

**SOUTH BRISTOL TOWN BOARD MEETING**

May 8, 2017

**REGULAR MEETING**

The regular meeting of the South Bristol Town Board was called to order May 8, 2017 at 7:00pm at the South Bristol Town Hall, 6500 W Gannett Hill Road, Naples, NY 14512.

**PRESENT**

Daniel Marshall, Supervisor  
Donna Goodwin, Councilwoman  
Stephen Cowley, Councilman  
Scott Wohlschlegel, Councilman

**ABSENT**

Jim Strickland, Councilman

**RECORDING SECRETARY**

Judy Voss, Town Clerk

**OTHERS**

Brooks Lyon, Brian Perkins, Bernice Caprini, Wade Sarkis, Anne Jacobs, Dahl Schultz, Maddie Bicknell, Kristie Braun, Steve and Patty Janto, Jim Bachman, John York, Mike Murphy, David Eldon, Gail Hewson, Baird and Marcia Couch, Cathy Colby, Kevin Murphy and Jim Wight, et al

**I. ROLL CALL**

Supr. Marshall opened the meeting with roll call.

**II. PLEDGE OF ALLEGIANCE**

**III. APPROVAL OF MINUTES**

On a motion made by Councilman Wohlschlegel and seconded by Councilwoman Goodwin, the April 13, 2017 Public Hearing minutes and the April 13, 2017 Regular Town Board minutes were ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley and Wohlschlegel.

**IV. PRIVILEGE OF THE FLOOR**

Wade Sarkis, President of the Canandaigua Lake Watershed Association, said he was here regarding the Hemlock Adelgid initiative that we began last year. Mr. Sarkis explained that the Hemlock Adelgid is an invasive species that is affecting our lake. Most of the invasive species are aquatic, living in the lake and interfere with the boating; some are pretty severe like the blue-green algae. The Hemlock Woolly Adelgid live in the Eastern Hemlock trees; a pinhead size critter that came in from the Pacific Northwest, made its way through Appalachia and is now in our area. The species specifically affect Hemlock trees which are located in the gullies and keep the embankments from falling apart and eroding. The bug attaches itself to the underside of the needle of the Hemlock tree and pulls its nutrients out. The Hemlock tree realizes that this is happening and shuts itself down. The Smoky Mountains and up through Appalachia the entire forests are being wiped out. In our area it is particularly troublesome because the Hemlock trees hold back the banks of these steep gullies along the lake. The Canandaigua Lake Watershed Association along with the Prism have conducted some surveys and identification of where we are starting to see the affected trees. The mortality is about 7-10 years for these trees and we

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need to do what we can to interfere and stop that process. Mr. Sarkis left the Town Board reports and pamphlets. Mr. Sarkis noted that the Association would like to identify the ravines and property owners so we can reach out to them and explain more fully what is going on and help devise a plan to combat the Hemlock Woolly Adelgid.

Supr. Marshall noted that two South Bristol residents are the pioneers of the project; Leanna Landsmann and Lynn Thurston.

Mr. Sarkis agreed, folks on Walton Point got together early on this process and made their own impact in the Walton Point gully and treated the Hemlock trees. There are some new bio-controls coming out; a little beetle that will eat these things. Someone on Seneca Point has volunteered to host an “insectory” to raise the beetle.

Clerk Voss noted that an email received from Fred Sarkis and Mr. Sarkis wanted it read into the record.

Supr. Marshall said it is a lengthy email and to have copies available for anyone that wants to read it and please enter it into the minutes. Supr. Marshall noted that Mr. Sarkis was requesting financial information with regards to the Bristol Sewerage Corp. and he made several points in the email:

*Subject: Proposed Increase in the Bristol Harbour Village Sewer Rates:*

*In light of this proposed increase, please note this attachment.*

*Further, in pursuit of fair and equitable sewer cost charges, both past and present, the following Privilege of the Floor was reviewed and approved by the Presidents of Bristol Harbour Village Association Inc., Condo I, Condo II and Condo III.*

*This is a repeated email reminder that the Town is legally responsible to obtain the complete financial statements for the Bristol Sewerage Disposal Corporation no different than the seven years obtained from South Bristol Resorts LLC. The sale of the Sewer Corp to a new Owner does not release the Town of this responsibility.*

*Under South Bristol Resorts, LLC, years 2013, 2014, 2015 are missing. We respectfully request that they be obtained and provided to Bristol Harbour Village Association Inc., no different than the past.*

*Further, the Town has a legal responsibility to obtain the Sewer Corp financial statements for 2016 now under the ownership of Laura and Todd Cook. We respectfully request that they be obtained and provided to BHVA Inc.*

*Consider this. 97 and 1/2% of the \$860,000 2005 Capital Upgrade and Expansion of the Sewer Plant has been paid for by our Villagers. In the sale of the Sewer Corp to the Cooks, there is no way that our Villagers should have to pay for the plant again.*

*In light of the requested increase in sewer charges to our Villagers, this request is urgent.*

*Fred Sarkis, Founder of the Sewer Corporation*

*May 8, 2017 – Fred Sarkis - Privilege of the Floor, Town of South Bristol*

*Subject: Fair Play in Sewer Costs to Bristol Harbour Village Residents*

*It is the Town’s legal responsibility and obligation to insure that sewer charges are fair and equitable to 350 Bristol Harbour Homeowners. A recent change of the Sewer Corp Ownership resulted in a November 14, 2016 review by Mengel Metzger and Barr who, in the past, have been my personal and business tax accountants. Let me quote from this MMB 11/14/16 review.*

*“MMB has observed the Town’s records and we have found that no rate increase has been requested since 1987. By contrast, the Consumer Price Index has increased by over 110% during this same time period. The Sewer Corp is within its right to submit a rate case request for further review.”*

*This quotation is unbelievably false and significantly misleading. Figures don’t lie. For the past ten years BH Villagers have paid 97 and ½ % of the 2005 \$860,000 upgrade -expansion of the*

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*Sewer Plant. Further, as customers are added each year, this tends to offset the costs of inflation. It also spreads the cost of operations.*

*In response to the MMB letter, here are more facts:*

*One – After significant pressure related to a judge’s decision, the Town obtained the complete Income and Balance Sheet Statements for years 2006, 2007, 2008, 2009 and, 2010. However, only Income Statements were provided for 2011, 2012. No Balance Sheets were provided.*

*Two – The Town failed to obtain and provide to BHVA Inc. any 2013, 2014 and 2015 Financial Statements. This is not only inconsistent. It is irresponsible.*

*Three – Is there a fair allocation of costs – residential to commercial? In all of these years, in spite of major commercial additions, SBR, LLC paid only \$10,473 per year for its huge commercial facilities. Further, major commercial additions approved by the Town since 2005 were not charged a single dollar for sewer services. These factors are a blatant violation of the County Guidelines for Commercial Usage.*

*Four - On the subject of re-mapping, the Town in the past and present, cannot and should not legally use re-mapping as an excuse to not provide to BHVA the complete missing financial statements for 2013, 2014 and 2015. (This legal requirement clearly includes the Income Statements, Balance Sheets and Bank Reconciliation Statements on the original 2005 \$860,000 bank loan for review by the Town as well as BHVA Inc.)*

*Five – In my review, as the founder of the Sewer Corp, with four years of college accounting and years of business experience, the current Unit Owners in the Bristol Harbour Village continue to be unfairly charged for operational costs. Examples to follow:*

*Six – Due from Related Parties – In 2010, this sum was \$331,776 reflected for five years. Reflected for ten years ending in 2015, this sum should be \$663,552. Legally speaking, this sum should be returned by SBR, LLC and put into the Sewer Corporation’s Capital Reserve Fund – available for future major breakdowns or physical needs of the Sewer Plant. (It is assumed that the Cook acquisition of SBR’s Assets included the purchase of the shares of the Sewer Corporation).*

*Seven – Geographic Coverage of the Plant - For past and current Town Boards to continually table the issues outlined above because of the faulted geographic coverage of the plant are both unfair and unreasonable. There is no way that Bristol Harbour Villagers should pay twice for the 2005 \$860,000 cost of the plant.*

*Eight – In a focus on the 2012 Income Statement – the last received, note the following:*

*a) \$31,824 – Management Fee*

*b) 41,140 – Net Income*

*\$72,964 – This total equals 25% of the Total Revenue to SBR LLC*

*20,848 – Interest Expense (Note – after ten years the \$860,000 loan was paid for)*

*\$93,812 – This total equals 33% of the Total Revenue to SBR LLC*

*Nine – Simple Cash Flow to a business includes Depreciation Plus Net Income. The 2012 Income Statement reflects the following:*

*a) \$41,140 – Net Income*

*72,702 – Depreciation*

*\$113,842 – Total (40% of Total Revenue)*

*Conclusion:*

- 1. The Town of South Bristol has neglected to obtain the complete financial statements from the previous and new shareholders of the Sewer Corporation.*

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2. *The Town of South Bristol has failed to provide these complete financial statements to Bristol Harbour Village Association Inc. on a timely basis.*
3. *Complete means Income Statements, Balance Sheets and Bank Reconciliation Statements for the \$860,000 ten year loan which began in 2005.*
4. *The Town of South Bristol is legally obligated to not only obtain and share these Complete Financial Statements, they are also legally obligated to insure that such charges are fair and reasonable to the Unit Owners of Bristol Harbour Village, Inc.*
5. *Possibly, the Village of Bristol Harbour, should spin off to create its own Town Government to achieve fair and equitable sewage cost treatment.*

*Fred W. Sarkis, Founder of the Bristol Sewerage Disposal Corporation*

Supr. Marshall read a letter he received from the Chairman of Ontario County Public Works committee and also the Chairman of the Board of Supervisors:

*Dear Supr. Marshall: We would like to extend our sincere appreciation for the additional snow plowing of County Roads that your town performed this past winter in the Town of Naples. Your team did tremendous work in keeping the roads safe and passable. In addition, it was notable that we received hardly any complaints. Your time and efforts are commendable and on behalf of the Public Works Committee and the entire Board of Supervisors we thank you for stepping up and taking on this task.*

*Charlie Evangelista, Chairman of Public Works and Jack Marren, Chairman of the Board of Supervisors.*

The Town of Naples chose to not plow the County roads last year and the Town of South Bristol was asked to help out, entered into a contract with the County. We did plow County Road 21, Naples portion of County Road 12 and 33. Supr. Marshall thanked Supt. Wight.

Supr. Marshall noted that the Town received the 1<sup>st</sup> Quarter Sales tax check which is the majority of revenues comes from and compared to the same quarter last year the check is 2.84% higher which is a nice increase. The check amounted to \$309,562.00.

Jim Bachman asked that copies of Mr. Sarkis' email be available to anyone here tonight.

Steve Janto of Bristol Harbor, said he wanted to follow up on Mr. Sarkis' email because he does have some valid points that are well worth reading if you live within the community of Bristol Harbor. Mr. Janto also wanted to bring to the Board's attention, under the financials, you do have a resolution, #21-2006, and #5 of that resolution it does say that the Bristol Sewerage Corp. provide general accounting of all funds to the Town or/and Bristol Harbor Village Association. We have not received any financials since 2013 and what we are asking is the Board, under its due-diligence, ask for the financials, give us a copy and ample time to review those and come back to the Board and have our results and be able to make sure that when there is an increase, or ask for an increase, that is fair and equitable, and also want to make sure that it is transparent moving forward.

Supr. Marshall said he has the resolution in front of him and very familiar with this resolution. The resolution was written as a result of the loan that was made in 2006, as a part of that loan, the agreement was that once a year the Bristol Sewerage Disposal Corporation will provide a general accounting of all funds to the Town Board, and the Bristol Harbor Village Assoc. It doesn't say that the Town Board is required to get this information to the Bristol Harbor Village Assoc.

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Mr. Janto asked if the resolution was passed by the Town, correct? The Town should follow up on the resolution?

Supr. Marshall answered, yes it is, and noted that the resolution is now null and void anyway because the loan has been paid off. According to the Town Attorney, it is no longer in effect. Have your attorney call the Town Attorney to discuss this. As far as he is concerned the situation is resolved. As of 2016 when the loan was paid off, our obligation to chase after financials for the Bristol Harbor residents is over.

Mr. Janto said they haven't seen anything since 2013.

Supr. Marshall said he wasn't Town Supervisor in 2014 or 2015 and can't speak to those years. There is nothing in here that says you can't go down to the office and ask for the information yourself.

Mr. Janto said the Town passed the resolution and still believes the Town should cooperate.

Clerk Voss said a FOIL was received recently by the Bristol Harbor Village Assoc. law firm for the Bristol Sewerage Disposal Corp. financials and they have everything up until 2016.

Supr. Marshall said from here on in, the Town of South Bristol operates under Article 10 of the Transportation Corporation Law. The law does not state that the sewerage company has to submit financials. All the Town Board is obligated to do under Transportation Corporation Law is review at least once every 5 years, the rates of the sewer corporation, or if they ask for an increase prior to that.

### **V. COMMITTEE REPORTS:**

Councilman Cowley read the Highway Supt. report:

Some of the things we've been working on are; roadside mowing, ditch cleaning, hauling stone for summer road projects.

We were busy cleaning up after the heavy rain several weeks ago. The heavy rain caused some of the gullies around town to discharge large amounts of debris and plugged several culverts with trees and large rocks. Most of that mess has been cleaned up. We have some shoulders to repair yet in several places. Fortunately, nothing catastrophic took place.

I have received the results of the mini bid for a new pickup truck, which I forwarded to everyone and will have that information with me this evening. At tonight's Town Board meeting, we have a resolution for the Board's approval to order a pickup truck.

The furnace that heats the break room and my office quit about a week ago. We have not called anyone to fix it. The last time it quit, the technician said the furnace was pushing 30 years old and should be replaced.

And last, I have another engineer to add to your list: Parrone Engineering, Ed Parrone 585-586-0200.

Councilman Cowley asked about the Voucher #244 for the Sterling dashboard replacement. Supt. Wight said the dashboard was replaced in the 2003 Sterling Truck because it was shot, a necessary fix.

### **FINANCE**

Supr. Marshall reported that the 2015 NYS AUD report that had to be resubmitted because it was totally incorrect has been resubmitted and accepted by New York State. We are now working on the 2016 AUD which needs to be submitted to the State by the end of May and we will be up to date. This has taken 1 ½ years to get the Town finances in order.

**VI. OLD BUSINESS:**

**PROPOSED ONSITE WASTEWATER TREATMENT LAW**

Supr. Marshall noted that last month the Board held a Public Hearing on the proposed Onsite Wastewater Treatment System Law and had one speaker strongly in favor of the law. The proposed law was sent to County Planning and their input is a technical review only, we can approve the law tonight or it can be before the Board next month. The Board tabled the law until next month.

**EVERWILDE SEIS – UPDATE FROM LABELLA ASSOCIATES**

Supr. Marshall said the update regarding Everwilde, the comment period is long over for the SEIS and that particular information was then forwarded to the engineering firm for the Developer. The engineering firm for the Developer took about 2 months to answer the technical questions and has now been returned to LaBella Associates who represents the Town. LaBella is now working on the Final EIS and it could take 1-2 months.

**VII. NEW BUSINESS:**

**GOVERNOR’S SHARED SERVICES PLAN**

Supr. Marshall noted that with the NYS budget being passed, it included a proposal for a mandated Governor’s Shared Services Plan. The result of that is the Ontario County Administrator, Mary Krause, is obligated to put together a panel to seek out ways in which to conjure up shared services between municipalities. Supr. Marshall noted that South Bristol has been doing this type of thing for years with regard to roadwork which is well and good but now they want new ideas. All chief financial officers of the municipalities are mandated to be part of this panel and we have until August 1<sup>st</sup> to come up with a plan for the State.

**COUNTY WASTE REDUCTION INITIATIVE**

Supr. Marshall noted that Ontario County is working towards a method to reduce the waste stream that is going to the County landfill. The reason for that, in 2028 the landfill will be shut down. Every year, Casella Waste sends success payments to the County in the millions of dollars which is used in the County budget and that revenue will be gone. In addition, if we can’t go to the landfill, where are we going to go with waste? The project now is to try to cut that waste stream down as effectively as we can and starting now. Only 10% of the waste going to the County landfill comes from Ontario County. The success money coming from the landfill will now be shared with the municipalities to implement methods to start reducing that waste stream. The money will help pay for educational programs, some new equipment that might create composting and we will be working on that project this year. The money won’t be made available to us until we come up with a way to reduce the waste.

**RESOLUTION – PURCHASE OF PICK-UP TRUCK**

Supr. Marshall the Highway Supt. received bids through the mini-bid process; a bid of \$38,043.95 for a 4x4 F350 which comes with a plow frame.

On a motion made by Councilman Cowley and seconded by Councilman Wohlschlegel, Resolution No. – 2017 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley and Wohlschlegel.

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**RESOLUTION NO. -2017**

**PURCHASE OF 2017 FORD F-350 4X4 PICKUP**

WHEREAS, the Town Highway Superintendent has indicated a need for a new pickup truck and

WHEREAS, money has been set aside in the 2017 town budget to pay for the new vehicle, and

WHEREAS, the Town Highway Superintendent is able to make a purchase of a 2017 Ford F-350 4x4 pickup as per the NYS OGS mini bid #17040011 for \$38,043.95, and

WHEREAS, Basil Ford of Niagara Falls NY is the apparent low bidder, now therefore be it

RESOLVED, that the Town Board approve the purchase at the price shown above, and

RESOLVED, that a copy of this Resolution be sent to Basil Ford, 6980 Niagara Falls Blvd, Niagara Falls, NY 14304.

**MUTUAL AID CONTRACT**

Supr. Marshall noted that in the spirit of working together, the Commissioner of Public Works, William Wright, has sent the Town an agreement to formally acknowledge our longstanding practice to share resources and talent. The agreement has a term of 5 years. This includes plowing County Roads in the winter and doing mowing on County Roads in the summer.

On a motion made by Councilman Cowley and seconded by Councilwoman Goodwin, the Mutual Aid contract with Ontario County was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley and Wohlschlegel.

Supr. Marshall noted that Planning Board Chairman, Jim Ely, has asked the Town Board if we would consider changing Town Code 170-94 requiring site plan approval to include all uses, specifically the C-1 district. Supr. Marshall noted that will go to the Town Attorney for a local law.

On a motion made by Councilman Wohlschlegel and seconded by Councilman Cowley, the Planning Board request was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley and Wohlschlegel.

**VIII. REPORTS:**

**ASSESSOR**

On a motion made by Councilman Cowley and seconded by Councilwoman Goodwin the Assessor's Report for April 2017 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley and Wohlschlegel.

**CEO**

On a motion made by Councilman Wohlschlegel and seconded by Councilwoman Goodwin, the CEO Report for April 2017 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley and Wohlschlegel.

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**TOWN CLERK**

On a motion made by Councilman Cowley and seconded by Councilwoman Goodwin the Town Clerk Report for April 2017 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley and Wohlschlegel.

**IX. ACCOUNTING:  
SUPERVISOR'S REPORT**

Supr. Marshall announced that we now have Supervisor's Reports; January and February 2017. We are now down to 3 bank accounts instead of the 9 accounts. Currently there is \$1.6 million in the bank which includes the most recent sales tax check.

On a motion made by Councilman Wohlschlegel and seconded by Councilwoman Goodwin, the Supervisor's Reports for January and February 2017 were ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley and Wohlschlegel.

**APPROVAL OF VOUCHERS**

Supr. Marshall noted that Voucher #200 for EFPR Group for \$1,812.50 is for the additional work that had to be done for the 2015 AUD State report. The \$1,812.50 bill is actually \$527.50 short of what they actually have accrued. The Town Board had authorized a not-to-exceed \$3,500.00 and the only way to pay EFPR the \$527.50 is for the Town Board to approve. Supr. Marshall said EFPR have earned this money and would like to increase Voucher #200 by \$527.50. It is up to the Board

On a motion made by Councilman Cowley and seconded by Councilwoman Goodwin, Voucher #200 payable to the EFPR Group will be increased by \$527.50 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley and Wohlschlegel.

On a motion made by Councilman Cowley and seconded by Councilwoman Goodwin, Abstract No. 5, Vouchers No. 198-251 totaling \$87,121.41 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley and Wohlschlegel.

**X. 2<sup>nd</sup> PRIVILEGE OF THE FLOOR**

Brian Voorhis of Bristol Harbor, asked about the sewer financials and asked if the Town does have financials? Clerk Voss noted that Bristol Harbor does have the financials from the Sewer Corp. Supr. Marshall noted that the issue may be that the financials were complete enough.

Wade Sarkis, President of the Canandaigua Lake Watershed Assoc., thanked the Board for their work on the on-site wastewater treatment amendment to the Town Code. Mr. Sarkis attended the Town of Canandaigua Board meeting last month and expressed his thanks to them and they were not able to vote that night. This presents the unique opportunity for the Town of South Bristol to be the first municipality to pass the amendment to the Code and thought the Board would like to reconsider.

**XI. ADJOURN: 7:47PM**

Respectfully submitted:

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Judy Voss  
South Bristol Town Clerk