

SOUTH BRISTOL TOWN BOARD MEETING

November 13, 2018

REGULAR MEETING

The regular meeting of the South Bristol Town Board was called to order November 13, 2018 at 7:07pm 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, Joe Kohler, Todd & Laura Cook, Ashley Champion

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 minutes of the Regular Town Board meeting October 9, 2018 were ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

IV. PRIVILEGE OF THE FLOOR

Ashley Champion, of Nixon Peabody, I am hear tonight to speak with you about the draft 2018 Comprehensive Plan that is under consideration for approval later on in your agenda. As this Board is aware, Comprehensive Plan is not a law but a vision statement meant to guide and form all the future growth and development in your town. I have reviewed the draft plan and I found it very similar to your existing 2008 Comp Plan. There is a strong focus on maintaining the rural character of the town while encouraging appropriate tourism related businesses and other creative developments to help increase the town tax base all while respecting the very beautiful scenic areas that you have all come to love in the Town of South Bristol. Those broader goals are based on various town resident surveys and informed opinion and understanding of the town and its views. I would like tonight, however, comment specifically on the first action plan on page 23 listed under the goal of maintaining the rural character of the town. I'm sure you're all familiar with the entire Comp Plan including this but I'll read it out loud, this states that, under the Action Plan of Maintaining the Rural Character of the Town of South Bristol: *The Town of South Bristol will strictly enforce the existing zoning laws for R-3 and R-5 properties to prevent R-3 and R-5 properties from being converted to Commercial or Planned Development areas.* So, obviously there is no specific project referenced in that provision but it's very obvious to me and anyone reading that that the provision was inserted at

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least in part on an effort to thwart the zoning process for the Everwilde project. I am hoping that we can talk about that in an open and candid way because I think it is very obvious the intent. First, substantively, I don't follow the leap from the goal of maintaining the rural character of the Town of South Bristol, which is obviously deemed desirable by the larger community of the town, to the action plan, that very specifically attempts to institute a wholesale prohibition on rezoning or planned development districts from being created in R-3 and R-5 zones. That very specific action plan may be what some interested folks in the town want to see but it certainly from what I saw in the survey responses and the other provision within the Comp Plan it was not representative of the overall voice of the community. In any event, the whole point of Planned Development district regulations which were lawfully drafted into the South Bristol Town Code and as they are in many other town codes, is to provide the town the flexibility to permit unique and sensible development within the town. For example, you can have a PD in a residential district for a nature and science center or a seasonal winery and tasting room with trails and scenic overlooks that is open to the entire public. Or beautiful environmentally sensitive inn and spa project nestled on a modest portion of approximately 45 acre parcel which would leave the remainder of the property forever wild pursuant to a deed restriction and conservation easement. Any one of those types of developments could potentially at least preserve the rural character of the town more than maximum residential development in associated lake front improvements. Also, while achieving other stated goals of the town in the Comp Plan, encourage tourist related developments, opportunities for scenic views and lake access and encouraging younger generations to want to live and work and play in the Town of South Bristol. In any event, the whole point of a PD code is to give the Town Board the flexibility it needs to make those decisions. So again I don't see how this action plan is in furtherance of the greater goal of the community rather than the residents of the immediate area of the proposed Everwilde project in maintaining the rural character of the town. Particularly when it is balanced with the other goals noted, again, encouraging tourist related businesses, expanding the tax base in creative ways and attracting younger generations to live and invest in South Bristol. But moving on from what I think is a disconnect in the goal and the plan I'd like to talk about this specific language of the provision. Again the plan states that the town would "strictly enforce the existing zoning laws for R-3 and R-5 properties" I'm not sure how involved your town attorney has been in the drafting process here but certainly that provision cannot mean what it says. As this Board knows the town has no choice but to "strictly enforce" all zoning and other laws with respect to all properties located in the town whether an R-3, R-5, other residential or commercial districts. For example your town code officer cannot deny building permits for permitted activities and cannot issue permits unless legally permissible. Your planning board must hear and grant applications for site plan approvals and other development approvals in accordance with the standards set forth in the NYS Town Law and local code and this Board must entertain applications for rezoning and the creation of Planned Development districts in accordance with the standards set forth under NY Town Law and under the Town of South Bristol code.

Supr. Marshall asked Ms. Champion to slow down a little.

Ms. Champion continued, so having an action plan that isolates certain zoning districts for compliance with laws is both unnecessary and suspect. Of course, the town must and does strictly enforce its zoning fully and equally across all zoning districts within the town, not just in R-3 and R-5 districts. However with respect to the portion of the proposed plan stating that the town "prevent R-3 and R-5 properties from being rezoned" I can tell you what the town cannot do through the Comprehensive Plan or otherwise and that is take away or limit to any extent the

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rights conferred upon property owners through the United States Constitution, State of New York Constitution and NYS Town Law to petition its government and to be heard in a case for a rezoning of its own property. This would be no different than if the town attempted to adopt a provision stating that property owners can't apply for variances in the R-3 or R-5 district. Of course that is not to say that this Board or those in the future cannot in their reasonable discretion within the bounds provided under law, NY law and your code make reasonable and appropriate decisions as to whether or not to grant a specific rezoning request. But any wholesale attempt to remove the rights of the property owners of this town to make a case for and where appropriate receive a rezoning of their property and to also at the same time tie the hands of future town boards and remove their statutory derived decision making authority based on the merits of each case before them can't stand. This provision would be akin to telling a jury that they have to issue a verdict before hearing the trial. So my hope is that this board in adopting your Comp Plan tonight which again is meant to guide the future growth and development of the entire town of South Bristol will remove this particular action plan which is in my opinion at best inappropriate and at worst (illegible).

Supr. Marshall commented that no one on this Board except for one individual was part of the Comprehensive Plan committee. The Plan as a whole was developed by at least 10 private individuals along with one of our Board members, Councilman Wohlschlegel. The Town Board did not write this, we had looked at and the Town Board approved it and understands what you are saying, what we can and cannot do and perhaps maybe the language is a little strong. Supr. Marshall, said he never would have intended to absolutely, positively deny anybody a right; in my mind, thought what we were saying is we want to look at it very carefully and the reason for saying that is originally these properties are zoned R-3, R-5 and there must have been a reason why they were zoned R-3 and R-5. If we are going to change things here let's seriously look at it; that's what we are trying to say here, I think, and what they were trying to say, I believe, and that's how I was interpreting what is written here.

Ms. Champion spoke: You can see, I think, that is not what it actually says, right? "Strictly enforce to prevent." So it is not give all due consideration which again is unnecessary because that is your job you have to use the standards before you and give due and appropriate consideration in making a rezoning decision. You can say that, consider all appropriate factors charged to this Board you don't have to say that because that is your job and that is what you do. Consider all the appropriate factors and take a hard look and you only grant a rezoning if this Board determines this was appropriate.

Supr. Marshall said we have been on this project for 3 years, if necessary and we need to we can go another month and go back to the committee and ask for a better way to state what you are trying to state here given what you have said to us and what is the opinion of this committee?

Councilman Wohlschlegel said the people that were involved in this really want to keep the rural look of the Township and that is what the key is. That was their focus and isn't pointed towards Everwilde, really if you get down to it I think your submission with the environmental reports and everything we are doing way before this Comprehensive Plan was worked on, I don't think you can go back and say that Everwilde falls under this plan now. Councilman Wohlschlegel asked if that was correct?

Supr. Marshall said he was of the opinion that the Everwilde project was created, started and began under the old Comprehensive Plan and the old plan is what we have to go by.

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Ms. Champion said she understood, but this new plan though you are the same Board adopting the same plan and the rezoning decision is still to come and so this would be part of what informs your decision.

Ms. Champion understood what Councilman Wohlschlegel was saying, preserving the rural character is something that everybody wants to do; even folks who are pursuing planned development districts and thinks it is a little bit harsh and exclusory to say.

Councilman Wohlschlegel said when the committee was putting this together that had come up and know that your project is underway; we are doing the EIS and told them if this is how you want the town to look in the future, then we will write that in there, but doesn't think you can retro back and say too bad, sorry, we have re-written the rules; that wouldn't be right. It was residents that were on this committee, not just me.

Ms. Champion understood and we would agree with you but we are still hopefully, if we have the privilege of that opportunity to go before this Board at an open re-zoning hearing this Comp Plan will have been adopted by that time and you will have numerous people come in and say look at this provision right here that you all adopted to "prevent."

Councilman Wohlschlegel asked, legally, asked if you would expect us to use the new plan on the rezoning decision?

Ms. Champion hoped that we would be treated under the Comp Plan vision and goals under which we applied but I am not saying that the door is completely closed to the argument that the provision in this Comp Plan would not be applicable.

Councilman Wohlschlegel said he did not know the answer to that on a legal standpoint. The merits of the Everwilde project have to be based on the reviews we have been working on.

Ms. Champion thinks that is great if that is the Board's perspective but in any event that is not going to be the perspective of everybody who is in this room and also the Cook's own this property currently pursuing this project, who knows what the future may bring and they are property owners and stakeholders in the Town of South Bristol and it is important to them and to me that the Comp Plan be appropriate. That is not to say that it can't be reflective of goals and intent of the residents that is exactly what it should be but I think if you look at that language it's very straight forward and it is very cut and dry as to what the plan will be.

Councilman Wohlschlegel said when he was working on this team and who ever else might have been there, that they really wanted this. There are people for and against Everwilde, and there are people on the committee some for and some against. The Plan as it was would stand, but I agree with what you are saying, if there is wiggle room, that is probably not good either. It is strictly stated but that is what the team wanted.

Ms. Champion said she is letting you know because I know that you are adopting this plan for the entire community and that it is a lasting document. I commend you, this is a hard process for the Town of South Bristol to updating their in 10 years because a lot of communities in the area working off a comp plan from the 1980's. It is adopting a guide some years in the future and you want it to be appropriate and think hopefully you consider as I said tonight the leap from maintaining rural character to that means no rezoning and also the legal ramifications and even boundaries of this Board to say whether or not that is how you act in the future who knows in 5 years how the Board would be constituted and who knows how that provision will be interpreted and challenged and I'm letting you know and pointing out that it would be as I said the same as if the Board said from here on out we are not permitting any variances in the commercial district you have to entertain these as they come to you.

Supr. Marshall said he didn't write this and from when he read it that was not the intent.

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Councilwoman Goodwin agreed.

Supr. Marshall said he intent was to be very cautious about any application for R-3 and R-5; they are not the only R-3 and R-5 in the town and throughout the community.

Ms. Champion thinks that that language is more appropriate because the word that is in there is prevent and again you don't have to say consider with all due merited and with all appropriate considerations but the word that is in there that is the most informative and the most guiding is prevent and so that means the decision is made before the case is heard. That it is the action plan of this town to prevent this from happening.

Councilman Wohlschlegel said it took hours to write that. We agonized over that it was very tough.

Laura Cook, said she had chosen to come tonight because of course in reading that Comp Plan and the alarm that it set off to all of the hard work that my family and I have really cared to invest in this community and I didn't want to see it end without that potential due privilege. I do recognize that it is a privilege for me to be able to come forward to all of you every time that we are welcome to review Everwilde it's not a right and I thank you for that privilege over the course of years. I also recognize though with this new Board you haven't really heard from Laura Cook like perhaps the other Board was able to based on where we were at within the process. I work very hard to be an appropriate professional lady that I represent and role model other young ladies around me my children especially and so I have sat here through the workshop process and I have quietly allowed your engineers and lawyers to work along with mine and I'm very appreciative of all concerns and questions because that allows me to be a better project by understanding and developing along with you. So the goal for us and feel like some of you haven't heard me from my heart was for us to come in to the community to bring something special that many other lakes also have to offer. I grew up in Lake George huge hospitality area. I've come to love what hospitality has to offer it offers a great space for people who don't primarily live on the lake to come and enjoy what the beautiful offering of a lake community has. Now with Canandaigua and I have the privilege of living on the lake I felt it was a shame that only 1.2 miles of public space are there for other public members to come and enjoy. There aren't very many venues on the lake for people to boat to and I hear that all the time how much everybody misses Thendara. Todd and I actually looked at buying Thendara before investigating this property with the Wegman's and that wasn't an option because the owners at the time really wanted to make that a personal home. So as I ventured out as you all know we got the property with Wegman's from their suggestion and then I came up with opposition of the utilities and I said to myself how do I show the community that I really do care about their concerns? So one day when I was making Todd lunch at home I looked at him and said I need to buy the utilities company because I want to settle down my primary opposition to let them know that I won't be putting in the septic tank. Now granted 2014 NYS did put regulations in where there has to be the dual capacity of septic tanks so if there is failure one falls over into the other and there are audits of that commercial septic system unlike residential ones. So we were willing to do that but I said to myself you know what I want to take to heart what people main concerns are. Todd looks at me and says what woman of 20 years of marriage wants to have a sewer plant, don't you want a nice trip or some nice jewelry. I have a farm I don't need any of that so off we set to buy the utilities company but that came along Bristol Harbour Resort and that was a whole ball game but I had said that this is a way in which we will show the community how much we really care about our lake community. We will move in and we will take good care of

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our employees which I really feel we have. We have given raises 3 months into the project we have better working facilities we respect them with good benefits a retirement plan. Laura Cook along with Todd Cook we are job creators and what I love about our manufacturing business which is primary industry to hospitality is that it hires the highly educated to the uneducated and everybody in-between. It is a real beauty and I feel blessed to be a part of that. So as we move forward Everwilde truly wants to compliment Bristol Harbour. It is a good sister relationship with golf and the spa and I wanted to personally share with you how much it means to me to see that growth in our community to continue with the jobs to bring economics to our area with tourism that is very important because as we venture into the lionels and the gen y's and the gen z's they want a work life balance and what Everwilde along with Bristol Harbour sisterhood marries is that it shows that balance for people. They can come to our community they can enjoy going out to dinner celebrate a special occasion. They can come in and have a spa or go to the ball and then it draws to all the other local businesses in which I promote very much and we have a nice working relationship with a lot of other B&B's and the wineries and that means a lot to me. So as we go into the Everwilde hopeful privilege of building Everwilde it is my intent to do well by the neighbors that's why I wanted to give over half of the land to conservation easement. I lived on a lake I understand preserving the lake however I am also a business owner and I have invested very much earned money of our families into this project. If I don't get the privilege I understand that is not going to be my right and I'll accept it. However I will though and I want to be upfront and honest I will be developing that land. I actually grew up in home building it is what I can do with my eyes closed. I've built several homes of my own I actually enjoy that process but I really wanted to bring something to the community in which I could hire a lot more people with that type of venue and I could contribute year after year seeing the pleasure of everybody coming down. Bristol Harbour Todd and I three seasons now we had our best season yet. We went from 84 weddings that we bought when we first went there to 44 and we beat the revenue of the 84. But guess what none of that money we have taken personally. Three years now Todd and Laura Cook have not taken a paycheck from the place. Why? It's not because we can't it's because we don't want to. We want to invest back in to the people to the facility because if we want a good reputation and we want to see something grow here. We want to build your trust as a community that we really aren't the Crook's we are the Cook's we work hard we are about people and we would like to see the investment come forward with the Everwilde relationship. Now I can't say that I'm stupid and it will ever be donated. It is a land investment so I wanted to be fair to say please respect the fact that we will develop the 20 homes. I know there's been conversation that we can't do that. Please do your homework I ask you to do that we actually can and will be doing that. That is not a threat that is just being honest as a business owner that is my right. And you have your right to either approve Everwilde or not. Also there is water frontage that can be developed to a greater extent than what I offered with the Everwilde project if the privilege were ever to come my way. Why did I do that I did that because I truly wanted to find balance with you as a community and find that win-win which we could all benefit from. That is my piece and I really truly wanted to come for you Donna you haven't heard more from me maybe more from Todd and Steve as well as Jim because I don't think you have had the time with me to understand where my heart really is. My heart is to do well by community. When I interview an employee my number one question is to ask them how do they want to be respected when they leave this world. Many people get taken back by that and I feel if we lived our life in which how we want to leave this world to be respected everyone would do a better job along the way. How I want to leave this world is that I was a good job creator within a

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community that cared about the people that worked for me and the people that came into our town to welcome them with open arms and allow them to enjoy all the beauty we have to offer. Thank you for listening to me tonight. I really do appreciate it.

V. COMMITTEE REPORTS: HIGHWAY

Councilman Cowley read the Highway report: It's been a busy month at the Highway Dept.

- Finished mowing County roads, still have some Town roads to do before winter sets in
- Started hauling mixed 1s and 2s for our Stid Hill paving project next Summer
- Hauled several hundred tons of millings off the CR33 project, also to be used for or Stid Hill paving project
- Finished installing plow equipment on trucks for winter. I would like to update our small (2.5 Cu. Yard) pickup truck sander, as the current one is 8 years old and wore out. We are trying to get parts thru Airflo, but not having much success. I will bring pricing to the Board meeting on Tuesday.
- We did some wedging and grader patching on Mosher Rd., Middlebrook Rd., Stid Hill Rd. and a cross culvert by the old Schenk farm on Gannett Hill Rd.
- Providing the weather holds, we will mow all properties one more time.
- Cleaned up and chipped tree branches in ditches on Gulick, McGary and west Gulick Rds. There are trees to trim everywhere, which will keep the guys busy till snow flies.
- We have been out twice already plowing and sanding. Unfortunately, Winter is right around the corner.

VI. OLD BUSINESS: A. COMPREHENSIVE PLAN

Supr. Marshall asked the Board if they want to hold off on the approval of the updated Comprehensive Plan for December.

Councilman Wohlschlegel agreed and said listening to what Ashley Champion had to say it is worth examining.

The Board agreed and will decide next month on approval.

On a motion made by Councilman Wohlschlegel and seconded by Councilman Cowley to move the approval of the South Bristol Comprehensive Plan to the December Town Board meeting was APPROVED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

B. 2019 TENTATIVE BUDGET – FINAL APPROVAL

Supr. Marshall noted that the Public Hearing for the 2019 was held earlier tonight. There are a couple of things that need to be brought up for the Planning Dept. with regards to her salary questions. The salary did not include the 2 hours per meeting per month for the Planning Board and the ZBA which is the difference and should be \$29,848.00. The other issues listed was the .4 accounts and concerned that we were dropping those lines and combining them back under one budget line. There really is no need to have separate lines for all the individual things. It makes the accounting so much simpler. Anyone have any questions?

Councilwoman Goodwin asked about union negotiations.

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Supr. Marshall said he is not going to hold the budget off due to negotiations. For the record, Supr. Marshall and Councilwoman Goodwin are meeting with the teamsters for the highway. Salaries have not been finalized and is okay with that; your point is well taken.

On a motion made by Councilman Strickland and seconded by Councilwoman Goodwin, the 2019 South Bristol Town Budget was APPROVED.

Roll Call Vote: Supr. Marshall AYE
 Councilman Strickland AYE
 Councilman Cowley AYE
 Councilwoman Goodwin AYE
 Councilman Wohlschlegel AYE

(Insert Budget)

C. AMENDMENT TO OUR FEE SCHEDULE – GENERATORS

Supr. Marshall noted that the amendment to the Town’s fee schedule that was discussed last month, but not approved, was simply related to the fees charged for Solar. In the past it was done under Electrical changes and Windmills which was a \$40 charge; this is all for residential generator, solar panel as a resident which is now a \$50 charge. We have also added a line for a commercial application and the proposed fee is \$100 instead of \$50, and if there is a large scale 500 unit or more solar farm, then the fee is measured by kilowatt hours. That is in there as well.

On a motion made by Councilwoman Goodwin and seconded by Councilman Cowley the Fee Schedule changes were APPROVED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

BRISTOL SEWERAGE DISPOSAL CORP. FINANCIALS DISCUSSION

Supr. Marshall said he did not have on the agenda because the conversation came up today, and also did not know Mr. Cook would be here this evening and perhaps he would need to speak to this. Supr. Marshall said he received an email from the Cook’s attorney with regards to the Bristol Sewerage Disposal Corp. The email was sent by the attorney for the Bristol Sewerage Disposal Corp. to our attorney, Jeff Graff.

Good Morning Jeff, as we discussed Friday afternoon the CPA indicated to Todd and me late last week that his firm cannot certify a consolidated financial report for external use unless he prepares a set in a different format at a \$3,500 to \$4,000 expense which would create significant undue hardship for the Disposal corp. As a result we are in the process of drafting a letter to the Town Board providing an overview of the documents we have in our possession and a narrative summary of the 2018 year to date financial state of the Bristol Sewer Corporation. The letter will enclose updated account balances, certified to by Five-Star Bank for (1) the reserve account and (2) the line of credit. We will also be providing a letter from the BSDC which explains the auto payment system that is in place with Five-Star Bank to ensure that the reserve account and the line of credit are funded in accordance with the dollar values contained in the 9/11 resolution. These automatic payments are set up to be monthly debits but accumulatively track the quarterly billing metrics contained in the 9/11 resolution. As mentioned on Friday we are working to assemble the information in a fulsome and complete way to be responsive to the concerns discussed at our meeting so that the Town and Bristol Sewer Corp. can move forward with clear expectations going forward basis. We do not want to submit piecemeal information. Expect to have a complete submission to the Town within the week. I would

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appreciate it if the Supervisor would share this update with the Town Board this evening. Please let me know if you or the Supervisor have any concerns or if it is necessary for me to be at this evening's meeting. Rob Brenner, Esq. Nixon Peabody.

Supr. Marshall said we haven't seen the letter yet and what we will be getting is not actually a certified financial statement, it sounds like, unless we make the Cook's spend \$4,000.00 but we will be getting some type of documentation as to the dollar amounts in those accounts.

Ms. Champion said that was correct, it will be backed up documentation and it will be presented in an easy readable format.

Supr. Marshall said, clearly we will need to see that and actually going forward, and we did have a meeting, myself and the Town Attorney, Jeff Graff, Todd Cook and his attorney, Rob Brenner.

Todd Cook, said that the Town had asked for certification on the accountant's letterhead and some kind of statement and so at your collective requests we asked and the accountant said that they couldn't put it on their letterhead and make it a certified accounting statement unless we charge the fee of \$3,500. A lot of money and not in our budget.

Supr. Marshall noted that one of the things we talked about is the fact that because of costs you described, one being money that is actually owed by the sewer corp. to the Town and also for the legal fees incurred as a result of the Article 78 proceeding, that you've actually had to utilize reserve money that was supposed to go into reserve to pay those things. That is what we would like to see obviously in the form of a letter; so money should have gone into a reserve and theoretically you are saying it should go back out. A capital reserve of course is debatable as to attorney fees really a capital reserve expense? But the Town Board also recognizes that Bristol Sewerage Disposal Corp. only has one place for revenue essentially so that is obviously a concern as well. We still need to see what you sent to us and the other item to address is that I've been made aware that the Public Service Commission reviewed the water rate increase and I believe their final decision was more water was being used by the commercial side than the residential side. If you use the argument that water-in and sewer out, we have to maybe take a look at that as well.

Mr. Cook said to answer that, it is under review with a cost of service study being performed in the Public Service Commission's rendering to us they said there was not a cost of service study. It is kind of a Catch-22, you have to spend money to get a study to prove what your rates should be, a cost of service study will actually look at the cost of delivery and will then render new rates. That was not available to the Public Service Commission so they chose to use a revenue model just upon who is paying for water. What was absent from that was the fact that the snowbirds; when someone has a service connection and they don't consume any water that water still has to be there for the resident and you have to maintain a certain (??) for the water to be consumable. When you get below that certain parts-per-million you have to flush it and you also have to maintain that reserve per water tap. For every house that is in the system you have to maintain reserve water for them to use but then they don't use it and you have to dump it. Then you have to produce more to have on reserve, they still don't use the reserve quota and you have to dump it. In the meantime you can't bill them for this unless you have a service model that understands the cost of delivering that service. That cost of service study is coming forward and was absent in the submission.

Supr. Marshall asked who was doing the study?

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Mr. Cook answered that an independent consultant recommended by the PSC, Westella Associates.

Ms. Champion noted that from our perspective the appropriate allocation has a lot more to it than just consumption and is the whole purpose of this study. It is not just the water coming through the meter it is all the infrastructure cost of the equipment and the types of operational requirements that Todd was referencing.

Supr. Marshall asked the Board how they want to proceed. Councilwoman Goodwin said we need to see the documentation.

Supr. Marshall noted that there was a 90-day period required for us to inform you that there would be a rate review. The rate review can't really begin until December 10th at the next Town Board meeting and then another 90-day period for the Town Board to make a decision.

Mrs. Cook respects that and did want clarity between Ms. Champion and the Town Board because my understanding is this term capital reserve, capital meaning money put towards for investment of equipment, not necessarily capital.

Supr. Marshall said the resolution reads Capital Reserve.

Ms. Champion said there are two alternatives; use the reserve funds or generate new funds.

Supr. Marshall noted that when we originally discussed this Capital Reserve requirement was the \$65,000 pump that is sitting somewhere in your system that could potentially fail and what would happen if you didn't have money in reserve when that thing decided to fail? That is where, in my mind, the capital reserve needed to be created because that would put anybody in a mess if such a thing were to happen. That's what I was thinking the Capital Reserve was intended for.

Mr. Cook noted that anything that prevents the operation from performing is a huge issue so any unforeseen expense ***.

Supr. Marshall said we can argue all day for the terminology of Capital Reserve and my understanding is that it is typically for equipment.

Councilman Strickland and Councilman Cowley agreed. Councilman Strickland said that they want to see that it is being funded.

Councilman Wohlschlegel asked what the letter was from Five-Star Bank?

Supr. Marshall answered that it is a memo he received from the branch manager in the Victor Five-Star Bank telling us how much money had been paid down on the debt. You may recall it was originally \$92,000 when we saw the paperwork that was sent to us.

Councilman Wohlschlegel said the balance is down to \$66,431.

Supr. Marshall agreed and the paperwork we originally received said \$92,000 and thought that the figure should go up or down, but not stay the same. It's been explained but we did not receive that correct information in the form of a financial statement. The Town Board was looking for, always, is how is the rate increase being utilized? There were 3 elements to it, standard operating expense, create a capital reserve account and lastly, pay down the debt. The fact that the information is not part of a financial statement, this Board has to decide whether that is acceptable. Let's see what you bring forward to us.

VII. NEW BUSINESS

A. FIRE CONTRACTS - VILLAGE OF NAPLES

Supr. Marshall said there are 2 contracts to sign for fire protection; Village of Naples for \$101,506.00 for 2019 and is included in the 2019 budget.

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November 13, 2018

On a motion made by Councilman Cowley and seconded by Councilman Wohlschlegel, the Naples Fire District Contract for \$101,506.00 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

B. FIRE CONTRACT – RICHMOND FIRE DISTRICT

Supr. Marshall noted that for the Richmond Fire District has sent us their contract for \$34,129.00 for 2019. It is important to note that this also includes ambulance protection in addition to fire protection. Richmond Fire District covers a small area in the North-west corner of town.

On a motion made by Councilman Cowley and seconded by Councilman Strickland the Richmond Fire District Contract for \$34,129.00 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

Supr. Marshall noted that there is a resident on Long's Point that believes our Highway Dept. broke into their water pipe line from a cistern located up the hill from their home that evidently went under the town road and eventually to their house. In the cleaning of the ditches and gutters the Highway Dept. found it. The pipe has been there for 40 years and we found it and damaged it. This happened back in late 2016 or early 2017, more than a year ago. Now they owners have presented us with a bill for \$6,500 to repair it. The insurance company said no, they will not cover it and cited several reasons, principally being that the water line was in the town right of way; also, the time that it has taken for them to file a request; which is well over a year. The insurance company sent the owners a copy of their letter and the owners rebutted. The Town Attorney reviewed the information who then said the same thing and cited NYS Law that if we were to do something now with all the time that has gone by, it would be considered a gift.

Supr. Wight said the pipe was buried 6-8 inches in the bottom of a ditch.

Supr. Marshall noted that you were working within the right of way and weren't anywhere you were supposed to be. Supr. Marshall will notify the owner.

VIII. REPORTS:

CEO

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

ASSESSOR

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

SOUTH BRISTOL TOWN BOARD MEETING

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

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

Supr. Marshall noted that the quarterly sales tax check received for \$357,000 up 4% up from last year. Ontario County as a whole was up 5.6% in sales tax revenue. We owe our thanks to Eastview Mall.

BUDGET AMENDMENT

On a motion made by Councilwoman Goodwin and seconded by Councilman Cowley the Budget Amendment dated November 13, 2018 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

Transfer From	A878 Capital Reserve Balance		
	A1440.43 Engineer – Highway		\$480.00

The amendment for Bldg Repair reserve funds

BUDGET TRANSFERS

On a motion made by Councilman Cowley and seconded by Councilman Strickland the Budget Transfer dated November 13, 2018 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Strickland, Cowley and Wohlschlegel.

Transfer From	A1620.4	Bldg - Contr to	
	A1670.4	Central Mailing & Printing	\$257.55
Transfer From	A1620.4	Bldg – Contr to	
	A1420.42	Central Com Sys – Contr IT	\$981.01
Transfer From	A1620.4	Bldgs – Contr to	
	A1650.4	Central Com Sys – Contr	\$249.98
Transfer From	A1620.4	Bldgs – Contr to	
	A8160.4	Refuse & Garbage – Contr	\$1,961.86
Transfer From	A1620.4	Bldgs – Contr to	
	A8010.4	Zoning – Contr	\$133.91
Transfer From	A1620.4	Bldgs – Contr to	
	A8010.434	Zoning – Software/Computer	\$1,007.26
Transfer From	A1620.4	Bldgs – Contr to	
	A1010.4	Town Board – Contr	\$67.06
Transfer From	DA5010.4	General Repairs to	
	DA9060.8	Hospital & Med Ins	\$6,135.70

SOUTH BRISTOL TOWN BOARD MEETING

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Transfer From	A1620.4	Bldgs – Contr to	
	A9010.8	State Retirement	\$2,714.65
Transfer From	DA5010.4	General Repairs to	
	DA9010.4	State Retirement	\$2,157.35

Note: The transfer for the Highway Medical should cover the Nov payment shortage and the December payment that will be due 12/1.

APPROVAL OF VOUCHERS

Councilwoman Goodwin noted that there was one voucher that was missed for \$900 for Northern Supply to be added and another voucher that was a duplicate for \$240 for Twilight Cleaning Services.

Supr. Marshall noted that \$51,141.00 is for salt and \$74,835.00 for NYS Retirement for a total of \$125,976 of the total. We pay the retirement early because the Town receives a cost break if we pay before the end of the year.

On a motion made by Councilman Strickland and seconded by Councilman Cowley, Abstract No. 11, Voucher No. 420-472 totaling \$172,509.80 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Strickland and Wohlschlegel.

X. 2nd PRIVILEGE OF THE FLOOR

Joe Kohler, of Bristol Harbour, read an email from Fred Sarkis, *I just returned from a medical procedure at Thompson. So, I will not be able to attend tonight's Town Board Meeting. For the record, please advise the Town Board members that I sincerely appreciated the time and effort they are putting into the pursuit of fair play with our Village's sewer cost issues. I also wanted to thank Supervisor Marshall for the warm words expressed to me at the last town board meeting. Further, I plan to drop off documents that the town board members do not have in their files.*

Mr. Kohler continued, and thanked the Town Board for carefully reviewing the decision of the PSC and the Judge with regards to the water rate case. With regards to financials, again, we urge and suggest to this Board that anything less than certified audited 3rd party documented financial statements from the sewer corp., cash flow, balance sheet, bank reconciliations. Anything less than that is whatever. Lastly, since 2006 the previous sewer corp, the present sewer corp is over \$300,000 unaccounted sewer hookup, missing, we would urge and call for a forensic audit to find those fees and repay back to the sewer corp. The money needs to be found, thank you.

XI. ADJOURN: 8:45PM

Respectfully submitted:

Judy Voss
South Bristol Town Clerk