

A Public Hearing was held by the Town Board of the Town of Moreau on January 13, 2009 in the Town of Moreau Office, 61 Hudson Street, South Glens Falls, New York, for the purpose of considering the adoption of Local Law No. 1 of 2009, which if adopted would extend the moratorium on the installation, operation or use of outdoor wood burning furnaces for an additional 120 day period.

Supervisor Jenkins opened the Public Hearing at 6:40 p.m.

The Town Clerk called the roll, which resulted in the following Town Board Members being present or absent:

Town Board Members Present:

Tom Cumm	Councilman
Bob Prendergast	Councilman
Gina LeClair	Councilwoman
Todd Kusnierz	Councilman
Preston Jenkins	Supervisor

Town Board Members Absent:

None

Also Present: Jeanne Fleury, Town Clerk; Alex Nunes, Post Star Reporter; Town Residents: Adele Kurtz, Laurie LaFond, Ramona Bearor, Shannon Kenny, David Towne; Vince Sporrer and Bob Kory, Town Residents entered the Public Hearing at 6:50 p.m.; Jeff McCabe, Town Justice and Mike Shaver, Water Superintendent entered the Public Hearing at 6:55 p.m. and Peggy Jenkins, Assessor entered the Public Hearing at 6:57 p.m.

Supervisor Jenkins led the Pledge of Allegiance.

The following Notice of Public Hearing appeared in the legal ad section of the Post Star on January 8, 2009:

TOWN OF MOREAU
 NOTICE OF PUBLIC HEARING
 TO CONSIDER ADOPTION OF A LOCAL LAW
 EXTENDING THE MORATORIUM ON THE
 INSTALLATION, USE OR OPERATION OF OUTDOOR
 WOODBURNING FURNACES

NOTICE IS HEREBY GIVEN pursuant to Section 20 of the Municipal Home Rule Law of the State of New York, that a public hearing will be held by the Town Board of the Town of Moreau on Tuesday, January 13, 2009 at 6:40 p.m. at the Town Hall, located at 61 Hudson Street, South Glens Falls, New York for the purpose of considering the adoption of Local Law No. 1 of 2009. If adopted, Local Law No. 1 of 2009 would extend the moratorium on the installation, operation or use of outdoor wood burning furnaces contained in Chapter 75 of the Moreau Town Code to for a period of one hundred twenty (120) days. In addition, under the moratorium, no permits shall be issued by the Town for the installation, use or operation of outdoor wood burning furnaces in the Town of Moreau. The local law includes a mechanism for property owners in the R-5 Zone to request a variance from the moratorium from the Town Board. Written comments on Local Law No. 1 of 2009 may be submitted to the Town Clerk. A copy of proposed Local Law No. 1 of 2009 can be obtained at the Moreau Town Hall.

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Jeanne M. Fleury Town Clerk
Published: January 8, 2009

Supervisor Jenkins gave a brief overview of what the Public Hearing was for. He then asked if any of the Board Members had anything to say. There was no response. He then asked if anyone from the public wanted to speak.

Adele Kurtz stated that when the Board held their Public Hearing on the first moratorium several Board Members were of the opinion that it wouldn't take 120 days to draft and adopt a law. She asked the Board if they foresaw it taking another 120 days to adopt a law.

Supervisor Jenkins replied to this saying that he would like to think that they could come to some sort of agreement before the 120 day moratorium is up. He planned to listen to comments at this Public Hearing and then hopefully the Board will schedule a workshop relatively soon to work on draft legislation and then schedule another Public Hearing on the proposed legislation.

Adele Kurtz expressed concern over the fact that the Board has held four or five workshops and three Public Hearings and effectively the Town has banned units from being installed at this point all the way through January. She asked if there was relief for those who want to install them during this heating season.

Supervisor Jenkins stated that if the Board wanted to they could approve a change to include Zones 3 and 4.

Adele Kurtz stated again that she doesn't have a personal interest in these units, but she hoped if the Board was going to consider a total ban they would put that proposed legislation before the people and vote on it. If this is the Board's intent then they should do this rather than wasting the public's time on hearings.

Councilman Cumm stated that if the changes he would like to see made are in the law then he isn't for a total ban. This is his position now after spending many hours this past week talking to every manufacturer and distributor in the area. He hasn't reversed his decision on a total outright ban, but he has modified it considering the new technology out there today. A law with Zones R3, 4 and 5 is the basic stepping stone for what he would like to see in legislation with a couple of modifications, i.e., the EPA approved Phase 2 units and something on stack heights. Even the setback requirements under the EPA guidelines don't have to be so stringent.

In response to a question from Adele Kurtz, Councilman Cumm advised that he spoke with the EPA in Washington and NYC and they were very non-committal on anything. They indicated that there is a nine out of ten chance that legislation would come from State DEC rather than from them and they hoped it would be in place in a year or two. As it stands right now he would vote for a law that has the EPA approved Phase 2 units in it and we don't need the setbacks that are in our draft law right now if they are the Phase 2 EPA approved units.

Councilman Kusnierz stated he thought their goal was to regulate all outdoor wood burning furnaces and Supervisor Jenkins replied it is.

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Councilman Kusnierz asked what we are going to do about the others and Supervisor Jenkins replied that they are in projected, non-approved areas.

Supervisor Jenkins stated that the law should read that if they are in existence they can remain. If they have to be replaced then they have to replace them with approved units.

Councilman Cumm asked if they would be subject to removal at some time.

Supervisor Jenkins said not by this law. It doesn't mean that the Board of Health couldn't consider this option if they are creating a health hazard, otherwise they wouldn't be disturbed until they have to be replaced and then they would have to be replaced with a Phase 2 unit and meet code at that time.

Adele Kurtz asked how the Board would address the EPA's phasing out of the Phase 1 units. There are certain units that lost their Phase 1 qualifying standard as of December 2008. There are certain ones qualified under Phase 2 until 2010 and under the partnership agreement there are criteria in which those qualified units could lose their qualifying status at any point. If the proposed legislation requires it be a qualifying unit then how will the Board make it simple enough for the average person to understand what is permitted and what isn't? Quote: "It is kind of like a moving target."

Councilman Prendergast stated she was right, it is extremely difficult. At the time of installation if they meet qualifications at that time they will be allowed in.

Councilman Kusnierz stated they were getting ahead of themselves.

Councilman Prendergast agreed. He stated that he was glad to hear these comments, but they will go through all this at the workshop.

Adele Kurtz stated that she understood this, but it is important to note that the Board is extending the moratorium that is effectively a ban. The Public should know where the Board is headed and the Board shouldn't just extend the moratorium continuously.

Councilman Kusnierz noted that the Board can't legally keep extending a moratorium without showing that they are constructively progressing towards legislation.

Supervisor Jenkins stated that DEC could override what we have as a law.

Councilwoman LeClair stated that NESCAUM told her that Massachusetts has regulated statewide that only the sale of Phase 2 units shall take place. NESCAUM's model rule does not include any provision to pull out Phase 1 units.

Shannon Kenny asked if anybody has a Phase 2 unit in place for the Board to see how they operate. When her neighbor put in his years ago it was supposed to be efficient and not smoke and

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yet years down the road they see a difference. Does anybody know if they are really up to the standards of the EPA? The answer to this was no.

Supervisor Jenkins stated the Phase 2 units burn at 87% efficiency and re-burn particles that would normally be released into the air. He still wouldn't like to see them in densely populated areas.

Ramona Bearor applauded the Board for trying to extend the moratorium while they work on a law to enact. She likes seeing dissention on the board and difference of opinions. Then people get into it more and learn more and it ends up to the public's advantage, because people are more educated and know more about the issue. She would like to see this put to bed tomorrow, but she thinks that the time spent is well spent and she appreciates it on all their behalf.

Supervisor Jenkins asked if anyone else wanted to be heard and there was no response.

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair to close the Public Hearing at 6:58 p.m.

Roll call vote resulted as follows:

Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes
Supervisor Jenkins	Yes

Respectfully submitted,

Jeanne Fleury
Town Clerk