

SOUTH BRISTOL TOWN BOARD MEETING

May 13, 2019

REGULAR MEETING

The regular meeting of the South Bristol Town Board was called to order May 13, 2019 at 7:00 pm at the South Bristol Town Hall, 6500 W Gannett Hill Road, Naples, NY 14512.

PRESENT

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

RECORDING SECRETARY

Judy Voss, Town Clerk

OTHERS

Planning Board Chairman Jim Ely, Zoning Board of Appeals Chairman Tom Burgie
Jim Wight, Brian Perkins, Kristie Braun, Cathy Colby, Virginia Latke, Fred McIntyre,
John Manser and Dahl Schultz

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 (3) April 8, 2019 Public Hearing and the April 8, 2019 Town Board meeting minutes were ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Wohlschlegel and Strickland.

IV. PRIVILEGE OF THE FLOOR

V. COMMITTEE REPORTS:

A. HIGHWAY

Councilman Cowley read the Highway report. Highway Dept is busy, we are working on Stid Hill Road replacing cross-culverts, installing weeps (drainage) under the road, boxing out soft spots on the road and cleaning ditches. All of this work is in preparation for paving towards the end of June. Wilder Barn roofing project is on hold as Alan Pearce was injured during ski season. Requesting that the Board approve the hiring of Kody Schenk for the Highway dept as MEO. Kody can start right away but would like to keep work around his bus schedule into June and he can be trained during this time. Limited hours initially and then full time when school is out. Will also be seeking Board approval for the hiring of Sam Germano as the third employee at the Transfer Station. His position will be to monitor the electronic recycling intake and help Mike Vest when needed.

On a motion made by Councilman Cowley and seconded by Councilman Strickland the motion to hire Kody Schenk for the Highway MEO at 18.00 per hour was ACCEPTED. Voting

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AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Wohlschlegel and Strickland.

On a motion made by Councilman Cowley and seconded by Councilman Strickland the motion to hire Sam Germano at the Transfer Station at \$11.50 per hour was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Wohlschlegel and Strickland.

B. BUILDINGS & GROUNDS – PROPOSED NEW HIGHWAY GARAGE

Supr. Marshall there is an ongoing effort to replace the current 54-year-old highway garage located across the street. The building has become inadequate for the equipment we have. There are holes in the walls in the back-end of the building, the bigger trucks can barely fit inside. There are renderings of the proposed project, conceptual drawing available for the public; it would be a 6-bay garage with two bays on the back of the building. One of the bays, closest to the road, would be dedicated to the Naples fire truck. The two bays on the back would be for smaller pieces of equipment to get them out of the weather. We have a time line and working with the MRB Group and the hope would be to have the project underway this time next year. It will take a better part of this year to get prepared and finding funding. The capital reserve account has been established with \$185,000 and this evening we will be moving additional monies into that account. We are trying to reduce the tax implication to the residents for this project. This is a project that needs to be done and we are out seeking grant relief which has been difficult. A work in progress, this is long overdue. The new building would be storing almost \$1 million worth of equipment. The Board will be holding public hearings throughout the year regarding the financing and building plans for the residents.

VI. OLD BUSINESS:

A. CARDIAC LIFE RECERTIFICATION

Supr. Marshall noted that the Town Hall employees were re-certified for CPR and the AED defibrillator last week.

VII. NEW BUSINESS

A. DISCUSSION – SHORT TERM RENTAL REGULATIONS

Supr. Marshall noted that Planning Board Chairman Jim Ely and Zoning Board of Appeals Chairman Tom Burgie are here tonight to discuss the proposed Short Term Rental local law tonight with the Board. This started with the Town Board requesting that the Planning Board to look into a Local Noise regulation which we have now done, and we now do have a significant noise ordinance in place. From that, it was through the Code Enforcement Officer that it was suggested that we also look at local regulations for Short Term Rentals. The Planning Board has reviewed some of the other Town's regulations; the Town of Victor was our local source for the Noise Ordinance and went to them for the Short-Term Rentals. The obvious difference is Victor does not have a lake which is a serious concern to South Bristol. Supr. Marshall asked PB Chairman Ely for background.

PB Chairman Ely said the initiative came from several sources; one – we had people come before our Board very upset with, frankly, in their eyes, obnoxious behavior of people who had engaged in Short-Term Rentals in adjacent properties and weren't very respectful at all of the concerns of the neighbors. Also, as I'm sure you are all aware, the AirBnB phenomenon is all over the United States and has prompted extraordinary amount controversy, proposed

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regulations and is not going to go away. Therefore, it was the thought of Planning Board, and certainly we worked very closely with CEO Sommer on this, that it might be something our Town should seriously consider; whether and to what extent we wish to regulate short-term rentals. Although the Planning Board has discussed this at several meetings and worked and re-worked a draft, we do not have a final product that we are prepared to recommend at this time. We have reviewed the Victor law and also looked at the City of Canandaigua and the City of Geneva, all of which has ordinances restricting short-term rentals. One significant point to bare in mind is that some of these localities have actually banned un-hosted rentals all together. We have not proposed to do that, but the Board thought that it would be a salutary step for the Town do place some regulation on short-term rentals; some way to monitor the behavior of people who rent these places for short term and put some onus on the owners to monitor to whom they are renting. An allied concern is the overloading septic systems; systems that are approved for 4 or 6 people suddenly have 30 showing up. It is our thought that it would be an appropriate area for the Planning Board to move forward in. At this stage we welcome feedback, from the Zoning Board of Appeals, anybody, we have no final product to recommend and believe that this is an area we should move forward. The Noise Ordinance was a clear step forward and hope we can come to some agreement on the Short-Term Rentals.

Supr. Marshall prefaced that the language that was taken from the Town of Victor with regards to this, made it a Special Use and the Special Use then would require our Zoning Board of Appeals to step into this and ZBA Chairman Burgie discussed with me some of the things that were perhaps problematic with that. Supr. Marshall introduced ZBA Chairman Burgie.

ZBA Chairman Tom Burgie noted that the ZBA did have a meeting and discussed this for about 2 hours based upon the draft from Victor with draft modifications for Special Use. The ZBA first of all, does not have any experience in drafting Code. Someone had suggested that since the Special Use Permit would be in front of the ZBA that the ZBA should be the lead. We spent 2 hours going round and round trying to discuss it and basically came down to questioning whether it should be a Special Use Permit. No one has come to our Board with any complaint or concern although the other Board members and Town employees have been heard complaints. I am not aware of any problems and don't know what the scope of it is. It probably makes sense from your discussion to have something codified. It is a Special Use Permit? You might want a "permit" and you want it specified in the Code what is required. Dog Licenses are a "permit" and they don't have a special use. Not necessarily the same level, there are a million things done by permit. Special Use Permit specifically "allows certain uses, provided certain conditions set forth and clear in the ordinance and are complied with. They allow uses if specific and special conditions are met." Those special conditions are what the ZBA generally deals with when we look at a Special Use Permit; there may be 5 special conditions the Town Board may want the ZBA to look at, somethings may only have 2 or 3. Those special conditions are what the ZBA looks at and then the general impact to the environment of the neighborhood, etc. Is this going to be a Special Use Permit? It can be, if the Town Board tells us it should be. Those have to be very specific; it doesn't have to be everything that is required by Code that we have to look at; they all have to be specified in the Permit and we will look at the special conditions to make sure that meets it. What Victor has as their Code really can't be called a Special Use Permit application; the State has said, and the Courts have said this is what Special Uses are used for. It is very difficult to work with and very difficult in that form if we were to try and do that on the ZBA. That is the only place where we are not a waiver or variance type of Board where we look at those special requirements, but we have to have very specific requirements laid out for us by

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the Town Board which is the only legislative body to tell us what is special about it that you want us to look at. We can do it, we can do it in support of the Planning Board and tell them, when we have an application, this is what we have to know to be able to do that and make sure that is explicit in the Code. If the Town Board wants the ZBA to handle this we will give it our best shot; it certainly is not our expertise. The ZBA has never had any kind of this discussion of how do we provide you with a draft; it would be a first for us.

Councilwoman Goodwin said in her experience, most of these rentals are not going to be hosted.

Supr. Marshall said he saw two areas of concern for short-term rentals, one being noise which has been a major issue for the neighbors of rental properties. The local noise ordinance will give law enforcement the ability act; the other issue to be concerned about is the lake property rentals and protecting the lake. We can have the quietist people renting, 15 people in a home that has a septic designed for 6 we are endangering the lake. We are hoping that the noise ordinance will help alleviate the problems for the neighbors with the current situation on Mountain View Drive. Supr. Marshall said he saw no reason not to move forward with the Short-Term Rental local law; banning the short-term rentals is not realistic. The utmost importance now is to protect the lake and to protect the neighbors. The neighbors have a major investment in their property themselves and have the right to be able to go there and enjoy it and not be have to put up with excessive noise from renters. It is very important, in particular, the Mountain View Drive properties are owned by a Corporation. If you looked up South Bristol for AirBnB you would be shocked to see how many rentals there are. Supr. Marshall asked the Board if they want to move forward?

Councilwoman Goodwin agreed.

Councilman Wohlschlegel asked if this would go through a permit process? Supr. Marshall answered yes.

Councilman Wohlschlegel asked who is going to enforce, the Code Enforcement Officer, who is already spread pretty thin now, right?

Supr. Marshall said one thing we learned is that with a recent noise complaint, the Sheriff did not have anything to enforce because it wasn't in the Town Code. By virtue of the Noise Ordinance we have something to enforce. Supr. Marshall asked resident Greg Shafer of the Ontario County Sheriff's Office if that was correct?

Lt. Shafer answered that specific documents are needed and documentation when somebody goes out. The keys for any prosecution is documenting so you can show a course of conduct; you need to have something very specific and have the officer can look at it and you have to have whoever is responding to document very thoroughly; getting names, etc. If you end up in a court room setting it is your burden as a Town and arm the Town's attorney with anything you can. Lt. Shafer asked if the Noise Ordinance specifically list decibels or what is reasonable?

Supr. Marshall noted that the Noise Ordinance currently lists distances from the property lines

Lt. Shafer noted that the Officer would then ask the neighbors if the noise was bothersome, those are your witnesses. The burden of proof is on the Town and need overwhelming evidence for the Judge.

Councilman Strickland asked that when a Short Term Rental permit is granted, signed and they take it, that has got to hold them responsible.

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Fred McIntyre of State Route 64, said from his experience, you really have to give some enforcement to the Code Officer because he's been to that property many, many times trying to get them to comply with Code which they ignore. He has had a hard time with this; he told me himself that he really doesn't have anything to enforce. The other thing with these people, they are not using them for residence; they are having big parties there, weddings, with over 100 people drinking and partying, going down that hill drunk, somebody is going to get hurt.

Supr. Marshall noted that it wasn't the intent for the ZBA to craft the Short Term Rental Law.

Chairman Ely agreed and certainly never the intent of the Planning Board at all. We have typically engaged in a search for parallel codes in adjacent towns as a model and have often consulted with the Town Attorney before we push things forward. The expectation was that we would continue to discuss this and to debate it. We have modified it ourselves several times and will continue to do so. We seek feedback and trying to locate ordinances in other towns that we can use again as models to see what works best for us. Banning short term rentals is not our expectation all together; it would be very unpopular, people do have a right to rent their property and not trying to prevent that. We simply want to impose some regulatory floor to avoid some of the problems they describe. The Planning Board is working earnestly on it and hope in due course we will have a finished product.

ZBA Chairman Burgie said a permit is to a person and not to the property; a Special Use Permit is issued to the property, not issued to the person and carries with the property. From a legal complication as you consider what kind of permit to go with. The Homeowner signs the application and represents themselves here but the Special Use Permit goes to the property not the person.

PB Chairman Ely noted that the next Planning Board meeting is this Wednesday with a full agenda and hope to bring this back up for discussion.

Supr. Marshall asked if anyone from the public would like to comment. We will certainly have Public Hearings regarding this.

Brian Perkins of Coye Road said the goal of protecting the lake isn't the number of people sleeping there; it would be an approval of the property based on the septic system and closeness of neighbors, how many people can come here to party?

Supr. Marshall said the Victor ordinance states that it would require the Code Enforcement Officer to establish how many parking spaces are available and how many people are legitimately able to be in the facility and that the septic system is adequate for the number of people by permit are allowed to stay at the facility. That would be part of it. South Bristol is a perfect candidate for this kind of thing; we are wiser to be out in front of it then be behind it.

Sally Berry of Lower Egypt Road and actually had one of the first AirBnB's in Ontario County. I am also in the tourism industry and can see both sides and if there is a committee or group that's going to work on it would be happy to take part. In my 8 years of being on AirBnB and in all those 8 years I had one bad experience where the people brought other people. Other than that it was great and sent the renters to all the places in South Bristol so there really is an economic impact that we benefit from.

John Manzer of Moutain View Drive thanked the Board for the Noise Ordinance. The bottom line is limiting the people solves a lot of problems and saw in the draft language a maximum of 12. That is a step in the right direction. You limit the people it limits the noise and limits the traffic. The McIntyre's don't have to deal with this, but the vehicles are going right past my home but you also have the party buses that are backing into my driveway, making my

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dog bark, knocking on my door thinking my little ranch is the hotspot. The party bus pulls back out towards Route 64 and here comes 30 people walking down Mountain Side Drive to load on the bus to go to the next party. There are a number of considerations there and limiting the people is a positive. Personally, owned versus corporately owned needs to be addressed because more and more people, if they have a brain should be incorporated. If it is a permit, a special use permit, registration, whatever it is has to have the greatest amount of teeth to enforce. The corporation that owns the rentals is snubbing his nose at every turn. Mr. Manzer encouraged the Boards to think a little broader with communities that have dealt with this kind of thing and come up with some creative ways to enact; San Francisco, New Orleans, Austin, Texas, have talked about this years ago.

Supr. Marshall thanked everyone.

B. LOCAL LAW FOR AGED-PERSONS TAX EXEMPTION

Supr. Marshall noted that the Board has to request a new Local Law for the Aged-Persons Tax Exemption. In 2015, the Town Board passed a Resolution, No. 22-2015, establishing the exemption amounts for Senior Citizens on their property assessments. It was determined by the Town Assessor it wasn't done properly and enact a local law. This will allow the Town Attorney to draft the local law.

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

C. PROPOSED – EAGLE SCOUT PROJECT ON HICKS ROAD

Supr. Marshall said he has had a request to fence in the cemetery on Hicks Road from Jackson Brahm for his Eagle Scout project which needs Board approval.

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

D. RESOLUTION – MOVING MONEY TO CAPITAL RESERVE FOR HIGHWAY BUILDING

Supr. Marshall noted that a resolution is in front of the Board to move some of the Town's funds to the Capital Reserve. Once the funds are moved to that account, the funds can only be used to pay for the Highway building.

On a motion made by Councilwoman Goodwin and seconded by Councilman Wohlschlegel, Resolution No. 39 – 2019 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Wohlschlegel and Strickland.

RESOLUTION NO. 39-2019

WHEREAS, the Town of South Bristol created a Reserve Fund, intended to fund the Construction of a new Highway Garage, and

WHEREAS, there currently exists available funds in the Town's Unexpended Fund Balance, now therefore be it

RESOLVED, that \$300,000 be moved from the Unexpended Fund Balance to the New Highway Garage Reserve Fund, and

RESOLVED, that the appropriate financial steps be done by the Town Bookkeeper necessary to achieve this transaction.

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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 April 8, 2019, 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: May 13, 2019

Judy Voss, Town Clerk

SEAL

**VIII. REPORTS:
ASSESSOR**

On a motion made by Councilman Strickland and seconded by Councilman Cowley, the April 2019 Assessor’s Report was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Wohlschlegel and Strickland.

CEO

On a motion made by Councilman Cowley and seconded by Councilman Strickland the CEO Report for April 2019 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Wohlschlegel and Strickland.

TOWN CLERK/TAX COLLECTION

On a motion made by Councilman Strickland and seconded by Councilwoman Goodwin the Town Clerk’s Report for April 2019 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Wohlschlegel and Strickland.

Councilman Wohlschlegel asked about the User Pass and the CD charges; do we have to establish a fee for collecting televisions?

Supr. Marshall agreed, we have to establish a rate.

Councilman Wohlschlegel agreed and suggested establishing a flat rate and asked what it costs to dispose of televisions.

Discussion. Supr. Marshall said he would like to see a flat rate per television.

Supt. Wight said we will find out in a few months if we need to charge more for the televisions.

Councilman Wohlschlegel said we can decide not to accept televisions at all and everyone can go to E-Waste in Victor and pay \$50.00.

Councilman Strickland agreed, we shouldn’t be trying to make money off of it but we shouldn’t lose money either.

On a motion made by Councilman Cowley and seconded by Councilwoman Goodwin, the Board moved to implement a charge of \$20.00 per television collected at the Transfer Station was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Wohlschlegel and Strickland.

**IX. ACCOUNTING:
SUPERVISOR'S REPORT APRIL 2019**

Supr. Marshall read from the report: Reconciled as of April 30th with a \$2,436,748.00 in the bank; brought in \$349,000.00 for the month of April, \$312,000.00 of that money was the 1st quarter sales tax which was down 2% from the previous quarter last year. Received \$17,000.00 from Charter Communication for Franchise Tax and the Town Clerk brought in \$3,742.00. The expenditures of the month of April should equal 33% of annual budget, currently the General Fund we are only at 25% so we are below budget. Supr. Marshall noted that the roadwork this summer will probably change dramatically.

On a motion made by Councilman Wohlschlegel and seconded by Councilman Cowley the April 2019 Supervisor's Report was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Wohlschlegel and Strickland.

APPROVAL OF VOUCHERS

On a motion made by Councilwoman Goodwin and seconded by Councilman Strickland, Abstract No. 5, totaling \$74,907.55 was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Wohlschlegel and Strickland.

EXECUTIVE SESSION

Supr. Marshall requested a motion to move into Executive Session for the Board to discuss a legal matter.

On a motion made by Councilman Cowley and seconded by Councilman Wohlschlegel Goodwin, the Board moved into Executive Session to a legal matter was ACCEPTED. Voting AYE: 5. Voting NAY: 0. Voting AYE: Marshall, Goodwin, Cowley, Wohlschlegel and Strickland.

The Board moved into Executive Session at 8:22pm.

The Board came out of Executive Session at 8:38pm.

On a motion made by Councilman Strickland and seconded by Councilwoman Goodwin, the Board moved to allow the Town Attorney to submit the proposed settlement to Gregory Hays regarding Code Violations with the addition of removing the vehicles from the property was ACCEPTED. Voting AYE: Marshall, Goodwin, Cowley, Wohlschlegel and Strickland.

XI. ADJOURN: 8:45PM

Respectfully submitted:

Judy Voss
South Bristol Town Clerk