

**TOWN COUNCIL MEETING MACKINNON COUNCIL CHAMBERS  
MONDAY – FEBRUARY 23, 2009 – 7:00 PM**

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A meeting of the Southbridge Council was held on Monday Feb 23, 2009, in the Robert MacKinnon Council Chambers.

Chairwoman Nikolla called the meeting to order at 7:06pm.

1. **Pledge of Allegiance:** Chairwoman Nikolla led the Council in the Pledge of Allegiance.
2. **Roll Call:** Councilors present: **KING, LIVENGOOD, LOGAN, NIKOLLA, VANDAL, LAZO, McDONALD, and VECCHIA. Excused: REGIS**
3. **Consider and accept the minutes of the February 9, 2009 meeting:** A motion was made by Councilor King, seconded by Councilor Lazo to approve the minutes. **VOTE BY ROLL CALL. Those in Favor: KING, LAZO, LIVENGOOD, LOGAN, NIKOLLA, VANDAL and VECCHIA. ABSTAINED: MCDONALD**
4. **Subcommittee Reports:**
  - (a) **General Government:** Councilor King read the minutes for the meeting February 9, 2009. No meeting scheduled.
  - (b) **D.P.W:** Councilor Vandal stated there were no minutes to report and no meeting scheduled.
  - (c) **Education and Human Services:** Councilor McDonald read the minutes of meeting February 18, 2009. No meeting scheduled.
  - (d) **Planning and Development:** Councilor Livengood had no minutes to report. Meeting scheduled March 5, 2009.
  - (e) **Protection of Persons and Property:** Councilor Lazo had no minutes to report and no meeting scheduled.
  - (f) **Town Manager:** Councilor Nikolla had no minutes to report and no meeting scheduled.
5. **Chairman's Announcements:** Chairwoman Nikolla had no announcements.
6. **Town Manager's Announcements:** Town Manager Clark reported on the following:
  - a. FY 2009 430K State Aid reduction Package was allocated as 230K from reserve funds; 75K from the town and 125K from the school.
  - b. Electric Contract was good news; current usage charge is 10.5 KW. New 3 year contract was estimated at 9.8KW and in fact came in as 9.4KW large users and 9.55 KW small users.
  - c. Treasurer, Ms. Ernst-Fournier will be using an outside consultant to review process for the Group Insurance Commission (GIC) for October 1, 2009, effective 2010 start.
  - d. The infrastructure improvement projects are still under review, the new title was announced as American Recovery and Reinvestment Act.

## 7. Citizen's Forum:

- a. John Pulawski, 3 Jennison Street raised concern regarding the Board of Health Meeting he recently attended. It was mentioned that both lead and arsenic levels were excessively detectable outside of landfill area. Just because the DEP and EPA allows, doesn't make it healthy. The Board of Health questioned whether residential wells are being checked as it is not routine process for them to do so. They felt that a 6 month standard check was sufficient. Town Manager Clark responded that in conjunction with hired consultant, Ann Smith, a background review will be conducted and if something of substance, a determination of action and additional tests will be considered.

Prior to Agenda Items No. 8 & 9 Attorney Brian Riley from Kopelman & Paige was brought before the Council for clarification and explanation of the Town of Southbridge methods to Amend Charter. He reported that any charter amendment requires 2/3 vote of Town Council and a majority vote on annual town election ballot. After the process of approval from Town Council, it will then go to the Attorney General. Once approved by the AG it would be brought before the voters on the June 2009 ballot. Town Council's approval vote must be taken and submitted to Attorney General no later than April 2, 2009. Councilor Vecchia questioned why candidates for the Board of Health could not be on the June 2009 ballot, to which Attorney Riley responded there couldn't be candidates if the office of the Board of Health had not been approved. Councilor King questioned if the petition language was changed and strongly requested a professional opinion from Attorney Riley that this petition, process and language covers all potential loop-holes, speculation or room for error so that the issue could be put to rest. Attorney Riley stated there are no issues as it is written.

## 8. **Vote to rescind Agenda Item No. 14 from the Town Council meeting of February 9, 2009: Vote that the General Government Subcommittee hold a public hearing during the month of March regarding the petition that was submitted to the Town Clerk, Petition for Five-Person, Elected Board of Health:**

Councilor King questioned why this needed to be rescinded as Councilors should know what they're voting for? Town Manager Clark stated four Councilors signed a petition to hold a public hearing as a whole Council and not a subcommittee. Chairwoman Nikolla commented that all citizens are invited to speak at the public hearing. Councilor McDonald commented that assumptions are being made on this topic and he had never seen a public hearing in a sub-committee. Councilor Livengood asked when dates of hearing could be held to meet the guidelines set forth to make the June 2009 ballot and March 9, 2009 at 6:00pm was suggested. Councilor Vecchia added that Councilors should hold public hearing not citizen members of a subcommittee. Councilor Lazo added that he felt citizen members should not be able to vote at the public hearing. He further complimented the Town Manager on his time line efforts to remain within Mass Law. Lastly Councilor King strongly stated that people, citizens in this case, should have a vote or discussion for action to avoid the "Monday morning quarterbacks"

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

- 9. Vote on date to discuss an amendment to the Town of Southbridge Home Rule Charter in regard to an elected Board of Health.** Councilor McDonald made a motion, seconded by Lazo. **VOTE BY ROLL CALL: THOSE IN FAVOR: LAZO, LIVENGOOD LOGAN, MCDONALD, NIKOLLA, VANDAL, and VECCHIA. ABSTAIN: KING. MOTION PASSES.**
- 9a. Vote to schedule a public meeting on March 9, 2009 to discuss an amendment to the Town of Southbridge Home Rule Charter in regard to an elected Board of Health:** Councilor King made a motion, seconded by Lazo. **VOTE BY ROLL CALL: THOSE IN FAVOR: LAZO, LOGAN, LIVENGOOD, MCDONALD, VANDAL, And VECCHIA. OPPOSED: NIKOLLA ABSTAIN: KING. MOTION PASSES.**
- 10. Vote to ratify the Grant and Transfer agreement between the Town of Southbridge and the Optical Sculpture Committee:** Councilor King made a motion, seconded by Lazo. **VOTE BY ROLL CALL: THOSE IN FAVOR: KING, LAZO, LOGAN, LIVENGOOD, MCDONALD, VANDAL, NIKOLLA, and VECCHIA. MOTION PASSES.**
- 11. Vote to accept the bequest of Diana Lesinski as outlined in the Will and Codicils and to have this Scholarship administered by the Southbridge Scholarship Committee in accordance with Clause XI, section f:** Councilor King made a motion, seconded by Lazo. **VOTE BY ROLL CALL: THOSE IN FAVOR: KING, LAZO, LOGAN, LIVENGOOD, MCDONALD, NIKOLLA, VANDAL, and VECCHIA. MOTION PASSES.**
- 12. 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.

**Third and Final Reading**

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

**13. 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**

Councilor King questioned whether this would bring back the summer basketball league. Councilor McDonald responded that the Polish Club hosts several summer leagues.

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

- 14. Vote to authorize the establishment of a “Recreation and Park Self-Supporting Service Revolving Fund” under the provisions of Massachusetts General Laws Chapter 44, Section 53D to pay for the operating of self-supporting recreation and park services programs within the Town of Southbridge from user fees to be deposited into the account, with all expenditures to be approved by the Town Manager. Said funds shall not be used for the purpose of paying any wages or salaries for full-time, as defined in the guidelines issued by the director of accounts, recreation and park employees; provided, further, that the unreserved fund balance shall not exceed ten thousand dollars at the close of each fiscal year and any such amount in excess of ten thousand dollars shall be paid into the General Fund as provided in section fifty-three: Councilor McDonald made a motion, seconded by King. VOTE BY ROLL CALL: THOSE IN FAVOR: KING, LAZO, LOGAN, LIVENGOOD, MCDONALD, NIKOLLA, VANDAL, and VECCHIA. MOTION PASSES.**

**15. Councilor’s Forum:**

Councilor Vecchia requested Andrew Pelletier be at the public hearing; roles be defined and a copy of the budget.

Councilor Livengood and Councilor McDonald had no comments.

Councilor Logan inquired about snow removal fines that were in excess of \$25.00 (charged \$50.00 that should have been \$25.00) to some citizens if they would be reimbursed. Town Manager Clark interjected that side of street parking would effect the fine fee. He would need to investigate further.

Councilor Vandal congratulated Southbridge High School basketball team.

Councilor King inquired about recent fire on Pleasant Street, in addition to two previous building fires recently. He was looking for explanation or time lines on demolition, rubbish removal and status updates. Town Manager Clark responded as follows: Pleasant Street is a private residence and Property Owner has no insurance, was to demolition after asbestos removal. The Town can take action, although hesitate due to out of pocket expense to town, with reclaim funds only made possible after town obtains a lien on the property. North Street location, owner has insurance, but owes town taxes therefore the town can’t help. Coombs Street is private residence and will obtain an update. He mentioned that this expense is estimated at \$25,000-\$40,000 per property. In response to rubbish removal, the DPW can’t go on to private property. Councilor King added that he wanted to thank the public service of both police and fire for the outstanding efforts in the recent fire. He witnessed a firefighter on the roof of a burning building and one on the ground during a cold day with his clothing literally frozen and contributing to ceasing the fire.

Councilor Lazo spoke on behalf of the Protection of Persons and Property subcommittee that they thank the local fire and police and mutual aid for their support. He also thanked the DPW.

**16. Discussion of next meeting date:** Councilor Lazo recommended March 9, 2009 as the next meeting date. Councilor King made a motion, seconded by McDonald. **VOTE BY SHOW OF HANDS. ALL IN FAVOR.**

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

Meeting adjourned at 8:40pm

Respectfully Submitted,

Deborah Williams MASc Recording Clerk