

SOUTH BRISTOL TOWN BOARD MEETING

September 11, 2017

REGULAR MEETING

The regular meeting of the South Bristol Town Board was called to order September 11, 2017 at 7:02pm 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

Ann Jacobs, Jim Bachman, Sandy Adams, Beth Thomas, John Holtz, Carol Zanghi, Jim Wight, Maddie Bicknell, Alan & Kristie Braun, Fred Sarkis, Ted Russell, Steve & Patty Janto, Joe Kohler, Paul Lamphier, Todd Cook, Rob Brenner, Bob & Melanie Eisenberg, Baird & Marcia Couch, Dick McGrath, John York, Cathy Colby, Brian & Delores Perkins, Ralph Parker, et al

I. ROLL CALL

Supr. Marshall opened the meeting with roll call.

II. PLEDGE OF ALLEGIANCE

Alan Braun of Bristol Harbour sang *God Bless America* to commemorate September 11th. Mr. Braun asked the audience to sing along with him.

III. APPROVAL OF MINUTES

On a motion made by Councilman Wohlschlegel and seconded by Councilwoman Goodwin, the August 14, 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

Jim Bachman, President of the South Bristol Historical Society, thanked the Board and read from his notes.

I'd like to take a few minutes to talk about the purpose a town historian and its historical society. I'd also like to briefly about what's happening locally and how this supports and benefits the town.

I heard it said recently that a town historian is an ambassador to the community, the county and the state. That sounds pretty cool, but what exactly does that mean? I'll begin with how a town historian adds context to the town.

Do you han interest in local Native American history, or who owned your property before you and maybe what happened there? Your town historian is a resource for research, discovery and then ultimately preserving it. And if you recently had a desire to learn these things, your town historian is also creating interest. How about tourism? In the fall of 2015, the town historian collaborated with the Ontario County Historical Society to have the grange hall added as a stop on the highly publicized Fall

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Foliage Tour. Other collaboration efforts include Small Historical Societies, the Ganondagon State Historic Site and annual reporting to the New York State Historians Association.

We've also been shaking things up at the South Bristol Historical Society this year. We've reorganized, changing the way we do business and returning to our roots of education and offering community programs. Accomplishments this year, either concluded or scheduled, include:

- Native American expert Martha Semposki; in excess of 55 attendees
- 2 BBQ Chicken dinners
- 3 pancake breakfasts
- Bristol Days
- Open House
- 2 South Hill Road Sanitarium Farm presentations by Ron Goodman. One at the Bristol Library and one this past week at the grange hall. Both were well attended.
- The history and founding of Bristol Harbour by Fred Sarkis.
- Hops Harvest Dinner – this year is a pig roast
- Election Night Dinner
- Highlander Cycle Tour – especially noteworthy this year with the passing of Roger Brahm
- Burning Springs Tour

Our programs this year have been popular and each draws a different crowd. We routinely draw attendance from Bristol and have had several instances of guests from Canandaigua and as far as Geneva. We have also enjoyed event support from Town Supervisors Marshall and Green.

We've also been busy making improvements at the Grange this year, these include;

- Heat on the first and second floor
- Upgraded to a commercial cooler
- Removed a large dump trailer load of junk from the building
- We've employed the County workforce in excess of a half dozen times for various cleaning and maintenance activities
- Restored the diorama
- Upgraded to a 3-bay sink

As part of our reorganization and in preparation for a merger with the Bristol Historical Society, our board now has a ¼ makeup of Bristol residents.

Yes, I used the “M” word, so now the cats out of the bag. The Bristol's are seeking a merger and will be known as the Bristol Hills Historical Society. So before you ask yourself why, let me explain:

Both societies have weaknesses and fortunately we don't share them. In other words, we are drawing on each other's strengths. These include Bristol's permanent charter, versus our provisional charter. South Bristol's state education and federal filings are current, where Bristol's are lacking. This actually is a zero sum game, where zero is a positive for both associations. Alan Jones and Rod Terminello met with Honeoye's society Greg Hunt. Greg is a state expert on such matters and the outcome for merging is determinate. And both town societies have unanimously approved proceeding with a merger. To top it off, we share the same town historian – we were also once the same town.

Benefits to both towns and the community include;

- Reaching a larger population – membership has all ready increased. The larger area covered by the new organization as well as number of members carries weight when dealing with state and local agencies. This is particularly true when applying for grants. In addition, the opportunities to partner with other organizations such as schools or libraries increase.
- Grant money is also freely available for joint municipal projects

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- State recognition
- Diversity
- Honoring 5 generations of residents, man of whom still remember when the grange hall was an active part of the community
- Both organizations are focused on maintaining and upgrading our historic buildings. They serve as local landmarks; provide character and context to our communities. As well as being a place where people can gather. Our goal is to have both structures code compliant for public use.
- Promoting education, cohesion and celebration, which create a sense of community. These yield reasons for living in South Bristol which also support real estate values.

To begin wrapping this up, I need to briefly touch on finances. Merging does not include comingling of finances received resident donations or the town. This has been discussed at length and it’s important to know that funds received with a town are dedicated to supporting that towns building. Only funds raised by the Bristol Hills Historical Society will become joint property.

Thank you for your time this evening. Mr. Bachman introduced members of the South Bristol Historical Society; Ann Jacobs, Vice President, Carol Zanghi, Secretary, Sandy Adams, Treasurer, Beth Thomas, Historian.

Supr. Marshall told the audience that Beth Thomas, the South Bristol and Bristol Historian, just returned from 11 days in Houston with the Red Cross helping with Hurricane Harvey.

Supr. Marshall noted that we lost a very important member of the community in the last week, Roger Brahm, who was for many years, the Town Historian and a very active member of the South Bristol Historical Society. Mr. Brahm passed away last week, and is a member of the large Brahm family on Hicks Road. The Board has a Resolution of Sympathy for Mr. Brahm.

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

RESOLUTION NO. – 2017

RESOLUTION OF SYMPATHY – ROGER STANDISH BRAHM

WHEREAS, this Town Board was saddened to hear of the passing of Roger S. Brahm, and **WHEREAS**, Roger was a life-long resident of South Bristol, active in many town and community functions; and

WHEREAS, Roger was the South Bristol Town Historian for many years; and

WHEREAS, Roger volunteered his time with the Boy Scouts of America and the South Bristol Historical Society; and

WHEREAS, Roger was active in his church, where his friendship was felt by so many, now therefore be it

RESOLVED, this Town Board mourns the loss of Roger Standish Brahm and extends its deepest sympathy to his wife and family, and

RESOLVED, that a copy of this Resolution be sent to his family.

Brian Perkins, of Coye Road, read from his notes: Dan, Board members, thank you for the privilege of addressing the Board. I am speaking on behalf of a group of concerned neighbors on Coye and Seneca Point Roads, and I have just a few questions for you to consider.

First, regarding the Bristol Sewerage Disposal Corp Service map extension;

1. For what zoning usage on the East side of Seneca Point Road is the Town considering expansion of the sewer district, and who does this expansion benefit? Many of us agree with attorney Chad

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Flansburg who represents BHVA. The requested expansion of the sewer district is for the speculative benefit of the owners of the Sewer Corporation rather than the current rate payers.

2. If the Board is considering an expansion to improve wastewater treatment within the Town, who restrict the expansion to serve such a limited area? Wouldn't it be better to consider covering the entire R3 zone on the east side of Seneca Point Road in South Bristol for existing and future permitted residential development? This would appear to dovetail with the Town's goals.
3. Is the Board satisfied with the applicant's answers to the relevant questions asked in response to the Everwilde SEIS? Specifically, does BSDC have the capacity to handle the increased volume of flow from a Bristol Harbour Resort buildout in addition to a large spa facility, and does it have the capacity to treat the specific chemicals associated with a large spa and accompanying laundry facility?
4. Is the Board satisfied with the applicant's response to the Board's question of why Everwilde can't be located on the Bristol Harbour site?

Everwilde Final EIS

We are approaching 2 years since the public hearing on the Draft EIS. When will the FEIS be completed? It is our understanding that the applicant submitted their response to comments on the SEIS several months ago. Our legal counsel has advised us that according to SEQRA the FEIS filing can be extended "if it is determined that the additional time is necessary" or if "problems" with the proposed actions "requiring material reconsideration or modification" have been identified. Has the Town Board made an official determination of "findings" – as cited in the regulations – that additional time for the FEIS is necessary? We feel that this process needs a deadline of some sort.

Dick McGrath, of Bristol Harbour, said the information that has been floating around this area for a better part of 1 ½ years. Nothing has been done. It is about the missing funds that are held in escrow, or were held in escrow for Bristol Harbour sewage; it now exceeds \$450,000.00. It is all of our money; every bit of it. It is the town's responsibility to help us get through this mess, it falls on his shoulders and the previous owners shoulders. These missing funds have been certified and accredited as missing by CPA's. Isn't it about time we start doing something about this? This certainly would help us litigate the cost that we are seeing now that is desired by Bristol Harbour; \$450,000.00 is an awful lot of money. If nothing happens, maybe we should go the other way, if we can't do it in a gentlemanly fashion, maybe we should contact the current owners and the past owners and find out where this money has gone. Fred Sarkis has done an amazing amount of work on this area and could be helpful with any district attorney's efforts to gain information. We should pursue it and make sure that we finally have these funds back in an escrow account to be used to mitigate the cost of the sewage area. Be sure, with those funds in hand, there would be no increase, should be no increase, for the simple reason, the funds for equipment, for replacement and for future problems are all there. So, why not, start finding out, bring it to fruition, take it to a DA someplace in Ontario County and make this presentation. I know we have the background, I know we have the information and we could do it well, maybe it falls in the hands of the previous owner. We don't know that. We haven't gotten good information from them, nor have we gotten good information from the current owners. Let's get after this, charge after it, and if it comes to the hands of the district attorney, so be it.

Fred Sarkis, read from his notes: I speak not only as the founder of our Village, I speak from my four years of accounting, 65 years of business experience and 53 years of experience with the Town of South Bristol related to Bristol Mountain and our Village. For the record, this is my summary of my

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May 8, 2017 and July 10, 2017 Privileges of the Floor with a reminder that our Town has a legal responsibility to address, correct and seek fair play for 347 unit owners.

May 8, 2017

1. In spite of repeated request, the 2014, Balance Sheets and Bank Reconciliation Sheets have still not been obtained by the Town and provided to Bristol Harbour Village Association, Inc.
2. The 2015 and 2016 Income Statements, Balance Sheets and Bank Reconciliation Sheets have still not been obtained by the Town and provided to our HOA.
3. The 2014 Income Statement reflects that the Sole Commercial Customer of the Sewer Corp paid only \$10,473 or 3.7% of the total revenue. (This statement was 3 years late.) It was received by our HOA office June 6, 2017. Annually, the shareholders of the Sewer Corp. failed to follow the Ontario County Guidelines in paying their fair share).
4. "Due from Related Parties"? The first year \$131,636, the second year \$181,422, the third year \$259,118, the fourth year \$353,187, the fifth year \$383,803. By the tenth year ending 2015, it is reasonable to assume that this sum is now close to \$500,000. (Where are the written legal opinions from the Town Attorney's that state that the Town of South Bristol has no legal responsibility to demand that these funds be returned to the Sewer Corporation and put into a Capital Reserve Fund for future needs...subject to Town Board Haring regarding its use?)
5. In unity of purpose, Steve Janto, our HOA President supported my May privilege of the floor.
6. Clerk's Voss statement that "they (BHVA) has everything until 2016 is inaccurate. The complete and illusive 2015 and 2016 have not been received by BHVA.

July 10, 2017

My privilege of the floor consists of three long pages. I quote on sentence, "Meanwhile, under the Freedom of Information Act, please provide me and our HOA with the written legal opinions from two attorneys you referred to in your July 6 response to me." This was Supervisor Marshall's response. *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. Supervisor Marshall said he has had two lawyers give him this information and will have them both put it in writing. In the meantime, why doesn't the Bristol Harbour Homeowner's Assoc. call their lawyer and ask them about it. Everyone is expecting the Town of South Bristol to have all of 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 just not there.*" I read it. It is in there. Here is Resolution #21-2006. I will read and comment on each of the six resolutions and of great significance, the missing \$125,000 of tap in fees collected, but not reflected in any of the annual income statements received. Conclusion, any dialogue on the Cook's current application should be postponed until Laura and Todd Cook, the shareholders of the Sewer Corp, meet their legal obligation to provide all of the missing complete financial statements for the Sewer Corporation. This must include the Income Statements, Balance Sheets, and Bank Reconciliation Statements on the 2005 \$860,000 loan. Someone on the Town Board should make this motion for tonight's approval. And if not, the Board should state why not? Another footnote, Councilman Goodwin wanted Mr. Sarkis to know that *we are not ignoring the sewer rate increase, the Supervisor and I met all this morning (this was on July 10th). We had a meeting and we 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 spent 2 hours. We are not ignoring this at all. We did*

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meet with them and we are waiting for their response. Regarding the resolution, there were 5 resolutions,

1. the Bristol Harbour Sewer Corp take out a 14-year loan, as it turned out to be shorter loan.
 2. The existing unit owners will be assessed an additional \$23.50 per month in addition to their current charge which will be placed in a separate escrow account. Was it?
 3. The commercial users, the Lodge and the Hotel, will be assessed 7.75 units (hotel), and 5 units (Lodge). It wasn't consistent with the Ontario County guidelines.
 4. New units will be assessed a onetime \$2,500 tap in fee. The tap in fee will be applied to the principal of the term loan. The new unit will also, then pay the new monthly charge. There have been 50 units since 2006, that is where we get that \$125,000. Where is it?
 5. Once a year, the Bristol Sewer Corp will provide a general accounting of all funds to the Town Board and the Bristol Harbour Village Association. It has been said, why didn't the Association get the financials? Well, it's because the Town has the authority to approve the rates. The Town is in the driver's seat, not the Homeowner's Association. The Association relies on the Town to protect their interests.
 6. Upon termination of the loan, the \$2,500 in fees will be directed to the capital reserve fund. I'm not suggesting a refund, where is that 50 x \$2,500? Why isn't it in a reserve fund? And I believe the shareholders of the sewer corporation inherit the responsibilities of the former shareholders.
- Mr. Sarkis thanked the Board members; this is not an easy task for me to direct these comments to you because you do a great job in managing the Town's affairs. I can only hope that you will postpone any business of changing geography; if geography has to be changed, just change it to the commercial facility that currently exists now and cross the bridge on Everwilde when Everwilde is approve, whether it is commercial or residential.

John Holtz, of County Road, wanted to talk about the Veteran's Garden and thanked the Town of taking down the walnut tree that had the possibility of creating toxins in the soil which some of the plants would react negatively to and probably die. Mr. Holtz said that the gravel pathway now has become an area where a lot of weed infestation and grasses are growing in. It is probably hard to maintain that and could use weed killer. The idea when it was first built was to pave that loop around the garden and was wondering if we need to do that next year if we don't have enough money in this year's budget, if he could request that, somehow that the Veteran's Garden be paved over so that way we wouldn't have to worry about the weeds, and look a lot better. Mr. Holtz wondered if we could have a sign down on Route 64 letting people know that there is a Veteran's Garden and also something to indicate it at the entrance of the Town Hall. Mr. Holtz said he is proud to have the Veteran's Garden in the Town, we all should be.

Supr. Marshall said that we are looking into quotes for the walkways to be done in concrete, as opposed to asphalt, for the 2018 budget.

Supr. Marshall noted that the comments tonight have been well received. The Board will be addressing them as we move farther into the meeting; in particular the situation with the money everyone is concerned about with the lack of response on the Town's part; we've done a few things in the last month that will help you understand that we are trying to find answers that we need to find.

**VI. OLD BUSINESS:
BRISTOL HARBOUR SEWER CORPORATION
REMAPPING & RATE INCREASE**

Supr. Marshall said at the last Town Board meeting there was a request made for the Board to try and contact the previous owners of Bristol Sewerage Disposal Corp. and ask for the financial information. The Town Attorney, Jeff Graff, wrote the letter on the Town's behalf, to the last known attorney of the former owners of BSDC, Bill Kenyon. Supr. Marshall read the letter.

Dear Bill, I'm writing to you in your capacity as the attorney for the Bristol Harbour Resort Management, LLC, the previous sole share holder of BSDC. As you are aware, in 2006 the Town of South Bristol agreed to a special assessment to be charged to the users of the BSDC to pay down a loan for improvements to the BSDC facility on the condition that the BSDC provide financials to the Town for each year the assessment was in place. The Town never received those financials for years, 2013, 2014 and 2015. The Town Board has asked the current shareholders who bought out your clients interest in 2016 for these missing financial records, but they have told the Town Board that they did not receive them as part of the stock transfer. The Town Board is asking Bristol Harbour Resorts Management, LLC to provide the financials for BSDC for the years 2013, 2014 and 2015 that would still be in their possession in compliance with the agreement from 2006. As you are their last know attorney, I am reaching out to you to ask them for these documents and get back to me to let me know if they have them in their possession to provide to the Town. Thank you for your courtesies and cooperation in addressing this. VTY, Jeffrey Graff

Supr. Marshall noted that the letter was written on August 16 and mailed to Mr. Kenyon, and there has been no response. We did as you asked, and that is where we are on that situation.

Supr. Marshall continued, we then went and asked the current owners of BSDC if indeed they could possibly finding that information and in particular we wanted to know what happened to the \$366,000.00. They did reply with a letter which Councilwoman Goodwin read.

Dated August 21, 2017 and addressed to Mr. Todd Cook of the BSDC, regarding BSDC dividend made during 2014. Dear Todd: We have been asked to provide clarification regarding certain dividends made by BSDC, the company, during 2014. When considering this question, and we reference copies of the company's historical tax returns and trial balance reports dated 2005 to 2014 as well as supporting internal spread sheets containing financial information from 1997 through 2014 that the company has kept. This information provides a more accurate reflection of the company's dividend history that would be provided a set of consolidated or combined financial statements which would also include unrelated dividends pertaining to other companies within the consolidation and/or combination. As reported in the company's tax return, the dividends that the company paid during 2014 totaled \$281,169.00. Based on available historical information it appears up until 2014, the shareholders who made a capital investment in the company in 1997 were not paid dividends on their capital investments or their portion of the company's earnings for approximately 18 years. As supported on an internal spreadsheet that the company kept, the company computed a 12% rate of return on the shareholders original investment plus amounts for additional improvements made in each subsequent year. The computed non-distributed return on their investment at the end of this 18-year period of time totaled \$281,169 at December 31, 2014 which is the amount of the 2014 dividend. Again, dividends were not declared or paid each year from 1997 to 2013 which is supported by the fact that there is no accrual or reporting of dividends in any of the prior year tax returns, although a return of 12% each year was tracked on an internal spreadsheets. Rather, the total cumulative dividend of \$281,169.00 was declared and paid out to the

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shareholders who owned the company in 2014. This amount can be seen as a cash distribution on schedule M-2, line 5A of the company's tax return.

Councilwoman Goodwin noted that this letter came from DeJoy, Knopff & Blood, LLP.

Supr. Marshall said the signature is Luke Werzinger, a Senior Manager. Supr. Marshall said that some of you might be saying that this was about \$366,000.00 and we are discussing \$281,169; there is an \$84,000 difference and we asked that question as well. Supr. Marshall noted that Mr. Rob Brenner, who represents the BSDC, offered to explain that difference for us.

Robert Brenner of the law firm, Nixon, Peabody here on behalf of the sewer corporation. After reviewing the letter that was just read into the record, the supervisor reached out to me and asked me to connect with Luke Werzinger on the \$85-\$90,000 that is the delta between the amount recorded in the letter and the amount in financial statements. Mr. Brenner, noted that Mr. Werzinger pointed him to two line items on form 1120 of the sewer corp. 2014 Federal Income Tax return. He indicated that these two amounts would likely close that delta that is being asked about. The first is the asset line item in the cash account. At the beginning of the tax year, it was at \$26,672; at the end of that tax year the cash account increased to \$86,725 which approximately \$60,053 increase in that cash account. The second change in 2014 was the buildings and other depreciable assets line item; that's the physical plant improvements. That allocation at the beginning of the tax year was \$1,097,196.00. At the end of the tax year that was reported at \$1,126,971.00; a net increase of \$29,775.00. Those two line items aggregated total \$89,828.00. As I indicated when I asked that question, Mr. Werzinger suggested those two line items would provide an answer to that question.

Mr. Brenner also wanted to, if he may, address one point that was raised. There was a meeting with Board member Goodwin and the Town Supervisor where Mr. Cook, Tim Reidy, and the Town Attorney all sat together and meet for about 2 hours. The reason for that meeting was coming out of the June 12th Public comment period, we knew we had a lot of work to do so we sat in that meeting and talked about the proposed rate structure. The rate structure, there is a deviation in what is proposed currently as opposed to what was proposed initially. There is about a \$6-\$7.00 reduction in the base rate that is being charged and the Town asked that we reallocate certain portions of the proposed rate to debt service, to rebuilding a capital reserve account, so there are very particular line items as part of the proposed rate structure based on that meeting. The Town also asked us to work with the NYSDEC to obtain review and approval from them in connection with the district expansion pursuant to the Transportation Corporation Law; which we did; letters included in our submitted from earlier this month. We also addressed some other ancillary questions including the accounting issues that were discussed at that meeting because we knew we needed to get you firm answers regarding prior ownership and the way the accounting metrics were handled.

Supr. Marshall thanked Mr. Brenner. A couple of other points that were brought up as the residents spoke this evening. One of them being, the possibility of extending the sewer corporation service to include the property across the street on Seneca Point Road for the proposed Everwilde project. Our approval of that would not necessitate (1) the approval of the Everwilde project and (2) the letter we have received of condition approval by the DEC clearly states that nothing can be done in the proposed new service area without their prior approval. There are some questions with regard to flow rates, etc.; in no way does the DEC approval letter guarantee anything with regards to the Everwilde project and does require specific approval by the DEC before anything can be done; a condition that the DEC required. Supr. Marshall noted that the letter from the DEC is address directly to him as Supervisor of the Town with regards to the Bristol Sewerage Disposal Corp. district service area extension. Supr. Marshall read the letter:

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Dear Town Supervisor Marshall: Representatives of the Bristol Sewerage Disposal Corporation have asked the DEC pursuant to NY Transportation Corporation Law 117 and 116.2 to approve BSDC proposal to extend its sewer service area. The DEC hereby conditionally approves the proposed extension of BSDC sewer service area. This conditional approval by the DEC does not authorize BSDC to hook up or connect with any building, home structure or other source of sewage not currently served by BSDC until and unless BSDC resolves a number of issues that have been raised by the DEC including increased sewage flow that may be associated with future development in the extended or the existing sewer service area. Resolution of such issues will likely result in modification to the BSDC SPEDES Permit and the water withdrawal permit will also be modified. Please let me know if you have any questions or wish to discuss this further. Signed by Dennis Hartwick, Regional Attorney for Region 8, NYSDEC.

Supr. Marshall noted that another question that was brought up, if you are going to extend BSDC service area, why not extend it further down the road? Supr. Marshall said it is not the Town's desire to extend the service area, it is the stockholders or the owners of BSDC and all the Town is doing is approving what they are requesting. The Town Board does not have the authority to tell them they have to go farther. We are simply addressing what they have asked for.

Supr. Marshall wanted to re-emphasize to everyone that the requirement of this Town Board is to determine a fair, reasonable and adequate rate that is acceptable and allow the sewer corporation to continue to function properly. The rate should be considered reasonable and fair. Having said that we could move on to the issue of SEQR because we are doing a remapping of the service area, SEQR is required. Kathy Spencer from LaBella Associates is here tonight and is the SEQR specialist.

Kathy Spencer handed out to the Board the SEQR documents and stated that her role here tonight is to assist the Town Board in compliance with the SEQR for this action they are considering tonight. The definition we have defined the action in our SEQR paperwork, it is a 2-fold action. One is the amendment of the service area to include properties that are currently being served by aren't legally included in the filed paperwork for what the service area is as well as the property that is currently under proposed use as the Everwilde Inn & Spa. That is one part of the action, the map amendment. The second part is the change in the rate structure. Under the SEQR our scope is limited to what the potential environmental impacts of undertaking these 2 actions would be. Basically, what impact might it have on natural resources in the Town from the different components of the action. In considering this we are going to go through Part 2 of the assessment form with the Board, because it is a Board determination. In Part 3 we will talk about the significance of those impacts and then have a resolution prepared to support the Town Board's conclusion of the SEQR process, a recommendation. The most important points when considering the environmental impacts and the first is, that there is no construction or alteration of the physical environment or natural resources associated with any component of this action. That is important to keep in mind. The second point, the DEC in issuing their conditional approval has put a freeze on any new services; what we are really looking at is the legally recognized service area is out of whack with what is actually being served and we have to bring those two in a paperwork transaction so that the paperwork is correct and the area being served is actually legally filed appropriately with the State. Most of the map area amendment includes properties that are all ready being served, the only exception to that is the undeveloped properties including currently proposed for Everwilde. With regard to that, as to what Supr. Marshall said correctly, while we thought at one point that this action would be able to look at the environmental impacts including Everwilde, flows and capacity, we just don't have the information from DEC to do that so once again it will be in the Everwilde FEIS which is underway at this time. The last point Ms. Spencer wanted to make was, certainly, for critical infrastructure, such as sanitary sewer treatment facility, you want to make sure that

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that entity is financially solvent, so a change in the rate structure to ensure its financial solvency is generally held that that will protect the environment because the sewer system will be less likely to fail or be abandoned with the result that if it were to fail or be abandoned, you could have water quality impacts from untreated sewer or wastewater going into the waterways. That summarizes why I filled out the Part 2 for your consideration the way I did with mostly checks of the “No” boxes.

Supr. Marshall asked Councilman Wohlschlegel to begin the SEQR resolution. Councilman Wohlschlegel agreed with Ms. Spencer, there is no real work going on at this point so a lot of these check points are going to be “No.:

(Insert SEQR)

Kathy Spencer said that having completed that form, the SEQR instructions are to then, in Part 3 of the form, discuss and evaluate the significance of any the impacts that were indicated to be potentially moderate or large. We did not come up with any of those, you are the Town Board, there might have been one or two small subset impacts under water but nothing was moderate to large. The other pieces of documentation that I presented you with, nevertheless, is a discussion and evaluation of why the impacts weren’t considered small. Some of the things we have been talking about tonight and some of the points outlined before I gave you the form; there is a summary of the hard look that the Town Board can rely on for their Part 2 analysis which shows in Part 3 why those impacts are not considered large or significant. Given that, the Board can proceed to issue a negative declaration which would close the environmental review on this action if that is the case.

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

**RESOLUTION NO. 35-2017 TOWN OF SOUTH BRISTOL
SEQR RESOLUTION - NEGATIVE DECLARATION**

Bristol Sewer Disposal Corporation – Service Map Expansion & New Rate Structure

At the meeting of the South Bristol Town Board held on September 11, 2017, Councilman Cowley moved adoption of the following resolution; Councilman Strickland seconded the motion and was passed.

WHEREAS,

- 1) In accordance with the Transportation Corporations Law, on June 6, 2017, the Bristol Sewerage Disposal Corporation (“BSDC”) filed an application with the South Bristol Town Board for the dual actions to expand the service area of the BSDC and to change the sewer rates that BSDC is charging; and
- 2) The Town Board of the Town of South Bristol is the most appropriate agency to serve as Lead Agency in accordance with the New York State Environmental Quality Review regulations (SEQR) and intends to serve as the Lead Agency for the environmental review of the proposed action(s); and
- 3) The Town Board of the Town of South Bristol has determined that the proposed action(s) is an Unlisted action as defined under SEQR for which an uncoordinated review will be pursued; and
- 4) BSDC provided a completed Part 1 of the full Environmental Assessment Form (EAF) within its June 6, 2017 application packet; and

SOUTH BRISTOL TOWN BOARD MEETING

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- 5) BSDC subsequently updated its application packet with submissions dated August 11, 2017, and September 5, 2017, which included changes to the rate structure originally proposed in the June 6 2017 application packet; and
- 6) In its capacity as Lead Agency, the Town Board caused to be prepared an environmental assessment of the significance of and potential environmental impact of the action(s) described above, based upon a review of the June 6, 2017 application and the August 11, 2017 and September 5, 2017 supplemental packets.
- 7) The Town Board's assessment, including the preparation of Parts 2 and 3 of the EAF and an accompanying Narrative Attachment, evaluated the proposed action(s) using the criteria for determining significance identified in 6 NYCRR § 617.7(c)(1) and in accordance with 6 NYCRR § 617.7(c)(2) and (3), as described in detail in the Part 3 Narrative Attachment; and
- 8) The Town Board has considered the Environmental Record prepared for this action, including Parts 1, 2 and 3 of the EAF and the proposed Negative Declaration.

NOW THEREFORE BE IT RESOLVED,

The Town Board of the Town of South Bristol declares that it will serve as Lead Agency for the action(s) proposed by BSDC to expand its service area and change its rate structure; and, The Town Board declares that, based on the Environmental Record which has been prepared, and with particular reference to Part 3 of the EAF, the project will not result in any large and important impacts, and therefore, will have no potential for a significant adverse impact on the environment. A Negative Declaration under SEQR is therefore issued for this project.

STATE OF NEW YORK:

COUNTY OF ONTARIO: ss

TOWN OF SOUTH BRISTOL:

I, Judy Voss, Town Clerk of the Town of South Bristol, Ontario County, New York, DO HEREBY CERTIFY that I have compared the foregoing resolution duly adopted by the Town Board of the Town of South Bristol on the 11th, day of September, 2017, with the original thereof now on file in my office, and the same is a correct and true copy of said resolution and of the whole thereof.

DATED: September 11, 2017

(SEAL)

Judy Voss, Town Clerk

Supr. Marshall continued with the rate increase request from BSDC. Currently the rate increase request is for \$69.21 per unit which has three components.

Attorney Jeff Graff noted that the \$69.21 per unit is broken down \$9.12 to be used to fund the Capital Reserve account, \$6.03 for each unit charged to be used to payoff existing debt, the remaining \$54.06 is to be used to pay all other expenses of the corporation.

Supr. Marshall asked for discussion among the Board.

Councilman Wohlschlegel said he looked at the cost of where you were charging and think it is difficult to run a facility

Councilman Cowley agreed; you are always behind trying to catch up; preventative maintenance schedule; always fighting infiltrations which always costs money. Trying to stay ahead of it is the best plan.

Councilwoman Goodwin asked about the amount being held for the capital reserve, \$9.12, and noted that was something we felt was very important, which is one of the reasons we asked at the

SOUTH BRISTOL TOWN BOARD MEETING

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meeting to have that amount set aside. This is what we requested at the meeting and we are requesting every year and we will make sure that is done.

Supr. Marshall noted that this process has not been fun; if any of you think that those of us up here are enjoying this process of having to do rate increases, we did not want to be in this position, NYS requires us to be in this position so here we are. The BSDC is unique; there is no question about that; it is one of two or three that are actually privately owned in NYS. The other issue is its size; 391.3 units is the number being used to calculate the rate and 391.3 units is significantly smaller than the average sewer district that the County would operate or most any municipality would operate. What does that mean? Unfortunately it means the cost has to be spread over a much smaller base of people and that is unfortunate. One of the things we worry about is that we pass something that would in fact cause someone financial distress to the point of having to move out of their home. Supr. Marshall said he has thought about that a lot and then have to think back to the 2006 up through the early part of 2016 when all the residents were paying that additional \$23.50 surcharge. The bottom line is if you added those together it is now in the \$62.00 range which is not an awful lot lower than what we are talking about here. Supr. Marshall noted he didn't like being in the position of having to suggest that we have to do a rate increase, but is also very worried about values. You all have incredibly beautiful homes at Bristol Harbour and we certainly want to make sure they retain their value and not having an operating, viable sewer corporation to operate it doesn't do much for the value of your home. That is also something that I would also like to take into consideration at this stage. It is a difficult decision and will have to support the rate increase as they have asked for.

Councilman Wohlschlegel said he toured the facility, and think that sewer district is excellent and the water supply is excellent and when you look at our whole area, Canandaigua Lake and what you think of your area, doesn't think it is so bad. Anyone who works for a business, I have to plan budgets and have to put money in on how I am going to operate my facility the following year. You have to put rate increases in; that is what happens. Putting money back into the facility that you have; beautiful homes, beautiful facility over there that is well worth it and will support it.

Councilwoman Goodwin said the other statement, that we are looking at from the summary is, *“an increase in the rates and the resulting improvement in financial stability could help minimize the risk of failure or abandonment of the sanitary sewer treatment system and associated environmental impacts that would result from untreated or partially treated wastewater being discharged to water bodies or to the ground surface within Canandaigua Lake Watershed.”*

Supr. Marshall said the resolution we have asked the Town Attorney to write would include a requirement that the financial information be submitted by February 15th, specifically what we are interested in knowing, (1) how's that capital reserve coming along? We want to see that it is building. We also want to know that the debt that has been incurred to maintain the facility at this point, is also being paid down. Basically, if the sewer corp. line of credit goes back to being fully available, that is another source of making sure that we have the capability to do the necessary repairs or anything else that may need to be done.

Attorney Graff noted that the February 15th is in the resolution with an of getting calendar year financials, figuring 45 days was sufficient. Given the past financials that we have been getting, on the calendar year basis, I would chose a date that both you and the corporation feel are an adequate amount of time to get the prior years' financials if 45 days isn't sufficient.

Supr. Marshall asked if in the course of that first year we were to see something that we deemed significant we would have the authority as the Town to open up the request for a rate review?

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Attorney Graff agreed, the Transportation Corporation Law allows either the corporation to petition the Town Board for a change of rate or the Town Board on resolution to bring up the question of change of rate.

Councilwoman Goodwin asked if that was on a yearly basis?

Attorney Graff noted can happen at any time.

Supr. Marshall said in 3 months we could ask the question again.

Attorney Graff agreed.

Councilman Cowley asked how fast does the rate get changed if we find out it is wrong?

Attorney Graff said the change of rate is based on the two parties and however fast the two parties can come to an agreement.

Attorney Graff asked the question to the corporation if February 15th is an adequate amount of time to get the prior years' financials?

Attorney Brenner answered yes, and asked if they were looking for full consolidated financials or the line items the Supervisor indicated, if we provided a summary?

Councilwoman Goodwin said she would like to see the consolidated financial reports.

Attorney Brenner suggested April 1st because it is consistent with the tax filing period.

On a motion made by Councilman Wohlschlegel and seconded by Councilman Cowley Resolution No. 36 – 2017 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

RESOLUTION NO. 36– 2017

WHEREAS, on July 10, 1969, the Bristol Sewerage Disposal Corporation (the “corporation”) was incorporated pursuant to the New York State Transportation Corporation Law permitting it to serve an area then approved by the Town of South Bristol Town Board; and

WHEREAS, on June 6, 2017, the Corporation submitted a request to the Town Board for consent to amend its 1969 Certificate of Incorporation to expand its service territory within the Town of South Bristol, such request with the expanded service area map is attached hereto as Exhibit A; and

WHEREAS, in a letter dated August 11, 2017, the Corporation rescinded its June 6, 2017 request to the Town Board for consent to amend its 1969 Certificate of Incorporation to expand its service territory within the Town of South Bristol and simultaneously issued a renewal of its request to the Town Board for consent to amend its 1969 Certificate of Incorporation to expand its service territory within the Town of South Bristol, such August 11, 2017 letter and attachments are attached hereto as Exhibit B; and

WHEREAS, in compliance with section 117 of the Transportation Corporations Law, the Corporation filed with the New York State Department of Environmental Conservation a map of the expanded service area and specifications of the proposed system within such expanded service area; and

WHEREAS, in compliance with Section 117 of the Transportation Corporations Law, on September 1, 2017, the New York State Department of Environmental Conservation conditionally approved the map of the expanded service area under consideration herein and the specifications of the proposed system within such expanded service area, such conditional approval is attached hereto as Exhibit C; and

WHEREAS, pursuant to Section 116 of the Transportation Corporations Law, the Town must grant or deny the Corporation’s request to amend its certificate of incorporation within the later of sixty days after receiving the Corporation’s request or within sixty days after notice to it of the Department’s approval of the maps and specifications of the proposed system filed with such department; and

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WHEREAS, in a letter dated August 11, 2017, the Corporation rescinded its June 6, 2017 request to the Town Board for a review of the sewer rates that the Corporation is charging and simultaneously issued a renewal of its request to the Town Board for a review of the sewer rates that the Corporation can charge, such August 11, 2017 letter and attachments are attached hereto as Exhibit B.; and

WHEREAS, the Town Board has conducted a diligent investigation into the merits of the expanded service area; and

WHEREAS, the Town Board has reviewed the necessary financial reports showing the Corporation's operating revenues, operating, maintenance and other expenses, reserves and existing debt obligation of \$92,000.00, and conducted other investigations necessary for it to make a decision on a change in the Corporation's sewer rates; and

WHEREAS, after the Town had deliberations with the Corporation and required that any approved rate include a portion of thereof being devoted to establishing a capital reserve, the Corporation has provided the Town Board with a 2017 Rate Analysis, attached hereto as Exhibit D, requesting the Town Board to approve a change in the sewer rate the Corporation can charge to \$69.21 per unit, with \$9.12 of each unit charge to be used to fund a capital reserve account, \$6.03 of each unit charge to be used to pay off the existing debt and the remaining \$54.06 of each unit charge to be used to pay all other expenses of the Corporation; and

WHEREAS, the Town Board is in receipt of a September 8, 2017 letter from Mengel, Metzger Barr & Co. LLP, Certified Public Accountants, that states that it has reviewed documentation from the Corporation supporting its 2017 Rate Analysis to be in effect for 36 months and that, "Without any significant decreases in its revenue base, if [the Corporation] is able to meet these planned expenses during the next 36 month period, from an operating cash flow stand-point, the entitle will remain financially viable."; and

WHEREAS, the Town Board has been advised that the requested sewer rate of \$69.21 per unit only produces enough revenue for the Corporation to pay its expenses and debt service and to establish the capital reserve required by the Town Board if the Town approves the expanded service area by consenting to the amendment to its Certificate of Incorporation so that the Corporation has additional, approved users to pay this rate; and

WHEREAS, pursuant to part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law it has been determined by the Town Board that granting the Corporation's request to expand its service area and agreeing to a change in the sewer rates the Corporation can charge would not have a significant upon the environment.

NOW, THEREFORE BE IT RESOLVED, that the Town Board finds that it is in the best interest of the properties to be included within the expanded service area, of the properties currently being served by the Corporation and of the Corporation itself for the Corporation to be able to provide for the collection, treatment and disposal of sewage in the expanded service area and hereby grants the request of the Corporation to file an amendment to its 1969 Certificate of Incorporation to expand its service territory to include that additional area within the Town of South Bristol as shown on the map attached hereto as Exhibit A; and be it further

RESOLVED, the Town Supervisor is authorized to sign a certificate, as required by the Transportation Corporations Law, to permit the Corporation to file its amendment with the New York State Department of State in accordance with this Resolution; and be it further

SOUTH BRISTOL TOWN BOARD MEETING

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RESOLVED, that the Town Board finds that a sewer rate of \$69.21 per unit is a fair, reasonable and adequate rate for the Corporation to charge and hereby agrees that the Corporation can charge \$69.21 per unit provide the following conditions are met:

1. \$9.12 of each unit charge is to be used to fund a Capital Reserve Account, \$6.03 of each unit charge is to be used to pay off the existing debt and the remaining \$54.06 of each unit charge is to be used to pay all other expenses of the Corporation.
2. Once the existing debt of \$92,000.00 is paid in full, the Corporation shall use the \$6.03 of each unit charge approved for debt service to further fund the Capital Reserve Account.
3. The amendment to the Corporation’s 1969 Certificate of Incorporation to expand its service territory to include that additional area within the Town of South Bristol, as shown on the map attached hereto as Exhibit A, must first be filed with the New York State Department ; and
4. The Corporation shall submit to the Town Board an Annual Consolidated Financial Report on or before April 1st of every year hereafter, such financial report to show for the preceding calendar year all revenues the Corporation collected, all expenses and debt service the Corporation paid, the remaining debt owed by the Corporation, and all amounts set aside by the Corporation in a separate Capital Reserve Account.

I, Judy Voss, Town Clerk of the Town of South Bristol do hereby certify that the aforementioned resolution was adopted by the Town Board of the Town of South Bristol on September 11, 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: September 11, 2017
SEAL

Judy Voss, Town Clerk

TIME WARNER FRANCHISE AGREEMENT

Supr. Marshall noted that a Public Hearing was held by the Town Board this evening and there were no comments from the public and asked if the Town Board had any concerns or comments. The most important thing to consider is the fact that our Franchise Tax fee will still be 5%.

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

STATE OF NEW YORK
Town of South Bristol
County of Ontario

In the Matter of the Renewal of the Cable Television Franchise Held by
TIME WARNER CABLE NORTHEAST LLC, locally known as Charter Communications in the Town
of South Bristol, Ontario County.

RESOLUTION

SOUTH BRISTOL TOWN BOARD MEETING

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An application has been duly made to the Board of the Town of South Bristol, County of Ontario, New York, by TIME WARNER CABLE NORTHEAST LLC, locally known as Charter Communications, a partnership organized under the laws of the State of New York doing business at 2604 Seneca Avenue, Niagara Falls, NY 14305, and holder of a cable television franchise in the Town of South Bristol for the approval of an agreement to renew the cable television franchise for an additional fifteen (15) years. The Franchise Renewal Agreement would bring the franchise into conformity with certain provisions of the Federal Cable Communications Policy Act of 1984, as amended and certain court rulings.

A public hearing was held in the Town of South Bristol on September 11, 2017 at 7:00 P.M. and notice of the hearing was published on the South Bristol website on September 1, 2017

NOW, THEREFORE, the Board of the Town of South Bristol finds that:

Charter Communications has substantially complied with the material terms and conditions of its existing franchise and with applicable law; and

The quality of the Charter Communications service, including signal quality, response to customer complaints and billing practices has been in light of community needs; and

Charter Communications has the financial, legal and technical ability to provide these services, facilities and equipment as set forth in its proposal attached; and

Charter Communications can reasonably meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

BE IT FURTHER RESOLVED that the Board of the Town of South Bristol hereby renews the cable television franchise in the Town of South Bristol for fifteen (15) years commencing on the date of approval by the Public Service Commission.

BE IT FURTHER RESOLVED that the Board of the Town of South Bristol hereby confirms that this Franchise Renewal Agreement replaces the original franchise last amended on September 16, 2003.

The foregoing having received a yea/nay vote was thereby declared adopted.

Dated: September 11, 2017

Town of South Bristol Clerk

LOCAL INCOME EXEMPTION LAW

Supr. Marshall said this local law is not ready for Town Board action tonight.

BUDGET PREPARATIONS

Supr. Marshall reported that all Town departments have been asked for their 2018 budget information back to us by September 8th and will be working on budget preparation.

VII. NEW BUSINESS

SOLAR PANEL LOCAL LAW FROM PLANNING BOARD

Supr. Marshall noted that the Town Board has in front of them a copy of a proposed Local Law that Attorney Jeff Graff wrote at the request of the South Bristol Planning Board that will put some type of controls on solar panel farms. Currently, in the Town of Canandaigua have 2 proposals for solar farms on Monks Road that are at least 250 panels each.

Supr. Marshall noted that the Board needs to schedule a Public Hearing regarding the Solar Farm Local Law; the local law states that the solar farm be no larger than 8 acres.

SOUTH BRISTOL TOWN BOARD MEETING

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On a motion made by Councilman Cowley and seconded b Councilwoman Goodwin, to schedule a Public Hearing for the proposed Local Law to amend the Town of South Bristol Zoning Ordinance to add regulations pertaining to Solar Energy Systems scheduled for Tuesday, October 10, 2017 at 7:00pm was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Wohlschlegel, Cowley and Strickland.

NYS BROADBAND DISCUSSION

Clerk Voss noted that there have been numerous requests from residents over on the west side of Town, Gulick Road, Mosher Road that do not have adequate internet service. Gov. Cuomo campaigned to have internet access available to all of NYS and the NYS Broadband Program is that initiative. The NYS Broadband Program was contacted and have since spoken to them regarding South Bristol and was assured that we are included in their projections and will follow up with them to see where South Bristol fits. Also, when Charter and Time Warner merged, part of that agreement with the State was to increase their service area and South Bristol will indeed see 250 units expanded. A lot of positive news, and we are now moving forward with the information.

V. COMMITTEE REPORTS:

Councilman Cowley read the Highway Supt. report: Following is a brief summary of what's been happening at the Highway Dept. Suit-Kote was back in Town in late August. We spent 3 days chip sealing; Stemple Hill Road, Bills Road, Hicks Road. The hill on the Gulick end of Mosher Road was done. And we also chip sealed all of Gulick Rd. (6.7 miles). Roadside mowing continues, along with Town property mowing. We are also sweeping roads getting ready for striping. Salt will be ordered soon, because unfortunately, winter months are on the horizon.

VIII. REPORTS:

ASSESSOR

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

CEO

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

Supr. Marshall noted that CEO Sommer is an asset to the Town. The monthly report details all the work the office has done, mileage logged, all within a 20-hour work week. Councilman Cowley agreed.

TOWN CLERK

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

SOUTH BRISTOL TOWN BOARD MEETING

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

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

Supr. Marshall noted that the financials are all up to date and as of August 31, 2017, the bank balance is \$1.637 million.

BUDGET TRANSFERS

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

| | | | |
|---------------|----------|--------------------------------|-------------|
| Transfer From | A1990.04 | Contingent Acct to | |
| | A1440.4 | Engineer – Contr (Everwilde) | \$10,234.59 |
| | A1990.4 | Contingent Acct to | |
| | A1440.42 | Engineer – Contr (BSDC) | \$5,274.50 |
| | A1990.4 | Contingent Acct to | |
| | A1420.42 | Engineer – Cont (BSDC) | \$3,810.55 |
| | A3097.4 | Public Safety – Contr to | |
| | A1420.42 | Attorney – Contr (BSDC) | \$1,219.45 |
| | A1620.4 | Buildings – Contr to | |
| | A1440.4 | Engineer- Contr | \$9,497.57 |
| | A1650.42 | Central Comm Sys – Licenses to | |
| | A1650.4 | Central Comm Sys – Contr | \$596.40 |
| | A5132.4 | Garage – Contr to | |
| | A5132.2 | Garage – Equip | \$921.60 |

Supr. Marshall noted that the Transfers are for expenses incurred with Engineering as part of the Bristol Harbour sewer project and Everwilde project and will be reimbursed by the developer. Same situation with the attorney fees.

BUDGET AMENDMENT

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

| | | | |
|---------------|---------|------------------------------|------------|
| Transfer From | A909 | Fund Balance –Unreserved | |
| | A1440.4 | Engineer – Contr (Everwilde) | \$7,615.41 |

This amendment supported by the funds in escrow or Everwilde.

APPROVAL OF VOUCHERS

On a motion made by Councilman Strickland and seconded by Councilman Cowley, Abstract No. 9, Vouchers No. 403-445 totaling \$166,258.44 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Wohlschlegel, Cowley and Strickland.

X. 2nd PRIVILEGE OF THE FLOOR

Joe Kohler of Bristol Harbour asked the Town Board asked the Board if they are requiring the sewer corp complete, not just consolidated, but broken out profit and loss statement, footnotes, done by an independent third party auditor. I didn't hear the word audit, I didn't hear 3rd party, I didn't hear independent.

Councilwoman Goodwin noted that the consolidated financials; no we didn't ask for a third party independent audit; before the consolidated fiscal reports get done they get audited and will find out by whom. An auditor usually has to send those in.

Mr. Kohler asked Councilwoman Goodwin to get back to him with that information because if it is a 3rd party because there is audited and there is audited. Not that they wouldn't be. Mr. Kohler asked Supr. Marshall for the letters from Attorney Graff, Mr. Kenyon's letter, resolution, is it possible to have a copy of those letter.

Supr. Marshall said the letters are all FOIL-able; there are some letters between our attorney that are protected by attorney-client privilege.

Mr. Kohler continued, he made a request, I made a request this last November and subsequently, with all due respect to Supt. Wight and all the pressures of the water, torrential summer and snow in the winter and do appreciate the good job the highway dept. does. This is about humans, and about human safety. One of our residents, as you know, a neighbor, hit 5 deer and he is a good driver. We have one deer caution sign going north on Seneca Point Road; Supt. Wight knows where it is; a little occluded by a tree. I'd like to request, for the safety of walkers, hikers, bikers, kids; when those deer signs go up, it causes drivers to inherently, sometimes, not all the times, slow down and by slowing down for turkey, fox, cats, dogs, walkers, hikers, bikers, we might save a life. We might save somebody's pet. We might even save some wildlife. I can't prove it, but logic seems to flow through this request. So as we come down from Monks Road, Seneca Point South, if we could have some deer caution signs along where it starts by the golf course and down by where the trees start, right after the entrance where you turn in to the lodge.

Supt. Wight said there is a deer sign, next mile, at the bottom and the top, what will it accomplish by putting another deer sign half way?

Alan Braun of Bristol Harbour, said he recommended a "slow" sign. Coming into Cheshire you have a sign for "speed zone ahead." We can do that when it goes from 35 mph to 25 mph.

Supt. Wight said that is typically done when you enter a village/hamlet.

Mr. Kohler said if we could get another one as you are going north and south as you are coming into the Bristol Harbour complex it won't hurt and it might save a life.

Fred Sarkis of Bristol Harbour asked if there is a target date that we might be getting the financial (BSDC)?

Supr. Marshall said, the missing financials, we received no reply when our attorney's sent a letter to them.

Mr. Sarkis: Is that the way the Board is going to leave it?

Supr. Marshall asked, what else are we supposed to do? We've asked them, sent a letter to their attorney.

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Mr. Kohler asked Supr. Marshall to repeat what he just said because the point is very, very important. There was so much being said, when you say “they” that is SBR or the current owners?

Supr. Marshall said pursuant to the last discussion we had at the last town board meeting, I indicated that we would ask the Town Attorney to write a letter to the last known attorney of SBR, Bill Kenyon, requesting that he ask the former owners for those financials. We have had absolutely no reply. The letter was sent on August 16th. Mr. Kenyon might not ever represent these people any longer.

XI. ADJOURN: 9:25PM

Respectfully submitted:

Judy Voss
South Bristol Town Clerk