

A public hearing was held by the Town Board of the Town of Moreau on February 19, 2015 in the Town of Moreau Municipal Building located at 351 Reynolds Road, Moreau, New York, for the purpose of considering the adoption of Local Law #2 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 Poultry

Supervisor Jenkins opened the meeting at 6:30 p.m.

Town Board Members Present

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

Town Board Members Absent

Gina LeClair	Councilwoman
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Also Present: Leeann McCabe, Town Clerk; Karla Buettner, Attorney for the Town and Town Residents: Kelly and Daniel Hutchins, Pat Huntley, Sue Peters, Sandi and Tom Speziale, Nancy Bradley, Bev Bradley, Michael and Kathy Thomas, David Johnson, Jeremy Teneyck, Dylan Robinson, Susan Nicholson and Milton Nevens

The following Notice of Public Hearing appeared in the Legal Ad Section of the Post Star on February 9, 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 February 19, 2015, at 6:30 p.m. in the Moreau Town Complex, 351 Reynolds Road, Moreau New York for the purpose of considering the approval of Local Law No. 2 of 2015. Local Law No. 2 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.”

This is a continuation of the public hearing of Local Law 1 of 2015, held on January 21, 2015. The number changed per the direction of the Department of State. The text and effect of the law was modified to incorporate Zoning Districts R-3, R-4, R-5, UR and RP.

A copy of proposed Local Law No. 2 of 2015 can be obtained at the Moreau Town Complex.

Dated: January 27, 2015

Leeann McCabe
Town Clerk
Town of Moreau

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Supervisor Jenkins welcomed everyone to the second public hearing for Local Law #2 of 2015.

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Supervisor Jenkins had some comments that he wanted to make on his position. He stated that he would have supported the first draft of the local law but can't support the second draft. It takes away rights of any neighbors nearby that could be affected by the law and he stated that it's an abuse of the total zoning issue.

He stated that he had received a letter from Jeanne Fleury and asked the Town Clerk to read it for the record.

The Town Clerk read the letter as follows:

Dear Town Board Members:

I am requesting that the following comments be made a part of the record for your public hearing scheduled to be held this Thursday, Feb. 19, 2015.

As you are aware, I am against chickens being allowed in residential areas of the town specifically in residential housing developments/subdivisions. I have stated this fact in writing and voiced my concerns at your last public hearing on this topic.

I have read the revised draft local law that is the subject of the upcoming public hearing continuation.

This law when adopted is going to pit neighbor against neighbor. When a property owner violates any provision of this law and their neighbor(s) are impacted then the neighbor(s) are going to have to turn them in to code enforcement and then the fight amongst neighbors begins.

Chickens are farm animals as we all know and as defined by the State of New York. Why don't you rezone your entire town to agricultural and then you won't have to adopt this law. You may as well, since you are going to allow chickens (farm animals) in all areas of the town.

At the last public hearing on this proposed law six people were present who currently have chickens in residential zones in violation of the town zoning law and one had chickens, but no longer does. The board members at that public hearing asked these people, who were violating the law, what they wanted to see in this proposed law and they were asked what wording they could live with in the law that would suit their needs. What kind of governing body does this, asks people in violation of the law what they would like that would suit their needs. I realize that they didn't know that chickens weren't allowed in residential zones so they did not violate the law intentionally, but had they asked code enforcement first what the laws were regarding chickens then they wouldn't be in violation right? I don't have chickens and I don't violate the town codes and yet I requested several things at that meeting and the board didn't take my concerns to heart. The most important one being the potential contamination of wells in areas where there is no public water, from the chicken's fecal matter.

I know this is a done deal, but I wanted to send this letter and try to give it a one last ditch effort in hopes that maybe you will listen this time.

I cannot make the public hearing this time.

Sincerely,

Jeanne Fleury
Town of Moreau Resident/Property Owner in R2 Zone

Councilman Kusnierz commented on this letter by stating that some of the statements regarding chickens contaminating well water were not based on science and is not an issue. As far as the statement that the

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Town should just create an entire Ag district in the Town, he supports that because the agricultural community utilizes less services than residential areas.

Supervisor Jenkins gave the audience directions in that they would each have five minutes to speak and once everyone has had an opportunity to speak they could speak again. He asked that when one person is talking, no one should interfere. Comments should be addressed to the Board and not to each other. The Town Clerk will keep track of the time and notify the individual when there is one minute remaining.

Councilman Kusnierz suggested that the starting point should be to see where the Board Members are at. He knows where one Board Member stands and he respects that. He would like to go through the current section of law that's not amenable to the Board Members. If there is no support for the way the law is drafted right now, then it would be a waste of time. Maybe after some dialogue, they can come to some sort of compromise.

Supervisor Jenkins stated that twelve chickens are too many. He thought six was a more logical number to be respectful to all owners of property and he's one of them. He personally doesn't want chickens on either side of his property or behind him. Most land owners live in neighborhoods because that's how they choose to live. In the first draft there was a requirement to get permission from any homeowner within 500' and that has been removed. The way the law is written right now it infringes on the Zoning. He stated that he may change his mind with substantial changes being made.

Councilman Vittengl stated that he had done some research on this matter. There are some downsides to raising chickens such as expense, damage to gardens, predators and smell. There are best practices for composting and using poultry waste. The average number of chickens he's seen in other ordinances is between 4-6 chickens. This helps to keep the noise and smell down. No Roosters, no slaughtering and someone who can handle the culling of the animals. One Town put the law in effect for one year as a test first. The code enforcement officer for Saratoga Springs has only had one complaint since allowing chickens.

Councilman Prendergast stated that everybody here knows how he feels about this issue. He doesn't feel that he's alone because when zoning was created they agreed with it. One thing he's done since he's been here, during public hearings, is to set things aside and listen to the public. That's why he's at this public hearing.

Councilman Kusnierz stated that he doesn't have a problem changing the numbers of chickens, he's flexible on that. He stated that he agreed with Councilman Vittengl in that it would be problematic if language is added in charging neighbors with the approval process.

David Johnson stated that most people don't even know you have chickens. Children can learn to care for them and it teaches responsibility. He stated that chickens are pets and the owners of chickens are not irresponsible or obnoxious. He doesn't know of anyone who moves into a residential area specifically because they don't want to be in farmland. He's willing to see the number come down.

Mike Thomas explained that the amount of chickens the State allows you to buy at one time is six. That's why the number was changed after the last public hearing from six to twelve. If you're down to four chickens you can buy six more. If the law stayed at six chickens and you were down to four, you wouldn't be able to buy because the minimum is six so you would be over the limit.

Supervisor Jenkins stated that he understood his concern but feels that twelve chickens is too many for small lots. He felt that six is more reasonable.

Dan Hutchins spoke regarding the proposed draft law and stated that in a residential zone you understand that there will be cats and dogs but you aren't thinking about ducks and chickens. Once this law passes, down the road people will want little pigs or little ponies. He also thought that if he ever

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wanted to sell his property this could hinder the sale. He asked why the Town is penalizing the people that have lived here.

Bev Bradley, a neighbor of the Speziale's, stated that the property lines adjoin and that she's heard the chickens only ten times and there has been no smell. She enjoys her backyard and mentioned that there are more problems with people burning trash, dogs barking and children yelling and screaming.

Kathy Thomas stated that her yard is fenced in and you can't see her chickens. The dogs in her neighborhood make more noise barking than the chickens.

Susan Nicholson spoke regarding well contamination and stated that fertilizing a backyard garden might pollute a well. She proposed using organic chicken poop for fertilizer. She stated that in the Alaskan Tundra migrating birds help to fertilize and without these migrating birds the grasslands wouldn't exist. She stated that chickens give back more than they harm. She stated that she has twelve chickens. They don't make noise and they don't smell. Her neighbors have never complained.

Tom Speziale stated that the initial proposal was for six chickens, not donkeys, not ducks. He commended the Town Board for hearing the public. He has come to the meetings and tried to resolve the fears people have about chickens. He stated that the Town has seen very little opposition. He stated that he appreciates the Board's considerations.

Tom Hutchins asked what would happen if the next person is not a responsible owner of chickens. How will the Town monitor the situations and what are the Board's intentions for enforcement. You can't just tell people they can have six chickens and leave it at that. People will violate the laws. He asked how the Board will come to a determination. Will it be a majority rules?

Councilman Kusnierz stated that a good point was made if someone is irresponsible. He stated that there is framework for a proposal with specific instances of care in establishing responsible ownership and with the ability of the Town to enforce it.

Supervisor Jenkins stated that six chickens would probably be acceptable to him. He's still hasn't heard anything to justify taking away the rights of other homeowners in a development. As a homeowner, he takes that very personal. He's been through this once and he wouldn't want to go through it again. He stated that other people feel the same that aren't at this meeting. Unless there's an opportunity for existing homeowners to deal with it, that have a problem with it, he won't be for this. He respects everything that's been said at this meeting. He stated that the Town Board represents about 15,000 people in this Town. We have to consider the impact and that's his biggest problem.

Kelly Hutchins stated that they were told to come to this meeting because of the Zoning problem they're having. They live next door to a person who wants to raise chickens. Her concern is that predators will come out of the woods for the chickens. She's concerned about going into her backyard knowing that these predators will be drawn in by the chickens. Tom Hutchins stated that the Zoning Board tabled any decisions until they see what the Town Board does.

Attorney Buettner wanted to make it clear that whatever this Board decides to do won't absolutely change what the Zoning Board is going to do. They are two separate Boards and one cannot tell the other Board what to do.

Milton Nevins of Gansevoort Road stated that he had an experience with a neighbor that had chickens. They were in neighbors' yards and they were in the road causing cars to have to slow down. At least one was killed by a car and one was killed in his backyard by a coyote or a fox. There were feathers throughout his yard because the birds were trying to nest there. He feels that people own their own property and should be able to do what they want with it but should be held responsible for taking care of what they do have.

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Councilman Prendergast stated that you don't change a Zoning Law to compromise. He stated that the feeling from those in attendance is that there is an overwhelming support. He stated that this is a small amount of people to be asking for a Zoning change. Zoning changes are very significant. You're asking the Town Board to introduce these animals into an area where people have invested their money where they weren't allowed. He stated that this is not an overwhelming response from this Town. It's a very small response. You don't change Zoning to compromise the breaking of the law.

Mr. Speziale stated that the opposition is even smaller. Councilman Prendergast stated that there have been people at the meetings and he's received letters in opposition. Maybe it has been a little fewer but eight people in favor is not overwhelming.

Supervisor Jenkins stated that the first draft was made up of things from the first time they heard from everyone and they also used information from other local laws throughout the region. The Attorney then drafted the Local Law. He stated that he was reasonably comfortable with the language of the first draft. The one issue he has is that the requirement for neighbors within 500' of the boundaries to give approval was removed from the second draft. His position hasn't changed on this and still feels that neighbors should have to give their approval. He has to vote in his heart what he believes that 15,000 people out there think is right. He doesn't feel he should give away anyone's rights.

Councilman Prendergast stated that once this law touched on other Districts, he wasn't in favor.

Councilman Vittengl read from some research that he had done that the re-sale values were higher in an area that allowed chickens versus an area that didn't allow chickens. He also stated that the Code Enforcement Officer for Saratoga Springs has had only one issue in five years. He stated that it's a non-issue.

Councilman Kusnierz stated that they can debate the merits on each side of the issue and appreciates the comments from the Board and from the public. He stated that he hoped they got here tonight because the Board was meeting in good faith and that there was interest by the majority of the Board members to come to some sort of resolution toward a workable ordinance that would meet the needs of the Community. The Town has already spent \$1,100.00 of tax payer dollars since November on legal counsel. We've had workshops to develop the framework and drafted a local law. The Board sat at a public hearing where they took in comments for the local law. We now have draft number two. We're at the stage where they should be going through the draft law, line by line, to see what's in or out so at the end of the night there is either framework to go forward on or this issue is done. He asked what needs to be changed.

Supervisor Jenkins stated that the number of chickens should be six and the neighboring property owners should have some say in the matter.

There was some discussion regarding Homeowners' Associations. Attorney Buettner stated that they have declarations and covenants that restrict it.

Supervisor Jenkins stated that he could go along with this with the two changes. He feels that they have to protect the rights of the other property owners.

Attorney Buettner stated that at the last meeting there was discussion that maybe only a percentage of the property owners would have to agree. She also mentioned that she has some code enforcement issues to pass along from Joe Patricke.

Councilman Kusnierz stated that he could support the neighbor sign-off of half or two thirds but it would be completely unworkable to have 100% sign-off.

Mr. Hutchins asked how this would play out if you needed only half or two thirds to sign-off.

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Supervisor Jenkins stated that there is a court case right now regarding a home business in the community and the position the Zoning Board of Review took was the impact on the neighborhood.

Councilman Prendergast wanted to talk about the reality of this. The Town has already spent \$1,100.00 and the cost is growing. How many people are we going to change zoning for? We're talking about affecting the Town. If it's that important, there are only three couples here. We're going to change zoning for the entire Town. He asked if we are in reality here. He stated that this doesn't make sense to anybody. He stated that to make a change in Zoning, we should have people knocking on doors. This is going to change the Zoning for the entire Town.

Councilman Kusnierz stated that the Town approved PUD's and changed the Zoning for one person. That affected dozens of neighbors.

Councilman Vittengl stated that he does agree with Councilman Prendergast in that this is a big change. Five of the most learned City's in the U.S. changed the ordinance to allow chickens. This is a progressive movement for the new urban lifestyle. He thinks this will change for the better.

Supervisor Jenkins stated that the main purpose for Zoning is to protect property owners. He can't have a used car lot on his property. To give the rights to some people takes away rights from others and he doesn't think that's the right thing to do. If people support what's happening and don't mess with somebody else's property rights then he doesn't have a problem with this. Councilman Kusnierz agreed with this statement. He agrees with property rights and doesn't support eminent domain. He stated that when people buy their property, there's an inherent right that goes along with it. He stated that there's still a workable solution to this. He would be totally happy with the compromise of going down to six chickens and the addition to the draft law that all adjacent property owners must be in agreement. This will keep the process moving forward.

Supervisor Jenkins stated that everyone had their say. He thought that the only shot they have at this is to reduce the number of chickens to six and to require the approval of adjacent property owners. The rest of the language he didn't have a problem with.

Attorney Buettner made a change that stated "no chickens will be allowed without the express written consent from all owners of property adjacent to the applicant. For the purpose of this section, adjacent shall mean any touching property lines."

Supervisor Jenkins asked if everyone was agreeable to the change. Councilman Prendergast stated that he wasn't.

Attorney Buettner asked if it would be alright to mention what Joe Patricke's concerns are. There were no objections. His first concern was if the Town would be allowing turkey's as well as chickens. The response was that it would be chickens only. His other concern is that the way the law is set up now, we're adding a second section to the Dog Law stating Dogs and other animals. He feels that it should be its own separate chapter. His other request is that Chicken Runs be defined. He also was concerned that in the enforcement section, we give two weeks to correct any problems. He feels that's too long. Councilman Kusnierz doesn't think it's unreasonable to give two weeks. Supervisor Jenkins asked Attorney Buettner to leave it at two weeks. Joe's last concern is enforcement. He stated that it will be difficult to enforce but will do whatever the Town Board directs him to do. There are people here right now that are breaking the law and he's not enforcing. Supervisor Jenkins stated that once the final decision is made he will do whatever he has to do.

Attorney Buettner stated that these are the only changes she's been asked to make. She hasn't heard from any Board Members as to any specific changes. Supervisor Jenkins asked her to update these changes and get it to the County Planning Board. Attorney Buettner stated that she will get this to the County Planning Board for their meeting on the third Thursday for their recommendation and then the Town Board can vote on this at the last meeting of the month in March.

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A motion was made by Councilman Kusnierz and seconded by Councilman Vittengl to close the public hearing at 8:15 p.m.

Roll call vote resulted as follows:

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

Meeting adjourned.

Respectfully submitted,

Leeann McCabe
Town Clerk