

SOUTH BRISTOL TOWN BOARD MEETING

July 10, 2017

REGULAR MEETING

The regular meeting of the South Bristol Town Board was called to order July 10, 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
Jim Strickland, Councilman

RECORDING SECRETARY

Judy Voss, Town Clerk

OTHERS

Jim Wight, SB Highway Supt., Anne Jacobs, Dahl Schultz, Brian Perkins, Maddie Bicknell, Alan & Kristie Braun, Kevin Murphy, Fred Sarkis, Ralph Endres, Ted & Gina Russell, Joe Kohler, 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 Councilman Strickland, the June 12, 2017 Regular Town Board minutes were ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

IV. PRIVILEGE OF THE FLOOR

Fred Sarkis, of Bristol Harbour, said for the record, that Supr. Marshall sent him an email which he read:

Fred,

For the record my email address is daniel.marshall@southbristolny.org. I have been advised by both attorneys for the town that our obligation to receive financials from the Bristol Harbour Sewer Corporation ended when Todd and Laura Cook paid off the loan that was used to upgrade the Sewer Plant. Additionally if you read the Resolution that required financials from the Sewer Corporation, nowhere did it state that the Town was required to supply the homeowners with the financials. It stated that the Sewer Corporation was to supply the Homeowners directly. Why didn't the Homeowners reach out to the Sewer Corporation themselves for the financials? What motivation would the previous owners of the Sewer Corporation have to supply their financials now that they are gone?

The Town of South Bristol now acts under the requirements of the NYS Transportation Corporation Law and that is all.

Dan Marshall

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Mr. Sarkis read from his notes:

To Dan Marshall, Supervisor of the Town of South Bristol

Dan,

Regarding your response to my July 6 email, I find your response unreasonable and confusing.

1. Several years ago, Bristol Harbour Village Association Inc. appointed committee met with Douglas Weins seeking the complete Sewer Corporation financials.

2. Douglas Weins refused to openly provide them to our Homeowners Association.

3. From that time forward, we had to rely on the legal authority which had the right to obtain and review these annual financials to insure fair play. And Dan, as our Town Supervisor, are you and Town Board members not the authority under the NYS Transportation Law? Are you? And as it currently is, it should be, Bristol Harbour Village Association is not that authority.

4. You wrote below, "What motivation would the previous owners of the Sewer Corporation have to supply their financials now that they are gone?" Sorry Dan but that's like saying, if someone has engaged in an unlawful activity, like not returning close to \$500,000 to the capital sewer users, "they are gone, and allowed to fail to return those sums to the sewer customers, or to the shareholders who bought the Sewer Corp, to be put into a Reserve for Future Capital needs of the Sewer Corp.

5. How can the Town ignore what is a proposed 64% increase in charges to 340 Villagers? How can the Town ignore the 72% increase in salaries from \$43,613 a year to \$74,906 a year? In the past the Town considered this salary charge too low. In fact, the Town fails to realize that this salary is 50% of what the Operator really receives. An equal sum is allocated to the Water Treatment Plant. Therefore, the Salary for operations is around \$150,000 when before it was a rounded \$77,000. Why, in proposed 2017 Salary doubled when the residential and commercial usage of the Sewer and Water Plants are relatively the same?

Meanwhile, under the Freedom of Information Act, please provide me with the written legal opinions from the two attorney's you referred to in our July 6 response to me.

In pursuit of fair play, I hope that our Town board will exercise their fiduciary responsibility to protect the interest of our Villagers.

Mr. Sarkis said he copied Steve Jantos, Bristol Harbour Village Assoc. President on this and am hopeful that he will communicate with his Board in support of what I have written. Now that I have said all that, I realize the Board has to deal with many, many other issues. I don't find what I just said easy to say. I think your Board is trying to do the best job it can on behalf of all the citizens but I tell you as a founder of this Village and of a Mountain, a founder who created all these jobs, who created all these taxes, I just can't help it. I am in pursuit of fair play and I want the Board to openly consider what the heck is going on. You have no idea what is going on with the water corporation with a 116% increase. Thanks for listening; I am committed to seeing this done where residents are not taken advantage of. You have the authority, Bristol Harbour Village Association doesn't have it so we lean on you for fair play.

Thank you.

Councilwoman Goodwin wanted Mr. Sarkis to know that we are not ignoring the Sewer rate increase. Supr. Marshall and I met with them all this morning; we had a meeting and are not ignoring what is going on. We did meet with them and they are going back to the drawing board and we are waiting for their response. The meeting was with Todd Cook, Tim Reidy, the accountant and the lawyer. We had the Town attorney here, and we met for 2 hours. We are not ignoring this at all; we did meet with them and we are waiting for their response.

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Ted Russell of Bristol Harbour asked if the board was addressing the issue of a stock sale of the sewer corporation. The sewer company was sold as a stock sale and as such, the only thing that changes is the ownership, none of the liabilities change, nothing changes. The \$500,000 reserve fund is still in that corporation that the Cook's bought and they are responsible for. Part of this 64% increase is to rebuild the reserve fund; well it is still within the corporation. I am wondering, has your town attorney looked into that aspect?

Supr. Marshall said they have, and they said it is not a town issue and if a residents of Bristol Harbour want to pursue that they should do so on their own. This is not the responsibility of the Town of South Bristol and if you feel something has happened and you are short changed, then the residents of Bristol Harbour should pursue that on their own.

Joe Kohler and Ted Russell said they would like to see that in writing.

Supr. Marshall said he has had two lawyers give him this information and will have them both put it in writing. In the mean time, why doesn't the Bristol Harbour Homeowner's Assoc. call their lawyer and ask them about. Everyone is expecting the Town of South Bristol to have all this work done for you, it is your battle.

Mr. Russell said we are looking to the Town Board to enforce the Transportation act.

Supr. Marshall noted that the Transportation Corporation Law has nothing in it whatsoever that requires the Town to do that type of fiduciary work. Read it, it is not in there.

Joe Kohler of Bristol Harbour, said at the last meeting when we did the sewer tour, you and I, I brought up the opportunity and the availability, such as the ski resort took advantage of, for both water and sewer, grant money. We talked about it, is it possible for the Town to provide the owners of the water and sewer corp with grant application, whatever, from the State of New York.

Supr. Marshall was not sure what the State of New York would do with a privately operated system. The ski area probably got the grant in the pursuit of tourism. What was explained to me was that grant money was available for non-profit companies.

Mr. Kohler said that we also spoke about terminating Mengel, Metzger & Barr because they have failed you and your board and the taxpayers of this town repeatedly saying, yes, they found the missing half million or whatever but they prefer not to pursue or whatever or can't find the money. They need to be terminated. I said it at the last meeting, I'm saying it again.

Supr. Marshall said we didn't hire Mengel, Metzger & Barr, they were hired by LaBella Associates to do the accounting for us. Their work involved around determining whether or not the sewer corporation, today, and this point in time, is financially viable. What happen 5 years ago, they weren't interested in discussing it.

Mr. Kohler said you should find a new forensic accountant who would be interested; these people are all interested Mr. Supervisor, in learning where the money went.

Ralph Endres, of Bristol Harbour, read his notes:

Dan, Board members, you do have a fiduciary responsibility to the folks up in Bristol Harbour for the sewer rates, approving sewer rates, right? When you do a budget do you just pull a number out of a hat and figure out what the tax rate is and that is what the budget is? Because without the financials, there is no way to do it, no way to look at that to determine if it is fair and equitable. I'm not saying they don't deserve some type of increase, what I am saying is 68% increase and a 118% increase on the water is outrageous. I'm on a phone call for a hearing on the water this Wednesday morning at 10am. I've searched all over and cannot find any place that pays \$500 a year for the privilege of turning their spigot on and then pays \$5.94 a 1,000

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gallons. Outrageous. Especially when you can draw up to 200,000 gallons a day, 1,500 feet from the plant. The sewers on the other hand are a horse of a different color. I hope that you will do, when you look at this rate increase you will think of the 350 residents that live there, even though some of them are there part-time. When you look, there is no way anybody in Bristol Harbour has any idea how much sewage is created by the commercial end versus the housing end. My feeling, having lived there a number of winters, right now, you'd be lucky to find 50 people that are using the sewers and the water. Who else is using the sewer and the water and are they paying their fair share. That is all I want you to look at. Thank you very much.

Councilwoman Goodwin said that was discussed today and I don't want you to think we are ignoring this because we certainly are not. We are not ignoring this at all. All these issues were covered today and we are waiting to hear their response. My brother lives in Palm Springs and he pays half for water in the desert that what we pay here.

Councilman Strickland noted that the Town Board has been working diligently on the sewer rate increase request and have also request many times the legality that we are bound as the Board regarding this situation. Past that, we have no liability and it is not that we don't feel bad for you, you are residents of the Town, and we care about you. We are here to serve you, but you are in a situation that is a tough one. You belong to Bristol Harbour and the Homeowner's Association and bound by those rules. We don't have anything to do with that. We would love to be able to help you past that but we can't.

More discussion.

VII. NEW BUSINESS

RESOLUTION- SUPPORTING CUMMINGS NATURE CENTER GRANT APPLICATION

Supr. Marshall noted that the Board has a request from Cummings Nature Center to approve a resolution in support of their efforts to obtain a grant for trail work.

Nathan Hayes introduced himself, the Director of the Cummings Nature Center; the resolution is a requirement for State Economic Development Grant, specifically we are looking for funds for our Recreational Trails Project. We are looking for funds to restore some of our old logging road trails to provide better access to remote parts of our 950 acre preserve. The money we are looking for includes gravel, culverts, drainage, equipment rental and trail equipment. We are also looking for some equipment to maintain our trails better in the winter season so we are asking for a new snowmobile, some grooming equipment. Fixing this trail will provide access to the back end of our property that abuts newly acquired public lands and will be connecting our trail system with DEC property. Cummings Nature Center is located in South Bristol and the Town of Richmond and will need the same resolution from Richmond.

Supr. Marshall said the resolution is simply expressing our support of the application; there is no money involved from the Town.

On a motion made by Councilman Cowley and seconded by Councilwoman Goodwin, Resolution No. 34-2017 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

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RESOLUTION #34 – 2017 ENDORSING APPLICATION FOR GRANT

WHEREAS, the Rochester Museum & Science Center’s Cumming Nature Center is applying to the New York State Office of Parks, Recreation and Historic Preservation (OPRHP) for a grant under the Recreational Trails Program to be located at 6472 Gulick Road, Naples, New York 14512, a site located within the territorial jurisdiction of the Town of South Bristol; and

WHEREAS, as a requirement under the rules of these programs, said not-for-profit corporation must obtain the “approval/endorsement of the governing body of the municipality in which the project will be located;”

NOW, THEREFORE, BE IT RESOLVED by this august body that the South Bristol Town Board hereby does approve and endorse the application of Rochester Museum & Science Center’s Cumming Nature Center for a grant under the Recreational Trails Program known as Cumming Nature Center Trails and located within this community.

I, Judy Voss, Town Clerk of the Town of South Bristol do hereby certify that the Town Board of the Town of South Bristol adopted this resolution on July 10, 2017, by the following vote:

	<u>Aye</u>	<u>Nay</u>
Daniel Q. Marshall	<u>x</u>	<u> </u>
Scott Wohlschlegel	<u>x</u>	<u> </u>
Donna Goodwin	<u>x</u>	<u> </u>
Stephen Cowley	<u>x</u>	<u> </u>
James Strickland	<u>x</u>	<u> </u>

Dated: July 10, 2017

Judy Voss, Town Clerk

SEAL

TIME WARNER FRANCHISE AGREEMENT – SCHEDULE PUBLIC HEARING

Supr. Marshall said there is a new contract presented to the board for Time Warner and the Franchise Agreement. A public hearing needs to be scheduled for the contract.

On a motion made by Councilman Cowley and seconded by Councilman Strickland, the Public Hearing for Time Warner Franchise Agreement Public Hearing schedule for Monday, August 14, 2017 at 7:00pm was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

VI. OLD BUSINESS:

A. BRISTOL SEWERAGE DISPOSAL CORPORATION REQUEST FOR RATE INCREASE & RE-MAPPING OF SERVICE AREA – SCHEDULE SPECIAL MEETING

Supr. Marshall said the Board is scheduling a Special Meeting to be held Tuesday, August 1, 2017 at 7:00pm for the sewer rate increase request.

On a motion made by Councilman Wohlschlegel and seconded by Councilman Cowley scheduling a Special Meeting August 1, 2017 at 7:00pm to be held at the South Bristol Town Hall for the Bristol Sewerage Disposal Corp. rate increase request was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

COMPREHENSIVE PLAN UPDATE – FUNDING

Councilman Wohlschlegel said he has been working with a committee of residents reviewing/updating the Town’s Comprehensive Plan. To move ahead, we have the results of the

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townwide survey that has all been compiled and have gotten prices from Steinmetz Planning Group (SPG) of Rochester to work with the new information. The complete analysis and summarize results of community survey for \$2,500.00. Councilman Wohlschlegel said the committee has all ready completed this part; to prepare a community profile of the Town using various data sources for \$5,000.00. Councilman Wohlschlegel continued \$2,500.00 for a draft/updated comprehensive plan which would include a SEQR and public hearings which we could do ourselves. Councilman Wohlschlegel suggested that some professional help will be needed but the funds are available this year.

Supr. Marshall agreed, noting that the budget did include funds for helping the committee which has been spent and will look into the budget for other funds that could be used for the Comprehensive Plan update or we could wait until next year.

Councilman Wohlschlegel agreed and said that it could be split between this year and next; the committee's next meeting is tomorrow night.

V. COMMITTEE REPORTS:

Councilman Cowley read the Highway Supt. report:

We had Suit Kote in Town earlier than expected. We were able to get Bills Rd. paved and the sag on Stemple Hill that we graded up with gravel. Suit Kote will return towards the end of July to apply a top coat on Stemple and Hicks Rd. At that time we will also pave the bottom of the hill on Mosher Rd. on the Gulick Rd. end.

We are busy mowing roadsides. The County roads have been done and some Town roads. That will be ongoing the rest of the summer. We are also trimming any trees that will interfere with paving and chip sealing.

I would also like to briefly address the idea of making Longview Rd. off CR 12 a Town road, just to the bottom of the hill. Several residents there are unhappy with the condition of the road and would like to see improvements. I do plow it in the winter and they feel, because the Town owns property bordering Longview, we should maintain it year round. We do use it for access to mow the fields below the overlook.

Our equipment trailer had been delivered from Tracey Road Equipment. I hope to have a delivery date for the new pickup truck this week.

Supt. Wight noted that the Town owns property on Longview Road next to the Overlook and thinks it should be a town road although that may produce more traffic.

Supr. Marshall said that there is a process for this; all the residents on that road have to agree to turn the road to the Town. Next, everyone will have to be aware to what you just you alluded to and it will be a public road which was relatively private. The need for this is because we do own the Carola-Barb Park, the 38 acres on Longview Road and why the town should take an interest in the road; there is a process to this.

VIII. REPORTS:

ASSESSOR

On a motion made by Councilman Cowley and seconded by Councilwoman Goodwin the Assessor's Report for June 2017 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Wohlschlegel, Cowley and Strickland.

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CEO

On a motion made by Councilman Wohlschlegel and seconded by Councilman Strickland, the CEO Report for June 2017 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Wohlschlegel, Cowley and Strickland.

TOWN CLERK

On a motion made by Councilman Cowley and seconded by Councilwoman Goodwin the Town Clerk Report for June 2017 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Wohlschlegel, Cowley and Strickland.

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

On a motion made by Councilman Strickland and seconded by Councilwoman Goodwin, the Supervisor's Reports for April and May 2017 were ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Wohlschlegel, Cowley and Strickland.

APPROVAL OF VOUCHERS

On a motion made by Councilman and seconded by Councilman Cowley Wohlschlegel, Abstract No. 7, Vouchers No. 310-357 totaling \$97,609.88 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Wohlschlegel, Cowley and Strickland.

X. 2nd PRIVILEGE OF THE FLOOR

Bill Nadal of Lakewood Trail asked the Board if they would let us know what the outcome is with the rate increase request; the renegotiating the rate.

Supr. Marshall said that is what we are trying to do now; renegotiate the rate and that is where we stand at the moment.

Fred Sarkis, asked the Board, under the Freedom of Information Act, please provide me with written legal opinion from the two attorney's you referred to in your July 6th response and asked the Board to make a motion to vote on that. Bristol Harbor has the right to see those two legal opinions.

On a motion made by Councilwoman Goodwin and seconded by Councilman Cowley, the motion was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Wohlschlegel, Cowley and Strickland.

Alan Braun of Harbor Lane, just a little history of the sewer corporation, my ex-wife used to work for the developer/owner, Joe Kriss. When she was working there it was well known that a lot of the expenses for the sewer, for administration and salaries, was coming from that cost. It wasn't accurate but it was how they supported their administration fees. When I looked at the 64% increase, there was a big increase in salaries, assuming that 100% of a person was just doing sewer when they were doing other work. Thank you for looking into that.

Supr. Marshall noted that he is aware that the operator is 50% water/50% sewer, but they also have a full-time employee; two additional employees, one of whom is assigned to the sewer and the other is assigned to the water. New York State requires now that you have two licensed operators available.

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Mr. Braun noted, a CFO told us we were getting all the salary yet they were overseeing the lodge, restaurant, golf course, just take that into consideration. The other thing, that with the no increase in price in sewer since 1987, it would be interesting to know, every new homeowner since then as paid a \$2,500 hook-up fee plus they also incurred extra to the sewer corp. for running the sewer corp, but really wasn't. That is why I perceive they have not asked for a price increase in sewer for all those years. It is another thing to take into consideration when they do look at it, why didn't they? They didn't need the money because the money was still coming in from new homes, etc.

Joe Kohler of Cliffside Drive asked when and how we are going to see these two legal letters, opinion letters.

Supr. Marshall said he would send the letters to the President of the Bristol Harbour Homeowners Association.

Mr. Kohler asked how can you consider a rate adjustment unless you have, for a minimum, according to CPA Accounting Standards, 5 years of complete financials, how can you make a decision without a minimum of 5 years complete financials.

Councilwoman Goodwin says she has in front of her the 2009 – 2013 income statements; we went through all those today at the meeting. The 2016 income statement was given to us, 2014 and 2015 were not submitted.

Clerk Voss noted that in 2014 there was a rate increase request and everything stalled because the sewer district was never expanded; and in 2015 the Cook's came in. The Board has the complete financials, but 2014 and 2015 financials were never officially submitted.

Councilwoman Goodwin said she will have the financials available for everyone.

XI. ADJOURN: 8:02PM

Respectfully submitted:

Judy Voss
South Bristol Town Clerk