

A regular meeting of the Town Board of the Town of Moreau was held on January 27, 2009 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

Supervisor Jenkins called the meeting to order at 7:00 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

Town Board Members Absent:

None

Also Present: Jeanne Fleury, Town Clerk; Mike Shaver, Water Superintendent; Peggy Jenkins, Assessor; Jeff McCabe, Town Justice; Steve Gram, Recreation Director (arrived at 7:17 p.m.); Martin D. Auffredou, Attorney for the Town (arrived at 7:10 p.m.); Joe Patricke, Building Inspector/Code Enforcement Officer (arrived at 7:25 p.m.); Elizabeth Lanfear, Recreation Commission Member and Town Resident (arrived at 7:28 p.m.); Tim Burley from Burley & Guminiak, Engineer for the Town; Tony LoCascio representing the Michael's Group and their attorney, Andy Brick; Mike Laney, Town of Moreau Recreation Department Employee; Tucker C. Stanclift, Attorney; Harry G. Gutheil, Jr., Village Resident; Vince Sporrer, Town Resident

Supervisor Jenkins led the Pledge of Allegiance.

MINUTES:

Two sets of minutes from January 13th meetings were presented to the Town Board in advance of this meeting for their review comment and correct.

MINUTES – JANUARY 13, 2009 – PUBLIC HEARING – LOCAL LAW NO. 1 OF 2009:

No comments or corrections.

MINUTES – JANUARY 13, 2009 – REGULAR TOWN BOARD MEETING:

No comments or corrections.

A motion was made by Councilwoman LeClair and seconded by Councilman Prendergast to approve both sets of minutes dated January 13, 2009 as prepared.

Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes to the Public Hearing Minutes & Abstain from the Regular Meeting Minutes
Councilman Cumm	Yes

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Supervisor Jenkins Yes

SET FUTURE MEETINGS/WORKSHOPS:

Supervisor Jenkins said he wanted to set a public hearing on the proposed Outdoor Wood Burning Furnaces Law for February 10, 2009 at 6:45 p.m. and he asked if that date and time was okay with the Board Members.

The Town Clerk asked if this was a public hearing on a local law and Supervisor Jenkins said yes, Local Law No. 2 of 2009.

The Town Clerk asked if they had the documents for this and Councilman Kusnierz asked if they had a new draft with the changes made from the last meeting.

Councilman Cumm stated they were put in the Town Board's mailboxes today and the Board Members and Supervisor and Town Clerk said they didn't receive them.

Councilman Kusnierz said if they are having a public hearing they should know what they are having the hearing on.

Supervisor Jenkins said the Board would have the information ten days before the hearing.

Councilman Cumm asked that they hold off having the public hearing until everybody has had chance to review it and submit their responses.

Supervisor Jenkins said they could hold off and schedule the public hearing at the February 10th Town Board Meeting.

15 MINUTE PUBLIC COMMENT PERIOD:

Vince Sporrer received information on the budget from the Supervisor. He reviewed it and stated it appears that the increase in expenditures is about 7% to 8%. It also appears to him that the unexpended 2008 Budget was \$1,845,000.00 and this amount was used to come up with a 51% reduction for 2009.

Supervisor Jenkins said that amount had no impact on that. That money went back into fund balance. We actually used less fund balance to reduce the taxes than in 2008.

Vince Sporrer asked how they reduced the rate by half and Supervisor Jenkins said they used some fund balance.

Vince Sporrer asked him to explain fund balance and Supervisor Jenkins said it is the Town's investments.

Vince Sporrer asked if he was correct in that they used \$1.7 million of the fund balance and applied it to the 2009 taxes and Supervisor Jenkins said that was right.

Vince Sporrer asked how much money is in that pool and Supervisor Jenkins replied about \$4.2 million in the general fund.

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Vince Sporrer asked what they planned to do next year.

Supervisor Jenkins stated he hoped they would hold the line.

Vince Sporrer asked when he says "hold the line" does he mean at the reduced rate or go back. According to the information it appears to him that there was an 8% to 9% increase from the 2008 to 2009 Budgets.

Supervisor Jenkins said if he compared it to what they actually spent that isn't true.

Vince Sporrer stated he is concerned that the people are going to be lulled to sleep with this and then next year have the rates gone back up plus another 8%.

Councilman Prendergast agreed with this statement.

Vince Sporrer asked why they decided to use the fund balance.

Supervisor Jenkins told Mr. Sporrer that he didn't have the figures in his head at the meeting, but if he wanted to stop in he would go over all the details with him. He believes that the budget will stay about the same next year.

Vince Sporrer said that sooner or later it will catch up with you unless you get increased revenues.

Councilman Kusnierz answered Mr. Sporrer by saying, that it is an unsustainable budget if we continue this way.

Councilman Prendergast stated that everyday we have to hold the line on the budget. He stressed this at the last meeting too. We have to control spending. If we have controlled spending then the taxes will take care of themselves.

Councilman Kusnierz said that just because the Board has adopted the budget and given it's self the authority to have that money available to spend the Board still has to vote to spend that money that has been authorized. We have to look at every proposal that comes before us and see if there is a way to squeeze it. Everybody wants to make sure we aren't spending additional dollars unless we have to, especially in these hard economic times.

Vince Sporrer said as the Board spends down the fund it has to make sure there is money there in case of a major consequence.

Supervisor Jenkins stated he thought that is part of the plan they are working with.

Supervisor Jenkins asked if there were any other comments from the public. There was no response.

TIM BURLEY – GOVERNMENT STIMULUS PACKAGE WATER/SEWER:

Tim Burley stated that with the Clean Water State Revolving Fund they are looking at \$6 billion. They only offer zero percent loans for thirty years under hardship. If this package goes through it will translate into \$640,000,000 to NYS of which \$320,000,000 will go into grants and zero percent loans. Since he has been doing engineering this is the first time he has seen grant money of this magnitude. In the DWSRF Intended Use Plan (IUP) Moreau scored the 9th highest

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to be funded. He has heard that there is going to be an intermediate award coming out and an additional \$60,000,000 will go into the Clean Water State Revolving Fund. It appears that the Water District 7 Project will get an offer if the additional \$60,000,000 goes into the Clean Water State Revolving Fund. If you have a project then they are encouraging Towns to move forward with environmental reviews and start getting letters to agencies and initiate the process. Final applications have to be in by March 21st. It appears the program will be funded in two rounds. The USDA was here today and looked at the Fortsville Road Project and they may give their own independent offer separate from Water District 7.

In October 2007 he wrote on behalf of the Town to Bill Gilday at NYS DOH and asked if the Town could use unexpended funds from the Water District 6 project for the following:

Water Tanks paved driveways (force account – Town highway)	\$ 7,000.00
Stationary Generator at the control building at existing tank	\$32,000.00
Installation of a on-demand hot water heater in new tank	\$ 2,047.00
Relocate an electrical switch out in the chlorination room (new tank)	\$ 480.00
Construction of a room in base of Nolan Road tank to protect altitude valve	\$ 8,300.00
Final Warranty Tank Coating Inspection Dixon Engineering	\$ 8,200.00

In the letter he also asked Bill Gilday about using any extra funds for soft costs for a redundant water supply connect across the thruway and to the county. DOH did not support this. It was a scoping issue for them. We did not have SEQR down for that area of work.

Bob Knizeck from DEC asked Bill Gilday if the Town had done SEQR would it have been considered eligible for funding and Bill said yes. They are all about redundancy in any regard to components of a water system.

Bob Knizeck is allowing the Town to use the balance of funds with is about \$300,000.00 + if the Town wants to initiate soft costs and design and go as far as possible and use up the GE funds. If that is the direction of the Board he would fund the DOH approved items and use the zero percent loan that is left. There is \$126,000.00 in contingency right now.

He stated his contract is hourly and he would have to do a little bit of design work and a change order and maybe have his guys come down and do the start up.

EFC wants to close out to go to long term financing for Water District 6 in May.

He talked briefly about how there is an opportunity for the Village of South Glens Falls and Town of Moreau to jointly apply for one water service grant. DOH rewards consolidation. There is a chance within the next two months to do a High Priority Planning Grant. It would be 90 cents on the dollar for consolidation efforts and consolidation of services.

Discussion followed on the generator.

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair to modify the engineering agreement with Burley & Guminiak to an amount not to exceed \$ 96,537.50 for engineering services.

Roll call vote resulted as follows:

Councilwoman LeClair	Yes
Councilman Kusnierz	Yes

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Councilman Cumm	Yes
Councilman Prendergast	Yes
Supervisor Jenkins	Yes

WOODSCAPE ROAD DEDICATION:

Attorney Auffredou stated that historically road dedications are an unlisted action under SEQR. A short form EAF has been prepared by the Michael's Group. He wanted to state for the record that road dedications are a very paper intensive process. Attorney Brick who represents the Michael's Group has been very accommodating and all documents have been received satisfactorily. A new letter of credit has been received from First Niagara in favor of the Town to ensure that the top coat is put on the roads in Phase 1 and the estimate has been approved by the Town's engineer. He stated there are three storm water detention areas in Woodscape Phase 2 that the Town is not going to own. The homeowner's association is going to own those. The Town has easements for Town water to drain into them from the Town roads and treated in those areas.

Councilman Cumm asked if the Michael's Group has given the Town a check for all the outstanding bills from EDP.

Attorney Auffredou said he did not know about this.

Councilman Kusnierz asked if the top coat has been put on yet and the answer was no.

Attorney Auffredou said the letter of credit covers that.

Councilman Kusnierz asked if the amount of the letter of credit was enough to cover the work.

Attorney Auffredou replied that it is an amount estimated by the engineer for the Michael's Group and approved by the engineer for the Town and there is a letter of credit from First Niagara in favor of the Town of Moreau securing that for a series of years. He also stated for the record that a new letter of credit has been received from First Niagara in favor of the Town estimated by their engineer and approved by the engineer for the Town for finishing the top court on Phase 1.

Joe Patricke stated that our code doesn't allow the top coat to be put on until 60% of the homes receive certificate of occupancies. In this case the Highway Superintendent didn't want to put the top coat on the roads in Phase 1 until Phase 2 was done. After that time a problem was uncovered with the catch basins in Phase 1 and they are going to be repaired. The mortar in between the top ring on the dry well and the grate has deteriorated and there has been some wash outs. So they have to take the top ring off and re-mortar it and put it back together. The cost of this is covered by the letter of credit.

Councilman Kusnierz asked what the amounts were for the letters of credits.

The answer was: \$111,025.00 for Phase 1 and \$143,585.00 for Phase 2.

Mike Shaver stated that when the Michael's Group was working alongside the roads in the area of the Town's water lines they were digging up frost and backfilling frost. His concern was that in the spring there was going to be a lot of dips and things around the water lines and hydrants.

Tony LoCascio representing the Michael's Group said this wasn't true they were bringing sand in.

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Mike Shaver contradicted Mr. LoCascio and said he was there when they were backfilling frost and asked the Board what they were going to do about it.

Attorney Auffredou asked the representatives from the Michael's Group if there was a representation here tonight that if something goes wrong the Michael's Group will resolve it.

Tony LoCascio said first of all the water lines are five feet down and Niagara Mohawk's lines are four feet down and he doesn't see the problem.

Mike Shaver said it is all loose soil that has been dug up recently and they backfilled with frost and it is going to loosen everything up along the shoulders of the roads.

Attorney Auffredou stated if there are problems with the infrastructure and the Town isn't satisfied the Town can approach the developer and tell them about the problem and tell them they have to address the concern if they want building permits. This is something that can be addressed at the appropriate time.

Joe Patricke said the letter of credit includes funds for restoring the shoulder of the road.

Attorney Auffredou then read the questions in Part 2 of the short form EAF and the Board answered them all "no".

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair declaring a negative declaration under SEQRA.

Roll call vote resulted as follows:

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

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair to accept the offer of road dedication from the Michael's Group, LLC for 1,075 feet +/- of Amber Drive, 2,179 feet +/- of Woodscape Drive and 1,368 feet +/- of Royal Pines Drive in Woodscape Development Phase 2 and all associated infrastructure in the roads including the easements that accompany that and authorize the Supervisor to execute all necessary documents.

Roll call vote resulted as follows:

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

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair to adjourn to executive session at 8:20 p.m. to discuss the employment history/performance of a particular unnamed employee(s).

Roll call vote resulted as follows:

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

The Town Clerk did not sit in on the executive session.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair to adjourn the executive session and re-open the regular meeting at 9:00 p.m.

Roll call vote resulted as follows:

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

No action was taken in or as the result of the executive session.

At this point in the meeting the only persons that remained in the audience was Peggy Jenkins, Assessor; Elizabeth Lanfear, Recreation Commission Member and Town Resident; Jeff McCabe, Town Justice; Steve Gram, Recreation Director.

COURT PURCHASE REQUEST:

On December 1, 2008 the Justice Court received a letter from Vito C. Caruso, Fourth District Administrative Judge, indicating that the Town of Moreau has been awarded a grant under the Justice Court Assistant Program (JCAP) in the amount of \$2,726.94. On January 20, 2009 a check in the same amount was sent to the Town Supervisor. In the grant two desk units were approved for purchase at an amount of \$1,770.00. The Justice Court is requesting approval to purchase these desks. The following quotes were received:

Charlie's Office Furniture	\$1,150.00 includes shipping and set up
Quill	\$1,229.94 shipping additional
Staples	\$1,509.94 free delivery

The Justice Court recommends purchasing the desks from Charlie's Office Furniture. They will deliver for a charge of \$20.00 and set up the desks and remove the old ones at no additional charge.

Councilman Kusnierz suggested that any surplus equipment at the Justice Court should be put out to bid on the Town's website and bids accepted from people interesting in purchasing the surplus equipment and the Board can award the bid to the highest bidder.

Councilman Prendergast stated that there will be money left over from the grant.

Judge McCabe replied yes and with the JCAP grant they can earmark items within that category. If they need more furniture they can use that money to purchase it. If the money isn't used

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within a six month period the State asks that the money be returned. Judge McCabe said they won't squander the money. If it isn't needed it will be returned.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing the purchase of two desks for the Justice Court out of the JCAP Grant from Charlie's Office Furniture at a cost not to exceed \$1,150.00.

Roll call vote resulted as follows:

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

Judge McCabe stated for the record that he expressed an interest in attending the New York State Association of Towns Conference in New York City, but after listening to what Councilman Prendergast and Councilman Kusnierz had to say at the last meeting and what they recited again tonight at this meeting about department heads cutting corners he won't be going to the conference. There are other options that are cheaper for him to pursue for educational training. Therefore, he rescinded his request to go.

Councilman Kusnierz asked Judge McCabe if the Justice Court could provide the Town Board with monthly reports summarizing disposition of cases and revenue.

Judge McCabe said this could be done. He stated that he and Judge Alden are doing between 100 and 120 criminal cases every two weeks. These aren't disposed cases. He had 66 cases last Thursday. Many of them are adjourned from weeks prior. However, when there are 30 disposed there are 30 coming in. They have between 120-130 vehicle and traffic trials the first Wednesday of each month.

WATER SUPERINTENDENT POSITION:

Supervisor Jenkins said he would defer this topic to executive session regarding negotiation with an unnamed person.

PART-TIME CODE ENFORCEMENT OFFICER:

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair authorizing the position of part-time code enforcement officer to be advertised.

Roll call vote resulted as follows:

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

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HIGHWAY DEPARTMENT REQUEST:

The highway department requested permission to have the 1998 Johnston Vacuum Sweeper repaired by Cyncon Equipment at a cost of \$37,400.00. It will be returned in reconditioned shape.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing the repair/reconditioning of the 1998 Johnston Vacuum Sweeper by Cyncon Equipment at a cost not to exceed \$37,400.00.

Roll call vote resulted as follows:

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

At the last meeting the Board authorized the purchase of snow plow shoes from Chemung. When they arrived they weren't the titanium that was requested. What was ordered wasn't in stock so they shipped what they had. In order to get the correct shoes there is a difference in price of around \$380.00.

A motion was made by Councilman Kusnierz and seconded by Councilman Prendergast authorizing an expenditure of up to \$720.00 for nine Ni-Hard Wing Shoes from Northern Supply.

Roll call vote resulted as follows:

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

A request was received from the highway department to purchase 600 tons of winter sand at a cost not to exceed \$3,000.00 out of DB5142.491 that had a balance of \$10,000.00 as of 1/30/09.

The following quotes were:

Cranesville	\$4.99 per ton
Jointa Galusha	\$8.50 per ton
Peckham Industries	\$7.75 per ton

The highway department recommendation is to purchase from Cranenville.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair authorizing the purchase of 600 tons of winter sand from Cranenville at \$4.99 per ton at a cost not to exceed \$3,000.00.

Roll call vote resulted as follows:

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

The Board discussed going out to bid for gasoline and diesel fuel for the highway department. After the last request to purchase gasoline and diesel fuel was made by the highway department the Board wanted the highway department to check prices and compare them with state contract price to make sure state contract is the lowest price. One dealer offered to supply the diesel and gasoline at 3 cents per gallon less than state contract. With the help of the attorney for the Town and the highway superintendent the Town clerk drafted an advertisement for bids.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair authorizing an advertisement for bids to be published in the newspaper.

Discussion followed.

It was concluded that more information was needed on how to advertise this before a notice to bidders was put in the paper.

No action was taken on the motion and second.

RECREATION DEPARTMENT REQUEST:

Steve Gram advised that there was a problem with the plow on the truck in the Rec. Dept. They took it to Arrowhead and they worked on it for an hour and put fluid in it. The fluid kept coming out and the plow kept dropping. They took it back to Arrowhead and were told they don't normally work on Meyer's plows. They said the only place that works on Meyer's plows in the area is Falls Farm and Garden. It was taken to Falls Farm and Garden on a Tuesday to have them look at it and they were asked to give the Town a quote on how much it would cost to repair it. Thursday Falls Farm and Garden called and said it was ready to be picked up. They said it was all rusted inside. They replaced the seal kit, cylinder, pistons, eye bolts, pressure relief valve, oil, filter, top vent valve, ram and, springs and shop supplies at a cost of \$956.99. Steve Gram said he called a couple of Board Members to let them know about this.

Councilwoman LeClair asked if they showed Steve Gram the parts that were broken and Steve Gram replied yes.

Councilman Kusnierz told Steve Gram that the moisture got in the plow unit and rusted it, because it wasn't maintained annually as it should be and this needs to be done. He said a new plow is about \$3,500.00 and this bill is almost a thousand dollars. A little maintenance will go a long way.

A motion was made by Councilman Cumm and seconded by Councilman Kusnierz authorizing the repair to the plow on the Rec. truck by Falls Farm and Garden at a cost not to exceed \$956.99.

Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes

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Councilman Cumm	Yes
Supervisor Jenkins	Yes

Councilman Kusnierz reported that the Recreation Commission had a meeting scheduled for this past Wednesday and a quorum of the commission was not present. The Boy Scouts were present to request that the Town share the cost of port-o-potties during the winter carnival that the Town was hosting at the park the same time the Boy Scouts were hosting a Klondike Derby. Councilman Kusnierz told them that if the Town's function didn't occur the Town wouldn't be splitting the cost. Councilman Kusnierz recommended splitting this cost if the Town function is going on at the same time as the Klondike Derby. The total cost for the rental of the port-o-potties would be about \$240.00 to \$350.00.

A motion was made by Councilman Kusnierz and seconded by Councilman Cumm authorizing the expenditure of up to \$200.00 for the rental of port-o-potties on February 21st for the Winter Carnival/Klondike Derby if the Winter Carnival takes place.

Roll call vote resulted as follows:

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

Councilman Kusnierz stated that the Boy Scouts would also like the Moreau Emergency Squad on-site that day.

The Boy Scouts also asked if they would be required to provide liability insurance and name the Town as additional insured and Councilman Kusnierz told them that they would have to do this.

They also need power at pavilion #2 and they want to know if there is power at #1 and #3. Steve Gram said there was power at #1 and #2 and he could provide them with a generator for pavilion #3.

Steve Gram said that no one is willing to volunteer to come into the park with a snowmobile to pull the groomer to make tracks for x-c ski trails. He wanted to know how much the Town was willing to pay. A Town employee is interested in buying a snowmobile and wants to know how much the Town is willing to pay to have him groom the trails.

Councilman Kusnierz said the only reason he was willing to buy the groomer was because he was told that we had equipment to pull it with and apparently we don't.

Discussion followed.

It was the consensus to offer the employee who is interested in doing this \$20.00 per hour and he would have to use his own equipment.

Supervisor Jenkins asked Steve Gram to run this past the employee.

Attorney Auffredou said the snowmobile would have to be insured.

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Supervisor Jenkins stated that he received a letter from the Cadette Girl Scout Troop #3227. They are willing to improve the sand bar beach to help them earn the Silver Award the highest award they can earn in Girl Scouts.

The Board didn't object to this and Supervisor Jenkins said he would contact them to find out what their plan was.

Elizabeth Lanfear asked if the Board was going to meet jointly with the Recreation Commission.

The next meeting of the Recreation Commission is February 2nd and three members have said they can't attend.

Councilwoman LeClair stated that she would like the Recreation Commission to attend the Town Board Meeting on February 10th when Doug Taylor will be in attendance to give a presentation about the proposed new center.

A joint meeting was not scheduled at this time.

Discussion followed on the basketball program and contracts.

DOG CONTROL OFFICER CONTRACT FOR SERVICES:

Supervisor Jenkins stated that he met with Pete Beames the Town's insurance agent and Pete Beames is convinced more than ever that the Town should insist that Ed Robbins get liability insurance. He currently has insurance through August. Supervisor Jenkins said he wants to know how much Ed Robbins is going to be paid for January since technically the Board hasn't approved anything yet.

Attorney Auffredou stated that Ed Robbins is providing a service and currently has insurance and the previous contract remains in full force and effect. He should be paid for services at the budgeted amount.

Supervisor Jenkins said that is \$1,100.00.

A motion was made by Councilwoman LeClair and seconded by Councilman Prendergast authorizing the payment of \$1,100.00 to Ed Robbins for dog control services for the month of January 2009.

Roll call vote resulted as follows:

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

Supervisor Jenkins said he was confused on the workmen's compensation issue.

Attorney Auffredou said that what he thought Pete Beames was saying was that in the case of an independent contractor who doesn't have liability insurance and makes a claim of injury against the Town they would have a couple of avenues to pursue. What Pete Beames is saying from an insurance perspective is if an independent contractor is not required to have liability

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insurance or indemnify the Town and they get injured and make a claim for workmen's compensation it would give the Workmen's Compensation Board a stronger case to rule in favor of the claimant and against the Town finding there is an employee/employer relationship absent insurance.

Supervisor Jenkins said in his opinion if we filled out the IRS form to determine if he was an employee of the Town and filled out the check list he probably would be an employee.

Councilman Cumm stated it was pretty clear to him that Ed Robbins needs to get liability insurance naming the Town of Moreau as additional insured.

Supervisor Jenkins said the other option was to make him a part-time employee.

Councilman Cumm stated that we would then have to pay social security taxes and all the other taxes that go along with it and would end up paying more than if we paid his insurance.

Councilwoman LeClair said she wasn't willing to take on another employee in these trying times. It is much easier to deal with a contractor than employee issues such as supervision and performance reviews and other problems that come in with an employee. She is more comfortable with him as an independent contractor and she would like to see him have his own insurance. It has nothing to do with him. It has to do with the position. We have given him an 8% raise this year. No other person who contracts or works with the Town has been given that. We should move forward and expect him to carry insurance.

Councilman Kusnierz said he takes exception to the characterization that it is a raise. When we discussed this at budget time the \$100.00 a month was to cover his mileage and he thought the entire Board was in agreement with that figure.

Supervisor Jenkins said there is no question that is what it is for. He is going to Ballston Spa on a regular basis for us so it isn't an 8% raise and the person before wasn't going to Ballston Spa.

Councilwoman LeClair stated that the person before was able to choose whether he went close or not. We hired the person we currently have and he came on knowing he couldn't go to the SPCA.

Supervisor Jenkins said on a night when it is five below zero he actually drives around Town looking for loose dogs and he knocks on doors and asks people to bring their dogs inside or he is going to write them up. Previously we didn't have anybody doing that. He does a great job for us.

Councilwoman LeClair said he is doing a great job.

Supervisor Jenkins stated that he wasn't sure what it would cost him for insurance, but it probably would be around \$800.00 and now he has to file a business type tax return and pay someone to file his return, record keeping functions so potentially we could end up losing him. We received two letters complimenting him.

Councilman Kusnierz said a big issue he has difficulty wrapping his arms around is we have a contract with this individual and it is unique in that it isn't like a contractor we might have come in to modify the bathrooms at Town Hall. It is a contract with someone to provide a service who under the law becomes an officer of the Town. Taking this into consideration it is a whole unique set of circumstances. We can require him to have insurance and that can be debated

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between the attorney for the Town and our insurance rep. and the Town Board as to whether it is necessary or not, but the fact remains he is an officer of the Town when he is sworn in and doing the job and that is something that has to be taken into consideration. To have a contract that is \$12,000.00 and almost 10% going towards insurance doesn't make sense to him. That is his personal thought.

Councilwoman LeClair said as long as Attorney Auffredou and Pete Beames recommend that he has insurance she will never vote against him having insurance. She prefers to take counsels advice.

Councilman Kusnierz said he could support him having insurance, but he preferred it be built into the contract.

Councilwoman LeClair said this takes them back to where we can say we are an employer if we are willing to pay for his insurance.

Attorney Auffredou said as with any independent contract that he is going to draft there is going to be a clause that reads "you are not an employee you are an independent contractor of the Town". As far as the insurance goes you wouldn't recite that in the contract, rather recognition of additional costs built into the contract, but the contractor would be responsible for obtaining and maintaining the insurance throughout the contract.

Councilwoman LeClair asked why this wasn't done with the previous dog control officer.

Attorney Auffredou said it was a little different, because Ed Hazelton had a business.

Supervisor Jenkins added also that he wasn't sure that whole arrangement was proper.

Councilman Cumm stated that as Councilman Kusnierz said he is an officer of the Town yet Attorney Auffredou is saying he is an independent contractor. He asked Attorney Auffredou how he could be both.

Attorney Auffredou replied that it happens all the time. He can be a dog control officer for the Town and independent contractor. He is given certain authority as an independent contractor to work as a Dog Control Officer.

Supervisor Jenkins said he would like to table this for now and get clarification from Pete Beames about the workmen's compensation issue.

This concluded the discussion on the dog control officer contract and insurance.

RE-ZONING COMMITTEE APPOINTMENT:

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair to appoint John Arnold a member of the Re-Zoning Committee.

Roll call vote resulted as follows:

Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Yes
Councilman Kusnierz	Yes

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Supervisor Jenkins Yes

BELL JAR – SOUTH GLENS FALLS FIRE COMPANY:

A motion was made by Councilman Kusnierz and seconded by Councilwoman LeClair authorizing the Supervisor to sign the Findings and Determinations Statement in the Bell Jar Application from the South Glens Falls Fire Company and authorizing the issuance of a the Bell Jar License.

Roll call vote resulted as follows:

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

MOSQUITO DUNKS PURCHASE REQUEST:

The Town Clerk’s Office requested permission to purchase mosquito dunks.

The following quotes were received:

Summit Chemical Company \$70.00 per case of 100 dunks plus s/h
March Biological \$114.00 per Case of 100 dunks plus s/h
Arbico Organics \$3.095 per 20 pack plus s/h

The recommendation from the clerk’s office was to purchase from Summit.

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair authorizing the purchase of mosquito dunks from Summit Chemical at a cost not to exceed \$700.00.

Roll call vote resulted as follows:

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

15 MINUTE PUBLIC COMMENT PERIOD:

No one wished to be heard.

COMMITTEE REPORTS:

Councilman Cumm reported that an emergency repair had to be made to the sander conveyor chain at Arrowhead. The chain came off a 1997 truck. The cost was \$990.15. Two other quotes were received. One was from Timco for \$1,470.00 and the other was from Kaman for \$930.00. Kaman was \$60.00 less but they needed six weeks before delivery. The repair was needed right away.

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Councilman Kusnierz asked the Board if they would be agreeable to having a proclamation prepared and if they would support it honoring Americlean who is one of the first companies in New York State to be awarded the Safety, Health, Achievement, Recognition Program (SHARP) award.

A motion was made by Councilman Kusnierz and seconded by Councilman Prendergast authorizing the Town Clerk to prepare a proclamation and authorizing the Town Supervisor to present the proclamation to Americlean.

Roll call vote resulted as follows:

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

Supervisor Jenkins reported that Washington County has an individual that they want to perform 240 hours of community service at the Town of Moreau Transfer Station on Saturdays by helping people dump their garbage into the compactor. They want to know if the Town Board is agreeable to this.

A motion was made by Councilman Kusnierz and seconded by Councilwoman LeClair authorizing community service to be performed at the Town of Moreau Transfer by assisting users of the Transfer Station in the disposal of their garbage into the compactor.

Roll call vote resulted as follows:

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

Supervisor Jenkins reported that the Board previously approved \$1,657.50 to be paid to C. T. Male for work they did on the gas vents at the landfill. They hired a company to come fix the vents and C. T. Male provided oversight and inspection of the project and money wasn't allocated for this. The cost was \$1,160.00. Authorization is needed for this additional cost that will be paid out of the landfill reserve fund.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing a payment to C. T. Male in the amount of \$1,160.00 for oversight and inspection of gas vent repairs at the Town Landfill.

Roll call vote resulted as follows:

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

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The Town Clerk received and submitted to the Town Board this date a notice from Robert Cirelli by fax of his intent to apply for renewal of his liquor license to sell alcoholic beverages at Luisa's Italian Bistro on Route 9 in Moreau and he also requested a waiver of the 30 day notification period. His license expires January 31st.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing waiver of the 30-day notification period.

Councilman Kusnierz commented that there are five people who work at NYS Liquor Authority that handle the applications for liquor licenses and renewals and they process 50,000 of them. They have a sophisticated computer program that follows up on renewals. Under statute the NYS Liquor Authority has to notify all licensees not less than 60 days before the expiration of their liquor license that it is going to expire, so at some point 60 days prior Mr. Cirelli must have received a notice. Also, do to the fact that the NYS Liquor Authority is backlogged in getting the licenses renewed Luisa's Bistro will be unable to sell alcoholic beverages after the 31st of January. He supports this action by the Town Board, but he doesn't want it construed that he is supporting the continuation of the sale of alcoholic beverages without a proper license. There is a mandatory \$1,000.00 civil penalty if a person lets their license lapse and then they have to agree to a penalty stipulation agreement acknowledging that they exceeded the parameters of their license.

Roll call vote resulted as follows:

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

Attorney Auffredou advised that Joe Patricke had asked him about a Prior Notice of Defects Law and whether or not the Town Board should adopt one. There is a provision in Town Law and Village Law and City Law that reads that a Town, City or Village has an absolute affirmative defense to any claim brought against a Town, City or Village for defects in roads or highways or accumulation of snow or ice, etc... unless a written notice of the defect was provided to the Town Clerk and the Town failed to correct the problem or address the problem within a reasonable amount of time. There is a statute in the NYS Town Law which already provides Town's with that protection. What the Town Law Section says though is that you can get around that prior notice if the Town should have had notice, constructive notice. If the defect has existed for such a lengthy period of time that it is unreasonable for the Town not to have recognized the defect and not to have done something in response to that defect. Then if someone is injured as result of that defect they can get around that prior written notice provision. The State Law provides that Towns can adopt a Local Law that is more restrictive than the State Law and eliminate that constructive notice provision. In the NYS Village Law there isn't a constructive notice provision so villages don't have to adopt a local law to deal with the constructive notice provision. If there is a defect on a highway or roadway that has been around for a while and a person is injured as the result the Town would arguably be on constructive notice of that defect and the Town could be held liable. Joe Patricke wanted a constructive notice law and he wasn't sure if Joe recognized the distinction between constructive notice and the actual notice. Joe wanted a prior notice law because the Village of South Glens Falls has a prior notice law and it is probably a good idea in order to get around that constructive notice provision. Also, the Town can extend the law to apply to other things such as, bikeways, recreation parks. Joe Patricke has a draft and

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he is going to be working on it with Joe and they recommend that the Town Board in the near future, once they receive a copy of the draft, give this serious thought and consider scheduling a public hearing for adoption of a local law at some point.

Supervisor Jenkins reported that he received notice from an attorney regarding the Route 9 pedestrian/car accident. In the notice it refers to Route 9 as a Town road and it isn't. We aren't responsible for Route 9. The notice was turned over to the insurance company for the Town and they are going to handle it.

A motion was made by Councilman Kusnierz and seconded by Councilman Cumm to adjourn to executive session at 10:32 p.m. to discuss a negotiation with a potential employee and Article 7 National Grid, Erie Blvd., etal.

Roll call vote resulted as follows:

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

The Town Clerk did not sit in on the executive session.

A motion was made by Councilman Cumm and seconded by Councilman Prendergast to adjourn the executive session and re-open the regular meeting.

Roll call vote resulted as follows:

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

No action was taken in or as a result of the executive session.

A motion was made by Councilman Cumm and seconded by Councilman Prendergast to adjourn the regular meeting.

Roll call vote resulted as follows:

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

Meeting adjourned.

Respectfully submitted,

Jeanne Fleury, Town Clerk

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