

A regular 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; Karla Buettner, Town Counsel; Mal O’Hara, Town Counsel; 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

Resolution #2023-389

A motion was made by Councilmember Stewart, seconded by Councilmember Noonan, to adopt the October 24, 2023 minutes as presented.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 5:0

SEWER ORDINANCE AMENDMENT

Supervisor Kusnierz asked the Board if they wanted to move forward with the Environmental Assessment Form (EAF) in relation to the proposed sewer ordinance amendment. With consent, Counsel led the Board through parts two and three of the EAF. The determination was made that the act of adopting the law would have low or no adverse impact on the environment and so a negative declaration was made. The Supervisor then asked the Deputy Town Clerk to read a prepared resolution. She read:

“RESOLUTION, TOWN BOARD, TOWN OF MOREAU

SUBJECT: Adoption of Local Law 4 of 2023, Amending Chapter 115 of the Code of the Town of Moreau

Whereas, the Town Board of the Town of Moreau (“Board”) is considering the adoption of Local Law No. 4 of 2023, which, if adopted as proposed, amends Chapter 155 of the Code of the Town of Moreau to clarify responsibilities and obligations of the Town and users; and

A regular 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.

Whereas, the Board finds that the adoption of Local Law No. 4 of 2023 is a necessary and proper exercise of authority by the Board; and

Whereas the authority for the enactment of this local law is found in Section 10(1)(i) of the Municipal Home Rule Law; and

Whereas, pursuant to Section 20 of the Municipal Home Rule Law, a public hearing on the proposed adoption of Local Law No 4 of 2023 was properly noticed in the newspaper and posted, and was duly conducted on December 21, 2023m, at the Town Municipal Complex; and

Whereas the Board has considered the public comments made at the public hearing; and

Whereas the Board, serving as lead agency for this Unlisted action under SEQRA, reviewed a short environmental assessment form and determine that the action does not present any adverse environmental impacts; and

Whereas, after thorough review and deliberation, the Board proposes to adopt Local Law No. 4 of 2023; and

Whereas the Attorney for the Town and Special Counsel to the Town have prepared the necessary documents for filing this local law with the Secretary of State including the text of the law itself;

Now therefore, be it resolved, that the Board hereby adopts Local Law No. 4 of 2023, which amends the law as stated above; and

Be it further resolved, that the Board adopts and authorizes the filing of a negative declaration; and

Be it further resolved, that the Board hereby authorizes the Town Clerk and the Attorney for the Town to take such minor modifications to the local law documents as they deem necessary and thereafter are directed to execute and file the said documents as required by law and to take all of the necessary action for the promulgation thereof.”

A motion was made by Councilmember VanTassel, seconded by Councilmember Noonan, to approve the prepared resolution.

Discussion: Councilmember Stewart asked Special Counsel Ryan if the major revision in the current document was moving to an EDU assessment rather than billing based on usage. He invited Mr. Rhodes to respond as well. Councilmember Stewart also asked if all the legal requirements had been met based on concerns raised by constituents and their attorneys. One of the gentlemen said he felt they had met the concerns, and that in the future, amendments could be made to address issues. Councilmember Stewart said that there had been remarks that the process had not been following the letter of Town and State law. He continued by saying the comments had not been in direct opposition to the changes, but more of questioning why it was being done, and that people were asking for more information. He said it was also not clear that the change to charging by the EDU would cover the Town’s cost. The Special Counsel said he could not answer the question. Councilmember Stewart said that without knowing whether the Town would be overcharging or undercharging, he had difficulty supporting action on the proposed law at that time.

A regular 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.

Councilmember Donohue said he agreed, and that the people were asking for information. He said he didn't think the Board had crossed all the T's and dotted all the I's, and that they should be sure everything is in order before proceeding to avoid a future lawsuit. Councilmember Noonan asked if things hadn't been done completely legally, were things done illegally. Special Counsel said he was being asked to be judge, jury, and executioner, and that all he knew was that he had revised the 2022 law. Councilmember Donohue asked if the Special Counsel had reviewed everything to ensure things were in order, and the attorney confirmed that he had. Councilmember Donohue then asked if he felt things had been done correctly. Special Counsel refused to answer. Councilmember Donohue asked a third time whether it was the attorney's opinion that everything had been done properly, and again the attorney refused to give an answer. Councilmember Donohue said he did not want to move forward with the law at that time with the possibility of being sued in the future. Councilmember Noonan said the threat of a lawsuit was not something he could worry about because anyone can sue anyone at any time for any reason, but said he wanted to be sure the Board was not acting illegally.

Councilmember Stewart said he wanted to clarify that he didn't believe it was the intention of any Board member, engineer, or attorney to violate the law, but if an officer of the Court is addressing the Board saying they had not been compliant with the law, then it needs to be examined to determine how to fix the problem and move forward. Councilmember VanTassel said he respected the opinions of his fellow Board members, and that he was also concerned about several issues raised in the process, especially around the topic of consolidation. He wanted to clarify that the ordinance was the topic of discussion at that time. Councilmember Stewart answered affirmatively.

Supervisor Kusnierz said he wasn't sure anyone read the proposed changes, so he reviewed them beginning with § 115 page 4, the definition of EDU, which he read, "Equivalent Dwelling Unit (EDU) – is a measurement of demand on sewer facilities equivalent to a single family dwelling." He then directed them to page 5 where Waste Water Treatment was newly addressed. He then directed the Board to review page 10's definition § 115-17 "Inspection," where the language "on-site residential sewage disposal system" was added to replace "private." He then highlighted page 115:31, § 115-70 Allocation of costs. Subparagraph A was altered to read, "The Town shall maintain a Sewer Rate Schedule which describes and shows costs for each sewer district." He said this language removed "The annual operation and maintenance 'O&M' and capital charges."

He then turned the Board's attention to § 115-71. General billing provisions. Subparagraph B had the words "debt service" removed, he said, and in subsection B(2) the words "project debt" had been removed in two places. He then turned to page 115:33, subparagraph C, the words "debt service charge" were removed. In subparagraph D he said language had been added to include "estimated maintenance", and removed was language that had read, "assessed value and will be billed in January of each year. Revenues for treatment costs [sic] will be determined on water consumption at a dollar rate per 1,000 gallons and shall be billed semi annually on June 30 and December 31 of each year. He said language was also removed that read, "the semi-annual treatment" and "June 30 and December 31" related to payment of invoices. In subparagraph E, Special Counsel said the term "project debt service" was removed, and in subparagraph H the word "water" was removed related to unpaid sewer charges. Supervisor Kusnierz moved then to page 115:36, § 115-75. Independent District Prohibited, where he said the last 3 sentences had been removed. In § 115-76 he said the word "Connection had been added to the second sentence.

A regular 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 final change he wanted to highlight in the proposal was in § 115-78 on page 115:37 where the language “withinsewer [sic] District No. 1, Extension 5” had been removed. He called the changes “ministerial.”

The Supervisor then asked if there was further discussion, to which Councilmember Stewart answered that he would refer back to his original comment, that in subsection B where the calculation of total cost is spelled out to be based on EDU, that language indicates use based on water consumption had been removed. He said he did not oppose the change to move away from water use, but he asked the Special Counsel if action was taken on the proposal that night without acting on sewer rates, would there be enough money to pay the sewer bills. He said he had not received an answer to that question. Counsel responded that the revision was based on extension 5 language. He said Mr. Rhodes had run the numbers and that it was his presumption that the rates were correct and that the proposed law would simply codify what had already been approved. Councilmember Stewart said an EDU fee schedule had not been adopted so the rates would be based on existing rates.

The item was postponed for further discussion under agenda item #10.

BINGO LICENSE

Resolution #2023-390

A motion was made by Councilmember Noonan, seconded by Councilmember Stewart, to authorize the Supervisor to sign the New York State Gaming Commission Bingo License under the Division of Charitable Gaming for the Moreau Community Center.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 5:0

HIGHWAY DEPARTMENT

Resolution #2023-391

A motion was made by Councilmember Stewart, seconded by Councilmember Noonan, to authorize the purchase of 3 new sander chains from Viking Cives for \$6,637.20 including shipping.

Asked if all were in favor, the following responses were recorded:

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

A regular 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 motion carried 5:0

Resolution #2023-392

A motion was made by Councilmember Noonan, seconded by Councilmember VanTassel, to authorize the opening of a purchase order with Morton Salt in the amount of \$20,000 from account PC70133 to be paid from account DB5142.490, the balance of which was \$130,311.39.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 5:0

Resolution #2023-393

A motion was made by Councilmember Noonan, seconded by Councilmember Stewart, to authorize the transfer of \$25,000 from account DB5130.2 Highway Machinery Equipment to account DB5130.492 Highway Machinery Parts.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 5:0

COURT OFFICE

Resolution #2023-394

A motion was made by Councilmember VanTassel, seconded by Councilmember Donohue, to authorize the purchase of a fireproof, 4-drawer filing cabinet from WB Mason for a sum of \$1,309.59 to be paid from account A1110.2.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 5:0

A regular 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.

RECREATION DEPARTMENT

Resolution #2023-395

A motion was made by Councilmember Stewart, seconded by Councilmember VanTassel, to authorize the repair of an exhaust fan by Restaurant Kitchen Renovators for \$2,950 from account A7140.4, which had a balance of \$38,050.92 as of 11/30.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 5:0

Resolution #2023-396

A motion was made by Councilmember Stewart, seconded by Councilmember Noonan, to purchase a complete volleyball set from National Sports Products in the amount of \$2,924.70 from account A7140.4, which had a balance of \$38,050.92 as of November 30.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 5:0

Resolution #2023-397

A motion was made by Councilmember Stewart, seconded by Councilmember Noonan, to purchase pickleball nets from BSN Sports for a sum of \$1,896 from account A7140.4, which had a balance of \$38,050.92 as of November 30.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 5:0

A regular 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.

Resolution #2023-398

A motion was made by Councilmember Stewart, seconded by Councilmember Noonan, to purchase a field liner from Portland Compressor for a sum of \$3,399 from account A7140.4.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 5:0

Resolution #2023-399

A motion was made by Councilmember VanTassel, seconded by Councilmember Stewart, to purchase cameras for the entrances to the recreation park at a cost of \$11,307.48 from StoredTech to be paid from account A7140.4.

Discussion: Councilmember VanTassel had knowledge of the technical challenges that had faced the Town in relation to running surveillance cameras in the Betar Recreation Park, which he expounded upon; the lack of wireless network connection at the recreation park had been a major issue. He said wireless technology created an affordable solution to the issues of safety in the park. One security issue he identified by name was a number of homeless individuals wishing to sleep in the park at night. The project would involve not only the purchase and install of the cameras, but also monthly charges for cell connection, he said, amounting to around \$972 a year. Supervisor Kusnierz said this was an especially important time to discuss this topic, which was following a recent incident at Moreau State Park where a child had been abducted. He said the State Park had no surveillance cameras at the time of the incident. He said he thought this was a very worthwhile purchase.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 5:0

LAND DONATION

Supervisor Kusnierz wanted to remind the public that a multi-use trail was under construction along the Hudson River near the end of Nolan Road. He said recent heavy rains had flooded the area, which had halted the construction for some time.

A regular 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.

He continued, saying that the Town had an opportunity thanks to a donation by the Lake George Trust to add approximately 50 acres to add to the Town’s recreation land holdings. He said this would be a step toward the goal of linking Moreau lands with Moreau State Park and the Palmertown Range hiking trail. He added that the Town would incur a cost of \$1,377.50 for recording fees and title insurance for the land. Town Counsel led the Board through the Environmental Assessment Form (EAF) process. She asked if the Board wanted to go through part 2 of the form, or if they wanted to make a determination that there would be no or small environmental impact in accepting the gifted land. The Supervisor indicated that he preferred the latter.

Counsel then moved on to part 3, the Determination of Significance, where she read the following: “The Town Board of the Town of Moreau has taken a hard look at the environmental impacts which may occur as a result of the acceptance of the donation of land located at 303-321 Potter Road Rear and has determined that its adoption will result in no significant impact on the environment. The action will not have any adverse impacts on the public health or facilities and will be environmentally beneficial to the town as it will be able to have future use for recreation and parkland, a staple and important use of land within the Town of Moreau.” She then asked if the Board was in agreement with the statement, and they said they were.

Counsel asked if the Board members had a resolution in their packets prepared for the acceptance of the declaration. The Supervisor said they did. She asked if the Supervisor would like the Deputy Town Clerk to read it, and he said he would. She read:

“RESOLUTION: NEGATIVE DECLARATION – ACCEPTANCE OF DONATION OF 303-321 POTTER ROAD REAR

WHEREAS, a Short Environmental Assessment Form (EAF) has been filed with the Town Board in connection with the acceptance of the donation of property located at 303-321 Potter Road Rear (Tax Map Parcel No. 62.-1-3); and

WHEREAS, the Town Board, the only involved agency, has reviewed the EAF and the criteria for significance set forth in 6NYCRR § 617.7(c);

NOW THEREFORE BE IT

RESOLVED that the Town Board finds that that acceptance of the donation of the property located at 303-321 Potter Road Rear (Tax Map Parcel No. 62.-1-3) will not have a significant adverse impact on the environment.”

Resolution #2023-400

A motion was made by Councilmember VanTassel, seconded by Councilmember Stewart, to accept the prepared resolution.

Asked if all were in favor, the following responses were recorded:

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

A regular 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 motion carried 5:0

The Supervisor then asked the Deputy Town Clerk to read a prepared resolution accepting the donation into the record. She read:

**“RESOLUTION
ACCEPTANCE OF DONATION OF 303-321 POTTER ROAD REAR**

WHEREAS, the Lake George Realty Trust, Thomas V. Zug, Jr., as Trustee, has offered to donate property located at 303-321 Potter Road Rear (Tax Map Parcel No. 62.-1-3), (the “Real Property”) to the Town of Moreau; and

WHEREAS, the Town has conducted due diligence regarding the condition of the Real Property; and

WHEREAS, the Town has considered the cost and benefit of accepting the gift of the Real Property and concludes that there is minimal immediately necessary cost to accepting the Real Property, and that the potential benefit to the [Town] to owning the Real Property for potential future use as parkland is substantial, and that specific future use can be considered when grant or other fund mechanisms become available to make any improvements which may be necessary; and

WHEREAS, the Town will be responsible for all filing and recording fees for the documents to effectuate this donation; and

WHEREAS, the Town Board has issued a Negative Declaration in connection with its consideration of acceptance of the donation of the Real Property.

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby accepts the donation of the Real Property from Lake George Realty Trust, Thomas V. Zug, Jr., as Trustee, and authorizes the Supervisor to execute any documents required to effectuate the donation.”

Attorney Buettner offered the correction noted above to include the word “Town” where the word “Village” had been, in error.

Resolution #2023-401

A motion was made by Councilmember VanTassel, seconded by Councilmember Stewart, to accept the prepared resolution.

Discussion: The Supervisor thanked the Lake George Realty Trust and Thomas V. Zug, Jr. on behalf of the Town’s residents.

Asked if all were in favor, the following responses were recorded:

Councilmember Stewart	Aye
Councilmember Noonan	Aye
Councilmember VanTassel	Aye

A regular 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.

Councilmember Donohue Aye
Supervisor Kusnierz Aye

The motion carried 5:0

Resolution #2023-402

A motion was made by Councilmember VanTassel, seconded by Councilmember Noonan, to authorize the expenditure of \$1,377.50 for necessary recording fees and title insurance in relation to the donation of land by Lake George Realty Trust, Thomas V. Zug, Jr., as Trustee.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 5:0

TOWN ATTORNEY

Supervisor Kusnierz said the existing contract with Bartlett, Pontiff, Stewart, Rhodes, P.C. was set to expire at the end of December, but that they would be willing to stay on to help transition the new Supervisor and Town Board, and felt obligated to do so. They would continue under the 2023 legal services agreement, he said.

A motion was made by Councilmember VanTassel, seconded by Councilmember Noonan, to authorize the extension of the 2023 terms of the legal services agreement through the organizational meeting. The motion as later rescinded.

Discussion: Councilmember Donohue said he felt it was prudent. Attorney Buettner said the firm would like to work with the new Board because there was a lot going on with the Town, but also advised that the Town put out a Request For Proposals (RFP) while the current firm continued to work with the Town on a month-to-month basis under current terms. She referenced the firm’s 30-year institutional knowledge of the Town, and said they could stay on through the organizational meeting, or the end of January, but deferred to the current Board for their preference. Councilmember Donohue said he supported keeping the firm through January. Councilmember Stewart said he was comfortable continuing under current terms because those terms include a provision allowing for 30-day separation notice. Ms. Buettner asked if that would be a one-month extension, or a year contract. Councilmember Donohue suggested a month to get the new Board a chance to decide. Councilmember Noonan said he wouldn’t have a problem with renewing the contract for another year.

Resolution #2023-403

A motion was made by Councilmember VanTassel, seconded by Councilmember Noonan, to authorize the extension of the 2023 terms of the legal services agreement through January 31, 2024.

A regular 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.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 5:0

WATER & SEWER DEPARTMENT

WATER RATES

Supervisor Kusnierz asked Deputy Town Clerk Lewis to read a prepared resolution. She read:

“RESOLUTION ADOPTING WATER RATE SCHEDULE 2024

IT IS HEREBY RESOLVED THAT, after a public hearing conducted on December 21, 2023 the town of Moreau Town Board adopts the water rates for the town of Moreau consolidated water district as shown on the rate schedule made available for the public hearing on December 21, 2023 and attached hereto and made a part hereof.”

Resolution #2023-404

A motion was made by Councilmember VanTassel, seconded by Councilmember Noonan, to accept the prepared resolution as read.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 4:1

SEWER RATES

Next, Supervisor Kusnierz raised the topic of adopting the 2024 sewer rate schedule. He asked Ms. Lewis to read a prepared resolution. She read:

“ADOPTING SEWER RATE SCHEDULE 2024

WHEREAS, the proposed sewer rate schedule sets forth rates for individual sewer districts and for a consolidated sewer district,

NOW, THEREFORE, IT IS:

A regular 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.

RESOLVED, the town of Moreau town board hereby adopts the sewer rates for Sewer District No. 1 and Extension Nos. 1 through 4 as shown on the rate schedule made available for the public hearing on December 2, 2023 and attached hereto and made a part hereof; and it is further

RESOLVED, that the Town of Moreau Town Board hereby adopts the EDU rate shown on rate schedule shown for Extension 5 and waives the capital charges until 2025 to allow time for the Town Board determine how to share costs of sewer infrastructure that will benefit all Town sewer districts among benefitted sewer users; and be it further

RESOLVED, that reference to the consolidated sewer district shall be removed from the official rate sheet.”

Resolution #2023-405

A motion was made by Councilmember VanTassel, seconded by Councilmember Noonan, to approve the prepared resolution as read.

Discussion: Councilmember Stewart referred to his previous comments and said he felt more comfortable with the water rate schedule having a billing system in place. He said the majority of the public comments the Board received were not in opposition, but requesting additional information or questioned the process to that point. He continued, saying the Town’s Special Counsel stated that the Town did not have some of the items that were asked about. He referenced raising the EDU in District Extensions 1-4 and setting Extension 5 rates. Councilmember Stewart said he wanted to put the sewer rate schedule adoption on pause until the information people requested could be provided.

Councilmember Donohue also referred to comments made at the public hearing, saying a couple of people asked how the proposed numbers were calculated. He asked how the Board could move forward without answering these questions. He said it would be unfair to the users and referenced a comment by Mr. Ryan where he said he wanted to level the playing field. Councilmember Donohue questioned how this would level the playing field when four districts have no debt and one district does have debt. He went on to say that the way the Town got to this point was by promising all kinds of things in relation to the sewer project; that people would be lining up to join it and that is how it would be paid for, but the demand never materialized, he said. He said Mr. Rhodes was quoted as saying it would attract \$100 million in the first five years. Now, he said, there’s a bill coming from the sewer, and it has to be paid. He said that’s when they said they wanted to “level the playing field,” which he said was not what was being accomplished, but rather that debt was being assigned to people who had no say in it and little to gain.

Councilmember Stewart said some people had pointed out that in the sewer rate document, there were references to sewer districts 1, 2, 3, and 4, and district 1 extension 5, and then the one under discussion contained a consolidation rate. He said the document in front of him there was no consolidation rate. Supervisor Kusnierz confirmed there was no consolidation rate in the document they intended to take action on at the meeting. Councilmember Stewart questioned acting on a different version of the rate document than the one the public had commented on. The Supervisor confirmed that was correct. Special Counsel said there would be no action taken

A regular 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.

on consolidation. Councilmember Stewart asked again if the Public Hearing was on a different document since the version before the Board did not contain the consolidation rate or language. The Supervisor confirmed again. Councilmember Stewart questioned the language in the proposed resolution of adoption that says a public hearing was held. Supervisor Kusnierz stated that he did not think a Public Hearing needed to be held because the document was changed administratively, as had been done with the water rates. Special Counsel said a public hearing was required, and that they had held one.

There was a loud outburst from meeting attendees. Attorney Buettner said the public hearing had been on both documents, and that both, consolidated and unconsolidated, were posted on the Town's website. Councilmember Stewart said his point of confusion was the different rates, and he mentioned \$473 per thousand for extension 5 in one of the documents. He also said none of the comments stated there were two different sheets or questioned the different rates. Councilmember Stewart expressed again a desire to postpone taking action until more information could be provided to the public.

Supervisor Kusnierz asked if all were in favor, and the following responses were recorded:

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

The motion carried 3:2

SEWER DISTRICT CONSOLIDATION

Supervisor Kusnierz raised the topic of sewer district consolidation and asked Ms. Lewis to read a prepared resolution. She read:

“RESOLUTION

SUBJECT: PROPOSED CONSOLIDATED SEWER DISTRICT

WHEREAS, the town of Moreau undertook sewer district consolidation to correct legal and technical issues related to the formation of Sewer District No. 1, and Sewer District Extension Nos. 1, 2, 3 and 4; and

WHEREAS, in the absence of sewer district consolidation certain legal and technical issues need to be resolved in accordance with the Town Law; and

WHEREAS, Town funds instead of funds from Sewer District No.1 were expended to install the Moreau Industrial Park Forcemain to promote non-residential commercial development within the aforesaid sewer district; and

WHEREAS, according to the terms of a Facility Use Agreement entered into between the city of Glens Falls and the town of Moreau 150,000 gallons per day of treatment capacity was purchased using town funds for the sole use of Sewer District No. 1; and

A regular 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.

WHEREAS, pursuant to the aforesaid Facility Use Agreement 40,000 gallons per day of treatment capacity was purchased from the city of Glens Falls using developer funds for the sole use of Sewer District No. 1, Extension 1; and

WHEREAS, approximately 96,000 gallons per day of treatment capacity is required for previously approved projects in Sewer District No. 1, Extension Nos. 2, 3 and 4; and

WHEREAS, certain developers within Sewer District No. 1, Extension Nos. 2, 3 and 4 paid the town for treatment capacity that was never purchased and instead was applied to reduce user fees associated with operation and maintenance expenses for the aforesaid sewer district extensions; and

WHEREAS, the town of Moreau never purchased sewer treatment capacity from the city of Glens Falls for Sewer District Nos. 1, Extension Nos. 2, 3 and 4; and

WHEREAS, Sewer District No. 1, Extension 5 infrastructure investments will allow the town to access treatment capacity from Saratoga County that will be readily accessible after private improvements are installed as described in the Grove on Sisson Developer Agreement dated September 16, 2021, and as revised by supplemental agreement dated February 7, 2023; and

WHEREAS, the town of Moreau must secure approximately 96,000 gallons per day of sewer treatment capacity to serve the approved projects within Sewer District No. 1, Extension Nos. 2, 3 and 4; and

WHEREAS, private connections to the Sewer District No. 1 forcemain were made to the benefit of private residential development projects without contributions toward the capital cost of the public forcemain; the lack of financial contributions to defray the cost of the forcemain can be considered a gift of public funds as set forth within Article VIII, §1 of the New York State Constitution; and

WHEREAS, in an attempt to recover a portion of the capital cost expended by the town to construct the Sewer District No. 1 forcemain, in 2010 and 2011 the town worked with the town engineer to estimate the value derived from future private developer's ability to connect to the Sewer District No. 1 forcemain; and

WHEREAS, Burley-Guminiak & Associates, Consulting Engineers, LLC, a competent engineer, estimated the value derived from access to the Sewer District No. 1 forcemain by private developers to equal \$1,750 per equivalent dwelling unit; and

WHEREAS, as documented in the town board's meeting minutes for January 10, 2012, Timothy Burley, P.E., calculated a per unit value based on a planned project that would provide service to about 2,000 units to equal \$3.5 million; and

WHEREAS, said meeting minutes document that the "\$1,750 connection fee was to recover the cost of capital" and not intended to help pay for a future project; and

A regular 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.

WHEREAS, said meeting minutes also reflect that the \$1,750 connection fee would apply to the planned project if it ever moved forward, therein refuting claims that the connection fee was intended to fund a future project and reinforcing that the fee was to recover Sewer District No. 1 forcemain capital costs; and

WHEREAS, in a resolution dated January 10, 2012, the town board established a \$1,750 per equivalent dwelling unit sewer connection fee that was never repealed or increased to account for inflation; and

WHEREAS, multiple projects were subsequently approved after the sewer connection fee was established but without proper collection of connection fees as required by the aforesaid town board resolution; the uncollected balance exceeds \$1,000,000; and

WHEREAS, nonpayment of sewer connection fees is considered a gift of public funds since those connected to the sewer infrastructure are receiving a benefit for which payment has not been remitted and which must be suitably addressed; and

WHEREAS, when Sewer District No. 1 Extension Nos. 2, 3 and 4 developments connected to the sewer system, Town Code Sections 115-2 and 115-6 required that the Sewer Superintendent verify that all charges were paid before issuing any sewer permits; and

WHEREAS, on January 1, 2023, the responsibility for sewer fee billing was transferred from the Town Clerk to the Billing Coordinator; and

WHEREAS, by resolution dated October 24, 2023, the town of Moreau town board endorsed consolidation of the sole sewer district, the sewer district extensions and four out of district users and thereafter conducted a public hearing on sewer district consolidation on December 12, 2023, at which time all interested parties had the opportunity to speak either in favor of or against sewer district consolidation.

NOW, THEREFORE, IT IS:

RESOLVED, if sewer district consolidation is not implemented by January 1, 2025, the Billing Coordinator is hereby directed to invoice properties within Sewer District No. 1, Extension Nos. 2, 3, and 4 for unpaid sewer connection fees as applicable; and it is further

RESOLVED, that if sewer district consolidation is implemented on or before January 1, 2025, in a manner that causes all properties benefitted by the town's shared sewer system to contribute equitably toward capital costs, the sewer connection fees shall be waived and the Billing Clerk shall not seek payment."

Resolution #2023-406

A motion was made by Councilmember Noonan, seconded by Councilmember VanTassel, to adopt the resolution as presented.

A regular 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.

Discussion: Councilmember Stewart questioned why issues were being addressed in the proposed resolution rather than with a particular builder or development, giving them a timeframe by which they could avoid consolidation fees. Special Counsel said he did not understand the question. Councilmember Stewart asked why they don't address the issue with a developer if there is an issue, rather than the way the resolution is structured, which is with a number of conditions. Special Counsel Ryan said it was structured this way based on numerous requests he received stating that the developer would like to work with the new administration about setting fees and consolidation. Furthermore, he said the history outlined in the resolution came from Town documents where issues had been left unresolved. He said there is also a timeline in the General Municipal Law in which to complete consolidation; 180 days from the date of the draft agreement. Mr. Ryan said if that timeframe passes, the consolidation is over.

Councilmember Stewart asked why any past billing issues that were discovered in the four years of researching were not addressed between the Town and Developer in court rather than trying to address them by way of resolution, which he said gives the developer a way to avoid paying by acting within 180 days. He asked why the Town Board should be put in the position to absolve parties of financial responsibility for past fees rather than taking corrective measures through court action. Special Counsel Ryan said there were various legal reasons he did not want to expound upon at that time.

Councilmember Donohue proposed billing those parties identified by Special Counsel as owing the Town, and then if they fail to pay, the Town can take them to court. He said he did not understand what this had to do with sewer consolidation. Maureen Dennis of Schermerhorn Real Estate Holdings stated from the gallery that the company had been refunded a payment (in relation to a previous statement by the Supervisor that the company owed a substantial sum to the Town), and another attendee attempted to comment before being gavelled down. The Supervisor stated this was not a public comment period, but time for the Board to discuss and deliberate.

Councilmember Stewart asked what the Town was legally obliged to provide the public. He said some people questioned having received documents 30 minutes prior to the meeting, and he said he himself received the document just 6 hours before the meeting. Mr. Ryan said materials must be provided 24 hours ahead of time per public policy. Councilmember Stewart asked how they could give less notice, to which Mr. Ryan responded that the Councilmember should ask the Town Clerk. Councilmember Stewart directed the question to the Town Clerk, was the material posted 24 hours in advance of the meeting. Ms. Hutter responded that it had not. Councilmember Donohue asked the attorney if it was a problem that there was less than 24 hours' notice. Mr. Ryan said it was. Councilmember Donohue said he didn't see how they could continue under the circumstances. There was scuttlebutt among attendees of the meeting. Councilmember Stewart restated that this was not time for public comments and said the Board was working through this issue. He summarized that the Town Clerk, an elected official, had confirmed that the material was not posted 24 hours prior to the meeting, and that the Town's Special Counsel had stated that 24 hours' notice is the law.

Supervisor Kusnierz called for a roll call, the responses to which were as follows:

Councilmember Donohue	Nay
Councilmember Noonan	Aye

A regular 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.

Councilmember Stewart	Nay
Councilmember VanTassel	Aye
Supervisor Kusnierz	Aye

The motion carried 3:2

SUPERVISOR'S ITEMS

BAKERS FALLS SOLAR

Supervisor Kusnierz said Bakers Falls Solar was seeking an agreement with the Town. He said they had been instructed to provide the Town with the details of what they want to do, and what compensation they would offer the Town. He said a representative had been in contact. Attorney Buettner stated the terms they sought were either \$15,000 in advance -or- \$5,000 up front plus a recurring \$5,000 fee every five years for forty (40) years. Counsel said the Board should have the map and consent agreement from the project before them for review. She said the question for the Board was whether they in favor of the agreement; to develop, maintain, and decommission their project on Town easement land, with no real change to the property, and the land reverting back to Town control at the end of the 40-year term. She said no development would be done in the conservation easement area.

Councilmember Stewart said he was in favor of the project and that option two, the installment payment option, where the Town would be compensated a total of \$45,000 rather than the one-time, up front \$15,000 payment. Councilmember VanTassel asked how to the Town would be protected if the company does not take the project to the end of the term. Attorney Buettner said the agreement they received from the company was acceptable but lacks language to protect the Town, which would need to be added. In the case where the company terminates early, she said, the Town would continue to receive the specified payments. It was arranged that Counsel would prepare a revised agreement with protective language to present at the Board meeting the second week of January for review and discussion. Counsel said she would inform the company.

CLEANING SERVICES

Supervisor Kusnierz said the person who had cleaned the Town Hall had not been working for some time and had resigned at the last Board meeting. Someone already employed by the Town was willing to do the job, he said, on a part-time basis. He added that the applications received in response to the ad for the position were before the Board, in addition to Katrina from the Building Department. The Supervisor said they had authorized up to 18 hours per week at Town Hall and 2.5 hours per week at the Highway Garage at a budgeted rate of \$20 per hour, for a total of \$19,260 if the employee worked all of the hours. The Supervisor said he was in favor of the Town employee doing the work.

Councilmember Stewart said there was another candidate, Chris Rich, who was also a Town employee. The Supervisor confirmed this. Councilmember Stewart said he hadn't had an opportunity to interview all the candidates. Attorney O'Hara asked how many hours the Town employee was employed by the Town. The Supervisor responded that they worked 35 hours. Counsel said that if the budgeted hours were worked by the Town employee, the employee

A regular 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.

would have to be paid overtime after working 40 hours. The Supervisor then suggested tabling the discussion.

DECEMBER SALES TAX

Supervisor Kusnierz reported the December sales tax figures: \$358,619.

PLANNING BOARD

Supervisor Kusnierz said a member of the Planning Board had reached out and tendered their resignation effective December 31, 2023, but due to a change in circumstance, the effective date of the resignation was immediate on December 18. As a result, Resolution 2023-282 accepting the resignation effective 12/31 would need to be rescinded, he said.

Resolution #2023-407

A motion was made by Councilmember VanTassel, seconded by Councilmember Noonan, to rescind Resolution 2023-282.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 5:0

Resolution #2023-407

A motion was made by Councilmember Noonan, seconded by Councilmember VanTassel, to accept Meredith Mathias' resignation effective December 18, 2023.

Discussion: Councilmember VanTassel said that there was no scheduled Planning Board meeting for December, so her early departure would not negatively impact Planning Board operations.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 5:0

The Supervisor stated that with Ms. Mathias' departure, a vacancy opened on the Planning Board and a number of interested parties had been in contact with the Board. He said the final candidate to express interest was Bradley Toohill of South Glens Falls, and it was the

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Supervisor's recommendation that the Board offer Mr. Toohill the position effective immediately through the end of the term, December 31, 2024.

Resolution #2023-408

A motion was made by Councilmember Noonan, seconded by Councilmember VanTassel, to appoint Bradley Toohill to the Planning Board effective immediately for the remainder of the term ending December 31, 2024.

Discussion: Councilmember Donohue said he believed the Board should table the discussion so the new Board could consider the applicants and make the appointment since they will be accountable.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 4:1

MISCELLANEOUS

Supervisor Kusnierz said the Board had received a letter from Mayor Collins of the City of Glens Falls in response to proposed sewer district consolidation plans. In their letter, the Supervisor said the City drew the Board's attention to an area of the map they said was unclear, specifically in map section 4 where it reads that the Town has discharge wastewater capacity of up to 190,000 gallons per day. The letter stated that the figure was not entirely correct, and the Supervisor read from the letter, in which Mayor Collins stated that the Town has 150,000 gallons of wastewater capacity per day that can be assigned to various places in the Town, and 40,000 gallons of capacity that is restricted by an agreement with the City of Glens Falls that cannot be re-assigned or comingled with other wastewater without modification of the agreement. The Supervisor read that a PDF of page 94 of 158 of the map plan report dated August 21, 2008 contained the addendum, which had been attached to the email with the letter. The Supervisor continued reading from the letter, which went on to say that the 40,000 gallons of additional capacity was intended to be used solely for wastewater from apartment complexes identified by map numbers SBL 37-1-15.1 (Parcel A) and SBL 37.19-1-25 (Parcel B). The letter stated that the plans for parcels A & B were more fully described in the map plan report extension 1 of sewer district 1 dated January, 2008.

Supervisor Kusnierz stated that the characterization of the capacity and restrictions in the agreement were correct, however the 150,000 gallons of capacity is purchased with Town funds for district 1 and cannot, therefore, simply be transferred to other districts. The Supervisor said this is why district 1 extension 5 received premium capacity for users.

OTHER BUSINESS

WATER CONTRACT

A regular 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.

Attorney Buettner discussed an addendum with a 10-year agreement with a maximum purchase price \$2.392 per thousand gallons through December 31, 2024. She said for the remainder of the term of the agreement the maximum increase shall be no greater than the maximum price the previous year plus 1.5%. She added this is the same agreement used for all municipal users. The Supervisor asked the Board if they wanted to act on this or wait. Councilmember Stewart said it was a good water contract but preferred to wait and have the new Supervisor and Board members review the information. Councilmember Noonan said he respected that and could wait. Councilmember Stewart, said they would postpone a decision on the water contract until the January 9, 2024 Board meeting.

ACCOLADES

Supervisor Kusnierz said the former Town Historian wished to make some remarks. Brigid Martin thanked the Supervisor for his 22 years of service to the Town, and for dedicating space in the Town for the Historian to work from. She offered the Supervisor a binder which highlighted his accomplishments over the years and wished him the best.

Supervisor Kusnierz said the Town had never had a more zealous Historian and thanked her for the work she had done on behalf of the Town.

LOCAL LAW 4 of 2023

The Supervisor said he wished to entertain a motion to move forward with adoption of Local Law No. 4 of 2023.

Resolution #2023-409

A motion was made by Councilmember VanTassel, seconded by Councilmember Noonan, to adopt Local Law No. 4 of 2023.

Asked if all were in favor, the following responses were recorded:

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

The motion carried 3:2

ORGANIZATIONAL MEETING

Resolution #2023-409

A motion was made by Councilmember Stewart, seconded by Councilmember Noonan, to set the 2024 organizational meeting for January 4 at 7:00 p.m..

Asked if all were in favor, the following responses were recorded:

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

A regular 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 motion carried 5:0

Councilmember Noonan made a statement of appreciation for Supervisor Kusnierz in the time he had spent under his leadership. He said under the Supervisor's leadership the quality of life in Moreau had improved, and the impact of his accomplishments would be felt for generations. Councilmember Noonan thanked the Supervisor on behalf of the Town residents.

Councilmember Donohue said the Association of Towns would be holding training for newly elected Town officials in Albany from January 17-19. He asked that the Board authorize payment of expenses for those who wished to attend. Supervisor Kusnierz said he believed approval was part of the organizational meeting.

Councilmember Donohue announced that there would be a swearing-in ceremony at noon on January 1 at Town Hall.

Councilmember Stewart expressed appreciation to Councilmember VanTassel for his time and dedication to the Board. He also acknowledged Supervisor Kusnierz's knowledge and leadership in the Town and Saratoga County. He wished both men the best in the future.

Supervisor Kusnierz acknowledged what he learned from Harry Gutheil in his early years, including how to protect the Town. He said he believed he had done a good job in that regard as Supervisor, and upon reviewing an early campaign flyer, he said he had accomplished just about everything he set out to do, including obtaining grants to defray taxpayer costs. He acknowledged Gina LeClair, a former Board member, and thanked his Confidential Secretary, Lisa Sperry, Principal Account Clerk Jeff Cruz, and Water Clerk Anna Labiak for helping him achieve his successes. He said they were fabulous people.

ADJOURNMENT

Resolution #2023-410

A motion was made by Councilmember Noonan, seconded by Councilmember VanTassel, to adjourn the meeting.

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

The motion carried 5:0

The audit meeting was closed at 7:05 p.m.

Respectfully submitted,
Erin Trombley
Erin Trombley
Town Clerk (October 3, 2024)