

SOUTH BRISTOL TOWN BOARD REGULAR MEETING

December 14, 2015

REGULAR MEETING

The regular meeting of the South Bristol Town Board was called to order December 14, 2015 at 7:04pm at the South Bristol Town Hall, 6500 W Gannett Hill Road, Naples, NY 14512.

PRESENT

Barbara Welch, Supervisor
James Bachman, Councilman
Scott Wohlschlegel, Councilman
Robert Cone, Councilman

RECORDING SECRETARY

Judy Voss, Town Clerk

OTHERS

Anne Jacobs, Dahl Schultz, Joe Charlton, Stephen Cowley, Alan & Kristie Braun, David & Gail Hewson, Maryann Bachman, Ralph & Carol Endres, Bob & Ann Bacon, Gina Russell, Joe Kohler, Donna Goodwin, Jim Strickland, Dick Johnson, Wade Sarkis

APPROVAL OF THE MINUTES

On a motion made by Councilman Bachman and seconded by Councilman Cone, the November 9, 2015 Town Board minutes were ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Welch, Bachman, Wohlschlegel and Cone.

**3-YEAR FISCAL PROJECTION PRESENTATION BY
JEFF SMITH, MUNICIPAL SOLUTIONS**

Mr. Jeff Smith of Municipal Solutions explained his prepared report, *Analysis of 2016 Fiscal Year Budget and Three-Year Projection of Revenue and Expenditures* to the Town Board. Supr. Welch noted that the report is available on the Town's website.

**MONTHLY REPORTS
HIGHWAY**

Supr. Welch noted that there is a draft resolution from Supt. Wight for approval to influence Albany to support the CHIPS fund.

On a motion made by Councilman Wohlschlegel and seconded by Councilman Bachman Resolution No. -2015 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Welch, Bachman, Wohlschlegel and Cone.

30.25

RESOLUTION NO. -2015

LOCAL TRANSPORTATION FUNDING

WHEREAS, a reliable transportation infrastructure is vital for the safety of New York's travelling public and its economy; and

WHEREAS, 85 percent of New York's roads and bridges are maintained by local governments; and

WHEREAS, despite well-timed and targeted preventative maintenance treatments, the age and condition of many of our locally-owned transportation assets means that they are beyond preservation and in need of much more costly rehabilitation and reconstruction; and

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WHEREAS, estimates by the State Comptroller, DOT and independent studies show a large portion of road mileage is deteriorating and many bridges in the state are rated structurally deficient and functionally obsolete; and

WHEREAS, the State Comptroller estimates that there will be \$89 million in unmet local infrastructure needs over the next 20 years; and

WHEREAS, the New York State Association of Town Superintendents of Highways commissioned its own fifteen year analysis that indicates an annual funding gap of \$1.3 billion for the local system (excluding NYC) alone; and

WHEREAS, funding for our local system has been far short of what is needed and we've fallen further and further behind in maintaining the vast and aging transportation infrastructure over this long period with severe consequences for conditions ratings; and

WHEREAS, the New York State Consolidated Local and Street and Highway Program (CHIPS) provides essential funding for every municipality in the State and is part of the New York State Department of Transportation (NYSDOT) capital program; and

WHEREAS, in the early 1990's the Governor and Legislature created the Dedicated Highway and Bridge Trust Fund (DHBTF) to pay for the NYSDOT capital program and the Dedicated Mass Transit Trust Fund (DMTTF) to assist with the Metropolitan Transportation Authority (MTA) and other transit systems' capital programs; and

WHEREAS, when the DHBTF was created, it was agreed that the NYSDOT and MTA five-year capital programs would be similar in size and would be negotiated concurrently; and

WHEREAS, through 2005-09, both five-year capital programs were similar in size and adopted within months of each other; and

WHEREAS, in 2010 the Executive and Legislature broke traditionally parity and enacted a five-year capital program for the MTA but not the DOT;

NOW THEREFORE BE IT

RESOLVED, that the Town of South Bristol calls upon the Governor and the State Legislature to make additional state funding and resources available at levels that accurately reflect the critical needs of local roads and bridges; and increase CHIPS funding in the 2016-17 state budget;

BE IT FURTHER RESOLVED, that the Town of South Bristol calls upon the Governor, and members of the State Legislature to fully fund and submit a new NYSDOT five-year transportation capital plan, and

BE IT FURTHER RESOLVED, that the Town of South Bristol calls upon the Governor and members of the State Legislature to recognize the equality of roads, bridges and transit by restoring funding equality between the MTA and NYSDOT five-year programs and by voting on the plans simultaneously.

CEO

On a motion made by Councilman Wohlschlegel and seconded by Councilman Cone the CEO's report for November 2015 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Welch, Bachman, Wohlschlegel and Cone.

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ASSESSOR

On a motion made by Councilman Cone and seconded by Councilman Bachman the Assessor's Report for October & November, 2015 were ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Welch, Bachman, Wohlschlegel and Cone.

TOWN CLERK

On a motion made by Councilman Wohlschlegel and seconded by Councilman Bachman the Town Clerk's report for November, 2015 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Welch, Bachman, Wohlschlegel and Cone.

BUILDINGS & GROUNDS

Councilman Wohlschlegel said he had Townsend Energy check out the furnaces and found a propane leak which was taken care of. 36.00

HIGHWAY/IT

Councilman Bachman said he and Bookkeeper Kobrin have been reviewing the asset list and needs to be updated to include new computer equipment. Councilman Bachman said the laptop used by the Highway Dept. was re-serviced for the tax collector and is 9 years old with no worth and would like laptop scrapped and kept with the tax collector.

On a motion made by Councilman Bachman to remove the tax collectors laptop from the asset list and abandoned in place, seconded by Councilman Cone was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Welch, Bachman, Wohlschlegel and Cone.

Councilman Bachman said we have 5 backup disk drives which will go into rotation and changed out once a week with the help of Skyport. That is the final piece for the backup for the server and the disk drives will reside in the vault.

Councilman Bachman noted that the Town has signed up for all-inclusive support from Skyport and their billing is terrible and informed the incoming Board to be aware. Skyport can remotely access our computers for which there should be no cost to the Town.

Councilman Bachman noted that we will be updating the sound system in the meeting room with speakers in the back and a wireless microphone. The work should be done by the end of the year. 45.00

Councilman Bachman also noted that Nick ** has been contracted for web support and email with InMotion Hosting.

Councilman Bachman said he needs to respond to 2 residents with complaints of improper use of Highway Use after hours. The complaint was that employees were using the highway barns after work or on the weekend to work on equipment or their own vehicles. Councilman Bachman said he spoke at length with the Town Attorney, Jeff Graff, and the State Constitution prohibits that no one can help themselves to anything; it is against the law. The course of action to the community is to simply call the Sheriff; it is trespassing.

Councilman Cone said there is a liability aspect to this as well. Councilman Bachman agreed.

PUBLIC SAFETY

Councilman Cone spoke about the guiderail status update. According to the Highway Supt. the guiderail budget was underfunded. There were projections for installing guiderails on new construction, resurfacing avenues and gentle curved guiderails for downhill sections. What

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we have done in our projections with Municipal Solutions of 2016-19 an average of \$25,000 per year for the installation, labor and guiderails. This satisfies what the Highway Supt. has been asking for the last few years; to replenish the funds that we had. 50.00

OLD BUSINESS
RESOLUTION NO. - 2015
SCRAP AND SPOILS MATERIAL POLICY

Supr. Welch noted that this combines the existing scrap material policy and new spoils polic as drafted by the Town Attorney.

On a motion made by Councilman Cone and seconded Councilman Wohlschlegel, Resolution No. – 2015 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Welch, Bachman, Wohlschlegel and Cone.

TOWN OF SOUTH BRISTOL
SPOILS AND SCRAP MATERIALPOLICY

I. Purpose

The purpose of this policy is to provide the Town of South Bristol with a uniform policy for the collection and disposal of Spoils and Scrap Material.

II. Definitions

“Scrap Material” - Any material, the owner of which, has discarded, deposited, abandoned or otherwise left on or in Town property, on or along a highway right of way or in Town equipment and, which the Town and/or the Town Highway Superintendent has identified as having or possibly having value that would allow such material to be sold for cash. Scrap material shall also include Town-owned vehicles or equipment, which the Town has declared to be surplus and of no further use to the Town.

“Spoils” - Excess material removed or generated during maintenance, construction, reconstruction, alteration or repair of highways, maintenance, construction, reconstruction, alteration or repair of Town-owned property, and other public works projects or repairs, which may include soil, clay, gravel, rocks, trees or tree parts, asphalt, blacktop, concrete, broken pipe, glass, wood and other debris. To be Spoils, such material must be determined to have no beneficial use to the Town, including no value that would enable the Town to sell such excess material.

“Approved Town Site”- Any site owned by the Town or its Special Districts that has been approved by the Town Board as a site that can accommodate the depositing of Spoils and can do so in accordance with applicable laws, rules and regulations.

“Private Site” – A location other than land owned by the Town.

“Town” – The Town of South Bristol.

III. Spoils Policy and Procedures Regarding Spoils

A. Spoils Policy:

It shall be the policy of the Town of South Bristol to dispose of Spoils at an Approved Town Site. It shall also be the policy of the Town of South Bristol to make the Spoils available for fill or other private uses to private landowners or private businesses in the Town of South Bristol, at no charge, in accordance with the applicable laws, rules and regulations, so long as such disposal is found to be in the public interest of the Town. It shall also be the Town’s policy to prohibit the use of public property, equipment and personnel in situations that do not primarily benefit the Town of South Bristol. The Town of South Bristol does not warrant the use of Spoils material for structural fills or for any other use. Environmental licensing may be required and once placed

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on the property is the sole responsibility of the property owner. This material may contain wood, glass, rocks and other debris.

B. Spoils Determination Made

Once a Town project occurs that results in excess material, the Town Highway Superintendent shall determine whether or not such material meets the definition of "Spoils".

C. Excess Material That is Not Determined to be Spoils

If such excess material is determined to not meet the definition of Spoils, then the Town must store or use such excess material in whatever manner and at whatever location is deemed necessary and prudent to ensure such excess material remains available either for the Town to use or the Town to sell. Any revenue generated from the sale of such excess material shall be deposited in the Town General Fund

D. Disposal of Spoils

If the excess material is determined to be Spoils, then the next step is for the Town Highway Superintendent to determine if there is an Approved Town Site available to handle the Spoils or if it would be more cost effective to dispose of the Spoils at a Private Site. If an Approved Town Site is available, the Highway Superintendent shall dispose of the Spoils at such Approved Town Site, unless there is also a Private Site where the Spoils could be disposed. If there is both an Approved Town Site and a Private Site where the Spoils could be disposed, the Highway Superintendent may dispose of the Spoils at such Approved Town Site but may also, if it is more cost effective to utilize a Private Site, consider said Private Site for disposal of those Spoils. If an Approved Town Site is not available then, if it is cost effective to utilize a Private Site, the Highway Superintendent shall consider said Private Site for disposal of those Spoils.

E. Request for Spoils Material Application

A list shall be generated of all those Private Sites within the Town of South Bristol whose owners have completed a "Request for Spoils Material Application", a copy of which can be found at the Town Highway Superintendent's Office, the Town Clerk's Office and the Town of South Bristol Website. The List shall be kept in the Highway Superintendent's office and Town Clerk's office. The Highway Superintendent shall administer all Request for Spoils Material Applications. When the Highway Superintendent is considering Private Sites for the disposal of Spoils he shall go to the first available Private Site on the list that can accommodate the amount of Spoils needing disposal and that provides the Town with the least cost to transport. The transportation costs shall include labor costs, equipment and fuel costs. The determination of least cost will be determined solely by the Town. Length of time a permit holder has waited for material shall have no effect on where the material is placed. The primary concern shall be what Private Site can accommodate the amount of Spoils needing disposal in the most cost effective manner for the Town. Any additional permits or requirements necessary for the deposit, storage or use of the Spoils material shall be the responsibility of the property owner. The only work to be done by the Town Highway Department for Private Site disposal shall be transporting of the Spoils from the Town site to the approved Private Site, dumping the Spoils at that approved Private Site and the leveling off of any material as is necessary to continue the dumping of additional Spoils onto the Private Site. Any other work needed on the Private Site shall be the sole responsibility of the landowner. The Spoils shall be for personal use and shall not be removed or sold from the Private Site after the Town Highway Department has placed it. Failure to comply with this requirement will eliminate any further Spoils from being placed on said Private Site or on any other property of said owner.

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F. Spoils Available to the Public

Any Spoils that are deposited on an Approved Town Site may, at the option of the Town Highway Superintendent, with the consent of the Town Board, be made available to residents of the Town, owners of real property within the Town or owners or managers of businesses within the Town. The Town shall not charge any fee to such members of the public who wish to take any of such Spoils but such members of the public must remove whatever Spoils they wish using their own manual equipment, their own labor and their own vehicles. The Town shall not expend any money in aid of any such member of the public to assist them in removing Spoils from an Approved Town Site and the Town shall not provide any Town equipment, Town vehicles or Town labor to assist them in removing Spoils from an Approved Town Site.

G. Approval of Private Sites

If a Private Site has been chosen from the list using the criteria outlined above, the Town Highway Superintendent shall send a request to the Town Board to approve or disapprove the use of the Private Site. If approved by the Town Board, the owner of the Private Site shall agree to hold the Town harmless from any and all loss or damages of whatsoever kind or nature, in law or in equity, resulting from the Private Site owner's participation in the Town Spoils program. Before a vote on the Private Site can be made, the Town Board shall consider and weigh the private benefit versus the public purpose. The value of the benefits received must be commensurate with the value of the work to the private party. Some items the Town Board shall consider in making this determination include, but are not limited to the following:

- 1) Does the Town need the excess material for Town use, i.e. for roads;
- 2) Does the cost to use a Private Site result in a savings to the Town when compared with the cost to use an Approved Town Site for disposal of Spoils when considering labor costs, fuel costs and equipment costs.

If the Town Board is satisfied that the public purpose outweighs the private gain, then an approval to use the private site can be made. Such approval shall be in writing and the factors used to make the determination shall be enumerated therein.

IV. Scrap Material Policy and Procedures Regarding Scrap Material

A. Scrap Material Policy:

The Town is responsible for generating revenue from the sale of Scrap Material and for ensuring that revenues derived from the sale of Scrap Material are deposited in the General Fund.

B. Scrap Material Ownership:

Once discarded materials are removed from the vehicle of transport within the Transfer Station site or other Town property or, once a Town officer or employee picks up discarded materials on or along any highway right of way and then when such discarded materials are placed in a Town-owned building, property, container, vehicle or any designated storage area, the Town of South Bristol assumes ownership of such discarded material.

C. Scrap Material Determination Made

Once the Town assumes ownership of any discarded material, the Town Highway Superintendent, any Highway Department employee designated by the Highway Superintendent or any other Town officer or employee designated by the Town Board for such purpose, shall determine whether or not such discarded material meets the definition of "Scrap Material".

D. Scrap Material Secured:

All Scrap Material that the Town assumes ownership of is to be securely maintained by the Highway Superintendent inside the transfer station fenced area or inside buildings owned and operated by the Town. The Highway Superintendent is also responsible for securing and

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monitoring Scrap Material generated as a result of routine highway operations and to securely maintain such Scrap Material inside the transfer station fenced area or inside buildings owned and operated by the Town. Town Officers and Employees are prohibited from using Scrap Material for other than the authorized Town purposes, and are further prohibited from the personal sale of Scrap Material obtained during the performance of their duties as an employee of the Town.

E. Scrap Material Vendor:

The Town Board retains sole authority to award, renew or terminate contracts or agreements with vendors to provide Scrap Material services for the Town of South Bristol or with purchasers willing to buy Scrap Material from the Town.

F. Scrap Material Sale Proceeds:

Only checks from the vendor shall be accepted for the payment of Scrap Material and on no occasion shall cash be accepted for payment. All checks are to be made payable to the Town and sent to the attention of the Town Supervisor.

NEW BUSINESS
RESOLUTION NO. -2015
DRUG AND ALCOHOL TESTING POLICY

Supr. Welch noted that the drug and alcohol policy was drawn up by the Town's union attorney and the union will need to approve the document.

On a motion made by Councilman Wohlschlegel and seconded by Councilman Cone Resolution No. – 2015 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Welch, Bachman, Wohlschlegel and Cone. 1.02

RESOLUTION NO. -2015
DRUG AND ALCOHOL TESTING POLICY

• STATEMENT OF POLICY

The Town of South Bristol recognizes that the use and/or abuse of alcohol or controlled substances by Town employees presents a serious threat to the safety and health of employees and the general public. It is the policy of the Town that its employees will be free of drugs and alcohol. In order to further our goal of obtaining a drug-free and alcohol-free workplace, and to ensure compliance with federal and state laws the Town has implemented a drug and alcohol testing program which is designed to help reduce and avoid traffic accidents and injuries to our employees and the public, to discourage substance and alcohol abuse, and to reduce absenteeism, accidents, health care costs, and other drug and alcohol-related problems.

• COVERAGE

This policy applies to all Town employees and applicants for employment or promotion with the Town.

In accordance with federal regulations, certain provisions of this policy apply only to operators of commercial motor vehicles (the "Operators").

• DEFINITIONS

"Controlled Substance" means marijuana metabolites, cocaine metabolites, amphetamines, opiate metabolites, and phencyclidines (PCP).

"Job Applicant" means any individual applying for a position with the Town as an employee, supervisor or manager.

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"Illegal Drugs" means any controlled substance or drug, the sale, possession or consumption of which is illegal. The term includes prescription drugs obtained illegally, and prescription drugs not being used in the manner, combination or quantity prescribed.

A "legally prescribed drug" is one for which the employee has a prescription or other written approval from a physician for its use. The prescription must include the patient's name, the name of the substance, quantity/amount to be taken, and the period of authorization.

"Reasonable suspicion" means a belief, based on specific, contemporaneous, or personal observations concerning the appearance, behavior, speech, or body odors of an employee, that the employee has violated this policy. Reasonable suspicion may also arise from receipt of information about an employee's impaired behavior from alcohol or drug use from a reliable source that has been substantiated by a trained supervisor.

"Safety sensitive position" means a position involving performance of tasks, assignments, or responsibilities that implicate safety concerns for Town employees and the general public. As an example, Mechanical Equipment Operators and Highway Superintendent hold safety-sensitive positions.

For Operators, "safety sensitive function" includes any period that the Operator is actually performing, ready to perform, or immediately available to perform a safety-sensitive function. Safety-sensitive function means all time, from the time an Operator begins to work or is required to be in readiness to work, until the time the operator is relieved from work and all responsibility for performing work. Safety-sensitive functions shall include:

All time at a Town facility or other property, or on any public property, waiting to be dispatched, unless the Operator has been relieved from duty by the Town;

All time inspecting equipment or otherwise inspecting, servicing, or conditioning any commercial motor vehicle at any time;

All time spent at the driving controls of a commercial motor vehicle in operation;

All time, other than driving time, in or upon any commercial motor vehicle;

All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle;

All time loading or unloading a vehicle, supervising, or assisting in the loading or unloading, attending a vehicle being loaded or unloaded, remaining in readiness to operate the vehicle, or in giving or receiving receipts for shipments loaded or unloaded; and

All time repairing, obtaining assistance, or remaining in attendance upon a disabled vehicle.

- **PROHIBITED CONDUCT**

Town employees are prohibited from engaging in the following conduct:

Using, possessing, dispensing, distributing, or receiving alcohol, intoxicants, or illegal drugs on Town premises, or while engaged in Town business;

Reporting to work under the influence or with any measurable amount of alcohol, intoxicants, illegal drugs, or other controlled substances in their system;

Reporting to work under the influence of a legally prescribed drug, unless the employee's physician determines, upon the employee's full disclosure of his or her duties for the Town, that use of the prescription drug will not adversely affect the employee's ability to perform his or her duties;

Consuming any amount of alcohol while on duty or within four (4) hours of reporting for duty;

Refusing to undergo or cooperate in any alcohol or drug testing required by this policy.

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Deliberately misusing this policy in regard to subordinates; or

Providing false information in connection with a test or falsifying test results through tampering, contamination, adulteration, or substitution.

In addition to the foregoing restrictions, Operators:

Will not report to work or remain on duty requiring performance of safety-sensitive functions while having any measurable amount of alcohol in their system;

Will not use alcohol while performing safety-sensitive functions;

Will not perform safety-sensitive functions within four hours after using alcohol;

If required to take a post-accident alcohol test, will not use alcohol for 8 hours after the accident, or until he or she takes a post-accident alcohol test, whichever occurs first;

Will not consume alcohol after a non-fatal accident unless the employee's involvement can be completely discounted as a contributing factor to the accident, the employee has been tested, or 8 hours have elapsed from the actual time of the accident; and

Will not refuse to submit to a post-accident alcohol test, a random alcohol test, a reasonable suspicion alcohol test, a return-to-duty alcohol test, or a follow-up alcohol test.

Any employee who observes or has personal knowledge of any violation of the drug-free workplace policy is encouraged to promptly report the incident to Town management.

Any employee who violates any of the rules set forth above is subject to discipline, up to and including discharge.

- **INSPECTIONS**

In order to implement this policy, the Town reserves the right to conduct unannounced random inspections for drugs or alcohol of Town facilities and property (e.g., Town vehicles, desks, file cabinets, employee lockers, etc.). Employees are expected to cooperate in the conducting of such inspections. Inspections of Town facilities and property can be conducted at any time and do not have to be based on reasonable suspicion.

Inspections of employees and their personal property (i.e., vehicles, clothing, packages, purses, briefcases, lunch boxes, or other containers brought onto Town premises) may be conducted when there is reasonable suspicion that the employee or employees are in violation of this Policy.

- **OFF-DUTY INVOLVEMENT WITH DRUGS OR ALCOHOL**

Employees are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession or use of drugs and/or alcohol while off-duty where such illegal activity represents a substantial risk to the Town's interests or the health, safety, or welfare of its employees or the public.

Employees must notify the Town of any criminal drug statute conviction for a violating arising within the workplace within five (5) days of such conviction. Within ten (10) days of such notice, or other actual notice, the Town will advise any federal contracting agency of such conviction.

- **REQUIRED TESTS**

Pre-employment Testing – All job applicants shall be required to undergo a drug test after a conditional offer of employment with the Town has been made.

An Operator shall also be required, prior to the first time that he or she performs a safety-sensitive function (i.e. new position, job transfer, promotion, new duties, etc.), to undergo testing for controlled substances. A positive test will result in a disqualification from further consideration for the current vacancy or position on eligibility list.

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Any job applicant or employee who refuses to undergo testing required by this section will be disqualified from further consideration for the current vacancy or eligibility list.

Reasonable Suspicion Testing – Operators and Town employees holding safety-sensitive positions will be subject to Reasonable Suspicion testing, as defined in this Section.

In a situation where an employee is either acting in an impaired manner, or a supervisor has reasonable suspicion to believe the employee is using or is under the influence of alcohol or drugs, the supervisor may order the employee to undergo a drug and/or alcohol test. The supervisor may, but need not, seek a corroborating opinion from another supervisor prior to immediately removing the employee from the job and sending the employee for drug and alcohol testing.

Once the employee has been removed from the job, the supervisor will contact the Town Supervisor. If contact cannot be made at that time, the supervisor will proceed through the next step of this procedure and make contact with the Town Supervisor as soon thereafter as possible. A supervisor will then transport the employee to the collection site for drug and/or alcohol testing immediately, but no later than eight (8) hours after having observed the behavior. If the drug or alcohol test is conducted more than two (2) hours, but less than eight (8) hours, after the supervisor determines there is reasonable suspicion to believe the employee is under the influence of alcohol or controlled substances, the supervisor will complete a report explaining the reason for the delay in conducting the drug or alcohol test. The supervisor will wait at the clinic with the employee until the testing has been completed.

Once the alcohol testing has been completed, and if a positive confirmatory test result is received (0.04 percent or above), the employee will not be permitted to drive his/her own vehicle home at that time. Alternative transportation arrangements will be mutually made in order to leave the collection site or employment site.

The employee will be advised not to report for work because he or she will be placed on suspension without pay. If a blood alcohol or urine test has been administered, the Town will contact the employee once the test results are known (this normally takes 24-48 hours) and a decision has been made as to the employee's status.

The results of the drug or alcohol testing will be sent directly to the Town Supervisor. When the results are obtained, the employee's supervisor and department head will meet with the Town Supervisor to determine the appropriate course of action to be taken. This is a confidential process. Test results will be held strictly confidential and will not to be discussed or shared with anyone who does not need to know. Likewise, a supervisor cannot discuss the suspected reason for a referral or discipline action with anyone who does not need to know.

Once the test has been completed and the employee has been sent home, the employee's supervisor must submit a written report to the Town Supervisor outlining, in detail, the event and the behavior observed that led the supervisor to believe the employee was under the influence of alcohol and/or drugs. This report must be done within 24 hours of the testing.

Random Testing - Operators and Town employees holding safety-sensitive positions will be subject to random testing for drug or alcohol use

This test is used in order to eliminate risks associated with illegal or unauthorized drug and alcohol use. Random alcohol and drug testing will be conducted just before, during, or just after an employee's performance of safety-sensitive duties. The employee will be randomly selected for testing from a "pool" of employees subject to testing. The testing dates and times are unannounced and will occur with unpredictable frequency throughout the year. The rate of random tests will conform with Regulations' minimum annual percentage rates. The Town

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reserves the right to either increase or decrease the minimum annual percentage rate for random alcohol and drug testing.

The selection of employees for random testing shall be administered by Health-works, using a scientifically valid method. This method will be a computer software-based random selection program that is matched with employee social security numbers. A monthly list of confidential numbers will be generated and forwarded to the Town Supervisor who will then contact the employee's supervisor for testing arrangements. Under this selection process, each employee will have an equal chance of being tested each time selections are made. As a result, some employees may be tested more than once each year, while other employees may not be tested at all.

In the event an employee tests positive for either alcohol or controlled substances, the employee will be subject to disciplinary action, up to and including discharge.

Post-Accident Testing - Operators and Town employees holding safety-sensitive positions will be subject to Post-Accident testing, as defined in this Section. For purposes of this Section, "accident" means: (1) any incident involving the loss of human life, even if the employee involved is not at fault; (2) any incident where the employee receives a citation under state or local law for a moving traffic violation arising from an incident; and (3) any incident involving the operation, use, or misuse of a commercial motor vehicle.

As soon as practicable following an accident involving a commercial motor vehicle, the Town shall test the Operator and safety-sensitive employees who may have contributed to that accident for alcohol and controlled substances.

The alcohol breath test must be administered within two (2) hours following the accident and the drug test must be administered within 32 hours of the accident.

An employee who is subject to post-accident testing shall remain readily available for such testing or may be deemed by the Town to have refused to submit to testing.

Return-to-Duty/Follow-Up Testing – Only Operators will be subject to Return-to-Duty/Follow-Up Testing.

This test is used to maintain abstinence and prevent relapse by Operators during and after drug treatment. The Town will ensure that before an Operator returns to duty requiring the performance of a safety-sensitive function, but after engaging in conduct prohibited in this policy, the Operator shall undergo a return-to-duty alcohol and/or controlled substance test with a result indicating an alcohol concentration of less than 0.02 percent and a verified negative result for controlled substance use. In any event, an Operator will not be allowed to return to duty without first having been evaluated by the Substance Abuse Professional (SAP) provider in order to determine the Operator's fitness-for-duty.

Following a determination that an Operator is in need of assistance in resolving problems associated with alcohol misuse and/or use of controlled substances, the Town will ensure that the Operator is subject to announced follow-up alcohol and/or controlled substances testing in consultation with a substance abuse professional. Consequently, the Operator will be given at least six (6) random tests during the 12 month period after returning to duty with the possibility of follow-up testing for up to 60 months after the Operator returns to duty.

Voluntary Testing - This testing provides an opportunity for all employees (management, supervisory, and non-supervisory) not part of the random pool to demonstrate a commitment to the goal of a drug and alcohol free workplace.

- TEST PROCEDURES

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The Town has entered into an alcohol and drug testing agreement with HealthWorks, 1160 Corporate Drive, Farmington is the facility currently used for medical services. Testing may be done on both urine and breath. All drug and alcohol testing will be conducted in accordance with the law.

HealthWorks will handle taking the sample (in standard collection kits) from the hours of 8:00 a.m. until 5:00 p.m. (Monday through Friday) and arrangements for off-hour alternative testing site will be made by calling 1-800-836-2337 to handle taking the sample during all other, non-regular, business hours and days. The providers will be responsible for seeing that the samples are sent to laboratories approved for screening and for assisting in the interpretation of the results. Specimen collection is not to be done anywhere but at Town facilities, at HealthWorks or an alternative site determined by HealthWorks, unless specifically authorized by the Town Supervisor.

- **ALCOHOL TESTING**

Alcohol testing will be conducted using an approved evidential breath testing (EBT) device. A certified breath alcohol technician (BAT) will administer an initial screening test. If the employee tests at 0.02 percent or above for alcohol, then the BAT will conduct a confirmation test. The Town will take action based only upon the positive results of the confirmation test (0.02 percent or greater).

1. ***ALCOHOL TESTING PROCEDURES***

Procedures for conducting alcohol tests are as follows:

When the employee enters the collection site, the BAT will require him or her to provide positive identification (i.e. photo ID or employer identification).

The BAT will explain the test procedure.

Employees will be required to complete and sign various forms used to document the testing process. Refusal to sign the test form(s) will be regarded as a refusal to take the test. Employees will be instructed to blow forcefully into the mouthpiece until the EBT indicates that an adequate amount of breath has been obtained.

If an employee tests positive during the screening test, s/he shall not eat, drink, put any object or substance in his or her mouth and, to the extent possible, not belch during the 30 minute waiting period before the confirmation test is conducted.

Refusal by an employee to complete and sign the test form, to provide an adequate amount of breath without a valid medical explanation, or otherwise failure to cooperate with the testing process in a way that prevents the completion of the test will be considered a disciplinable offense, up to and including termination.

In the event of conflicting results between the initial test and the confirmation test, the confirmation test results will determine the outcome of the test.

2. ***RESULTS OF POSITIVE ALCOHOL TEST***

Any employee who tests positive for alcohol concentrations of 0.02 or higher is subject to discipline, up to and including discharge.

In the event that an employee is required to comply with breath testing as a result of a law enforcement investigation, the employee must submit to the examination. The test will be considered enforceable for purposes of this policy.

If a confirmation alcohol test measures 0.04 or greater, the Town will:

Remove the employee from his or her position;

Before returning the employee to employment, the Town will:

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Refer the employee to the Substance Abuse Professional (SAP) for assessment of an alcohol problem and a determination of whether participation in a treatment program is necessary;

Ensure that, to the extent applicable, a substance abuse professional has determined that the employee successfully completed any required rehabilitation; and

Re-test the employee to verify that his or her alcohol concentration is below 0.02.

The employee will subsequently be given at least six (6) random tests during the next year with the possibility of follow-up testing for up to 60 months.

If the confirmation test level is between 0.02 and 0.039 percent, the employee will be removed from any assignment that involves performance of safety sensitive tasks and either be re-tested or removed from his/her position for a minimum of 24 hours.

- **TESTING FOR CONTROLLED SUBSTANCES**

For purposes of this policy, the Town will utilize, at a minimum, a 5-panel drug screen consisting of the following drugs:

Tetrahydrocannabinol (Marijuana drug)

Cocaine

Amphetamines

Opiates (including heroin)

Phencyclidine (PCP)

In instances where there is reason to believe an employee is abusing a substance other than the five drugs listed above, the Town reserves the right to test for additional drugs using standard laboratory testing protocols.

Drug testing is conducted by analyzing an employee's urine specimen (through a Department of Health and Human Services certified testing lab). This procedure will include use of a split specimen testing procedure. Each urine specimen is subdivided into two bottles labeled as a "primary" and a "split" specimen. Both bottles will be sent to a certified lab. Only the primary specimen bottle is opened and used for the urinalysis. The split specimen bottle remains sealed and is stored at the lab. If the analysis of the primary specimen confirms the presence of illegal, controlled substances, the employee has 72 hours to request the split specimen be re-tested at the same lab or be sent to another lab under contract with the collection facility at the Town's expense; or the employee may elect to have the re-test done at another certified lab at his own expense. An employee who fails to notify the Medical Review Officer (MRO) within 72 hours (of receiving the results of the positive test) of his/her desire to have the split specimen tested shall be deemed to have waived his/her right to seek testing of the split specimen.

- **CONTROLLED SUBSTANCE TESTING PROCEDURES**

Procedures for conducting tests for controlled substances are as follows:

When the employee enters the collection site, the employee will be required to provide positive identification (i.e. photo ID or employer identification).

The employee will be instructed to provide at least 45 ml of urine under the split sample method of collection. This will be done in a specifically designated "donor" bathroom.

The urine sample shall be divided into a primary specimen (30 ml) and a split specimen (15 ml).

If the test result of the primary specimen is positive, the employee may request within 72 hours, that the MRO direct that the split specimen be tested in the same or a different DHHS-certified laboratory for presence of the drug(s) for which a positive result was obtained in the test of the primary specimen.

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Employees who perform any safety-sensitive tasks will be removed from assignments requiring performance of such tasks pending the result of the split specimen test.

If the result of the test of the split specimen fails to reconfirm the presence of the drug(s) or drug metabolite(s) found in the primary specimen, the MRO shall cancel the test.

Employees will be required to complete and sign various forms used to document the testing and chain of custody process. Refusal to sign the test form(s) will be regarded as a refusal to take the test.

Refusal by an employee to complete and sign the test and chain of custody forms, to provide an adequate amount of urine (to be decided on a case-by-case basis), or otherwise failure to cooperate with the testing process in a way that prevents the completion of the test will be considered grounds for disciplinary action, up to and including discharge.

In the event of conflicting results between the initial test and the confirmation test, the confirmation test results will determine the outcome of the test.

- **RESULTS OF POSITIVE TEST**

Employees who tests positive for controlled substances may be subject to discipline, up to and including discharge. Upon the confirmation of a positive drug test result, the Town will:

Remove the employee from any safety-sensitive position and

Refer the employee to the Employee Assistance Program (“EAP”) for assessment and subsequent compliance with recommended rehabilitation after a determination of a drug problem has been made.

- **PRESCRIPTION DRUGS**

Before performing work-related duties, employees must notify their supervisor if they are taking any legally prescribed drugs, as defined in this policy, any therapeutic drug, or any non-prescription drug which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected by the use of that medication. The supervisor will notify the Town Supervisor, in writing, of any notice provided by an employee under this Section. Employees are responsible for informing their physician about the job they perform, so that the physician may assess if a prescribed substance could interfere with the safe and effective performance of the employee’s duties.

- **CONFIDENTIALITY OF RECORDS**

The Town respects the confidentiality and privacy rights of all of its employees. Accordingly, the results of any test administered under this Policy and the identity of any employee participating in the EAP or other assessment or treatment program will not be revealed to anyone except as required by law. The Town will release an employee’s records as directed by the express written consent of the employee authorizing release to an identified person. In addition, the Town will ensure that any lab or agency used to conduct testing under this Policy will maintain the confidentiality of employee test records. However, the lab or testing agency will disclose information related to a positive drug or alcohol test of an individual to: the individual being tested; the Town; the decision maker in a lawsuit, grievance, or other proceeding by or on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test; or as required by law, including court order or subpoenas.

The Medical Review Officer (MRO) will not reveal individual test results to anyone unless the MRO has been presented with a written authorization from the tested employee. The MRO may reveal to the Town, without an authorization, relevant information as to whether the employee is qualified to perform safety-sensitive functions or whether the employee has tested positive for alcohol or a controlled substance. The Town will not release the information on the

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employee’s qualifications to perform safety-sensitive functions to a third party without first obtaining the tested employee’s written authorization and consent, except to the decision maker in a lawsuit, grievance, or other proceeding by or on behalf of the individual which arises from any action taken in response to a positive drug or alcohol test; or as required by law, including court orders or subpoenas.

All records related to drug and alcohol tests of employees will be maintained in individual files separate from the employee’s personnel file.

Any questions regarding this policy should be directed to the Town Supervisor.

• DRUG-FREE AWARENESS AND EMPLOYEE ASSISTANCE PROGRAMS

In order to maintain a drug-free workplace and to provide confidential assistance to affected employees, the Town has established a drug-free awareness program which includes an EAP, to educate employees on the dangers of drug abuse in the workplace, its drug-free workplace policy, the availability of any drug-free counseling, rehabilitation programs and the penalties that may be imposed for violations of its drug-free workplace policy. Such education may include but not be limited to:

Distribution of a summary of the Town's drug-free workplace policy during the employment application process.

A discussion of the Town policy at the new employee orientation session.

Distribution of a list of approved drug assistance agencies, organizations and clinics.

Distribution of published educational materials regarding the dangers of drug abuse.

Inclusion of the policy in employee handbooks and other employee publications.

Lectures or training by local drug abuse assistance experts.

Discussion by Town safety experts on the hazards associated with drug abuse.

Video tape presentations on the hazards of drug abuse.

• GENERAL

- Nothing in this policy is to be construed as a denial of rights guaranteed by the Collective Bargaining Agreement and/or those portions of federal and state laws that supersede the CBA. EMPLOYEE ACKNOWLEDGMENT FORM

Detach and return this page to the Town Supervisor after you have read this Policy.

I acknowledge that I have received and read the Town of South Bristol Drug and Alcohol Testing Policy and the provisions contained therein on the date indicated below. I agree to abide by the terms of the policy.

SIGNED _____

DATE _____

**ACCOUNTING
ABSTRACT OF VOUCHERS**

On a motion made by Councilman Wohlschlegel and seconded by Councilman Cone, Vouchers 586-597, 599-665 in the amount of \$75,168.94 were ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Welch, Bachman, Wohlschlegel and Cone.

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INTERFUND TRANSFERS

On a motion made by Councilman Wohlschlegel and seconded by Councilman Bachman, Interfund Transfer #1, #2, #3 and #4 were ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Welch, Bachman, Wohlschlegel and Cone.

- Interfund transfers effective 12/17/15
 1. \$2,957.04 from Founder's Cemetery to General Fund Savings
 2. \$2,829.10 from Coye Cemetery to General Fund Savings
 3. \$60,000 from General Fund Savings to Highway Emergency Capital Reserve
 4. \$36,199 from General Fund Savings to Capital Reserve Fund.

CLOSING OF BANK ACCOUNTS

On a motion made by Councilman Cone and seconded by Councilman Bachman the Closing of Bank Accounts was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Welch, Bachman, Wohlschlegel and Cone.

- Closing of Bank Accounts effective 12/17/15:
 1. Founders Cemetery

RENAMING OF BANK ACCOUNT

On a motion made by Councilman Wohlschlegel and seconded by Councilman Bachman the Renaming of a Bank Account was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Welch, Bachman, Wohlschlegel and Cone.

- Renaming of Bank Account effective 12/17/15;
 1. Coye Cemetery renamed "*Coye Cemetery \$2,106.23.*" Balance of \$2,106.23 to remain in perpetuity in renamed account.

Supr. Welch mentioned that she would like to purchase the Town cellphone she currently uses. The phone became inoperable and has been replaced.

On a motion made by Councilman Wohlschlegel and seconded by Councilman Cone allowing the Town Supervisor to purchase the Town cellphone for \$25 was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Welch, Bachman, Wohlschlegel and Cone.

On a motion made by Supr. Welch and seconded by Councilman Cone, the 2015 Year-End meeting is scheduled for Wednesday, December 30, 2015 at 4:00pm was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Welch, Bachman, Wohlschlegel and Cone.

On a motion made by Supr. Welch and seconded by Councilman Bachman the 2016 Organizational Meeting is scheduled for Monday, January 4, 2016 at 7:00pm was ACCEPTED. Voting AYE: 4. Voting NAY: 0. Voting AYE: Welch, Bachman, Wohlschlegel and Cone.

PRIVILEGE OF THE FLOOR

Ann Jacobs of County Road 33 thanked the Board for their service and for everything they have done and the umpteen hours worked; we do appreciate it.

Joe Charlton of Bristol Harbor also thanked the Board with sincere thanks. You've tackled some unbelievably thorny problems and totally impressed with your discipline, integrity and the way you have engaged the entire community.

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Joe Kohler of Bristol Harbor also thanked the Board.

Alan Braun of Bristol Harbor wanted to acknowledge Supt. Wight for his timeliness in putting up the snow fences, specifically across Seneca Point Road. Mr. Braun also thanked the out going Council and welcome the new Council and new Supervisor to continue the same work that has been done this year on all these projects and any of us can help you would be glad to.

Dan Marshall of County Road 12 said speaking for the new Board we also thanked the Board and knows the time and efforts it takes and thanked them all. It is not easy work and look forward to working with everyone else in the coming year.

Supr. Welch also thanked the Board for their service. Supr. Welch thanked Councilman Wohlschlegel on his work with Buildings and Grounds.

Supr. Welch read from her list:

1. Woodville Park lease with NYS has not been unresolved;
2. CarolaBarb, the trails and the seating at the Overlook area. Kevin Olvaney had agreed to help the Town along with FLCC students develop a concept plan for the site.
3. Paving of the Transfer Station.
4. Town Hall lighting plan that has not been fully executed for the parking lot. BME is the engineering firm that did a lighting plan throughout the parking lot.
5. Hazard Mitigation for Ontario County has put in their plan emergency generators for the Town Hall and Highway building.
6. The State Comptroller's office had a conversation with the Town regarding securing the server and had intended to move it into the custodial closet.
7. Culvert into Coye Cemetery has not been addressed. BME had developed a plan that would provide off road parking.
8. There is a proposal from BME Engineering for reconstruction of the highway building.

Supr. Welch also noted that Ontario County Planning had asked for additional information on the Bristol Harbor Marina and what was approved for the marina.

ADJOURN 8:36 pm

Respectfully submitted:

Judy Voss
Town Clerk