

SOUTH BRISTOL TOWN BOARD MEETING  
September 10, 2018

**REGULAR MEETING**

The regular meeting of the South Bristol Town Board was called to order September 10, 2018 at 7:03 pm at the South Bristol Town Hall, 6500 W Gannett Hill Road, Naples, NY 14512.

**PRESENT**

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

**RECORDING SECRETARY**

Judy Voss, Town Clerk

**OTHERS**

Jim Wight, Brian Perkins, Fred McIntyre, Cathy Colby, Alan & Kristie Braun, Baird & Marcia Couch, John McAlpin, Joe Kohler, Mary Ann Bachman

**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 Cowley, the minutes of the Regular Town Board meeting August 13, 2018 were ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Cowley, Strickland and Wohlschlegel. No Vote – Goodwin.

**IV. PRIVILEGE OF THE FLOOR**

Alan Braun of Bristol Harbour Village, wanted to formerly let the Board know, in the past I was a very strong, vocal supporter of the Everwilde project. So much so, that I left my job at Genesee Country Village Museum to work for the Cooks and could only do it 9 days. I just couldn't work under those circumstances and under those situations. With everything that I have seen go on, I just wanted to withdraw my support officially for the Everwilde project.

Fred McIntyre of State Route 64, we have lived in the valley with my father for almost 50 years, so we are long time residents. We've had a situation next door to us at the homes Earl Pettit built 2 homes and those 2 homes were sold to a corporation called Webster Properties. Now, Webster Properties has put on their website that these 2 homes can hold 22 and 27 people, to sleep there. We've have had 2 incidents where one was a wedding that went past midnight with fireworks, rockets, etc. and noise past midnight. Basically they told us to go f-off. Then 2 weeks ago we had another incident, they had 50 drunks up there and they again told us to f-off when we told them to cut the music out. They had a live band at 11:00pm and then the cops went back at midnight again to tell them to quiet down and at that point and time they started hitting golf balls at the home below where John Manzer lives. They have some problems these

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people; they do not have any supervision on the property, you have got 50 drunks up there and I think that could be a liability to the town if one of those drunks comes down the hill, gets out on the highway and kill somebody, they will sue the town. We also have fire issues, if you have 22 people in a house that was built with only 2 bedrooms and they cut these bedrooms up into 5 bedrooms. How are these people going to get out in a fire? We are concerned with the fire issues that are there. And then, the septic system, did they ever go ahead and apply with the State of New York to upgrade that septic system for 50 people? Our wells are down below that area and our concerns are that is going to ruin our water. I have spoken with the Code Enforcement, Mr. Sommer, and he is working on it now, but I would hope the Board would give him whatever support he needs to try to deal with some of these issues because this is going to be more and more of a problem in the valley. I don't know about you, our family came in here for peace and quiet, not for having somebody screaming next door to us and telling us to go f-off. The first time they were yelling at us obscenities that you could hear 1000 feet away. Unless Webster Properties is going to put some controls on this, the Town has to do it. Mr. McIntyre said we tried to call Webster Properties and all they have is a recording, they don't answer their recordings, they don't care. I think we have a problem here and it is my understanding that Webster Properties had a problem in Victor and they had to sell their property there. They seem to think they can do whatever they want.

Supr. Marshall said he knows for a fact that the CEO has had a meeting with a representative of Webster Properties. The purpose was for the CEO to inspect the building and look at the property. Secondly, is the noise and will be the first to tell you that South Bristol does not have an adequate noise control in the zoning code. This issue is on the agenda for tonight and we will be asking the Planning Board to put this on their agenda for a local law. Until we have something in place the Sheriff has nothing to enforce.

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

Councilman Cowley read the Highway Report: A brief summary of Highway department activity: Roadside mowing continues, ditching and rock weirs on Stid Hill, patching will commence this week. Cutting shoulders on both Stid Hill and Bills Road. Grader patching on South Hill also to commence this week; New Western Star Dump truck has been delivered from Tracey Road Equipment. Met with contractor, Alan Pearce, regarding estimates for the Wilder Barn roof, still trying to get Proctor Roofing here for an estimate. All loose stone/fresh oil signs removed, roads have been swept and waiting for striping to happen. Getting equipment ready for winter.

### **VI. OLD BUSINESS: COMPREHENSIVE PLAN**

Supr. Marshall said there are a few more steps to complete the updating and approval of the Comprehensive Plan; we are required to send it to Ontario County Planning and let them take a look at it. The other item is a SEQR review for the environmental quality review which Councilman Wohlschlegel will take the Board through those steps.

Councilman Wohlschlegel said basically for this SEQR it requires the short form because this is what they would call "*unlisted actions under SEQR.*" The Town Board is the project sponsor reviewing the Town of South Bristol's newly updated Comprehensive Plan.

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Councilman Wohlschlegel went through each question for any possible environmental impact that could negatively impact the environment within the township of South Bristol.

(Insert SEQR)

### **BRISTOL SEWERAGE DISPOSAL CORPORATION**

Supr. Marshall noted that this wasn't on the agenda, but we have had some discussion as of today; we have been asking the BSDC for months now, for financials that would show us, in effect, how the money that is being collected from the Bristol Harbour residents is being allocated. We are not having much luck getting what we consider to be good information. They did sent us a report and it didn't take much to understand that it wasn't a valid report; it was weak. We have continued to ask for additional information and as of today, they are telling us that is all the information they have available. We need to be looking how to react to that. What we are really asking for and what were most concerned about at this point was the financials that occurred between September to December 31, 2017. Prior to that wasn't part of the resolution that was written when the rate increase was approved. BSDC has asked, via attorney's, to speak on this subject, to tell us why they couldn't submit this information; there is a reason that they are not sending the information and it is probably because they haven't done what we requested. About the only legal option for the Town is to re-open the rates and on the advice of the Town Attorney today, we have to give them 90 days notice. The earliest we could do anything about this is December, as the law is written. The Board needs to decide if that is what they want to do or not. Supr. Marshall asked the Board for input.

Councilwoman Goodwin said if they are not going to give us what we asked for we need to re-open the rate increase.

Councilman Cowley asked if this is the only way?

Supr. Marshall said if you read the resolution it says that they will provide us with a financials that show the funds are being distributed. There were day-to-day operations, a piece of the funds set aside for the capital reserve and another amount to pay down debt. We haven't seen any of that; anything to verify that that has happened. Supr. Marshall said he is disappointed and it was a year ago tonight, that the principle and attorney nodding their head that the rate increase was justified based on their willingness to provide the financial information and they haven't provided it. Supr. Marshall said there would have to be a motion to re-open the sewer rate and notify BSDC immediately that we intend.

Councilman Wohlschlegel said we have to force their hand. Councilwoman Goodwin agreed.

On a motion made by Councilwoman Goodwin and seconded by Councilman Cowley, to notify Bristol Sewerage Disposal Corp of the 90-day notice as required by law to re-open the rate increase request as of today was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

Supr. Marshall noted, for the record, the BSDC owes the Town approximately \$15,000 that has not been paid.

### **VII. NEW BUSINESS OAK WILT CONCERNS**

Supr. Marshall said the DEC Foresters have located Oak Wilt in South Bristol on Stid Hill. This is bad news; it spreads very quickly via either insects from tree to tree or through the root system. Cummings Nature Center was immediately on the phone wanting to know where it

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was located, on private land on Stid Hill. The homeowner found the Oak Wilt and contacted the DEC. If it were to go unattended it could be serious

### **NOISE CONTROL ISSUE**

Supr. Marshall noted that the discussion earlier on noise control and has looked up information on other towns in Ontario County that do have noise control written in their code; the Town of Victor has a local law that seems comprehensive. What is important is being able to give law enforcement something to work with. With no noise control ordinance the sheriff can respond to the complaint but has nothing to enforce. Supr. Marshall said that this issue needs to go to the Planning Board for a local law.

On a motion made by Councilwoman Goodwin and seconded by Councilman Strickland, the motion to direct the South Bristol Planning Board with creating a Town Noise Ordinance was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

### **NEW EMPLOYEE HANDBOOK DISCUSSION**

Supr. Marshall noted that he has received a quote to review and revise the Town's Employee Handbook and also met with the representative from Messineo et al that helped with the Comprehensive Plan. The County uses a handbook for new employees which include basic information whereas our handbook is quite extensive. There are items in our handbook that need to be updated. This information is needed so the funds can be included in the 2019 budget; the real reason why we are talking about this. Discussion; the Board decided to table this.

### **INTER-MUNICIPAL AGREEMENT WITH EAST BLOOMFIELD**

Supr. Marshall noted that CEO Sommer has left work at the Town of Bristol and will be working for the Town of South Bristol 5 hours a day. While at the Town of Bristol, CEO Sommer made an agreement with the East Bloomfield CEO to cover their office during absences and asked if South Bristol would agree to the same thing. Supr. Marshall said he spoke with the Supervisor of the Town of East Bloomfield and would be using the same template or the agreement.

On a motion made by Councilman Wohlschlegel to accept the Inter-municipal Agreement and seconded by Councilman Cowley was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

### **ONTARIO COUNTY SNOW CONTRACT**

Supr. Marshall said we have a contract for removal of snow from County Roads with Ontario County; this is not the contract related to the Town of Naples roads. The County Contract will pay South Bristol \$5,700 per mile and needs a motion to approve.

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

**VIII. REPORTS:  
CEO**

On a motion made by Councilman Cowley and seconded by Councilman Wohlschlegel, the CEO Report for August 2018 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

**ASSESSOR**

On a motion made by Councilman Cowley and seconded by Councilwoman Goodwin Strickland, the Assessor's Report for August 2018 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

**TOWN CLERK**

On a motion made by Councilman Strickland and seconded by Councilwoman Goodwin, the Town Clerk's report for August 2018 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

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

On a motion made by Councilman Cowley and seconded by Councilman Strickland, the August 2018 Supervisor's Report was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

**BUDGET TRANSFERS**

On a motion made by Councilman Wohlschlegel and seconded by Councilwoman Goodwin the Budget Transfer dated July 9, 2018 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Strickland, Cowley and Wohlschlegel.

Transfer From	A1990.4	Contingent Acct to	
	A1670.4	Central Mailing & Printing	\$225.97
Transfer From	A1990.4	Contingent Acct to	
	A1420.42	Atty – BSD Corp Ext and Rate	\$1,285.00
Transfer From	A1990.4	Contingent Acct to	
	A8160.4	Refuse & Garbage	\$669.60
Transfer From	A1990.4	Contingent Acct to	
	A1440.4	Engineering- Cont (Everwilde)	\$1,000.00
Transfer From	A8810.4	Cemeteries to	
	A8160.4	Reuse & Garbage	\$800.45

**APPROVAL OF VOUCHERS**

On a motion made by Councilman Cowley and seconded by Councilman Strickland, Abstract No. 7, Voucher No. 343-377 totaling \$368,741.03 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

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Supr. Marshall noted that the cost of a new 10-wheel dump truck is included in the abstract for \$214,387.00 and \$25,610.00 for the Loader, also \$80,625.00 for oil and stone materials.

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

Alan Braun, with regards with the noise ordinance, Bristol Harbor residents are being told to call 911 for the Ontario County Sheriff; is that information incorrect?

Supr. Marshall there is no ordinance so there is nothing the Sheriff can do.

Mr. Braun also noted the City of Canandaigua adopted a rental policy and suggests South Bristol adopt the same; regulates the rentals, how many per bedroom, etc.

Joe Kohler, of Bristol Harbor, thanked Supt. Wight for all the signs on Seneca Point Road, thanked the Town Board for the sewer motion. This isn't the first time for our inability to get financials from the sewer corp. We never did see the financials from the prior set of owners; never could find the missing money so here we are again. I think and am not sure, the night that you passed the resolution, about a year ago, I asked respectfully that the financials that were to come over to the town in accordance with your resolution, be 3<sup>rd</sup> party, audited, independent, complete financials, including P&L, cash flow statements and balance sheets and bank resolutions because anything short of that, I did see what did come over which was pathetic from the current go-around, anything short of what I asked under Privilege of the floor that night is meaningless in this world. That is that request again. Other than that, I had a second FOIL and did include that language for cash flow, P&L, Balance Sheets, bank reconciliation, signed by an independent 3<sup>rd</sup> party auditor.

Supr. Marshall noted that in order to do a FOIL request we have to have the information and until we have the information there is nothing we can give you. Unfortunately, our resolution we wrote last year states that we require financials but didn't get into the audited 3<sup>rd</sup> party, etc. They are not providing us with anything at this point and is a moot point at this stage; our resolution requested *"the Corporation shall submit to the Town Board a consolidated annual financial report on or before April 1<sup>st</sup> of every year hereafter. Such financial report to show for the preceding calendar year all revenues the corporation collected, all the expenses and debt service the corporation paid and the remaining debt owed by the corporation, and all amounts set aside by the corporation in a set aside in a capital reserve account."* Supr. Marshall continued, should we have asked for an audited third party, perhaps, but that is not what is in this resolution.

Alan Braun asked if that could language could be included if it the issue is re-opened?

Supr. Marshall said it could, we will have to wait and see.

Mr. Kohler said, while there is not a legal connection between the Public Service Commission ruling in favor of the rate payers, where the water goes, the sewer goes. There were a lot of the same issues we brought to this Board determined and discovered by a pretty intensive research report by the NYS Public Service Commission would suggest the Town take a look at that. Many of the complaints we made of the inequities of what the commercial rate payers were paying. What the residents are paying and capital reserve funds that were missing from the prior set of owners that seem to be elusive again, elusive financials. There's an awful lot there in the PSC water decision by Secretary Burgess; it's all paid for, budget neutral.

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**XI. ADJOURN: 8:14PM**  
Respectfully submitted:

Judy Voss  
South Bristol Town Clerk

DRAFT