

A regular meeting of the Town Board of the Town of Moreau was held on December 14, 2010 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.

**Town Board Members Present**

Tom Cumm	Councilman
Bob Prendergast	Councilman
Todd Kusnierz	Councilman
Preston Jenkins	Supervisor

**Town Board Members Absent**

Gina LeClair	Councilwoman
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**Also present:** Jeanne Fleury, Town Clerk; Joe Patricke, Building Inspector/Code Enforcement Officer; Steve Gram, Recreation Director; Paul Joseph, Highway Superintendent; Jesse Fish, Water Superintendent; Nick Mattison, Recreation Department Laborer; Peggy Jenkins, Assessor entered meeting at 7:15 p.m.; Jeremy Tripp, Recreation Department Laborer entered meeting at 7:15 p.m.; Lydia Wheeler, Post Star Reporter; Martin D. Auffredou, Esq., Attorney for the Town; Keith Osborne, Planning Board Member; Vince Sporrer, Town Resident; and Adele Kurtz, Town Resident

Supervisor Jenkins led the Pledge of Allegiance.

Supervisor Jenkins welcomed everyone to the meeting and asked that all electronic communication devices be turned off or put on vibrate.

**MINUTES**

The following minutes were prepared and distributed to the Town Board in advance of the meeting for their review, comment, correction and approval:

November 23<sup>rd</sup> (2 Sets), November 29<sup>th</sup>, December 7<sup>th</sup> (3 Sets), December 8<sup>th</sup>

**MINUTES – NOVEMBER 23, 2010 – 6:50 P.M. – PUBLIC HEARING RE: EXTENSION 2 OF WATER DISTRICT 4**

No comments or corrections.

**MINUTES – NOVEMBER 23, 2010 – 7:00 P.M. – REGULAR TOWN BOARD MEETING**

No comments or corrections.

**MINUTES – NOVEMBER 29, 2010 – 4:30 P.M. – TOWN BOARD MONTH-END AUDIT MEETING**

No comments or corrections.

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**MINUTES – DECEMBER 7, 2010 – 6:30 P.M. – TOWN BOARD WORKSHOP RE: LITTERING LAW**

No comments or corrections.

**MINUTES – DECEMBER 7, 2010 – 6:40 P.M. – TOWN BOARD WORKSHOP RE: NOTICE OF DEFECTS LAW**

No comments or corrections

**MINUTES – DECEMBER 7, 2010 – 7:00 P.M. – SPECIAL TOWN BOARD MEETING TO INTERVIEW FIRMS TO PROVIDE CONSULTING SERVICES RE: HUDSON RIVER ACCESS AND PASSIVE RECREATION PARK**

No comments or corrections

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to approve all sets of minutes for November 23rd, November 29th and December 7th as prepared.

Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Absent
Councilman Kusnierz	Abstain on the November 23 <sup>rd</sup> and 29 <sup>th</sup> minutes, Yes on the 6:30 p.m. workshop and 6:40 p.m. workshop on December 7 <sup>th</sup> and abstain on the 7:00 p.m. special meeting on December 7 <sup>th</sup>
Councilman Cumm	Yes
Supervisor Jenkins	Yes

**MINUTES – DECEMBER 8, 2010 – SPECIAL TOWN BOARD MEETING TO INTERVIEW A FIRM TO PROVIDE CONSULTING SERVICES RE: HUDSON RIVER ACCESS AND PASSIVE RECREATION PARK**

Correction: Page 721 – 10<sup>th</sup> paragraph – change the amount “\$1,400.36” to “1,485.40”

A motion was made by Councilman Cumm to approve the minutes of Dec ember 8<sup>th</sup> as corrected.

Councilman Kusnierz said he was going to abstain on the approval and Councilman Prendergast was not present at the December 8<sup>th</sup> meeting and Councilwoman LeClair was not present at this meeting so a vote to approve the minutes could not be taken. Approval of the December 8<sup>th</sup> minutes was tabled until the next meeting.

Councilman Kusnierz commented on action taken at the December 8<sup>th</sup> meeting. He received an e-mail from Deborah Stock and it read as follows:

“Why are we paying for Ed Tracy’s attorney? We nicked and dined the Moreau Emergency Squad. My employer will not defend me if I am accused of assaulting someone. If Preston Jenkins and Tom Cumm want to pay the bill then let them. This whole deal reeks badly.”

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Councilman Kusnierz asked the following questions that he needed answers to in order to respond to Ms. Stock:

What account is this coming from?

Will the Town be paying this individual directly or will the Town pay Mr. Tracy?

Do we have a contract?

Has he performed any services?

Have we received any bills?

Supervisor Jenkins replied that there isn't any contract and no services have been rendered yet.

Councilman Kusnierz asked if there should be a contract.

Attorney Auffredou replied that a simple letter agreement in the amount of up to \$900.00 would suffice. He stated that there is privity between the Town and Mr. White, because the Town is hiring him to represent Mr. Tracy on behalf of the Town. If the board wants a contract then a simple contract could be drawn up that says the Town is providing representation for Mr. Tracy and name the proceeding and the hourly rate and include the amount of up to \$900.00 and have a place for him to sign.

Councilman Kusnierz asked who the attorney-client privilege will be between.

Attorney Auffredou replied that it would be between Mr. Tracy and Mr. White. All the Town is doing is agreeing to pay for the attorney.

Councilman Kusnierz questioned the fact that the Town was going to spend taxpayers' dollars and not be entitled to the attorney-client privilege.

Attorney Auffredou said this was correct and that is why he discussed with the board why it would be inappropriate for him to represent Mr. Tracy in these proceedings, because there may come a time when the Town Board may need legal counsel on this matter and he would be able to provide that service. If he represented Mr. Tracy then he would not be able to provide that service.

Councilman Kusnierz said the potential exists then, that the taxpayer's in this Town could be paying for two attorneys in this case.

Attorney Auffredou replied that there is always that potential. In article 7 proceedings there have been many instances when he has been asked to participate in negotiations and strategy sessions and drafting of documents where the Town has been represented by special legal counsel. He understands that the Town Board decided that they want to pay for legal counsel for Mr. Tracy, but in his opinion the attorney-client privilege is between Mr. Tracy and Mr. White. The only thing the Town is doing is providing payment to Mr. White for his services.

Councilman Kusnierz stated that in the article 7 cases depicted by Attorney Auffredou the Town has always maintained an attorney-client privilege with each attorney.

Attorney Auffredou said this was true, but in this case the Town is not the client.

Councilman Kusnierz asked where the money is going to come from.

Supervisor Jenkins replied the contractual portion of the recreation fund since Mr. Tracy is an employee of the recreation department.

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Councilman Kusnierz wanted the public to be aware that this decision was not made at a regular meeting of the Town Board. He stated that we shouldn't expect the cost to only be \$900.00, because in the correspondence from Mr. White's office it reads:

"In response to your inquiry regarding the matter involving Ed Tracy, our hourly rate for representing clients is \$140.00 per hour. We estimate the fees to be in the range of \$600.00 to \$900.00. These types of matters are actually more easily resolved if someone is guilty and can simply put the matter behind him. In this case Ed Tracy is not guilty of the violation for which he is charged and it is likely he will want to take the matter to trial. Doing so increases the time and effort involved to some extent and if the matter does go to trial the fees will be higher than the estimated sum."

Councilman Kusnierz said it was clear to him that won't be the only cost.

Supervisor Jenkins said if Ed Tracy chooses to go to trial then he would take a different position on the whole issue and at that point he wouldn't back it either. It is his understanding that this will end up being a very simple matter in court.

Attorney Auffredou advised that it should be specified in the agreement that if the matter proceeds to trial then it is not the Town's intent to pay the Brennan and White Law Firm for that service.

Councilman Kusnierz said it was unfortunate in that he discussed this with Supervisor Jenkins when he wanted to schedule the meeting and was told that all they were going to do was discuss the fees and he didn't have a problem with that, then Supervisor Jenkins took action on it as the first order of business at that special meeting. He acknowledged it was perfectly legal, but under the circumstances Supervisor Jenkins knew that the public probably wouldn't be there even though they were invited.

Supervisor Jenkins stated that it was on the agenda that was published that they were going to act on it.

Councilman Kusnierz said no it wasn't and he read the notice of the meeting as follows:

"To discuss firms for our passive park and interview firms and discuss special counsel for a rec. employee."

Councilman Kusnierz said the problem is perception. He said that from the get go this individual was hired at one of the rare regularly scheduled Town Board meetings that he wasn't able to attend, because he was out of the State and at that time we had 116 individuals who since May 16<sup>th</sup> had applied for a laborer's position in the recreation department. This individual expressed interest in the position and on the same day he applied, he was hired.

Councilman Kusnierz asked the Personnel Committee if they interviewed this individual.

The response from the Personnel Committee was no.

Supervisor Jenkins said it was at the request of the recreation director who wanted someone who was an adult working nights. That is one reason Ed Tracy "became available and while he was there he was a useful employee".

Councilman Kusnierz asked if out of the 116 applicants, wasn't there any adults who applied?

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Supervisor Jenkins said that the recreation director needed someone that week, because someone left and Ed Tracy was available immediately. He took the pre-employment physical and the board approved it. He said it doesn't have anything to do with what they were talking about.

Councilman Kusnierz said it does, because it lays out a foundation of favoritism.

Supervisor Jenkins said that was taking it too far.

Councilman Kusnierz replied "no interview"? The day he applied he was hired. The perception is there.

Councilman Kusnierz then said that was all he had to say about the minutes for now.

### **FUTURE MEETINGS/WORKSHOPS SCHEDULED**

The month-end meeting of the Town Board was scheduled for December 30<sup>th</sup> at 4:30 p.m. in Town Hall.

Councilman Cumm requested on behalf of Councilwoman LeClair that a workshop be scheduled for sometime after the first of January for the purpose of rewriting the Recreation Commission Code.

Councilman Kusnierz asked the board if they felt it was inadequate, because he doesn't feel it is inadequate. He asked if the e-mail they all got included her recommended changes and Supervisor Jenkins said yes.

Supervisor Jenkins suggested they wait until the first meeting in January to schedule this workshop.

Councilman Kusnierz asked if the public hearing on the Moreau Emergency Squad Contract was still scheduled and on the calendar.

Attorney Auffredou said there is a public hearing scheduled for December 28<sup>th</sup> that will be on the proposed contract between the Town of Moreau and the Moreau Emergency Squad for the year 2011. A public hearing notice has been sent to the Post Star.

Councilman Kusnierz said there have been many revisions made to the contract that fall outside the realm of what the Town Board Members and the Squad Board Members have agreed to and he asked who made the changes, because he hasn't been involved in any meetings where those changes were agreed to.

Attorney Auffredou said he made the changes based upon his understanding and Karla's understanding of what would be an acceptable contract bearing in mind what would be best for the Town. He and Karla worked closely with the supervisor on these changes and met with the supervisor on this contract. They put together a contract that they believe represents where the parties are.

Supervisor Jenkins said there were two issues and one was the snowplowing issue and Attorney Auffredou said that was added at his suggestion. Supervisor Jenkins said last year there was a rough edge on their pavement that was broken up and the squad complained about how we did the plowing. As revised if there is minor damage it won't be the Town's responsibility.

Councilman Kusnierz said one thing that raised a red flag was payroll. The language he read was that we are looking for special things regarding payroll, such as, names, amounts and social security numbers and Supervisor Jenkins and Attorney Auffredou said these were exclusions.

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Supervisor Jenkins stated that as for the language regarding cell phones, etc. that was the result of the State Comptroller's report for East Greenbush. He has tried to explain to the squad that they may not feel they have to follow the opinion of the comptroller, but in the Town's case the comptroller's opinion is an interpretation of the laws of the State of New York.

Attorney Auffredou stated that as he understands the East Greenbush audit from the State Comptroller the practice of third party billing in the Town of Moreau is exactly as the State Comptroller requires. As far as, the third party billing dollars being the property of the Town and the fee schedule being approved by the Town it is what the comptroller says has to be done and the Town of Moreau has been doing that and is doing that.

Councilman Kusnierz said that isn't the issue, we all agree it is Town money.

Attorney Auffredou said the squad hasn't always agreed on that.

Supervisor Jenkins said they have agreed to that part if that is what we have to do as a municipality. The section in the contract regarding uniforms and phones is of concern to the squad and the board never discussed this.

Councilman Kusnierz suggested an executive session between the Town Board and squad members, either with or without attorneys. He didn't think we were on the same page in many instances with this proposed contract and he thought after the last meeting with the squad that they were close.

Supervisor Jenkins stated that the East Greenbush audit raised a lot of issues for municipalities and what a municipality has to do when it comes to public funds and these agencies. The comptroller came down pretty hard on the Town of East Greenbush. In the case of East Greenbush the money was going directly to the emergency service and not going through the Town and the other issue was certain expenditures that were occurring.

Councilman Kusnierz said there should be some dialogue with the squad before the public hearing, because he didn't think that everyone was on the same page.

Supervisor Jenkins said he had a conversation with Steve VanGuilder via the telephone on Saturday and he is supposed to come in to see him sometime this week to go over these issues.

Supervisor Jenkins stated that the rest of the contract was pretty much what they all agreed to. The article on snowplowing is new. The section on cell phones and uniforms he doesn't know where that section came from.

Attorney Auffredou said it goes to accountability and he stated it was in a draft that he had prepared back in February or March. It may have been tweaked a little bit.

Supervisor Jenkins said it wasn't in the information that he reviewed with Attorney Auffredou and Karla. The only change he could see they needed was on the snowplowing.

Councilman Kusnierz asked if he could get a copy of the draft contract where they are at tonight. The copy he had was lined out.

Attorney Auffredou said there was one in final form and not lined out.

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Councilman Kusnierz read from the copy he had and said it reads that the snowplowing service is going to be deducted from their compensation and Supervisor Jenkins and Attorney Auffredou said this wasn't correct.

Councilman Kusnierz asked if this was the current draft and Supervisor Jenkins said yes.

Councilman Kusnierz asked if they needed a meeting.

Councilman Prendergast said they should wait until the squad looks at the contract and contacts the Town. "Why should we assume there is going to be a problem?"

Supervisor Jenkins stated that the squad told him they had problems with it and apparently the squad has expressed some concerns over the contract to Councilman Kusnierz.

Councilman Prendergast asked what the squad's problem was now.

Councilman Kusnierz said the problem is the proposed contract is not what they all agreed to when they met with the squad in executive session.

Supervisor Jenkins said the only problem he saw was the section about expenses that can't be paid for with contractual monies from the Town.

Attorney Auffredou said he would look at it, but he believes that it goes back to the February or March draft. He doesn't believe it is anything that he or Karla added as the result of their meeting with the Supervisor. He reminded Supervisor Jenkins that he had the contract that the squad drafted and it was unacceptable and he had the Town's copy that they reviewed in their meeting with him. He will review it again and talk to Karla about it.

Supervisor Jenkins stated that there was a workshop scheduled for next Tuesday on proposed zoning changes and they could make that workshop a special meeting to discuss the proposed contract with the squad, because they also needed to address the Palette road dedication.

Councilman Kusnierz said it would help facilitate getting us ready for the public hearing on the 28<sup>th</sup>. If we leave it as is he was sure there wouldn't be a contract approved.

Supervisor Jenkins advised the Town Clerk that they were changing the workshop on the 21<sup>st</sup> to a special meeting that will start at 7:00 p.m. and he will get her an agenda.

### **15 MINUTE PUBLIC COMMENT PERIOD**

Keith Osborne a member of the Town Planning Board was present to request again support from the Town Board to serve on the Saratoga County Water Quality Coordination Committee. He was placed on the agenda as item #12 and the Town Clerk advised him that he could request to be heard during the 15 minute public comment period.

He sat down with Councilman Cumm and discussed his appointment to the Saratoga County Water Quality Coordination Committee for the soil and water conservation district and he believes that he has answered all of Councilman Cumm's questions in this matter.

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Supervisor Jenkins asked Keith Osborne if what he was requesting was a letter of support from the Town Board regarding his appointment to the Saratoga County Water Quality Coordination Committee and Keith Osborne replied yes.

Councilman Cumm said he was fully prepared to move forward on this tonight.

Supervisor Jenkins asked Attorney Auffredou if they needed to vote on this.

Councilman Kusnierz thought all the board needed to do was write a letter. Keith Osborne isn't representing this political subdivision. He is, as a courtesy, asking for the support of the Town Board.

Attorney Auffredou said if this is the case then why does he need a letter of support.

Keith Osborne said it was requested by Blue Neils.

Supervisor Jenkins said he would write a letter on behalf of the board.

#### **LOCAL LAW NO. 4 OF 2010 – LITTERING**

Attorney Auffredou stated that proposed Local Law No. 4 of 2010 is subject to SEQRA and he took the liberty of preparing a short form EAF for the Town Board and provided suggested answers to the questions in Part II of the EAF. If the board chooses to take action at this meeting then they have to complete SEQR and in his opinion the Town Board can authorize the Supervisor to sign the short form EAF and issue a negative declaration under SEQR and once this is done then SEQR is complete. It is an unlisted action under SEQRA.

A motion was made by Councilman Cumm and seconded by Councilman Prendergast authorizing the Supervisor to sign the short form EAF and authorizing the issuance of a negative declaration under SEQRA.

Roll call vote resulted as follows:

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

Attorney Auffredou said the board had made some revisions to the proposed littering law during the public hearing process and he outlined them as follows:

The following language will be added to the definition of rubbish:

“Waste or waste material shall not include agricultural waste, such as, but not limited to, animal manure.”

Section 93-4 will be revised to add the following language:

“Vehicles engaged in agricultural activity will be exempt from this provision.”

Attorney Auffredou noted that section 93-4 is the provision where vehicles in the Town can't deposit, scatter, drop or spill any rubbish, litter or “waste materials”, which they just redefined to exclude agricultural waste.

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Vehicles that are engage in agricultural activity are exempt from section 93-4, which makes littering from vehicles unlawful.

He stated that as the result of the workshop held by the Town Board and a discussion with Joe Patricke he removed the language regarding the dropping or depositing of gravel and dirt and such things from vehicles. As the result of the changes being made now about agricultural uses the amendment would be to re-include the language about dirt and gravel, etc...being dropped from vehicles as being considered litter being unlawful. However, if it comes from an agricultural vehicle engaged in an agricultural activity it would be exempt from that provision.

He stated that the board could move forward on this law at this meeting. He will provide the board with a copy of the law with the revisions by e-mail. If the board has any comments and if they are substantive comments then the board could revisit the law on the 21<sup>st</sup> or the 28<sup>th</sup> of December. There is a resolution before the board to adopt Local Law No. 4 of 2010, Chapter 93 Littering Law. The resolution would include the revisions made tonight. If the local law is adopted tonight, he will not file the local law with the Secretary of State until the board sees the changes made to the law and until the board has time to review the changes.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to adopt the following resolution:

WHEREAS, the Town Board of the Town of Moreau ("Town Board") has determined that there is a town-wide problem with the uncontrolled depositing or placing of rubbish and waste such as yard clippings, plastics, styrofoam, bedding and the like in public places including streets, roads, highways, rights-of-way, sidewalks, bike paths, parking lots or other public places and the like; and

WHEREAS, the Town Board is considering the adoption of Local Law No. 4 of 2010, which would, if adopted, establish a prohibition on the throwing, depositing or discarding of any waste, litter, rubbish or refuse garbage, etc. on any street, road, highway, right-of-way, sidewalk, bike path, parking lot or other public place in the Town. It would also prohibit any person from depositing, dropping or spilling any rubbish or garbage, as defined, from any vehicle upon any street, road, highway, right-of-way, sidewalk, bike path, parking lot or other public place in the Town; and

WHEREAS, pursuant to Section 20 of the Municipal Home Rule Law, a public hearing on the proposed adoption of Local Law No. 4 of 2010 was duly advertised, noticed and thereafter conducted on December 14, 2010;

WHEREAS, the Town Board has considered the public comments made at the public hearing; and

WHEREAS, after thorough review and deliberation, the Town Board proposes to adopt Local Law No. 4 of 2010; and

WHEREAS, the Town Board has determined that the adoption of Local Law No. 4 of 2010 is in the best interests of the Town of Moreau and is necessary to protect the health, safety and welfare of the Town of Moreau and the residents thereof; and

WHEREAS, the Attorney for the Town has prepared the documents necessary for filing the local law with the Secretary of State including the text of the law itself;

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby adopts Local Law No. 4 of 2010 annexed hereto; and

A regular meeting of the Town Board of the Town of Moreau was held on December 14, 2010 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

BE IT FURTHER RESOLVED, that Local Law No. 4 of 2010 shall become effective immediately and as provided by law; and

BE IT FURTHER RESOLVED, that the Town Board hereby authorizes the Town Supervisor, Town Clerk and Attorney for the Town to make such minor modifications to the local law documents as they deem necessary and thereafter are directed to execute and file said documents as required by law and to take all the necessary actions for the promulgation thereof.

Councilman Kusnierz said he was going to support the resolution. Historically he doesn't approve local laws unless they are in their final form. However, since legal counsel has done such an excellent job getting the changes into the record he was going to vote yes.

Roll call vote resulted as follows:

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

Attorney Auffredou asked how much time the board wanted to review the law and get back to him with comments, assuming he e-mails the board a copy in the morning. The answer was next Wednesday, December 22<sup>nd</sup>.

#### **LOCAL LAW NO. 5 OF 2010 – NOTICE OF DEFECTS**

Attorney Auffredou advised that this local law is a Type 2 action under SEQRA. The Town Board held a public hearing on proposed Local Law No. 5 of 2010 and closed the public hearing. He prepared suggested answers to Part 2 of a short form EAF and if the Town Board agrees with the answer then they could move to authorize the Supervisor to sign the short form EAF and issue a negative declaration under SEQRA.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing the Supervisor to sign the short form EAF and authorizing the issuance of a negative declaration under SEQRA.

Roll call vote resulted as follows:

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

Attorney Auffredou said there weren't any revisions necessary as the result of the public hearing. He prepared a resolution that is before the board for adoption if they so choose. If adopted the resolution would enact Local Law No. 5 of 2010, which is a local law repealing and replacing Article 3, Notification of Defects of Chapter 121 "Streets and Sidewalks" of the Moreau Town Code with a new Article 3, Notice of Defects.

A motion was made by Councilman Cumm and seconded by Councilman Prendergast to adopt the following resolution:

A regular meeting of the Town Board of the Town of Moreau was held on December 14, 2010 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

WHEREAS, the Town Board of the Town of Moreau ("Town Board") is considering the repeal and replacement of Article III, Chapter 121 of the Town of Moreau Code with a new Article III "Notice of Defects" which will expand, clarify and strengthen the Town's prior written Notification Law; and

WHEREAS, the authority for Local Law No. 5 of 2010 is found in Section 65-a of the New York State Town Law; and

WHEREAS, Local Law No. 5 of 2010 as proposed provides that no civil action for injuries caused by defects or snow or ice buildup on any public highways, sidewalks and parking lots and similar properties within the Town may be commenced against the Town unless prior notice of the defective or unsafe condition was made to the Town Clerk and the Town failed to address the unsafe condition within a reasonable period of time after receipt of such notice; and

WHEREAS, pursuant to Section 20 of the Municipal Home Rule Law, a public hearing on the proposed adoption of Local Law No. 5 of 2010 was duly advertised, noticed and thereafter conducted on December 14, 2010 at the Town Hall; and

WHEREAS, the Town Board has considered the public comments made at the public hearing;  
and

WHEREAS, after thorough review and deliberation, the Town Board proposes to adopt Local Law No. 5 of 2010; and

WHEREAS, the Town Board has determined that the adoption of Local Law No. 5 of 2010 is in the best interests of the Town of Moreau and is necessary to protect the health, safety and welfare of the Town of Moreau and the residents thereof; and

WHEREAS, the Attorney for the Town has prepared the documents necessary for filing the local law with the Secretary of State including the text of the law itself;

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby adopts Local Law No. 5 of 2010 annexed hereto; and

BE IT FURTHER RESOLVED, that Local Law No. 5 of 2010 shall become effective immediately and as provided by law; and

BE IT FURTHER RESOLVED, that the Town Board hereby authorizes the Town Supervisor, Town Clerk and Attorney for the Town to make such minor modifications to the local law documents as they deem necessary and thereafter are directed to execute and file said documents as required by law and to take all the necessary actions for the promulgation thereof.

Roll call vote resulted as follows:

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

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### **HIGHWAY DEPARTMENT REQUESTS**

A request was received from the highway superintendent to purchase crushed stone from Peckham Materials under county contract #10-PWCS-5R in the amount of \$4,000.00 out of account DB5110.493 that had a balance of \$8,609.70 as of 12/1/10.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing the purchase of crushed stone from Peckham Materials under county contract #10-PWCS-5R in an amount not to exceed \$8,609.70.

Roll call vote resulted as follows:

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

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing the following increase in revenues and expenditures:

Increase revenues by \$1,940.62 in account DB2770 – Highway – Misc. Revenue  
Increase expenditures by \$1,904.62 in account DB5130.492 – Highway – Machinery – Parts

Discussion followed on this budget adjustment.

Supervisor Jenkins stated the reason for this budget adjustment was that it was proper to show the revenues and not reduce previous expenditures.

Roll call vote resulted as follows:

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

A memo was received from the highway superintendent informing the board that he advertised for wingmen and he was in the process of going through the applications. He will be selecting three individuals and he will send them for their pre-employment physicals. There were twelve applications received and seven individuals live in the Town of Moreau. One is not interested in the position, because they found out it was going to be an on-call situation.

Paul Joseph the highway superintendent offered the name of Fred Ball as one of the three individuals that he was ready to hire as wingman at \$10.00 per hour and subject to successful completion of a pre-employment physical.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to appoint Fred Ball as wingman for the highway department at \$10.00 per hour on a part-time, on-call, as needed, basis and subject to successful completion of a pre-employment physical.

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Roll call vote resulted as follows:

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

Councilman Kusnierz asked Paul Joseph if on the Order on Consent from NYS DEC was the same citation that originally started at \$4,000.00 and Paul Joseph replied yes.

Councilman Kusnierz asked if counsel reviewed it and Attorney Auffredou replied yes.

Councilman Kusnierz stated he was very happy to find that we went from being liable for \$4,000.00 to \$1,500.00 plus \$500.00.

Attorney Auffredou and Paul Joseph replied that the fine is only \$500.00.

Councilman Kusnierz said that was good and stated it is a big difference from \$4,000.00.

#### **WATER DEPARTMENT REQUESTS**

Supervisor Jenkins asked Jesse Fish if he had anything else to discuss with the board other than water meter reader rates and Jesse Fish replied that there were four individuals that he wanted to hire to read meters.

Supervisor Jenkins explained how during the budget process the board discussed setting the hourly rate for water meter readers at \$12.00 per hour beginning in 2011, but the hourly rate adopted for 2011 was \$9.43 per hour for new hires and \$10.82 per hour for re-hires. They discussed changing it to \$12.00 per hour during the budget process in order to keep water meter readers. He asked for a motion to change the adopted rate for water meter readers to \$12.00 per hour.

Jesse Fish stated that based on last year's hours worked by water meter readers the total cost would be \$1,440.00 at \$12.00 per hour and that would be for all meter readers.

Councilman Prendergast made a motion to raise it to \$12.00 per hour. The motion was seconded by Councilman Cumm.

Jesse Fish said he wouldn't be looking for a 2% increase on top of that for next year the rate should be \$12.00 per hour whether they were just hired or whether they are re-hires. The job pays \$12.00 per hour.

Councilman Kusnierz said that is far more than what we pay for wingmen. We pay wingmen \$10.00 per hour and he asked if don't we have trouble getting wingmen?

Supervisor Jenkins said they didn't discuss that at budget time, but he wouldn't have a problem considering that either.

Councilman Kusnierz asked how many hours a typical meter reader works per year.

Jesse Fish replied that they work 120 hours per year total for all meter readers combined.

A regular meeting of the Town Board of the Town of Moreau was held on December 14, 2010 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

Roll call vote resulted as follows:

Councilwoman LeClair	Absent
Councilman Kusnierz	No*
Councilman Cumm	Yes
Councilman Prendergast	Yes
Supervisor Jenkins	Yes

\*Councilman Kusnierz voted no, because he is of the opinion that we should be looking across the board and include wingmen at the same time.

Supervisor Jenkins asked if they wanted to increase the hourly rate for wingmen.

Councilman Kusnierz asked Paul Joseph how many hours wingmen work. Paul Joseph replied that he needs two wingmen every time they go out. On any given storm the minimum number of hours they would work is four and the maximum is eight.

Councilman Kusnierz asked Paul Joseph to give the board members the exact number of hours that part-time wingmen work.

Councilman Cumm asked Jesse Fish if he was going to give the board members the list of the four individuals that he wanted to hire and Jesse Fish said he had them.

Councilman Prendergast asked when he needed them and Jesse Fish replied February.

Supervisor Jenkins asked Jesse Fish to give the board members the names and they could act on them at the next meeting.

Councilman Cumm said it came to his attention that Water District 1 and 2 customers are being billed twice a year and customers in Water Districts 3, 4, 5 and 6 are being billed three times a year. This results in customers in districts 3, 4, 5 and 6 getting charged an extra minimum charge of either \$33.50 or \$35.00 depending on the district and that is unfair. He saw a print out of the consumptions in Water District 3, 4, 5 & 6 and there are a "ton" of people on the list that don't use very much water. It was his opinion that we either need to bill three times a year or four times a year across the board in all districts.

Councilman Prendergast said that he and Councilman Kusnierz were the water committee members and they should meet to discuss this. At the same meeting they can talk about what they are charging Water District 2 & 4 customers again, because if he wanted to talk about unfair, the people in Water District 2 & 4 are being overcharged in his opinion and he knows this, because both those districts have large fund balances.

Councilman Cumm stated that was even more reason to consolidate the water districts.

Councilman Prendergast said they could discuss that too in the meeting, but he told Councilman Cumm that he could tell the people in Water District 2 that their money was going to be shared with the other water districts, because he wasn't going to tell them that.

Supervisor Jenkins asked Councilman Kusnierz and Councilman Prendergast to also discuss, when they meet, the buy in and capacity fees.

A regular meeting of the Town Board of the Town of Moreau was held on December 14, 2010 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

The memo that the Town Clerk wrote to the Town Board will also be addressed at that meeting. The Town Clerk asked the board in her memo if they wanted to bill Schermerhorn for water used in his apartment complex at the corner of Bluebird Road and Fort Edward Road, known as Bluebird Village, on a monthly basis, three times a year.

Jesse Fish asked them to discuss sewer rates for Schermerhorn also.

**RECREATION DEPARTMENT REQUESTS**

The recreation director recommended the following two people be hired:

Ron King	\$13.14 per hour	Head Wrestling Coach	No Pre-Employment Physical
Darren Hudson	\$10.00 per hour	Asst. Wrestling Coach	No Pre-Employment Physical

Discussion followed.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to hire Ron King as Head Wrestling Coach at \$13.14 per hour and Darren Hudson as Assistant Wrestling Coach at \$10.00 per hour and pre-employment physicals are not required for either of these individuals.

Roll call vote resulted as follows:

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

The recreation director submitted the following quotes for roofing for pavilion #1 and roofing for the bathroom in the rec. park:

Curtis Lumber                    \$2,611.38  
Griffen Lumber                  \$2,206.93  
Lowe's                              \$2,276.93

Prices include delivery. This will be paid for out of account A7140.4 that had a balance of \$16,973.19.

A motion was made by Councilman Kusnierz and seconded by Councilman Cumm to accept the quote from Griffen Lumber in the amount of \$2,206.93 for roofing materials for pavilion #1 in the rec. park.

Roll call vote resulted as follows:

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

A regular meeting of the Town Board of the Town of Moreau was held on December 14, 2010 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

This motion was amended on motion by Councilman Prendergast and seconded by Councilman Cumm to include roofing materials for the bathroom near the bowl in the rec. park, which was included in the price of \$2,206.93.

Roll call vote resulted as follows:

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

The recreation director obtained three quotes for fencing for behind the rec. office as follows that will be paid out of account A7140.4 that had a balance of \$16,973.19:

Lowe's	\$838.68
Home Depot	\$911.38
Curtis Lumber	\$671.79

Discussion followed.

A motion was made by Councilman Cumm and seconded by Councilman Prendergast to accept the quote from Lowe's in the amount of \$838.68.

Roll call vote resulted as follows:

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

The recreation department obtained quotes for the purchase of an all season track conversion system for the club car as follows:

Fall Farm & Garden	\$6,809.00
Mattracks Sales, Inc.	\$6,662.00
Progressive Motorsports	\$3,775.00

The purchase would be made out of account A7140.2 that had a balance of \$9,121.60.

The tracks would enable the club car to be used to groom cross country ski trails in the rec. park.

Councilman Kusnierz saw where the recreation department was looking to purchase a form kit to create a temporary ice rink in the park and thought the money would be more wisely spent purchasing this rather than the tracks system and he didn't support purchasing both in the same year.

Supervisor Jenkins heard that the South High hockey team may be interested in practicing on the ice rink once created in the rec. park and if so they will provide side boards for the rink. He thought they would get more skaters than cross country skiers. He suggested they table both requests until the board could have a more meaningful discussion with the hockey team.

Councilman Cumm said he wanted to purchase the tracks system. He asked how we groomed the trails last year and Jeremy replied that Bruce used his snowmobile to pack the trails down.

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Councilman Kusnierz said that while it is nice to groom cross country ski trails it is not necessary. Cross country skiers can establish trails on their own.

Councilman Prendergast said he didn't support the purchase of the tracks system. He said that Moreau Lake State Park has about 100 miles of cross country ski trails so it didn't make sense to spend taxpayer's dollars on cross country ski trails in the rec. park. He preferred to focus on something that isn't offered elsewhere in the Town, such as skating and he would support a skating rink.

Jeremy Tripp stated that they may as well sell the groomer then and Councilman Kusnierz noted that the groomer was purchased upon direction from the recreation director, because we supposedly had equipment to pull it.

Steve Gram replied to this saying that he was told it could be pulled by a tractor and that didn't work.

The requests to purchase the track conversion system and temporary ice rink forms were tabled.

Nick Mattison reported that a basketball travel team would like to play in one of the gymnasiums in one of our schools and he explained why.

Supervisor Jenkins asked Steve Gram to run it by our insurance agent and send the request on to the school district for approval.

#### **TRANSFER STATION REQUEST**

Councilman Cumm reported that they had been working on quotes to enclose an area by the compactor where it goes into a pit so that Bruce Abare will be under cover. The quotes include the construction of the enclosure, propane heater, windows, doors and insulation. They obtained three quotes as follows:

Bob Phillips	\$8,687.38
Ernest Hilpertshauser	\$4,292.12
Andrew Sweet	\$5,686.00

The quote from Ernest Hilpertshauser included a request for 50% down from the Town and he was told that this wouldn't happen and he is okay with that.

Supervisor Jenkins stated this would be paid for out of account TS8140.4 that had a balance as of 12/1 /10 of \$38,056.00.

Councilman Kusnierz noted that each proposal includes a different size building and they should all quote on the same size building. He also noted that the Transfer Station revenues are dropping significantly and users are declining.

Supervisor Jenkins said a lot of that had to do with the county-wide waste recycling program. Every municipality in the county is complaining about losing revenues.

Councilman Kusnierz mentioned that the Transfer Station fund is user-fee based and this will have to be built into the fees if they are not generating enough fees.

Supervisor Jenkins stated that we may have to consider raising fees next year. He added that our processing costs are going down too so we should hold our own.

Councilman Kusnierz suggested that we pick one of the two lowest quotes and use it as specifications and go back out for quotes so they all quote on the same size building.

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Councilman Cumm made a motion to accept the quote from Ernest Hilpertshauser in the amount of \$4,296.12.

Councilman Kusnierz noted that this quote didn't include a propane heater and he asked Councilman Cumm if they were going to go on a verbal that he was going to include one and Councilman Cumm replied no, we are going to put it in the contract.

Councilman Prendergast said it makes sense to use one of the quotes as a set of specifications and go back out for quotes.

Councilman Kusnierz stated it was the fiscally responsible thing to do.

There was no second to the motion so the request was tabled.

Councilman Cumm reported that Bruce Abare had to use his own truck and plow to plow the Transfer Station area, because the loader wouldn't start. The highway department was able to get it running eventually, it was frozen up. Also, a tire needs to be fixed on the loader. Councilman Cumm said he would have Nancy Ryan get a price to fix the tire and then she will contact the board members for approval to have it fixed.

Councilman Cumm reported that Nancy Ryan obtained two quotes for semi-annual maintenance on the compactor as follows:

Artran	\$65.00 per hour x 5 hours (includes travel time)
Waste Management	\$65.00 per hour x 3 hours

Councilman Cumm wanted the board to be aware that Waste Management will be doing the semi-annual maintenance on the compactor.

#### **WATER RATES – BUY-INS – CAPACITY – TAP FEES**

Councilman Cumm stated that back in June the Water Committee presented recommendations for buy-in fees, capacity and tap fees for any new construction in the Town. The board should have a copy of these recommendations. This is the fourth time for it to be discussed at a meeting.

Councilman Kusnierz asked what the changes are from what we currently charge to what is being proposed.

Jesse Fish stated that right now we charge \$700.00 if the property is on the short side of the road and \$900.00 if it is on the long side of the road.

Supervisor Jenkins said that would change to \$1,400.00 and Jesse Fish added that it won't make any difference what side of the road the property is on the charge will be \$1,400.00.

Councilman Cumm stated that Tim Burley gave them a recommended price of about \$3,700.00 to \$3,800.00 and the Water Committee reduced it to \$3,100.00 and that includes \$1,700.00 for a buy-in fee and capacity fee and \$1,400.00 for a tap fee, which would include a water meter, piping, curb stop, whatever is needed to make the connection.

Jesse Fish added that the \$1,400.00 would include "moling" under the road if necessary and anything it takes to hook the water up to the curb stop.

Councilman Prendergast stated that a lot of the discussion centered around the cost of materials and labor, which is \$1,400.00. The other part that they spent quite a bit of time discussing was the buy-in fee.

Councilman Kusnierz asked if commercial hook ups use the same size diameter tap.

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Jesse Fish replied that they can.

Councilman Cumm stated that if they want a bigger line they have to pay for it.

Councilman Kusnierz asked if there is a schedule for that and Jesse Fish and Councilman Cumm replied no, it would be based on the cost of material.

Councilman Kusnierz asked what we charge now for buy-in and the reply was nothing.

Jesse Fish stated that right now if a line has to be run under the road the property owner has to pay for the "moling" under the road. Most people have been using T. K. Flaherty and the cost is about \$2,000.00 to \$3,000.00. The \$1,400.00 for the tapping fee includes the bore under the road, which is why he included the purchase of a mole in the budget for 2011.

Councilman Kusnierz asked if we don't have a mole and we are unable to bore under the road then a property owner will have to pay an additional \$2,000.00 to \$3,000.00.

Jesse Fish replied whatever Tom Flaherty charges. If it is a state highway it could cost more, because more permits are needed.

Councilman Prendergast stated that a mole needs to be purchased. We can't charge someone \$6,000.00 for a hook up.

Councilman Cumm stated they talked about the mole and generator to run it being part of the water project.

Supervisor Jenkins asked Jesse Fish to get a guaranteed price for a mole and report it to the board at the meeting on December 28<sup>th</sup>.

A motion was made by Councilman Cumm and seconded by Councilman Prendergast to adopt the buy-in rates/capacity fees and tap fees as proposed by the water committee back on June 3, 2010 as follows:

Connection Fee — Tap required	
Single family dwelling	\$3,100.00/dwelling unit *
Includes:	
• Capacity and expansion fee	
• Tap — Maximum of 1" diameter	
• 3/4" x 5/8" meter with compatible radio read system	
• Pipe, fittings and appurtenances necessary to complete an installation up to and including the curb stop.	
A Professional Engineer shall design all water services larger than 1" diameter. All applications for a water service larger than 1" diameter must be submitted to the Water Superintendent for review and approval. The applicant for the water service shall be responsible for all additional costs incurred for an installation larger than 1".	

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Two family dwelling	\$4,800.00/building *
Includes:	
<ul style="list-style-type: none"> <li>• Capacity and expansion fee</li> </ul>	
<ul style="list-style-type: none"> <li>• Tap — Maximum of 1" diameter</li> </ul>	
<ul style="list-style-type: none"> <li>• 3/4" x 5/8" meter with compatible radio read system</li> </ul>	
<ul style="list-style-type: none"> <li>• Pipe, fittings and appurtenances necessary to complete an installation up to and including the curb stop.</li> </ul>	
<p>A Professional Engineer shall design all water services larger than 1" diameter. All applications for a water service larger than 1" diameter must be submitted to the Water Superintendent for review and approval. The applicant for the water service shall be responsible for all additional costs incurred for an installation larger than 1".</p>	
Multi-family dwelling	\$1,700.00/dwelling unit \$1,400.00/building *
Includes:	
<ul style="list-style-type: none"> <li>• Capacity and expansion fee</li> </ul>	
<ul style="list-style-type: none"> <li>• Tap — Maximum of 1" diameter</li> </ul>	
<ul style="list-style-type: none"> <li>• 3/4" x 5/8" meter with compatible radio read system</li> </ul>	
<ul style="list-style-type: none"> <li>• Pipe, fittings and appurtenances necessary to complete an installation up to and including the curb stop.</li> </ul>	
<p>A Professional Engineer shall design all water services larger than 1" diameter. All applications for a water services larger than 1" diameter must be submitted to the Water Superintendent for review and approval. The applicant for the water service shall be responsible for all additional costs incurred for an installation larger than 1" diameter.</p>	
Commercial or manufacturing site	\$3,100.00/site *
Includes:	
<ul style="list-style-type: none"> <li>• Capacity and expansion fee**</li> </ul>	
<ul style="list-style-type: none"> <li>• Tap — Maximum of 1" diameter</li> </ul>	
<ul style="list-style-type: none"> <li>• 3/4" x 5/8" meter with compatible radio read system</li> </ul>	
<ul style="list-style-type: none"> <li>• Pipe, fittings and appurtenances necessary to complete an installation up to and including the curb stop.</li> </ul>	
<p>A Professional Engineer shall design all water services larger than 1" diameter. All applications for a water service larger than 1" must be submitted to the Water Superintendent for review and approval. All commercial /industrial applicants must complete a tap application which will include additional information for purposes of determining any special need for a backflow prevention device. The applicant shall be responsible for all costs associated with installation of a backflow prevention device if it is determined that one is necessary. The applicant for the water service shall be responsible for all additional costs incurred for an installation larger than 1"diameter..</p>	
<p>* If a tap is not required deduct \$1,400.00</p>	
<p>** The capacity and expansion fee listed above is based upon the estimated use of 200 gallons of water per day. Commercial and manufacturing sites shall be required to pay an additional one-time fee of \$8.50 per gallon for estimated use of water in excess of 200 gallons per day.</p>	
<p>The anticipated use of water on the site shall be determined by a Professional Engineer for the applicant and reviewed by the Water Superintendent</p>	

A regular meeting of the Town Board of the Town of Moreau was held on December 14, 2010 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

At the end of a one-year period of time (to be determined by the Water Superintendent) the actual use at the site shall be reconciled against the anticipated use. Any difference between the two shall be determined and, if so indicated, an additional payment by the owner shall be made to the Water Department based on the original amount of \$8.50 per gallon of use in excess of 200 gallons per day. If the actual use is less than the anticipated use a credit shall be calculated by the Water Department for the same \$8.50 per gallon for use less than 200 gallons per day. The credit shall be applied to the next billing period.

Councilman Prendergast stated that they worked on this schedule for several months. There were several meetings on this at the Town Board level and the Water Committee met several times on it along with the Water Superintendent and Building Inspector. They had feedback from the public at some of the meetings and it was tabled and another meeting was held to discuss the feedback and they went back to the engineer again and discussed it with him. This is what they have come up with. It is less than what the engineer recommended, because he was looking into the future, as we are, so the Town is ready for any problems that could arise in the future. He stated that is where other municipalities have run into problems, they didn't plan for the future and they set prices too low.

Councilman Kusnierz stated he was going to oppose the rate increase, because a 300% increase to obtain municipal water in the Town of Moreau is completely excessive.

Supervisor Jenkins said he looked at that too when they first started and heard Councilman Prendergast talk about fund balance and the reason we have fund balances in those accounts is because existing customers are paying for this. They are paying for the future and we are letting new people in at a cost much lower than what everybody else in the region is being charged.

Councilman Prendergast said like reval, those water hook up rates were set many, many years ago and the Town of Moreau is not the same Town of Moreau that it was back then. It is a cost increase, as simple as that.

Roll call vote resulted as follows:

Councilman Kusnierz	No
Councilman Cumm	Yes
Councilman Prendergast	Yes
Councilwoman LeClair	Absent
Supervisor Jenkins	Yes

**LEGAL SERVICES – AMEND AGREEMENT - WATER DISTRICT NO. 1, EXTENSION NO. 2**

Attorney Auffredou submitted a proposed amendment to the agreement for legal services between the Town of Moreau and Bartlett, Pontiff, Stewart & Rhodes, P.C. for legal services associated with the preparation and review of construction contracts for proposed Water District No. 1, Extension No. 2 and legal fees associated with bond counsel for project financing.

The proposed rate is \$130.00 per hour for principal's time and \$100.00 per hour for associate's time plus fees incurred in connection with the publication of required notices.

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The total fees proposed are:	Local Counsel	\$17,500.00
	Bond Counsel	\$25,000.00

Attorney Auffredou advised that these are Tim Burley's figures for EFC financing purposes and historically the legal fees have been lower in similar projects and he expected them to be lower again.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing the Supervisor to sign an amendment to the agreement for legal services between the Town of Moreau and Bartlett, Pontiff, Stewart & Rhodes, P.C. per their proposal.

Roll call vote resulted as follows:

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

**PLANNING BOARD SECRETARY**

The Personnel Committee interviewed three applicants for the position of secretary for the Town Planning Board and they are recommending the appointment of Tricia Andrews at a stipend of \$65.00 per meeting.

Roll call vote resulted as follows:

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

**RE-APPOINTMENT OF STEVE GRAM TO THE SARATOGA COUNTY YOUTH ADVISORY BOARD FOR 2011**

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to re-appoint Steve Gram to the Saratoga County Youth Advisory Board for 2011.

Roll call vote resulted as follows:

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

A regular meeting of the Town Board of the Town of Moreau was held on December 14, 2010 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

**RE-APPOINTMENT OF RON ZIMMERMAN TO THE PLANNING BOARD AND GERHARD ENDAL TO THE ZONING BOARD**

Councilman Kusnierz asked if the positions on the Zoning Board and Planning Board had been advertised and the Town Clerk replied no.

A motion was made by Councilman Cumm and seconded by Councilman Prendergast to re-appoint Gerhard Endal as Zoning Board Member for another five year term that will expire on 12/31/2015.

Councilman Kusnierz stated he was going to abstain from the vote, because the position should have been advertised and at a minimum been put on the Town's website.

Roll call vote resulted as follows:

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

Councilman Kusnierz stated that he was going to abstain from the vote on the re-appointment of Ron Zimmerman to the Planning Board to avoid the appearance of a conflict of interest, because Ron Zimmerman is his brother-in-law.

A motion was made by Councilman Cumm and seconded by Councilman Prendergast to re-appoint Ron Zimmerman to the Town Planning Board for another seven year term that will expire on 21/31/2017.

Roll call vote resulted as follows:

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

**TANGLEWOOD LIGHTING DISTRICT**

Supervisor Jenkins stated that the Tanglewood Lighting District topic has been before the Town Board several times. The superintendent of schools has been pursuing this. He is concerned about the safety situation down there. It is a public safety issue. There are no shoulders along Tanglewood Drive and no place to walk along the road and no lights. It is a hazardous situation. He stated that the board has had a lighting estimate from National Grid before them now for about a year.

Councilman Prendergast asked Attorney Auffredou if they needed a public hearing on this and Attorney Auffredou replied yes.

Councilman Prendergast said he was prepared to hold a public hearing on this.

Supervisor Jenkins stated that this is not going to be a special lighting district. He said it would be the same as what we did on Route 9 and Feeder Dam Road and Merritt Road.

A regular meeting of the Town Board of the Town of Moreau was held on December 14, 2010 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

Attorney Auffredou asked if National Grid installs the infrastructure and bills the Town and Supervisor Jenkins stated they install the infrastructure and the cost is included in the monthly bill.

Attorney Auffredou stated that since there is going to be a charge that the taxpayers are going to cover it would be a good idea to hold a public hearing. He recommended the board schedule a public hearing and he would work on a public hearing notice with the Town Clerk.

Councilman Kusnierz stated that when there was a suggestion to install sidewalks along Tanglewood Drive, because of a safety issue, the residents along Tanglewood Drive filled up the board room and they were adamantly opposed to sidewalks being installed. Therefore, the potential exists that there may be some concerned people about the lights.

Attorney Auffredou suggested that the Town Engineer be present at the public hearing and that he be prepared to answer questions such as, where are the lights going, how many, what is the wattage going to be, give examples of lights they can view to see what they are going to look like and give the people as much information as possible.

Councilman Kusnierz stated that the school district seems to be pushing most for this and while he understands that the school district cannot pay for lights that are installed on property they do not own, nothing precludes them from installing lights on their own property in the area where there is a public safety issue. Their budget is ten times what ours is. Once we install these lights we are going to establish a recurring cost for the taxpayers of this Town. Perhaps we can work with the school district whereby we pay for the lights and they pay for the lighting bill or something like that.

Supervisor Jenkins stated that the school district could light the length of the football field to the woods, but the other area would be set back too far from the roadway to do the job.

Councilman Kusnierz asked where the greatest concern was. Was it along the football field or further south on Tanglewood.

Supervisor Jenkins said the area along the football field, but the whole length of Tanglewood Drive is a concern.

Discussion followed.

It was decided to schedule a public hearing for sometime in January at the December 28<sup>th</sup> meeting.

#### **HISTORICAL SOCIETY REQUESTS USE OF ROUTE 197 BUILDING**

The historical society has requested to use the Town's building on Route 197 on February 12<sup>th</sup> and 13<sup>th</sup> to host a "General Moreau Celebration". They have a historian coming that has written a book and done a lot of research on General Moreau who our Town is named after.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing the use of the Town's Route 197 building by the historical society on February 12<sup>th</sup> and 13<sup>th</sup>.

Roll call vote resulted as follows:

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

### **LOCAL DEVELOPMENT CORPORATION DISSOLUTION**

Attorney Auffredou researched the procedure for the dissolution of the Town's LDC and found that there are by-laws that read that the Town Board Members are members and directors of the Local Development Corporation. He also noted that the LDC does not have any assets or liabilities and it hasn't been used for any function or purpose. In order to dissolve the corporation a meeting of the LDC would have to be called and at that meeting he would discuss the plan for dissolution and the members would vote on the dissolution. It would then be filed with the Department of Taxation and the Attorney General's Office and the LDC would then be dissolved.

Councilman Kusnierz asked that the board members reconsider dissolving the LDC. He stated that Local Development Corporations are provided for under the Not-For-Profit Corporation Law, Article 14-11. These corporations are established exclusively for "charitable or public purposes for the purpose of relieving and reducing unemployment, promoting or providing for additional, maximum employment, economic development, etc...". A time may come when it may be a benefit to the Town to change the by-laws whereby it is not the Town Board Members who are the officials of the LDC and appointment members of our community to the LDC.

Supervisor Jenkins stated that most of the tax breaks that an LDC is allowed to pass on to businesses are gone, but there is potentially grant money available to local development.

Councilman Kusnierz stated they can be financed off budget.

Supervisor Jenkins stated that the LDC could request a grant from the IDA that would allow the LDC to hire someone to promote and help develop our industrial park.

Councilman Kusnierz stated that he understands that it requires additional paperwork on the part of staff.

Councilman Cumm added that it also requires an independent audit.

Supervisor Jenkins stated that a CPA could write a letter to the effect that there aren't any assets or liabilities without any supporting documents, because there aren't any.

Councilman Kusnierz asked if LDC's have bonding authority.

Attorney Auffredou replied yes and there are a lot of potential benefits.

Supervisor Jenkins stated that they need to start taking a look at what they can do then. He will work with Councilman Kusnierz on this and see what we can do. He stated that he does know that Saratoga County has grant money available through the IDA.

Councilman Kusnierz stated that without that entity we couldn't otherwise receive any of those grants and he thought that was the impetus behind the creation of the LDC to begin with.

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Supervisor Jenkins stated he would call Steve Bethel and see if he is willing to write a letter indicating there are no assets or liabilities in lieu of an audit.

### **TRANSFER OF FUNDS**

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to transfer \$2,000.00 from A9010.8 – General Fund – Employee Benefits – NYS Retirement and \$7,000.00 from A9050.8 – General Fund – Employee Benefits – Unemployment into A9060.8 – General Fund – Employee Benefits – Medical Insurance for the purpose of paying the December 2010 medical insurance premiums and health reimbursement account.

Roll call vote resulted as follows:

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

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to transfer \$800.00 from II8340.4 – Water II – Transmission/Distribution – Contractual into II9060.8 – Water II – Employee Benefits – Medical Insurance for the purpose of paying the December 2010 medical insurance premiums and health reimbursement account.

Roll call vote resulted as follows:

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

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to transfer \$474.00 from TS9050.8 – Transfer Station – Employee Benefits – Unemployment into TS9060.8 – Transfer Station – Employee Benefits – Hospital/Medical Insurance to pay December 2010 medical insurance premium.

Roll call vote resulted as follows:

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

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to transfer \$5,300.00 from A1110.4 – General – Justices – Contractual into A1110.2 – General – Justices – Equipment to amend the budget due to board approved purchase of telephone system on November 9, 2010.

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Roll call vote resulted as follows:

Councilman Prendergast	Yes
Councilwoman LeClair	Absent
Councilman Kusnierz	No *
Councilman Cumm	Yes
Supervisor Jenkins	Yes

\*Councilman Kusnierz voted no in order to be consistent with his vote on the purchase of a telephone system that he voted no on.

Supervisor Jenkins reported on a voucher that was submitted for audit from PS Technical Services in the amount of \$870.00 for work done in the court offices.

Discussion followed on this voucher.

It was noted that purchases can be made up to \$500.00 without board approval and this work exceeded that amount.

The board will obtain more information on what work was performed and who authorized it.

A voucher was received from C. T. Male in the amount of \$1,293.75 for services rendered in connection with the Town of Moreau Landfill Maintenance and repair to the gas vents. It could not be found in the minutes where these services were approved so a resolution is needed at this meeting authorizing C. T. Male to perform this work.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing C. T. Male Associates, P. C. to render services in connection with the Town of Moreau Landfill Maintenance and repair to the gas vents at a cost of \$1,294.75.

Roll call vote resulted as follows:

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

### **GAR ASSOCIATES**

Supervisor Jenkins suggested that they table the discussion on GAR Associates topic. It was regarding staffing for the assessor's office or having GAR Associates assist in maintaining the assessed values at 100%. The other option would be to send out RFP's for additional prices.

Supervisor Jenkins stated that Councilman Prendergast was not prepared to act on this and he thought that Councilman Kusnierz was not in favor of it. Supervisor Jenkins said he was prepared to move ahead with it. GAR did an excellent job for us. There were only seven Article 7's that were filed. He received very few complaints after the school tax bills went out. They also supported us on a couple of issues that they didn't charge us for.

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Supervisor Jenkins stated that we got a credit of \$15,000.00 against the bill from GAR for the project they did for the Town back around 2006.

He stated that he may put it on the agenda for the meeting on December 28<sup>th</sup>.

### **PALLETTE ROAD ACCEPTANCE**

Supervisor Jenkins advised that we don't have all the information we need to accept the road in the Palette Subdivision.

Attorney Auffredou asked what information the board was lacking.

Supervisor Jenkins stated that they had not received a letter from the highway superintendent indicating that the road was ready for acceptance.

Paul Joseph stated he was lacking documentation between Tim Burley to Jim Mitchell.

Attorney Auffredou said he completed his review and all documentation was in order.

Councilman Kusnierz asked if the engineer has reviewed it.

Joe Patricke replied that Tim Burley reviewed the first part of the project and then Jim Mitchell did the rest of the review and Joe said he has all that information.

Councilman Kusnierz asked why it was so critical that the board act on this at this meeting.

Attorney Auffredou replied that Palette has a business transaction pending and they are facing some tax consequences on their end. He noted that he and Joe Patricke have been working with Palette on this for about three weeks now. He never represented to them that we could get this done "at anytime". It appeared to him that it would be acted on at this meeting, because he had everything that he needed with the exception of the letter from the highway superintendent. He thought it was the expectation of Palette that it would be done tonight based upon the myriad of e-mails and telephone conversations and exchange of documents and all the revisions that he requested they make and that they made in a very timely, thorough fashion.

Councilman Prendergast asked Paul Joseph if all he was lacking was information from the engineer and Paul Joseph replied yes.

Councilman Prendergast asked Joe Patricke if he had those documents and Joe Patricke replied yes, he has had them since 2008.

Councilman Prendergast asked why they couldn't approve this pending transfer of the documents from Joe Patricke to Paul Joseph.

Councilman Kusnierz stated that the law requires the highway superintendent to certify to the Town that everything is complete.

Attorney Auffredou stated that the Town Code requires that the highway superintendent issue a letter and he has opined that absent a letter there should be a representation made for the minutes that the

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highway superintendent has reviewed everything and finds it acceptable and he didn't think Paul Joseph was prepared to do that this evening.

Supervisor Jenkins asked why they couldn't approve this pending the highway superintendent producing the letter.

Councilman Kusnierz replied no.

Councilman Cumm stated he was going to vote no, because this was brought up at the last minute and the board has agreed that we wouldn't be putting things on the agenda at the last minute.

Attorney Auffredou stated that the expectation of Pallette is that this was going to be acted on tonight or at the meeting on the 28<sup>th</sup>.

Supervisor Jenkins stated they could do it on the 21<sup>st</sup> of December. It is going to be a special meeting and he is going to issue an agenda.

Attorney Auffredou stated that Pallette put in an affidavit acknowledging that the Town will not plow their roads this winter.

Paul Joseph said he didn't have a copy of that affidavit. In fact, he had very little information in his folder on this.

### **COMMITTEE REPORTS**

Councilman Cumm received a phone call from Lance Hillman and he wants to know where the Town stands with the lease agreement and how much longer we plan to rent his building. When they met with Lance Hillman they told him it would be at least two years before we could get a court house built so Lance would like a two year lease based upon the schedule of payments that he gave the Town on 7/1/10.

Supervisor Jenkins said he would be comfortable entering into a two year lease.

Councilman Cumm said he would feel more comfortable if Attorney Auffredou drew up the lease.

Councilman Kusnierz stated that it has been mentioned before that the Town is saving Hillman Bros. about \$6,600.00 a year in taxes and he asked how this came about. He stated that we just went through a reval so how are we saving him money in taxes.

Peggy Jenkins stated the assessed value of the leased portion of the building came off. It is like an exemption.

Supervisor Jenkins said he didn't know who cut that deal.

Councilman Kusnierz asked if this was legal. We just went through a reval and everything is supposed to be fair and equitable.

Attorney Auffredou asked Peggy Jenkins if they were on section 8, the exempt portion of the assessment roll.

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Peggy Jenkins replied no. It was part of the lease agreement originally.

Attorney Auffredou asked "that they didn't have to pay real property taxes"?

Peggy Jenkins replied yes, on the portion that the Town leases.

Councilman Kusnierz asked if they are receiving any tax breaks.

Peggy Jenkins replied yes, on the portion of the building that the Town is leasing.

Councilman Kusnierz asked what the tax break amount was and Peggy Jenkins asked him what the amount was that she gave him and Councilman Kusnierz replied, \$6,600.00. Peggy Jenkins said "okay".

Councilman Kusnierz asked how that was provided for under statute.

Peggy Jenkins stated it was something the Town entered into years ago.

Attorney Auffredou said he didn't know how that was done legally, this is the first time he was hearing about this.

Supervisor Jenkins stated that there wasn't anything about this in the most recent lease, which was from about six years ago.

Supervisor Jenkins said he didn't have a problem putting it back on the tax rolls.

Councilman Kusnierz said he didn't want the Town doing something illegal.

Attorney Auffredou stated that if the Town owns property they don't pay taxes on it, but if we lease property he doesn't believe it makes it exempt.

Peggy Jenkins stated it isn't an exemption it is something the Town agreed to with Hillman Bros. It is not on the exempt portion of the roll.

Councilman Kusnierz asked if he was correct in that Hillman pays a tax bill and there isn't any tax break on his taxes and Peggy Jenkins replied that was correct.

He then said it was a misleading statement then and Peggy Jenkins replied, no it isn't.

Councilman Kusnierz asked how they were savings \$6,600.00 then.

Peggy Jenkins stated the assessment was reduced by the leased portion of the building that the Town is using up until the revaluation was done.

Supervisor Jenkins asked if they are at full value now on the rolls and Peggy replied yes.

Councilman Cumm asked if they were paying on the full value less the portion that we are leasing and Peggy Jenkins replied yes. Councilman Cumm stated that they are still receiving a tax break then.

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Peggy Jenkins stated that she would send Attorney Auffredou a copy of the agreement between the Town and Hillman Bros. regarding the taxes.

Supervisor Jenkins asked Attorney Auffredou to do some research on this and advise the board on what they could do to correct this.

Councilman Cumm asked the board what he was supposed to tell Mr. Hillman. It was decided that he would tell him that the Town's attorney will draft a two-year lease based on the rates in his 7/1/10 proposal.

### **SUPERVISOR'S ITEMS**

Supervisor Jenkins reported that there was going to be a Christmas party in Town Hall at 3:00 p.m. on December 23<sup>rd</sup> and all employees and department staff were invited.

Supervisor Jenkins reported that the Town received a refund from Empire Blue Cross for the year 2009 and the Town was going to end up with about \$15,000.00 and \$2,000.00 will be distributed amongst the employees through payroll. It will be allocated based on employee contributions and shares.

Councilman Kusnierz asked what was going on with the Hatchery Road culvert project.

Attorney Auffredou stated it was going to be addressed in executive session.

Councilman Kusnierz reported that he contacted farmers and asked if they would be interested in serving on the Farmland Protection Committee and they were receptive to the idea, but they wanted more information on it, such as, when they would meet, the commitment expected from them, the goal, etc. He stated that he would have to get together with Councilman Cumm to get more information.

The Town Clerk reported that an e-mail was received from Tom Field indicating that he did not want to be reappointed to the Planning Board and she asked if the board wanted her to advertise the position and the board acknowledged that they did.

A motion was made by Councilman Kusnierz and seconded by Councilman Cumm to adjourn to executive session at 10:05 p.m. to discuss a potential claim by the Town re: eminent domain of certain property along Hatchery Road and a potential claim against Matt's Towing regarding Washburn Road and to discuss an unauthorized purchase for the recreation park by an unnamed member of the Town Recreation Commission.

Roll call vote resulted as follows:

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

The Town Board invited Paul Joseph to stay for the executive session regarding Washburn Road and Joe Patricke to stay regarding Hatchery Road.

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

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A motion was made by Councilman Cumm and seconded by Councilman Prendergast to adjourn the executive session and re-open the regular meeting at 10:35 p.m.

Roll call vote resulted as follows:

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

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

A motion was made by Councilman Kusnierz and seconded by Councilman Cumm to adjourn the regular meeting for the evening at 10:35 p.m.

Roll call vote resulted as follows:

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

Meeting adjourned.

Respectfully submitted,

Jeanne Fleury  
Town Clerk

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