

A regular meeting of the Town Board of the Town of Moreau was held on December 22, 2009 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

Deputy Supervisor LeClair called the meeting to order at 7:00 p.m.

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

Town Board Members Present

Tom Cumm	Councilman
Bob Prendergast	Councilman
Gina LeClair	Councilwoman/Deputy Supervisor
Todd Kusnierz	Councilman

Town Board Members Absent

Preston Jenkins	Supervisor
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Also Present: Jeanne Fleury, Town Clerk; Jesse Fish, Water Superintendent; Paul Joseph, Highway Superintendent; Nancy Ryan, Transfer Station Clerk; Peggy Jenkins, Assessor; Martin D. Auffredou, Attorney for the Town; Nick Reisman, Post Star Reporter; Town Residents: Reed Antis, Adele Kurtz and at 7:40 p.m. John Telisky, Town Resident entered the meeting and at 7:45 p.m. Rich Morris, Owner of Toadflax Nursery entered the meeting

MINUTES

The minutes of December 8, 2009 were prepared and distributed to the Town Board in advance of the meeting for their review, comment, correction and approval.

MINUTES – DECEMBER 8, 2009 – REGULAR TOWN BOARD MEETING

Correction:

Page 621 – 4th line from bottom of page – change the word “have” to “has”

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to approve the minutes of December 8, 2009 as corrected.

Roll call vote resulted as follows:

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

FUTURE MEETINGS/WORKSHOPS SCHEDULED

A Town Board Meeting with the Moreau Community Center regarding shared services was scheduled for January 21, 2010 at 7:00 p.m. in Town Hall.

A Town Board Workshop on a proposed Outdoor Hydronic Heater Law was scheduled for January 12, 2010 at 6:30 p.m. in Town Hall.

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The Organizational Meeting for the Year 2010 was scheduled for January 4, 2010 at 7:00 p.m. in Town Hall.

15 MINUTE PUBLIC COMMENT PERIOD

Adele Kurtz asked if there was going to be a “Winter Festival” in the Harry J. Betar Jr. Recreational Park this year.

Deputy Supervisor LeClair replied that the Recreation Commission discussed it, but they don’t plan to hold one this year. They didn’t feel it was very well attended last year. They hope to build up the use of the park this winter by having sliding and a skating rink.

Councilman Kusnierz stated that at the last meeting there was discussion on the cable television franchise renewal agreement and the Supervisor said he was going to seek an opinion from the State Comptroller about whether or not we could use part of the franchise fees for additional build out and he wondered if he got an opinion or not.

Deputy Supervisor LeClair said that the Supervisor went home unexpectedly, because he wasn’t feeling well and she didn’t know if he had gotten any information on this or not.

Councilman Cumm stated that he didn’t think he had obtained that information yet.

Councilman Kusnierz talked with counsel from the Association of Towns who deals with franchise agreements on a regular basis and he told him that if the Town has not received the fees then they could work the disposition of a portion of those fees into the renewal agreement. However, if the Town accepts the fee as part of a franchise agreement and then decides they want to earmark a portion of the fees then that is where the difficulty lies.

This concluded the 15 minute public comment period.

HIGHWAY DEPARTMENT REQUESTS

A motion was made by Councilman Cumm and seconded by Councilman Prendergast authorizing the following transfer:

\$2,242.59 from A5132.411 – General Fund – Garage – Engineering Fees into A3310.499 – General Fund – Traffic Control – Striping to pay voucher in full for striping 77.66 miles of roads in 2009.

Roll call vote resulted as follows:

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

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to hire Germaine Isom and Christopher Scarincio as on call, part-time, as wingmen for the Highway Department at \$10.00 per hour with no benefits and subject to successful completion of a pre-employment physical.

Roll call vote resulted as follows:

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

A motion was made by Councilman Kusnierz and seconded by Councilman Prendergast to hire Reed Devitt as a laborer for the Highway Department at the contract rate per hour and subject to successful completion of a pre-employment physical.

Councilman Kusnierz stated that he personally knows Mr. Devitt and he has an incredible work ethic and he is a volunteer with the Fire Company and part of the dive team and is an all around nice young man.

Roll call vote resulted as follows:

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

Three quotes were submitted by the Highway Superintendent for the purchase and installation of a generator for the highway garage as follows:

Don Beagle	\$15,000.00
Hour Electric Co., Inc.	\$14,983.00
Northern Mechanical Services	\$15,940.00

The purchase would be made out of A5132.2 that had a balance of \$14,205.00. According to the note on the quotation sheet a transfer will be made in the amount of \$795.00 from A5132.405. The Highway Superintendent recommends the purchase of the generator from Don Beagle for the reason that it is a commercial grade generator and the other two are not and Beagle will install the generator and the other two vendors require the Highway Department staff to pour a pad for it.

Councilman Kusnierz noted that the quote from Don Beagle is for a 20 kw generator and the other two quoted on a 25 kw generator.

Paul Joseph stated the other two are light industrial and Beagle's is a commercial grade generator. He had two other quotes on a 20 kw generator that were even higher.

Councilman Kusnierz said they weren't comparing apples to apples.

Paul Joseph said that Hour Electric and Northern Mechanical cannot provide a liquid cooled generator at 20 kw. He had another quote from K&J Electric for a 20 kw generator and their price is \$22,630.00.

Councilman Kusnierz said that he was comparing a single phase generator to a three phase generator.

Paul Joseph stated the shop is set up for three phase, but the generator will run on one panel and the three electricians he spoke with said it wouldn't be feasible to run a three phase generator, because the one panel that would run it is a 100 amp panel.

Councilman Kusnierz asked him why he didn't get a quote on a single phase generator from Northern Mechanical.

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Paul Joseph replied that he did and their quote for a 20 kw was \$17,000.00.

Councilman Prendergast asked if there was a maintenance agreement with these generators and the answer was no.

Councilman Kusnierz asked if the 20 kw generator comes with a warming kit for the battery and Paul Joseph replied no it would be a separate purchase for about \$400.00.

Councilman Prendergast asked when it could be installed and Paul Joseph replied two or three weeks.

He advised that they have had two power outages and they burned out a relay on the fuel pumps for the emergency ansele system. Right now if there was a fire they would have to manually shut the pumps off.

A motion was made by Councilman Cumm and seconded by Councilman Prendergast authorizing the purchase of a generator from Don Beagle at an amount not to exceed \$15,000.00.

Councilman Kusnierz said there was no question that we need a generator, but he will be voting no. If you look at the figures from Northern Mechanical Services for a liquid cooled generator we can get 20% more electric generating capacity for only \$940.00 on a \$16,000.00 bill and that is a better buy for the Town Taxpayers.

Roll call vote resulted as follows:

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

RECREATION DEPARTMENT

The Recreation Director submitted two purchase request & quotation summary sheets to the Town Board. One was made out to Jointa Galusha in the amount of \$1,945.34 and it was for crushed run stone for the quad area and is to be paid out of HP7180.2 that had a balance of \$105,637.25 as of 12/21/09 and the other was made out to Pompa Brothers Inc. in the amount of \$5,300.00 for #6 blacktop that will also be paid out of HP7180.2.

Deputy Supervisor LeClair stated that there wasn't very much information included in the request.

Paul Joseph stated that these purchase requests are for work already completed by the Highway Department and when it was billed they had it billed directly to Rec.

Councilman Kusnierz asked Paul Joseph if at some point the Town Board gave Steve Gram the green light on this and Paul Joseph replied that at some point the Town Board gave Steve the green light for the work on the quad.

Councilman Cumm said this was for paving around the quad, concession stand, the road and the handicapped area. The Board discussed this at several meetings.

Councilman Kusnierz stated that typically a copy of the resolution is attached to the request. We should stick to our policy.

Deputy Supervisor LeClair said she would let Steve Gram know this.

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A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing the payment of \$1,945.34 to Jointa Galusha for crushed run stone for the quad area and \$5,300.00 to Pompa Brothers, Inc. for #6 blacktop.

Roll call vote resulted as follows:

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

WATER DEPARTMENT REQUESTS

Jesse Fish said in lieu of the fact that the Town is purchasing a new generator for the Highway Department he suggested the Board hold off acting on a service contract for the two generators the Town already has and find out what they will do about adding another generator to the service contract and hopefully the Town will get a bigger break in the price.

SARATOGA COUNTY YOUTH ADVISORY AND FIRE ADVISORY COUNCIL APPOINTMENTS

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to appoint Steve Gram as the representative from the Town of Moreau to serve on the Saratoga County Youth Advisory Board for the Year 2010.

Roll call vote resulted as follows:

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

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to appoint Don Ronck as the representative from the Town of Moreau to serve on the Saratoga County Fire Advisory Board for the Years 2010 and 2011 and authorize the Supervisor to sign the appointment sheet and return it to the county.

Roll call vote resulted as follows:

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

SOUTH GLENS FALLS FIRE COMPANY BELL JAR LICENSE APPLICATION

A Bell Jar License Application was received from the South Glens Falls Fire Company and submitted to the Town Board on December 3, 2009 for review and investigation.

A regular meeting of the Town Board of the Town of Moreau was held on December 22, 2009 in the Town of Moreau Office Building, 61 Hudson Street, South Glens Falls, New York.

At this meeting the Town Board went through the Findings and Determination Statement and answered “yes” to questions 1 – 9 and “no” to question 10.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing the Supervisor to sign the Findings and Determinations Statement and authorizing the Town Clerk to issue the Bell Jar License to the South Glens Falls Fire Company.

Roll call vote resulted as follows:

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

AMERICAN LEGION MOHICAN POST 553 BINGO LICENSE APPLICATION

A Bingo License Application was received from the American Legion Mohican Post 553 and submitted to the Town Board on December 11, 2009 for review and investigation.

At this meeting the Town Board went through the Findings and Determination Statement and answered “yes” to questions 1 – 9 and “no” to question 10.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm authorizing the Supervisor to sign the Findings and Determinations Statement and authorizing the Town Clerk to issue the Bingo License to the American Legion Mohican Post 553.

Roll call vote resulted as follows:

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

MOREAU EMERGENCY SQUAD CONTRACT

No action taken on the Moreau Emergency Squad Contract. A public hearing held at 6:45 p.m. this date and the Town Board held the public hearing open.

TRANSFER STATION REQUEST(S)

Deputy Supervisor LeClair stated that authorization is needed to repair the 950 CAT loader. It needs a rim and other repairs at a cost not to exceed \$2,328.95. Deputy Supervisor LeClair stated the new rim has been ordered at a cost of \$2,398.98 and Councilman Cumm notified the Town Board of this fact back on September 8th, but there wasn't any Town Board resolution. There were also some additional expenses, but they were under the \$500.00 threshold as follows:

Warren Tire	\$402.50 Tire Repair
Highway	\$ 66.09 Labor for Ron
Parker Machine	\$275.00 Ram Repair

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Deputy Supervisor LeClair stated a resolution is needed to approve a purchase order made out to Milton Cat in the amount of \$2,024.32.

The Town Clerk advised that the information she was given showed \$2,328.95.

Deputy Supervisor LeClair said the information she got was \$2,024.32.

A motion was made by Councilman Cumm and seconded by Councilman Prendergast approving a purchase order made out to Milton Cat in the amount of \$2,024.32 for a rim and accessory parts.

Roll call vote resulted as follows:

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

TANGLEWOOD/MERRITT ROAD LIGHTING

Deputy Supervisor LeClair stated that the Supervisor did not give her any information on the Tanglewood/Merritt Road Lighting agenda item so it would have to be tabled until the next meeting.

WILLIAM STREET REMEDIATION

Deputy Supervisor LeClair stated that Supervisor Jenkins said we have a study from Chazen and he wants to know if the Town Board wants him to contact Liz Rovers from C.T. Male and have her send out RFP's to do the recommended work at our William Street property. She said a drywell would have to be put in and the soil would have to be filled back in.

Councilman Cumm stated that the RFP is on page 16 with inclusions and recommendations from C.T. Male and they are a lot less extensive than anticipated.

Councilman Kusnierz thought there was some talk amongst the Town Board Members previously that he wasn't involved in about selling the property and if this is the case and the direction we want to go in couldn't we make it a requirement that the buyer would have to clean up the property.

Attorney Auffredou replied that he didn't know who would buy it with a condition that they would have to clean it up.

Councilman Kusnierz asked why we should invest money into the property to turn around and sell it.

Attorney Auffredou said he understands this, but he doesn't understand the thinking about making it a condition that the new owner would have to clean it up.

Councilman Kusnierz stated that it is on the spill registry now.

Attorney Auffredou replied then it is on the spill registry, but the Town doesn't have to make it a condition of a sale.

Councilman Kusnierz asked if wouldn't we have accountability.

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Attorney Auffredou replied maybe not. He doesn't know who would buy it and agree to a price and also incur the cost to clean it up.

Attorney Auffredou asked if there was any grant money available to clean it up.

Councilman Cumm said the only thing the motion would be for is to allow Liz Rovers to put out RFP's to find out what the cost is to clean it up.

Attorney Auffredou asked if someone should ask Liz Rovers if this is Brownfield money eligible or if there are other grants out there.

Councilman Cumm said this is a registered site and DEC knows about it.

Deputy Supervisor LeClair said she would have the Supervisor check with Liz Rovers about grants.

Councilman Cumm said he would still like to put the RFP's out there.

Deputy Supervisor LeClair said the other question is will Liz Rovers charge for her RFP's.

Attorney Auffredou said he was sure she would and the question is what will she charge?

Deputy Supervisor LeClair said she would have the Supervisor check with Liz Rovers on this.

SPIER FALLS & ROUTE 9 INTERSECTION

Deputy Supervisor LeClair advised that the Supervisor received a letter from NYS DOT. The letter indicated that NYS DOT is in the final design phase of the US Route 9 and Spier Falls Road Intersection Improvement Project in the Town of Moreau and they need a resolution from the Town Board authorizing Fawn Road to be used as a temporary detour during construction. The estimated time for the use of this detour will be 3-5 days during the 2010 construction season.

A motion was made by Councilman Kusnierz and seconded by Councilman Prendergast adopting the following resolution:

WHEREAS, the New York State Department of Transportation proposes to make improvements to US Route 9 by adding a two way left turn lane and make intersection improvements to US route 9 at Spier Falls Road and Fortsville Road intersection, which improvements are expected to begin in 2010; and

WHEREAS, in conformance with Section 42 of the New York State Highway Law, the New York State Department of Transportation proposes to use Fawn Road as a temporary detour for the period of necessity, as determined by NYSDOT in confirmation with construction plans for PIN 1043.52; and

WHEREAS, the New York State Department of Transportation will direct the successful contractor to provide routine maintenance, install traffic control devices and make improvements or repairs when necessary to the above mentioned street during the period of necessity as the result of its use as a detour, and

NOW, THEREFORE, BE IT RESOLVED, that the Town Supervisor of the Town of Moreau, does hereby authorize the New York State Department of Transportation to use the above mentioned street as a detour road for the period of necessity as determined by NYSDOT in confirmation with construction plans for PIN 1043.52; and

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BE IT FURTHER RESOLVED, that the Town of Moreau will resume routine maintenance on the above mentioned street, including but not limited to snow and ice control, after the completion of the period of necessity as a detour, and

BE IT FURTHER RESOLVED, that the Town Clerk of the Town of Moreau is hereby directed to transmit five (5) certified copies of this resolution to the New York State Department of Transportation.

Roll call vote resulted as follows:

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

ZONING BOARD OF APPEALS UPCOMING VACANCY 1/1/2010

Deputy Supervisor LeClair asked the Board if they wanted to schedule interviews with applicants for the upcoming vacancy on the Zoning Board of Appeals. The Board asked the Town Clerk how many applications there were and the Town Clerk responded there was one new applicant, one applicant reapplied and there were three other people who applied the first time around that she sent a letter to asking if they were still interested in the position and they didn't respond.

Deputy Supervisor LeClair asked the Board if they wanted the three individuals who didn't respond to be called to see if they wanted to come in for another interview.

Councilman Prendergast said yes.

January 5th at 6:30 p.m. was the date and time set to interview applicants for the upcoming vacancy on the Zoning Board of Appeals. The Town Clerk was asked to contact the applicants and schedule the interviews 15 minutes apart.

DOG CONTROL OFFICER

Deputy Supervisor LeClair asked if the Personnel Committee has reviewed the applications for Dog Control Officer. She noted that three are from the Town of Moreau.

Councilman Kusnierz suggested they set a date to interview the applicants and the Board Members could submit the names of the applicants they wanted to interview to the Supervisor.

Councilman Prendergast said this was fine with him.

Councilman Kusnierz reminded the Board Members that the current Dog Control Officer's contract expires 12/31/09 so the Board should interview in December.

Councilman Prendergast said he thought there was talk about extending his contract.

Attorney Auffredou said the contract could be extended on a month to month basis. The Town Board could authorize it at this meeting so there is somebody on board as of January 1st under the same terms and conditions.

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Councilman Prendergast made a motion and it was seconded by Councilman Cumm authorizing the Supervisor to enter into an extension of the present contract with the current Dog Control Officer for the month of January in 2010 under the same terms and conditions of the present contract if necessary.

Roll call vote resulted as follows:

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

The Town Board agreed to schedule interviews with the applicants for December 29th starting at 5:00 p.m.

Councilman Cumm said he wasn't going to submit any names of applicants that live outside the Town of Moreau.

Councilman Prendergast said they could start with the Town of Moreau Residents and if they don't find anybody then we can expand to outside the Town of Moreau.

Councilman Kusnierz stated that the Town of Moreau is an equal opportunity employer and if a Board Member wants to interview an applicant from outside the Town then he was okay with that.

Councilman Prendergast said if a Board Member wants to interview somebody from outside the Town he would be here for it.

Councilman Kusnierz said obviously Town of Moreau Residents would be given preference.

Councilman Prendergast stated that the Board Members should submit names to the Supervisor.

Councilman Kusnierz asked that the Supervisor give the Board a list of the names for the interview process.

15 MINUTE PUBLIC COMMENT PERIOD

Reed Antis recalled that at the last Town Board Meeting there was mention about a problem over dogs in the Recreation Park and he asked if anything had been done about this with Wayne Bruce.

Councilman Prendergast said that he thought that the Board would have received a report if anything had been done.

Reed Antis stated that he ran into Wayne Bruce and was told that nobody had contacted him.

Reed Antis stated that it sounded like a pretty big concern.

Deputy Supervisor LeClair said she would check with the Supervisor on this.

John Telisky asked about the process for filling the vacancy on the Zoning Board of Appeals. He heard the Board say there was one applicant and three applicants from before.

Deputy Supervisor LeClair explained that the Town Board interviewed several candidates before and one person was selected and appointed to the Board. There were three other people who were interested and

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in light of the fact that there were a small number of people interested it was a good idea to ask them if they are still interested for this next vacancy.

John Telisky asked how long the applications stay on file and would a person who applied two years ago be asked if they were still interested.

Deputy Supervisor LeClair asked the Town Clerk if there was a typical amount of time the applications are held.

The Town Clerk replied that applications are held for three years per the NYS records retention schedule.

Deputy Supervisor LeClair asked the Town Clerk if she knew if there were any applications previously filed and the Town Clerk didn't know off hand.

Councilman Kusnierz noted that the Town Clerk did send out letters to those who applied in the last round to see if they were still interested and nobody responded.

The Town Clerk said one person did submit a letter at the last meeting stating they were still interested.

Reed Antis was aware that there is a Zoning Board Member who is resigning the end of the year and asked if there was going to be a process for finding a new Zoning Board Member.

Deputy Supervisor LeClair said we would advertise in the paper and it would be discussed at the first Town Board Meeting in January.

Rich Morris owner of Toadflax addressed the Board. He stated that there was a court proceeding on December 10th and he was curious when the Town moved to take action for those proceedings against Toadflax Nursery. He couldn't find in the minutes or any disclosure when the proceeding on the violation was voted on for the action to be taken by Bartlett, Pontiff, Stewart & Rhodes. He asked if anyone recalled when that was taken.

Attorney Auffredou said those are enforcement cases handled by the Building Department.

Councilman Prendergast stated that we have had enforcement cases that have come out of the Building Department before and they didn't require a vote from the Board.

Attorney Auffredou replied it's not necessary.

Rich Morris referred to a section of the code 74-15 that he said read as follows: "No action or proceeding described in this subdivision shall be commenced without the appropriate authorization of the Town Board of this Town".

Councilman Kusnierz stated that typically any instance of litigation that involves the Town and he assumed that enforcement proceedings can be litigation, through each process through the courts when it gets to the point of whether or not the Town wishes to proceed we do have discussion about that and it is typically done in executive session.

Attorney Auffredou said under state law the Code Enforcement Officer and Building Inspector are authorized to commence actions in the name of the Town to enforce violations of the code.

Rich Morris said not without Town Board approval.

Attorney Auffredou said he disagreed with Mr. Morris and that was what was done in this instance.

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Rich Morris said in this instance the stop work order and the action commenced against Toadflax Nursery were done without Town approval.

Attorney Auffredou said he wasn't saying that. It was done completely within in the parameters of every other proceeding the Town has commenced for violation of Town Code. He told Mr. Morris he knew he wasn't happy about it.

Rich Morris said it wasn't that he was unhappy about it, it is over and done with and Attorney Auffredou said he was right it is over and done with and Judge McCabe made his ruling.

Rich Morris said it still does not give the Town Code Enforcement Officer or the Attorney for this Town the right to proceed without Town Board recommendation.

Attorney Auffredou said that was his opinion and he stated his. The Town brought an action and it prevailed and the matter is over.

Rich Morris said it is in our Town Code. "He can't proceed, you can't have a few people go into a session talking about who needs to be taken care of in a closed, secret session and then they proceed upon it. This is a Town Board issue. It is a "checkmate" for the Building Department and an attorney to take on somebody they don't like." He read again from the same section of code 74-15 "No action or proceeding described in this subdivision shall be commenced without the appropriate authorization of the Town Board of this Town". He stated that it goes into stop work orders. You can't do it without Town Board approval.

Attorney Auffredou said he was not accurate. Joe's office commenced the proceeding in Town Court as he commences numerous proceedings in Town Court for violations of Town Code.

Councilman Kusnierz mentioned that Attorney Auffredou's colleague handled the case and he asked Attorney Auffredou if doesn't he typically handle them.

Attorney Auffredou replied yes and no. His colleague handles a lot of the enforcement cases for the Town now and all the dog cases now.

Councilman Kusnierz referred to a letter from Bartlett, Pontiff, Stewart & Rhodes date stamped by the Town Clerk on December 9, 2009 in which it states that the Town is not inclined to negotiate. He asked if this was Joe acting in his capacity.

Attorney Auffredou replied that Mr. Morris came to the Town Board and the Supervisor privately and may have tried to talk to other Board Members privately and he was instructed that the Town wanted Judge McCabe to make a decision and that is why that letter was written.

Councilman Kusnierz asked who gave him that instruction and Attorney Auffredou said it came from the Supervisor's Office.

Councilman Kusnierz said the Supervisor doesn't have the authority to do that unilaterally.

Attorney Auffredou replied that was the instructions he got and told Councilman Kusnierz that if he had a different opinion he could have voiced that opinion.

Councilman Kusnierz said "he wasn't, didn't....."

Attorney Auffredou interjected by saying that wasn't his fault.

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Councilman Kusnierz said he would tell him right now in the open that typically when the Town Board receives advice from counsel they decide whether they want to proceed or not. He wasn't involved in any discussion in executive session.

Attorney Auffredou replied that this was something for Joe's office, in his opinion, and not even the Town Board. Mr. Morris came to the Town Board and he asked that the Town Board do certain things so in his view as he expressed to the Supervisor and possibly others this was completely within the discretion of Joe to decide what to do, not the Town Board.

Councilman Kusnierz told Attorney Auffredou that his colleague shouldn't be saying then that the Town isn't inclined to negotiate.

Attorney Auffredou replied that Joe is the Town too.

Councilman Kusnierz said he isn't elected.

Councilman Cumm said he thought the Town Board made it very clear at the last meeting when Rich was here that it was in the court system and that he should proceed according to Judge McCabe's disposition of the case and it was out of our control

Attorney Auffredou agreed and said to Councilman Kusnierz that he didn't know if he was at that meeting or not.

Councilman Kusnierz said he was at that meeting and he recalled Attorney Auffredou saying that we shouldn't get into this in open session.

Attorney Auffredou said that was correct.

Councilman Kusnierz said he didn't pursue it any further, but he wanted to add that when there is a consent order it can be out there forever and there is still a time period where the Town Board has authority.

Attorney Auffredou said the Town Board had nothing to do with the consent order. The consent order was entered into between Joe, the Judge and Mr. Morris. There was a violation of the consent order and what Mr. Morris asked the Town board to do was over rule Joe.

Councilman Kusnierz said we were all in agreement that we weren't going to do that. He then asked Attorney Auffredou if he ever recalled any other instance in the Town when a business was fined such a significant fine. He doesn't since he has been on the Board.

Attorney Auffredou replied that Mr. Morris was represented by counsel at that time and agreed to that fine in open court.

Councilman Cumm said in most cases it doesn't go much farther than compliance with the issue at hand or a fine. This is really one of the first times when it went the full distance with a court case.

Attorney Auffredou said there have been rulings by the Judge and other consent orders throughout the years.

Councilman Cumm said usually there is compliance that fulfills their end of the agreement.

Attorney Auffredou said that is correct and that is usually the objective.

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Councilman Cumm stated this case was unusual for the fact that the consent wasn't completed in a timely manner so the Building Department took action.

Attorney Auffredou said as maintained by Joe and his office and as agreed to by Judge McCabe.

Councilman Cumm added and as agreed to by Mr. Morris's lawyer.

Attorney Auffredou stated that he didn't know that Mr. Morris's lawyer agreed that they were out of compliance.

Councilman Cumm asked what they agreed to and Attorney Auffredou said they agreed to take certain actions in front of the Planning Board and if they failed to there was a suspended portion of the fine that would become due and payable. What Judge McCabe found was that they did not comply with the consent order and therefore the suspended portion of the fine became due and payable.

Rich Morris said he received a letter the day of his court hearing. His lawyer handed it to him. He had no time to prepare. He was going under the assumption that he was working through it; we were working through the process of trying to get it completed. There was a meeting last night and he is still working to come into compliance to get the issues rectified, but when he goes through and is held accountable to specific standards for issues and he looks at the Town Code and the standard isn't applied, it isn't the same. How can you read these violations and go through the process of the violation and interpret the things you interpret. It is there in black and white. He asked Attorney Auffredou to look at it.

Attorney Auffredou said he stated his peace.

Councilman Prendergast said that when it went to court, it went to court. He isn't going beyond that. It isn't even in our ballpark. He knows he represents the people, but he was in the interview process when they interviewed Joe Patricke for his position and he told him that whoever they hired he wanted them to enforce the codes of the Town. He didn't want it politically involved. He only wanted the right thing done. If somebody is out of code he wanted it corrected by whoever was hired. That was his comment to Joe. He told Rich Morris that the ruling has come out and he wasn't going to go into Joe's office now and tell him to stop it. When he built his house on Congdon Road he told Joe Patricke that he wanted the codes enforced and he told him that he had better do his job, because he wanted his house built right.

Mr. Morris said the code specifies that the Town Board "are the ones".

Councilman Prendergast said it went to court, it was a legal matter and he was going to refer to legal counsel.

Mr. Morris said the Board didn't approve the action.

Councilman Prendergast said he answered him already.

Mr. Morris asked Councilman Kusnierz if he had any idea what he was saying or understands what he was trying to say. The Town Code Enforcement Officer can say there is a violation, but the Town Board has to look at it and vote whether to take action or not.

Councilman Kusnierz referred to the Building Inspector/Code Enforcement Officer and said that he has certain Town authority vested in him under Town Law in his capacity as an officer of the Town. He knows that typically in other matters of litigation there has been discussion with Town Board.

Attorney Auffredou said not code enforcement matters. Joe commences countless cases in Town Court annually and the Board never knows about them and in some cases he doesn't know about them.

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Deputy Supervisor LeClair asked if any Board Member wanted to pursue this further or were they ready to move forward with the court and Joe's handling of this.

Councilman Kusnierz said that one thing he would like and he hoped the rest of the Town Board Members would join him and that is that part of the Building Inspector's monthly report he would like to see a list of the violations for the month and what the disposition was so that as a Town Board Member representing the public he knows who has problems or potential problems so it never gets to this point again even if he has to get involved himself and has to tell the person "hey, if you don't move forward on this you are going to have real problems down the road" and then it won't ever get to this situation again unless they don't follow through.

There were no objections raised by the other Board Members to his suggestion.

John Telisky asked if anybody has oversight over Joe Patricke by statute.

Councilman Prendergast said he is an employee of the Town so the oversight would come from the Board.

John Telisky said in this case it was put before the court by an employee. If a person comes before the Town Board before it goes to court and says that they are a business owner, there is a down turn in the economy and they need more time or they just got laid off does the Town Board have the authority to do something. At some point there has to be a happy medium between the enforcement of the rules and the ability to do business.

Councilwoman LeClair replied that it was her understanding that Joe Patricke worked with Mr. Morris and she believed it was a period of a year since the citation was issued.

Attorney Auffredou added that Mr. Morris came to the Town Board in open session and asked for more time and it was the Town Board's feeling that it was a matter being handled by the court and the court subsequently made a ruling.

Adele Kurtz said there is a vacancy coming up on the Zoning Board and in light of the policy created tonight that the Town Board was going to go back and re-canvas everyone she wondered if there were any applications that were submitted this year and if they were going to contact those people and see if they are still interested in sitting on the Board.

Deputy Supervisor LeClair stated that they would post it as they post all other jobs and to go back and ask people if they are still interested is the right thing to do. As for the Planning Board it isn't a big task to pull out applications previously received and ask them if they are still interested. We could go back 6 months or a year whatever the Board wants to do.

Adele Kurtz asked if any interest was received for the Ethics Board and the Town Clerk replied no.

Adele Kurtz said if she submitted her name for that vacancy then the Town Board should re-advertise.

Deputy Supervisor LeClair said she didn't know where they were at with the application process on the Ethics Board.

The Town Clerk said ads have been run numerous times and no response received.

Adele Kurtz said if she had interest in serving on that Board should she submit her resume?

Deputy Supervisor LeClair said yes, please apply.

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Adele Kurtz asked if they would re-advertise and re-canvas for that.

Deputy Supervisor LeClair said we are currently canvassing on our website for that.

Adele Kurtz said that once applicants express interest they shouldn't be contacted again and asked if they want to re-apply. She was contacted by the Town Clerk and asked if she would like to submit another application and she did and nobody else has responded and it is well over a month and now the Board feels the need to go back and call them. The Board has interviewed everybody twice. She suggested that the Town Board either hire someone or interview the two candidates and pick the best candidate.

Councilman Prendergast said his reason for going back to recent ones was to make sure they got the letter about reapplying.

Rich Morris asked if minutes are taken in executive session.

Attorney Auffredou replied that minutes are taken in executive session if action is taken within executive session.

Rich Morris asked if minutes have ever been taken in executive session.

The Town Clerk responded that she recalled one time when they were. It was regarding a personnel matter.

Rich Morris asked if action has ever been taken in executive session.

The Town Clerk replied only that one time that she recalled.

Attorney Auffredou said typically a Town Board would deliberate in executive session and then announce in open session what they were talking about. 99.9% of the time that is what municipal boards do.

Rich Morris asked if prior to executive sessions the Board has to disclose what you are going into executive session for.

Attorney Auffredou said yes and Deputy Supervisor LeClair stated that would be in the minutes for that particular Board Meeting.

Adele Kurtz said we have so few businesses on Route 9 and everybody's election literature was all about developing the Route 9 corridor and a \$4,000.00 fine is pretty steep to levy on a business especially in this economy. She would think that if an order of consent was about to be acted upon the Board would make a public decision in open forum that they were going to pursue this. She stated that she would like to know if our businesses are out of compliance and the Board is going to be fining them. It would be helpful. She understands that it is within Joe's purview to move ahead without the Board's approval.

Attorney Auffredou said the Town Board didn't fine anybody here.

Adele Kurtz said she knew that, but that order of consent could sit out there and if no action was ever taken on it and Toadflax moved through the site plan and got approval she would think that if the Board was going to take action against the business she would like a vote in open session.

This concluded the second 15 minute public comment period.

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SUPERVISOR'S ITEMS

Deputy Supervisor LeClair stated that a letter was received from James Edwards indicating that he will be resigning from the Planning Board as of 12/21/09.

A motion was made by Councilman Prendergast and seconded by Councilman authorizing the vacancy on the Planning Board to be advertised.

Roll call vote resulted as follows:

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

Deputy Supervisor LeClair reported that a vehicle hit the Rice Cemetery fence and damaged it and she asked if the Board wanted to obtain estimates to repair it first and then submit it to the insurance company.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to obtain estimates for repair of the fence in front of Rice Cemetery and submit the quote to the Town's insurance company.

Roll call vote resulted as follows:

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

Councilman Kusnierz stated that a letter dated December 10th was sent from the Supervisor to the Senior Project Manager for Pilot Travel Centers and the only reason he was bringing up the letter was because his name is on the letterhead as are all the Board Members. A portion of the letter reads "In 2011 the Town will have a sewer project under construction making the location you looked at more desirable." First of all the Town Board has not decided on sewer in any way, shape or form so it is extremely premature to be making that comment. Second of all we didn't have a public meeting on this issue until December 16th and this letter was dated December 10th. We have to be very careful when we respond to individuals interested in our Town that we put out accurate information.

COMMITTEE REPORTS

Councilman Prendergast reported that the Water Committee met with the Water Superintendent, Building Inspector and Tim Burley and the discussion centered on water connection fees. They are still working through it and are pretty close to finalizing it. It will be given to Tim Burley for review and comment and then presented to the Town Board soon.

Peggy Jenkins asked where the Board was at with her request to purchase a computer and scanner. She has money budgeted for these purchases and it is coming near the end of the year. She submitted quotes. She has a loaner from the State that really needs to go back to them.

Councilman Kusnierz said they were looking for a little bit more information. He wanted to know what she needed the scanner for.

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Peggy Jenkins said she wanted to scan the deeds and transfer forms. They are currently filed in folders and she is running out of room for filing cabinets. Scanning these documents would also make quicker retrieval and printing upon request. The scanner she has now is obsolete and it won't scan 8 ½" x 14" paper. She said she didn't bring the quotes with her, but she thought the lowest quote was from W. B. Mason for around \$885.00 and state contract was \$1,259.00 and she thought there were five or six other quotes. The other issue is the computer. She needs a computer since she is using a loaner from the State.

Councilman Prendergast asked if there was a state contract price on the computer.

Peggy Jenkins said there were three quotes and the state contract price on the computer came in around \$1,500.00 and off state contract through Dell it was around \$1,395.00 plus shipping and handling so we would have to add about another \$100.00 or \$150.00. There was \$1,500.00 budgeted for the computer and \$1,500.00 budgeted for scanner. She originally budgeted money for a laptop, but after conferring with the state the laptop won't do what she wants it to do. If she takes the laptop out of the office then her clerk and the Building Department cannot work off of V4. It is a "glitch" in the state system. Her quotes are for a desktop. Her recommendation is to buy the scanner from W.B. Mason for a price not to exceed \$885.00 and buy the computer from Dell for \$1,370.00 plus shipping and handling.

Councilman Prendergast questioned that the scanner under state contract was \$2,000.00 when W. B. Mason has it for \$885.00.

Peggy Jenkins replied that the scanner quote when she prepared her budget for 2009 was \$1,500.00 and that is why that much money was budgeted. The price has come down since then.

Councilman Kusnierz told Peggy that it is the Board's policy that quotes are supposed to be written on a form with the account number and balance in the account and this wasn't done.

Peggy Jenkins replied that it is coming out A1355 the equipment account and there is \$3,000.00 in the equipment account.

Councilman Kusnierz told Peggy that he knew where it was coming from based on what she told them, but he wants to see it in writing before the meeting and the documentation on one page like the other

Department Heads. The reason being is that it makes it easy for him so he can go right to the account number and look at it and he has his mind made up before he gets to the meeting and he doesn't have any questions.

Peggy Jenkins replied they have been going through this and it is coming near the end of the year and there isn't another meeting before the first of the year.

Peggy was told that there was an audit meeting coming up.

Councilman Kusnierz suggested they table the request until the audit meeting. He asked Peggy to clean up all the figures and put them on one page and the Board would make a decision then. This was his recommendation.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to adjourn to executive session at 8:45 p.m. to discuss the Hendel Article 7 Proceeding.

Roll call vote resulted as follows:

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

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

A motion was made by Councilman Kusnierz and seconded by Deputy Supervisor LeClair to adjourn the executive session and re-open the regular meeting at 9:02 p.m.

Roll call vote resulted as follows:

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

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

A motion was made by Councilman Cumm and seconded by Councilman Prendergast to adjourn the regular meeting at 9:03 p.m.

Roll call vote resulted as follows:

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

Meeting adjourned.

Respectfully submitted,

Jeanne Fleury
Town Clerk