

**TOWN COUNCIL MEETING  
MACKINNON COUNCIL CHAMBER  
MONDAY – JANUARY 26, 2009 – 7:00 PM**

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**A meeting of the Southbridge Council was held on Monday Jan 26, 2009, in the Robert MacKinnon Council Chambers. Chairman Nikolla called the meeting to order at 7:00pm.**

**Agenda Item #1 Pledge of Allegiance-**Chairman Nikolla led the Council in the Pledge of Allegiance.

**Agenda Item #2 Roll Call-**Councilors present: KING, LAZO, LIVENGOOD, LOGAN, NIKOLLA, REGIS, VANDAL, MCDONALD and VECCHIA.

**Agenda Item # 3 Consider and accept the minutes of the Jan 12, 2009 meeting-** A motion was made by Councilor Lazo, seconded by Councilor King to approve the minutes. **Vote was 8 in favor, 1 abstain (MCDONALD)**

**Agenda item #4 Subcommittee Reports:**

- (a) **General Government-** Councilor King had no quorum held on January 13, 2009 but held rescheduled meeting January 20, 2009. Read minutes of meeting. No additional meeting scheduled.
- (b) **D.P.W.-**Councilor Vandal read minutes from January 14, 2009. No meeting scheduled.
- (c) **Education and Human Services-** Councilor McDonald read minutes from January 21, 2009. No meeting scheduled.
- (d) **Planning and Development-**Councilor Livengood read minutes of January 8, 2009. No meeting scheduled.
- (e) **Protection of Persons and Property-**Councilor Lazo read minutes of January 14, 2009 and January 21, 2009. No meeting scheduled.
- (f) **Town Manager-**Councilor Regis read minutes of January 15, 2009. No meeting scheduled.

**Agenda Item #5 Chairman’s Announcements -**Chairwoman Nikolla read press release on MMA 2009 Conference.

**Agenda Item # 6 Town Manager’s Announcements-**Clark read the budget cuts memo from Gov. Deval Patrick, stressing the 10% cut per town as the primary issue. A second discussion regarding the petition for the Board of Health Dec 9, 2008 under Mass Law chapter 43B subsection 10. It requires to call a meeting within 4 months and action taken within 6 months with a 2/3 vote.

**Agenda Item # 7 Citizen’s Forum-** No citizen discussions.

**Agenda Item # 8**Vote to confirm the Town Manager’s appointment of Kelly J. Gazzano as a Permanent Full-time Fire Fighter for the Town of Southbridge for an indefinite term contingent upon successful completion of the pre-employment physical and any other required approvals. Vecchia stated he would vote no tonight as he saw zero spending restraints from the fire department. Clark responded that there will be no transfer of funds within departments and this appointment complies with the paramedic license requirements. Lazo commented on her extensive resume and he will vote for her, but not vote for promotions or raises. Regis was 110% in favor. King supported appointment. Vandal questioned if this was a mandated appointment. It was clarified as yes. After a motion by LAZO and second by KING a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL all vote yes. VECCHIA voted no. (8 yes, 1 no)

**Agenda Item #9** Vote to confirm the appointment of Gabriel LaFleche as a Citizen Member of the General Government Subcommittee until June 30, 2009. After a motion by KING and second by LAZO a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #10** Vote to confirm the appointment of David Langevin as a Citizen Member of the General Government Subcommittee until June 30, 2009. After a motion by KING and second by LAZO a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #11** Vote to confirm the appointment of Maurice Capistrand as a Citizen Member of the Department of Public Works Subcommittee until June 30, 2009. After a motion by LAZO and second by VANDAL a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #12** Vote to confirm the appointment of Mark Morin as a Citizen Member of the Department of Public Works Subcommittee until June 30, 2009. After a motion by LAZO and second by VANDAL a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #13** Vote to confirm the appointment of Derek Julian as a Citizen Member of the Protection of Persons and Property Subcommittee until June 30, 2009. After a motion by LAZO and second by KING a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #14** Vote to confirm the appointment of Kevin Splaine as a Citizen Member of the Protection of Persons and Property Subcommittee until June 30, 2009. After a motion by LAZO and second by KING a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #15 Vote to confirm the appointment of Mellonee Pauley as a Citizen Member of the Education and Human Services Subcommittee until June 30, 2009.** After a motion by LAZO and second by MCDONALD a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #16 Vote to confirm the appointment of George Chenier as a Citizen Member of the Education and Human Services Subcommittee until June 30, 2009.** After a motion by LAZO and second by MCDONALD a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #17 Vote to confirm the appointment of George Parent as a Citizen Member of the Planning and Development Subcommittee until June 30, 2009.** After a motion by LIVENGOOD and second by LAZO a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #18 Vote to confirm the appointment of Evelyn Petrelli as a Citizen Member of the Planning and Development Subcommittee until June 30, 2009.** After a motion by LIVENGOOD and second by MCDONALD a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #19 Vote to confirm the appointment of Gregory Kalis as a Citizen Member of the Town Manager Subcommittee until June 30, 2009.** After a motion by LIVENGOOD and second by MCDONALD a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #20 Vote to confirm the appointment of Deborah Gregoire-Lefebvre as a Citizen Member of the Town Manager Subcommittee until June 30, 2009.** Regis wanted to recognize Ms Lefebvre for her time spent on amending the evaluation form. Vecchia mentioned he was also impressed. After a motion by LAZO and second by KING a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #21 Vote to confirm the Town Manager's appointment of Daniel P. Fiorelli to the Traffic Commission for the Town of Southbridge for a three-year term to expire June 30, 2012.** Lazo mentioned he appreciated Daniel P Fiorelli's work. After a motion by LAZO and second by MCDONALD a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #22 Vote to confirm the Town Manager’s appointment of George P. Fournier to the Traffic Commission for the Town of Southbridge for a two-year term to expire June 30, 2011.** Lazo commented on a great job by Mr. Fournier. After a motion by LAZO and second by MCDONALD a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #23 Vote to confirm the Town Manager’s appointment of Jon Swenson as an Alternate Member of the Traffic Commission for the Town of Southbridge for a one-year term to expire June 30, 2010.** Lazo mentioned he hopes to see Mr. Swenson in the town hall. Vecchia mentioned as an alternate member, he was unclear if he would have voting rights. Clark responded that as it stands, there are 5 members; 3 professional, 2 citizens. The alternate would be given voting rights. After a motion by LAZO and second by MCDONALD a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #24 Vote that in accordance with the provisions of Chapter 85, Section 2, of the General Laws (Ter. Ed.) as amended, the following regulation is hereby rescinded by the Town Manager of the Town of Southbridge: That the Traffic Rules and Orders of the Town of Southbridge, adopted by the Board of Selectmen, October 9, 1936, as amended, Article 5, Section 2, be amended as follows:**

That Permit E-3-278-2958 for the creation of a “ONE WAY” street be rescinded for PINE STREET, from Main Street northerly to Edwards Street for northbound drivers.

One way signs shall be removed and traffic shall be allowed to travel both northerly and southerly on Pine Street.

Vecchia read a letter regarding outcome of public hearing. Clark responded to citizen input and will monitor accident data. Lazo agreed with Clark stating the implementation would go into effect April 1<sup>st</sup> 2009. Logan was concerned about traffic safety. Ken Kalinowski from the DPW reported that a change is not needed as data does not support it, only 2 accidents on record. He was ambivalent about the change. After a motion by KING and second by MCDONALD a vote took place. KING, LAZO, LIVENGOOD, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA voted yes, LOGAN voted no. (8 yes, 1 no))

**Agenda Item #25 Vote to authorize the Town Manager to sign Stop Sign Permit No. S-0023 for a stop sign on Pine Street at the intersection of Main Street.** This will go in to effect April 1<sup>st</sup> 2009. After a motion by KING and second by LAZO a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #26 Vote to amend the Traffic Rules and Orders of the Town of Southbridge, adopted by the Board of Selectmen, October 9, 1936, as amended, Article 7, Section 22, be amended with Permit No. T-004 as follows:**

That a permit be issued for “Right Turn Only” for southbound traffic on Pine Street entering Main Street, to prohibit southbound drivers on Pine Street from making a left turn (NO LEFT TURN) onto Main Street.

After a motion by LAZO and second by KING a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #27 Vote to authorize the expenditure of snow and ice removal costs in excess of available appropriations pursuant to M.G.L. Chapter 44, §31D.** Vecchia asked for clarification of the 200k stabilization fund. After a motion by LAZO and second by LIVENGOOD a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #28 Vote to transfer the sum of \$200,000.00 from the Stabilization Fund to the DPW Snow and Ice Removal Account for the purpose of meeting the deficit in the account to date.**

**2/3 Roll Call Vote Required**

Regis requested fund balances as he does not agree with using these funds as an operating budget. Karen Harnois clarified 4.4 million in free cash. Vecchia then questioned the free cash balance as once noted at 4.6 million. Clark responded to his recollection that it was 4.4 million. After a motion by LIVENGOOD and second by LAZO a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #29 Vote to authorize the Town Manager to enter into an Agreement with Hull Forest Products, Inc. whereby they will pay the Town of Southbridge \$33,630.00 for the harvesting of timber on watershed property (Timber Harvest #11).** King questioned if it would be more profitable for trees to be cut down and used in the community or sell privately? Clark will look into it. McDonald mentioned that these trees are timber and used to build, not for fire/heating source. Vandal then questioned if there is and oversight for tree cut and removal, which was responded by Clark that in fact there is oversight. After a motion by MCDONALD and second by LAZO a vote took place. LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #30 Vote to authorize the Town Manager to enter into a contract for electrical supply for a term of up to four years and said award is to be made prior to February 15, 2009.** Vecchia was looking for contract in his packet. Clark responded that the contract was provided in last weeks packet and he summarize the electric bill breakdown. Citizen John Pulawski from 3 Jennison St, Southbridge asked to consider a 2 year contract, rather than a 4 year contract. Possibly to look at cutting costs in alternative ways. He offered to volunteer to gather data and hold a sub-committee. Nikolla and Clark both would like to see this data. Clark will also look to see if more than 3 years in this contract after a question by LAZO on being locked in to 4 years. After a motion by LAZO and second by KING a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #31 Vote to amend the Town of Southbridge Code of By-Laws by adding the following:**

***Section 3-222 Agricultural Commission***

*3-222.1 Establishment* – There shall be an Agricultural Commission, appointed by the Town Manager, subject to confirmation by the Town Council, which shall consist of five members serving staggered terms of three years each. The initial appointments shall consist of two members for three year terms, two members for two year terms, and one member for a one year term, with all subsequent terms to be three years. The majority of the members shall be engaged in “farming” or “agriculture” activities, as defined at Massachusetts General Laws Chapter 128, §1A, but an individual so engaged shall be eligible for appointment regardless of whether he or she derives income from such activities. One member may be a non-resident with an interest in agricultural property located in Southbridge. Up to two voting alternate members, who may be residents not engaged in farming or agriculture activities but with an interest in agricultural property located in Southbridge, may be appointed. The chairman of the Commission may designate any alternate member to sit on the Commission in case of absence, inability to act or conflict of interest on the part of any member or in the event of a vacancy on the Commission until said vacancy is filled in the manner provided in this section.

*3-222.2 Authority and Responsibility* – The Agricultural Commission may be called as needed by the various Town boards and commissions to serve as advisors on projects and activities involving agricultural lands and affairs in Southbridge. The Agricultural Commission shall encourage, promote and facilitate the continued pursuit of farming and a sustainable agricultural industry, support and advance agricultural-based economic opportunities in the Town, and work for the preservation of prime agricultural land in Southbridge.

**First Reading**

After a motion by LAZO and second by LIVENGOOD a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #32 To authorize the filing of the following Home Rule petition with the General Court, provided, however, that the General Court may make clerical or editorial changes of form only to the bill, unless the Town Council approves amendments to the bill before enactment by the General Court which are within the scope of the general public objectives of the petition:**

**AN ACT AUTHORIZING THE TOWN OF SOUTHBRIDGE TO ESTABLISH CERTAIN SPECIAL FUNDS AND RELATIVE TO CHAPTER 475 OF THE ACTS OF 2004.**

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

**SECTION 1.** Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Southbridge is hereby authorized to establish a special fund in the town treasury, to be known as the Landfill Royalty Fund, into which shall be deposited all royalty payments received from the private operator of the town-owned Barefoot Road Sanitary Landfill (hereinafter the “landfill”) pursuant to the “Extension of Agreement for the Operation of the Barefoot Road Sanitary Landfill, and Refuse and Recyclables Collection, Southbridge, Massachusetts by and between Southbridge Recycling and Disposal Park, Inc., and the Town of Southbridge, Massachusetts” dated May 29, 2007 (hereinafter the “landfill extension agreement”), on file with the town clerk, or, if said agreement expires, is sooner superseded or otherwise becomes inapplicable, then pursuant to any successor agreement with any private landfill operator relative to the operation of said landfill (hereinafter “successor landfill operating agreement”).

The town council may, by majority vote, appropriate no more than 50-percent of the estimated annual landfill royalty payment to be received in any fiscal year under the landfill extension agreement or other successor landfill operating agreement in order to fund the operating budget of the town. The remaining 50-percent of the estimated annual landfill royalty payment and any balance remaining in the Landfill Royalty Fund may be appropriated at any time by a two-thirds vote, to fund capital projects or for any lawful purpose, including but not limited to additional funding for the town’s operating budget. The town council may appropriate or transfer additional money into the Landfill Royalty Fund at any time. If in any fiscal year the amounts appropriated by the town pursuant to this section exceed the landfill royalty payments actually received, the town council shall raise and appropriate or transfer from available funds sufficient amounts to address the

deficit prior to the end of that fiscal year, or the deficit shall be added to the tax levy and raised by taxation in the fiscal year immediately following.

**SECTION 2.** Notwithstanding section 53 of chapter 44 of the General Laws or any other general or special law to the contrary, the town of Southbridge is hereby authorized to establish a special fund in the town treasury, to be known as the Landfill Reimbursement Fund, into which shall be deposited all reimbursements and other payments, except the royalty payment referred to in section 1 of this act, received under the extension

agreement, any successor landfill operating agreement, any landfill site assignment, or modification thereof, issued by the Southbridge board of health pursuant to section 150A of chapter 111 of the General Laws, or under any other agreement relative to the operation of the landfill. The town council may, by majority vote, appropriate estimated reimbursements and other landfill-related payments to be received in any fiscal year under the landfill extension agreement, any successor landfill operating agreement, any landfill site assignment, or modification thereof, issued by the Southbridge board of health pursuant to section 150A of chapter 111 of the General Laws, or any other agreement relative to the operation of said landfill, as may be necessary to fund the various activities for which such payments are made, or may appropriate said funds for any other lawful purpose. If in any fiscal year the amount appropriated by the town pursuant to this section exceeds the landfill reimbursement payments or other landfill-related payments actually received, the town council shall raise and appropriate or transfer from available funds sufficient amounts to address the deficit prior to the end of that fiscal year, or the deficit shall be added to the tax levy and raised by taxation in the fiscal year immediately following.

**SECTION 3.** The town treasurer shall be the custodian of the Landfill Royalty Fund and the Landfill Reimbursement Fund and shall make a separate accounting of each special fund to the town council each year no later than September 1<sup>st</sup> for the preceding fiscal year ending on June 30th. Any income derived from the investment or reinvestment of the special funds authorized herein shall remain with and become part of each special fund, respectively.

**SECTION 4.** Chapter 475 of the acts of 2004 is hereby repealed.

**SECTION 5.** This act shall take effect upon its passage.

Lazo asked for a summary of which Clark responded regarding the reserve fund. Regis would like to see future investments in school departments. After a motion by KING and second by LAZO a vote took place. KING, LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA all voted yes. (9 yes)

**Agenda Item #33 Councilor's Forum-**

MCDONALD and LOGAN had no discussion.

VANDAL reported on daycare on Marcy Street as well as Armory expenses and commitments.

LIVENGOOD Wanted to thank Mary Wells 6<sup>th</sup> grade class and teachers.

VECCHIA was concerned about blasting problem on Sayles St. There is a 250 foot notification not in place from a dwelling and the fire department came to the attention of the citizens concerns. Clark responded that a complaint form is available if residents need them. VECCHIA had a second concern regarding Southbridge retirement board had vote for cost of living increase. Clark responded that COLA has 3% increases only by law.

REGIS had a procedural question to sub-committee minutes. Wanted clarification as to when approved/changes. McDonald suggested making adjustments at Town Council Meeting.

KING concerned about citizens “mixed use” of trash dumpsters, specifically witnessed residents dumping trash at the Getty station on Rt 169. He also questioned DPW Trail Blazers being used for personal use on Sunday’s. Clark clarified a work related issue on that Sunday justified the truck use. Lastly, he thanked the fire department for their quick response to the Quarter Keg fire.

LAZO thanked the fire department and the DPW for excellent job at the Quarter Keg fire and also for the sanding and snow removal around local churches. He again asked for citizens to be patient during the storms when traveling.

**Agenda Item #34 Vote to enter Executive Session for the purpose of discussing pending and possible litigation and to return to open session to continue the regular meeting.**

After a motion by LAZO and second by LIVENGOOD a vote took place. LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, and VECCHIA voted yes. KING voted no. VANDAL was excused. (7 yes, 1 no, 1 excused))

**REGULAR MEETING BROKE AT 9:02 FOR EXECUTIVE SESSION.  
RETURNED AT 9:50PM**

**Agenda Item #35 Vote to transfer \$40,000.00 from the Sewer Enterprise fund certified retained earnings to Fund 380 Wastewater Treatment Facility Upgrades Capital Project to fund additional oversight costs needed for the project.**

After a motion by LAZO and second by REGIS a vote took place. LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, and VANDAL voted yes. KING abstains. VECCHIA voted no (7 yes, 1 no, 1 abstain)

**Agenda Item #36 Vote to transfer \$20,000.00 from the Sewer Enterprise fund certified retained earnings to account 600.440.5761.0.573 Legal Other Operating Costs to fund sewer litigation costs.**

After a motion by LAZO and second by LIVENGOOD a vote took place. LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, and VANDAL voted yes. KING abstains. VECCHIA voted no. (7 yes, 1 no, 1 abstain)

**Agenda Item #36A Vote to transfer \$25,000 from the Sewer Enterprise fund certified retained earnings to Fund 380 Wastewater Treatment Facility Upgrades Capital Project to fund professional consulting services for this project.**

After a motion by LAZO and second by LIVENGOOD a vote to add into executive took place. LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, VANDAL and VECCHIA voted yes. KING voted no (8 yes, 1 no)

**A second vote on agenda 36A took place to vote to transfer**

After a motion by MCDONALD and second by LIVENGOOD a vote took place. LAZO, LIVENGOOD, LOGAN, MCDONALD, NIKOLLA, REGIS, and VANDAL voted yes. KING abstain, VECCHIA voted no. (7 yes, 1 no, 1 abstain)

**Agenda Item #37 Discussion of next meeting date-Councilor Lazo recommended February 9, 2009 as the next meeting date. Vote by show of hands, all in favor.**

**Agenda Item # 38 Adjournment**-A motion to adjourn was made by Councilor Lazo, seconded by Councilor Regis. **Vote by show of hands, all in favor.** The meeting adjourned at 9:52pm.

Respectfully submitted,

Deborah Williams, MASc  
Recording Clerk