

SOUTH BRISTOL TOWN BOARD MEETING

February 8, 2021

REGULAR MEETING

The regular meeting of the South Bristol Town Board was called to order February 10, 2020 at 7:02 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

Jim Wight, Bessie Tyrrell, Cathy Fields, Jeremy Fields and Joe Kohler

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 Councilman Strickland, the minutes of the January 11, 2021 Public Hearing and the minutes of the January 11, 2021 Regular Town Board minutes were ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Wohlschlegel, Cowley and Strickland.

IV. PRIVILEGE OF THE FLOOR

Councilman Wohlschlegel read a letter he received from a Town resident:

South Bristol Town Board Members:

My husband and I have been residents of Bristol Harbour for twenty years. We have always enjoyed our time there and have felt blessed to own a condo in such a beautiful area. We have been active members of the community and have benefited from the close friendships we have developed in the Bristol Harbour community and South Bristol community. We always felt Bristol Harbour was a loving community...I am saddened by the in-fighting that is occurring at Bristol Harbour and I am praying that this type of behavior can be healed.

I am writing to inform you of how much we have been impacted by the decision to close access to the beach and marina. The decision to close access is a result of previous decision made by the Fields, BHVA Board and your Board. I also hope to communicate how important it is that some type of safe access is allowed to the beach and marina for Bristol Harbour residents for the 2021 season.

In December, my husband and I decided to sell our condo due to worsening Parkinson's and dementia. We spent time staging and cleaning our condo. Bill Ryan our realtor listed and showed our condo. After just two showings our condo sold. Many factors played into the

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desirability of our condo – one of the biggest assets of our condo was the easy access that was available to the beach and marina.

On December 21, 2020 my husband and I signed a contract to sell our condo. We accepted a cash offer with no contingencies. The buyers were excited about buying our condo and spent time measuring it for new carpet. On January 26, 2021 the Bristol Harbour Village board released a letter stating very clearly that the elevator would not be operating for the 2021 season. I understood that it was not possible to open the elevator for the 2021 season due to Field Enterprises asking for a land usage agreement that the Board can not sign. I also understand that it is now impossible to rebook an appointment before September for an inspection and repair of the elevator by the elevator repair company. Our buyers are now asking to walk away from the contract due specifically to lack of access to the beach or marina. At this point our condo is completely empty of all furnishings which make it not usable. The effect of this action by the buyers cause by no access to the beach has had a big impact on my husband's Parkinson's.

I suspect that the closing of access to the beach and marina will also have effect on other real estate issues...not only buying and selling...but, also the effect of lower value of homes in Bristol Harbour.

I am hoping you will consider allowing the stairs at Bristol Harbour to be repaired by allowing a permit for such work to commence when BHVA applies for one despite the lawsuit that Mr. Field filed last year. I hop you will weigh the impact not having access to the beach and marina will have on all 380 homeowners of Bristol Harbour.

Your help is needed to get us out of this mess...a mess that you nor my husband and I created. Thank you for all you do!

Love and blessings, Doreen (Dory) Deisenroth.

Supr. Marshall said he took exception the comment that the Town Board is responsible for this because, quite frankly, the Town Board hasn't had anything to do with it whatsoever. As to whether or not a permit has been issued or will not be issued, we would have to discuss that with the Code Enforcement Officer. This is one more situation where they are trying to drag the Town into a situation that is not a Town issue. If a permit is required and there is still issue as to whether it is accessible to both parties or not, what is the point of issuing a permit? The stairway is another discussion with the Code Enforcement Officer all together and has not gotten involved with, myself.

Joe Kohler, of Bristol Harbour, thanked the Board for the privilege, and has some very good news, some very great news, and some very sad news that I bring to you for the residents of the Town of South Bristol, Ontario County and the State of New York. Like others, I have been frustrated trying to get this vaccine since about November. I am supposed to be in Potsdam, NY tonight and I am not there because of the success of a message received from Canandaigua Medical Group there might be an opening and called. The NYS COVID-10 appointment hotline offered me an appointment in Potsdam; a long drive, and only an appointment for an older family member. So I called the for NYSDOH and spoke with a woman in Vero Beach, Florida and did get an appointment for my mother at the Dome Arena in Rochester. I did get an appointment for 5pm that day, as well. It was an impressive operation, the military is there as you drive in, the sheriff and State policy, the County, volunteer nurses and doctors and a NYDOH gentleman named Mr. Burn; he runs the whole thing. I wrote a hand letter to Gov. Cuomo saluting him and I can tell you it is working. I'm just two people, but it's working.

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That's the good news. Some more good news would be that I don't speak on behalf of winter tourism industry, but have had some experience in the NYS ski areas, like the golf courses were this summer, particularly the ones we call "drive-up semi-destinations" like the one down the road here are doing very, very well. That's great news.

Of course, like the sad letter the Councilman read into the record, it is sad. I think this may be the first time in my life standing in this honorable building that the golf course, I don't know, there is talk about 13 holes; private/semi-private, nobody really knows too much about that. Or whether there is going to be beach, marina, elevator, nor whether we will ever see the restaurant that Judy & I worked at quite a while ago. And beautiful hotel that Councilman Stoker built, and the beautiful banquet hall and the jobs that are lost and the quality of life that is lost and the property values that area lost; it is sad. It is a triple tragic, tourism, terrible tragedy.

Thank you to this Town for your leadership at this time. Go get your shot.

Discussion.

Supr. Marshall said he wanted to bring up a subject, under Privilege of the Floor. Recently there was a concern by a contractor here in town that information about a project was improperly released to the public. We've reviewed that situation and determined the only information released as far as we know, was the Ontario County Planning Board for their review as well. If anyone else received information without going through the necessary FOIL steps; we are unaware of it. But we wouldn't condone it if it were to be the case. All the employees of the Town have once again, reviewed the proper steps that should be taken whenever information is requested by the public. The Albany office responsible for providing advice on the Freedom of Information Act was consulted by the Town to make sure we were doing things in the proper respect. Again, if something was leaked that was not supposed to be leaked, and someone can provide me with information, not necessarily here at the Town Board meeting, but if someone can provide me with information to suggest that, indeed, something improper was occurring, I would be interested in hearing about that.

It is a good time to also bring up the fact that we are in strange times; we have the Victor School District having ransomware as well as the Town of Canandaigua. Fortunately for the Town of Canandaigua they had put all their information off-site on a back up and were able to recover fairly quickly. That has not been the same for the Victor School system, they are still, a week later, having serious issues. To that end, South Bristol has always been fairly laid-back about the way we do things around here and quite frankly we need to change that. It is clear that our data, etc., anything, could be in jeopardy. To that end, we are reaching out to our IT specialists, SkyPort, to develop a better way of maintaining our records offline. We will be investing in cloud-based data storage and had anticipated this in our 2021 budget. As an example, three of our Town Highway employees received statements from NYS unemployment. Two of the employee's wives' also have received unemployment notices. Someone is hacking the system; while the Town is able to say this is fraud, the reality is the paperwork from NYS has their social security number on it. All of the employees have contacted me and stated that they have not tried to collect unemployment fraudulently. We are going to have to spend more money than planned just to protect ourselves.

V. COMMITTEE REPORTS: HIGHWAY

Supr. Marshall read the Highway report.

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Following is a brief summary of events at the Town Highway Dept.

- Lots of snow and ice control the last couple weeks.
- More salt being delivered (750 tons).
- Getting the job trailer cleaned out and setting up in the new building.
- Usual midwinter repairs (getting equipment ready for summer and plow equipment repairs)
- Pothole patching as needed.
- Article 284 (agreement to spend Highway funds) to be signed at the Town Board meeting.

Supr. Marshall explained that the agreement is done annually, and the Superintendent of Highways informs the Town Board where he is going to spend the money; \$300,000.00. Permanent Improvements, General Repairs and lists roads: Gulick Road, Granger Point, South Hill Road, Lower Egypt Road bridge work. We anticipate \$200,000 worth of equipment purchases and \$225,000.00 to be set aside for Snow & Ice removal. We need to approve the agreement; all these figures are budgeted.

On a motion made by Councilman Wohlschlegel and seconded by Councilman Strickland, the agreement to spend Highway Funds was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Wohlschlegel, Cowley and Strickland.

Discussion.

VI. OLD BUSINESS: **FINANCE REPORT & HIGHWAY GARAGE**

Supr. Marshall noted that the Town will be paying the interest on the Bond Anticipation Note probably in May; that is when it is due. At that time, we will convert that to a Bond. The original amount was \$2.3 million dollars and will come in under that amount. We will have to make a decision at that time whether or not we want to take that extra money and apply it as a pay-down or put it in a reserve for future payments; there are a number of options we have available. It would appear when the project is all said and done, at the very least we have \$500,000 set aside for future payments.

ARTICLE 78 LAWSUIT- BRISTOL HARBOUR SEWER CORPORATION

Supr. Marshall noted that there continues to be an Article 78 lawsuit against the Town; the Bristol Sewer Corporation is suing the Town over the decision that was made with regards to their last rate increase request. The only information at this time is the hearing has been rescheduled for February 22nd.

MEETING ROOM IMPROVEMENTS

Clerk Voss said that the painters have finished with the meeting room; Pride & Trust Painting finished last week. This Wednesday, R-Options will begin the installation of the Audio and Video equipment as well as a wall-monitor.

Supr. Marshall said the plan is to have a 75" monitor on the south wall of the meeting room. This will allow the people attending the meeting online to be seen by the Board. On the back wall, the west wall, will have a camera installed and are designed to have pre-sets on them for various shots. The audio equipment will be located in the closet of the small meeting room. New power has been added for all these components. The funds are included in the budget.

Clerk Voss said that the old emblem that was on the east wall of the meeting room will be updated with a new look.

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LOCAL LAW TO ALLOW OVERRIDE OF THE 2% TAX CAP

Supr. Marshall noted that the Public Hearing was held for the local law and introduced the Resolution adopting the law.

On a motion made by Councilman Strickland and seconded by Councilman Wohlschlegel, Resolution No. 28-2021 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Wohlschlegel, Cowley and Strickland.

RESOLUTION #28-2021

AUTHORIZING ADOPTION BY THE TOWN BOARD OF THE TOWN OF SOUTH BRISTOL OF LOCAL LAW NO. 2 OF 2021

WHEREAS, a resolution was duly adopted by the Town Board of the Town of South Bristol for a public hearing to be held by said Town Board on February 8, 2021, at 7:00 p.m. at South Bristol Town Hall, 6500 Gannett Hill Road - West, South Bristol, New York, to hear all interested parties on a proposed Local Law to override the tax levy limit established in General Municipal Law §3-c; and

WHEREAS, notice of said public hearing was duly advertised in the official newspaper of the Town of South Bristol, on February 5, 2021, and all other notices required by law to be given were properly served, posted or given; and

WHEREAS, said public hearing was duly held on February 8, 2021, at 7:00 p.m. at the South Bristol Town Hall, 6500 Gannett Hill Road - West, South Bristol, New York, and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said Proposed Local Law, or any part thereof; and

WHEREAS, the Town Board of the Town of South Bristol, after due deliberation, finds it in the best interest of the Town of South Bristol to adopt said Local Law.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of South Bristol hereby adopts said Local Law No. 2 of 2021, entitled, "A local law to override the tax levy limit established in General Municipal Law §3-c", a copy of which is attached hereto and made a part of this resolution, and be it further

RESOLVED, that the Town Clerk be and she hereby is directed to enter said Local Law in the minutes of this meeting and in the Local Law Book of the Town of South Bristol, and to give due notice of the adoption of said local law to the Secretary of State of New York.

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 February 8, 2021, 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	Absent	<u> </u>
Stephen Cowley	<u>x</u>	<u> </u>
James Strickland	<u>x</u>	<u> </u>

Dated: _____, 2021

Judy Voss, Town Clerk

SEAL

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LOCAL LAW #2-2021

LOCAL LAW FILING

New York State Department

Division of Corporations, State Records and Uniform Commercial Code

One Commerce Plaza, 99 Washington Avenue

Albany, NY 12231-0001

(Use this form to file a local law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

City

Town of South Bristol

Village

Local Law No. 2 of the year 2021

A local law to override the tax levy limit established in General Municipal Law §3-c

(Insert Title)

Be it enacted by the **Town Board** (Name of Legislative Body)

County

City

Town of South Bristol

as follows:

Village

Section 1: Legislative Intent

It is the intent of this local law to override the limit on the amount of real property taxes that may be levied by the Town of South Bristol, County of Ontario pursuant to General Municipal Law §3-c, and to allow the Town of South Bristol to adopt a town budget for (a) town purposes (b) fire protection districts and (c) any other special or improvement district governed by the town board for the fiscal year 2022 that requires a real property tax levy in excess of the “tax levy limit” as defined by General Municipal Law §3-c.

Section 2: Authority

This local law is adopted pursuant to subdivision 5 of General Municipal Law §3-c, which expressly authorizes the town board to override the tax levy limit by the adoption of a local law approved by a vote of sixty percent (60%) of the town board.

Section 3: Tax Levy Limit Override

The Town Board of the Town of South Bristol, County of Ontario, is hereby authorized to adopt a budget for the fiscal year 2022 that requires a real property tax levy in excess of the limit specified in General Municipal Law §3-c.

Section 4: Severability

If any clause, sentence, paragraph, section, or part of this local law or the application thereof to any person, firm or corporation, or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part of this local law or in its application to the person, individual, firm or corporation, or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

Section 5: Effective Date

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This local law shall take effect immediately upon filing with the Secretary of State.
(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Local Law No. 2 of 2021 of the **Town of South Bristol** was duly passed by the South Bristol Town Board on February 8, 2021, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer¹.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____, 20__ in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20__. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____, 20__, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____, 20__, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____, 20__. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____, 20__, in accordance with the applicable provisions of law.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2005 of the City of _____ of having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____, 20__, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20__ of the County of _____, State of New York,

¹ Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county- wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

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having been submitted to the electors at the General Election of November ____, 20__, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Town Clerk
(Seal)

Date: _____

VII. NEW BUSINESS

DISCUSSION ON REMOVING JAIL AS A PENALTY FOR CODE VIOLATIONS

Supr. Marshall noted that only new business concerns penalties within our Town Code; and in certain circumstances, the Code includes jail time as a penalty. What we learned was, since the language is included, it enables whomever to remedy a situation the authority to use a Public Defender. That isn't really what we were intending to happen; originally the language was used as an incentive to comply; it now needs to be more of a financial fine.

Supr. Marshall said he proposes to eliminate the jail time wherever it states in the Town Code and change it to a financial fine. There are a number of places in the Code where jail time is included as a penalty and believes we can have one local law that would allow us to change the whole code. Supr. Marshall suggested \$1,000 fine to begin.

Councilman Strickland agreed. The whole purpose is not necessarily to arrest anybody; that it is a severe situation and it needs to be dealt with properly.

Supr. Marshall agreed and said he doesn't want to send anyone to jail. Supr. Marshall said he will reach out to the Town Attorney and ask for his suggestions. Supr. Marshall said he will speak with the Attorney and bring it back to the Board.

Councilman Cowley agreed.

VIII. REPORTS: ASSESSOR

Supr. Marshall read the Assessor's Report; the Assistant to the Assessor, Tracy Howe, has started working 8 hours a week and has already made an impact on the office.

On a motion made by Councilman Wohlschlegel and seconded by Councilman Strickland, the Assessor's Report was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Wohlschlegel, Cowley and Strickland.

TOWN CLERK/TAX COLLECTION

Supr. Marshall read the Town Clerk's Report.

On a motion made by Councilman Strickland and seconded by Councilman Wohlschlegel the January 2021 Town Clerk's Report and Tax Collector's Report was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Wohlschlegel, Cowley and Strickland.

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On a motion made by Councilman Strickland and seconded the Councilman Cowley, the Town Clerk's Annual Report for 2020 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Wohlschlegel, Cowley and Strickland.

CEO

Supr. Marshall read the CEO Report. Supr. Marshall said we continue to work on the Hays project and it looks like a trailer was moved offsite and working back and forth with attorney's with dates to make sure the entire project gets taken care of in a timely manner.

On a motion made by Councilman Wohlschlegel and seconded by Councilman Strickland the CEO Report for January 2021 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Wohlschlegel, Cowley and Strickland.

IX. ACCOUNTING: SUPERVISOR'S REPORT

Supr. Marshall read the Supervisor's Report.

On a motion made by Councilman Strickland and seconded by Councilman Wohlschlegel, the Supervisor's Report for January 2021 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Wohlschlegel, Cowley and Strickland.

APPROVAL OF VOUCHERS

On a motion made by Councilman Strickland and seconded by Councilman Wohlschlegel, Abstract No. 2, totaling \$391,210.18 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Marshall, Wohlschlegel, Cowley and Strickland.

Supr. Marshall asked if there was anything else to come before the Board tonight?

Joe Kohler of Bristol Harbour thanked the Board for their service and appreciates the Highway Dept. salting the roads as he spun his car on December 9th.

Supr. Wight noted that when he started working for the Town in 2009, salt costs were \$32 per ton and is now \$55 per ton.

XI. ADJOURN: 8:00pm

Respectfully submitted:

Judy Voss
South Bristol Town Clerk