

A regular meeting of the Town Board of the Town of Moreau was held on March 22, 2016 in the Town of Moreau Municipal Building, 351 Reynolds Road, Moreau, New York

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

The Town Clerk called the roll.

Town Board Members Present

Alan VanTassel	Councilman
Bob Prendergast	Councilman
Gina LeClair	Councilwoman
Todd Kusnierz	Councilman [arrived at 8:45 p.m.]
Gardner Congdon	Supervisor

Town Board Members Absent

None

Also present: Leeann McCabe, Town Clerk; Karla Buettner and Malcolm O’Hara, Attorneys for the Town; Attorney Brian Borie, Little & O’Connor; Jesse Fish, Water Superintendent; Paul Joseph, Highway Superintendent; Pete Corlew, Recreation Working Foreman; Elizabeth Lanfear, Supervisor’s Secretary; Planning Board Members, Ron Zimmerman and Reed Antis; Zoning Board Member, Kevin Elms; Town Residents, Meris Badger, Vince Sporrer, Chris Music, Virginia Livsey, Bruce Flayer, James Hooper, Ronald Kowalski, Carol Alden, Tim Dalaba, Will Congdon, Rich Morris, Angela Wadsworth and Terry Clark; Village Resident, Debbie Fitzgibbon; Steven Conklin, The Stables

Supervisor Congdon led the Pledge of Allegiance.

APPROVAL OF MINUTES

The minutes from March 8, 2016 (2 sets) were prepared and distributed to the Town Board in advance of the meeting for their review, comment, correction and approval.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair to approve the minutes from March 8, 2016 (2 sets) as prepared.

Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Absent
Councilman VanTassel	Yes
Supervisor Congdon	Yes

SET FUTURE MEETINGS AND WORKSHOPS

The meetings for April will remain as they are designated in the Organizational Minutes.

The Supervisor asked each Town Board member to contact his secretary and give their availability for a workshop to discuss sewer hook-up fees.

PUBLIC COMMENT PERIOD

Meris Badger of 45 Merritt Road advised the Town Board that she has had issues with drainage for several years. She stated that she had advised Supervisor Jenkins as well as Supervisor Congdon. She stated that it’s getting worse and she’s worried about flooding. She’s done her best to upgrade her driveway to try and prevent the flooding but it hasn’t helped. She stated that her mailman can’t even deliver her mail. The Highway Superintendent stated that he was aware of the situation and that he’s looking into it. He stated that the Town will need to get an easement from the homeowner and that he would be in contact with her.

A regular meeting of the Town Board of the Town of Moreau was held on March 22, 2016 in the Town of Moreau Municipal Building, 351 Reynolds Road, Moreau, New York

Reed Antis asked for an update on the 61 Hudson Street property and the Supervisor stated that he would be discussing this subject later in the meeting.

Jim Hooper stated that he lives across from the T-Bird South property and that there has been a lot of activity. He was surprised that he hadn't been notified. The Supervisor stated that there had been a lack of communication and that the Town Board wasn't aware of the project until December 2015. Mr. Hooper then discussed the road that runs behind his house and asked how the Town might be able to deed over to him. Supervisor Congdon stated that he would research the process for abandoned roads and get an answer to him.

Vince Spoorer stated that the project Mr. Hooper was referring to had scheduled meetings that were published in the Post Star and that the Fort Edward Library had the maps to the planned project. Supervisor Congdon stated that the amount of work exceeded what they had talked about and that the Town didn't get to give input. He also stated that he can't be held accountable because he wasn't on the Board at that time. He stated that the project was signed off by a representative of the Town without the Town Board's knowledge.

Terry Clark stated that the pole, which holds the American Flag, is teetering. The Supervisor stated that it was going to be replaced once the weather permitted.

PRESENTATION BY STEVE CONKLIN; THE STABLES – POSSIBLE DEVELOPMENT OF TEE BIRD SOUTH

Steve Conklin was present to give a brief overview of his proposed project for the Tee Bird South property. He stated that the property is currently owned by Trustco Bank and is currently being used as a staging area for the National Grid project. The lease agreement Trustco has with the parties involved has 9 months remaining, at which time, they'll have to get rid of the stone and bring the property back to normal. His project would be for a non-spectator venue used for State and Local emergency EVOC training, driver instruction, corporate training, and for a semi-private automotive club. The facility would be seasonal from April – November and limited to daylight hours. The vehicles allowed would have the equivalent of street legal exhaust emissions. The proposed project would include a residence on the property for housing, a garage a clubhouse and a meeting room. Their plan would be to gut and rebuild the existing restaurant building that's on the property. They would also keep the driving range and 4 to 5 golf holes, which patrons would use while at the facility. The center of the facility would be black topped. Mr. Conklin suggested that any of the local police, fire and ambulance personnel would be able to use the facility for free as well as students from the Town of Moreau. Mr. Conklin stated that his clients will come from a 200 mile radius. There would be approximately 130 acres left after the development, which could be used for housing or something else. There were questions asked about the number of clients they would have per day and how many cars would be on the track at one time. Mr. Conklin stated that there would be about 60 people per day and a lot of them would stay the night. Usually 1 car at a time and on occasion there might be 5-6 at a time. Another question was asked of the construction schedule and Mr. Conklin replied that they could start in December or January with the rough construction. Tim Dalaba asked if he was looking for sponsors and the reply was that he's in financially good shape and has a credit line but wouldn't mind taking on partners. Mr. Conklin stated that at present he rents facilities and moves around. He would like a home base. The Supervisor asked where the Town of Moreau ranked with the other places he's looking to use for his project and the answer was #1 because it's close to Lake George, Glens Falls and Saratoga Springs and has easy access off the Northway. Councilman Prendergast asked if he was an instructor himself and Mr. Conklin replied that he was. Mr. Conklin concluded the presentation at 8:15 p.m. and gave his cell number of 518-852-3487 if anyone should have any questions.

The Supervisor stated that there was a situation that has developed regarding the Site Plan approval by the Town's Planning Board for Blue Flame Propane. He stated that he had provided information to the Town Board prior to this meeting for their review. The Supervisor stated that the zoning is clear that storage of fuel is to be in a M1 zone not in a commercial district, which is where the facility is proposed. The Supervisor stated that he had attended the Planning Board meeting, which was held last night, in an attempt to get them to reconsider their approval. After his request was denied by the Planning Board, the

A regular meeting of the Town Board of the Town of Moreau was held on March 22, 2016 in the Town of Moreau Municipal Building, 351 Reynolds Road, Moreau, New York

Supervisor requested from the Town's attorney to proceed with an Article 78 and was advised that the Town's attorney could not represent the Town in an Article 78 proceeding because it would be a conflict of interest as they also represent the Planning Board. He was advised that he would have to retain an attorney from another firm. The Supervisor stated that he has taken steps to start an Article 78 proceeding against the Planning Board and has hired Brian Borie from the law offices of Little & O'Connor. He stated that he would like the Town Board to approve this proceeding and engage the services of Brian Borie and if not he stated that he would do this on his own.

Brian Borie addressed the Town Board and stated that he had spoken with the Supervisor regarding an Article 78 seeking to overturn the decision of the Planning Board. He stated that the Town would be obligated to pay for the Planning Boards counsel should this proceeding take place. Mr. Borie stated, that if the Town decides to pursue an Article 78, his firm would have to drop everything to complete the paperwork needed by the deadline, which is in two days. The cost would be approximately \$2,000.00 to get started with the Article 78. If they follow through with an Article 78, the Town would have to pay for an attorney for the Planning Board as well. Councilman Kusnierz arrived to the meeting and asked where they were at on the agenda. The Supervisor explained that it wasn't on the agenda and that he didn't have enough time to add it but needed to have discussion. Councilman Kusnierz told the Supervisor that he couldn't engage the services of an attorney without Town Board approval and the Supervisor replied that he would pay for it on his own if he had to. There was a very heated discussion that ensued (the full audio of the discussion can be heard on the Town's website).

A motion was made by Supervisor Congdon to engage the services of Little & O'Connor as Counsel to undertake an Article 78 on behalf of the Town Board of the Town of Moreau to overturn the decision of the Planning Board approving the Blue Flame Propane as arbitrary and capacious.

The Supervisor asked for a second to his motion and Councilwoman LeClair asked for more discussion. It was pointed out to her that in order for more discussion the motion would need to have a second or it would have to be rescinded.

The Supervisor rescinded his motion.

Councilwoman LeClair asked what the range would be for legal counsel for both the Town Board and the Planning Board. Mr. Borie replied \$3,000 to \$9,000 for the Town's side. Councilwoman LeClair replied that it could be up to \$18,000 for the total cost to the Town. Councilman VanTassel asked who makes the decision on approval of counsel for the Planning Board. Mr. Borie stated that he didn't know about the Planning Board. Councilman VanTassel asked Mr. Zimmerman if he has more information now than he had regarding permitted use. Mr. Zimmerman replied that he thought it was appropriate retail use and that the Saratoga County Planning Board didn't find any issue with this planned use. Councilman Prendergast stated that the Planning Board did their due diligence and that 5 members agreed that this use was allowable.

A motion was made by Councilman VanTassel and seconded by Councilman Kusnierz for an executive session at the end of the regular meeting to discuss potential litigation with the Planning Board.

Roll call vote resulted as follows:

Councilman VanTassel	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Supervisor Congdon	Yes

HIGHWAY DEPARTMENT REQUESTS

The Highway Superintendent requested authorization to engage the services of Garry Robinson, P.E. to create the annual MS4 MCC Report, which needs to be filed with NYS DEC. Mr. Joseph stated that the

A regular meeting of the Town Board of the Town of Moreau was held on March 22, 2016 in the Town of Moreau Municipal Building, 351 Reynolds Road, Moreau, New York

deadline for the report is April 1st and that Mr. Robinson already has much of the information needed to complete the form. He also stated that this was a budgeted item.

A motion was made by Councilman Kusnierz and seconded by Councilman Prendergast to engage the services of Garry Robinson, P.E. for the completion of the MS4 MCC Report for NYS DEC at a cost not to exceed \$2,300.00.

Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman VanTassel	Yes
Supervisor Congdon	Yes

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair authorizing the purchase of a Complete Replacement Sander/Dump Body for Truck #19 from Viking Cives (USA) at a cost of \$40,010.00. This purchase will be paid from account DB5130.2, which has a balance of \$338,701.00 as of March 3, 2016 and is a 2016 budgeted item.

Roll call vote resulted as follows:

Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman VanTassel	Yes
Councilman Prendergast	Yes
Supervisor Congdon	Yes

A motion was made by Councilwoman LeClair and seconded by Councilman Prendergast to allow the Highway Department to begin a 10 hour – 4 day work week starting April 11, 2016 and to continue through October 7, 2016.

Roll call vote resulted as follows:

Councilman Kusnierz	Yes
Councilman VanTassel	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Supervisor Congdon	Yes

A motion was made by Councilman Prendergast and seconded by Councilman VanTassel authorizing the Highway Superintendent to attend the 2016 Annual School for Highway Superintendents from June 5, 2016 – June 8, 2016 to be held in Ithaca and authorizing the registration fee of \$110.00 and for any expenses incurred during the school to be a proper charge.

Roll call vote resulted as follows:

Councilman VanTassel	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Supervisor Congdon	Yes

WATER DEPARTMENT REQUESTS

The Water Superintendent reported receiving a resignation from Jamie Graul, Water Department Laborer, effective April 8, 2016. Councilwoman LeClair wanted to go on record stating that Jamie is

A regular meeting of the Town Board of the Town of Moreau was held on March 22, 2016 in the Town of Moreau Municipal Building, 351 Reynolds Road, Moreau, New York

making \$14.15 per hour with the Town of Moreau and will be leaving to work for \$19.56 per hour elsewhere. The Supervisor stated that he's taking advantage of the liberal policy the Town has with regard to time off. Councilman Kusnierz stated that was an executive session item.

A motion was made by Councilman Prendergast and seconded by Councilman VanTassel to accept the resignation of James Graul from the position of Water Department Laborer, effective April 8, 2016.

Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman VanTassel	Yes
Supervisor Congdon	No

DISCUSSION – MINIMUM BILLING TO WATER II AND IV

Attorney Buettner stated that the Board had passed a resolution at the last regular Town Board meeting reducing water rates in Districts 2 and 4. She stated that according to current Town Code section 145-57, the rates in District 2 can only be changed by Local Law. She stated that it was proper to change the rates by resolution in Water District 4. The newer districts that were formed have wording in the code that allows for rate changes, where the older districts do not. She asked if the Town Board wished her to draft a local law that will change the Town Code to state that rates can be changed by resolution. The Supervisor asked how much this would cost and Attorney Buettner replied that the work is covered under the current contract.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair allowing the Attorney for the Town to draft a Local Law that would allow for the change in Water Rates by resolution.

Roll call vote resulted as follows:

Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman VanTassel	Yes
Councilman Prendergast	Yes
Supervisor Congdon	Abstain

The Town Clerk asked if she is to bill the customers in Water District 2 at the rate previous to the last regular meeting and the reply was yes.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair to rescind the resolution made on March 8, 2016 that changed the water rates in Water District 2.

Roll call vote resulted as follows:

Councilman Kusnierz	Yes
Councilman VanTassel	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Supervisor Congdon	Abstain

RECREATION DEPARTMENT REQUESTS

Councilman VanTassel stated that the Recreation Department had some seasonal hires that they wanted to make and since Pete Corlew had left the meeting, he thought it would be better to have him poll the Board.

A regular meeting of the Town Board of the Town of Moreau was held on March 22, 2016 in the Town of Moreau Municipal Building, 351 Reynolds Road, Moreau, New York

DISCUSSION – BUILDING INSPECTOR VACANCY

The Supervisor stated that this would be discussed in Executive Session.

LETTER OF INTEREST – ETHICS ADVISORY COUNCIL

A motion was made by Councilman Kusnierz and seconded by Councilwoman LeClair to appoint Maria Jennings as a member to the Ethics Advisory Council.

Roll call vote resulted as follows:

Councilman VanTassel	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Supervisor Congdon	Yes

CLOSE PUBLIC HEARING ON SEWER DISTRICT 1 EXTENSION 5

The Supervisor reported receiving notification from Travis Mitchell that he is withdrawing his petition to extend Sewer District 1.

A motion was made by Councilman VanTassel and seconded by Councilman Kusnierz to close the public hearing on Sewer District 1 Extension 5 based on the withdrawal of the petition.

Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman VanTassel	Yes
Supervisor Congdon	Yes

PUBLIC COMMENT PERIOD

Kevin Elms asked if a Sewer Committee had been formed yet and he was told, not yet.

COMMITTEE REPORTS

Councilman VanTassel reported that he had met with Mannix Marketing regarding the Town’s website and the capabilities of creating an e-mail list. He will be working with the Supervisor’s secretary to get this going. He stated that the cost involved is small at about \$15.00/1000 emails.

Councilman Prendergast stated that they accepted the resignation from the water department laborer and now it has to be filled. The Supervisor stated that he wanted to wait and talk to Jesse about the necessity of the position. Councilman Prendergast stated that the position needs to be refilled.

Councilman VanTassel stated that he is continuing to work with the Recreation Department and wanted to thank Rich Morris for going to BOCES with him as he was quite helpful. He stated that BOCES is scheduled to start doing the work they normally do for the Town, in the middle of April.

Mr. Morris stated that he has some trees that he would like to donate to the Town for the Recreation Park. Councilman VanTassel stated that he would get together with him and go over everything and then report to the Town Board.

A regular meeting of the Town Board of the Town of Moreau was held on March 22, 2016 in the Town of Moreau Municipal Building, 351 Reynolds Road, Moreau, New York

A motion was made by Councilman VanTassel and seconded by Councilman Kusnierz to adjourn to executive session at 10:03 p.m. to discuss potential litigation with the Town Planning Board and the work performance of an unnamed employee.

Roll call vote resulted as follows:

Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman VanTassel	Yes
Councilman Prendergast	Yes
Supervisor Congdon	Yes

Attorney Brian Borie was invited into the executive session. The Town Clerk did not sit in on the session.

The Board returned from executive session at 10:55 p.m.

A motion was made by Supervisor Congdon and seconded by Councilman VanTassel to engage the services of Little and O'Connor to undertake an Article 78 proceeding to undo the decision of the Town Planning Board on the Blue Flame propane.

Roll call vote resulted as follows:

Councilman VanTassel	Yes
Councilman Prendergast	No
Councilwoman LeClair	No
Councilman Kusnierz	No
Supervisor Congdon	Yes

The motion failed.

A motion was made by Councilman Prendergast and seconded by Councilman Kusnierz to close the meeting for the evening at 10:56 p.m.

Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Councilman VanTassel	Yes
Supervisor Congdon	Yes

Meeting adjourned.

Respectfully submitted,

Leeann McCabe
Town Clerk

The above minutes are not intended to be a complete transcript. The full audio of the meeting can be heard on the Town's website at: www.townofmoreau.org

A regular meeting of the Town Board of the Town of Moreau was held on March 22, 2016 in the Town of Moreau Municipal Building, 351 Reynolds Road, Moreau, New York