

**MINUTES OF SPECIAL MEETING HELD
WEDNESDAY, MARCH 23, 2011 – 4:30 P.M.
COLONIAL BEACH TOWN CENTER**

**MAYOR:
VICE MAYOR:
COUNCIL:**

**FREDERICK C. RUMMAGE
BURKETT LYBURN – tardy
SHANE BUZBY
STEPHEN KENNEDY
KAREN PAYNE
RONALD RIDGELY
GARY SEEBER
VAL FOULDS
ANDREA G. ERARD
JOAN H. GRANT
BARBARA A. GOFF**

**TOWN MANAGER:
TOWN ATTORNEY:
CHIEF FINANCIAL OFFICER:
TOWN CLERK:**

CALL TO ORDER:

Mayor Rummage called the Special Meeting to order on Wednesday, March 23, 2011 at 4:30 p.m. at the Colonial Beach Town Center and stated the reason for the meeting was to take action regarding a vacancy on Town Council. At this point we do not have a vacancy and we have to move on to declare a vacancy and then take whatever action after that.

Mr. Kennedy stated three weeks ago I took a leave of absence. I am resigning my position today effective March 23, 2011 strictly for personal reasons. It doesn't come easy. I just want the Council to accept my resignation and let this Town move on.

Mr. Ridgely stated we owe Mr. Kennedy a lot of gratitude for all of his work and dedication to the Council and the Town. He certainly put his heart in it.

Ms. Payne echoed that as well. I have worked very well with Mr. Kennedy.

Mayor Rummage stated I certainly agree with that.

Mayor Rummage stated we have to adopt a resolution accepting his resignation to make it official.

Mr. Kennedy stated this decision is strictly for personal reasons. It has no reflection on any members of this Council or anything that the Town is doing. The last couple of years it has been pretty rough. If I can't give 100%, I am giving something less. The people of this Town deserve better. Those who know me know some of it. My wife's illness but I can't be distracted serving the Town. When you take an oath to sit up here you better be ready to do it. At this time, I can't do that.

AGENDA - #15-11

RESOLUTION – RESIGNATION OF STEPHEN KENNEDY FROM COLONIAL BEACH TOWN COUNCIL

WHEREAS, Stephen Kennedy was elected by the citizens to serve on the Colonial Beach Town Council for a term commencing on July 1, 2010 and ending on June 30, 2014; and

WHEREAS, personal circumstances have arisen that prevent Stephen Kennedy from completing his term of office; and

WHEREAS, Stephen Kennedy wishes to resign his position on the Colonial Beach Town Council.

NOW, THEREFORE BE IT RESOLVED, that the Colonial Beach Town Council, at a specially called meeting on March 23, 2011, hereby accepts the resignation of Stephen Kennedy, effective immediately; and

BE IT FURTHER RESOLVED, that consistent with past practices in Colonial Beach, the recipient of the next highest number of votes from the May 2010 election shall be appointed to fill the unexpired term of Stephen Kennedy; and

BE IT FINALLY RESOLVED, that the recipient of the next highest number of votes in the May, 2010 election, David Coombes, be appointed to fill the unexpired portion of the term of Stephen Kennedy which ends on June 30, 2014.

Motion was made by Ms. Payne to approve, second by Mr. Ridgely.

Mr. Seeber stated there have been three ways to accept a resignation. When the lady moved to Florida yes, we have taken the next highest number of votes. It has also been advertised to get people who are interested. The Council has either interviewed them or had them speak in public to the Council then we went in the back room and picked someone. I also personally feel that since the seat is not empty yet so I don't know how we can appoint someone. Now the lawyer says we can do that and also that Mr. Kennedy can in fact vote on it. My personal opinion is we should do one thing today and my personal opinion is we should advertise and see who will be accepted for the spot.

Mayor Rummage stated he had a request – I would like to divide the question. On the first part of 'Therefore be it resolved, that the Colonial Beach Town Council at a specially called meeting on March 23, 2011 hereby accepts the resignation of Stephen Kennedy effective immediately'. I would like to have a motion on that. It is the division of the question. I am dividing it into two different parts. We will vote on Part 1 first and Part 11 second.

Ms. Erard stated there is a motion on the floor and a second.

Mayor Rummage stated but the division of a question takes priority.

Ms. Erard read from Roberts Rule of Order – 'In the case of a series of resolutions relating to a single subject if members desire one or more of the resolutions can be considered separately the motion for division of a question must be made and adopted by a majority vote. Sometimes a series of independent resolutions relating to completely different subjects is offered by a single main motion in the same way. In the latter case where the subjects are independent any resolution in a series must be taken up and voted on separately at the demand of the single member. Such single demands can be made even when another has the floor at any time until the vote has been taken on adopting the series. A member wishing to making this demand rises and sets for example Mr. President, I call for a separate vote on resolution #2'.

Mr. Seeber asked what does that mean?

Ms. Erard stated there are more references and if you want to take a recess, I am happy to read it. This sounds like when you have a series of resolutions we can divide a series of resolutions not a resolution. I am looking at one of the references.

Mayor Rummage stated well in that event then I move to amend. Mr. Seeber seconded the motion to amend.

Ms. Erard asked what is the proposed amendment?

Mayor Rummage responded the proposed amendment is to delete the 'Be it Resolved and the Be it finally Resolved'.

Ms. Erard stated so you are now going to vote on whether or not to amend the resolution.

Mayor Rummage responded correct.

Ms. Erard stated the question before you is whether or not to amend it as proposed by Mayor Rummage and to delete the appointment of someone.

Mayor Rummage agreed.

Mayor Rummage stated to explain that motion and my reason for this there are an awful lot of people who have shown a lot of interest in more direct participation in this government, some of whom are sitting in the audience today. To cut them out arbitrarily is a mistake. I think we should open this up to the public and let people apply and interview them as individuals and select the best of those individuals and proceed from there.

Mayor Rummage stated on the motion to amend the resolution accordingly, does everyone understand?

Mr. Ridgely asked that it be clarified what we are voting on.

Mayor Rummage stated what you are voting on right now is - now therefore be it resolved that the Colonial Beach Town Council at a specially called meeting on March 23, 2011 hereby accepts the resignation of Stephen Kennedy effective immediately.

Motion was made by Mayor Rummage.

Mr. Seeber stated I will second it if I have to because you made a motion and I agreed with it to amend it. What we are voting on now is to take out the last two paragraphs, then you will have vote on it, then you go back to the original motion and vote on whether or not to accept his resignation.

Ms. Erard responded correct, the vote now is whether or not to amend what is currently before you. If you want to amend it you vote yes and if you don't want to amend it you vote no.

Ms. Payne stated she understood the concern as expressed by Mayor Rummage but I look at it in a little bit different way in that less than a year ago, the people of the Town did speak and if we don't take into consideration the fact that they spoke and I believe 6 or 7 votes the person that we are speaking of just missed out, there were a lot of people who did vote for this person. I think by not taking that into consideration and basically saying that the Council alone will make the

decision and appoint someone for three years, I think that is ignoring the will of the people at the last election.

Mr. Ridgely felt the same way.

Mr. Seeber stated since there is in fact more than two years left in the term, would not whomever is appointed have to run the next time for a two year seat? I don't think we can fill a three plus year term.

Ms. Erard responded she would have to look at the Charter for that. I do know that regardless even if there is a special election, that the Town Council generally makes an interim appointment.

Mr. Seeber responded that he understood but we don't know at this point if it is for a year and five months or a year and eleven months or for three years.

Ms. Erard responded she would be happy to research that and I believe in the past that Council has done appointments but I would have to look at it.

Mr. Seeber stated he didn't personally remember one.

Mr. Kennedy stated one of his fears when I decided to do this and once again it was not an easy decision to make, but timing is never good for it, but there are several important issues on the table at this time that cannot be ignored. I feel that the person we are talking about has the knowledge, skills and ability to walk in here ready and to take over doing a job to serve the people of this Town. It would be a seamless transaction. One of my biggest fears was as I thought about this was any delay in filling this seat would cause a disruption of some of the important issues that we have on this table at this time. I think the easiest, cleanest and nicest way for this Council to move forward is to take the next highest vote getter. That gentleman understands the process. He has been here. There would be no learning curve. There would be no down time. The Council could move forward.

Mr. Seeber stated we don't know how long this person is going to serve and I think we need to know the answer to that. I sympathize with Mr. Kennedy's desire to have the seat filled. I think some of the things Mr. Kennedy was doing are very important. I agree that Mr. Coombes has a wealth of knowledge after having been on Council. I don't know if Mr. Coombes is exactly going to fill Mr. Kennedy's shoes as far as the things he has in process from the Economic Development standpoint. I don't see that as David's strongpoint.

Ms. Erard asked about Ms. Crandell.

Mr. Kennedy stated Ms. Crandell ran for Mayor and she lost and she had two years left on her Council seat. Shortly after the election, she opted to resign that seat.

Mr. Seeber stated there were less than two years remaining.

Mayor Rummage stated on the motion to amend called for a vote. Mr. Seeber **aye**, Mr. Buzby **aye**, Mr. Lyburn **aye**, Ms. Payne **nay**, Mr. Ridgely **nay**, Mr. Kennedy **nay**, Mayor **aye**, motion carried and the motion to **Amend Resolution - #15-11 was Approved. Motion Carried.**

Mayor Rummage stated we are now back to the main motion on Resolution - #15-11 the resignation of Mr. Kennedy.

Mr. Buzby **aye**, Mr. Seeber **aye**, Mr. Lyburn **aye**, Ms. Payne **aye** **regrettably**, Mr. Ridgely **aye**, Mayor **aye**, Mr. Kennedy **aye**, motion carried the **Resignation of Mr. Kennedy from the Town Council was Approved. Motion Carried.**

Mr. Kennedy thanked everyone.

Mr. Seeber stated we need to ask the Town Attorney to find out whether we have to have a special election or how long the seat would be.

Mayor Rummage stated Mr. Seeber is absolutely correct on that.

Mr. Seeber stated we either want to have a meeting or decide at the next meeting how we are going to do this be it by advertisement or what.

Mayor Rummage stated the Code permits us to take a maximum of 45 days to make that determination. I would like to get it done in the shortest time possible.

Mr. Seeber stated then can we ask the Town Manager to go ahead and advertise it.

Ms. Erard asked for a motion to ask me to provide a formal opinion on that question?

Motion was made by Mr. Ridgely, second by Mr. Seeber. With no objection from the Town Council and all aye votes, the motion carried for the Town Attorney to give a positive answer on the question raised by Mr. Seeber. **Motion Carried.**

Mr. Roberson, Westmoreland County Board of Supervisors stated that we found out this week from the highway department that indeed they did do away with the tier of paving roads which is a good thing. I don't understand the wisdom of the highway department but now they want the County to step up with the revenue sharing and paving the road here that we now have to hire engineers to design the road. I always felt that was the highway departments job but now they are passing that on. I know that Carter White has been contacted who does our engineering for us and will do whichever road you have in mind but remember there is engineering that goes on and

it will be about 30% of the project. So we are not going to get as much paved with the same amount of money as we did last time. I still am under the impression that we are going to get that last block of Santa Maria taken care of. It is still a good deal, it is just not as sweet as it once was.

Mr. Seeber asked if a motion could be made asking the Town Manager to advertise for the open Council seat.

Motion was made by Mr. Seeber, second by Mr. Lyburn. With no opposing votes, and all aye votes, the motion carried for the Town Manager to advertise for the open Council seat. **Motion Carried.**

Mr. Seeber asked when do we want the response to be returned? We have a committee meeting coming up, would that be sufficient?

Mr. Buzby stated the committee meetings are tomorrow.

Discussion took place regarding the advertising and the dates and it was determined to be advertised for one week and the issue to be brought before Town Council at the Town Council Meeting of Thursday, April 14, 2011.

Mr. Seeber asked if we could have a closed meeting to discuss the applicants?

Ms. Erard responded yes to discuss the filling of the seat and review the applications.

Mr. Seeber stated should we put it on the agenda as a new business item and decide whether we want to take action that night. If we get resumes, we would like to have them a day or two ahead of the meeting.

Diane Pearson asked if I am a member of the Town and we are having an open meeting . . .

Mayor Rummage stated we really aren't because it is a special meeting.

Ms. Pearson asked why was the public invited if we are not allowed to speak?

Ms. Erard responded the law requires that the meetings be public. Unless it is advertised as a public hearing for some specific purpose, there is no legal requirement of a public comment period.

Mayor Rummage stated I will be kind, but I do not want you to set a precedence and only if it relates to the position.

Ms. Pearson stated we definitely would like to see an election held and not just bump up the next person. We've done this in years past. I have nothing against the gentleman that would be bumped into that position but if the public wanted him in that office it seems to me they would have put him in there at the last election. I am awfully sorry that he ended up in the position that he did but however I think the people have a right to speak again. Thank you.

With no further discussion, Mayor Rummage adjourned the special meeting of Thursday, March 23, 2011 at 5:00 p.m. at the Colonial Beach Town Center.

Respectfully submitted,

Barbara A. Goff,
Town Clerk

Frederick C. Rummage,
Mayor

