

A public hearing was held by the Town Board of the Town of Moreau on January 21, 2015 in the Town of Moreau Municipal Building, 351 Reynolds Road, Moreau, New York, for the purpose of considering the adoption of Local Law No. 1 of 2015, which, if adopted would amend Chapter 59 of the Code of the Town of Moreau to add a new article II: Keeping of Fowl or Poultry and rename the chapter Dogs and other Animals.

Deputy Supervisor Vittengl opened the meeting at 6:00 p.m.

The Town Clerk called the roll.

Town Board Members Present

Bob Prendergast	Councilman
Gina LeClair	Councilwoman
Todd Kusnierz	Councilman (entered meeting at 6:42)
Robert J. Vittengl, Jr.	Councilman

Town Board Members Absent

Preston L. Jenkins, Jr. Supervisor

Also Present: Leeann McCabe, Town Clerk; Tammy Daley, Deputy Town Clerk; Christina Scanlon, Post Star Reporter and Town Residents: Jeanne Fleury; Kathy and Mike Thomas; Sandi and Tom Speziale; Nick Basile; Andrew Belair; Sue Peters; Glen and Donna Thomson.

Councilman Vittengl welcomed everyone to the meeting and asked if anyone had any comments.

The following Notice of Public Hearing appeared in the Legal Ad Section of the Post Star on January 15, 2015:

**TOWN OF MOREAU
NOTICE OF PUBLIC HEARING TO
CONSIDER ADOPTION OF LOCAL LAW**

NOTICE IS HEREBY GIVEN, pursuant to Section 20 of the Municipal Home Rule Law that a public hearing will be held by the Town Board of the Town of Moreau on January 21, 2015, at 6:00 p.m. at the Moreau Town Complex, 351 Reynolds Road, Moreau New York for the purpose of considering the approval of Local Law No. 1 of 2015. Local Law No. 1 of 2015, as proposed, would amend Chapter 59 of the Code of the Town of Moreau by changing the title to “DOGS AND OTHER ANIMALS” and adding a new Article II entitled “KEEPING OF POULTRY.”

A copy of proposed Local Law No. 1 of 2015 can be obtained at the Moreau Town Complex.

Dated: December 2, 2014

Leeann McCabe
Town Clerk
Town of Moreau

Mike Thomas asked that the Town Board consider allowing up to 10 chickens instead of 6. State law mandates that you have to buy 6 chickens at a time, so after his chickens were to stop laying eggs and he

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had to put them down or butcher them, if he had some remaining, he wouldn't be able to buy 6 more because he would be over the limit.

Jeanne Fleury pointed out some errors in the draft law. She stated that in section 59-16, the word "City" should be replaced with "Town". Section 59-17 "Town Clerk" should be replaced with "Building Department"

She also wanted to make sure that it was the Town's intent in Section 59-17 (C) to have all residents within 500 feet sign off.

Regarding Section 59-17 (H) add wording that Pens, coops or houses should only be at the rear of properties. She also asked that in Section 59-17 (I) that composting of any manure not be allowed on the property so it wouldn't contaminate water supplies. There would be a potential for run off that might affect wells with high concentrations of nitrates, e-coli and bacteria.

Mike Thomas asked how chicken manure would be any different than using cow manure for compost.

Jeanne stated that there is a high nitrate content in chicken manure and that the e-coli and bacteria could affect private wells in close proximities. She stated that she had given the Town Board copies of information from the Center for Disease Control that explains the hazards.

Councilwoman LeClair asked Mrs. Speziale to explain how she composts her manure. She stated that they use a resin black composter and add grass and kitchen materials and they don't put it out in the yard until it's composted.

Mr. Thomas puts wire fencing around a bin and adds coffee grounds and table scraps. He has three bins and it takes a year and a half to fill each one. After he fills the third bin the first one is ready to be added back into his garden. In the fall he saves leaves and puts them in his shed so he can add them into the compost during the winter months.

Mr. Speziale mixes pine chips into his manure.

There was discussion regarding the 500 feet consent. A gentleman from the audience asked the Board to consider 500 feet from the enclosure instead of from property lines.

Mr. Speziale stated that if they need consent from all residents within 500 feet, he has one neighbor that won't sign off.

Councilwoman LeClair stated to the audience, that since they all had chickens, they know what the possible problems could be and she asked them to give comments and suggestions that would head off any problems. She stated that if we're going to do this, we want to be as effective as possible.

Jeanne Fleury stated that there are very responsible people here, that will compost properly and such but not everyone will be. Code enforcement won't look at these problems unless someone complains and that pits neighbor against neighbor. She doesn't want to have problems with her neighbors.

Councilman Prendergast spoke with the Building Inspector and the Attorney for the Town today. He stated that a lot of times when you touch one part of a law it unintentionally effects other parts. He stated that tonight R1 and R2 zones are being discussed. After discussion with the Attorney, this would be expanding into other zones. We're talking about more than R1 and R2 tonight, if we enact this law. He asked Attorney Buettner to explain.

Ms. Buettner stated that right now, the way the code is written, R3, R4, R5, UR and RP zones allow chickens if you have 5 acres. The way this law is written it will allow chickens in R1 and R2.

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The problem they foresee is that those who might be in R3, R4 and R5 in subdivisions with less than 5 acres, are precluded from having chickens because they have less than 5 acres in those districts. However, anyone in subdivisions in R1 and R2 or just have smaller lots are permitted to have chickens. So, to be fair to everybody in the Town, they will have to expand to not just R1 and R2, more of the code will have to change to allow chickens in other subdivisions. It wouldn't be so much a district issue, it would be more of an acreage issue. You can have chickens in these districts respective of the acreage amounts. This just came up after speaking with the Building Inspector yesterday. An example was given that if someone who lives in an R3 zone with ¼ of an acre and somebody here is on ¼ acre, why would you get to have chickens and that person doesn't. This is something that they have to talk about.

A gentleman from the audience stated that his lot is only 1.6 acres in an R5 zone, so right now he's not allowed to have chickens.

Councilman Prendergast stated that this is much bigger than they originally thought.

It was brought up again about the 500 feet sign off and asked how they could get around that if there's a neighbor that won't sign off.

Councilman Prendergast wanted to be clear and upfront. This information came to him today and we're talking a large expansion from where we started. He stated that we weren't talking about farming, we're talking about introducing something into the mainstream community. So what we're talking is a larger group of people. That's why there's an Ag district with large areas of property and they can have all sorts of farming animals and farming activities. That's why there's that district. What we're talking about now is a large expansion from where this originated and introducing into his mind, something into the mainstream community that wasn't there. He's not convinced it should be there. He stated that after the information he received today, he's not in favor and won't support this.

It was asked what his reservation is and he replied it was mentioned here tonight, that this will get more people involved and he believes will pit neighbor against neighbor because it will be allowing something into the mainstream community that wasn't there and wasn't an issue.

A member of the audience stated that maybe there would be 20 people who would want chickens and another member stated that everyone who wanted chickens has them already.

It was mentioned that dogs are worse. A gentleman has a neighbor with 13 dogs that bark all the time.

Another statement was made that when you apply for a variance and someone objects, that doesn't mean you won't get a variance. If there is a procedure in place that you need consent and someone won't give consent, there should be an appeals process.

Councilman Vittengl stated that he has done research on ordinances and between the 52 States in the Nation, New York has 20 some ordinances, California has 110. Sixty nine percent allow chickens, twenty percent don't allow chickens and ten percent don't care. Of the sixty nine percent that allow chickens, there are hundreds of ordinances and they're all different. Some are twenty five feet distance, some are fifty feet from the coop to the closest window, and some are one hundred feet from the coop to the nearest running water. Some have ordinances that it's the chickens with the honey bees. Some are pot belly pigs and chickens in the same ordinance. The usual distances seen are one hundred to two hundred feet. Five hundred seems a little out there. There are a lot of things that need to be read into. Chickens are just one of the animals considered pets. You have pot belly pigs and then you get into turkeys and ducks and geese. Once you open up one, you have several others there. If we put this into place, we need to have it fine-tuned. He stated that we have to do more work on this. He asked the audience to bring up anything they want to discuss and they'll talk it over.

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Attorney Buettner stated that because this is a zoning law, the County Planning Board has to give recommendation before the law can be adopted by the Town. They meet the third Thursday in February. If there are changes made after the County Planning Board gives their recommendation, it would have to go back to them so it's important to get this right before it goes to them.

Councilwoman LeClair stated that she would like to see composters. She knows that people are concerned about run off. She would like to see some sort of sealed composter.

A member of the audience asked if the Town has to prescribe how manure is disposed of. They shouldn't have to tell people how to contain it, as long as it doesn't smell or leach.

A question was asked that if you're a neighbor and give permission to allow chickens can that permission be rescinded.

A comment was made that nobody should have to sign off. Why get permission if the chickens are hidden away anyway. If they do have to get permission it shouldn't have to be 100% neighbor participation.

Councilman Vittengl stated that most of the ordinances have percentages of neighbor participation but he didn't see too many with the 500' distance factored in.

Councilman Kusnierz stated that he agrees that neighbors shouldn't have to sign off. Local government should enforce the laws. A neighbor shouldn't dictate whether someone should have chickens or not. He doesn't feel that this should be a requirement and he would like to see this section removed from the law.

Another comment was made that chickens could be considered pets. Attorney Buettner stated that the Department of Ag and Markets specifically states that poultry is not a pet.

Councilman Kusnierz stated that there's a greater issue involved and asked are we viewing poultry as defined by Ag and Markets as livestock or are we providing the consideration that they're treated as other than farm animals. People have chickens for reasons other than farming. It teaches children responsibility, being able to provide fresh food to your family, enjoyment out of raising them. There's more to it than viewing as farm animals.

Councilman Kusnierz stated that section 59-17 (M) is redundant. He stated that under Ag and Markets law it is already a requirement. He then referred to section 59-17 (L) "Running at Large". He stated that farm animals do escape and the way he interprets the law if they did it would be a violation of the law. Attorney Buettner stated that it is a violation the way the law is written right now.

She stated that the proposed law is drafted from about 20 different laws. She will put in or take out whatever the Board wants.

Councilman Kusnierz stated that he doesn't have a problem with anyone having chickens in any of the residential districts in town. He stated that it's been demonstrated across the State and in Cities that allow poultry through ordinance. He thinks that our ordinance can be structured in such a fashion that we're not infringing on other people's property rights.

Councilwoman LeClair suggests that if people live within 200' of the coop that composting be mandatory to keep the smells contained.

Discussion continued on the nuisance of odor. It was suggested that the Building Department would enforce odor issues. Councilman Prendergast asked what level of odor to we act on and send someone out to investigate. It's not concise enough to enforce. It would be a judgment call and people have different judgments.

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Councilman Kusnierz asked if anybody had a problem with section 59-17 (L) be eliminated as section (K) already states that chickens have to be confined to the property on which they are kept.

There was more discussion on section 59-17 (C) regarding consent of any neighbor's within 500'. There were comments made by several people that a consent shouldn't be needed from neighbors.

Discussion continued on the number of chickens that one could have and the size of the coops and the runs.

Attorney Buettner asked what changes the Town Board wanted to see in this law. She will make the necessary changes that pertain to the other residential zones not included in this draft law. She was asked to remove section 59-17 (C) so there will be no consent from neighbors needed.

Section 59-17 (A) change to, no more than 12 chickens.

Section 59-17 (I) remove chicken refuse

Addition of a minimum size for runs.

Attorney Buettner wanted to talk with the Building Inspector before making any changes to setbacks that were requested.

The section relating to "running at large" will be eliminated.

She was asked to add a section that chickens would be limited to the rear of properties.

She was asked to eliminate, in section 59-17 (J) "nor more than five square feet"

The Public Hearing is to remain open. Attorney Buettner will prepare a new draft law with the changes asked for. She stated this would have to go before the Saratoga County Planning Board for their recommendation before it can be approved by the Town Board. Their next meeting is on February 19, 2015.

A new Public Hearing will be scheduled at the next regular Town Board meeting.

A motion was made by Councilwoman LeClair and seconded by Councilman Vittengl declaring the Town as Lead Agency on this unlisted action and authorizing the Supervisor to sign the short EAF.

Roll call vote resulted as follows:

Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman Vittengl	Yes
Councilman Prendergast	No

Meeting adjourned at 7:50 p.m.

Respectfully submitted,

Leeann McCabe
Town Clerk

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