

Minutes of the Regular Brant Town Board Meeting held February 12, 2019

This Regular Meeting of the Brant Town Board was held on Tuesday, February 12, 2019 at the Brant Town Hall, located at 1272 Brant North Collins Rd, Brant, New York at 7:00 PM.

Present were:

Mark DeCarlo	Supervisor
Michael Muffoletto	Councilman
Donald Clark	Councilman
Donna Marien	Councilwoman
Janice Ross	Councilwoman
William J. Trask, Sr.	Town Attorney
Barbara Daniel	Recording Secretary

ALSO PRESENT / SIGNED IN WERE:

Joseph Ostrowski	Planning Board Chairman
Lynda Ostrowski	Deputy Town Clerk
Joseph Giambrone	Highway Superintendent
Debra Ritz	Resident
Brian Rott	Resident
Tish Brady	Resident
Janet Bowman	Assessor's Clerk
Joyce Ellis	Resident
Patty Friend	Town of Brant Town Historian
Franz family	Girl Scout badge
Mary Gorczyca	Resident
Susan Holmes	Property owner – Wide Beach
Chad Kaczmarek	Town Justice / resident
Joseph DeCarlo	Town Assessor
Linda Giancarlo	Resident/Brant festival Chairperson
Seraphino Giancarlo	Resident/Brant festival Committee member
Maggie Buchy	Neighbor
Paul Cesana	Resident
Adrian Brady Cesana	Resident
James George	Resident

The meeting opened at 7:00 PM with the Pledge of Allegiance.

RECOGNITION OF DIGNITARIES, OFFICIALS AND VISITORS: None were present

MINUTE APPROVAL JANUARY 2ND (Organizational) & JANUARY 8TH (first regular Town Board meeting) 2019 TOWN BOARD MEETINGS: Councilman Clark motioned to accept the minutes of the January 2nd Organizational minutes and the January 8th first regular Town Board meeting of 2019. Councilman Muffoletto seconded the motion. 5 ayes, 0 nays. **MOTION CARRIED.**

SUPERVISOR'S DECEMBER 2018 FINANCIAL REPORT: Councilman Clark moved and was seconded by Councilwoman Ross to accept the Supervisor's December 2018 Financial Report as presented. 5 ayes, 0 nays. **MOTION CARRIED.**

BUDGET MODIFICATION: Supervisor DeCarlo presented the 2018 budget modification #8 as follows:

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February 11,
2019

TO: Mark J. DeCarlo, Supervisor

FROM: Richard A. Gryksa MBA, Town Accountant

**December 31,
2018**

SUBJECT: **Budget Modification #8 as of:**

Please make a resolution at the regular Town Board meeting on February 12th 2019 to approve the following Budget Modification(s) to the 2018 Adopted Budget for the following Fund(s):

Budget Modification	Dec From/	Fund Account			Amount
	(Inc) To	Code	Description	Object	Over Budget
<u>General Fund Townwide (A)</u>					
\$ <u>35.00</u> \$ (35.00)	(DR) Decrease (CR) Increase	A1010.1 A1010.4	Legislative Board Legislative Board	Pers Serv Contr Expend	\$ 34.41
\$ <u>2,348.00</u> \$ (2,348.00)	(DR) Decrease (CR) Increase	A1010.1 A1110.13	Legislative Board Municipal Court (Office Clerk)	Pers Serv Pers Serv	\$ 2,347.39
\$ <u>577.00</u> \$ (577.00)	(DR) Decrease (CR) Increase	A1990.4 A1110.14	Contingent Account Municipal Court (Bench Clerk)	Contr Expend Contr Expend	\$ 577.00
\$ <u>1,793.00</u> \$ (1,793.00)	(DR) Decrease (CR) Increase	A1110.11 A1110.4	Municipal Court Clerk (Gier) Municipal Court(Gier)	Pers Serv Contr Expend	\$ 1,792.17
\$ 251.00	(DR) Decrease	A1110.11	Municipal Court Clerk (Gier)	Pers Serv	
\$ 697.00	(DR) Decrease	A1110.12	Municipal Court Clerk (Kaczmarek)	Pers Serv	
\$ 117.00	(DR) Decrease	A1990.4	Contingent Account	Contr Expend	
\$ <u>997.00</u> \$ 2,062.00	(DR) Decrease (CR) Increase	A1220.11 A1110.41	Supervisor Secretary Municipal Court(Kaczmarek)	Pers Serv Contr Expend	\$ 2,061.74
\$ <u>95.00</u> \$ (95.00)	(DR) Increase (CR) Increase	A3021 A1110.42	Court Facilities (JCAP Grants) Municipal Court (Grants)	Revenues Contr Expend	\$ 95.00

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Applied to 2018 JCAP Grant received \$24,434 in June

<u>\$</u> 147.00 \$ (147.00)	(DR) Decrease (CR) Increase	A1220.2 A1220.4	Supervisor Supervisor	Equip & Cap Out Contr Expend	\$ 146.90
<u>\$</u> 1,800.00 \$ (1,800.00)	(DR) Decrease (CR) Increase	A1320.41 A1320.4	Independent Audit Accounting/Bookkeeping	Contr Expend Contr Expend	\$ 1,799.99
\$ 509.00 \$ 497.00 \$ 1,006.00	(DR) Decrease (DR) Decrease (CR) Increase	A1355.12 A1320.41 A1355.11	Assessment (Board of Review) Independent Audit Assessment	Contr Expend Contr Expend Pers Serv	\$ 1,005.66
<u>\$</u> 1,087.00 \$ (1,087.00)	(DR) Decrease (CR) Increase	A1320.41 A1355.4	Independent Audit Assessment	Contr Expend Contr Expend	\$ 1,086.39
<u>\$</u> 90.00 \$ (90.00)	(DR) Decrease (CR) Increase	A1990.4 A1375.4	Contingent Account Credit Card Fees	Contr Expend Contr Expend	\$ 89.19
<u>\$</u> 451.00 \$ (451.00)	(DR) Decrease (CR) Increase	A1990.4 A1420.4	Contingent Account Law	Contr Expend Contr Expend	\$ 451.00
<u>\$</u> 1,500.00 \$ (1,500.00)	(DR) Increase (CR) Increase	A3060 A1460.11	State Aid Education (Grants) Records Management (Grant)	Revenues Pers Serv	\$ 1,500.00

Applied to 2018 NYState Education Grant received \$25,776 in August

<u>\$</u> 1,951.00 \$ (1,951.00)	(DR) Decrease (CR) Increase	A1620.11 A1620.1	Buildings & Grounds (Staff) Buildings & Grounds (Superintendent)	Pers Serv Pers Serv	\$ 1,950.58
<u>\$</u> 940.00 \$ (940.00)	(DR) Decrease (CR) Increase	A1620.11 A1620.4	Buildings & Grounds (Staff) Buildings & Grounds	Pers Serv Contr Expend	\$ 939.64

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\$ <u>425.00</u> \$ (425.00)	(DR) Decrease (CR) Increase	A3120.11 A3120.1	Police (Officers) Police (Chief)	Pers Serv Pers Serv	\$ 424.28
\$ 300.00 <u>579.00</u> \$ 879.00	(DR) Decrease (DR) Decrease (CR) Increase	A3120.13 A3120.2 A3120.12	Police (Court Appearance) Police Police(Court Bailif)	Pers Serv Equip & Cap Out Pers Serv	\$ 878.92
\$ <u>3,152.00</u> \$ (3,152.00)	(DR) Decrease (CR) Increase	A3120.41 A3120.4	Police (Radio Air Card) Police	Contr Expnd Contr Expnd	\$ 3,151.22
\$ <u>28.00</u> \$ (28.00)	(DR) Decrease (CR) Increase	A5010.4 A5010.1	Street Adimistration Street Adimistration (Superintendent)	Contr Expnd Pers Serv	\$ 27.44
\$ <u>270.00</u> \$ (270.00)	(DR) Decrease (CR) Increase	A1990.4 A5010.11	Contingent Account Street Adimistration (Clerk)	Contr Expnd Pers Serv	\$ 269.12
\$ <u>218.00</u> \$ (218.00)	(DR) Decrease (CR) Increase	A1990.4 A5132.4	Contingent Account Garage	Contr Expnd Contr Expnd	\$ 218.00
\$ <u>99.00</u> \$ (99.00)	(DR) Decrease (CR) Increase	A1990.4 A7180.4	Contingent Account Special Recrea Facility (Pool)	Contr Expnd Contr Expnd	\$ 98.65

General Part Town (B)

\$ <u>160.00</u> \$ (160.00)	(DR) Decrease (CR) Increase	B8020.1 B8020.4	Planning Planning	Pers Serv Contr Expnd	\$ 159.18
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Highway Townwide (DA)

\$ 989.00	(DR) Decrease	DA5140. 1	MISC Brush & Weeds	Pers Serv
\$ 809.00	(DR) Decrease	DA5142. 1	Snow Removal	Pers Serv

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6,558.00	(DR)	DA5142.			
\$	Decrease	4	Snow Removal	Contr Expend	
8,356.00	(CR)	DA5130.			\$
	Increase	4	Machinery	Contr Expend	8,355.70
\$	(DR)	DA9040.		Employee	
284.00	Decrease	8	Workmens Compensation	Benefits	
\$	(CR)	DA9010.		Employee	\$
(284.00)	Increase	8	State Retirement	Benefits	283.83

<u>Highway Part Town (DB)</u>					
\$	(DR)	DB5110.			
298.00	Decrease	1	General Repairs	Pers Serv	
\$	(CR)	DB5110.			\$
(298.00)	Increase	4	General Repairs	Contr Expend	297.06

Councilman Muffoletto motioned to approve above Budget modification #8 of 2018, and was seconded by Councilwoman Marien. A roll call vote was taken: Councilman Muffoletto-aye, Councilwoman Marien-aye, Councilman Clark-aye, Councilwoman Ross-aye, Supervisor DeCarlo. 5 ayes, 0 nays. **MOTION CARRIED.**

TOWN CLERK/TAX COLLECTOR'S DECEMBER 2018 FINANCIAL REPORT: Councilman Clark motioned to approve both the December 2018 Town Clerk's Financial Report. Councilwoman Marien seconded the motion. 5 ayes, 0 nays. **MOTION CARRIED.**

COURT CLERK'S DECEMBER 2018 FINANCIAL REPORTS FOR JUSTICES GIER AND KACZMAREK REGULAR AND BAIL ACCOUNTS: Councilman Muffoletto motioned to approve both Bail and Regular Financial accounts for Justice Gier and Justice Kaczmarek for December 2018, and was seconded by Councilwoman Ross. 5 ayes, 0 nays. **MOTION CARRIED.**

CODE ENFORCEMENT OFFICER'S DECEMBER 2018 AND JANUARY 2019 REPORT: Code Officer Gary Brecker presented his December 2018 and January 2019 reports. Supervisor DeCarlo motioned to approve the **December 2018** Code Officer's report, seconded by Councilman Clark. 5 ayes, 0 nays. **MOTION CARRIED.**
Supervisor DeCarlo motioned to approve the **January 2019** Code Officer's report, seconded by Councilwoman Ross. 5 ayes, 0 nays. **MOTION CARRIED.**

DOG CONTROL OFFICER'S DECEMBER 2018 AND JANUARY 2019 REPORTS: The December 2018 and January 2019 Dog Control Officer's reports were presented by Dog Control office Barbara Daniel. Supervisor DeCarlo motioned to approve both reports as read, and was seconded by Councilman Muffoletto. 5 ayes, 0 nays. **MOTION CARRIED.**

POLICE REPORT FOR JANUARY 2019: The January 2019 Police Report was read by Councilman Clark. Supervisor DeCarlo motioned to approve the report as read, seconded by Councilwoman Marien. 5 ayes, 0 nays. **MOTION CARRIED.**

HIGHWAY SUPERINTENDENT'S JANUARY REPORT: The Highway Report for January 2019 was presented by Councilman Clark. It was confirmed that the odometer on the red truck has been repaired. The report contained an error stating it was in need of repair. Supervisor DeCarlo motioned to approve the report as read, seconded by Councilman Muffoletto. 5 ayes, 0 nays. **MOTION CARRIED.**

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TOWN CLERK'S REPORT TO THE BOARD: The Town Clerk presented her monthly activity report for January 2019. It was noted that the hours spent on the grant by the three clerks should be approximately 625 after 10 weeks. The Town Clerk's review of grant hours used is 322.25. The clerk's have been advised of the number of hours each now required of each to catch up. The town clerk then explained she was ready to hire the scan clerk for the grant project now that enough files had been prepared for scanning. The Supervisor will meet with the Town Clerk to review the resumes and the appointment will be approved later. Supervisor DeCarlo motioned to approve the report as read, seconded by Councilwoman Ross. 5 ayes, 0 nays. MOTION CARRIED.

PLANNING BOARD REPORT: No meeting was held.

ZONING BOARD OF APPEALS REPORT: No meeting held.

RECREATION DIRECTOR'S REPORT: No report presented.

PARKS COMMISSIONERS' REPORT: Supervisor DeCarlo noted that Building Superintendent Allen Nolan's report was available for anyone wishing to read it. No vote was taken.

TOWN HISTORIAN'S REPORT: The Town Historian's Patty Friend presented her report. The next meeting will be held on February 20th. Supervisor DeCarlo motioned to approve the report as read, seconded by Councilwoman Marien. 5 ayes, 0 nays. MOTION CARRIED.

FIRE COMPANY REPORTS: Councilman Clark read the Farnham fire report from his cell phone. The Town Clerk was not copied on the report. Supervisor DeCarlo motioned to approve the report as read, seconded by Councilwoman Ross. 5 ayes, 0 nays. MOTION CARRIED.

SENIORS JANUARY REPORT: Secretary to the Seniors Lynda Ostrowski presented the minutes of the February 6th meeting. The minutes noted that Councilwoman Janice Ross announced to the Seniors that she has been appointed as liaison to the Senior's and that if anyone has questions, she is available to talk to them. She also stated that the Town had been awarded a one hundred thousand dollar grant to remodel the Senior Community Building. Councilman Muffoletto motioned to approve the report, seconded by Councilwoman Marien. 5 ayes, 0 nays. MOTION CARRIED.

OLD BUSINESS

CORRECTION OF PAY RATES: Supervisor DeCarlo motioned to appoint Allen Nolan as Building Superintendent at a rate of \$19.80 per hour. Supervisor DeCarlo motioned to approve the appointment and pay rate, seconded by Councilman Clark. 5 ayes, 0 nays. MOTION CARRIED.

Approval of pay rate of Police Chief Donald Hepkins at \$33.61 per hour, not exceed the budgetary cap of \$34,517.47. Councilman Muffoletto motioned to approve the pay rate, seconded by Councilwoman Ross. 5 ayes, 0 nays. MOTION CARRIED.

APPOINTMENT OF HIGHWAY SECRETARY: Councilman Muffoletto motioned to approve the appointment of Mark Trask as Secretary to the Highway Department as a salary of \$3,605 per year. Councilwoman Marien seconded the motion. 5 ayes, 0 nays. MOTION CARRIED.

RE-APPOINTMENT OF SECRETARY TO THE ZONING BOARD OF APPEALS: Supervisor DeCarlo motioned to approve the appointment of Carol Broughton as Secretary of the Zoning Board of Appeals, seconded by Councilman Muffoletto. 5 ayes, 0 nays. MOTION CARRIED.

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RECREATION FINANCIAL REPORT, DISCUSSION ON 2019 FEE RATES: Based on the cost of the 2018 Recreation program, the Board was to discuss new rates:

In 2018, 166 children participated in the recreation program, with 101 of them being non residents. 65 were residents. 102 of the children registered arranged their own transportation, while 64 utilized the bus with Bennett Road as the Boundary. Recreation payroll expenses in 2018 were \$40,081.61. Contractual expenses totaled \$7,041.67 which included other expenses, such advertisements, Buses, etc. The fees collected from participants totaled \$20,765.00. Therefore, the Town is paying the difference between approximately \$47,000 (payroll + expenses) minus \$20,765.00 collected from participants. The Board must now review the costs to determine a more realistic fee for the program. He reiterated that 2/3 of the participants are non residents. The fee currently charged to non residents is \$140.00 for the first child. He noted that other programs in the area are at least double that. Eagle's Landing charges \$285. Supervisor DeCarlo noted that he would like to ensure that residents are not footing the bill for non residents.

The following resolutions were presented to reduce the speed limit on select area roads within the Town of Brant:

Supervisor DeCarlo motioned, and Councilman Muffoletto seconded to adopt the following resolution,

RESOLVED, that the Town Board of the Town of Brant does hereby request the New York State Department of Transportation, pursuant to Section 1622 of the Vehicle and Traffic Law, to establish a lower maximum speed of 45 milers per hours at which vehicles may proceed on Mile Block Road, a County highway, between Cain Road and Mile Strip Road, pursuant to requests from residents and travelers on that road.

A roll call vote resulted as follows:

Supervisor DeCarlo	Aye
Councilman Muffoletto	Aye
Councilman Clark	Aye
Councilwoman Marien	Aye
Councilwoman Ross	Aye

Resolution adopted

Supervisor DeCarlo motioned, and Councilwoman Ross seconded to adopt the following resolution,

RESOLVED, that the Town Board of the Town of Brant does hereby request the New York State Department of Transportation, pursuant to Section 1622 of the Vehicle and Traffic Law, to establish a lower maximum speed of 45 milers per hours at which vehicles may proceed on Hammond Road, a Town highway, between Cain Road and Southwestern Road, pursuant to requests from residents and travelers on that road.

A roll call vote resulted as follows:

Supervisor DeCarlo	Aye
Councilwoman Ross	Aye
Councilman Clark	Aye
Councilman Muffoletto	Aye
Councilwoman Marien	Aye

Resolution adopted

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Supervisor DeCarlo motioned, and Councilman Clark seconded to adopt the following resolution,

RESOLVED, that the Town Board of the Town of Brant does hereby request the New York State Department of Transportation, pursuant to Section 1622 of the Vehicle and Traffic Law, to establish a lower maximum speed of 45 milers per hours at which vehicles may proceed on Hard Pan Road, a County highway, between Brant-Farnham Road and Evans T/L, pursuant to requests from residents and travelers on that road.

A roll call vote resulted as follows:

Supervisor DeCarlo		Aye
Councilman Clark	Aye	
Councilman Muffoletto		Aye
Councilwoman Marien		Aye
Councilwoman Ross		Aye

Resolution adopted

Supervisor DeCarlo motioned, and Councilman Muffoletto seconded to adopt the following resolution,

RESOLVED, that the Town Board of the Town of Brant does hereby request the New York State Department of Transportation, pursuant to Section 1622 of the Vehicle and Traffic Law, to establish a lower maximum speed of 45 milers per hours at which vehicles may proceed on Lotus Point Road, a County highway, between NY 5 and Lakeshore Road, pursuant to requests from residents and travelers on that road.

A roll call vote resulted as follows:

Supervisor DeCarlo		Aye
Councilman Muffoletto		Aye
Councilman Clark	Aye	
Councilwoman Marien		Aye
Councilwoman Ross		Aye

Resolution adopted

Supervisor DeCarlo motioned, and Councilman Muffoletto seconded to adopt the following resolution,

RESOLVED, that the Town Board of the Town of Brant does hereby request the New York State Department of Transportation, pursuant to Section 1622 of the Vehicle and Traffic Law, to establish a lower maximum speed of 45 milers per hours at which vehicles may proceed on Versailles Plank Road, a Town highway, between Brant-North Collins Road and Reservation T/L, pursuant to requests from residents and travelers on that road.

A roll call vote resulted as follows:

Supervisor DeCarlo		Aye
Councilman Muffoletto		Aye
Councilman Clark		Aye
Councilwoman Marien		Aye
Councilwoman Ross		Aye

Resolution adopted

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Supervisor DeCarlo motioned, and Councilwoman Ross seconded to adopt the following resolution,

RESOLVED, that the Town Board of the Town of Brant does hereby request the New York State Department of Transportation, pursuant to Section 1622 of the Vehicle and Traffic Law, to establish a lower maximum speed of 45 miles per hour at which vehicles may proceed on Versailles Plank Road, a County highway, between NY 249 and Evans T/L, pursuant to requests from residents and travelers on that road.

A roll call vote resulted as follows:

Supervisor DeCarlo	Aye
Councilwoman Ross	Aye
Councilman Clark	Aye
Councilman Muffoletto	Aye
Councilwoman Marien	Aye

Resolution adopted

At 7:30 PM, Supervisor DeCarlo motioned to open the public hearing for proposed Local Law #1-2019, seconded by Councilman Muffoletto. 5 ayes, 0 nays. MOTION CARRIED.

The Town Clerk read the legal notice:

**LEGAL NOTICE
TOWN OF BRANT, NEW YORK
NOTICE OF PUBLIC HEARING**

Pursuant to resolution of the Town Board of the Town of Brant, New York, notice is hereby given that a public hearing will be held by the Brant Town Board in the Brant Town Hall, 1272 Brant North Collins Road, Brant, New York on the 12th day of February, 2019 at 7:30 PM local time for the purpose of considering Proposed Local Law #1-2019 which, if approved, would impose a 3 month moratorium on short-term rentals of residential properties located in Residential Zoning Districts in the Town of Brant.

Copies of the proposed local law are available for review in the office of the Town Clerk. All interested parties will be given an opportunity to be heard.

Dated: January 8, 2019

***Barbara Daniel
Brant Town Clerk***

Supervisor DeCarlo noted that because everyone who submitted letters regarding the proposed local law were against the passing of a moratorium banning short term rentals within the Town of Brant, the Town Board will probably not pass the law tonight.

The floor was then open for public comments:

SUSAN HOMES: Stated she is open to reasonable requirements regarding short-term rentals but against the moratorium stating she rents her property during spring, summer and fall. She is listed with AirBnD.

JOHN SILNER: Wide Beach home owner stated his neighbors relatives rent his house and he is against the moratorium. Councilman Muffoletto explained the moratorium was considered as a way to give the Town Board time to review the current code.

JAMES OSTROWSKI, ATTY: Presented briefly addressed the Town Board against the moratorium, and presented the following letter :

"I am James Ostrowski, an attorney retained by property owners in Brant to defend owners rights with respect to short-term rentals. I have researched the zoning laws and relevant case law and concluded that the Town of Brant does not clearly ban short-term rentals and that being the case, the courts have concluded that no special use permit is required for these rentals. The leading case is Matter of Fruchter v. Zoning Boar dof Appeals of the Town of Hurley, Appellate Division, Third Department, 2015. The court stated that since zoning restrictions are in derogation of the common law, they are strictly construed against the regulating municipality.

With respect to any proposed changes in the law, these proposals are a solution in the search of a problem. There have been only a few complaints about short-term rentals and those by people who have not availed themselves of the many options for dealing with unruly, noisy or disorderly renters by calling the police or the Town. The Town has a detailed noise ordinance and the Penal Law has provisions concerning trespass, disorderly conduct and harassment. Since there are already these and other laws on the books protecting property owners, and there have been so few complaints, it makes no sense to pass a complicated new law that is likely to be quickly challenged in the courts anyway. In this regard, I note that the proposed local law would appear to ban immediate family members of the "record owner" from renting a property and that the one month cut-off is arbitrary and violative of equal protection of the laws.

In the absence of any real problem, it is clear that the economic benefits of short-term rentals greatly outweigh the costs. Short-term rentals can increase property values and provide a source of revenue to pay mortgages and property taxes so that the stability of the community is maintained. They also bring in visitors who will patronize the Town's businesses and yet again boost tax payments that benefit the Town directly and indirectly. For these reasons, I urge you to oppose any new laws in this area."

PAUL CESANA, 4 LOTUS BAY ESTATE DRIVE: Expressed the main points of a letter he submitted to the Town Board. The key comments were as follows:

- Their property taxes amount to approximately \$15,000 per year and are no longer offset by the new limit on the amount you can deduct off the Federal income tax.
- Police haven't been called when issues happened, therefore he felt the issues were minor
- Moratorium is unwarranted in his opinion because there is no imminent danger to the public
- Reminded the Town Board that the Planning Board had reviewed short-term rentals and ruled that the Town should not change the laws for short-term rentals as it would not be in the interest of the community.
-

TISH BRADY, 4 LOTUS BAY ESTATE DRIVE: Asked the Supervisor if he received an email from Dennis and Toby Kane. Supervisor responded that he had received the email. He added that all letters received will be part of the Town Record. Tish Brady then continued to explain that people that are renting the homes have already booked the rentals months ago. She reminded the Board that Brant has over two thousand residents and that 4 or 5 are complaining about short-term rentals. She noted that the short-term renters patronize local business.

DEBRA RITZ, RESIDING ON MILEBLOCK ROAD: Addressed the Town Board about what she would be required to do in order to open an auto mechanic shop, or other business at her residence. She added that AirBnB is a business. She

spoke of her recent use of an AirBnB while on vacation, and was charged an occupancy tax, among other fees. She advised the Board to address short-term rentals in the Town Code so questions on the legality don't continue to arise. She then advised the Board that if they are not going to adopt the moratorium, they should enforce the current code until it has been modified.

ATTORNEY LETTERS TO BE READ ALOUD PER TOWN ATTORNEY WILLIAM TRASK: At the conclusion of public comment, Town Attorney Trask instructed Supervisor DeCarlo to read aloud two Attorney letters regarding the proposed local law. He noted that the attorneys would like the letters to be part of the public record. Supervisor DeCarlo then read a letter from Attorney Thomas Farley and Attorney David Weir of Amherst.

Supervisor DeCarlo then read the first letter from Attorney Thomas Farley:

Re: February 12, 2019 meeting of Brant Town Board

Dear Mr. Trask:

It is my understanding that the February 12, 2019 meeting of the Brant Town Board will have an item on the agenda entitled "Proposed Local Law 1 of 2019". I represent some clients who are opposed to this proposal. Unfortunately, neither they, nor I will be able to attend. I have court appearances which will preclude my appearance.

However, I wish to make it known that we strenuously object to this new law. Even though it is cast as a temporary moratorium, this law is contrary to what has been going on in the Town of Brant, as with many lakeside communities, for decades. That is the Town of Brant has a longstanding tradition and practice of numerous property owners utilizing their properties for seasonal rentals. Many a family has rented a home or cottage for a week or a weekend to be near the beach and the lake in town. This is not new. The only thing that may be different is the means by which people may be made aware of these opportunities. That hardly seems to be a justification to prohibit the renting of these properties for even a temporary period. This is the time of year when vacationers and property owners alike are making plans for the upcoming season. The proposed action by the board will have a negative impact upon, not just my clients, but, I am certain, many other property owners.

Should this law take effect, or if my clients are deprived of a fair use of their property, they are quite willing and prepared to protect their rights and the use of their property by any and all lawful means. They view this as a significant deprivation of their rights, and will seek legal redress as it comes to pass. We do not wish to pursue an adversarial course, and hope that we are not left with that option.

Thank you for your consideration

*Sincerely,
Thomas C. Farley, Jr.*

He then read the letter from Attorney David Weir:

To the Town Board of Brant , Supervisor Mark DeCarlo and Mr. Trask -

I am an attorney in the Buffalo area and represent a group of Brant taxpayers that informed me a hearing is being held on February 12, 2019 to discuss a "Proposed Local Law 1 of 2019".

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My clients have lived in the Town for decades and they, as well as I, are concerned that there is a moratorium up for discussion, let alone a potential law of which I'm unclear of the legality. Unfortunately, because of the short term notice neither them, nor I, will be able to attend. As such, I ask that this letter be read by the Town Council, William Trask or Town Supervisor Mark DeCarlo or a Board member to ensure that their fellow Brant residents are heard during the Town hearing on February 12th, 2019.

That said, I wish to make it known that we 100% object to this moratorium and potential of a law.

The Town of Brant and surrounding communities have been destinations for families on summer vacations for years and years. Taxpayers in the Town of Brant have had a tradition of offering their properties for short vacation stays and long vacation stays to people who want to share in the beauty of the Town they call home. Property owners do this for various reasons, with offsetting their property taxes being one of the most salient. The history and tradition in many water oriented communities in New York State; Evans on the Lake, Lake Chautauqua, the Finger Lakes, (to name a few) is to have vacation rentals. This benefits the community by creating awareness of the Town of Brant and brings new customers to the local businesses and supports many of the jobs in the area, especially seasonal based ones.

This is not new and from our perspective overreaching on the Town's behalf to even entertain a moratorium for something that has been a stall worth of The Town of Brant and surrounding Towns for decades. It is unfathomable that the elected Town Board would even entertain such prohibition against its own taxpaying citizens and their fair use of their personal property.

My clients view this as a significant lapse in reason by the Board and its counsel, and will aggressively pursue the Town for any and all negative economic outcomes they weather that come from the moratorium or the law. My clients, Brant taxpayers nor I wish to pursue anything that would negatively impact the Town or the Board but will be forced to do so if a moratorium is enacted that prohibit a long standing tradition in the Town.

Brant is a place that has had vacation rentals for decades, I along with my clients ask you to support that continued tradition and celebrate it by abolishing any thought of a moratorium or law by voting NO to the moratorium.

Sincerely

David Weir Esq.

At 7:55 pm, Supervisor DeCarlo motioned to close the public hearing on proposed Local Law #1 -2019, and Councilman Clark seconded the motion. 5 ayes, 0 nays. MOTION CARRIED.

[CLERK'S NOTE: A copy of each letter received regarding this public hearing will be attached to these minutes as an addendum]

NEW BUSINESS

DISCUSS CHANGING BOARD MEETING DAY OF THE WEEK TO SECONDED THURSDAY OF EACH MONTH: Supervisor DeCarlo announced the Town Board is considering changing the monthly Town Board meeting from the seconded Tuesday of each month, to the second Thursday of each month. Upon discussion, it was discovered that Brant Court has use of the Board room on the 2nd and 3rd Thursdays of each month. Supervisor DeCarlo tabled this item for further consideration.

APPOINTMENT OF NEW PATROLMAN: Councilman Clark read a letter from Police Chief Donald Hepkins requesting the appointment of Ashley Kurcuz as part-time patrol officer. The new officer will attend training, during which she will

Minutes of the Regular Brant Town Board Meeting held February 12, 2019

work at no cost to the Town. Upon completion of training, she shall receive a pay rate of \$16.00 per hour. After her six month probationary period, her rate of pay shall increase by 25 cents per hour. Councilman Clark motioned to approve the appointment, and was seconded by Supervisor DeCarlo. 5 ayes, 0 nays. MOTION CARRIED.

Supervisor DeCarlo then announced that an executive session will be held at the end of the meeting to discuss personnel issues, and no action will be taken following the session.

Correspondence:

- Sales Tax revenue is down 4.37% below the corresponding payment in 2018, and YTD payment is up 4.41%

TOWN BOARD REPORTS:

No reports were presented

Supervisor DeCarlo then presented **Abstract 2 of 2019**

Abstract 2 of 2019

***Prepaid and unpaid as of 2/12/19 Total Claims \$73,337.47**

Gen Fund Town wide Vouchers Totaling: **\$38,932.95**

Gen Fund – Part Town Voucher Totaling: **\$16,762.68**

Highway T.W. Vouchers Totaling: **15,549.82**

Highway P.T. Vouchers, Totaling: **\$145.77**

Fire Protection: Vouchers: Totaling: **\$0**

Street Lighting: Voucher Totaling: **\$2,986.05**

H Capital Projects: Vouchers Totaling: **\$0**

Lotus Bay Sewer Dist. 1: Vouchers: **\$0**

Brant Farnham Sewer Dist 2: Vouchers Totaling: **\$**

Brant Water Dist 1: Voucher: Totaling **\$**

PAYROLL (3 pay periods):

General Town Wide Payroll 12/23/18 – TO 02/02/19 Totaling **\$73,197.79**

General Part Town Payroll 12/23/18 – TO 02/02/19 Totaling: **\$1038.28**

Highway Payroll TW 12/23/18 – TO 02/02/19 Totaling: **\$20,403.08**

Highway Payroll PT 12/23/18 – TO 02/02/19 Totaling: **\$0**

Supervisor DeCarlo motioned to approve Abstract 2 of 2019, seconded by Councilwoman Marien. A roll-call vote was taken: Supervisor DeCarlo-aye, Councilwoman Marien-aye, Councilman Clark-aye, Councilwoman Muffoletto-aye, Councilwoman Ross-aye. 5 ayes, 0 nays. MOTION CARRIED.

RECOGNIZED PRIVILEGE OF THE FLOOR:

Patty Friend suggested the Town Board look at the type of lighting produced by the proposed new LED streetlights. She noted the light at the end of Ellis Road, stating it does not produce the nice glow and doesn't seem to light the road well.

Minutes of the Regular Brant Town Board Meeting held February 12, 2019

Next regular Town Board meeting will be March 12, 2019 at 7:00 PM.

At 8:08 pm, Supervisor DeCarlo motioned to enter executive session to discuss personnel issues. No action will be taken at the end of the session. Councilwoman Ross seconded the motion to enter executive session. 5 ayes, 0 nays.

MOTION CARRIED.

At 8:55 PM, Supervisor DeCarlo motioned to close the executive session and adjourn the meeting, and seconded by Councilwoman Ross. 5 ayes, 0 nays. **MOTION CARRIED.**

Respectfully submitted by,



Barbara Daniel
Brant Town Clerk

SNYDER LAW OFFICE

Attorneys and Counselors at Law

3976 Seneca Street
West Seneca, New York 14224
(716) 675-1066
FAX (716) 674-4772

RECEIVED

◆ 07 FEB 2019 ◆

BRANT TOWN CLERK

EDWARD J. SNYDER

THOMAS A. NYITRAI, Of Counsel

ADAM S. MARKEL, Of Counsel

LEGAL ASSISTANTS

DEBRA A. RITZ

DENISE A. GATES

February 6th, 2019

Town of Brant
Attn: Barbara Daniel
Brant Town Clerk
P.O. Box 228
Brant, NY 14027

Re: Lotus Bay Short-Term Rentals

Dear Ms. Daniel:

I am enclosing six (6) copies each of the letters from Dr. Rita Andaya, Mike and Penny Boismenu, Alden and Sandra Harwood and Marta King.

My clients are out-of-town and are unable to attend the public hearing scheduled for Tuesday, February 12th, 2019 relative to the proposed three (3) month moratorium on short-term rentals in the Town of Brant.

Please distribute copies of these letters to the town board members and to Town Attorney, William J. Trask, Sr.

Also, please be sure these letters are entered into the public record for the public hearing portion of the town board meeting on February 12th, 2019.

Very truly yours,

EDWARD J. SNYDER

EDWARD J. SNYDER
ATTORNEY AT LAW

EJS/dar
Enclosures

RECEIVED

◆ 07 FEB 2019 ◆

BRANT TOWN CLERK

Dr. Rita Andaya
2 Lotus Bay Estate Dr.
Irving, New York 14081

February 1, 2019

Town Board
Town of Brant
1272 Brant N. Collins Rd.
N. Collins, New York 14111

Re: Short Term Transient Rental Moratorium Public Meeting

Fifteen years ago I purchased my home at 2 Lotus Bay Estates Drive for its setting, privacy and tranquility. Based on my review of the Town of Brant Zoning Code these quality of life elements are guaranteed through the enforcement of the Code.

In the past 2 years my quality of life has been negatively impacted by the ongoing short term renting of properties in my neighborhood. Individuals, that I do not know, access their property across my 10 foot private easement and utilize my private beach without my permission. This added unwanted traffic increases my personal property risks and exposes me to the inherent liabilities associated with this encroachment across my personal property.

I understand that during last month's Town Board Meeting, the Board issued a resolution to consider establishing a moratorium on short term rentals. As a tax paying citizen I am opposed to this moratorium and insist that the Town of Brant enforce the current Code and cease and desist this ongoing Code violation. In addition I implore that the Board not consider modifying the Code to allow for short term rentals.

Thank you for your time and consideration in ensure that the integrity of our residential neighborhood is maintained and not negatively impacted by short term commercial operations.

Stop the **COMMERCIALIZATION** of our neighborhood and enforce the current Code.

Sincerely;



Dr. Rita Andaya

Mike & Penny Boismenu
3 Lotus Bay Estate Dr.
Irving, New York 14081

February 1, 2019

Town Board
Town of Brant
1272 Brant N. Collins Rd.
N. Collins, New York 14111

Re: Short Term Transient Rental Moratorium Public Meeting

As you are all fully aware we have been appealing to the Town Board over the past 2 years to address the ongoing code violation as associated with residents in the Town operating a commercial business in an R-2 Seasonal Residential District. These violations have resulted in the **COMMERCIALIZATION** of our code protected residential neighborhood in ways that are damaging to our citizens, our residents and our quality of life. During this period of inaction a number of residents have essentially converted their single family residence into a tourist home with plans to rent on a short term basis to as many people as they can put in there to extract as much income as they can. This is being done in the middle of a neighborhood that wasn't zoned for this kind of commercial operation and by its physical nature, as accessed by 10 foot wide private easements, is unable to safely accommodate this type of operation.

In April 2018 we formally petitioned the Town Board to put in place a moratorium on any current and future short term transient rentals. There was no action taken on this petition until the "Lotus Bay Coalition of Concerned Citizens" obtained, at great expense, legal representation to address this issue. While we are encouraged that the Town Board recognizes the seriousness of this issue and has scheduled a public meeting for February 12, 2019, we offer the following concerns:

1. The **OBLIGATION** of the Town Board is to act on behalf of all the citizens of the Town to promote the health, safety and general welfare of all its citizens. In the past 2 years there has been an ever increasing number of Short Term Transient Rentals in residential districts. The continuation of these Short Term Transient Rental commercial or business activities in the Town's residential districts has negatively impacted the health, safety and general welfare of the citizens in the impacted residential district.
2. Twenty four years ago when we were considering the purchase of our home at 3 Lotus Bay Estates Drive we were very concerned with the zoning of the property and the surrounding neighborhood. Exercising due diligence we reviewed the Town of Brant's Zoning Code and were assured that the Lotus Bay neighborhood was indeed zoned R-2 Seasonal Residential and therefore

protected from any commercialization operations. Based on this we made a significant financial decision and purchased our current home. The arbitrary inaction of the Town to enforce this code has negatively impacted the value of our most significant investment, our home.

3. It should be recognized that the intent of the public meeting is to inform all the citizens of the Town of the current issues as associated with non-compliant short term rental operations in the R-2 Residential District and not a popularity contest. The only issue is the adherence to the Code.
4. Recognizing that a large population of Lotus Bay residents occupy their homes on a somewhat seasonal basis and are likely to be out of town during the designated 3 month moratorium period, it is proposed that the moratorium be extended to 6 months. This will provide an opportunity for all the concerned citizens to participate in the debate without incurring additional travel expense during the winter months.
5. What process is envisioned that will be utilized during this moratorium? What are the goals of the to-be-determined organization that will be developing a resolution?
6. To assure a fair and equitable decision analysis of the Short Term Rental issue, all Town of Brant officials including members of the Planning, Zoning and Town Board that have a current financial interests in either a short or long term rental operation should be recused from the associated debate, evaluations and decisions. These conditions, as detailed in Brant Local Law 3, should be strictly followed.

Thank you for your time and consideration and let us all work together to ensure that the integrity of our residential neighborhood is maintained and not corrupted with **SPOT ZONED**, commercial operations.

Stop the **COMMERCIALIZATION** of our neighborhood and enforce the Code.

Sincerely;



Mike Boismenu



Penny Boismenu

Alden and Sandra Harwood
57 Lotus Bay Rd.

Marta J. King
69 Lotus By Rd.

Irving NY 14081

February 4, 2019

To the Members of the Brant Town Council:

The Boismenus' letters to you have clearly stated several reasons why the Town Code Enforcement Officer and the Town Board should quickly bring the matter of short-term rentals to a close by merely enforcing the R-2 zoning under which Lotus Bay Private Road community falls. We are fully in agreement with that position, and quite frankly are baffled as to your reluctance to just do that.

Without belaboring the points they raise, we wish to discuss some quality-of-life issues that we believe need to be considered.

It is of utmost importance to understand the nature of our community: There are 28 properties whose sole access to the public road is via the 1100-foot-long Lotus Bay Private Road. It was established in 1905 by the Lotus Point Improvement Company, Inc., a corporation formed by a small group of investors headed by Dr. John Squire, and was to be the driveway for the twenty lots that they laid out. It existed in that manner until Willard Genrich, a Buffalo developer, purchased the adjacent Wilhelm property to the south in the late 1960s, and subdivided its lakefront into four separate parcels. Through some questionable legal maneuvering, an access road attaching those parcels to the west end of Lotus Bay Road was put in and designated as their sole access to public roadways. This was memorialized in a rancorous court fight. Lotus Bay Road has its own deed, and is cooperatively owned and maintained by the owners of the twenty original lots (two of which have been subdivided to accommodate another home). Almost as an afterthought, the owners of the for newly-attached lots were directed to contribute to its maintenance. [Subdivision and usage of additional lots in the estate property accounts for the apparent numerical difference in lot count.]

For the first 50 years, the properties were all summer-use only, and were entirely owner-occupied. Since then, there has been an increase in year-round usage. At the present, about 17 of the lots are, and all but two can be, used year-round.

This little enclave is far different from the rest of Brant. Our lots average a half-acre with 80 to 100-foot frontage on the road. We have a tiny piece of beach: 30 feet wide to wherever the water is, which sometimes is lapping the steep bluff. Importantly, we all know each other, their schedules, their extended families, and their habits. We help one another. We party together. And we pay more per acre in taxes than any other residential properties in Brant.

On the road proper, that which is owned by the Lotus Bay Private Road Association, there are two year-round homes that are available for one-night rentals through Airbnb, on the Estate extension, the largest home (owned by a couple active in Brant politics) is or has been available, or so advertised also in Airbnb, for large events such as weddings and family reunions. The two on the road are among the most-recently purchased, and may well have been so with the intent of renting short-term. These homes are advertised claiming full rights to our tiny beach.

Many in our community regard this as an outright intrusion on our privacy. While many of the renters are quiet and respectful, we have endured instances of wholesale takeover of our beach (and overflowing to adjacent beaches, arousing displeasure from those owners), the former pump-house and

its rooftop overlook and its stairs, raucous partying going on until the wee hours, and their traffic.

Signs we erect at the head of our private drive are clear: we do not welcome uninvited traffic. They do not keep everyone one out, but they help. We have the only access to the waters of Lake Erie from Lotus Point to Farnham Point that is not obviously private, so we do get many parties that come park at the end of our drive in an attempt to use our beach. Many of us keep our "beachware" and watercraft in the unsecured former pump room at the foot of our stairs or on the beach. Our experience has been that uninvited guests (and some invited ones) have helped themselves to these things, used them for their recreation and have left them at water's edge to be washed away overnight.

Traffic on our common driveway is our most vexing problem. It is of compacted dirt-and-stone construction, and is very dusty during the summer. No one likes the dust, of course, but no one wants it paved, either, mainly because of the expense, but also because it would encourage speeding. The driveway is the only way to get to the beach, and golf carts or walking is the only way to get there. Kids and adults pedal their bicycles and tricycles up and down it all day long. The thought of creating a surface that could comfortably accommodate speeds of 50 mph is downright scary. That is not to say that we never see that kind of driving on our driveway, but there is no enthusiasm for making it any easier. We have posted our speed limit at 5 MPH with the hope that people will keep their speed under 15. Almost all the residents of the road do use it sedately. Almost all guests and others unfamiliar with the community cruise in at 30 or so, until they wake up at about the third of our six speed bumps. Many of us have children and grandchildren staying with us for long periods there, and the traffic is a major concern for their safety.

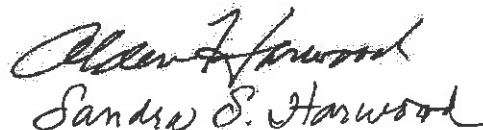
The folks with the big party house on the Estate road never have to endure all of this, as they are the cause of it, and they are oblivious to how everyone else lives. The owners of the two Airbnb's along our shared driveway are not present when their guests take over their homes, overrun the beach and drive recklessly on our dusty path to the beach, so they do not see for themselves the distress they impose on others in the community. The owners care not about, nor can they control, the velocity with which their customers drive on the straightaway portion of our driveway raising dust and scattering pedestrians as they careen along oblivious to what they're doing. The owners' absence prevents them from "enjoying" their customers' late night fireworks extravaganzas that scare the bejeezus out of our poor dogs and keep others' children shuddering in their beds. Yes, the police *might* respond, but the Brant police don't often work that late, and Evans doesn't like to be pestered by neighborhood squabbles in another town, ECSD is often too busy, and besides, we would be having to wait for whoever to come when we would prefer to be asleep. At that, all the cops do is to tell the revelers to knock it off. But the damage has been done.

We hope you can see that the insertion of new daily crop of Airbnb customers looking for relief from travel, or to a cheap vacation causes many of us in our quiet haven here to consider it an abuse of our solitude and our enjoyment of that which we have built over many years.

The shame of it is that Brant already has in place the mechanism to put and end to it: its called zoning. It's there to protect communities such as ours from just this sort of intrusion of commercialization upon peaceful residents' rightful enjoyment of their properties. Yet the Town Board is considering a "moratorium" on short-term rentals. The word suggests that this practice has been going on legally and is being asked to take a few months off. "For what?" we ask, a new law that will legitimize short-term rentals in any residential unit in Brant, regardless how it's zoned? This is looking more and more like Brant is preparing to throw us under its bus.

Sincerely,

Marta J King


Sandra S. Harwood

To: Brant Supervisor Mark DeCarlo

January 31, 2019

Testimony to Town of Brant Public Hearing

Although I do plan to provide this testimony personally at the Town Board Public Hearing scheduled for February 12, 2019, I am forwarding this written Testimony to the Town Board, and I am requesting that it be included in the public record, should I not be able at the last minute to be present.

I appreciate the opportunity to provide my reaction and testimony pertaining to the Town Board deliberation on the need or interest to impose a Moratorium on short Term Rentals in the Town's Residential Zoning Districts, in order to allow time for adoption of appropriate regulations pertaining to such land usage.

I have been a resident of the Town of Brant for over 30 years. I have been a Law abiding citizen. I have punctually paid our Real Estate Taxes every year, which amount to almost \$15,000 annually, a very significant amount, which is now impacting one's personal budget even further, given the recent elimination of the federal tax offset of local property taxes, caused by the last federal tax changes. Nevertheless I have always appreciated the various services provided by our Town, such as the Police protection, the Snow Removal, the refuse pick up and disposal, and other services such as those provided in support of the Seniors and the Youth. I have also volunteered now for a number of years in support of the Town governance by participating in the training and deliberation of the Zoning Board of Appeals, as an opportunity to offer my personal contributions and civic service to our community.

We and others in my neighborhood have also utilized in the past our residences - and for that matter reciprocally many other residences in the US and around the world when we had the opportunity to travel - for short term rentals, as a way of sharing, in the new emerging and expanding "shared economy" experience, our economic resources with other interested parties.

We have continued this opportunity for many years without EVER any untoward incident or concern, with the only exception being our neighbors who have at times attempted to harass and intimidate our visitors, including family and friends. Unfortunately, these individuals have a history and a well founded reputation for intolerance and for raising conflicts whenever their opinions or personal expectations are not adequately met.

The January 8, 2019 Resolution approved by the Brant Town Board seeks to elicit reactions and input on the imposition of a 3 month moratorium on short term rentals in Residential Zoning Districts in order to allow time for adoption of appropriate regulations pertaining to such land usage.

My clear and unequivocal reaction and response to this public hearing solicitation is that there absolutely exist no need or valid purpose for such a moratorium because there is no imminent or persistent danger or community wide concern pertaining to the public health, safety, or general welfare of our community by the continued utilization of short term rentals.

Furthermore, the accompanying purpose for allowing time for adoption of appropriate regulations pertaining to such land usage is also unnecessary and in fact contrary to this Town due process, which has already appropriately taken place through its Planning Board.

The Town of Brant Planning Board had already amply examined, by specific request from the Town Board, this very issue of considering the desirability of any pertinent regulation. The Town of Brant Planning Board clearly and categorically deemed the desirability of any pertinent regulation as being unnecessary, difficult and burdensome for the Town to enforce, and generally against the interest of our community at large. The Town of Brant Planning Board did consequently provide these findings and determination to the Brant Town Board.

It should also be noted that any new regulatory requirement would obviously apply not just to a street or a neighborhood, as it appears it is being insinuated by those few residents complaining of alleged interference by the occasional short term rentals, but rather it would naturally apply to all residents of Brant with the same or similar residential zoning code now and for future generations to come.

Any such restriction would severely interfere with the right of property owners to utilize and enjoy their residences and properties within the existing set of federal, state, and municipal laws and regulations. It would particularly place an undue financial burden on property owners who because of their proximity to the lakeshore are expected to pay significantly higher taxes than other Town residents, while being curtailed in their opportunity to maximize their personal property and resources as they deem appropriate and necessary, within the current set of laws and regulations.

The experience of a "shared economy" is clearly not a new phenomenon. It has always existed in our Town as in any other communities. Personal properties and residences have always been made available to and shared with family, friends, neighbors, and selected interested individuals by word of mouth, correspondence with friends and neighbors, newspapers Ads, or simply by a nice sign on a lawn.

The recent global trend using digital platforms have additionally provided additional safety and security by dramatically increasing the selection and vetting process of a prospective interested individual or family through the required submission of personal backgrounds and written reports and valuation of their past behaviors and conducts.

Finally, it seems to me that a small municipality such as Brant is far from being in any position to take on what has the potential to embroil our Town in multiple and expansive litigations for years to come, while other larger and more sophisticated municipalities have resolved to address this issue through a patient and deliberate process anchored, as per municipal and Town process, in the works and deliberations of its Town Planning Board.

In summary, I urge this Town Board not to be intimidated by the militant and persistent pressure from a small group of individuals known for their intolerance who are attempting to instigate conflict in our Town, and to reject the adoption of Article 12019 to impose a 3 month moratorium on short term rentals.

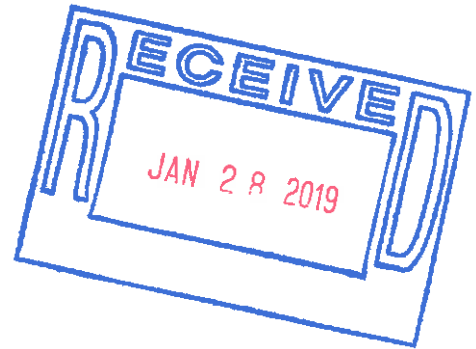
Again, thank you for the opportunity to offer my testimony on this important matter tonight.



Paul Cesana
4 Lotus Bay Estate Drive
Irving NY 14081

January 23, 2019

Supervisor Mark DeCarlo
1272 Brant-North Collins Rd.
P.O. Box 228
Brant, New York 14027



Dear Supervisor DeCarlo:

I am a full time resident of Brant. I understand that the Town Board motioned to approve a Public Hearing to be held on February 12, 2019 imposing a 3 month Moratorium on short term rentals throughout Brant. I will not be able to attend the Public Hearing and want my opinion to be made a matter of public record. I am opposed to a Moratorium for the following reasons:

1. Brant has more than adequate provisions in the Town Code that protect health and safety of residents. I served on the Planning Board for a number of years and not only know the Code but have worked to support it.
2. This Moratorium infringes on the rights of private property owners to use their property with all of the rights that come with property ownership.
3. This Moratorium singles out property owners who have chosen to rent their homes on a short term basis. There is no mention of Brant property owners who rent out their homes or apartments on a regular basis, and landowners who rent their property to farmers or hunters, which I also do not support.
4. This Moratorium interferes with the right of a property owners to earn money through rental income. It takes away the economic benefits of home ownership. Again, this restriction does not apply to all property owners who rent house, apartments or land, which I also do not support.
5. This Moratorium is in reaction to 4 residents in the Town who appear again and again at Town Board meetings stating their personal objections to the rights of Brant property owners to rent their property on a short term basis. It is wrong that the Board listens to 4 people and acts on their wishes.
6. This Moratorium ignores the fact that short term rentals have a very long history in our town from migrant workers renting during planting and

harvesting seasons to help our farmers, to lake property owners renting their homes to families to be by the lake and other residents who have rented to construction and utility workers who, as far back as I can remember, all of whom have rented their homes on a weekly, bi-monthly or month long basis. There is nothing new about this.

7. The Planning Board has looked into short term rentals and has found that no codes have been broken.

I am opposed to this Moratorium. I am concerned about further attempts by the Town Board to limit freedoms and benefits that come along with private property ownership.

Sincerely,



Joseph Gardyjan
505 Cain Road
Angola, New York 14006

Copies to: Donald Clark, Councilman; Donna Marien, Councilwoman; Michael Muffoletto, Councilman, Janice Ross, Councilwoman, William Trask Sr. Esq., Town Attorney & Gary Brecker, Code Enforcement Officer

January 31, 2019



Supervisor Mark DeCarlo
Town of Brant
P.O. Box 228
Brant, New York 14027

RE: Proposed Local Law #1-2019

Dear Supervisor DeCarlo:

Mark

Please know that I appreciate the devotion of your time and energy into the governance of our Town. I cannot imagine it to be an easy task. My husband and I have lived here for 30 years. What brought us here keeps us here; a rural-like feel, beautiful country side, excellent programs spanning offerings for children through seniors, a responsive Town Clerks office, terrific road and refuse services and our great Police Department.

Moratoriums are typically utilized to stop development until a final plan or regulations are adopted. They are used to prevent the rush to development, prevent inefficient growth, address a new kind of land use, prevent ill-conceived regulations that would disadvantage property owners and prevent construction that might be inconsistent with the Town's long-range planning.

Not one of these usages are related to the enactment of Local Law # 1-2019. In particular, there is no "new kind of land use", as short-term rentals hold a 40 plus years place in the Brant community.

Moratoriums have at the base a valid public purpose which clearly justifies the moratorium. **This is a very private purpose expressed repeatedly by 5 Town residents documented in Brant Town Board Meeting Minutes.**

Moratoriums are expected to be related to a situation where the burden imposed by a moratorium is being shared substantially by the residents at large.

The burden imposed by such a moratorium is not shared by Town residents at large. Current estimate of our population in Brant is 2065 residents. The only clear number of short term rentals available in Brant can be found on the short-term rental platforms. Brant short term rental opportunities continue to be known through word of mouth, past rental experience and personal referrals and the standard lawn sign.

This proposed moratorium affects private property rights and does not bear any relation to the public health, safety, morals, or general welfare. This proposed action of the Town

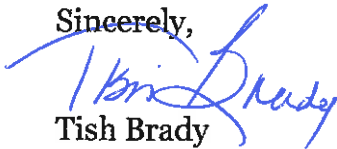
is akin to "taking" the property of private citizens and depriving residents of all use of their property.

Is this what we want our Town to be known for and responsible for? I don't think that this is what you intended or wanted.

The Town Board is accountable to all Brant residents. As councilmembers your official time needs to be devoted to supervision of town departments, fiscal development and oversight and the formulation of policies required to ensure the health, safety and welfare of residents, not focused and be unduly influenced by meritless complaints of the few coupled with litigation threats by the same.

As always, my gratitude for all that you do.

Sincerely,



Tish Brady
4 Lotus Bay Estates Drive
Irving, New York 14081

Cc: Councilwoman Donna Marien, Councilwoman Janice Ross, Councilman Michael Muffoletto, Councilman Donald Clark, William Trask, Esq., Gary Brecker, Code Enforcement Officer

January 29, 2019

Mark DeCarlo
Brant Town Supervisor
1272 Brant-North Collins Rd.
P.O. Box 228
Brant, New York 14027



Dear Supervisor DeCarlo:

I learned that the Town Board granted a motion to approve a Public Hearing to be held on February 12, 2019 imposing a 3 month Moratorium on short term rentals throughout Brant. Given my schedule, I will not be able to attend the Public Hearing and this letter serves as my testimony. I request that this letter be read at the Public Hearing and become a matter of public record. I strongly oppose this Moratorium for number of reasons.

Public Hearings are generally used for in instances where there is a valid public purpose and are used to address matters of community concern. This is not a matter that reaches this proportion. We have had short term rentals in Brant for the 85 years that my family has lived here. Not only did temporary farm workers use short term rentals but home owners who have lake access always did. There have also been instances where utility and construction workers have required use of short term rentals because of the required length of work to be done.

Short term rentals do not violate any section of the Town of Brant Code.

While the Moratorium applies to all Brant residential districts clearly it is aimed at property owners in the lake area. It is not a large matter impacting the safety, health and welfare of the entire Brant community. There is no dangerous situation here. Very clearly it is discriminatory. Would you have considered doing this to the farmers?

In my time as a Town Board member, complaints made by a few residents never resulted in Town regulations for all. There will always be individuals who take center stage in Town meetings unfortunately usually to the detriment of residents desiring to attend meetings and who as a result drop off from attending.

The proposed Moratorium stops property owners from renting their homes for 3 months. I cannot understand how the Town Board could think that they had

the right to cut off any of our residents' income for 3 months. This of course would be especially hard on our retired residents on fixed incomes. The obvious reason why residents rent their homes is for income to meet every day bills like taxes, repairs and upkeep of their homes and utilities.

I am strongly opposed to this Moratorium which I believe is an overreaction on the part of the Town Board all because of a few town residents. You were elected to represent the entire Town, and this is not the way to represent the entire Town.

Sincerely,

A handwritten signature in cursive script that reads "Roseann Turner". The signature is written in dark ink and is positioned below the word "Sincerely,".

Roseann Turner
10916 Brant Reservation Road
Irving, New York 14081

CC: Town Council Clark, Marien, Muffoletto, Ross; Town Attorney Trask, & Brecker, COE

Claire Thomas
72 Lotus Bay Road
Irving, NY 14081

Town Supervisor
Mark DeCarlo
1272 Brant North Collins Road
Irving, NY 14081

Mr. DeCarlo,

I'm writing to reiterate my concern about a request to the Town of Brant to restrict homeowners' use of their residential properties.

As I previously wrote, my family's primary residence is at 72 Lotus Bay Road, although we are currently serving overseas as Foreign Service Officers with the U.S. Department of State. We purchased the home several years ago at the encouragement of friends and neighbors living on Lotus Bay who told us it would be the ideal home base for a family in our profession. Because of the proximity to the beach and the area's longtime history of seasonal occupation and rentals, we understood that we could use the home whenever we are not serving overseas, and share it with friends, neighbors, and occasional short-term renters while we are not there to look after it. One of our neighbors, a long-time resident, encouraged us to buy the property by noting that our house, in particular, had been used regularly as a seasonal home and rental property by previous owners throughout the last 30 years.

Because this arrangement has long been common for lake-adjacent homes in Brant, including on our street, we are confused about why the use of our home in particular is now being questioned. Our home is a single-family unit that adheres to all existing Town of Brant zoning regulations, and there is no language prohibiting families from sharing or renting their homes, for any duration of time. The assertion that there is an "ever-increasing number" of short-term rentals is plainly false. Our house has been used for this purpose for decades, long before we became its owners. The proposition that three houses hosting visitors and renting occasionally to guests constitutes a recent, viral spread is a mischaracterization of the nature of our community.

Attempting to police the occupancy of private residences would be impossible without the town outlining the terms by which homeowners can and cannot rent and share their properties. We are selective and limited in how we share our home, out of respect for our neighbors and also to protect our home and belongings. The majority of our guests are relatives, friends, and personal contacts. Could I no longer let my sister's family spend a week at our house this summer? Should I tell my neighbors down the road that their relatives can no longer stay at our place during their upcoming family reunion? We are unable to live at our home most of the year, and being forced to leave it vacant would be a safety and upkeep concern that would most likely require us to sell our home.

Candidly, it is my impression that we have been swept into a longtime interpersonal dispute between several other families in order to build an argument. My husband and I want a mutually agreeable solution that can diffuse the conflict, including clarified regulations about private home use from the Town of Brant. We bought the house as a respite from stress, so we ask you to help provide a resolution that can assuage concerns and restore tranquility to Lotus Bay.

We hope the Town of Brant will be sensible and judicious as it considers this issue. Please don't hesitate to contact me if you have any questions or would like to discuss anything further. You can reach me by e-mail or at (716) 770-5923.

Thank you for your time and consideration.

Regards,

Claire Thomas

Dear Supervisor DeCarlo,

Since 2007, my husband Denny and I have been fortunate to own a home on Lotus Bay Road in the Town of Brant. This coming summer, 2019, we will celebrate our twelfth summer at Lotus Bay. It has been a very happy experience for our entire family and friends. We are lucky to have wonderful neighbors and to have established many friendships.

We have a big, close family and, on occasion, we don't have enough room in our house for all our guests at the same time. And so, we have rented neighbors' houses for a week or two to house our "overflow" guests. Last summer, we rented Tish Brady's home for a week and Geoff and Claire Thomas's home for several weeks. That allowed our large family to all be together at Lotus Bay at the same time! We used the same vacation rental companies, VRBO and AirBNB, to arrange the rentals at Lotus Bay as we have used in many other places, including Colorado, Hawaii, San Diego and Turks and Caicos. Without exception, we have found these companies to be honest and reliable.

We are aware there are several of our Lotus Bay neighbors (we believe there are three) who have taken action to prevent the short term rental of properties in the Residential Zoning Districts in the Town of Brant and, specifically, on Lotus Bay Road. We understand a public hearing has been scheduled on February 12, 2019 in Brant Town Hall to discuss adoption of Article 12019 which would impose a 3 month moratorium on these short term rentals.

We vigorously and strongly disagree with ANY action taken by individuals and/or the Town of Brant to prevent rentals, short term or otherwise, of private residential property.

We trust our neighbors on Lotus Bay Road and fully support their right to rent their private property for whatever length of time (from a few days to years) and to whomever they wish.

We regret we are unable to attend the meeting on February 12, 2019 to discuss the moratorium. However, we trust our wishes/input on this matter, as stated in this email, are heard and you will enter them into the public record.

Thank you,
Toby and Denny Kane