councilman Kusnierz explained to Elizabeth Lanfear that at budget time several members of the Town Board have asked the recreation commission members to put together what their priorities are and

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submit them to the board at budget time. This is a requirement in the Town code. He said that hasn't ever happened. In order to make things better they needed to start following what is contained in the code. It will benefit the commission and the board. At budget time they could sit down with the commission and the recreation director and ask them why they felt they needed to spend this much money and where they got their prices. It would make the board's job easier.

Elizabeth Lanfear replied that right now if they were asked these questions, they wouldn't know. "They have never seen it." The recreation director needs to be part of the conversation and has to work with them, as far as budget, rather than handing them the budget and saying this is what he was submitting and let him know if they had any ideas. She said they have a comptroller, secretary and chairman. The comptroller to her knowledge has never been contacted by the recreation director nor has he sat down with the recreation director and gone over the budget.

Councilman Kusnierz advised her that nowhere in the code does it read that the recreation director has to contact them.

Elizabeth Lanfear agreed and said they have made an attempt, but the recreation director has said "I've done it, here is what it is".

Supervisor Jenkins said he was ending the workshop. They were getting beyond what they ought to be discussing. He asked the two board members who serve as liaisons on the recreation commission to get together with a couple of the members of the recreation commission and go over the by-laws.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair to close the workshop at 7:10 p.m.

Roll call vote resulted as follows:

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

Workshop adjourned.

Respectfully submitted,

Jeanne Fleury  
Town Clerk