

**TOWN COUNCIL MEETING MACKINNON COUNCIL CHAMBER  
MONDAY – MARCH 9, 2009 – 7:00 PM**

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A meeting of the Southbridge Council was held on Monday March 9, 2009, in the Robert MacKinnon Council Chambers.

**Chairwoman Nikolla called the meeting to order at 7:20pm.**

- 1. Pledge of Allegiance:** Chairwoman Nikolla led the Council in the Pledge of Allegiance.
- 2. Roll Call:** Councilors present: **KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL, and VECCHIA.**
- 3. Consider and accept the minutes of the February 23, 2009 meeting:** A motion was made by Councilor King, seconded by Councilor Lazo to approve the minutes. **VOTE BY SHOW OF HANDS. Those in Favor: KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, VANDAL, and VECCHIA. ABSTAINED: REGIS**
- 4. Subcommittee Reports:**
  - (a) General Government:** Councilor King read the minutes for the meeting March 3, 2009. Agenda Item No 1 was corrected to state Mr. Langevin, rather than Councilor Lavgevin. No meeting scheduled.
  - (b) D.P.W.:** Councilor Vandal read the minutes for the meeting March 4, 2009. No meeting scheduled.
  - (c) Education and Human Services:** Councilor McDonald read the minutes for the meeting March 2, 2009. Two corrections were made: Agenda No 1 should read after vote by show of hands that three abstained. Agenda No 2 should read after vote by show of hands, three abstained. Next meeting is Thursday March 12, 2009 for the school committee meeting.
  - (d) Planning and Development:** Councilor Livengood had no minutes to report. No meeting scheduled.
  - (e) Protection of Persons and Property:** Councilor Lazo had no minutes to report. Meeting scheduled for March 11, 2009.
  - (f) Town Manager:** Councilor Regis had no minutes to report. No meeting scheduled.
- 5. Chairman's Announcements:** Chairwoman Nikolla wanted to remind the community that Jacob Edwards Library is celebrating Annual Women's History Month in March and hosting several programs.
- 6. Town Manager's Announcements:**
  - a. PIM, a company interested in locating their company on Barefoot Road called for an impromptu meeting for March 23, 2009 at a Town Council meeting. They specialize in turning trash into recycled items.
  - b. Mr. Clark reported on local fires in Southbridge. Mr. Clarke stated the recent fire on North Street resulted in removal of building in a timely fashion.

**7. Citizen's Forum:**

- a. James Sottile, 83 Pinedale Street was concerned about a security issue with the drop off box at the Town Hall. At 3:40pm Friday March 6, 2009, he dropped off his taxes and the side panel door was ajar.
- b. Larry McDonald, 40 Dennison Hill Road presented the Town a Certificate of Appreciation on behalf of the 1094 Marines Corp. for their involvement in the most recent Toys for Tots drive.

**8. WHEREAS, the Town Council supports amending the Southbridge Home Rule Charter so as to create an elected five-member Board of Health and, when such members are elected, terminate the terms of the current appointed board of Health;**

**NOW THEREFORE, the Town Council votes to amend the Southbridge Home Rule Charter as follows:**

1. **The Home Rule Charter is amended at Section 3-1-1 by striking the words “and (f) two part time members to the board of assessors” and replacing them with the words “(f) five members of a board of health; and (g) two part time members to the board of assessors.”;**
2. **The Home Rule Charter is further amended at Section 4-3-1 by striking the words “(a) a three member board of health,” with subsequent boards or commissions listed in said section re-lettered accordingly;**
3. **The Home Rule Charter is further amended in Chapter 3 by adding the Following section:**  
**Section 7.5 – Board of Health**  
**3-7.5-1:** A board of health of five members shall be elected for three year terms. The terms are to be staggered. At the first annual election following adoption of this section, two members shall be elected for three year terms, two members shall be elected for two year terms and one member shall be elected for a one year term, with all subsequent terms to be three years. After the first election under this section, all appointed terms of the board of health shall terminate upon the swearing in of new elected members.

This amendment shall take effect upon approval by a majority of the voters at the June 30, 2009 annual town election.

A motion was made be Councilor Vecchia and seconded by Councilor McDonald to amend the terminology of the word “annual” to be omitted. **VOTE BY ROLL CALL: THOSE IN FAVOR: LAZO, MCDONALD, VANDAL and VECCHIA. THOSE OPPOSED: KING, LIVENGOOD, LOGAN, NIKOLLA, and REGIS. MOTION FAILED.**

A motion was made by Councilor Lazo and seconded by Councilor King to allow Attorney Kristy Pecci to speak on this matter. **VOTE BY ROLL CALL. THOSE IN FAVOR: LAZO, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA. THOSE OPPOSED: KING and LIVENGOOD. MOTION PASSES.** Attorney Pecci commented that she is representing 300 citizens who appealed and 170 residents specifically on this issue. She will pursue a petition if a) charter does not change and b) Kopelman and Paige are not notified that a special election could take place after June 30, 2009.

Citizen George Chenier asked council to vote no to an elected Board of Health. Ann Beinema questioned amendment and how long before it returns to council. Attorney Brian Riley reported that according to State Law Chapter 43B, Sec 10, the amendment process is allowed with certain restrictions. In order to return to issue in 12 months, the fastest way is by allowing the question on the June 2009 ballot. Ms. Beinema commented that this Act to legislators should be voted on by the people. Councilor Vecchia supported her comment to give vote to citizens as well. Councilor Regis was in agreement that there are too many questions regarding the wording of the petition. She supports democracy and has seen the community fall apart when things are rushed. She will vote no and ask to wait until July 2009 to make decision based on clearer petition. She added it should go through the Charter Commission. Councilor Lazo clarified Southbridge has the right to have Board of Health on the ballot and will vote yes. Councilor King reported that citizens vote on council members to make tough decisions therefore he will vote no due to holes in the petition. Councilor Vandal will let voters decide and stay with democracy. Councilor McDonald wanted to trust citizens to vote at the ballot. Chairwoman Nikolla was not comfortable with the way petition is reading. She agreed with Councilor Regis that it should go to the Charter Commission and will vote no. Councilor Lazo questioned Attorney Riley if this was written by Kopelman and Paige and is it legal? Attorney Riley stated yes. A motion was made by Councilor Lazo and seconded by Councilor McDonald. **VOTE BY ROLL CALL. THOSE IN FAVOR: LAZO, LOGAN, MCDONALD, VANDAL and VECCHIA. THOSE OPPOSED: KING, LIVENGOOD, NIKOLLA and REGIS. As the vote needs 2/3 to pass, MOTION FAILS.**

- 9. Vote to confirm the Town Manager's appointment of Andrew Pelletier as Health Director for the Town of Southbridge for a three-year term to expire June 30, 2012.** Councilor Vecchia started the discussion off that he was not voting due to candidate's lack of experience and Town of Southbridge can't afford financial constraints when the average household earns \$38,000 per year. He reported this was a \$215, 667.00 expense for less than 15% of his time on the landfill project. Councilor Livengood commented that candidate is highly qualified with landfill experience. Andrew Pelletier will be a backfill position for a vacancy not newly created. He will support this vote and has experience with 3 deckers and Southbridge residents already. Town Manager Clark went through a competitive process with unanimous vote by the Board of Health. Added that this Council created the budget to support this position and it would be a step backwards not to move forward. Citizen George Chenier is a citizen member of the Education & Human Services Subcommittee and clarified discrepancies in salary for Andrew Pelletier based on what Councilor Vecchia mentioned. He claimed it was inflated by over \$130,000. He also stated that Mr. Pelletier has plans to spend more than 15% of his time at the landfill as Councilor Vecchia previously stated. He feels this candidate is well qualified. Citizen and Board of Health member Dr Tom O'Leary stated that the landfill is only one part of Board

of Health position. The Board of Health has multiple jobs that weren't brought forth and Mr. Pelletier is a highly qualified candidate. Citizen and Board of Health member Rene Tremblay reported Mr. Pelletier is an outstanding candidate and reviewed highlights of his resume. Councilor Livengood said candidate lives in close proximity to town and this is an asset as well. Councilor McDonald had a problem with the contract and salary range with raise implements in place, he believes candidate is well qualified but sub-committee didn't move to recommend Mr. Pelletier. Councilor Lazo said it overlaps some jobs and not happy with contract. He added that a \$13,000 raise from previous employment history, extensive vacation of four weeks in the first year, and built in raises, other areas will suffer. Rene Tremblay stated that the \$511,000 included salary and Casella is paying the salary. Town Manager Clark stated that the two salaries covered and supported by the Town of Southbridge are the Secretary and the Director. Mr. Clark supports candidate due to his exceptional qualifications and skill set to succeed. He further mentioned a few examples to include the oversight of over 50 sit down restaurants in Southbridge as part of this position. Councilor Livengood reiterated it was not a new position and with so many landfill complaints, why not have one person to address them to. Councilor Lazo was hoping to see more support from council on inflated salary. Councilor King was also concerned about the contract perimeters. Chairwoman Nikolla voiced her concern for lack of professionalism in the room and suggested a motion be made to move the question. A motion was made by Councilor King, seconded by Councilor Lazo to move the question. **VOTE BY ROLL CALL: THOSE IN FAVOR: KING, LAZO, LIVENGOOD, LOGAN, NIKOLLA, REGIS and VECCHIA THOSE OPPOSED: MCDONALD and VANDAL.MOTION PASSES.**

Councilor King made a motion, seconded by Councilor Lazo to appoint Andrew Pelletier. **VOTE BY ROLL CALL. THOSE IN FAVOR: KING, LIVENGOOD, NIKOLLA and REGIS. THOSE OPPOSED: LAZO, LOGAN, MCDONALD, VANDAL and VECCHIA. MOTION FAILED.**

- 10. Vote to ratify the Employment Agreement between the Town of Southbridge and Andrew Pelletier.** Due to the above discussion on Agenda Item #9, originally it was discussed to vote to delete Agenda Item #10 and a motion was made by Councilor King, seconded by Councilor Lazo. Councilor Lazo commented that votes were not clear. Town Manager Clark clarified that at the EHS subcommittee, three votes were in favor and no one opposed. Chairwoman Nikolla apologized to the public and remarked she was disgusted with this process and actions of the council. Councilor Regis said she was appalled at the Town Council. Councilor Vecchia questioned as to Andrew Pelletier being present at the the meeting during these discussions. At this time, Andrew Pelletier asked to speak and thanked the people of Southbridge for their process and commented that he would reconsider if the opportunity arose in the future. It was at this time that Councilor Regis made a motion seconded by Councilor King to remove Agenda Item #10. **VOTE BY ROLL CALL. THOSE IN FAVOR: LAZO, LOGAN, MCDONALD, NIKOLLA, VANDAL, and VECCHIA. THOSE OPPOSED: KING, LIVENGOOD and REGIS. MOTION PASSED.** A motion was made by Councilor Regis, seconded by Councilor Lazo to reinstate Agenda Item #9: **VOTE BY ROLL CALL. THOSE IN FAVOR: KING, LIVENGOOD, NIKOLLA and REGIS. THOSE OPPOSED: LAZO, LOGAN, MCDONALD, VANDAL and VECCHIA. MOTION FAILED.**

- 11. Vote to transfer the sum of \$15,000.00 from Town Council Reserve Account #001.0132.5781 to Insurance Premiums/Police IOD Account #1.940.5740.0.717.** Councilor Lazo made a motion, seconded by Councilor King. **VOTE BY ROLL CALL: THOSE IN FAVOR: KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL, and VECCHIA. MOTION PASSES.**
- 12. Vote to ratify the contract with Vision Appraisal Technology for Revaluation of Real Property not to exceed \$84,000.00 for FY2010, \$12,000.00 for FY2011, and \$12,000.00 for FY2012.** Councilor Lazo questioned where the funds are coming from and who sets up recertification of property. Wilfrid Cournoyer, Town Assessor, reported there are surplus funds. VAT is standard software with qualified appraisals and will complete by September 21, 2009. Councilor Regis questioned if there is a vote to ratify of which Town Manager Clark responded that it is contingent because it covers multiple fiscal years. Mr. Cournoyer commented there was more than enough to begin the process. Councilor Lazo made a motion, seconded by Councilor King. **VOTE BY ROLL CALL: THOSE IN FAVOR: KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL, and VECCHIA. MOTION PASSES.**
- 13. Vote to ratify the contract with Real Estate Research Consultants for Revaluation of Personal Property not to exceed \$30,000.00 for FY2010, \$12,000.00 for FY2011 and \$12,000.00 for FY2012.** Councilor Lazo made a motion, seconded by Councilor King. **VOTE BY ROLL CALL: THOSE IN FAVOR: KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL, and VECCHIA. MOTION PASSES.**
- 14. Vote that the Town Council transfer \$75,000.00 from the following accounts to be used as an other financing source in the General Fund for FY 2009:**

<u>Acct #</u>	<u>Description</u>	<u>Amount</u>
1.180.5110	Community Development Salaries & Wages (Town Planner)	(26,000.00)
1.220.5110	Fire Dept Salaries & Wages (Unfilled Position)	(6,000.00)
1.610.5110	Library Salaries & Wages (Outreach Coordinator)	(10,000.00)
1.141.5110	Assessors Salaries & Wages (Replaced Employee)	(2,600.00)
1.145.5110	Treasurer/Collector Salaries & Wages (Replaced Employee)	(2,200.00)
1.161.5110	Town Clerk Salaries & Wages (Replaced Employee)	(4,200.00)
1.240.5116	Inspections Salaries Appointed Officials (Unfilled Position)	(4,000.00)
1.940.5740.0.721	Property & Liability Insurance	<u>(20,000.00)</u>
	<b>TOTAL</b>	<b>(75,000.00)</b>

After Nikolla read the agenda Councilor King made a motion to amend the agenda item to read that the Town Council reduce \$75, 000 from the General Fund for FY 2009, seconded by Councilor Lazo. **VOTE BY ROLL CALL: THOSE IN FAVOR: KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL, and VECCHIA. MOTION PASSES.**

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1.940.5740.0.721	Property & Liability Insurance	(20,000.00)
	<b>TOTAL</b>	<b>(75,000.00)</b>

A new vote on above change then occurred. Councilor Regis questioned whether the School Committee was aware of the reductions. Town Manager Clark responded that the Superintendent was notified. Councilor Lazo made a motion, seconded by Councilor King. **VOTE BY ROLL CALL: THOSE IN FAVOR: KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL, and VECCHIA. MOTION PASSES.**

**14a Vote that the Town Council transfer \$230, 000.00 from Free Cash to be used as another financing source in the General Fund for FY 2009.** Councilor King questioned in the full time Town Managers professional opinion was this the best decision, as he was going to vote no. Councilor Vecchia was very concerned that he would have to change his vote. He wants to relocate funds and not use Free Cash. Councilor Vecchia asked Town Manager Clark to use another account. Town Manager Clark responded that sustaining \$1,000,000 in stabilization makes more sense. Councilor Logan questioned if it made a difference where funds were drawn upon. Councilor Regis responded that funds are viewed different and stabilization fund is “rainy day” money and should be used as a last resort. **VOTE BY SHOW OF HANDS. THOSE IN FAVOR: KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS and VANDAL. THOSE OPPOSED: VECCHIA. MOTION PASSES.**

**15. Vote to ratify the award of the contract for the Industrial Park Access Road infrastructure Improvement Project – Phase I (“Contract”) to Marois Brothers, Inc. in the amount of \$5,408,449.00, including the preliminary award of the Contract and final award of the Contract upon resolution of the pending Superseding Order of Conditions and any appeal thereof.** Councilor Livengood stated he was happy to see a contract after three years of waiting for this access road. Councilor King “dittoed” his comment. Councilor Logan wanted to know what the need was to send this to special legislation for an access road and was it legal? Town Manager Clark stated at the time that there was no agreement with Casella to build this road. The current funding source is sufficient. Citizen Holly Christo remarked it would bring business to Southbridge.

Councilor Logan expressed if Casella doesn't want to reimburse Town of Southbridge, it will increase taxes approximately \$1,000.00 per family plus interest and he isn't comfortable voting. Chairwomen Nikolla clarified that Casella has an agreed contract to build Phase I of the access road extension, and this is a separate entity. Councilor Vecchia recapped the Casella stock at current standing and claimed Southbridge is responsible for building this road is Casella goes "belly up". Councilor Livengood remarked that the Town of Southbridge already authorized spending money three years ago before Casella was even in the picture. The town has already spent \$1,000,000 and is not sure why this is an issue now and stated he is extremely upset with some Councilor's attitudes. Councilor Regis reiterated Livengood's comments. Councilor King made a motion, seconded by Councilor Lazo. **VOTE BY ROLL CALL. THOSE IN FAVOR: KING, LIVENGOOD, NIKOLLA and REGIS. THOSE OPPOSED: LAZO, LOGAN, MCDONALD, VANDAL and VECCHIA. MOTION FAILS.**

**16. Vote to appropriate \$12,999.00 from Free Cash to fund the replacement of DPW Unit #27.** Councilor Livengood asked if the town could afford this, to which Chairwoman Nikolla responded, yes. Councilor King made a motion, seconded by Councilor Vandal. **VOTE BY ROLL CALL: VOTE BY ROLL CALL: THOSE IN FAVOR: KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, and VANDAL OPPOSED: VECCHIA. MOTION PASSES.**

**17. Vote to rescind Agenda Item No. 13 from the Town Council meeting of February 23, 2009: Vote to amend the Town of Southbridge Code of By-Laws by adding the following:**

***Section 3-215 Recreation Committee***

3-215.1 *Establishment* - The Recreation Committee shall be comprised of a five (5) member board. Members shall be appointed by the Town Manager and confirmed by the Town Council. Members of the Recreation Committee shall serve an office term of three (3) years. Terms are to be staggered. At the first appointment, two members shall be appointed for three year terms, two members shall be appointed for two year terms and one member shall be appointed for a one year term, with all subsequent terms to be three years. After the first appointment under this section, all appointed terms of the Recreation Committee shall terminate upon swearing in of new appointed members. All members of the Recreation Committee shall at all times be a resident of the Town of Southbridge, hold town office, or a town employee whom wish to serve. The members of the Recreation Committee shall be impartial and may not actively participate in any active leagues, which utilizes the town recreation areas.

3-215.2 *Authority and Responsibility* - The Recreation Committee shall conduct programs for the town, under the direction of the Town Manager. The committee shall propose new program activities and review existing programs for approval by the Town Manager and shall be responsible for the scheduling of activities on town recreation areas. It shall perform such other duties as the Town Manager may require from time to time. An advisory group of leagues that do utilize the town recreational areas use will also be constructed. The advisory board will work with the Recreation Committee regarding town recreation areas. An advisory group consisting of the

presidents/chairperson of each organized sport league or their designee shall be eligible to participate on the advisory group. All members of the Recreation Committee shall serve without compensation.

**First Reading**

Town Manager Clark stated clarification that Agenda No 17 is to allow Agenda No 18 as the amendment to avoid confusion from Council members. Councilor Lazo made a motion, seconded by Councilor Regis. **VOTE BY ROLL CALL: THOSE IN FAVOR: KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL, and VECCHIA. MOTION PASSES.**

**18. Vote to amend the Town of Southbridge Code of By-Laws by adding the following:**

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3-215.1 *Establishment* - The Recreation Committee shall be comprised of a five (5) member board. Members shall be appointed by the Town Manager and confirmed by the Town Council. Members of the Recreation Committee shall serve an office term of three (3) years. Terms are to be staggered. At the first appointment, two members shall be appointed for three year terms, two members shall be appointed for two year terms and one member shall be appointed for a one year term, with all subsequent terms to be three years. After the first appointment under this section, all appointed terms of the Recreation Committee shall terminate upon swearing in of new appointed members. All members of the Recreation Committee shall at all times be a resident of the Town of Southbridge, provided however, non-residents who hold a town office or town employment may serve by virtue of their office. The members of the recreation committee shall be impartial and may not actively participate in any active leagues, which utilize the town recreation areas.

3-215.2 *Authority and Responsibility* - The Recreation Committee shall conduct for the town, under the direction of the Town Manager. The committee shall propose new program activities and review existing programs for approval the Town Manager and shall be responsible for the scheduling of activities on town recreation areas. It shall perform such other duties as the Town Manager may require from time to time. An advisory group of leagues that do utilize the town recreational areas will also be constructed. The advisory board will work with the Recreation Committee regarding town recreation areas. An advisory group consisting of the presidents/chairperson of each organized sport league or their designee shall be eligible to participate on the advisory group. All members of the Recreation Committee shall serve without compensation.

**First Reading**

Councilor Lazo made a motion, seconded by Councilor King. **VOTE BY ROLL CALL: THOSE IN FAVOR: KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL, and VECCHIA. MOTION PASSES.**

## **19. Councilor's Forum:**

Councilor Livengood had no comment.

Councilor Vecchia reviewed administrative non-union clerical raises as average of 1%, versus 3-4% from other members. Town Manager Clark refused to engage in this conversation in public due to collective bargaining negotiations.

Councilor Regis was very concerned about Agenda Item No 15 vote.

Councilor King stated he was "speechless".

Councilor Lazo commented on police officers K-9 unit that collected \$9, 475.00 from various organizations to replace their vehicle rather than go to subcommittee for funds. Added that State Representative Gerardo Alicea does not support gas tax plans sent forth my Governor Patrick and he is happy about this. He asked citizens to call Senator Moore and say no to gas taxes. Councilor Vandal asked that Councilor Lazo send a letter to Senator Moore regarding gas tax. Councilor Vandal made a motion, seconded by Lazo stating he will draft the letter. **VOTE BY SHOW OF HANDS. THOSE IN FAVOR: KING, LAZO, LIVENGOOD, MCDONALD, NIKOLLA, VANDAL AND VECCHIA. OPPOSED: REGIS.**

Councilor Logan had no comment.

Councilor McDonald had no comment.

**20. Discussion of next meeting date:** Councilor Lazo recommended March 30, 2009 as next meeting date. Councilor Lazo made a motion, seconded by Regis. **VOTE BY SHOW OF HANDS. ALL IN FAVOR.**

**21. Adjournment:** A motion to adjourn was made by Councilor Lazo, seconded by Councilor Regis. **VOTE BY SHOW OF HANDS. ALL IN FAVOR.**

Meeting adjourned at 10:10pm

Respectfully Submitted,

Deborah Williams MASC Recording Clerk