

A regular meeting of the Town Board of the Town of Moreau was held on April 26, 2016 in the Town of Moreau Municipal Building, 351 Reynolds Road, Moreau, New York.

Councilwoman LeClair reported that the Board hadn't closed the executive session from the meeting held on April 12, 2016 and that this needed to be done.

A motion was made by Councilman Kusnierz and seconded by Councilman VanTassel at 7:15 p.m. to close the executive session from the April 12, 2016 meeting and to close the regular session of the same meeting.

Roll call vote resulted as follows:

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

The Supervisor called the meeting to order at 7:17 p.m.

The Town Clerk called the roll

**Town Board Members Present**

Gina LeClair	Councilwoman
Todd Kusnierz	Councilman
Alan VanTassel	Councilman
Bob Prendergast	Councilman
Gardner Congdon	Supervisor

**Town Board Members Absent**

None

**Also present:** Leeann McCabe, Town Clerk; Attorney for the Town, Malcolm O'Hara; Kathleen Moore, Post Star Reporter; Rudy Klick, Special Project Aide; Paul Joseph, Highway Superintendent; Peggy Jenkins, Assessor; Jesse Fish, Water Superintendent; Elizabeth Lanfear, Supervisor's Confidential Secretary; Court Clerks: Jennifer Miller and Karen Epifanio; Zoning Board Members: Kevin Elms and Gerhard Endal; Planning Board Member, Reed Antis; Town Residents: Angela Wadsworth, Anne Kusnierz, Pete Lemery, Bob Shaw, Carol Alden, Terry Clark, Charlene Endal, Tom Cummings, Virginia Livsey, Bruce Flayer, Bob Shaw, Jim Aiken and Jim Rando; Village Residents: Ann Celeste, Brigid Martin and Charlie Granger

**APPROVAL OF MINUTES**

The minutes from April 12, 2016 and April 21, 2016 were prepared and presented 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 Councilman Kusnierz to approve the minutes from April 12, 2016 as prepared.

Roll call vote resulted as follows:

Councilman Kusnierz	Yes
Councilman VanTassel	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes [with the exception of closing the executive session and closing the meeting]
Supervisor Congdon	Yes

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Councilman Prendergast stated that he had just recently received the minutes from April 21, 2016 and hadn't had a chance to review them. He asked that the approval of those minutes be tabled until the next meeting.

### **SET FUTURE MEETINGS AND WORKSHOPS**

A workshop was scheduled for May 12, 2016 at 6:30 p.m. for the purpose of discussing zoning changes. The Planning and Zoning boards will be asked to attend. It was discussed if Jim Martin should be invited to the meeting. This is to be an agenda item at the May 10, 2016 regular Town Board meeting and the Board will decide at that meeting how they should proceed with Mr. Martin.

Kevin Elms stated that at the last workshop, there were suggestions from each of the Planning and Zoning Board members. He asked that they be compiled and that a copy be given to each member.

### **PUBLIC COMMENT PERIOD**

This comment period was dedicated to comments and questions which pertain to the specific agenda items.

No comments or questions were asked.

### **HIGHWAY DEPARTMENT REQUESTS**

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair authorizing an expenditure of \$48,000.00 for "Cold-In Place Recycling" for Sisson Road-Saratoga County Contract #15-PWPR-28R, section 5.0. This will be paid from account DB5112.493.4, which has a balance of \$562,800 as of April 4, 2016.

Roll call vote resulted as follows:

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

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair authorizing an expenditure of \$452,000 for Overlay projects: Old West Road, Hatchery Road, Woodland Drive, Selfridge Road, Oakview Drive, Ferry Boulevard, Sisson Road, Holly Drive and Sweenor Lane. These projects are covered by Saratoga County Contract 16-PWAC-3R. This will be paid from account DB5112.493.4, which has a balance of \$562,800 as of April 4, 2016.

Roll call vote resulted as follows:

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

Councilman Prendergast stated that this work was discussed and approved through the budget process.

A motion was made by Councilwoman LeClair and seconded by Councilman Prendergast authorizing the purchase of (1) 425/65R 225 Tire, dismount, mounts and balancing – Truck #19 from Adirondack Tire Centers at a cost of \$694.36 as an emergency repair. This will be paid from account DB5130.492, which has a balance of \$26,754.92.

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Roll call vote resulted as follows:

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

Councilman Kusnierz asked why there was only one quote and the Highway Superintendent replied that it was an emergency, the truck was stuck on the side of the road, and there were no other companies that had this tire in stock.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair authorizing the purchase of a Casing and Gasket Kit for a trash pump from Emerick Associates in the amount of \$703.79. This was an emergency repair and will be paid from account DB5130.405 with a balance of \$11,767.61 as of April 4, 2016.

Roll call vote resulted as follows:

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

**PROCLAMATION – RECOGNIZING CONNIE BONDZINSKI’S SERVICE AT MOREAU COMMUNITY CENTER**

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair to adopt the following resolution, which was read aloud by the Town Clerk.

**PROCLAMATION**

**WHEREAS**, the mission of the Moreau Community Center is to meet the multi-generational needs of the Community in a compassionate and inclusive environment; and

**WHEREAS**, in her sixteen years of dedicated service, Connie Bondzinski has shown her thoughtful, outgoing, fun loving and patient nature as she has worked meticulously to meet those needs; and

**WHEREAS**, Connie has exhibited her dedication by implementing various social, educational and health related programs to benefit and enhance the quality of life for the senior population in the community, as well as establishing a welcoming Adult Day Care Program in the Town of Moreau; and

**WHEREAS**, through her cheerful, respectful manner and the unwavering kindness she extends to everyone she encounters, Connie has shown the ability to unselfishly put the needs of others first; and

**WHEREAS**, Connie embodies the spirit of giving in her commitment to her family, her church and the greater Community;

**NOW, THEREFORE, BE IT RESOLVED**, that the Town Board of the Town of Moreau, extends its appreciation and gratitude for Connie Bondzinski’s years of service to our Community and our seniors.

Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes

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Councilman VanTassel	Yes
Supervisor Congdon	Yes

**RESOLUTION – ACKNOWLEDGING THE COMPLETION OF THE REQUIRED EXAMINATION OF THE 2015 JUSTICE COURT’S FINANCIAL RECORDS**

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair acknowledging that the required examination of the Town of Moreau Justice Court’s financial records for the year ended December 31, 2015 has been completed and approved by the Moreau Town Board.

Roll call vote resulted as follows:

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

Councilwoman LeClair stated that Francine Thibodeau, the Principal Account Clerk, performs the examination and it saves the Town thousands of dollars.

**DISCUSSION – PROPERTY TAX FREEZE CREDIT**

The Supervisor had copied the Town Board with a property tax freeze credit – fact sheet and stated that the Town of Moreau is covered. Reed Antis asked what the Supervisor was referring to and the Supervisor replied that the jurisdiction must comply with the New York State Property Tax Cap and also have an approved Government Efficiency Plan to share services, consolidate or merge, or demonstrate and implement operational efficiencies. The Supervisor stated that the Town is covered within the law but other jurisdictions decided not to do it. Mr. Antis asked if he was referring to the Village of South Glens Falls and the answer was yes.

Brigid Martin asked the Supervisor if he had received a letter from the Village and the answer was yes. Mr. Antis asked if the Supervisor was saying that the letter from the Village showed no interest and Councilman Prendergast stated that the letter in question wasn’t related to the above topic of discussion. Ms. Martin stated that she understood the Village had sent the Supervisor a voucher letter and that he had responded to that letter. She asked if the Board would be discussing the letter. The Supervisor stated that he had discussed his letter with the Board and they have a copy. He suggested that if she would like to see the letter, she should request it from the Village. She asked again if there would be discussion regarding their request and the Supervisor responded that there wasn’t much to discuss.

**UPDATE – UPPER HUDON RIVER REVITALIZATION PLAN; PAYMENT DUE OF \$29,000.00**

Councilman Prendergast stated that he had met with the Supervisor a couple of days after the last Board meeting regarding this Grant. He explained that this is an \$800,000.00 Grant that was received for evaluating and implementing a three county plan for sharing fiscal services, consolidation of operations, consolidation of maintenance activities, regionalization of future needs of waste water collection and handling and disposal of such. It includes the City of Glens Falls, Town of Queensbury, Town of Moreau, Washington County, Village of Fort Edward, Village of South Glens Falls, Town of Kingsbury and the Village of Hudson Falls. The Town’s share is \$29,000.00. The previous Supervisor, as talked about in a previous meeting, had attended meetings regarding this and had signed the memorandum of understanding that the Town would participate, which is why the Town was sent a bill for \$29,000.00. Councilman Prendergast stated that he and Supervisor Congdon met with Ed Bartholomew and thought that the Supervisor would agree that this is beneficial to the Town, it’s a good plan and it’s worthwhile. He stated that the Town will get out of this, design and construction of a master meter in Moreau. All of the wastewater that goes to the City of Glens Falls would be metered. At this time, it’s based on 100% of the

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water usage. He stated that the Town of Moreau is the only entity that would receive anything like this. He stated that this was a budgeted item under sewer contractual.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair authorizing the expenditure of \$29,000.00 for the Town's portion of the Upper Hudson River Revitalization Plan. This will be paid from the contractual sewer fund.

Roll call vote resulted as follows:

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

A gentleman from the audience asked if this was an ongoing plan and the answer was yes. The Supervisor stated, that when they were discussing sewer rates, the amount that goes through the line from Momentive. Capacity with the City of Glens Falls will need to be addressed. He asked the Water Superintendent to look into this. Jesse stated that he would have an answer for him at the next meeting.

#### **UPDATE – IT CURRENT STATUS**

Councilman VanTassel reported that at the last Town Board meeting, they approved PS Technical Services to install a back-up. The work has been completed and there is now a reliable back-up in place. In a separate resolution, PS Technical Services were to come to the Town Hall and do an overall assessment of the IT structure and this has been tentatively scheduled for next week. A senior engineer from Storedtech Solutions will oversee the assessment. He reported that Storedtech is the company he works for and they're proving this service at no charge. The outcome will be an IT roadmap.

#### **BUILDING INSPECTOR VACANCY**

Councilwoman LeClair stated, that in the past, the Town usually has hired from within the Town but there have been times when the residents haven't had the skills and they've had to hire outside the Town. The Town may have to change the code and go outside the Town. There is only 1 person on the list who is a Town of Moreau resident. The Supervisor stated that they've tried reaching out to this person and there has been no reply. They'll try to reach out again. Councilman Kusnierz stated that they've looked outside the Town in the past and if we find a viable candidate we can see if this person is willing to move to the Town and if not we can open this up to outsiders. Liz Lanfear stated that she had a conversation with the County and reported that there needs to be 3 names on the list to make it active and at present there is only 1 name. There was discussion as to how to advertise for the position and whether or not the salary should be addressed in the ad. Councilman Kusnierz stated that the salary needed to be set and he was told that the salary had already been set. They needed a salary in order to get the list from the County. It was decided that they would advertise to see what interest they might get from Residents and Non-Residents. Attorney O'Hara stated that they may advertise but before they make an offer they would need to address the civil service list.

A motion was made by Councilman Kusnierz and seconded by Councilman Prendergast to advertise for the position of Building Inspector in the Post Star and Chronicle Newspapers with a salary range of \$45,000 - \$54,000 commensurate with experience.

Roll call vote resulted as follows:

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

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### **WATER DEPARTMENT LABORER POSITION**

Supervisor Congdon stated that he had a list of different positions relating to the Water Department and he suggested hiring a Water Maintenance Worker. He thought instead of laborer they should go with someone more career oriented. Councilman VanTassel stated that his feelings are the same as at the last meeting. He stated that the Water Superintendent has made an announcement that he will be retiring at some point and it would be in the Town's best interest to see what's out there. He agrees that they should move forward. Councilman Prendergast asked if the Water Maintenance Worker is a civil service position. Liz Lanfear responded that they have everything that came from the County. The Supervisor didn't see on the description where this position was civil service. The Water Superintendent hadn't seen the list of job descriptions so he was given the lists and asked to look them over and they would get back to him later in the meeting.

The Supervisor asked the Board if they received letters from residents on Fortsville Road that were paying for water that they weren't getting. Councilwoman LeClair recalled that they were offered the opportunity to pay for the infrastructure and if they chose not to pay as they went along, it would be over \$3,000.00 to hook-up. The Water Superintendent stated that it would be \$1,700.00 if there was a curb stop. Attorney O'Hara read the easement contract and agreed, that the way the contract reads, they should only pay for the water that runs through the tap. Supervisor Congdon stated that these residents are looking for their money back. Kevin Elms stated, that when his district was being created, he knew that he would be paying a minimum bill even if he didn't use the water. Those people chose to pay the minimum so that if they needed the water, they would have it. Supervisor Congdon stated that they want refunds and if the time comes that they need water, they'll have to pay. Councilman VanTassel asked that this be tabled until the next meeting so they have time to look at the information given to them. Councilman Kusnierz stated that he would reach out to Tim Burley to find out what the intent was for the creation of this district.

Attorney O'Hara stated that the Board had been given paperwork relating to local law #1 of 2016 which if adopted would amend Chapter 145 Water, specifically Sections 145-20 and 145-57 of the Code of the Town of Moreau by repealing those sections in their entirety and replacing them each with the following language "The minimum charges, schedule of rates and billing periods shall be established and amended as necessary by resolution of the Town Board"

A motion was made by Councilman Prendergast and seconded by Councilman VanTassel to set a public hearing for the purpose of considering the approval of Local Law #1 of 2016 for May 10, 2016 at 6:55 p.m.

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 Councilman VanTassel to advertise for a Water Maintenance Worker in the Post Star and Chronicle Newspapers.

Roll call vote resulted as follows:

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

The Supervisor asked that the ads for Building Inspector and Water Maintenance Worker be placed apart from each other and not run at the same time. The ads will also be placed on the Town's website.

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**DISCUSSION – POSSIBLE EXPENDITURE FROM THE TOWN WIDE RECREATION CAPITAL RESERVE FUND FOR A NEW BUILDING AT THE VILLAGE BEACH**

Councilwoman LeClair stated that they've looked at plans to renovate the Beach Building and her concern is to where the price will go. She had seen 4 buildings that were set up and she picked up flyers. She hadn't priced anything out yet. Her thoughts are just a bathroom facility like you would see in a State park. Maybe two or three toilets that can be used by anyone. And then consider looking at one of the buildings that she's mentioned to be able to store things and for the staff to get out of the sun and a place in the wintertime for storage. These buildings need to be put on gravel not concrete. This would be our building that can be moved if necessary. She stated that there is government pricing that would take 15% to 20% off the price. She asked the Board members to stop down to Exit 16. They can see the quality of the units and the different options. She thought this might be a better option being that you could purchase one for under \$10,000.00 as opposed to building a larger facility. Councilman VanTassel stated that, in light of the fact that the Town doesn't own the property, he's more excited by something that can be moved in the unlikely event that something changes. He stated that we do need to do something with the building, it's unsafe as it currently stands. He stated that Sandy Mahoney had spoken with plumbers that were willing to donate their time. Councilwoman LeClair stated that the Village was willing to help with the demolition. Someone had donated their time with the drawings for new construction but the price tag is very high. Councilman VanTassel agrees and stated that there are other things at the Recreation Park where the money would be better spent. He's more for what's being proposed now than what they looked at the first time; a temporary building and a smaller structure to be built. The Supervisor asked how they would pay for this. Councilwoman LeClair stated the Town Outside Recreation Reserve Fund. The Supervisor stated that their advice is that it would be subject to permissive referendum. Councilman Kusnierz is concerned because it's a Town Outside Reserve Fund that it can only be used for Town outside the Village. Councilwoman LeClair stated that she may have used the wrong words. She stated that initially Rec fees went to the Recreation Park and about 8 years ago they established a Townwide Recreation Capital Project Reserve Fund so they could fund recreation projects outside the Town park and could be used anywhere within the Town for recreational needs. She stated that this would have a 30 day referendum. Attorney O'Hara stated that he would have to look into this to see if the funds could be used in the Village. Councilman VanTassel asked if they could get pricing and Attorney O'Hara stated that they could but if the funds aren't available, there would be no point. Reed Antis pointed out that the Code states: the Town is responsible for all recreation areas within the Town. There was a question as to whether these buildings would be classified under State Code and the answer was "probably". A gentleman from Shaw Contracting on Route 4 in Kingsbury stated that he has buildings of all sizes on display. He asked if they would have to meet code and the Supervisor replied that he would expect the answer to be "yes". Mr. Shaw gave his business card to the Supervisor.

**PUBLIC COMMENT PERIOD**

Angela Wadsworth approached the Town Board and stated that she was told that the Board is sick of her coming and repeating herself. Councilman Kusnierz asked who told her that and she replied that it was out there. She questioned the Town Board on their opinion of consequences if someone were to lie on an application. It was asked what kind of application and she replied employment, permit applications and such. The Supervisor stated that there should be penalties and consequences based on the circumstances. She stated that a contractor that was allowed to build without an insurance bond and then when he got a special permit to build, the dimensions on the permit were lies. Councilman Kusnierz stated that he had an employment application that does state that answers are given subject to the penalties of perjury. Councilman VanTassel asked Ms. Wadsworth if she was asking the Town Board to do something. Ms. Wadsworth replied that she was asking the Board to look into the house that built next to her with a special permit that was issued. She stated that there were violations with the Town Code and the law. She stated that at the time of the build, there was an altered tax map that was given to the Highway Department, National Grid and any other agency that needed to make it look like the lot was suitable to build on when the original showed differently. She was disturbed that she had strangers all over her property, not just in the 12' section that was in dispute, but her driveway and her yard. Supervisor Congdon asked Ms. Wadsworth if the real question is that she received a decision from the Supreme Court and that she owns the 12' section in question. The Supervisor stated that he's been confused as to how a house was allowed to be built, given the court order, inches from a property line. He stated that Ms.

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Wadsworth deserves a better answer to that question alone. Councilman Prendergast asked what the answer is and the Supervisor replied “accountability”. He stated that there has to be accountability in the name of the Town and in the name of the law. He stated that Angela was right and she followed the steps in accordance with the law and the law in this case was apparently ignored. He stated that people entered her property and dug up her septic system and she has proof of it. The question she continues to have is, how and why did this happen and the Supervisor stated that she deserves an answer. Councilman Prendergast asked the Supervisor what he wanted to do. He replied that she needs an answer and some sort of compensation. He stated that she’s been wronged and the Town Board should be accountable for employee’s actions. Ms. Wadsworth stated that she’s not out to get anyone, she just wants closure. Councilwoman LeClair asked what she would like the Board to do. Ms. Wadsworth stated that she would like for them to look at every bit of information from the house placed next door to her and look at the violations and codes. She would like the house torn down or have the setbacks or fix the violations. Ms. Wadsworth was asked again what she would ask for and again she stated that she would like the house removed. Councilwoman LeClair asked, if that can’t be done, what else would she want. Ms. Wadsworth stated that the Zoning Board of Appeals told her that whoever lost this case would have a big expense. She won the case and asked that the house be legal. The Supervisor stated that it’s not practical to have the house removed but asked the Board to look at her situation and either agree or disagree and then discuss what they can do to resolve her complaint. He first wants Angela to feel that her complaint has been met with understanding. Councilman Prendergast asked if she would be satisfied with that and she replied “yes”. Councilman Prendergast stated that the house won’t be torn down. He suggested that they have an independent Building Inspector, who doesn’t work for the Town, look at her property and go by his own observations, not her information, and identify any violations himself and report back to the Town Board and then they will act on the violations. He stated that this was the best the Town could do. Ms. Wadsworth stated that was fair. Councilman Kusnierz asked if the original owner was still the owner. There was a lengthy answer to the question and the Town Assessor interjected that the original owner was the contractor and he has since sold the home to someone else.

Ms. Wadsworth had another topic of discussion relating to her water line and what type of copper was installed. She had three different plumbers come in and see what was installed. She read a document dated August 21, 2012, from Benjamin Franklin. Please refer to the audio to hear the reading of this document. There was mention of equipment that wouldn’t normally be used by himself or recommended. Ms. Wadsworth stated that when contractors are hired they use contractor grade materials. Her concern, when she first came to the Town, was the thinness of the copper to the fittings and what might happen as it did to the Town Hall. She stated that she still has the same set up in her home and she doesn’t want her home to be damaged and that’s why she got an estimate. Councilman Kusnierz stated, that by resolution, they have a time limit for people to speak. There was a discussion between Ms. Wadsworth and Councilman Kusnierz. He asked her what she wanted and she replied that she wanted some respect. Councilman Kusnierz asked her if she remembered being invited into an executive session and she was asked what she wanted and she replied that they were to confront Joe Patricke and find out why he was violating a Judge’s order. Councilman Kusnierz stated that she had wanted the Town Board to remove the Code Enforcement Officer. She stated that was part of it. The discussion continued for a few minutes before the Supervisor interrupted and thanked Ms. Wadsworth and stated that he had documentation from Ms. Wadsworth in his office if anyone would like to look at it.

Gary Endal, Chairman of the Zoning Board, stated that the Zoning Board will be hearing an appeal tomorrow, from a decision of the Building Inspector that’s been through the Planning Board. He asked if this appeal was being presented on behalf of the Town Board. Councilman Prendergast and Councilman Kusnierz both replied “no”. He asked when the Town Supervisor makes an appeal as an individual and as Supervisor... The Supervisor stated that it’s both. Mr. Endal stated that he was hearing from the Town Board that it’s not. Councilman Kusnierz stated that the Town Board has equal authority and stated a second time that it’s not on behalf of the Town. Kevin Elms stated that the appeal clearly says: Gardner Congdon and Town of Moreau Supervisor. He didn’t believe that was correct as the Town Board hadn’t given him the authorization to do so. The Supervisor asked if the Zoning Board had received another appeal and Mr. Endal replied that they had. The Supervisor stated that they should wait for the appeals process. Mr. Endal stated that he had no interest in discussing this with the Town Board tonight. He expected that the other Zoning Board members would want clarification and that’s why he was here tonight. Mr. Endal stated that because of the appeal, they’ve been advised that Bartlett, Pontiff, Stewart



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and Rhodes can't advise them on this matter because it would be a conflict of interest. They've also advised that they should have Counsel to advise them on this matter. He stated that this will be an expense to the Town if the Zoning Board should request to have Counsel. He will be asking the Zoning Board if they want Counsel and if so, he'll be back to ask the Town Board. The Supervisor stated that it would be appropriate, if the Zoning Board feels it needs Counsel for the hearing, the Board would not object.

The Supervisor asked the Board how they feel about the issue itself, which is in violation of Town Code and that a failure to appeal would result in Blue Flame being located on Route 9. He asked if the Board felt this was something that should just go without being addressed legally. Councilman VanTassel replied that they had all stated their opinions before. The Supervisor stated that the Chairman of the Zoning Board is here looking for direction. Mr. Endal stated that wasn't why he was here. The Supervisor stated that the Chairman of the Planning Board asked whether or not this Board supported his desire to have the Zoning Board hear an appeal over that decision. The Supervisor asked again if the Board members feel the Propane Distribution Center belongs in the Commercial district and what steps would they take to make it go away. What steps were open to the Board and what steps were open to the Supervisor to see to it that the Town's Zoning Laws are effectively carried out in accordance with the planner they have under contract and that they've all been copied on his recommendation. The Supervisor asked, what else could he have done differently than what he's already done. Councilwoman LeClair stated that she had expressed her frustration on the fact that they entertained discussion with an attorney, who is not the Town's attorney, and it started with a cost of less than \$1,000 up to \$3,000. She stated that she had asked for a total and it was going to be between \$40,000 to \$50,000. Broken down it was \$9,000 to \$10,000 for each Board (Planning, Zoning and Town) and she didn't want to go that route and spend that kind of money for something they may not win. She stated that then, there was an opportunity for the Supervisor to take this to the Zoning Board and it wouldn't cost anywhere near that amount. The Supervisor asked if she agreed with his appeal. She stated that she didn't feel they should be there but at that point, she wasn't in favor of putting the Town in litigation with the Planning and Zoning boards for a potential cost of \$40,000 to \$50,000. Councilman VanTassel stated that he wasn't anxious in getting into a debate on this subject, it's not on the agenda. He stated that there are a lot of topics to cover on the agenda and it was getting late. Councilman VanTassel stated that the question Mr. Endal asked was "are you representing yourself or the Town". He stated that the Supervisor had told the Board that he was representing himself and paying for it himself, unless he was successful. There was no other conversation to do it any other way. If he were successful, he would expect the Town to reimburse him. The Supervisor stated that the question was, if the Board supported it. There was a short debate as to what the question from Mr. Endal was. Councilman VanTassel stated that he had said before that he didn't want Blue Flame Gas there and that it doesn't belong on the corner but there's a proper way for the Town to conduct business and we're off track again. He stated that the question was asked and answered and stated that they should move on with the agenda. The Supervisor asked Mr. Endal if he was satisfied and the answer was "yes". The Supervisor asked if the Zoning Board wants legal Counsel and his answer was that he would come back to the Town Board after the Zoning Board meets tomorrow night. A member of the audience asked why the Town Board isn't supporting the Supervisor in the appeal. Councilman Kusnierz stated that he was opposed to it because any individual in Town can file with the Zoning Board of Appeals. He stated that he has a problem with, as his role as a Town Board member, where he's charged with judiciously spending taxpayer funds and she was asking him as a Board member to be part of a directive authorizing the Supervisor as a representative of the Town Board and it's residents to go against another Board where the taxpayers have to pay for Counsel, not only for the Town Board but the Zoning Board. A member of the audience asked that if the Supervisor was acting on his own behalf, why the Town was paying for his Counsel. The reply was that the Town isn't paying for his Counsel. He then asked, that if he's only representing himself, why the Town's Counsel can't represent the Zoning Board. Attorney O'Hara replied that the appeal was filed independently and as Town Supervisor which makes it a conflict of interest.

Terry Clark approached the Board and asked what the warranty was on the water lines. Councilman Kusnierz thought it was two years. Mr. Clark referred to page two of a document dated June 28, 2011 that he had passed out. He stated that he had signed a contract with the Town of Moreau, not Casale or Burley & Guminiak. He stated that he was appealing his claim because it's a matter of principal. He proceeded to read paragraph 2 and paragraph 4 of the document. Paragraph 2 described the easement to enter upon, construct and install, maintain, operate, inspect, repair, protect and replace the water service lateral.

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Paragraph 4 mentioned the funding for the water district and when the easement would terminate, which was when the 30 year 0% interest loan is satisfied and at that time the Town would no longer be responsible to maintain the service lateral it would then become the responsibility of the property owner. He asked the Town Attorney if this was a contract. Councilman Kusnierz told Mr. Clark that he should direct his questions to the Supervisor. Mr. Clark asked the Supervisor the same question. Councilman Kusnierz stated that the Town has agents that act on behalf of the Town and they have surety bonds. The Supervisor asked if he had brought this up before and the answer was no. Mr. Clark stated that he just happened to notice this document on his bulletin board.

Reed Antis asked the Board how the Town deals with financials. He stated that Rudy is the auditor, Fran is the Principal Account Clerk, the Supervisor is the budget officer and Liz is the payroll clerk. He asked if the Town has a bookkeeper. The Supervisor stated that a previous Board had rearranged the handling of money to make sure that it didn't disappear. He stated that he thinks the system works good for him. He stated that the responsibility that he's had in the past has been taken off his back. Mr. Antis asked who the bookkeeper is and the reply was that Fran, the Principal Account Clerk, is the bookkeeper.

Mr. Antis asked if there was any news on the 61 Hudson Street property. The Supervisor stated that he had shown it today to a program for preschool. He hoped to have news on this within a week.

Mr. Antis asked for a report on the litigation of the new Highway Garage building. Attorney O'Hara stated that it's in the discovery phase in litigation. Mr. Antis asked when it would end. Attorney O'Hara stated that they have a schedule in place but it doesn't always get followed when there are multiple parties involved. Mr. Antis asked if there was a time that the discovery ends and a report has to be filed with the Supreme Court. Attorney O'Hara gave a brief summary of the schedule and stated that it would take months and months. Mr. Antis asked if this is an added expense to the Town of Moreau and the answer was "yes".

Angela Wadsworth asked if the Town was still in litigation with Casale. Attorney O'Hara replied that he didn't know. Ms. Wadsworth asked if he would have this information available at the next Town Board meeting.

### **SUPERVISOR'S ITEMS**

The Supervisor reported that he had received a call from Emergency Services, Chuck Pasquarelli, Saratoga County. He had asked for the Town's Emergency Management Plan. Councilman Kusnierz stated that the Town has a plan on file. Liz Lanfear stated that it was never done and that's why the Town was contacted. The County doesn't have a current plan on file.

The Supervisor asked Attorney O'Hara if the three things on his list were ok to discuss in executive session and he replied "yes".

### **COMMITTEE REPORTS**

Councilman Prendergast reported, that at the last meeting of the Board, authorization was given to resubmit the application for the EFC 0% loan for sewer down Route 9. He stated that the Town has been on the list in the past and should do well again. He's spoken with C2ae and the application has been submitted on time. He stated that now we sit and wait for our good news.

Councilwoman LeClair stated that she and Councilman VanTassel had met with Paul Joseph regarding the upcoming paving of Abbey Lane and Nancy's Way, which are a part of Palmerton Heights. She reported that we normally have an engineer to oversee the paving that is paid for by the builder, to make sure it's done correctly. She stated that the Highway Superintendent was of the belief that he is now supposed to do this and Councilwoman LeClair feels that they should continue to have the engineers oversee the paving. Councilman Kusnierz asked Paul if he doesn't have the expertise to do this himself. Mr. Joseph replied that it has always been done by the engineers. He doesn't have time to spend a whole day overseeing this. He also stated that this is something that's reimbursed by the builder of the subdivision. There was discussion as to what roads needed to be done. The Highway Superintendent

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stated that Abbey Lane and Nancy's Way were Pallette's development; they have Palmerton Heights that needs to be done and at the same time, they have Galusha putting a road in down at Rivercrest. The Supervisor stated that it was brought to his attention by the Highway Superintendent that the binder coat was thin on the Palmerton Heights project, only 1/2 inch thick and this was overseen by an engineer. He stated that years ago the projects were overseen by the Deputy Highway Superintendent or the Highway Superintendent himself and we didn't have this problem. He stated, that now, it's being overseen by an engineer at the expense of the contractor and the binders are only 1/2 inch thick. The Supervisor asked if they want to go down the same path or do we want to have the responsible person, the Highway Superintendent, see to it. He asked the Highway Superintendent if Mike Montgomery is sufficiently qualified to see if the pavement is put down right. The Highway Superintendent replied that he is but it would take him away from his own duties. The Supervisor stated that he would rather have Mike Montgomery taken away from his own work for a day. Councilman Kusnierz asked the Highway Superintendent if he has to sign off first before the Town accepts the roads and the answer was "yes". The Highway Superintendent stated that he had gone back to 1999, when they started using engineers to do the inspections, because there was a problem with one of the developments, the material wasn't put down properly. They then started using an engineer. Councilman Prendergast asked when the road was done and the reply was 2005. He asked if we use the same engineer and the answer was "no". Paul stated that there is documentation that needs to be done. The drainage, the gravel and such. Councilman VanTassel stated that he was supportive of having someone we trust but he's concerned whether we have the crew, if we take this person off on these four big projects. Councilman VanTassel asked if this person has another function right now and the answer was "yes". He asked, with these four projects, how many days would this person not be available to the Highway crew. Paul stated that it could be weeks. Councilman VanTassel asked if there were other examples besides this road that were done improperly and Paul replied that this was the first one he had found. Councilman Kusnierz stated from the tax payors point of view, Paul's time is better served in the role of what he does day to day. The developers have to pick up the cost of the professional engineering and at no cost to the taxpayers. Kevin Elms stated that you're protected legally. If something is wrong, it will come back on the engineer and the contractor. The question asked of Councilwoman LeClair was, do we want to continue using engineers. The Board was supportive of that.

A motion was made by Councilman VanTassel and seconded by Councilman Prendergast to adjourn to executive session at 10:03 p.m. to discuss collective bargaining, pending litigation, contract negotiations and performance of an unnamed employee.

Roll call vote resulted as follows:

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

The Town Clerk did not sit in on the executive session.

A motion was made by Councilman VanTassel and seconded by Councilman Prendergast to adjourn the executive session and re-open the regular meeting at 10:35 p.m.

Roll call vote resulted as follows:

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

There was no action taken in the executive session.

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A motion was made by Councilwoman LeClair and seconded by Councilman VanTassel to adjourn the regular meeting for the evening at 10:35 p.m.

Roll call vote resulted as follows:

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

Meeting adjourned.

Respectfully submitted,

Leeann McCabe  
Town Clerk

The above minutes are not intended to be a complete transcript, only a summary. To hear the full audio of the meeting, please visit the Town's website at: [www.townofmoreau.org](http://www.townofmoreau.org)