

Timeline

The following excerpts are taken directly from the Southbridge Town website, Town Council meeting minutes. They provide a general timeline overview of the proposed Industrial Road Access before and after the Vote of 2006. They have been copied and pasted directly to this document.

TOWN COUNCIL MEETING, MONDAY, FEBRUARY 13, 2006

AGENDA ITEM #12. VOTE THE FOLLOWING: RESOLVED THAT THE TOWN COUNCIL OF THE TOWN OF SOUTHBRIDGE SUPPORTS THAT WATER, SEWER, AND ELECTRICAL SERVICE BY PROVIDED TO THE INDUSTRIAL PARK. A motion was made by Councilor Ferron, seconded by Councilor Langevin, to vote this item.

Councilor Marcucci asked what this item meant. Chairman Chernisky stated this item was in the same vein as the vote in December to support an industrial park, and now the town would resolve to support the industrial park further by acknowledging the need for utilities to the industrial park site. Chairman Chernisky stated this item does not speak to the details of providing utilities, such as who will pay for it, but that the Town understands the need for an infrastructure at the site to create demand for tenants at the industrial park site. Councilor Marcucci stated she agreed with Councilor Marino that the issue of the industrial park and the landfill should remain separate.

TOWN COUNCIL MEETING, MONDAY, MARCH 27, 2006

AGENDA ITEM #12. VOTE TO ADOPT THE INITIATIVE PETITION AS PRESENTED BY THE REGISTERED VOTERS OF THE TOWN OF SOUTHBRIDGE (657 SIGNATURES WERE CERTIFIED AS OF MARCH 21, 2006, FINAL NUMBER WILL BE GIVEN AT THE MEETING):

We the undersigned registered voters of the Town of Southbridge, hereby request, in accordance with Section 12-3-1 of the Town Charter, that the Town Council adopt the following measure:

Whereas public convenience and necessity require the laying out and acceptance as public town way of an industrial park access road from Worcester Street (State Route 169) to Pleasant Street in the Town of Southbridge,

Now therefore, the Town Council of the Town of Southbridge hereby requests that the General Court enact the following Home Rule legislation:

An act relative to the Establishment of a Public Way in the Town of Southbridge

Section 1: Notwithstanding the provisions of 21 through 23 of chapter 82 of the general laws or any other general or special law or charter provision to the contrary, the industrial park access road from Worcester Street (state route 169) to Pleasant Street in the town of Southbridge, the boundaries of which are shown on the six-sheet set of plans entitled "Southbridge Industrial Park Access Road Plan Southbridge, Massachusetts Layout Plan Drawings," dated June, 2005, prepared by Tighe & Bond, a copy of which is on file in the office of the Southbridge Town Manager and Town Clerk, and which the town of Southbridge owns in fee, shall be a public town way. The way shall be named the "Southbridge Industrial Park Access Road" and shall constitute a public way for all purposes of the general laws.

COUNCIL OF THE WHOLE MEETING, SOUTHBRIDGE, MASSACHUSETTS, THURSDAY, JUNE 14, 2006

A Council of the Whole meeting was held on Thursday, June 14, 2006, in the Robert MacKinnon Council Chambers in Southbridge, Massachusetts. Chairman Chernisky called the meeting to order at 7:05 p.m.

Agenda Item #1. Roll Call. Councilors present: Chernisky, Ferron, Lazo, Marcucci, Marino, McDonald, Nikolla, and Vandal. Councilors excused: Langevin.

As had been planned, an extensive and well involved discussion was held regarding Question #1 on the upcoming local election, specifically with regards to Worcester Street being the site of an access road to the proposed industrial park in Southbridge

TOWN COUNCIL MEETING, TOWN OF SOUTHBRIDGE, MONDAY, JULY 17, 2006

AGENDA ITEM #16. ACCESS ROAD SPECIAL ACT - VOTE TO SUBMIT TO LEGISLATURE

WHEREAS, an initiative petition was filed requesting that the Town Council adopt a measure seeking special legislation to establish as a public way an industrial park access road from Worcester Street (state route 169) to Pleasant Street in the Town of Southbridge; and

WHEREAS, the Town Council decided it was in the best interests of the Town to place such question before the voters of the entire Town in accordance with the Town Charter; and

WHEREAS, the voters of the Town of Southbridge at the June 27, 2006, Annual Town Election, approved the filing of such special legislation by a vote of 1,728 to 846;

NOW, THEREFORE, IT IS HEREBY MOVED:

That the Town Council authorize the Town Manager to submit to the General Court through the Town's State Representative a petition for special legislation in the form approved by the voters of the Town of Southbridge at the June 27, 2006, Annual Town Election, which petition seeks to establish as a public way an industrial park access road from Worcester Street (state route 169) to Pleasant Street in the Town of Southbridge; and further, that the Town Council authorize the Town Manager to take whatever other action is necessary to secure passage of such special legislation.

AGENDA ITEM #16. VOTE BY ROLL CALL: COUNCILORS IN FAVOR: CHERNISKY, FERRON, KING, LIVENGOOD, MARCUCCI, MCDONALD, AND NIKOLLA. COUNCILORS ABSTAINING: LANGEVIN. BY VOTE OF 7 IN FAVOR, 1 ABSTENTION, THE VOTE PASSES.

AGENDA ITEM #18. VOTE THAT WE NOTIFY THE PLANNING BOARD OF OUR INTENTION TO LAY OUT AND ACCEPT AS A PUBLIC WAY THE ROADWAY AS SHOWN ON THE PLAN ENTITLED "SOUTHBRIDGE INDUSTRIAL PARK ACCESS ROAD PLANS, SOUTHBRIDGE, MASSACHUSETTS," DATED JUNE 2005, PREPARED BY TIGHE AND BOND, CONSULTING ENGINEERS, WESTFIELD, MASSACHUSETTS (6 SHEETS) (THE "LAYOUT PLAN"), AND AUTHORIZE THE TOWN MANAGER TO FORWARD THE LAYOUT PLAN TO THE PLANNING BOARD FOR ITS CONSIDERATION AND REPORT. A motion was made by Councilor Ferron, seconded by Councilor Livengood, to vote this item. VOTE BY ROLL CALL. COUNCILORS IN FAVOR: CHERNISKY, FERRON, KING, LIVENGOOD, MARCUCCI, MCDONALD, AND NIKOLLA. COUNCILORS ABSTAINING: LANGEVIN. BY VOTE OF 7 IN FAVOR AND 1 ABSTENTION, THE VOTE PASSES.

TOWN COUNCIL MEETING, TOWN OF SOUTHBRIDGE, MONDAY, AUGUST 7, 2006

AGENDA ITEM #6. TOWN MANAGER ANNOUNCEMENTS

Town Manager Carlisle stated the Planning Board had received the plans for the Industrial Park access road, and had given preliminary approval with two questions. The first question regarded the asphalt design at the portion of the road starting at Worcester Street and going the first 4800 feet into the roadway. Mr. Carlisle described how there was a minor adjustment being made because of a 3- to 4,000 square foot portion of land, and by adjusting for a narrower right of way by 5 or 6 feet at this spot in the access road, the Town could avoid a land taking. Mr. Carlisle stated this small adjustment did, however, cause a changing of the original plans from 1999. Mr. Carlisle stated the design firm Tighe and Bond would have available the plans for this new design within three weeks, and that this design would only influence the first 4800 feet of the roadway design, at which point it would blend together with the original plan.

TOWN COUNCIL MEETING, TOWN OF SOUTHBRIDGE, MONDAY, AUGUST 28, 2006

AGENDA ITEM #21. HAVING VOTED ON JULY 17, 2006, AGENDA ITEM NO. 18, TO REFER THE PROPOSED LAYOUT OF SOUTHBRIDGE INDUSTRIAL PARK ACCESS ROAD TO THE PLANNING BOARD FOR ITS REPORT AND HAVING RECEIVED AND REVIEWED SUCH REPORT, WE DETERMINE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE LAYING OUT OF SOUTHBRIDGE INDUSTRIAL PARK ACCESS ROAD AS SHOWN ON THE PLANS ENTITLED "SOUTHBRIDGE INDUSTRIAL PARK ACCESS ROAD AS SHOWN ON THE PLANS, SOUTHBRIDGE, MASSACHUSETTS, LAYOUT PLAN DRAWINGS," DATED JUNE 2005, PREPARED BY TIGHE & BOND, CONSULTING ENGINEERS, WESTFIELD, MASSACHUSETTS (6 SHEETS) AND LAY OUT SAID SOUTHBRIDGE INDUSTRIAL PARK ACCESS ROAD AS A PUBLIC WAY. A motion was made by Councilor Livengood, seconded by Councilor Marcucci, to vote this item. Vote by roll call. Councilors in favor. Chernisky, Ferron, King, Livengood, Marcucci, McDonald, and Nikolla. Councilors abstaining: Langevin, Lazo. Motion passes.

TOWN COUNCIL MEETING, TOWN OF SOUTHBRIDGE, MONDAY, OCTOBER 16, 2006

AGENDA ITEM #10. VOTE THAT THE SOUTHBRIDGE TOWN COUNCIL HAVING VOTED ON JULY 17, 2006 TO REFER THE PROPOSED LAYOUT OF INDUSTRIAL PARK ACCESS ROAD TO THE PLANNING BOARD FOR ITS REPORT AND HAVING RECEIVED AND REVIEWED SUCH REPORT, WE DETERMINE THAT PUBLIC CONVENIENCE AND NECESSITY REQUIRE THE LAYING OUT OF INDUSTRIAL PARK ACCESS ROAD AS SHOWN ON THE PLANS ENTITLED "SOUTHBRIDGE INDUSTRIAL PARK ACCESS ROAD PLANS, SOUTHBRIDGE, MASSACHUSETTS, LAYOUT PLAN DRAWINGS, AUGUST, 2006," PREPARED BY TIGHE & BOND, CONSULTING ENGINEERS, WESTFIELD, MASSACHUSETTS (10 SHEETS) AND HEREBY LAY OUT INDUSTRIAL PARK ACCESS ROAD AS SHOWN ON SAID PLAN BEING LAST AMENDED AUGUST 2006 AS A PUBLIC WAY AND ALTER AND RELOCATE INDUSTRIAL PARK ACCESS ROAD AS PREVIOUSLY LAID OUT BY VOTE ON AUGUST 28, 2006. A motion was made by Councilor Livengood, seconded by Councilor King, to vote this item. Vote by roll call: Councilors in favor - Chernisky, Ferron, King, Livengood, Marcucci, McDonald, and Nikolla. Councilors abstaining - Langevin, Lazo. Motion passes.

TOWN COUNCIL MEETING, TOWN OF SOUTHBRIDGE, MONDAY, MAY 21, 2007

Agenda Item #8. Vote that the Town Council hereby authorizes the Town Manager, on behalf of the Town, to enter into an Extension of Agreement for the Operation of the Barefoot Road Sanitary Landfill, and Refuse and Recyclables Collection (the Agreement) with Southbridge Recycling and Disposal Park, Inc. (SRD), as negotiated by the Town Manager and the negotiating teams, pursuant to which Agreement SRD shall operate the landfill, located on the property on Barefoot Road that is described in a deed recorded with the Worcester South District Registry of Deeds in Book 7008, Page

91, in accordance with the terms and conditions set forth in such Agreement, and further to authorize the Town Manager to sign such other documents and to take all related actions as may be necessary or appropriate to effectuate the aforesaid Agreement. A motion was made by Councilor King, seconded by Councilor Ferron, to vote this item.

Attorney Giorgio explained the changes which had taken place since the 4/25/07 meeting. He stated these changes had been made based on comments from the Town Council.

Attorney Giorgio stated the changes included the following:

- 1. Southbridge would get 'Most Favored Nation' status, at seven year intervals, where the town would get a similar benefit to any similarly situated landfill in the State.
- 2. A guarantee would be provided for the construction of the industrial park access road, whereby if Casella is awarded the bid then they will guarantee all repairs on the road for five years.
- 3. The ability of the town to perform unannounced inspections of the scale was now part of the proposed agreement, as well as the ability for the town to install more landfill monitoring equipment.
- 4. It was now explicit in the contract that Casella could not assign the landfill operation to any other company without approval of the Town Council.
- 5. There was now in the proposed agreement an escalation factor for the royalty payments made under this contract. This factor will be based on the percentage increase in the average tipping fee at the landfill, and will be a further hedge against inflation along with the CPI increase of up to 2.5% (please see attachment #1).

A lengthy discussion was held by the following, in the order they first spoke:

Councilor Marcucci, Attorney Giorgio, DPW Director Hamer Clarke, Councilor Livengood, Councilor King, Councilor Lazo, Councilor Nikolla, Councilor Ferron, Town Manager Carlisle, Chairman Chernisky, and Councilor Langevin.

A motion to move the question was made by Councilor Ferron, seconded by Councilor King. Vote by roll call, Councilors in favor: Ferron, King, Langevin, Livengood. Councilors opposed: Chernisky, Lazo, Marcucci, McDonald, and Nikolla. Motion fails.

A recess was held between 8:32 p.m. and 8:44 p.m.

Paul Larkin of Dennison Drive spoke about the proposed landfill agreement.

Dean Cook of South Street spoke about the proposed landfill agreement.

Stephanie Anderson of Jennison Street spoke about the proposed landfill agreement.

Kevin Buxton of Elm Street spoke about the proposed landfill agreement.

John Pulawski of Jennison Street spoke about the proposed landfill agreement, and a motion was made to allow Mr. Pulawski an additional five minutes to speak, made by Councilor Lazo, seconded by Councilor Marcucci. Vote by roll call, Councilors in favor: Chernisky, Ferron, Lazo, Marcucci, and McDonald. Councilors opposed: Langevin, Livengood, and Nikolla. Councilors abstaining: King. Motion passes.

Mr. Pulawski continued to discuss the proposed landfill contract and landfill operations in general.

Discussion by the Council was held and a motion was made to move the question by Councilor King, seconded by Councilor Ferron. Vote by roll call, Councilors in favor: Ferron, King, Langevin, and Livengood. Councilors opposed: Chernisky, Lazo, Marcucci, McDonald, and Nikolla. Motion fails.

Larry Beinema of Dennison Hill Road asked questions about the landfill operations under the proposed agreement.

John Gatti of Briarwood Ave spoke about the proposed landfill agreement. A motion was made to allow Mr. Gatti an additional five minutes of time, motion made by Councilor Lazo, seconded by Councilor Ferron. Vote by roll call: Councilors in favor: Ferron, Langevin, Lazo, Livengood, Marcucci, McDonald, and Nikolla. Councilors opposed: Chernisky. Councilors abstaining: King. Motion passes. Mr. Gatti continued.

Holly Christo of High Street spoke about the proposed landfill agreement.

Kevin Buxton of Elm Street asked to speak again, and a motion was made by Councilor Lazo, seconded by Councilor Marcucci, to allow him to speak for an additional five minutes. Vote by roll call, Councilors in favor: Chernisky, Ferron, Lazo, Marcucci, McDonald. Councilors opposed: Langevin, Livengood, and Nikolla. Councilors abstaining: King. Motion passes.

Mr. Buxton spoke about the proposed landfill agreement.

At this point no one further wished to speak about the agenda item.

Chairman Chernisky asked Attorney Giorgio if any adjusting of the language of this item needed to be done in order to incorporate the newest part of the agreement. Attorney Giorgio stated Agenda Item #8 should include the following at the end; "provided that the Town Council's approval of the contract is subject to inclusion of the annual percentage increase provision presented to Council this evening, subject to verification by the Town Attorney."

Councilor Ferron made a motion to amend Agenda Item #8 to read as follows: Vote that the Town Council hereby authorizes the Town Manager, on behalf of the Town, to enter into an Extension of Agreement for the Operation of the Barefoot Road Sanitary Landfill, and Refuse and Recyclables Collection (the Agreement) with Southbridge Recycling and Disposal Park, Inc. (SRD), as negotiated by the Town Manager and the negotiating teams, pursuant to which Agreement SRD shall operate the landfill, located on the property on Barefoot Road that is described in a deed recorded with the Worcester South District Registry of Deeds in Book 7008, Page 91, in accordance with the terms and conditions set forth in such Agreement, and further to authorize the Town Manager to sign such other documents and to take all related actions as may be necessary or appropriate to effectuate the aforesaid Agreement, provided that the Town Council's approval of the contract is subject to inclusion of the annual percentage increase provision presented to Council this evening, subject to verification by the Town Attorney. This motion to amend was seconded by Councilor Livengood. Vote to amend Agenda Item #8 to read as above, by roll call. Councilors in favor: Chernisky, Ferron, King, Langevin, Lazo, Livengood, Marcucci, McDonald, and Nikolla. Motion passes.

Agenda Item #8 (as amended). Vote that the Town Council hereby authorizes the Town Manager, on behalf of the Town, to enter into an Extension of Agreement for the Operation of the Barefoot Road Sanitary Landfill, and Refuse and Recyclables Collection (the Agreement) with Southbridge Recycling and Disposal Park, Inc. (SRD), as negotiated by the Town Manager and the negotiating teams,

pursuant to which Agreement SRD shall operate the landfill, located on the property on Barefoot Road that is described in a deed recorded with the Worcester South District Registry of Deeds in Book 7008, Page 91, in accordance with the terms and conditions set forth in such Agreement, and further to authorize the Town Manager to sign such other documents and to take all related actions as may be necessary or appropriate to effectuate the aforesaid Agreement, provided that the Town Council's approval of the contract is subject to inclusion of the annual percentage increase provision presented to Council this evening, subject to verification by the Town Attorney. Vote by roll call, Councilors in favor: Chernisky, Ferron, King, Livengood, and Nikolla. Councilors opposed: Langevin, Lazo, Marcucci, and McDonald. Vote passes.

TOWN COUNCIL MEETING, TOWN OF SOUTHBRIDGE, MONDAY, DECEMBER 10, 2007

Agenda Item #23. Vote to amend the vote of August 27, 2007, Agenda Item #16 - Vote to raise and appropriate \$399,500.00 to the FY 2008 Solid Waste Capital Outlay Account to be funded from Solid Waste Revenues, as follows: Vote that \$399,500.00 is appropriated for the design of a roadway from Worcester Street to the Landfill Access Road near the Barefoot Road intersection; that to meet this appropriation the Treasurer with the approval of the Town Manager is authorized to borrow \$399,500.00 under Chapter 44 of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes therefore.

2/3 Roll Call Vote Required

A motion was made by Councilor Chernisky, seconded by Councilor King, to vote this item.

Councilor King stated a positive vote on this item would carry out the will of the voters during the June 2006 town election. Councilor Vandal stated if it went back on the ballot and people knew the cost they wouldn't vote for it. Councilor O'Brien stated he would be voting for it because he felt the Town was contractually obligated to build this road.

Agenda Item #23. Vote by roll call, Councilors in favor: Chernisky, King, Livengood, McDonald, Nikolla, O'Brien, and Regis. Councilors opposed: Vandal. Vote passes.

TOWN OF SOUTHBRIDGE, MONDAY, MARCH 3, 2008

Interim Town Manager Jack Healey stated there would be financial repercussions if the Town attempted to stop this contact, and he wanted to point these out. Mr. Healey stated the Board of Health was currently tasked to attend this issue, and were capable of applying conditions to any permitting granted.

TOWN COUNCIL MEETING, TOWN OF SOUTHBRIDGE, MONDAY, APRIL 14, 2008

Mr. Healey stated to date he had heard only from the opponents of the site assignment. Mr. Healey stated a negative vote on the site assignment would not eliminate the landfill operation. Mr. Healey stated the choice before the Board of Health at this time was between the bad current agreement and a better one.

TOWN COUNCIL MEETING, TOWN OF SOUTHBRIDGE, MONDAY, MAY 19, 2008

Mr. Healey stated a letter to the Department of Environmental Protection sent by Ms. Pecci from one of the intervenor groups at the site assignment hearings, which alleged an improper site assignment for the landfill operator, had been found to be invalid, and the area currently occupied by the landfill operator for use as a landfill had been properly assigned in 1979, and then modified properly in 1998.

Agenda Item #20. Vote to authorize the Town Manager to go out to bid on the construction of a new Roadway to be known as Environmental Industrial Park Road from Worcester Street to Pleasant Street. A motion was made by Councilor King, seconded by Councilor Chernisky, to vote this item. Discussion was held. Vote by roll call, Councilors in favor: Chernisky, King, Livengood, McDonald, Nikolla, and Regis. Councilors opposed: O'Brien and Vandal. Councilors abstaining: Lazo. Vote passes.

TOWN COUNCIL MEETING, MONDAY, NOVEMBER 24, 2008

John Pulawski of Jennison Street asked about bidding on the industrial park access road, and Mr. Clark stated the Phase I bid is out, and is due back on 12/4/08.

Mr. Clark stated regarding the access road, he would not deal in hypotheticals, and right now there was a valid contract that was being contested. Mr. Clark stated the current scope encompassed Phase I, which is the amount the Town can afford. Mr. Clark stated he would count Casella as an anchor tenant. Mr. Clark stated the Town controls quite a bit of property up there, and once the road goes in the Town can sell off properties up there as the beginning of an industrial park. Mr. Clark stated the Town needed to be exceptionally business friendly, and needed to bring in jobs. Mr. Clark stated the mission here is to get this road under way, as it will improve the entire population of the community.

TOWN COUNCIL MEETING, TOWN OF SOUTHBRIDGE, MONDAY, DECEMBER 8, 2008

Mr. Clark stated regarding soil going to the landfill with lead contaminant, the reports were in and the amount found was 260 mg/kg, which is well within the DEP acceptable limit of 2000 mg/kg.

Mr. Clark stated the Town had received several favorable bids on the access road, and he would come back to the Council at the right time to seek an award for this work.

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

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.**

This is where we stand now. No award of the bid. The town manager has expressed his concern regarding the legal ramifications and the duties of obligations of the Town Manager and the Town Council as it relates to the Extension Agreement for the operations of the Landfill between Southbridge Recycling and Disposal Park, Inc. and the Town of Southbridge dated March 29, 2007.