

A regular meeting of the Town Board of the Town of Moreau was held on March 8, 2011 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
Gina LeClair	Councilwoman
Todd Kusnierz	Councilman
Preston Jenkins	Supervisor

**Town Board Members Absent**

None

**Also Present:** Jeanne Fleury, Town Clerk; Jesse Fish, Water Superintendent; Steve Gram, Recreation Director; Peggy Jenkins, Assessor; Paul Joseph, Highway Superintendent; Martin D. Auffredou, Attorney for the Town; Town Residents: Richard Hughes, Gardner Congdon, Elizabeth Lanfear (Recreation Commission Member), Brandon Carta, Adele Kurtz, Chuck Rowson, and Jan Kropp; Village Residents: Harry G. Gutheil, Jr., John Bonn and Andre Delvaux; and Steven VanGuilder, President/CEO of Moreau Emergency Squad

Supervisor Jenkins led the Pledge of Allegiance.

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

**MINUTES**

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

February 22<sup>nd</sup> (2 Sets) and February 24<sup>th</sup>

**MINUTES – FEBRUARY 22, 2011 – PUBLIC HEARING – DOG LAW AMENDMENTS**

No comments or corrections.

**MINUTES – FEBRUARY 22, 2011 – REGULAR TOWN BOARD MEETING**

Correction: Page 96 – 3<sup>rd</sup> paragraph from bottom of page – 2<sup>nd</sup> line – change the word “oaky” to “okay”

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to approve both sets of minutes dated February 22<sup>nd</sup> with the above correction so noted.

Roll call vote resulted as follows:

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

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**MINUTES – FEBRUARY 24, 2011 – MONTH-END TOWN BOARD MEETING**

No comments or corrections.

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair to approve the minutes of February 24th as prepared.

Roll call vote resulted as follows:

Councilwoman LeClair	Yes for the portion of the meeting she was in attendance at
Councilman Kusnierz	Yes
Councilman Cumm	Yes
Councilman Prendergast	Abstain
Supervisor Jenkins	Yes

**SET FUTURE MEETINGS/WORKSHOPS**

The month-end audit meeting of the Town Board will be scheduled at the March 22<sup>nd</sup> Town Board Meeting.

**15 MINUTE PUBLIC COMMENT PERIOD**

Richard Hughes who resides at 98 Harrison Avenue in the Town of Moreau asked what the status was of Water District 1 Extension 2.

Supervisor Jenkins gave Mr. Hughes an update. We are waiting on NYS DEC and the Army Corp of Engineers. They are investigating a stream on Fortsville Road and a species of bat that may inhabit the area where the proposed water storage tank would be sited.

Richard Hughes wanted to know if the board was going to do anything to lower the water table in his area.

Supervisor Jenkins replied that only nature has control over that.

Richard Hughes recalled that Supervisor Jenkins had said a couple of years ago, that the Town may be able to drain the area.

Supervisor Jenkins advised that it was investigated and the cost was too substantial and there weren't any funds to do it.

Jan Kropp who resides at 471 Old Saratoga Road complained about the Town's snowplow truck drivers plowing and throwing snow about 21 feet onto their property and along with the snow comes gravel from the shoulder of the roadway and she complained about excessive speed by the trucks. She asked if they are allowed to drive at 45 mph in Town. She showed pictures to the board members.

Paul Joseph the highway superintendent also looked at the pictures and concurred that from the pictures it appeared that they were throwing snow way onto her property and he advised Jan Kropp that he would go down and take a look at the situation. He also told her that anytime she had any problems like this that she should call him. He also stated that the snowplow drivers should only be going 20 mph.

Gardner Congdon discussed the reval numbers with the board. He stated that last year if someone found fault with the new reval assessments it would have been their opinion only that the numbers were wrong, but since July 2010 there have been a lot of sales of properties, that the board has already received a report on. He has done some research and a high percentage of the sales are way off from the reval numbers. He wanted to know why the numbers that are off are allowed to stand. He suggested the board do the math and calculate how much these property owners overpaid in taxes. He said they were all arms length sales. In his opinion, the 2009 assessments that were on these properties were more accurate than the 2010 reval figures on these properties. He estimated that 40% to 45% of the sales are off by 15% to

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20% and some higher than that. He also expressed concern over the board contemplating hiring GAR again.

Supervisor Jenkins didn't agree with Gardner Congdon, based on the report he reviewed, and said the numbers aren't off 25%.

Councilman Cumm stated he did an analysis of the report that the assessor gave the board. He found that under the class 210, major type A, there are 12 parcels that sold for more than the assessed value and 17 that sold for under the assessed value and there is a difference of \$212,000 to the good on the 12 that sold over and \$273,000 on the 17 parcels that sold under.

Supervisor Jenkins stated that we don't know the facts about the sales either. He didn't disagree that there were issues with the reval. One of the reasons we will be moving ahead to stay at 100% is to look at the sales by types and neighborhoods and there will be adjustments made to maintain at 100%. This information will be used to revalue certain areas.

Gardner Congdon said he thought that the reval would have been done with much more sophistication than it was. He asked GAR when the reval started about attaching different values to neighborhoods and other things that are done to come up with values and according to them they weren't going to use that method at all. He couldn't see where they used zoning either. He didn't see where they used a zoning map overlay and differentiated between highly valuable commercial property on Route 9 on an acreage basis vs. property on Hatchery Road that is five acres in size in a residential area. The values on the property on Hatchery Road were higher per acre than the commercial property on Route 9 and that doesn't make any sense. If you look at some of the land that is for sale it is ten times the asking price from what GAR put on it for value. They are not good numbers.

He reiterated that if he was here last summer and gave this information, it would have been in his opinion only. However, there are actual sales and numbers now so it is pretty hard to argue.

Supervisor Jenkins stated that a house on Oakwood Drive just sold for \$245,000 and it is on the rolls for \$310,000. The owner got transferred by the company they work for and the company finally sold it. The same house sold for \$365,000 three years ago.

Gardner Congdon stated that everyone knows that three years ago there was a bump in the real estate market.

Supervisor Jenkins stated that he realizes that we are going to see that and we know the numbers are going to change. He told Gardner Congdon that his five minutes was up.

Harry Gutheil asked where the Town's backhoe is now.

Jesse Fish replied that Nortrax took it in trade.

Harry Gutheil asked if it has been sold and the answer he was given was, that it is unknown whether it has been sold or not.

Harry Gutheil asked if Nortrax has demanded money to break the purchase agreement.

Supervisor Jenkins replied yes, \$1,500.00. The salesman made a statement to him that he knew this should have been a bid item. He thought that most members on this board were misled by some of the things that were said at the meeting when this purchase was approved. He thanked Councilman Kusnierz for following up on it and finding out that this backhoe was not under state contract. He said if anyone listens to the audio of that meeting they will hear Jesse Fish say that it is not under state contract, but the words "under state contract" were thrown around at that meeting and that resulted in some confusion.

Harry Gutheil asked if the assessor has provided the second report that Councilman Kusnierz requested.

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Supervisor Jenkins said he discussed this with the assessor and the assessor said she hasn't had time to prepare the report.

Harry Gutheil said he has most of the numbers if the board wants to see them, they haven't been proofed yet. He thought the board should do this before they award any contracts, especially, if the board is contemplating awarding a contract to GAR who did the reval. He still didn't get the answer on codes. The ones coded as "I" he thought were arms length sales. He questioned how this would affect the equalization rate. He thought the board had an obligation to look at the sales before awarding a contract. There are some comparisons that are terrible. If there is one off \$88,000.00 does it mean that every property in that class is off \$88,000?

Supervisor Jenkins stated that if we are going to maintain the system we have to take all the data and analyze it against the neighborhoods.

Harry Gutheil questioned why the board was going to use the same people who did it the first time. It doesn't make sense.

Supervisor Jenkins stated that it could have been done 17 years ago.

Gardner Congdon replied that Supervisor Jenkins has said that before and the Town did do a reval and the whole county was done and we didn't get numbers like this.

Supervisor Jenkins stated it was done in 1982.

Gardner Congdon said that the boards didn't keep the assessments up-to-date.

Harry Gutheil stated that he doesn't understand why the board was hiring outside to do this. We have always done our own assessments.

Supervisor Jenkins stated that outside help or additional help in-house is something the board has to decide. If we use GAR they offered to do it for \$12,000 for one year and the only other price we got was \$42,000 to do the same thing. Whether or not what they do is perfect, we could learn how they structure and analyze it. Peggy can do some of that, but where she is going to get the time from he doesn't know.

Harry Gutheil asked that after all the training sessions, schools and conferences the assessor has attended we don't have the ability to do it?

Supervisor Jenkins stated that he wasn't saying that we don't have the ability; we don't have the staff, in his opinion.

Harry Gutheil stated that he sees the Town spending more money and not getting equity and now the board is going to consider issuing a contract to the same company that did the reval without reviewing the sales.

Elizabeth Lanfear asked when the backhoe was delivered and she was told two days after it was approved by the board for purchase.

### **RESOLUTION TO CANCEL AUTHORIZATION FOR PURCHASE OF BACKHOE**

Attorney Auffredou advised that he sent a letter to Nortrax, dated February 25<sup>th</sup>, indicating that it came to the board's attention that the backhoe was not under state contract and in his opinion under GML 103 the resolution needed to be rescinded and the purchase order was deemed void. He also indicated that a time had to be scheduled for the Town to retrieve their backhoe and for Nortrax to come pick up their backhoe. He received a response from David Mattison from Nortrax on March 1, 2011 and in that letter Mr. Mattison indicated that there was an exception or exemption, for this situation, under the state finance law whereby, if there was a substantial equivalent product that the competitive bidding requirements of GML 103 did not apply.

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Nortrax is also willing to increase the warranty on the power train to five years or up to 2,500 hours. Attorney Auffredou stated he reviewed the section of the state finance law that Mr. Mattison referred to and in his opinion the state finance law doesn't apply to a municipality, in this instance. He didn't find any exemption to the bidding requirements under the General Municipal Law. He thought it was accurate to state that all of them were under the impression that this was a state contract item.

Councilman Kusnierz said he was not under that impression.

Attorney Auffredou said okay, but he thought he was.

Attorney Auffredou said he remembered mentioning it to the Town Clerk and he had a little chat with her about state contract during that deliberation, but it was his understanding that everybody understood it was under state contract. However, that is immaterial at this point. The fact is that the state finance law provision doesn't apply to the Town. He called the state comptroller's office today and spoke to Mike Kupferman who agreed with him on his analysis. He was referred to Mitch Morris in the state comptroller's office. He left a message for Mr. Morris and hasn't heard back from him yet. Nortrax, in their letter, indicated that they are out \$1,500 in absorbed costs for this transaction. It is his belief, notwithstanding the fact, that this piece of equipment may in fact be a savings to the Town, should the Town acquire it, the Town Board should deem the purchase order void, because this purchase is subject to competitive bid under GML 103. The case law opinions are quite clear that if a Town goes forward with a purchase order that should have been subject to competitive bidding and it was not, then the purchase order and contract is void and unenforceable against the Town. He thinks the Town is well within its right, and it is his recommendation, that the Town Board rescind the resolution and void the purchase order.

Councilman Kusnierz asked Attorney Auffredou how many billable hours he has involved over this and Attorney Auffredou replied, two or two and one-half hours.

A motion was made by Councilman Cumm and it was seconded by Councilwoman LeClair to rescind the resolution that was adopted on February 22, 2011 to purchase a 2010 John Deere 310J loader/backhoe from Nortrax and to deem the purchase order null and void.

Councilman Kusnierz stated that he didn't understand why the board was rushing to make this purchase at that meeting and he implored the board to take their time and do their due diligence and that was cast aside.

Jesse Fish stated for the record that he was not, at any time, under the impression that this was under state contract nor did he intentionally mislead the board or anybody else to believe that it was. He honestly didn't know that it wasn't legal to buy this piece of equipment, since it was less than state contract price and would save the Town several thousand dollars. This wasn't anything that was intentionally done and at no time was he doing anything other than looking out for what he thought was in the best interest of the taxpayer's of the Town financially. He apologized and said again it wasn't intentionally done. If when he said that we could buy under state contract price, the board thought he meant this item was under state contract, then for that he apologized. He never intended to mean that this backhoe was under state contract nor did any of the quotes from Nortrax reflect that it was under state contract, but the quote from CAT did state that the CAT was under state contract until April 2011.

Councilman Kusnierz thanked Jesse Fish for his comments, but it wasn't necessary for him to apologize. He stated the facts. It was this board's fiduciary responsibility to act on facts and they acted improperly.

Roll call vote resulted as follows:

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

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Supervisor Jenkins advised that he gave a written procurement policy to Attorney Auffredou for review that will be distributed to all Town departments and members of the board. It will explain the policy established at the organizational meeting in January, but will also spell out the law clearly.

Supervisor Jenkins stated that this event was unfortunate and he should have understood, but he was misled himself. He didn't think it was intentional, but he listened to the audio of the meeting, and it was very clear that Jesse Fish said it was under state contract, but there were other cases that were being discussed that were under state contract. He thinks the new procurement policy will make it much clearer and this shouldn't happen again.

Councilman Cumm stated he thought they still needed to move forward on this and put it out to competitive bid immediately.

Supervisor Jenkins agreed. He said the backhoe we own has a steering problem and it is unsafe to operate. When we get it back we need to look into this. We may have to lease a piece of equipment for a couple of days if we need to remove snow from around a fire hydrant.

Councilman Kusnierz stated that in the correspondence from Nortrax they indicated that they had or have a buyer for our backhoe. This means that the machine is usable. Has anybody looked into what it will cost to make it safe to operate?

Jesse Fish stated that he thought the mechanic at the Town garage looked at it and a person from Capital Tractor looked at it and said that it is "whipped".

Councilman Kusnierz asked again, how much would it cost to fix it?

Jesse Fish replied, that he didn't have any idea how much it would cost to fix it, but he is sure that it would be expensive.

Councilman Kusnierz said that as a board they need this information in order to make an informed decision. He asked how many times the backhoe was used last year.

Jesse Fish replied it was used every time there was a new water service installed and every time it snowed. He didn't have the numbers with him.

Councilman Kusnierz stated it was not a good use of Town resources to use the backhoe for snowplowing, but if it was being used everyday then that is another whole different matter.

Jesse Fish replied that it doesn't get used every day. There are times when it sits for long periods of times and then there are other times when another department needs to use it when the water department is using it.

Councilman Kusnierz said they need to get a handle on how much it is used. Maybe it would be more cost effective to rent one weekly, monthly or seasonally. There are other ways to look at it rather than buying a backhoe that takes over \$50,000 out of the water accounts. Personally, if we don't have the requirement to spend that kind of money, he would prefer to see water rates reduced. There are other ways to accomplish the needs we have without purchasing a new backhoe.

### **ASSESSMENT SUPPORT SERVICES**

Supervisor Jenkins stated that the board needs to make a decision as to what they want to do. He said that Peggy Jenkins won't have the time to do this all alone. The tentative roll is due May 1<sup>st</sup>. The options are to hire a part-time person to help Peggy Jenkins or hire a consultant. We received two quotes. One was in the amount of \$12,000 and the other was in the amount of \$42,500.

Councilman Kusnierz told Peggy Jenkins that he heard several times tonight that she doesn't have enough time to do this. He asked her to help him understand why she doesn't have enough time.

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Peggy Jenkins replied that as of January 1<sup>st</sup> the Town took over the assessing duties for the Village of South Glens Falls and she has spent hours on the village roll getting it ready to file. She said that is done. Now her office is dealing with exemptions and in response to how many exemptions are filed she responded that it is over 1,000.

Councilman Prendergast told Peggy Jenkins that when the reval was going to be done, based on the size of the Town and staffing in the assessor's office and the fact that a reval hadn't been done in twenty years, he realized that she was going to need help doing the reval. However, once it was done, he understood that the Town could maintain the roll on its own. Now that the reval is done he thought it was an opportunity for her to go out and verify what was done. No matter what a contractor does the assessor is responsible for the roll. He thought the assessor's office could keep the roll up-to-date. This may mean rearranging responsibilities in the assessor's office and the assessor's clerk may have to be given additional work.

Peggy Jenkins stated that the main problem is that the state has changed their criteria and the Town signed on for the four year plan so now we have to maintain the roll.

Councilman Kusnierz said this brings him back to when the board voted to sign on for a four year plan, which he voted against. He asked Peggy Jenkins if he was correct in saying that if the Town hadn't signed on for a four year plan, then the Town wouldn't be subjected to the state's new criteria.

Peggy Jenkins said this was correct, but the Town also wouldn't get the \$5.00 per parcel.

Councilman Kusnierz said this may be, but the Town wouldn't have to maintain the roll either.

Councilman Prendergast asked Peggy Jenkins if he was right in that the plan would involve a contractor or the Town could do it, as long as it was done.

Peggy Jenkins said that was correct.

Councilman Prendergast said that the reval needed to be done, because there hadn't been a reval in over 20 years. But, he thought once the reval was done the Town would take over the updates. He also understood that in order to do updates you don't have to go to every parcel in Town.

Peggy Jenkins replied, not until the fourth year.

Councilman Cumm asked how many municipalities have used GAR.

Peggy Jenkins replied, three that she knows of in Saratoga County. She named two of them; Troy and Malta.

Councilman Kusnierz stated that this particular firm was utilized in a town located outside of Rochester that is larger than Moreau and there were a lot of residents of that town who were up in arms. GAR officials admitted that mistakes were made along the reval process. He said the article could be "googled". He cautioned the board to do their due diligence and see what kind of outcome this company has had in other communities, because there have been problems.

Peggy Jenkins stated that before GAR was hired, Councilwoman LeClair made many phone calls checking on their references.

Councilwoman LeClair said she made many phone calls to towns that worked with both firms that submitted proposals. She didn't speak with a town that wasn't pleased with GAR. She said she wouldn't have gone along with the other firm.

Councilman Kusnierz stated that this is GAR's most recent work that was discussed in the article.

Councilwoman LeClair said she was willing to call towns that GAR is currently working with and get feedback, if that would make people feel more comfortable.

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Peggy Jenkins gave the following information on recent sales:

Sale Price \$350,000	Assessed Value \$275,000	Sold in February
Sale Price \$350,000	Assessed Value \$104,000	
Sale Price \$ 50,000	Assessed Value \$ 38,000	

Peggy Jenkins said that Gardner was slamming the work she and GAR have done, when there is never a perfect reval. There is going to be a bumpy road and you smooth it out along the way. There are sales out there that support a lot of the values that are on the roll. Is the roll perfect? No, and she never said it was.

Gardner Congdon asked Peggy Jenkins if she thought the new assessments were better than the old ones and Peggy Jenkins replied yes she did.

Gardner Congdon said the sales don't show that, and he told Peggy Jenkins that if she looked at her numbers in 2009 vs. 2010 she would see that her numbers were better than what GAR put on the roll. He said he was supporting Peggy.

Supervisor Jenkins replied that if he looked at the sales in 2008 he would find that properties assessed in the village with the equalization rate were running between \$80,000 and \$90,000 and they sold for \$120,000 to \$140,000. Since then the market has changed.

Gardner Congdon said this brings up a good point, and stated that when GAR was hired we knew that there was a bubble in the real estate market values. GAR specifically stated, in the first meetings, that they were not going to use the sales from 2005 through 2007, and now Supervisor Jenkins was saying that he has those numbers. He told Supervisor Jenkins that he has to decide which way he wants it. He can't have it both ways.

Supervisor Jenkins replied that those are numbers he is aware of and they didn't come from GAR.

Gardner Congdon replied that he thought GAR did use those numbers, particularly on houses. They didn't have sales in commercial areas, so the commercial properties are way down.

Supervisor Jenkins stated that they weren't getting anywhere, so he suggested that Gardner Congdon put together his information and he would be happy to look at it.

Councilman Kusnierz said he would like the assessor to provide the report that he asked for.

Peggy Jenkins said she was working on it.

Councilman Kusnierz said they couldn't move forward without hard numbers. He told Harry Gutheil that he would be more than happy to look at any numbers he has.

Peggy Jenkins said she would be more than willing to look at his numbers too, so she knows what sales he was looking at and she told him this before.

Harry Gutheil reminded the board about the tentative value that was on the quarry. The tentative value was at less than one million dollars and the equalized value was five million dollars. Then it was changed from just under one million dollars to two and one-quarter million dollars. Those numbers were not good.

Supervisor Jenkins advised Harry Gutheil that they knew there was a problem, but some of the data GAR was working with was not accurate in regards to the cement company. There were eight houses listed that didn't exist any longer. There were parcels that showed buildings on them and are no longer there.

Councilman Cumm stated that for years in Moreau, people building new houses were being over taxed and property owners that hadn't done anything to their property for years were being assessed at a lower rate than they should have been. We are far better off now than we were. Our equalization rate has steadily been going down since when? Peggy Jenkins replied, since 1990's.

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Councilman Cumm added that our equalization rate is below 100% already.

Peggy Jenkins stated that is another indication that our assessments must be pretty accurate, because our equalization rate is dropping.

Gardner Congdon stated that our equalization rate should be at about 110% now and Peggy Jenkins replied that it is dropping.

Harry Gutheil said it depends on how the properties are coded and what they are throwing into the equalization rate.

Peggy Jenkins stated that the equalization rate will drop if the assessments are lower than the sales.

Supervisor Jenkins stated they were going to drop this subject for now and let the assessor work on it. The board appears not to be ready to vote.

### **HIGHWAY DEPARTMENT REQUESTS**

Councilman Prendergast mentioned that during the last storm the highway department ran into problems. One of the highway trucks broke down.

Paul Joseph stated that the truck was at Mack right now being diagnosed. He had two trucks down. He also had two employees out of work and had two rookies driving the plow trucks.

### **RECREATION DEPARTMENT REQUESTS**

None

### **WATER DEPARTMENT REQUESTS**

The water superintendent sent the submersible pump from the industrial park to Pump Service and Supply of Troy, Inc. for an estimate for repair. The estimate came in at \$5,867.74. This pump would be used as a back up in the event one of the other two pumps breaks down. The cost for a new one is about \$15,000.00.

Jesse Fish explained the history behind the pumps. He also explained that there are two pumps installed now and are on an alternating relay system. There isn't enough capacity to run both at the same time. If one pump fails, then the other pump kicks in.

Councilman Prendergast asked what the warranty on the repair would be.

Jesse Fish stated that the warranty is 30 days on a rewind, but by the time the pump is installed the warranty is gone.

Jesse Fish stated that the person at Pump Service and Supply said the pump is worth repairing and if it wasn't worth repairing he wouldn't repair it.

Councilman Kusnierz asked if the accounts that this repair would be paid out of has been reviewed and money is available.

Jesse Fish stated he didn't know what account the board would want to pay the repair out of.

Supervisor Jenkins replied that it would be paid out of the sewer account GI8110.4. The balance in that account is \$47,033.00.

A motion was made by Councilman Cumm and seconded by Councilman Prendergast authorizing the repair of the pump by Pump Service and Supply of Troy, Inc. in an amount not to exceed \$5,867.74.

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

### **HISTORICAL SOCIETY**

A motion was made by Councilwoman LeClair and seconded by Councilman Prendergast authorizing the disbursement of \$11,000.00 to the Town of Moreau Historical Society, the amount budgeted for 2011.

Roll call vote resulted as follows:

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

### **MEMORIAL DAY PARADE**

The American Legion Mohican Post 553 of South Glens Falls is no longer hosting the Memorial Day Parade. The Boy Scouts are hosting the parade this year and the Village of South Glens

Falls is handling the finances for the parade. The Town of Moreau has in the Town's 2011 budget \$3,000.00 under account A7550.4, as a contribution to the parade.

Councilman Kusnierz asked what the funds cover and Supervisor Jenkins replied that it helps pay for bands.

Attorney Auffredou stated that there is an agreement from Terry McGuire in the supervisor's office that he has reviewed and had some comments on. He noted that in the proposed agreement there is a clause that reads that Trustee LaFave can make decisions on the Town Board's behalf. Supervisor Jenkins added that it was only in regards to the \$3,000.00.

Attorney Auffredou suggested that the board authorize the supervisor to sign the agreement.

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair authorizing the disbursement of \$3,000.00 from account A7750.4 to the Village of South Glens Falls as a contribution towards the Memorial Day Parade and authorizing the supervisor to enter into an agreement with the Village of South Glens Falls regarding the Memorial Day Parade, subject to approval by the attorney for the Town.

Roll call vote resulted as follows:

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

\*Councilman Kusnierz abstained, because if the board was authorizing the supervisor to sign an agreement the board should read first.

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\*\*Councilman Prendergast voted yes, but stated that the resolution should include that the agreement was subject to approval by the attorney for the Town. None of the board members objected to this language being included in the resolution, so it was included.

### **BUILDING DEPARTMENT REQUESTS**

Supervisor Jenkins stated that Joe Patricke was requesting to attend a “Smart Management for Small Communities: Practical Resources for Governance” conference in Blue Mountain Lake on April 27 – 29, 2011 and for the \$265.00 fee that includes meals, lodging and registration fee, to be a proper town charge.

Supervisor Jenkins stated that the IFC will be there to meet. There is new funding process going into effect. There are other reasons for him to attend. He stated that he attended last year. There will be other topics discussed such as, asset management, that they work on.

Councilman Prendergast asked if this conference was part of Joe Patricke’s required training.

Supervisor Jenkins replied no. The conference deals with available funding and technical assistance and other issues that are very important and that Joe deals with on a daily basis.

Councilman Kusnierz reviewed the preliminary agenda for the conference and didn’t see very many topics that were germane to the role of building inspector or code enforcement officer.

Councilman Prendergast agreed that he didn’t think it applied to that department. He also noted that the board decided not to fund trips to the New York State Association of Towns in NYC this year, because it wasn’t necessary or required. It is not required that Joe Patricke to attend this conference, so for once he was going to say no.

Supervisor Jenkins said if there are no other comments he would table this agenda item.

### **ACCOUNTING RESOLUTIONS**

A motion was made by Councilman Cumm and seconded by Councilman Prendergast approving the transfer of \$350.00 from DB5130.405 – Highway – Machinery – Equipment Repairs into DB5130.2 – Highway – Machinery – Equipment to pay voucher for purchases made in 2010.

Roll call vote resulted as follows:

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

The next accounting resolution if approved would increase appropriations by \$2,556,896.62 in account HC1620.2 – Municipal Office Complex Capital Project – Buildings – Equipment. This appropriation would create a budget for the construction of a municipal office complex building.

Councilman Kusnierz asked if it was necessary to increase appropriations all at one time in this amount or could they increase appropriations as needed.

Supervisor Jenkins stated that when it comes to capital projects they have to establish it up front.

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair approving an increase in appropriations in the amount of \$2,556,896.62 in account HC1620.2 – Municipal Office Complex Capital Project – Buildings – Equipment to create a budget for the construction of a municipal office complex building.

Roll call vote resulted as follows:

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

A motion was made by Councilman Cumm and seconded by Councilwoman LeClair approving an increase in appropriations in the amount of \$1,400,000.00 in account HH1620.2 – Highway

Garage Capital Project – Buildings – Equipment to create a budget for the construction of a highway garage.

Roll call vote resulted as follows:

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

A motion was made by Councilman Prendergast and seconded by Councilwoman LeClair approving the transfer of \$5,000.00 from B1990.4 – Town Outside Village Fund – Special Items – Contingent Account into B9050.8 – Town Outside Village Fund – Employee Benefits – Unemployment.

Roll call vote resulted as follows:

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

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

Elizabeth Lanfear asked what the \$1,500.00 expense was for that Nortrax was saying they incurred.

Supervisor Jenkins replied that it was the cost for them to pick up our backhoe and transport it to their facility.

Elizabeth Lanfear asked if the board had found out yet how many people have entered their e-mail addresses into the bulk e-mail portion of the Town's website.

Elizabeth Lanfear was told that Mannix Marketing has not supplied that information to the Town yet.

Elizabeth Lanfear asked if the board was going to fill the vacancy on the Recreation Commission.

Supervisor Jenkins replied not at this meeting. He stated that a letter was sent to the members of the Recreation Commission from the Town Board asking if they had any questions about what they stated and if the board doesn't hear back then the board will decided whether to make an appointment or not.

Adele Kurtz asked if she heard correctly, Supervisor Jenkins say that the law prohibits the transfer of money into a capital reserve fund in small amounts.

Supervisor Jenkins replied that a budget has to be established up front for capital reserve funds.

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Adele Kurtz said she understands that. What she was asking was do the monies have to be transferred in one lump sum.

Supervisor Jenkins replied no. The board isn't transferring money. The board established appropriations. There hasn't been any money put in the account yet. It is still in an investment account.

Councilman Kusnierz stated that it is the legal authority to expend funds.

Adele Kurtz noted that Councilman Cumm said he had done an in-depth analysis of Type A transactions and 17 were over and 12 were under. She asked if doesn't that make the point that Harry Gutheil and Gardner Congdon were trying to make that there are inequities. How many were right on the money or within \$10,000.00.

Councilman Cumm replied quite a few. That is why, in his opinion, 12 and 17 out of 8 pages worth of sales is not significant.

Adele Kurtz stated that there are inequities and that means someone is paying too little and someone is paying too much.

Councilman Cumm replied it is still a bell shaped curve on a graph.

Supervisor Jenkins stated that if you removed about five of those sales that were going in two directions then the rest of them are fairly close. When he looked at the residential sales transactions in the village it appears to him that some neighborhoods are off about 10%. We have to look at those neighborhoods and figure out why they are off and fix them. That is all part of maintaining the roll at 100%.

Adele Kurtz asked if there is a dollar amount or threshold that applies before an item has to go out to bid.

Supervisor Jenkins replied yes. Equipment is \$10,000.00 and public works is \$20,000.00.

Councilman Kusnierz thought that the General Municipal Law 103 reads that the threshold for purchase contracts was \$30,000.00 and public works is \$35,000.00.

Attorney Auffredou thought equipment \$10,000.00 or more had to go to bid and public works was \$20,000.00.

Councilman Kusnierz read from GML 103 that was amended in 2008 and good through 2013 reads: "All contracts for public works involving an expenditure of more than \$35,000.00 and all purchase contracts involving an expenditure of more than \$20,000.00 etc.....shall be awarded to the lowest responsible bidder."

Attorney Auffredou said he would research the law and e-mail the board members on his findings.

Harry Gutheil asked how many members were currently serving on the Board of Assessment Review for the Town. The answer he was given was three. There are no vacancies at the present time.

Elizabeth Lanfear asked if the procurement policy referred to earlier in the meeting was going to be distributed to department heads only or to all employees.

Supervisor Jenkins explained what the purpose of the procurement policy was and what it basically included. The Town already has a procurement policy, but the information being disseminated recaps the policy and clarifies it and puts it in document form.

Elizabeth Lanfear was told that it was being distributed to all departments.

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### **COMMITTEE REPORTS**

Councilman Cumm asked where they were at with the contracts for the building projects.

Attorney Auffredou replied that Terry McGuire, the supervisor's confidential secretary, has prepared the four contracts. He has reviewed them and edited them and returned them to Terry McGuire and she made changes. She is near completion.

Attorney Auffredou advised that Terry McGuire has also prepared the contract between the Town of Moreau and the LA Group regarding the passive recreation park. He has reviewed the contract and returned the contract to Terry McGuire.

Supervisor Jenkins stated they should be ready tomorrow.

### **SUPERVISOR'S ITEMS**

Supervisor Jenkins asked Councilman Kusnierz if he has made any progress on the Local Development Corp. issue.

Councilman Kusnierz said he spoke with the county and it is their opinion that it is a funding mechanism for the town, should there be funding available from the county or the state. It was their opinion that the town should keep it active. A lot of communities don't allow Town Board members to serve on the LDC and they prefer residents of the community to serve. However, it is not illegal for members of the Town Board to serve on an LDC. He reaffirmed this information with the state comptroller's office.

Saratoga County Veteran's Services Agency is going to be honoring deceased veterans and they are looking for each Town to present a name of a deceased veteran to be honored.

Supervisor Jenkins asked the board to consider this and present him with a name(s).

Supervisor Jenkins reported that a letter was sent to Lamplighter Acres Mobile Home Park advising them that they cannot charge administrative fees in connection with water meter reading and billing. If they do, they would be in violation of the Town Code.

A motion was made by Councilman Cumm and seconded by Councilman Prendergast to adjourn to executive session at 8:48 p.m. to discuss CSEA contract negotiations, potential eminent domain proceeding involving the Hatchery Road closure, the history or performance of an unnamed recreation commission member.

Councilman Prendergast stated that the phrase "eminent domain" has been said several times and at some point he thought the board should lay out to the public how we got here, what the board was trying to do, and where are we going, so the public knows what is going on.

Attorney Auffredou stated that Councilman Prendergast made a fair point. Prior to any eminent domain proceeding a municipality must reach out to the property owner(s) and in this case that was done. Since the last meeting the supervisor reached out to the property owner in this case with specific instructions. The supervisor is going to report the results of his discussion with the property owner in executive session and then at some point in time the board has to decide what they want to do. The board has discussed this to some extent in open session. If the board decides to move forward with an eminent domain proceeding then at that time the board should lay out the basis for the proceeding to the public. Whether or not the board decides to move forward with an eminent domain proceeding is a proper topic for executive session.

Councilman Cumm requested that Jesse Fish, Water Superintendent, sit in on the executive session for the portion regarding the unnamed recreation commission member.

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Roll call vote resulted as follows:

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

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

Jesse Fish, Water Superintendent, sat in on the portion of the executive session that pertained to the unnamed recreation commission member.

A motion was made by Councilman Prendergast and seconded by Councilman Cumm to adjourn the executive session and re-open the regular meeting at 9:20 p.m.

Roll call vote resulted as follows:

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

A motion was made by councilman Cumm and seconded by Councilwoman LeClair authorizing the supervisor to sign the CSEA memorandum agreement with the Town of Moreau highway department.

Roll call vote resulted as follows:

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

Councilwoman LeClair thanked Councilman Cumm and Councilman Prendergast and Supervisor Jenkins for all the work they put into this. It is a great contract to move forward with.

Supervisor Jenkins stated that the board was very responsive. He was going to give in too easy on a couple of things. Then one evening he and Councilman Prendergast and Councilman Kusnierz hashed some things around and they ended up getting some additional changes. It was a team effort. He thanked everybody.

A motion was made by Councilman Cumm and seconded by Councilman Prendergast to adjourn the meeting at 9:22 p.m.

Roll call vote resulted as follows:

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

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Meeting adjourned.

Respectfully submitted,

Jeanne Fleury  
Town Clerk