

A month-end audit meeting of the Town Board of the Town of Moreau was held on December 21, 2023, at the Town Hall, 351 Reynolds Road, Moreau, New York.

The Supervisor called the meeting to order at 5:00 PM with an attendance roll call.

Town Board Members Present

Mark Stewart	Councilmember
Kyle Noonan	Councilmember
Alan VanTassel	Councilmember
John Donohue	Councilmember
Theodore T. Kusnierz, Jr.	Supervisor

Also present: Dianne Lewis, Deputy Town Clerk; Brenda Hutter, Town Clerk; Lisa Sperry, Confidential Secretary; Chris Abrams, Highway Superintendent; Leah Cronin, IAO, Assessor; Jeremy Brogan, Recreation Director; Anna Labiak, Water Clerk; Bill Ryan, Special Counsel; Alex Portal, Post-Star; Steve Hutter; Brigid Martin; Ann Purdue; Tom Masso; Greg Hewlett; Charlene Hewlett; Erin Trombley; Beth Wadleigh; Travis Mitchell; Dave Rogge; Liz Bennett; Dominic Tom; Rich Schermerhorn; Allyson Phillips; Maureen Dennis; Gina LeClair; Bob LeClair; Harry Gutheil; Preston Jenkins; Mary Jenkins; Tom Masso; Bruce Lant

Supervisor Kusnierz asked the Deputy Clerk to read the Public Notice of the public hearing into the record. She read:

“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 of the State of New York that a public hearing will be held by the Town Board of the Town of Moreau on December 21, 2023 at 4:20 p.m. at the Town Municipal Complex, located at 351 Reynolds Road, Moreau, New York for the purpose of considering the adoption of Local Law No. 4 of 2023. If adopted, Local Law No. 4 of 2023 would amend Chapter 115 of the Town Code of the Town of Moreau. Written Comments on Local Law No. 4 of 2023 can be submitted to the Town Clerk up and through the time of the public hearing. A copy of proposed Local Law No. 4 of 2023 can be obtained at the Moreau Town Municipal Complex and the Town’s website.”

Allyson Phillips identified herself as an attorney with Young/Sommer, LLC, Attorneys at Law, representing Schermerhorn Residential Holdings. She said the Town Board is absolutely required to hold a public hearing before amending the sewer rate according to Moreau Local Law 2 of 2022, and the proposal under consideration does not change the requirement. She continued saying the Board had not held a hearing in September when rates were raised, which she wanted to state for the record. She referenced remarks by Attorney Ryan in the prior public hearing, saying changes to the sewer use law over 2022 are not minor, that they change the method of assessment and do not differentiate between extensions. She said she felt encouraged to hear the Board may not be planning to act on consolidation at the meeting later that day. She said the rate schedule also could not move forward because notice of the public hearing of the rate schedule only said it was a proposed rate for a consolidated sewer district, failing to mention rate increases for Districts 1-4. She said the Special Counsel confirmed that no budgets had been prepared for the districts, so the rates were arbitrary, and that budgets for individual districts had not been done the year prior either, but their rates were raised.

In reference to the sewer use law, she said it changes the method of assessment for all the districts, but impacts extension 5 the most because it calculates rates based on EDU, which was rejected when the map planning report was done and a referendum was held in relation to that district. The law states that you have to establish the method of assessment when the district is formed, and that method cannot change, Ms. Phillips said. She added that their previous

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engineer said owners of undeveloped land in the district would underpay when calculated by EDU. Based on this representation, she said people voted to be in the district with the understanding they would not be charged by EDU. This proposed law, she said, is contrary to Town Law and she asked that they not act on it. Additionally she said the project gives the Town the right to run sewer lines on private property and when the EFC loan is satisfied, the property owner will own and must maintain the line on their property. She said these details were not disclosed to residents or in the hearing notice. She urged the Board to reassess its whole approach due to multiple violations of even its own laws. She said she hoped they could devise a plan that complies with the law and benefits everyone.

Greg Hewlett said he felt conflicted because on one hand, he thought the current Board was more likely to act on consolidation. He said he thought consolidation was essential to growth in the Town that benefits everybody. Assessed values and sales tax are the two avenues for growth, and he said the best opportunity for growth is District 5. Sharing the cost makes sense, he said, because it benefits everybody. He said he was not confident the next Board would act on consolidation based on his observation that Boards tend to go in opposite directions from each other due to political differences. He said the debt exists, the line is built, and we are where we are, and being mad won't protect the Town, and may strangle growth with prohibitive cost in the area with the most potential to grow.

The other part of his inner conflict, he said, was that he did not think the Board should vote on the law at the meeting later that day because the numbers are not right. He said he had spoken to Don Rhodes, challenged him on his figures, and even Mr. Rhodes questioned his own notes in their conversations. He said the proposed plan has Districts 1-4 paying by EDU and District 5 paying on an a different basis, and likened the complexity of the calculation to solving a Rubix Cube for most people. In the end, he predicted the consolidated sewer fund would be short, or it would be overfunded, which he said he did not trust any government to refund overpayments of funds. He said they were not in a good position to predict the costs, and that a bill would be due in January that the Board would pay in August – he questioned them holding the funds.

Mr. Hewlett said if they postpone the decision he implored them also not to charge the capital charge because they don't know who they are charging or how much they have to pay. He said the original cost of the project would have been \$16 million, and \$5.2 million dedicated to the extension project or \$21.2 million total. He praised the Board leadership for obtaining grant funding to reduce the cost of the project. In summary, Mr. Hewlett said we have Town sewer which brings expanded growth opportunities for less than the original estimated cost, which should be applauded, but calculations need to be correct before moving forward.

Harry Gutheil referenced his remarks in a prior hearing, citing the 10% per month penalty, especially for people who, he said, would be paying \$40,000 a year in capital charges. He also suggested the Board consider quarterly or semi-annual billing, and that the penalty should reflect the water penalty, which is a flat 10% fee. Mr. Gutheil cited §E of 115-71 where it states it will be billed annually by the Town and/or County, and asked about the County's inclusion in the language. He mentioned that owners of vacant properties in the district are expected to pay into the sewer line because it's a benefit having it go by, but then pointed out that between 3 and 11 miles of pipe pass properties with the same opportunity to connect, but they do not have to pay because they are not in the district. He said, in a nutshell, that inequity doomed District 1 extension 5 financially from the start. Mr. Gutheil said he would like to see everybody work together to solve what Counsel Ryan described as a mess from the past.

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Bill Ryan addressed Mr. Hewlett and read from the proposed resolution before the Board, “The Town of Moreau Town Board adopts the EDU rate shown on the rate schedule shown for Extension 5 it waives the capital charges until 2025 to allow time for the Town Board to determine how to share costs of sewer infrastructure that will benefit all Town sewer districts among benefitted sewer users.” He added that the language in the amended sewer law is consistent with what the NYS Comptroller authorized when Extension 5 was created. He said he could go through the changes that had been made but believed Attorney Buttner had spared the markup document with the Board already.

ADJOURNMENT

Resolution #2023-382

A motion was made by Councilmember Noonan, seconded by Councilmember VanTassel, to close the public hearing.

Asked if all were in favor, the responses were:

Councilmember Stewart	Aye
Councilmember Noonan	Aye
Councilmember VanTassel	Aye
Councilmember Donohue	Aye
Supervisor Kusnierz	Aye

The motion carried 5:0

The hearing was closed at 5:00 p.m.

Respectfully submitted,
Erin Trombley
Erin Trombley
Town Clerk (July 22, 2024)