

A special meeting of the Town Board of the Town of Moreau was held on November 1, 2011 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York, for the purpose of hiring an Assistant Building Inspector/Code Enforcement Officer.

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

The Town Clerk called the roll.

Town Board Members Present

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

Town Board Members Absent

None

Also Present: Jeanne Fleury, Town Clerk

Supervisor Jenkins stated the board members should have received a letter from Attorney Buettner outlining her conversation with Saratoga County Civil Service. He said as the result of the interview process with Duane Miller, it is his opinion that he is looking at getting out of the construction business and he is looking for something to last him 10 or 15 years until retirement. He may not be a person who will be filling Joe's position, but he has the education and qualifications to do the job.

Councilman Kusnierz asked why they were doing this at a special meeting.

Supervisor Jenkins stated it was because the board wasn't meeting again until November 22nd and we need to fill the position.

Councilman Kusnierz said he received notice that there will be a meeting of the Town Board on November 10th following the public hearing on the budget.

Councilman Kusnierz then stated that the first time he ever heard this individual's name, that they were going to be asked to vote on, was when he asked the Town Clerk just before the meeting. He said he doesn't even have any documentation on this gentleman. He asked if he filled out an application to work for the Town of Moreau.

Supervisor Jenkins replied yes.

Councilman Kusnierz asked why he didn't have a copy. He asked if the board members got a copy.

Supervisor Jenkins said he assumed that everybody got a copy.

Councilman Kusnierz asked if the Town Clerk received a copy and the Town Clerk replied no.

Councilman Kusnierz asked if anybody else could show him a copy so he could look at it.

Supervisor Jenkins asked if the Town Clerk didn't put out the copies then who did.

Councilman Cumm provided Councilman Kusnierz with a copy of Mr. Miller's employment application.

Councilman Cumm said the board received them in an envelope with the two candidate's names and resumes. They were put in their mailboxes in Town Hall.

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Councilman Kusnierz asked Councilman Cumm how he received them, if they didn't advertise. How did somebody know enough to apply to the Town of Moreau?

Councilman Cumm stated that they had to go with the list and these were the two people who were on the list.

Supervisor Jenkins said they actually had four candidates.

Councilman Kusnierz said that was interesting, because at the last meeting he asked for it to be tabled until counsel could review it. He received a copy of the letter from Town Counsel on this and in reviewing the letter it doesn't read that we have to specifically hire from the three individuals on the Saratoga County Civil Service List. Supervisor Jenkins stated at the last meeting that we couldn't advertise. In his ten years on the board, the board has never, not advertised for a position. He is a little confused why they didn't and how this all came about. He was not aware that the board members were going to be interviewing candidates at the meeting where they did interview in executive session, not that he could have made the meeting, but it would have been nice to have been given the courtesy of being informed that interviews were going to be held that night and that they were going to fill this position.

Councilman Kusnierz stated that he knows for a fact that we can provisionally appoint someone to this position with certain requirements. He went on the Saratoga Springs website and found that they are looking for an Assistant Building Inspector with a salary of \$51,000.00, 40 hours per week. He said you can see the terms under which they can be hired. It doesn't read anywhere, where they have to be selected from the Saratoga County list. It reads minimum qualifications: Graduation from a regionally accredited New York State registered two year college with experience, or graduation from a four year college with a degree in building, construction, engineering, architecture.

Supervisor Jenkins asked if the notice had a date of an exam.

Councilman Kusnierz replied that it reads that no exam has been scheduled.

Councilman Kusnierz stated that the point he was trying to make was that we can hire someone in a municipality provisionally, subject to that person taking an exam, scoring higher enough to be reachable on the exam, and one of the top three.

Supervisor Jenkins stated that was what they did. We hired the previous person from a list of interviews held by the Personnel Committee.

Councilman Kusnierz stated that is not what they were doing here tonight.

Supervisor Jenkins stated that now there is an active list in Saratoga County for this position.

Councilman Kusnierz said it had three people on it right?

Supervisor Jenkins replied three plus this one.

Councilman Kusnierz asked if two weren't interested. He said he didn't know, because nobody ever told him.

Supervisor Jenkins said they interviewed two and the other two said they didn't want the position. Civil Service told us that in order for us to go off the list we would have to get a letter saying they didn't want to be interviewed. Once the list is established we have to follow it. The only way around that is if someone else in the county who was already working as assistant building inspector and wanted the job then potentially they may be able to be hired, but they would have to go through Saratoga County Civil Service.

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Councilman Kusnierz stated that the civil service process is that they have to be either on the list or take the exam and be put on the list. The only way we can expand the pool of qualified applicants is for Moreau to advertise that we have this position available. We know the parameters from which we can select.

Supervisor Jenkins said that we can't ignore the list.

Councilman Kusnierz replied no, we can't ignore the list, but there may be an individual that meets the minimum qualifications and the minimum qualifications aren't about just being on the list. He said he just read off the minimum qualifications.

Supervisor Jenkins stated that his understanding of what "they" told us was that the existing person we had, we could justify going to the top of the list, even though he didn't place in the top three, because he was already here. He said it boiled down to the fact that "he" said he thought he wasn't qualified and "he" wasn't doing the job and "he" wasn't measuring up to the job. If we had kept him on then at that point he would have gained civil service standing and that would have been a problem for us if we wanted to make a change after that. Supervisor Jenkins stated that he admits that he doesn't totally understand the process from what "they" told us. Once the list is established we have to work from that list. We could run an ad, but we would still have to consider that list. If we ran an ad, how would that change things?

Councilman Kusnierz replied that obviously there is a vacancy in Saratoga Springs and maybe that individual would be interested in the Town of Moreau, if we advertised. Hypothetically, if this person was interested, they would be walking in with experience. He said he couldn't speak intelligently, because he doesn't know what Duane Miller brings to the table, maybe he has a wealth of experience, but based on the little information he heard here tonight, it doesn't sound like he has done the job before. He asked if this was safe to say.

Supervisor Jenkins said he hasn't done the job. He has been project manager in jobs, he has a two year degree in civil engineering and he has worked a number of years in construction. In the interview process he appeared knowledgeable. As project manager it was his job to make sure things were done properly. He didn't see any reason not to appoint him. When the personnel meeting was scheduled, he said Councilman Kusnierz may not have been at that meeting.

Councilman Kusnierz stated that it was scheduled outside of a regular Town Board Meeting and he said he couldn't make it.

Councilwoman LeClair stated that if we were to advertise and we hired someone and they took the exam and didn't place in the top three and it was six months until the next exam, then it sounds like we would have to let them go.

Councilman Kusnierz asked where it reads that.

Councilwoman LeClair read from the information that Councilman Kusnierz obtained from Saratoga Springs.

Councilman Kusnierz stated that is the policy of Saratoga Springs and not civil service.

Councilwoman LeClair asked if even the second sentence was and then read that sentence and Councilman Kusnierz replied that was a civil service policy.

Councilman Kusnierz stated that anyone who is hired for this position has to score within the top three.

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Councilwoman LeClair stated that if they hired someone who took the test and is qualified and in the top three then we wouldn't have to be concerned over putting someone through six months of training, only to have them take the test and not place five or whatever number on the list, outside of the top three.

Supervisor Jenkins stated they couldn't appoint another provisional now, because we went through the process and there was a test and the test was related to the job opening here. The only way around it would be if we could hire someone provisionally that has been working in a like position someplace in Saratoga County.

Councilman Kusnierz stated that Civil Service Law says that they would have to take the exam and score in the top three.

Supervisor Jenkins stated that if we hired somebody that was in this position somewhere else in the county, then they would have to go through the civil service process.

Councilman Kusnierz asked how he would know if those individuals are out there if this position wasn't advertised.

Supervisor Jenkins replied that he thought they would be more interested in the \$51,000.00 a year job than a \$33,000.00 a year job. He said he understood what Councilman Kusnierz was saying, but he was prepared to move ahead.

A motion was made by Councilman Cumm to appoint Duane Miller to the position of Assistant Building Inspector/Code Enforcement Officer at a salary of \$33,450.00.

Councilwoman LeClair seconded the motion.

Councilman Kusnierz stated that he would be abstaining from the vote, because he has never met the individual, he has received no information on what he has to offer the Town of Moreau. He said obviously he meets all the requirements of civil service, but he was never provided with any documentation on it and he can't in good conscience vote on something that he knows nothing about.

Councilman Kusnierz also stated that he is really concerned that the Town may have exposed itself to litigation by filling this spot. He said if they looked at the minutes when the former employee was hired, the resolution reads that it was for a six month probationary period and this individual was retained for several months after the six month probationary period. A good attorney would be able to make the case that an implied offer for employment was extended, because no action was taken on the part of this board. He would be abstaining from the vote.

Roll call vote resulted as follows:

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

Supervisor Jenkins asked for a motion and second to close the special meeting.

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A motion was made by Councilman Cumm and seconded by Councilwoman LeClair to adjourn the meeting at approximately 7:15 p.m.

Roll call vote resulted as follows:

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

Meeting adjourned.

Respectfully submitted,

Jeanne Fleury
Town Clerk