

*A Town Board Meeting was held at 7:00 PM and a
Public Hearing on a Bakers Falls Solar Moratorium Hardship Waiver was held at 7:01 PM on
July 23, 2024 at the Moreau Municipal Building, 351 Reynolds Road, Moreau, Saratoga County, New York.*

The Town Board meeting and Public Hearing were held in person. The Supervisor called the meeting to order at 7:00 p.m. with an attendance roll call and Pledge of Allegiance.

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

ALSO PRESENT:	Erin Trombley	Town Clerk
	Glen Bruening	Town Attorney
	Elizabeth Bennett	Confidential Secretary

OTHERS PRESENT: Liza Schepps, NEXAMP/Bakers Falls Solar; Leah Murphy; Ben Murphy; Bruce Lant; Maureen Dennis; Ed Petrush, Jr.; Joanne Chaplek; Joe Dannible; *illegible name*

PUBLIC HEARING

Resolution 264-2024 A motion was made by Councilmember Donohue, seconded by Councilmember Noonan, to open the public hearing.

Asked if all were in favor, the responses were as follows:

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

The motion carried:0

PUBLIC COMMENTS

Councilmember Noonan asked the Town Clerk if she had received any comments to add to the record. She said she had received one comment from Ann Purdue. Supervisor Fish asked the Town Clerk to read the comments aloud. She read:

“I don’t believe that the Town Board should waive the moratorium on industrial and manufacturing approvals for this project. We need to let the review of the comprehensive plan and zoning code run its course. It is too early to determine whether a solar power farm would be consistent with the comprehensive plan and zoning code revisions to be adopted by the Town.

Note also that the moratorium is not limited to the disposal or processing of waste or waste materials. It applies to **all** industrial and manufacturing uses.

Meanwhile, the Town Board is also contemplating the adoption of a solar power law that will establish new and additional requirements for large scale projects, such as Baker Falls. The Town Code and Comprehensive Plan presently do not address issues related to large scale solar systems, such as location, area or coverage requirements, abandonment, standards for operations/maintenance plans or decommissioning plans, or security to ensure that the operator performs its obligations and abides by the Code. The proposed local law should address these issues and should apply to Baker Falls.

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I did not vote to approve the site plan as the Planning Board had only drafts of the decommissioning plan and performance bond and I felt that both were deficient. The decommissioning plan did not represent an enforceable agreement signed by the parties. The security for the plan was proposed to be a bond that could expire on 60 days' notice by the insurer and the Town would have no recourse other than to cause operations to cease (if they hadn't already).

This project obtained site plan approval from the Planning Board in May 2022. Since then, the applicant has not submitted site plan mylars to the Building Department for signature by the Planning Board chair and one other Planning Board member. Nor has the applicant submitted a signed performance bond to secure its obligations under the proposed decommissioning plan. It also does not appear that the applicant has undertaken any actual construction activities.

Under the circumstances, it is difficult to believe that the moratorium is the cause of sufficient hardship to warrant a waiver.

I will be unable to attend the public hearing tomorrow and ask that this email be included in the public hearing record.

Thank you for your consideration.”

Liza Schepps addressed the Board to ask if the Public Comment period was the appropriate time to make remarks on behalf of Nexamp/Bakers Falls Solar. Councilmember Noonan said it was a public comment period. Supervisor Fish said he suggested leaving open the hearing for comments until the next meeting. Councilmember Stewart asked for clarification of Ms. Schepps' question. She said she wanted to know if she should speak during the public comments, or during the regular meeting when the Bakers Falls Solar item appears on the agenda. Supervisor Fish said she could speak during the public hearing.

Ms. Schepps introduced herself as the Business Development Manager at Nexamp and said she was there to represent the Bakers Falls Solar Project. She said the company went through the Planning and Town Board approval processes in 2021 and 2022 for a 2.5-Megawatt AC Community Solar Project, said the parcels in question are offset from Farnan Road behind the transmission corridor. She said the site was chosen to preserve Farnan Road frontage for industrial use, and that the Farnan Road property was not suitable for other uses because it is landlocked behind National Grid. After receiving approval, the company began working with utility companies to access the parcels. License and recognition agreements were granted by the utility companies in 2023, she said, following which site plans were developed. She said they were prepared to submit mylars when the moratorium was declared, preventing submission. She continued, saying that the project doesn't involve waste or waste processing, it is subject to the moratorium because of its location in the M1 zoning district. She said that despite proposed Local Law 1 of 2020, which was a proposed Solar law, never passing, the Bakers Falls Solar project adhered to the proposed standards anyway. She said their plans are still fully compliant with the current proposed Solar Law 6 of 2024, including setbacks.

Ms. Schepps continued, explaining that the hardship waiver was not only due to delays in construction. The main reason for the waiver, she said, was the NYSERDA/NY Sun award they received in July 2022 for the project, following Planning Board approval for the project. That funding stipulates that the power needs to be turned on within 30 months of the award, according to Ms. Schepps. January 2025 represents 30 months from the time of the award, she said, adding that there is a potential 6-month extension, pushing back the deadline to July 2025. She said they risk losing the award if they go beyond that date, and that award incentives have been allocated to other projects over the past 2 years, reducing the funds available. On June 25th 118 Megawatts were available for allocation, and she said by the night of the meeting (July 23), only 75 Megawatts remained. She said a Right of Entry had been approved while they worked on agreements with Niagara Mohak/National Grid, and some civil site work. The moratorium stopped any additional work in preparation for the project, she said in

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response to the comments submitted by Ms. Purdue, including submission for a Building Permit or other forms. She offered the Board additional information and said she had documents they could review. Also in response to the comments by Ms. Purdue, she said the decommission plan was approved on May 10, 2022 at the Town Board meeting following a referral by the Planning Board. She said the Town's Engineer specifically reviewed the decommission plan, gave feedback, upon which the company acted and responded, resulting in the engineering firm recommending the project be approved. The Town Board then approved the project, she said. She then thanked the Board for their time.

Supervisor Fish suggested leaving public comments open for additional feedback. Councilmember Stewart said only one comment had been received in opposition, and the applicant had worked for years to get the project underway, including approval from the Town Board. He said he couldn't imagine any remark the Town could receive that would change his mind about the project. He said he was in favor of approving the hardship waiver and that ample time had been allowed for comments. He said he thought it was okay to close public comments. Councilmember Donohue said he agreed, and said the applicant's representative had addressed the concerns raised in the opposition letter the Town received. He, too, said it was okay to close the public hearing. Councilmember Noonan signaled his agreement.

Resolution 265-2024 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue, to close the public hearing.

The responses were recorded in response to a roll call vote:

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

The motion carried 4:0

FUTURE MEETINGS

No future meetings were set.

ACCEPTANCE OF MINUTES

Resolution 266-2024 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue, to accept the bid opening minutes from June 18, the special Board meeting minutes from June 18, Solar Workshop minutes from June 25, and Jacobie Farm PUD minutes from July 1.

Asked if all were in favor, the responses were as follows:

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

The motion carried 4:0

Resolution 267-2024 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue, to accept the July 9 minutes.

Asked if all were in favor, the responses were as follows:

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

The motion carried 4:0

PUBLIC COMMENTS ON AGENDA ITEMS

No comments made.

OLD BUSINESS

Supervisor Fish said that at the last meeting an Eagle Scout project proposed by resident Logan Kibling had been discussed. He said Logan was unable to attend the meeting but wanted to build a pergola, walkway, and landscaping to enhance the Community Garden area at the Town municipal complex. The Supervisor said he had discussed ways the Town could assist in funding the project with Principal Account Clerk Cruz, and funds were available to transfer to the Community Garden fund for this project.

Resolution 267-2024 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue, to approve the transfer of \$2,000 from account A7990.4 for Logan Kibling’s Eagle Scout Project and to authorize the Supervisor to sign the project application.

Discussion:

Councilmember Stewart said he wanted to acknowledge Dan from US Light Energy for reaching out to the Supervisor following the last Board meeting, and helping Logan fund the project. He said he was happy the Town found funds to support Logan’s efforts, but said those funds may not be needed thanks to Dan’s offer to help.

Asked if all were in favor, the responses were as follows:

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

The motion carried 4:0

NEXAMP/BAKERS FALLS SOLAR HARDSHIP WAIVER

Supervisor Fish asked Attorney Bruening to walk the Board through the next steps regarding the hardship waiver. Counsel said the criteria for requesting a waiver was laid out in Local Law 3 of 2024, and that the Board must find three of them before making a determination to grant the waiver by resolution. He offered to read out the three criteria—the first he said this was at least partially addressed by Ms. Schepps’ comments, “failure to grant the waiver for the project will cause the applicant substantial, irrevocable and unnecessary hardship, and that hardship is substantially greater than any harm to the general public welfare resulting from the granting of the waiver.” The second criteria Counsel read was, “the grant of the waiver will clearly have no adverse effects upon any of the Town’s goals and objectives in adopting the moratorium.” He continued, reading the third criteria, which was, “the project is in harmony and consistent with any interim data, recommendations or conclusions that may be drawn from the Town Board’s review and planning effort then in progress.” Attorney Bruening said the Board had to find all three of the criteria true to grant the waiver. He also said the Building,

Planning & Development (BPD) Coordinator Westfall had submitted a memorandum addressing the criteria in mid-July.

Supervisor Fish asked the Board if there was any discussion. Councilmember Stewart said he wished to restate that the applicant had worked through the process for over 2 years, that the Town Board had given their approval prior to the moratorium, and that rights-of-way had been issued. He said he felt they met all three requirements, and asked Counsel to state if he felt otherwise. In lieu of that, Councilmember Stewart said he felt comfortable granting the waiver. Counsel said two minor issues had been raised by BPD Coordinator Westfall: one related to criteria 1) the potential loss of a very significant grant as mentioned by Ms. Schepp, and the other related to criteria 2) the context of the moratorium and focus on the processing and disposal of waste and that the type of project in question is not related to the genesis of the moratorium. Counsel continued, saying that to criteria 3, Mr. Westfall had indicated receptivity to solar uses in the current industrial zone by the Zoning Task Force, the body assembled to examine and propose updates to Town code during the moratorium. Attorney Bruening said that since he was asked, he thought there were sufficient grounds to grant the waiver if the Board wished to do so. The other issue Counsel raised was that the applicant had to agree to an undertaking to cover the Town's cost in entertaining the waiver application. He said he was uncertain whether an undertaking had been agreed to, but said the Town could ask that the applicant agree to cover the cost. Councilmember Stewart said with those issues raised, he had questions related to potential litigation that he felt warranted an attorney/client session prior to the decision. He proposed postponing the decision until after the Executive Session item on the agenda. The Supervisor asked if everyone was okay with that, and there were no objections. Councilmember Stewart apologized to the applicant for the delay.

Ms. Schepp asked if the original document that addressed the three criteria had been distributed for the Board to review, and said she had copies if they were needed. She also said that in the application they explicitly stated they would taken on the financial burden of reviewing the waiver application. She said in emails they asked if there were formal steps they needed to take in the regard, and they had been told they would be billed for it. The Board accepted the copies offered by Ms. Schepp.

BUILDING, PLANNING & DEVELOPMENT

1345 Route 9 PUD

Supervisor Fish said a PUD proposal had been submitted to the Town. He explained that the process for this type of project is first a review by the Town Board, where it may be referred to the Planning Board for review including a public hearing. Following the Planning Board's review, the project comes back to the Town Board for another public hearing. He introduced Joe Dannible, saying he had a presentation for the Board.

Joe. Dannible introduced himself as part of the Environmental Design Partnership, present to represent Schermerhorn Real Estate Holdings. He presented a drawing of the parcel located at 1345 Route 9 and asked for the Board to refer the project to the Planning Board, who he said would give the project a very thorough review. He characterized the project as a mixed-use planned development district including almost 300 multi-family residential units and a small commercial front on Route 9. The project proposes a Town road from Route 9 to access 1/3 to 1/2 of the property. He characterized the commercial site on Rte. 9 as being small and suitable for a coffee shop or small drive thru. Part of the parcel is currently in the C-1 zone, he said, and was larger, consisting of several acres. He said the residential portion of the project would be behind the commercial area, adjacent to the Northway. The plan, he said, would be for the project to connect to public water and sewer with on-site stormwater management in both private and public systems. He introduced Maureen Dennis, also representing Schermerhorn Real Estate Holdings.

Maureen Dennis said Rich Schermerhorn had a conflict but would have loved to attend the meeting. She said he asked her to present this property as an opportunity. She referenced sewer district 1, extension 5 being in need of an influx of money. She said the property in question abuts not only the Northway, but also English Village, and

that when passing by, one might not even notice the property. She said the plan is for it to be similar to Bluebird Village phase 2, which she called 8-plex, 2-bedroom, 1 bath, garden-style apartments. Ms. Dennis said she was sure they were aware that school enrollments are down, and bank interest rates are up, making it difficult for people to obtain mortgages. She said people rent because they can't buy houses, and while she said she knows some people are anti-apartments, businesses won't come if you don't have the population. She described how several housing complexes in Hudson Falls being developed near one another in Hudson Falls resulted in Hannaford, CVS, Rite-Aid, and Wal-Mart opened nearby. She called the potential on Route 9 in Moreau "endless." She reiterated that if you bring people, businesses will follow. She also said Mr. Schermerhorn's properties are meticulously maintained.

Discussion:

Councilmember Noonan raised an issue with the language of a document he received for 1345-1347 Route 9, stating that a purchase agreement had been entered into and the owner of the property, and where Mr. Petrush, the current property owner, had written an authorization for Mr. Schermerhorn to apply for the PUD. Councilmember Noonan said in discussing this with BPD Coordinator Westfall, it was revealed that the Town Code Chapter 149-27 C1 states the POD must be applied for by the owner or owners of the property, and that leases must be held for at least 50 years. The letter from Mr. Petrush, according to Councilmember Noonan, essentially waives his rights to the property, so he asked if this is a way to circumvent the Town code. He asserted that if the letter from Mr. Petrush is considered legally-binding, then the Town Code has no weight.

Attorney Bruening said that to meet the letter of the law, the wording could have been stated that Mr. Petrush "joined" Schermerhorn Residential Holdings in making the application instead of saying he authorized Schermerhorn Residential Holdings to make the application. He continued by asking if Board members would be comfortable interpreting the word "authorize" to mean "join in." Councilmember Noonan said that Mr. Petrush is the only owner. Attorney Bruening said Mr. Petrush entered into a purchase agreement with Schermerhorn Residential Holdings, and that if the agreement was like others he had reviewed, it is structured so that the sale can be completed if the PUD is approved, and if it is not approved, the sale can be canceled. He restated that the issue came down to how the Board wishes to interpret the code.

Mr. Dannible said that there is an issue of control of the property, and that by entering a Purchase Agreement for the land and therefore has control of the property. He also said Mr. Petrush was present at the meeting to represent the project and his wishes to move forward with it. Mr. Dannible said this method of transferring control of property is one he had used in the Town of Moreau for many years with Mr. Schermerhorn and others – that a purchase agreement was entered into and the developer submits the PUD. He said if the process is wrong, he would change it, but it had been a standard practice. Councilmember Noonan said this may be the first time he picked up on the issue, and just because it had been done that way for some time doesn't make it the right way to do it.

Councilmember Stewart said he also saw the grey area in the statute, and said he imagined the law was enacted to prevent someone from proposing a PUD when they saw a "For Sale" sign on a property, without the knowledge or buy-in of the property owner. In this case, he said, there is a purchase agreement and written statement saying the developer is authorized to apply, demonstrating buy-in and transfer of control. He then asked Counsel if the Board passed this project to the Planning Board, could it be made conditional upon making the language of the authorizing statement compliant with Town code? Attorney Bruening said since Mr. Petrush was present that they can ask him on the record if he would modify his statement, or ask for a new written statement. Councilmember Donohue asked if it was as simple as changing one word. Counsel said if the Board wished to interpret the language of the code strictly, which is not required based on the definition of the word "owner," they could ask Mr. Petrush to make a statement joining Mr. Schermerhorn in making the PUD application.

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Ed Petrush said he had owned the property in question for 40 years. He said he has the deeds to the land, and a contract with Rich Schermerhorn. He said he had received a call from his attorney that day and had to go to their office in Lake George to sign the agreement in question so he could go before the Board having given his formal approval. He said he was there to say they have his approval to do what they need to do. He added he had been paying taxes on the parcel for 40 years, and currently he said he paid \$7,000 a year to “watch trees grow.” Supervisor Fish asked if the statement they received was written by Mr. Petrush’s lawyer. Mr. Petrush said the lawyer told him all he needed was a statement giving Schermerhorn permission to go ahead.

Councilmember Noonan said it appeared the majority were comfortable moving on from the ownership issue, and that the Board referral to the Planning Board was a formality in the process, that the statute says they “shall” refer, which he said doesn’t mean they must, but that they always had in the past. He said as the longest-serving Board member, the Board had worked hard to develop the Route 9 corridor for commercial use. He asked of the total 32+ acres, how many acres would not be used for apartments. Mr. Dannible said 10-12 acres would be for commercial use. Mr. Noonan asked if it was adjacent to two other vacant parcels that could potentially be developed for commercial use. He said he opposed 300 apartments going into the C1 district. He said they should let the Planning Board take it from there, with more time to thoroughly look at the project. Councilmember Donohue said he recommended referral to the Planning Board. Councilmember Stewart also said they should refer the project to the Planning Board.

Resolution 268-2024 A motion was made by Councilmember Donohue, seconded by Councilmember Stewart, to refer the 1345 Route 9 PUD to the Planning Board.

The responses were recorded in response to a roll call vote:

Councilmember Noonan	No
Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 3:1

532 Selfridge Road Zoning Request

Supervisor Fish explained that the process of making a zoning change included a public hearing. He asked the Town Clerk to read a prepared resolution. She read:

“RESOLUTION SCHEDULING PUBLIC HEARING ON APPLICATION FOR A ZONING CHANGE OF PARCEL 77.-1-27.1 AT 532A SELFRIDGE ROAD, TOWN OF MOREAU

WHEREAS, by letter dated July 15, 2024, the owners of 532A Selfridge Road in the Town of Moreau have requested that the Town Board approve a zoning change of their parcel, No. 77.-1-27.1, from R-2 – One- and Two-Family Residential Districts to R-5 – Agriculture and One-Family Residential Districts; and

WHEREAS, pursuant to Moreau Town Code § 149-87, the Town Board must hold a public hearing on the proposed zoning change, and the proposed zoning change must first be referred to the Moreau Town Planning Board for a report prior to the public hearing; and

WHEREAS, pursuant to Moreau Town code § 149-88 and General Municipal Law §§ 239-l and 239-m, such amendment must first be referred to the Saratoga County Planning Board for review and comment.

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NOW, THEREFORE, BE IT RESOLVED, that in accordance with the State Environmental Quality Review Act, the Moreau Town Board shall serve as Lead Agency for the review of the proposed zoning change and classifies the action as an Unlisted Action; and be it

FURTHER RESOLVED, that the Moreau Town Board shall meet and hold a public hearing beginning at the Moreau Town Hall, 351 Reynolds Road, Moreau, New York 12828, beginning at 7:01 p.m. on Tuesday, August 27, 2024 to hear all interested persons on the proposed zoning change; and be it

FURTHER RESOLVED, that the Town Board further authorizes and directs the Moreau Town Clerk to publish a Notice of Public Hearing concerning the proposed zoning change in the manner provided by law and to make a copy of the Notice of Public Hearing and the request for the zoning change available for public inspection in the Town Clerk's office and on the Town's website; and be it.

FURTHER RESOLVED, that the Town Board further authorizes and directs the Town Clerk to make the referrals of the request for the zoning change, along with the Notice of Public Hearing, as may be required by State and Local Laws, including notice and referral to the Town of Moreau Planning Board, the Saratoga County Planning Board and any municipalities within 500 feet of properties that would be impacted by the proposed zoning change.”

Resolution 269-2024 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue, to accept the resolution to set a public hearing regarding proposed zoning changes at 532A Selfridge Road for 7:01 p.m. on August 27, 2024.

Asked if all were in favor, the responses were as follows:

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

The motion carried 4:0

NYS OPRHP EPF Grant Application

Supervisor Fish said the Building, Planning and Development (BPD) Coordinator Josh Westfall was in the process of applying for a grant from New York State Office of Parks, Recreation, and Historic Preservation for an access road from Fort Edward Road into the Harry J. Betar Jr. Recreational Park. He asked Attorney Bruening to walk the Board through the process of completing the environmental assessment. Counsel said each Board member should have had a copy of the Short Environmental Assessment Form Part 1 which had been completed by BPD Coordinator Westfall following the Board's instructions to him to pursue a grant from NYS OPRHP at the last meeting. In the Part 1 form, Mr. Westfall had stated that the Town Master Plan, Trails Master Plan, Comprehensive Plan, and Recreation Plan all support the proposed project, which is an access road from Fort Edward Road into the Betar Rec. Park, and what potential environmental effects there may be as a result of the project. Counsel said next the Board should complete Part 2, the environmental impact assessment, and Part 3, the determination of significance. He then suggested he read the statements in part 2, to which the Board may respond, and counsel said he would record the consensus.

In response to each question of Part 2, the Board responded “no” or “No or small impact.” To Part 3, the Board selected the box that states the project will not result in significant adverse impacts to the environment. Attorney Bruening then recommended that the Board pass a resolution to accept that determination.

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Resolution 270-2024 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue, to accept the determination that no significant adverse environmental impact will result from the proposed project.

Asked if all were in favor, the responses were as follows:

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

The motion carried 4:0

Counsel noted that if planning documents used in reference to the current project are over 5 years old, the Board must re-affirm that portion of the plan in relation to the project per resolution. In so doing, he explained, it makes it clear to the Office of Parks that the current Board still supports and considers the document relevant to the current project. Supervisor Fish asked the Town Clerk to read a prepared resolution. She read:

**“RESOLUTION AUTHORIZING THE SUBMISSION OF A GRANT APPLICATION TO
THE OFFICE OF PARKS, RECREATION AND HISTORIC PRESERVATION**

WHEREAS, the Town of Moreau 2021 Town Trails Plan, 2019 Town Comprehensive Plan, and 2020 5-year Recreation Plan envision improvements to parks and recreation in the Town ; and

WHEREAS, specific improvements identified in said Plans include the need for alternate vehicular and pedestrian connections at the Harry J. Betar, Jr. Recreational Park to Fort Edward Road as well as additional internal trails and connections thereto (the Project); and

WHEREAS, funding may be available for the Project from the New York State Office of Parks, Recreation and Historic Preservation as part of the 2024 Consolidated Funding Application, and such application must include a resolution of the Town Board reaffirming the Comprehensive Plan (because it was adopted more than five years ago) as it relates to support for the Project; and

WHEREAS, in accordance with the State Environmental Quality Review Act, the Moreau Town Board served as Lead Agency for the review of the Project, classified the Project as an unlisted action, completed an environmental assessment of the Project, and determined that the Project will not result in any significant adverse environmental impacts.

NOW, THEREFORE, BE IT RESOLVED, that the Moreau Town Board authorizes the submission of an application for Project funding to the Office of Parks, Recreation and Historic Preservation; and be it

FURTHER RESOLVED, that the Town Board reaffirms those portions of the Town of Moreau Comprehensive Plan, adopted by Resolution of the Town Board dated April 9, 2019, which provide support for the Project.”

Resolution 271-2024 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue, to approve the resolution as read.

Asked if all were in favor, the responses were as follows:

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

The motion carried 4:0

HYDRANT VALVE USAGE FORM

Supervisor Fish said this topic came up as it came to light that contractors were connecting to Town hydrants without authorization. He said the Town Clerk’s Office and Water Department worked together to develop a process that works to ensure everything is done correctly going forward. He said sometimes they connect without backflow preventers or meters because someone at a school or elsewhere told them it was ok, but it was not. He explained that the new form incorporates the consolidated water district rate of \$2.60/thousand gallons and the new process will be that someone applies to connect to a hydrant with \$260 for up to 100,000 gallons of potential use. A Town water employee will then go out and connect a backflow preventer and meter, he said, and when the use is complete, the Town will read the meter and determine whether they have exceeded 100,000 gallons. The user will then pay for any additional water use, he said.

Resolution 272-2024 A motion was made by Councilmember Noonan, seconded by Councilmember Stewart, to approve a \$260 flat fee for hydrant connection plus \$2.60 per thousand gallons over 100,000 gallons.

Discussion:

Councilmember Noonan asked if a meter was hooked up for the project underway at the high school. Supervisor Fish said yes, that they had not been, and had been using the Tanglewood hydrant because someone said they could, but someone heard about it and informed the contractor they needed to pay for use, so he said they applied and paid for three different hookups they had used at a rate of \$250 each, since that was the established rate at the time.

Asked if all were in favor, the responses were as follows:

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

The motion carried 4:0

AUTHORIZE LITIGATION

Supervisor Fish said the Code Enforcement Officer has worked in conjunction with the Town’s attorney to get things cleaned up in the Town and he said the Town had been advised to take things to the next level through the use of litigation. He said the property at 172 Redmond Road had been cleaned up. He asked the Town Clerk to read a prepared resolution. She read:

**“RESOLUTION AUTHORIZING LITIGATION AGAINST THE OWNER OF REAL PROPERTY
LOCATED AT 174 BUTLER ROAD, TOWN OF MOREAU AND ALL THE REAL PROPERTY
LOCATED ON CARMELLA DRIVE IN THE TOWN OF MOREAU**

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WHEREAS, the same person owns the property located at 174 Butler Road in the Town of Moreau and also all the property located on Carmella Drive; and

WHEREAS, there is substantial Town Code and New York State Property Maintenance violations on these properties; and

WHEREAS, the town has commenced litigation in Town Justice Court which has not resulted in any remediation; and

WHEREAS, the Town would like to pursue litigation in Saratoga County Justice Court;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The Town Board authorizes the commencement of litigation in Saratoga County Supreme Court against the owner of 174 Butler Road and the properties on Carmella Drive in the Town of Moreau for the Town Code and New York State Property Maintenance violations.
2. The Town Board authorizes Town Counsel to withdraw the litigation in Town Justice Court.
3. The Town Supervisor, Tow Clerk, Town Attorney and any other necessary Town Officials are authorized and directed to take all actions necessary to effectuate the intent of this resolution.
4. This Resolution shall take effect immediately.”

Resolution 273-2024 A motion was made by Councilmember Noonan, seconded by Councilmember Stewart, to accept the resolution as read.

Asked if all were in favor, the responses were as follows:

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

The motion carried 4:0

PUBLIC COMMENT PERIOD

Joanne Chaplek said the issue she wanted to raise was that there is no permit process in the Town of Moreau. She said workers had put out markers in her neighborhood the week before the meeting. She said she didn't know what they were working on. She said she happened to be home so when workers were working on big tubes sticking out of the ground so she asked one of the workers what they were doing and he said they were installing fiber optic cables for a company called Flash Cable Services who intends to compete with Spectrum, whose cables are on telephone poles. She said they told her they were going to install boxes over the cables, and said in the case of one neighbor who is elderly but takes pride in her yard and garden, the installers placed a box right next to the woman's garden. She said nobody asked where they wanted them or told them what they were doing.

She said she had called the Town as they were working and spoke to someone. She said she understands there is a right of way that extends onto private property for utilities, but she said it extends well into her yard and they could have placed the box anywhere if she hadn't been there to tell them where she wanted it, which was between her mailbox and that of a neighbor whose box is close to hers. She said the man she spoke to said Moreau was one of the few municipalities where there is no permitting process to start this type of work. He mentioned Clifton Park, where impacted residents needed to be notified, and Glens Falls, where the company is two months into the feedback part of the permitting process to begin work.

She asked the Board why we do not have a permit process. Supervisor Fish said the procedure currently is that the company opens a Dig Safe ticket, and all the utilities go out and place flags to indicate where their lines are, and this is the only step at this time. He added that this company also spoke to the Highway Department, but there is no permit process. Supervisor Fish said he believes there should be a process so residents know who is coming out and what work is being completed, especially where 2nd party contractors are performing work. He said it was something the Board should look at.

Councilmember Stewart questioned how much say the Board has in the matter because it is a utility right-of-way. He said especially where the municipality has sidewalks to consider, and the area in question in this case has none. He said whoever performed the work had to have gained permission from the utility that holds the right-of-way in addition to opening the Dig Safe ticket, and since the land belongs to the utility, he questioned whether it was even something they could impose a process on. He said he could see a process whereby impacted residents would receive notification, but he said he didn't want to give the Ms. Chaplek false hope that they could dictate where things are placed in the right-of-way and so on. Ms. Chaplek restated that she was told Moreau was among the few without a permit, and that since she happened to be home, she was able to influence where the box was placed.

SUPERVISOR'S ITEMS

Supervisor Fish said that on April 27, 2021 the Town Board approved water connection fees. He said back then Town employees completed the work, but then when there was only one employee, that practice was discontinued. He said now that there are two employees again, he would like to save the taxpayers some money by having the work completed by employees again, rather than outside contractors.

Resolution 274-2024 A motion was made by Councilmember Donohue, seconded by Councilmember Stewart, to reinstate April 27, 2021 water connection fees with one change, that the capacity fee be updated to \$2,000 per EDU.

Asked if all were in favor, the responses were as follows:

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

The motion carried 4:0

Supervisor Fish announced that the Highway Department was scheduled to install 36" culvert pipe on Clark Road near Fortsville Road, pending weather conditions, for three to four days beginning August 5. Clark Road will be closed from Selfridge Road to Fortsville Road for the duration of the project, he said, and for those that normally use this part of the road, the Supervisor asked that people use Hatchery Road as a detour. All homes in the impacted area will be accessible from Selfridge Road, he said, except one, that will be accessible from Fortsville Road.

He also announced fiber optic cable work coming to Town, as was discussed in public comments. Later in the meeting Supervisor Fish said his secretary had reached out to the fiber optic cable company and a representative gave his contact information. The Supervisor said his office would reach out to him the day after the meeting.

Supervisor Fish also said he had received a letter a week prior to the meeting from a people on Jan Avenue. He read from the letter where they stated they wished to comment on the condition of the Recreation Park that they

A Town Board Meeting was held at 7:00 PM and a Public Hearing on a Bakers Falls Solar Moratorium Hardship Waiver was held at 7:01 PM on July 23, 2024 at the Moreau Municipal Building, 351 Reynolds Road, Moreau, Saratoga County, New York.

visit multiple times a day with their dog and grandchildren who participate in sports programs. He continued reading as they praised the condition of the fields and trails, and acknowledging the huge undertaking it is for the small grounds and maintenance staff to keep these facilities in good condition, while being friendly and helpful. The letter referenced an additional garbage can added for dog waste bags, and mentioned Bruce and Dave by name, asking that they be acknowledged for their good work. The Supervisor said the letter was signed by Jennifer Rainbow. He said he was happy to know that people in the community notice these kinds of things and really care.

COMMITTEE REPORTS

Councilmember Stewart reported that large tree near Field 3 near Jan Ave. had fallen and destroyed the backstop. A meeting had been pre-scheduled with South Glens Falls Little League the day of the Board Meeting, where they discussed moving forward with potential new fields. He asked for the Board's support for Recreation Director Brogan reaching out for information and quotes from suppliers to replace the fences and directing efforts to Field 3 for repairs. He said he would work with the Supervisor's office to look into whether any of the damage can be covered by insurance.

EXECUTIVE SESSION

Resolution 275-2024 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue, to enter into executive session for the purpose of attorney/client counsel.

Asked if all were in favor, the responses were as follows:

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

The motion carried 4:0

Following executive session, Supervisor Fish stated that no action had been taken.

BAKERS FALLS SOLAR WAIVER

Resolution 276-2024 A motion was made by Councilmember Stewart, seconded by Councilmember Noonan, to approve the Nexamp/Bakers Falls Solar hardship waiver, with the resolution to be read by the Town Clerk.

The Town Clerk read:

“RESOLUTION GRANTING A WAIVER TO BAKERS FALLS SOLAR, LLC PURSUANT TO LOCAL LAW NO. 3 OF 2024

WHEREAS, following completion of review under the State Environmental Quality Review Act, and approval by the Town Board of a Decommissioning Plan and Bond, the Site Plan Review Application of Bakers Falls Solar, LLC for a ground mounted 2.5 MW AC solar photovoltaic energy system at 11-15 Electric Drive Rear, Town of Moreau SBL 50.-4-26, 50.-4-27 and 50.-4-28 received approval from the Town of Moreau Planning Board on May 16, 2022 with the sole condition that the Decommissioning Bond is in place for the life of the project; and

WHEREAS, while the applicant was completing post-approval work, which includes the ongoing negotiation with the Town of a Consent and Acknowledgment of Easement Agreement, the Town Board adopted Local Law No. 3 of 2024 imposing a temporary moratorium on, among other things, the issuance of any permits or approvals allowing any manufacturing or industrial uses or operations in Moreau’s Industrial/Manufacturing Zones; and

WHEREAS, by letter application dated June 25, 2024, Bakers Falls Solar, LLC and Nexamp submitted an application for a waiver from the temporary moratorium, and on July 23, 2024, the Town Board held a public hearing on the application for the purpose of receiving public comments.

NOW, THEREFORE, BE IT RESOLVED, that upon consideration of the application of Bakers Falls Solar, LLC and Nexamp dated June 25, 2024 for a waiver from the temporary moratorium, the receipt of public comment and the closure of the public hearing, Town Board hereby finds and determines that:

1. Failure to grant a waiver for the project will cause the applicant substantial, irrevocable and unnecessary hardship, notably the potential loss of \$797,035.20 in funding awarded by the New York State Energy Research and Development Authority through the NY-Sun initiative following Planning Board approval, which hardship is substantially greater than any harm to the general public welfare resulting from the granting of the waiver; and
2. The grant of the waiver will clearly have no adverse effects upon any of the Town’s goals or objectives in adopting the moratorium, notably the focus on the disposal or processing of waste or waste material; and
3. The project is in harmony and consistent with any interim data or recommendations or conclusions that may be drawn from the Town Board’s review and planning effort then in progress, notably the Task Force’s preliminary receptivity to continuing solar uses in the M1 Zoning District; and be it

FURTHER RESOLVED, that the waiver application of Bakers Falls Solar, LLC and Nexamp dated June 25, 2024 is hereby granted with the condition that it conclude negotiations on and enter into a Consent and Acknowledgment of Easement Agreement acceptable to the Town, and reimburse the Town for all its costs related to review of the waiver application.”

Asked if all were in favor, the responses were as follows:

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

The motion carried 4:0

ADJOURNMENT

Resolution 277-2024 A motion was made by Councilmember Stewart, seconded by Councilmember Donohue, to adjourn the meeting.

Asked if all were in favor, the responses were as follows:

Councilmember Noonan	Aye
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A Town Board Meeting was held at 7:00 PM and a Public Hearing on a Bakers Falls Solar Moratorium Hardship Waiver was held at 7:01 PM on July 23, 2024 at the Moreau Municipal Building, 351 Reynolds Road, Moreau, Saratoga County, New York.

Councilmember Stewart	Aye
Councilmember Donohue	Aye
Supervisor Fish	Aye

The motion carried 4:0. The meeting was adjourned at 8:50 p.m.

Respectfully submitted,
Erin Trombley
Erin Trombley, Town Clerk