

A workshop was held by the Town Board of the Town of Moreau on August 6, 2014 in the Town of Moreau Municipal Building located at 351 Reynolds Road, Moreau, New York, for the purpose of discussing a request for the re-zoning of the R2 Zone to allow chickens.

Supervisor Jenkins called the meeting to order at 6:00 p.m.

The Town Clerk called the roll.

Town Board Members Present

Robert J. Vittengl, Jr.	Councilman
Bob Prendergast	Councilman
Gina LeClair	Councilwoman
Todd Kusnierz	Councilman
Preston L. Jenkins, Jr.	Supervisor

Town Board Members Absent

None

Also Present: Jeanne Fleury, Town Clerk; Christina Scanlon, Post Star Reporter; Town Residents: Alan Cerny Sr., Sandi & Tom Speziale, Kathy & Mike Thomas, Sue Peters, Donna & Michayla Winkelman, Jeffery Delisle, David Johnson and Elizabeth Lanfear

Supervisor Jenkins welcomed everyone to the workshop and asked everyone to turn off or silence all electronic devices. He explained how normally a workshop is held so the board members could discuss a topic and that if there is time the workshop is opened up for public comment. He asked that when the public gets a chance to speak at this workshop that they address all of their comments to the board members and that there be no cross communication amongst the audience.

Supervisor Jenkins stated that he is not in favor of changing the zoning. He said that there are several hundred homes in the R2 zone that have been bought by people who did not expect to be impacted by farm animals being allowed in their zoning district. He said that the R2 zone covers a large area in the Town.

Councilwoman LeClair stated that at one time she thought about raising chickens, but when she found out how much work was involved she decided that she didn't have the time to devote to them. If the board members decide to change the zoning to allow chickens then she hoped that the board would build into the zoning some protection for the neighbors in the event there is a problem, because not everybody does what they are supposed to do.

Councilman Prendergast stated that the R2 zone is a big area and there are a lot of people in the R2 zone. He would have to get a sense of how many of these people desire a change of this type. He needs more of a voice from the people who live in the R2 zone before he could support this type of change in zoning.

Councilman Kusnierz stated that he supported holding this workshop and he is very appreciative that the other board members agreed to hold the workshop and that they are willing to listen to both sides and review the code to see if a change is warranted. In his job in Albany his priority is to further agriculture in NYS. He stated that he owns an agricultural farm in the agricultural district of the Town. He was pleased that in 1992 the Town Board enacted the Right to Farm Law, which is a public policy that recognizes the contribution that agriculture makes to the community economically and the quality of life it provides. We aren't unique here in the Town of Moreau in dealing with this issue. There are cities all over the country with populations of over one million people that allow chickens under certain circumstances. He read off the list of cities and stated that the City of Saratoga Springs is not an agricultural community and they allow chickens. Moreau has put an emphasis on sustainable enterprises and healthier eating and people wanting to take control over what they eat and one way is with these small enterprises. He said he was disappointed that the code enforcement officer was not present as this impacts his office. He then read off the citation that was written by the code enforcement officer. He said that section 149-16 of the zoning

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code and in particular the schedule of use regulations for the R2 zone spells out what is permissible in that zone, but it doesn't spell out what is not permissible. If chicken production is not listed as a permissible use then is it really a non-permissible use and is it really a violation of the code of the Town of Moreau. He noted that legal counsel was not present to answer this question. He added that the code also does not list dogs, cats, snakes, etc... as a permissible use so does that mean they are prohibited from an R2 zone? He said they need clarification over this.

Councilman Vittengl stated that he could see both sides. He raised chickens about 24 years ago and he was taken to court over it. He had free range chickens on about 5 acres of land. The chickens would get away from him and the neighbors took him to court. He said that Mother Nature eventually took care of all of his chickens. The wild animals got them. He said that there are always a few people who can ruin something for everybody. He said they need to research this, because once the change in zoning is in place then it will be in place for a long time. How can it be done without creating a problem with the neighbors?

Supervisor Jenkins opened up the workshop for public comment.

Elizabeth Lanfear stated that if she had a ferret who would have oversight over it. The dog control officer only handles dogs. She is all for changing a code that may or may not exist. Any animal in the Town that is not a dog, there is no oversight for. She said this was a question and asked if anybody had an answer.

Supervisor Jenkins said other than dogs there is no one in the Town to oversee animals.

Councilman Kusnierz stated that with our current ordinance there is no regulations over ferrets. There is a level of protection through the NYS Statutes and any police officer or peace officer can enforce the state law.

Mike Thomas from 1668 Route 9 said he talked with John Arnold and John Arnold said he brought this topic before the Agricultural Committee and they are all for it. Their concern was over the number of chickens that would be allowed. He said that John Arnold told him that the Planning Board discussed this too and they have no issue with it either, except they said no roosters.

Dave Johnson from 251 Fort Edward Road said he used to own chickens and one day he got a call and was told he had to get rid of them. He said it is beyond him how he can be allowed to spray "poison" (he was referring to fertilizer) on his lawn (2-5 acres) and yet he isn't allowed to have free range chickens. He said chickens take care of ticks. The time he had chickens there were zero ticks. He said the chickens were his pets. He said it is okay to have a 100# pitbull, so he doesn't know what the issue is with chickens. He said the Town of Moreau is primarily agricultural. He said the fabric of the Town seems to be changing. Denying the people the right to own a few chickens is wrong. He said the majority of the people who own chickens are responsible people and they should be given consideration and not the one or two people who are not.

Jeffery Delisle, 173 Redmond Road, said he had chickens about seven years ago not knowing that they weren't allowed in his area, especially when the prior owner of his property had a horse there. He said Ben Marcantonio, Code Enforcement Officer, was very nice, but he told him he had to get rid of the chickens. He said he didn't want to just "dispatch" them after hand raising them. He suggested that if the Town Board does rezone that they shouldn't differentiate between a male and female bird. He said it is very difficult to determine the sex of a young chicken and as a result he ended up with a couple of roosters. He said he assumes his neighbor reported the chickens to the Code Enforcement Officer and said the neighbor could have come and talked to him about it. He got the chickens as pets for his boys and the eggs were a benefit or a plus. He said the Board should consider their options. Moreau is a rural area. There is a way the birds can be pent up so that they make minimal noise. He said some Towns only allow six chickens. He said a fair amount of research will have to be done. He doesn't know of any place that

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would sell you only one chicken. He thinks the minimum number is six and typically the birds are mixed. He doesn't understand why a person would have to get rid of a bird, just because it is a male.

Tom Speziale of 18 Amy Drive said he was pleased with the turn out in favor of chickens. He said they do understand the concerns. He said that a pit bull was mentioned and he has never heard of a chicken biting anyone. He said all five boroughs in NYC allow chickens and other areas with small lots in housing developments allow them and somehow they manage. He said that he hasn't gotten a complaint from any of his neighbors. He sent a petition around his development and no one is opposed to his chickens. He then said he understood that the Town got a complaint and he asked to read it and the complaint read one word "chickens". It really wasn't a complaint. He said there are advocates around the country that help communities set up ordinances for chickens. He said his chickens are pent up in a 7' x 4' area. He got them from Pet Works when they were a day old. He said Tractor Supply sells them too. They sell fast. He has heard a lot of people say that if their lives permitted it they would have chickens.

David Johnson asked why no chickens. He said nothing reads in the code where you can have dogs, cats or snakes.

Councilman Kusnierz stated again that the R2 schedule of regulations spells out what is permissible and just because it is not spelled out doesn't mean it is prohibited.

A resident stated that chickens are allowed in Saratoga Springs.

Councilman Kusnierz stated that he hopes the Board is willing to get clarification on the way the code is written. He would like to see these limited types of backyard venues allowed. He is willing to work with the other board members to come up with possible scenarios, hold another workshop and keep the dialogue open. He has always taken seriously his responsiveness to the residents of the Town of Moreau. He has always listened to their particular argument and what they are looking for and to try and strike a balance between what is in place and what may be in place.

Supervisor Jenkins stated that the code refers to farm animals in about 65% of the Town, but just not in an R1 or R2 zone.

A resident replied yes, but you have to have a minimum of five acres of land.

Supervisor Jenkins replied 5 acres in the R5 zone and 3 acres in the R3 zone. He said his concern is over the 15,000 residents of the town that he represents. He will need a lot more input from a lot more people.

Councilman Prendergast reiterated that this is a small group of people at this workshop and when they talk zoning it raises a lot of emotions. He needs to hear from a bigger voice that this is something they want. He thinks there are a lot of people out there who may feel differently than those who are at this workshop. He said a lot of them probably don't even know this workshop is going on. He said that the fact that Mr. Speziale has a petition in support of his chickens says a lot when people are willing to put their name on paper.

A resident asked if he was saying that there is strong opposition out there.

Councilman Prendergast said that was his point. He isn't convinced that there is and he isn't convinced that there isn't.

A resident asked how they get the word out there.

Councilman Kusnierz asked if anybody present was opposed to this. There was no response. He said the board is required by law to post meetings in the newspaper so the public is made aware of the meetings. He would like to hear from the person who made the complaint.

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Councilman Kusnierz said he is not advocating a change in the zoning. He said this board has worked hard for the zoning that is in place. He wants clarification. He isn't sure that chickens are prohibited in an R2 zone the way the current zoning is worded. He said he is a little miffed and wants to know what sets Moreau above the City of Buffalo or Brooklyn or Los Angeles where chickens are allowed. He said the town has a policy that supports the right to farm. We have a quality of life that you won't get in Brooklyn. He doesn't think people want to run a business. They just want a couple of pets. He said they could limit the number of birds and how close they can be to the property line and no roosters. There are ways to do this if there is an interest. He said he has an interest in doing this.

Elizabeth Lanfear asked under whose authority, did the code enforcement officer make them get rid of their chickens if there is nothing in the code that prohibits them.

Supervisor Jenkins stated that he grew up in Fenimore and around farm animals. He stated that people have a lot of money invested in their homes in the R2 zone and they didn't expect to have this next door to them.

Councilman Prendergast stated that nobody is going to deny that clarification isn't needed, but he wants to make sure that we do it right. He said it may already be clear.

Supervisor Jenkins stated that they could instruct the code enforcement officer/building inspector on what to do, but we can't dictate him to do it. He bases his decisions on the code.

Supervisor Jenkins said the attorney for the Town will have to look at the code and compare it to case law.

David Johnson stated that nobody present was in opposition.

Supervisor Jenkins said there may be people out there who are not aware of this meeting.

Elizabeth Lanfear asked what the next step was.

Jeffery Delisle asked what the definition of agriculture was. He said they aren't selling a product. The chickens are pets. He said it is a gray area.

Supervisor Jenkins said the Board could decide to hold a public hearing. Between now and then the Board will have to get a lot more information and analyze it.

Councilman Kusnierz said he would have no problem putting together a compilation of what other communities do. We have to protect the properties in that zone as to what they expected when they purchased their property. A local law would have to be drafted and the Town Board would fine tune it and then hold a public hearing on the local law and take public comment. The Board could then change it or not and table it or adopt it at a future meeting. If the Board wants to proceed with this he would be willing to get them a lot more information. In one or two ordinances he read they empowered the people to veto the project. The property owners around the area can veto the permit. The chicken owners would have to get the property owners to sign off on it. This gives the people in the area, that are most impacted, some control.

Supervisor Jenkins asked Councilman Kusnierz to share what information he gets and the Board Members can research the internet. It will have to be worded so that other animals are not allowed.

Councilman Kusnierz said they should spell out what zones this would affect and that it would exclude the agricultural zone. He found it surprising that one property owner who had a lot in the agricultural district that was zoned R2 partially was made to remove his chickens.

Supervisor Jenkins mentioned the study that was just done on the agricultural district and how the agricultural district provides the highest income in Saratoga County. He said they could move ahead with

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this and look at the issue and try to work it out so that almost everyone is happy. He said they could restrict it to one acre lots, no roosters, have the people around the area okay it and have the attorney clarify the definition. He said they should discuss it with the building department too.

Councilman Kusnierz asked the Board if they wanted him to compile some information and Supervisor Jenkins replied yes.

A resident asked if a permit would be required and Supervisor Jenkins said yes and then a notice would be sent to surrounding property owners. He thinks they would only include the adjacent property owners.

Sandi Speziale stated that she had the petition that was signed by her neighbors and some ordinances that she could leave with the Board.

Councilwoman LeClair said it would be nice if they could educate people on what is required to care for chickens before they go out and get them as pets. It may deter people from buying them not knowing what is involved in their care.

A resident said that her pool pump is louder than the chickens and dogs barking are louder than chickens.

Councilman Prendergast said he talked with two people today, one who live in an R1 zone and one who lives in an R2 zone, and neither one knew that this meeting was being held. People out there just don't know and he said he represents a lot of people.

David Johnson asked whose responsibility that is.

Councilman Prendergast said he can't knock on every door. Just because people aren't informed doesn't mean they don't have feelings.

David Johnson stated that what Councilman Prendergast was saying was that the Board has to send out letters to everyone then.

Councilman Prendergast stated that as this progresses there will be more talk around Town. There will be an article in the newspaper. There will be more discussion and it will reach more people than those here in this room. He was not saying that he is not willing to amend the zoning, but he needs a better representation. It may be a room full of people in favor of this and that is fine.

Tom Speziale stated that it was mentioned "so much more". He said they aren't looking for cattle, etc... only chickens. They aren't looking to change the world. Only one particular change.

Mike Thomas stated that Supervisor Jenkins mentioned the hundreds of thousands of dollars that people have invested in their properties, he said they are the people. This small voice shouldn't be disregarded. If the other side is not present then that isn't his fault it is theirs. He said he has almost five acres and the people in this room have invested in their properties too and this is their quality of life that they are advocating for.

Supervisor Jenkins said the Board would do whatever they can to try and make this work for everybody. Everybody has to be treated the same.

A motion was made by Councilwoman LeClair and seconded by Councilman Vittengl to adjourn the meeting at 7:15 p.m.

Roll call vote resulted as follows:

Councilman Vittengl Yes

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

Respectfully submitted,

Jeanne Fleury
Town Clerk