

*A Regular Meeting of the Town Board of the Town of Moreau, Saratoga County
were held at the Town of Moreau Municipal Building, 351 Reynolds Road, Moreau, New York
on the 13th day of February, 2024.*

The meeting was held in person. The Supervisor called the meeting to order at 7:00 PM. The Supervisor asked for an attendance roll call followed by the Pledge of Allegiance.

PRESENT: Kyle Noonan Councilmember
Patrick Killian Councilmember
Mark Stewart Councilmember
John Donohue, Jr. Councilmember
Jesse A. Fish, Jr. Supervisor

ALSO PRESENT: Erin Trombley Town Clerk
Dianne Lewis Deputy Town Clerk
Malcolm O’Hara Counsel
Elizabeth Bennett Confidential Secretary
Chris Abrams Highway Superintendent
Jeremy Brogan Recreation Director

OTHERS PRESENT: Tim Pease, Anissa Jacox, Logan Marino, John Rivers, Brandon Hayes, Benjamin Vaillancourt, Ed Petrush, Tom Masso, Ann Purdue, Ronald Kowalski, Brian McKenzie, Anthony Cerrone, Steven Cerrone, John Muntch, Ken Miner, Justin Farrell, Bob Lippman, Ray Apy, Michelle Smith, (resident) Snowberry Ln., Fred Troelstra, Amy Noonan, Paul Itzo, Bill Nikas, Brigid Martin, Sam Wahnnon, Marie McHugh-LeClair, (resident), Gianni Simon, Kevin Ostrander, Dominic Tom, Bob Vittengl, Ro Padron, Nicole Haddadnia, Maureen Dennis, Bob LeClair, Gina LeClair, Tom Hutchins, Paul Fallati, Tom Munter, Alex Portal (Post-Star reporter)

FUTURE MEETINGS & WORKSHOPS

No meetings or workshops set.

ACCEPTANCE OF MINUTES

Resolution 53-2024 A motion was made by Councilmember Stewart, second by Councilmember Donohue, to accept the January 4 Organizational Meeting minutes.

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

Councilmember Noonan Aye
Councilmember Killian Aye
Councilmember Stewart Aye
Councilmember Donohue Aye
Supervisor Fish Aye

The motion carried 5:0

Resolution 54-2024 A motion was made by Councilmember Stewart, second by Councilmember Noonan, to accept the January 9 Regular Board Meeting minutes.

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

Councilmember Noonan Aye
Councilmember Killian Aye
Councilmember Stewart Aye

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Councilmember Donohue Aye
Supervisor Fish Aye

The motion carried 5:0

Resolution 55-2024 A motion was made by Councilmember Stewart, second by Councilmember Killian, to accept the January 16 Special Board Meeting minutes.

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

Councilmember Noonan Abstain
Councilmember Killian Aye
Councilmember Stewart Aye
Councilmember Donohue Aye
Supervisor Fish Aye

The motion carried 4:0

Resolution 56-2024 A motion was made by Councilmember Noonan, second by Councilmember Stewart, to accept the January 23 Public Hearing minutes.

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

Councilmember Noonan Aye
Councilmember Killian Aye
Councilmember Stewart Aye
Councilmember Donohue Aye
Supervisor Fish Aye

The motion carried 5:0

Resolution 57-2024 A motion was made by Councilmember Stewart, second by Councilmember Noonan, to accept the January 23 Regular Board Meeting minutes.

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

Councilmember Noonan Aye
Councilmember Killian Aye
Councilmember Stewart Aye
Councilmember Donohue Aye
Supervisor Fish Aye

The motion carried 5:0

Resolution 58-2024 A motion was made by Councilmember Noonan, second by Councilmember Killian, to accept the January 26 Special Board Meeting minutes.

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

Councilmember Noonan Aye
Councilmember Killian Aye
Councilmember Stewart Aye
Councilmember Donohue Aye
Supervisor Fish Aye

The motion carried 5:0

PUBLIC COMMENT FOR AGENDA ITEMS

Dominic Tom asked the Board for additional information on the Tabner, Ryan & Keniry, LLP contract, which was listed under agenda item 15, and a copy of which was included in the meeting support materials. Supervisor Fish responded that the contract with them is needed because the Town did not have current legal advice or representation for the sewer project, and since RFPs were not issued for counsel and engineering, their services are needed since they were the last to represent the Town in this capacity.

Raymond Apy introduced himself as the founder and CEO of Saratoga Biochar Solutions, provided the Board with copies of his remarks. He wanted to comment on the proposed moratorium on commercial and industrial development in Moreau, including the Industrial Park. He said the Biochar project was first proposed in 2021 and received approval by the Town Planning Board in 2022. The project is currently under review by the NYS Department of Environmental Conservation. He said the company has significant investment in the project and added that he understands people have questions about their process and they encouraged the questions, which he said they answered. He said the science to support this is all publicly available and added that their process will not pose a risk of environmental or health impacts. He said it is clear that the current Board majority was elected based on campaign promises to stop Biochar by any means. He said misrepresentation of their technology and processes caused the community backlash. He said the negative declaration made by the Planning Board was upheld by the Saratoga County Supreme Court. He called the proposed moratorium as one of the Boards first acts “aggressive,” and an attack on their pending permit. He called statements that the proposed action is not meant to target Saratoga Biochar by some Board members “insulting.” He said a media statement by a member of the Board that nobody mentioned Saratoga Biochar contradicted the audio recording of the prior meeting on this topic. He called the proposed moratorium “overbroad” and said this communicates an anti-business tone, and that it will impact commercial transactions, the tax base, and impede job growth. He said residential development costs the Town taxpayers, and commercial/industrial development helps pay for infrastructure like schools. He threatened additional legal costs that will be incurred if the moratorium is pursued, and Saratoga Biochar is not exempted. He also asked, “What’s the rush?,” since the NYSDEC is currently receiving feedback to assist in them making their decision.

Tom Masso commended the Board for considering a moratorium to examine the Town’s antiquated code, which he said the majority of Town residents support. He said he expected that the Zoning Administrator, attorney, and Board would circulate a draft of the new code to individuals on the Zoning and Planning Boards for their review and input before adopting. He urged caution, saying the previous Board members had ignored or misrepresented existing code provisions that didn’t align with projects they supported. He said some of the existing issues facing the Board are a result, and those actions eroded some residents’ faith in local government. He supports the moratorium and revision of Town code but urged the Board to “faithfully execute” the code and for Town employees and counsel to read and understand the new code so it can be implemented fully. He also said he had reviewed proposed Local Law 2 of 2024 and would provide additional feedback at another time.

Brigid Martin said she runs a community group called “Yes Moreau,” where she tries to promote Moreau businesses. She said she first became involved with the commercial district when she helped get the sewer

project passed. She said it took a lot of time and effort to get it passed, and the people who have made an investment in it are about to see a return. She said there are multi-million-dollar deals being passed up because development in that zone would be paused six months. She said new people may not be aware of the direction things have been moving in, but she said it “would be a crime” to change that direction. She asked the Board how much money the Town will lose with the departure of Essity. She said she believed Essity contributed \$16 million. She said the six months of moratorium would include the summer, the best season for development. She suggested if the Board just wanted to target Biochar, they should not draw all the other businesses into it. She said the Board should tell the taxpayers how they will pay for the additional costs of legal fees and so on. She asked if they were ignoring the budget. Finally, she asked where the \$1 million are that she said Schermerhorn owes the Town. Supervisor Fish said that topic is not on the agenda.

Bill Nikas offered the Board a second version of a proposed moratorium document. He said he had attended the Clean Air Forum a month prior, where environmental attorney Phil Giblin spoke. Bill said he asked if Phil would review his moratorium document to ensure it would be legally defensible. He said no matter what version of a moratorium is issued, there will be litigation, so the moratorium has to be defensible. Mr. Nikas said that earlier in the evening he had called and asked if Mr. Giblin would review the Town’s proposed moratorium documents as well as his own before the February 27 Board meeting to give his professional assessment. He urged the Board to take advantage of the opportunity to have a specialist review everything so in the end they have the most defensible moratorium, if that’s what they want. He added that he believes that if the proposed moratorium was passed, they would have given away all of their leverage.

Bob Vittengl asked for clarification that the moratorium would impact the rte. 9 commercial zone. Supervisor Fish answered that it would impact all industrial and commercial zones. Mr. Vittengl went on to ask if landowners would be compensated for lost potential sales during that time, and would it impact their taxes during the time they can’t do anything with their land? Supervisor Fish said he had not heard anything about that. Mr. Vittengl added that they have just done all the work on infrastructure along one of the busiest roads in the county to spur development, and this would “crush it.” He said this was the first he was hearing about the moratorium, and asked the Board to delay the action to get more input.

Tom Munter said he owns a parcel East of the Northway and North of Rte. 9, “the old driving range.” He concurred with Bob Vittengl, and said it was unfair to investors who had been encouraged by the Town to endure the sewer and Northway infrastructure changes in the hope that these would encourage growth. He said the improvements along Rte. 9 in the past 5 or 6 years are the best changes in 40 years, including the new Hudson Headwaters facility, expanded veterinary clinic, Saratoga Olice Oil, Hoffman’s Car Wash. He called it very significant tax base growth. He said imposing the moratorium without notice on investors and landowners who have been waiting for decades, is like slamming a door. He said it is not a smart way to encourage growth, especially in light of the recent and pending closures of businesses like Essity, Quad Graphics, Lehigh Cement, AngioDynamics in the area. He said businesses of all sizes count. He asked the Board not to act hastily and to get more public input.

Paul Itzo said the new Board was elected for a reason, and that change is needed. He added his thought that six months won’t hurt anyone.

Sam Wahnnon said he represents four landowners who hold 93 acres near Route 9, around Autoworld: Wahnnon, Glad, Abrams, and Krantz. He said they have paid taxes, insured, mowed, and maintained the property for 39

years waiting for sewer. Now they have sewer and he says the Town says he can't sell the property for 6, 12, or 18 months on a whim. He said they are putting a stop to development just to stop one company. He said the Board should think about what they're doing because it will cause trouble. He said this won't drive him away, it will make him angrier.

Gina LeClair thanked the Board for trying to correct the problems of the past to prevent future problems.

An investor/resident spoke saying he understood both sides of the issue, but said he fears the six months won't be six months. He said there are deals on the table now, if things get delayed, it could be 18 months to two years to get them back. He said the investors in the room have been waiting for sewer, paying sewer, and taxes while they wait. As a resident he said he understands these are necessary changes. He said he hopes they can make the changes without impacting those who have something underway.

OLD BUSINESS

Local Law 1 of 2024 - Attorney Andrew Clark from Tabner, Ryan & Keniry, LLP was present to guide the Board through adoption of the new Local law. He suggested the Board close the SEQR by accepting a motion to make a negative declaration.

Resolution 59-2024 A motion was made by Councilmember Stewart, second by Councilmember Killian, to make a negative declaration on the SEQR for Local Law #1 of 2024.

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

Councilmember Noonan	Nay
Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

Discussion: Councilmember Noonan asked Attorney Clark to explain what Local Law 4 of 2023 was, the law being repealed by Local Law 1 of 2024. Atty. Clark explained that Local Law 1 of 2024, relating to sewer, would revert Law 4 of 2023 back to the previous law of 2022. The new law clarifies several issues, according to Mr. Clark. Councilmember Noonan asked if this is the law that details monies owed to the Town from sewer consolidation. Atty. Clark said this law does not relate to monies owed, but rather deals with future charges for sewer. Councilmember Noonan clarified that this law relates to billing rates, bringing it back to 2022. Mr. Clark answered affirmatively. Councilmember Noonan thanked counsel for answering, saying sometimes things are missing and this conversation is helpful to have. Supervisor Fish asked Councilmember Noonan for a vote to make a negative SEQR declaration. Councilmember Noonan said, "Yes."

The motion carried 5:0

Resolution 60-2024 A motion was made by Councilmember Stewart, second by Councilmember Killian, to close the public comment period for Local Law 1 of 2024.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye

Councilmember Stewart Aye
Councilmember Donohue Aye
Supervisor Fish Aye

The motion carried 5:0

Attorney Clark offered a period of discussion before moving to vote on the adoption of Local Law 1 of 2024.

The resolution regarding Negative Declaration for establishment of the Town of Moreau Local Law No. 1 was read into minutes by the Town Clerk:

**RESOLUTION REGARDING NEGATIVE DECLARATION FOR
ESTABLISHMENT OF THE TOWN OF MOREAU LOCAL LAW NO. 1 OF 2024**

“WHEREAS, the establishment of Local Law No. 1 of 2024, requires compliance with the provisions of the Environmental Conservation Law of the State of New York and regulations of the Department of Environmental Conservation, Part 617, State Environmental Quality Review Act, and the Town of Moreau has previously established that the Town Board act as lead agency for the review of the environmental impact, if any, of proposed Local Law No. 1 of 2024,

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town Board of the Town of Moreau as lead agency has determined that the establishment of Local Law No. 1 of 2024 is an Unlisted Action and that establishment of proposed Local Law No. 1 of 2024 will not result in any significant adverse environmental impacts, and that the Supervisor of the Town of Moreau be authorized to execute the Short Environmental Assessment Form with respect to the determination that the establishment is an Unlisted Action and that the establishment of Local Law No. 1 of 2024 will not result in any significant adverse environmental impacts;
2. Based on its examination of the EAF, the criteria set forth in Sections 617.6 and 617.7 of the regulations, and such further investigation as the Town Board has deemed appropriate, no potential significant adverse environmental impacts are known;
3. Consent to proceed with the establishment of Local Law No. 1 of 2024 will not cause a significant impact on the environment, and the Town Board will not require the preparation of an environmental impact statement;
4. A negative declaration is to be signed by the supervisor;
5. The Town Clerk of the Town of Moreau is hereby directed to cause to be filed and circulated the negative declaration in accordance with the requirements of SEQRA, a copy of the negative declaration shall be maintained in the Office of the Town Clerk in a file that will be readily accessible to the public, and the clerk shall mail copies, return receipt requested, to:

Office of the Commissioner Department
of Environmental Conservation
625 Broadway
Albany, New York 12233

and Environmental Notice Bulletin
NYSDEC
Attn: Jack Nasca
625 Broadway, 4th Floor
Albany, New York 12233-1750

6. All subsequent notices concerning this project shall state that a negative declaration pursuant to SEQRA has been issued.”

Attorney Clark then read the adoption resolution for Local Law 1 of 2024.

ADOPTION OF LOCAL LAW NO. 1 OF 2024

“WHEREAS, the Town Board of the Town of Moreau (‘Board’) is considering the adoption of Local Law No. 1 of 2024, which, if adopted as proposed, repeals Local Law No. 4 of 2023, Chapter 115 of the Code of the Town of Moreau entitled ‘Sewer Regulations’; and

WHEREAS, the Board finds that the adoption of Local Law No. 1 of 2024 is in the best interest of the Town and it is necessary to provide for the health, safety and welfare of Town residents and property owners; and

WHEREAS, the Board finds that the adoption of Local Law No. 1 of 2024 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 2 of the Municipal Home Rule Law; and

WHEREAS, pursuant to Section 2 of the Municipal Home Rule Law, a public hearing on the proposed adoption of Local Law No. 1 of 2024 was properly noticed in the newspaper and posted, and was duly conducted on January 23, 2024, at the Town of Moreau Town Hall; 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 determined 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. 1; and

WHEREAS, the Attorney for the Town has 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. 1 of 2024, which repeals Local Law No. 4 of 2023; 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 make 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 actions for the promulgation thereof.”

Discussion: Councilmember Stewart clarified that Local Law 4 of 2023 was the one where residents and developers addressed the Board questioning the timing of documents being provided, stating the Board had not adhered to Open Meetings law. He said that’s why he is in favor of Local Law 1 of 2024. The 2023 law was not entirely bad, he said, and he said he hopes the new Board will look at making some of the necessary changes, but with timely publication of documents and input from the public as requested in December 2023.

Resolution 61-2024 A motion was made by Councilmember Stewart, second by Councilmember Killian, to adopt Local Law 1 of 2024.

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

Councilmember Noonan	Nay
Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 4:1

Discussion: Supervisor Fish summarized the situation with Chris Scarincio, stating that in 2023 Mr. Scarincio was set to host a tournament with 24 teams that was rained out. He said no refunds were issued, and that according to counsel at previous meetings, funds could not legally be refunded per the language of the contract signed. Supervisor Fish said that Mr. Scarincio asked if he could forfeit \$500 of his fee and have the balance applied to future activities as a credit. Attorney O’Hara stated that the State constitution prohibits gifts and according to the terms of the contract Mr. Scarincio agreed to, no refunds were to be issued. Counsel said he understood that refunding the money feels like the right thing to do, but it is in violation of the State constitution based on the terms of the contract. Mr. Scarincio said the Town has always given him a credit and asked why now it’s different. Councilmember Killian asked if something needed to be amended. Counsel advised that you can’t change the constitution, and you can’t change the contract after the fact. Councilmember Donohue asked to look at this a different way; the Town entered into a contract to provide playable fields for the tournament, and due to the weather, the Town was unable to do that. Councilmember Stewart said if counsel says the State constitution bars the refund, they are sworn to uphold the constitution, and he did not recall being part of a past conversation to refund fees. He said he would like the Board to direct counsel to look into a way to apply credits or amend the contract in past case law. Councilmember Stewart went on to say his understanding is that to avoid this in the future, the Town needs to amend their contract to be clearer. He apologized and asked for Mr. Scarincio’s patience as he works with counsel to research any way to legally apply a credit.

Resolution 62-2024 A motion was made by Councilmember Stewart, second by Councilmember Killian, to table further discussion on the topic of refunding fees for the rained-out recreation tournament until he can get the final answer.

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

Councilmember Noonan	Aye
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Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

HIGHWAY DEPARTMENT REQUESTS

Resolution 63-2024 A motion was made by Councilmember Stewart, second by Councilmember Donohue, to allocate \$40,000 for the purchase of salt from Morton Salt, Inc. through state contract PC70133 from account DB5142.490.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

Resolution 64-2024 A motion was made by Councilmember Noonan, second by Councilmember Killian, to hire Jordan Green as a Wingman for \$19/hr. following successful completion of a Town physical and background check. Supervisor Fish added this would put another plow truck on the road in bad weather.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

TRANSFER STATION REQUESTS

Resolution 65-2024 A motion was made by Councilmember Stewart, second by Councilmember Donohue, to maintain the \$2 fee for 13-gallon trash bags, and increase 14-32-gallon bags to \$3, with other fees unchanged, to go into effect March 1, 2024.

Discussion: Councilmember Noonan said he always opposes raising resident fees, therefore he said he did not support the motion.

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

Councilmember Noonan	Nay
Councilmember Killian	Aye

Councilmember Stewart Aye
Councilmember Donohue Aye
Supervisor Fish Aye

The motion carried 4:1

Resolution 66-2024 After lengthy discussion about the rationale for raising the fees for carpets/rugs, a motion was made by Councilmember Donohue, second by Councilmember Stewart, to \$.12/sq. ft. for up to 12' x 15' rug/carpets, \$.13 for rugs/carpets larger than 12' x 15', and \$.17/sq. ft. for non-residents.

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

Councilmember Noonan Aye
Councilmember Killian Aye
Councilmember Stewart Aye
Councilmember Donohue Aye
Supervisor Fish Aye

The motion carried 5:0

Discussion: There was discussion about holiday hours at the transfer station. Town Hall has indicated there is a need to publish a consistent schedule so people know when they can visit the Transfer Station. The Transfer Station's schedule had been tied to Town Hall office hours but it was not written. The Transfer Station was scheduled to be closed on 2/19/2024 for Presidents Day, for example. Councilmember Stewart was concerned that some office holidays are days when residents are also off work and would like to visit the Transfer Station. Supervisor Fish offered the day after Thanksgiving as an example, and said being closed those two days would mean heavy visitation Saturday. Superintendent Abrams said the staff asked to keep the facilities open the day after Thanksgiving in 2023 for this reason. No formal action was taken.

RECREATION REQUESTS

Resolution 67-2024 A motion was made by Councilmember Stewart, second by Councilmember Noonan, to authorize the Supervisor to sign the Empire City Soccer contract April 1-November 3, 2024.

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

Councilmember Noonan Aye
Councilmember Killian Aye
Councilmember Stewart Aye
Councilmember Donohue Aye
Supervisor Fish Aye

The motion carried 5:0

Resolution 68-2024 A motion was made by Councilmember Stewart, second by Councilmember Noonan, to authorize the Supervisor to sign a contract with BOCES, whose previous contract had expired December, 2017. The contract would be effective February 14, 2024.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

TOWN CLERK REQUESTS

Resolution 69-2024 A motion was made by Councilmember Stewart, second by Councilmember Killian, to authorize payment of \$40 from account A1410.4 to New York State Town Clerks Association (NYSTCA) for the Town Clerk to attend regional Town Clerk training in Saratoga March 10-11.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

SOUTH GLENS FALLS FIRE CO.

Discussion: The Fire Department received their Town contract January 23, and met with Councilmember Stewart earlier the day of the meeting. They asked to table the signing of the contract for two weeks so the Fire Department can work out contractual issues with the Village of South Glens Falls.

Resolution 70-2024 A motion was made by Councilmember Stewart, second by Councilmember Donohue, to postpone signing the Fire Department contract for two weeks.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

LOCAL LAW 2 OF 2024

The Town Clerk read an email from Zoning Administrator, Jim Martin, explaining his rationale for updating zoning at this time.

“Thanks for including me on these deliberations – it is most helpful in my provision of answers and hopefully constructive guidance as you work your way through this consideration of a moratorium. Now on to the question posed to me: “Could you provide what issues you see in the commercial zoning that would require asking for a moratorium that couldn’t just be handled by looking at that zoning?”

The basis for my recommendation to include the commercially zoned parcels of the Town as well is based upon the same deficiencies noted with the industrially zoned parcels. The commercial districts within the current zoning chapter are chronically outdated. This is particularly the case with the changes in commercial land use development over the last – I’ll say 10 years. “Brick and mortar” retail has changed completely with the onset of online consumerism. The evidence exists with the very apparent and noticeable downturn in “big box” retail development, indoor malls, even commercial strip centers with small footprint connected retail stores. In addition to being out of step with the current trends in commercial development, the current use schedules for the commercial districts are out of date, overly broad and generalized, and poorly defined – if there any definition at all. The most glaring example rests with the term “businesses which primarily service highway traffic” which is the first use listed in the most intense commercial district, the General Commercial (C-1) District. This is a broadly generalized term and to make the matter worse, the term is not defined in the zoning chapter. This creates ambiguity and increases the risk of undesirable and /or incompatible uses occurring. The use schedules of the commercial districts need to be rebuilt based upon the existing condition and the planned initiatives as reflected in the adopted comprehensive plan. As I said earlier, the adopted comprehensive plan is the best resource for guidance to update the zoning chapter as the plan reflects the sentiments of the residents.

Additionally, new consideration of commercial zoning through updated use schedules and definitions would require a new round of public input allowing for direct resident involvement in structuring new districts. In summary, the degree of land use regulation under the current zoning chapter increasingly allows for the continuation and proliferation of land uses that are out-of-step with the adopted comprehensive plan and they do not reflect the current trends in commercial and industrial development.

An item for further consideration of a revised zoning chapter rests with the fiscal implications of the land use and how land uses are managed through zoning – particularly commercial and industrial land uses. My reason for this statement is explained as follows: If the real property tax system that primarily supports municipal government and public-school districts is to function and be effective as intended, then industrially commercially zoned parcels must operate at levels which maximize valuation. It is very important to bear in mind that residential development does not grow the “tax base”. Numerous studies of delivering the cost of municipal and public education services (I have performed such analyses directly myself) demonstrate that on average the residential parcel requires a \$1.30 in municipal and public education services for each \$1.00 paid in real property tax. Correspondingly, the industrial/commercial parcel requires \$.30 in such services for each \$1.00 paid in real property tax. From an economic and fiscal point of view one can instantly see the need for proportionate balance in the land use pattern of the town. In the ideal scenario, commercial/industrial parcels generate a significant portion, if not the bulk of revenue derived from the real property tax levy. This is accomplished through commercial/industrial parcels with optimal valuation. The associated benefit of commercial/industrial property valuation at optimal levels is the obvious stress taken away from

residential properties to bear the burden of generating sufficient real property tax revenue. Rather the burden shifts to commercial/industrial parcels. The primary method by which a municipality can manage land use and assure that property valuation is in balance and the bulk of the tax levy is not overly borne by the residents is – zoning. An effective and up-to-date set of zoning regulations can directly influence the degree of investment made in commercial/industrial properties thereby directly affecting the level of valuation.

Lastly, based upon my experience with moratoria, over the years both as a municipal planning official and an elected official, they are most effective when they properly constructed to address the broad goal to be achieved. If too narrow in their scope, they are less effective and subject to successful challenge. This was the principal point made by the several attorneys I spoke with the County Planning Conference last week and the other attorneys I have worked with in other municipalities. This was another consideration in my recommendation to broaden the moratorium to include commercially zoned parcels.

In closing, as the Zoning Administrator for the Town and as a certified planner with over 40 years of experience, it is my opinion that a pause of several months or even a year in both the industrial and commercial development would be worth the short-term delay in such development to achieve the adoption of a revised zoning chapter that reflects the sentiment of the residents and the comprehensive plan. Furthermore, from a fiscal and economic perspective, the resulting zoning chapter is likely to have the net effect of bringing about a land use pattern that maximizes return on investment and valuation while achieving provision of services, products and employment that are aligned with the sentiments of the community.

Again, thank you for the opportunity to participate in the discussion – if I can address any further questions, please do not hesitate to reach out.”

Discussion: Supervisor Fish said he would like to put the law on hold for two weeks to allow for review by the environmental lawyer, and based on the feedback earlier in the meeting, he does not want to rush in without a full consideration and review.

Resolution 71-2024 A motion was made by Councilmember Stewart, second by Councilmember Killian, to table the discussion for additional review and public comment.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

PLANNING, ZONING, ETHICS ADVISORY COUNCIL

Resolution 72-2024 A motion was made by Councilmember Noonan, second by Councilmember Killian, to re-appoint Adam Seibold to the Planning Board. His previous term expired December 31, 2023. His new term would expire December 31, 2030.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye
Councilmember Stewart	Abstain
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 4:0

Resolution 73-2024 A motion was made by Councilmember Noonan, second by Councilmember Killian, to re-appoint Scott Fitzsimmons to the Zoning Board of Appeals. His previous term expired December 31, 2023. His new term would expire December 31, 2028.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye
Councilmember Stewart	Abstain
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 4:0

Resolution 74-2024 A motion was made by Councilmember Donohue, second by Councilmember Killian, to designate Kevin Elms as an Alternate to the Planning Board of Appeals effective immediately. The Supervisor said was a long-time member of the Planning Board in the past.

The Supervisor called for a roll call vote. The vote went as follows:

Councilmember Noonan	Nay
Councilmember Killian	Aye
Councilmember Stewart	Abstain
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 3:1

Resolution 75-2024 A motion was made by Councilmember Donohue, second by Councilmember Killian, to reappoint Maria Jennings to the Ethics Advisory Council. Her term will expire December 31, 2024. Her previous term expired in 2020.

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

Councilmember Noonan	Aye
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Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

EMPLOYEE HANDBOOK

Retiree Medicare Reimbursement Rates

Discussion: Principal Account Clerk Cruz advised the Supervisor of a change in the Town Employee Handbook related to retiree benefits. In summary, Supervisor Fish said the difference is approximately \$40,000 a year. The new handbook says retirees *and spouses* are entitled to full Medicare reimbursement, he said, with the difference being between the old rate of \$174/mo. or \$289/quarter, to the new rate of \$524.10/quarter. Councilmember Noonan asked if the thought was to revert back to the rates of the past. Supervisor Fish said retirees were calling looking for Quarter 4 reimbursements for 2023 and he was uncertain whether it was budgeted for in the 2024 budget because the handbook wasn't completed until October. He said we either need to adjust the budget to the new rates or adjust the handbook. Councilmember Stewart asked counsel if the Town was responsible for back payments for Quarter 4 since the handbook was adopted in October. Attorney O'Hara stated that Quarter 4 payments would not be affected, but the Town will be responsible for the new rates for Quarter 1 of 2024. Councilmember Stewart initiated a motion to revert back to the previous rate effective for Quarter 2 of 2024, but Supervisor Fish proposed a second option, which would be to cover the full amount for the retiree but not the spouse.

Resolution 76-2024 A motion was made by Councilmember Stewart, second by Councilmember Killian, to table the discussion on retiree Medicare reimbursement rates until it can be determined what was budgeted for in this area for 2024.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

Employee Meal Breaks

Resolution 77-2024 A motion was made by Councilmember Stewart, second by Councilmember Donohue, to alter the wording of employee handbook section 402 to read, "Meal breaks of Town Hall employees shall be 60 minutes."

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

Councilmember Noonan	Aye
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Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

JOB/VOLUNTEER OPENINGS

Discussion: Supervisor Fish said the Town has a number of openings he hoped residents would step up to fill. He said the Town is currently looking to hire for these positions: Transfer Station Manager, Sand Bar Lifeguards, Seasonal Recreation Laborers, Planning and Zoning Board Secretary. He said there are also vacancies for Alternates for both Planning and Zoning Boards, as well as openings on the Board of Assessment Review and Ethics Advisory Council.

DEC PERMIT FEE

Resolution 78-2024 A motion was made by Councilmember Stewart, second by Councilmember Donohue, to authorize payment of \$110 from A7140.4 for a 2023 NYSDEC permit fee for the construction of the Big Bend Trail. The expense is reimbursable under the Parks grant, according to Supervisor Fish.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

MEMORIALIZE VOTES

Supervisor Fish explained that it has been a long-standing Town practice to address time-sensitive matters between meetings by polling the Board then memorializing the vote at the next Board meeting.

Resolution 79-2024 A motion was made by Councilmember Stewart, second by Councilmember Donohue, to authorize Supervisor Fish to sign the Tabner, Ryan & Keniry legal services contract, which does not require 30 days' notice to terminate.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

Resolution 80-2024 A motion was made by Councilmember Noonan, second by Councilmember Donohue, to authorize payment of a voucher in the amount of \$1600 to pay the Dog Control Officer.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

Resolution 81-2024 A motion was made by Councilmember Noonan, second by Councilmember Stewart, to authorize payment of Town and County taxes in the amount of \$104.63 from account A1620.4 for land gifted to the Town (303-321 Potter Road, parcel 62.1-3).

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

Councilmember Noonan	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

Resolution 82-2024 A motion was made by Councilmember Stewart, second by Councilmember Donohue, to hire Adirondack P&M to replace the gas regulator in the Town Hall heating system for \$2,340 to be paid from account A1620.401.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

SUPERVISOR'S ITEMS

Resolution 83-2024 A motion was made by Councilmember Stewart, second by Councilmember Noonan, to approve new committee assignments as proposed.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye

Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0

COMMITTEE REPORTS

Recreation Committee: Councilmember Stewart reported that the Recreation Department truck has been repaired. He said he and Supervisor Fish had also met with the Big Bend Trail engineers.

PUBLIC COMMENT PERIOD

Paul Itzo said the former Kingsbury Supervisor Bill Nikas spoke earlier and offered an environmental attorney. He said this is the same former Supervisor who authorized the trash burning plant in Hudson Falls. Supervisor Fish shut down further comments about the named individual. Mr. Itzo asked if the Board could not get its own environmental lawyer. Supervisor Fish answered that it is the same lawyer that presented at community meetings in town.

Brigid Martin said in response to the call for residents to apply for Town jobs that she had been “treated like crap.” She warned potential applicants to beware that if the public turns against them, they could lose their jobs. She said she had done nothing wrong as Historian and she was “chased out of the job.” She said the day after the meeting would be General Moreau’s 261st birthday, and that if he had been around to see the NYSDEC public comment hearing the week prior he would have been “disgusted.” She said the comments made there made the Town sound like “a shit hole.” She said State Assemblywoman Carrie Woerner commented that it is a good project but Moreau is not the right location and that Supervisor Fish said it’s not a good project for Moreau. Supervisor Fish attempted to end additional comments from Ms. Martin, but she added that all the Town’s problems that people mentioned at the hearing will exist, including pollution from past decades. She asked what he was going to do about it. She asked what kind of businesses could come in. She then asked if the Medicare retirements reimbursements benefitted spouses who supported Supervisor Fish’s campaign, like Mary Jenkins. Supervisor Fish shut down further comments by Ms. Martin.

Procedural Question: Elizabeth Bennett, Confidential Secretary, asked if a new public hearing would be needed since the Fire Department contract vote had been postponed. Supervisor Fish responded in the affirmative.

Fred Troelstra, who owns the Southwest corner of Rte. 9 and I-87, said he looks forward to developing the property with the Board. He asked if there will be workshops related to the moratorium and new zoning. Councilmember Noonan said he can’t speak for the whole Board but said that’s the direction he hopes they will go. Councilmember Stewart asked counsel the steps that would have taken place if they had taken action on Local Law 2 of 2024. Attorney O’Hara detailed the process which would have included referral to the Town Planning Board, the Town Planning Board would make recommendations to the Town Board, then it would be referred to the County Planning Board before public hearings are held. Mr. Troelstra said he looks forward to more information, and is all for the elimination of split zoning on some parcels, including his.

Bill Nikas said it indicated good judgement that the Board tabled the moratorium after hearing from commercial investors. He added that both versions of Law 2 of 2024 have a provision requiring public hearings and 30 days of consideration. He said there is also a provision in each to exempt or speed the process for projects that would have less impact. He detailed that process and said taking time to craft the law up front will reduce confusion and reduce the need for adjustments later.

Dominic Tom suggested what he called a “cure-all” for future situations like Chris Scarincio’s tournament cancelation. He said there could be a small deposit to cover labor to prepare fields, and the balance could be held in escrow. He said in the event of a rain-out, the Town is not in possession of the funds so no refund would be necessary. The deposit would be forfeited in the event of a rainout. He also asked if the Town has an Ethics Advisory Council. He asked if it was on the website or had been advertised at all because he was not aware of its existence. Confidential Secretary Elizabeth Bennett answered that it is in the Town code. He suggested the Town publicize the body more in the future. He asked if the Transfer Station Manager would replace Highway Superintendent Abrams in that role. He suggested offering the position to one of the long-time employees there who is trustworthy and could be bonded. Lastly, Mr. Tom said that in his past experience, municipalities hold meetings of their various committees that are open to the public at scheduled times, then the committees would report the results of the meetings.

Amy Noonan said she has been a teacher for 17 years, and in that time development has been stagnant. She urged the Board to remember all the children in the community are not college-bound and she hopes there will be better prospects for living wage jobs and career growth for the youth so they can stay here and have a good life. She said things have changed for the youth of today and there are not as many opportunities as there once were.

EXECUTIVE SESSION

No executive session was required.

Resolution 84-2024 A motion was made by Councilmember Donohue, second Councilmember Stewart, to adjourn the meeting.

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

Councilmember Noonan	Aye
Councilmember Killian	Aye
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 5:0 and the meeting was adjourned at 8:45 PM.

Respectfully submitted,

Erin Trombley

Erin Trombley
Town Clerk