

**MINUTES OF TOWN COUNCIL MEETING HELD
THURSDAY, APRIL 9, 2009 – 7:00 P.M.
COLONIAL BEACH TOWN CENTER**

Mayor Rummage called the regular meeting of Town Council to order at 7:00 p.m. on Thursday, April 9, 2009 at the Colonial Beach Town Center. Town Council Members present: Mr. Coombes, Mr. Ridgely, Mr. Lyburn, Ms. Payne and Mr. Kennedy. Absent: Ms. King. Others present: Ms. Foulds, Town Manager; Ms. Erard, Town Attorney; Ms. Grant, Chief Financial Officer; Chief Hawkins, Chief of Police; Mr. Murphy, Director of Public Works and Ms. Goff, Town Clerk

The Prayer and Pledge of Allegiance were recited.

Additions to the Agenda:

Motion was made by Mr. Coombes to add Resolution - #27-09 – Removal of the Mayor's Office from Town Hall; Motion was made by Ms. Payne to add Resolution - #28-09 – Approving Ordinance - #555, second by Mr. Coombes. Motion was made by Ms. Payne to add Resolution - #29-09 – Approving Ordinance - #567, second by Mr. Coombes. With no objections from Town Council, the resolutions were added to the agenda. *Motion Carried.*

Adoption of the Agenda:

Adoption of the agenda was skipped.

Approval of the Minutes:

Mayor Rummage called for a motion to approve the minutes of the regular meeting of Thursday, September 11, 2008 and the regular meeting of Thursday, March 12, 2009. Motion was made by Ms. Payne, second by Mr. Lyburn. With no objections, the minutes were approved as presented. *Motion Carried.*

Council Reports:

Budget: Mr. Ridgely reported there have been meetings with the department heads for the preliminary budget and it is moving forward. We are also continuing to work on the audit recommendations.

Streets & Roads: Mr. Kennedy reported he has continued looking at the available property that the Town has and what we can do with it and which ones can be liquidated. There are lots around Town that are publicly owned that are just sitting there. They are a source of revenue. The market is down and it is not really the best time to get rid of property. Some of the property is not good for anything except for the adjacent property owners. It is my feeling we should go forward with it to make improvements in this Town. It is my recommendation with Town Council's approval to get an appraisal and have survey's done. The ones on the list that are highlighted are the ones we can dispose of immediately. Robin Grove Park is underutilized. There are right-of-ways, streets that dead end on Monroe Bay Avenue and lots that are used as parking lots. My feeling is if they are going to use them, they might as well purchase them. There are some at Riverside Meadows. I did not mark the one at the end of Santa Maria Avenue going

across Riverside Meadows. It is the entrance to the Range Station. With Town Council's permission I would like to go forward with talking to an appraiser.

Mayor Rummage responded I have made the comment before we should not be in the real estate business and the quicker we can get this real estate on the tax roles, the better off we will be.

Mr. Kennedy stated there is a whole lot more that needs to go, but now is not the time to be selling, just get them ready.

Ms. Erard stated she did not know how the parcels were acquired. Given everything we have gone through with the Dennison Street vacation, it might be a good idea that the Town Manager and I find out how these properties were acquired, whether there are any bond issues on them and also it might make sense for the Town Manager to negotiate with an appraiser when there is more than one parcel. We might be able to get a better price.

Mr. Kennedy stated some of them are old and had wells or pumps on them. The piece of property at the intersection of Cedar Avenue and Wakefield Street had a well and a tank there. The one on Azalea and Wakefield, there was another well there. The intersection on Given Street and Garfield, I don't have a clue why we have that. There is a 125 foot wide lot on 9th Street between Euclid and Route 205. I don't have a clue as to why we have that one either.

The Town Manager and the Town Attorney felt they could take on the assignment.

Planning & Zoning: Mr. Coombes stated his report would be on Resolutions - #28-09 and #29-09. These are two resolutions from the Planning Commission. One is dealing with miscellaneous items in the zoning ordinance. The other is the Maritime Commercial District of certain permitted and conditional uses that we need to add in there that have not been done and have been dormant for a year.

Water & Sewer: Ms. Payne reported on the expansion of the Waste Water Treatment Plant. I was told that we are approximately 94% finished. There have been a couple of delays here and there, but we are expected to have it online and running by the end of May, which is well within our required timeframe for July. We have been working on the revisions to the Boardwalk Vendor Program and there will be a public hearing on it next month at the regular meeting. The goal is to revitalize the activities on the Boardwalk and loosen up some of the requirements.

Public Safety: Mr. Lyburn reported with the good weather coming to please be careful while on your golf cart. Make sure you have your flares on the rear of the cart. We want this to be a safe year. Please obey our traffic laws.

Police Department: Chief Hawkins reported the police department had been granted a sub-grant from the US Attorney's General Office from the Eastern District of Virginia to pay for a dispatch system. There is no money match. Captain Seay finished and submitted the grant today that you approved for two additional officers. They pay for the first three years and we pay for the fourth year. The Northern Neck jail prisoners have cleaned up the Lions Club property and they are now scraping the museum across the street.

Fire Department: Mr. Kern reported the new fire truck came in and the festivities will be May 2nd.

Rescue Squad: Mr. Ridgely reported there is a grant available through the local government for computers for the ambulances. Mr. Risavi stated he would be happy to submit everyone under one grant for one set of paperwork. We are moving forward with that and it will save us time.

Economic Development: - Ms. King was absent from the meeting.

MAYOR'S REPORT:

Mayor Rummage acknowledged that Mr. Buswell was present to speak about the Historical Society.

Mr. Buswell, President of the Colonial Beach Historical Society reported that the reopening of the museum would be April 18th. This is the 10th year of the Colonial Beach Museum. It was dedicated on July 3, 1999 and we celebrate that dedication with an event at the museum. We are opening on the 3rd with a guest author, Mr. James Tignor. His book is filled with postcards of Colonial Beach dating back from 1905 to 1960. The books will be autographed. Mr. Buswell displayed a re-creation of the Town's walking tour brochure of the downtown area which was done by Charly Crandell. April 25 is the 251st birthday of James Monroe who was born 1 ½ miles from here. A celebration will take place at the Welcome Center. There will be keynote speakers there. The 8th annual Big Band Dance will take place on May 9th at the American Legion Hall.

Mayor Rummage stated because of the recent articles in the press, it has become necessary for me to deviate and give my report a little bit different than it would have been. There are three major items in this report and I regret that I am doing this but I feel it has to be done. I always feel both sides of any issue have to be expressed and when that is not done, we are shortchanging the public. The first item is called Riverwood Apartment development. You will remember that came to us in regular session on December 11, 2008. We had quite a debate and discussion of that issue and I felt it was necessary to continue the meeting to a subsequent date which turned out to be December 17, 2008. This was to allow our attorney and the attorney for the new purchasers to settle some issues that appeared to have occurred. During that continuation meeting, I was unable to get anyone to make a motion for open debate. I do not like to see a Chairman of an organization make motions, so I did not do it. I don't think it would have made any difference if I would have because I don't think anyone would have seconded it. I called a recess hoping that there would be a re-consideration. There was no action and we adjourned. I subsequently sent a letter to the press to explain what happened. The residents at Riverwood Apartments have called me numerous times, very upset particularly the elderly. Since that time, I know that my relationship with the Council has gone south. That is regrettable because it was never my intention that this would turn out in that fashion. I still hope that we will reconsider, put bygones as bygones and get on with the future for everyone's benefit and welfare of the people of the Town. The second item is our audit. February 3, 2009, there was an audit delivered to the office. I didn't learn about it until a week later and I was rather insistent that I have a copy of that audit. I wanted to make copies of it for the members of this Council because

any management letter that I have ever heard of in my entire career goes to the management, the policy makers, the Council. It wasn't long after that on the same day, I was charged with mistreating people in the office. If I ever mistreated anybody in this office at any time, I am sincerely sorry and my sincerest apologies. I was told at the Retreat there would be copies of this audit, management letter whatever you want to call it. Then I was told, if you have a Retreat you will be attending it alone. I was also told that I am very domineering and I am very critical and thought of as an ochre. I did not realize that and they said if I didn't change, they were going to close the Mayor's office. I said well, maybe you can do that, maybe you can't. I am not talking about closing the elective office of the Mayor. I am talking about the physical office at Town Hall. After that I have spent much less time in that office and the things that I was working on since the Town Manager had just come on board as a full time Town Manager, all of those things were turned over to her. I was going to do that anyway at the Retreat. I really thought all was well. I had not received any complaints. I certainly had not received any from the Town Manager. The third item occurred on March 30, 2009. I was informed by Westmoreland County that they had received some money from the State for road repair. The money had to be spent during this fiscal year and it was recommended to me that because we have started this year, the Riverside Meadows pavement program, that it would be very wise to start Phase II of Riverside Meadows. I agreed immediately. Of course they would be asking for some sort of match from the Town. The State then doubles that match and in order to give an explanation of exactly what we are talking about, it is a little complicated because it is involved in two budget processes. For instance, if the Town was going to contribute \$50K, and if I was asked where do you recommend that this money come from, I would say from the Town Reserve Fund. The County would match that and then the State and the program that already is involved with Riverside Meadows, would contribute \$100K and that would make a nice dent in that project in that area. We had a small meeting at the time, but there was a quorum and the people present said, there is no way we can make a dollar commitment until after we have our own budget hearings. At that time a question was asked of the Chief Financial Officer what we had in reserves. This is very important. She said we have about \$1.5 million dollars projected in reserves. I asked her if that was plus the \$500,000 in the so-called Investment Fund? That gives us about \$2 million dollars in reserves. I prepared a letter very carefully written covering exactly what transpired here and I appeared at a session of the Board of Supervisors. I in essence said to them to please set aside the money that you indicated could be available for Riverside Meadows and as soon as we have our budget hearings, I didn't have a schedule at that time, and you heard the Chairman say tonight that he will have a schedule shortly, that we find out if there is any money left and remember the reserves that I talked about. I will be back in touch with you. I don't know where that stands at this point.

Mr. Roberson stated the State highway department has not given us a drop dead deadline so you are still in the running. We have called down to Richmond and they have not gotten back to us exactly when all the money has to be in.

Mayor Rummage stated I know that you have as much of a commitment to this area and these roads as I do and whatever you can do on behalf of this Town, particularly this section of this Town, we beseech you to do it. As a result of this, during our short meeting on Friday concerning this last issue, I indicated that I was going to ask our legal counsel to prepare an opinion based upon the contract that was made with Historyland Playground; who owed the

properties up there and went bankrupt subsequent to 1977 and the contract with the Town of Colonial Beach. I know there is a moral obligation but I would like to be researched to find out if there is a legal obligation. I know about bankruptcy. Bankruptcy laws are very difficult laws, but I don't know the way the money was derived from the delinquent accounts at Historyland, whether or not this Town was ever free to spend the money as it should have on paving the roads. There was no objection to my having done that with the people present and if there is no objection from the Council, I would ask you then if you would kindly do that. I think it would clear the air for the future. The second question I would also like you and this I have not discussed with anyone, but I would like to have the Council go along with it, that \$500,000 that was the result of selling the marina at the Point. I have been told and I didn't find out about this until I was on the Council for two years, I was always told, this could not be touched. I have never served on any board, on any commission, anywhere, that one board can bind future Council's. That is legally impossible. Maybe there is something in the law in Virginia, I don't know. Maybe there is something in the Ordinances here, I don't know, I couldn't find it, but I would ask our legal counsel to research that as well if there is no objection by the Council. The other thing that I have asked for since July 1, 2008 and I am asking for it again is the financial state of this Town. You know that there is a State of the Union, there is a State of the State. There is State of the Counties. I think that the people in this Town should know exactly how much money we raise every year, what we spend it for, what the bond issues are, and what we project in any type of investments. That should be done before we ever get to the next fiscal year. With that I thank you and I am sorry I had to make this type of report on Holy Thursday. I shall not stop as long as I am here making disclosures that should be made to the public. Transparency is my commitment. It was when I ran for this office and honesty I was always taught is the best policy.

TOWN MANAGER'S REPORT: Ms. Foulds distributed her report which included the following:

- Boardwalk Vendor Program Committee meeting – met with Karen Payne, Sherri Wilkerson, Larry Graham, Captain Markam and Ursula Finney to review and discussed the first draft of Ordinance
- Met with Department of Conservation and Recreation (DCR) regarding transition of Zoning Administrator functions to the Town Manager's Office and other Chesapeake Bay Act related issues
- Attended management meeting with Chief Financial Officer, Council Member Ridgely and Mrs. Nancy Miller in Fredericksburg – budget related
- Budget meeting with Department Heads at Town Hall
- Comprehensive Plan Workshop at the Town Center
- VML Online Class, Documentation Do's and Don't
- Audit Meeting with the public by Miller Foley Group
- Town Council work session
- Meeting with PW Director – worked on completing Virginia Department of Health Drinking Water Grant application/stimulus related
- Meeting with Reid Engineering, Public Works Director and Ray Booth of the English Group to discuss procurement of a new police facility at 700 Colonial Avenue

- VDOT luncheon in Montross with Mayor Rummage and others served by VDOT's Northern Neck Residency
- Meeting with Town Attorney to review several working files Zoning related
- Planning Committee Meeting, Town Center
- Meeting with CFO on revenue projections for FY 09/10
- Special meeting regarding commitment funds for Riverside Meadows
- Weekly Public Works/WWTP update and status review
- Meeting with Council Member Steve Kennedy and Len Billet – The Billet Group
- Meeting with Boyd Wiley, Department of Environmental Quality – WWTP construction status and financing review

CHIEF FINANCIAL OFFICER:

Ms. Grant reported:

- March deposits \$1,446,240
- Balance as of 5 p.m. including all encumbrances & reserves - \$1,534,598
- March revenue & expenditure report handed out on April 8th
- Currently working with mortgage companies on June real estate billing

TOWN ATTORNEY'S REPORT:

Ms. Erard reported she had been working on the following issues:

- Dennison Street project – Appraisal has been ordered and will come in around the end of April. I have explored the possibility of leasing the property in order to move the project forward. We are trying to expedite it as soon as possible. Mr. Coffman stated that wouldn't work because of ABC requirements
- 947 Bryant Avenue – Kehoe and relatives – a violation that was filed sometime ago which was continued because we had an agreement as to compliance. We continued it until April 21st and there have been issues in terms of their ability to comply. The property owners have been very cooperative and it looks like everything is going to have a favorable outcome
- Boardwalk Vendor Ordinance
- Research on Riverside Meadows

COMMISSION REPORTS:

PLANNING COMMISSION: Mr. Coombes stated that he nothing else to add other than what was said previously.

BOARD OF SUPERVISOR'S REPORT:

- Board of Supervisor's Meeting will be on Monday night at 6:00 p.m. with the budget meeting starting at 4:00 p.m.
- Budget looking better because of the stimulus package. One goal was to keep everyone employed and we will be able to do that under this budget. There will be no raises, but everyone will still have a job. There are a few positions that will not be refilled

- O’Gara Group has received an extension from the IDA on purchasing part of the County’s property. They were held up while waiting for Zoning Appeals Board Meeting but the request was pulled
- Roads that go into the river were originally for curb and guttering and sidewalks and were the original easements. You may want to think about keeping the right-of-ways
- Yacht Club Funds – \$1.6 million dollars was put into an interest bearing account. The Ordinance said that we would not touch that money but we could spend the interest that the money created. I was told the account was down to \$500,000. So someone has touched it. The idea was to have a rainy day fund
- Riverside Meadows paving – the original \$50K that this Board approved to pave Santa Maria was out of the FY 07/08 Budget. The highway department has pushed it back. We should have had an answer in April, but it did not come until December last year and threw everything off. The highway department has money earmarked for road improvements for the FY 08/09 Budget, this fiscal year. If you don’t keep going with it you drop down on the list because there are a lot of places that need a lot of help also. We need to act before they change the rules and regulations

Mr. Kennedy asked Mr. Roberson exactly when was the Town notified about the current issue with the road sharing program?

Mr. Roberson responded Mr. Risavi stated it should have been in the budget right along. He actually made a call up here before you met.

Mr. Kennedy stated the budgetary year that this money is supposed to come out of would be this current year that we are in and until our audit report is in, we don’t know what we are working with. We have some corrections we have to make in our budget. What dollar amount were we told from Mr. Risavi that we would be getting to match?

Mr. Roberson responded Mr. Risavi does not like to give out figures and we have to put more money in it down the road, but from what I understood, the County would match you \$50K.

Mr. Kennedy stated for clarification purposes we never said that we were against or we going to not support the Riverside Meadows project. We did not know and do not know at this point the dollar amount that we can put up. That was the issue, not that we did not want to do it.

Mr. Ridgely stated we also need to point out about the various philosophies in the reserve account. The Reserve Fund is used for the day you wake up and there is an emergency like a hurricane and you have to order 50 dumpsters in Town. I don’t think there is anyone who objects to Riverside Meadows, but we have to make sure we have the funds to do that. The Boat Tax money was in the budget but had to be removed and that is revenue that we are short. We drastically cut Building & Zoning because we realized where we were. We are still \$100,000 short after we cut those. We have looked at the budget and monitored the budget and cut back on a lot of projects. We have three or four vacancies we have not filled. No one up here objects to doing the project, but at this point we don’t know what is coming in.

Mr. Kennedy stated the School Board brought up last night about the school buses driving in that area with all of the potholes.

Mr. Murphy responded we just got a new blade for the grader today. I believe he went over it this afternoon.

COLONIAL BEACH SCHOOL BOARD: Mr. Trivett, Chairman of the School Board stated he wanted to talk about several issues:

- Came on board in July and all contracts with the school were already signed. This year has been a learning experience for Mr. Looney, Ms. Congdon and me. We have made changes that we thought were necessary to help the school run more efficiently and to save money. The first resolution we made was to pass the Bright System and implement it. It started out slow and in March it picked up steam and we are there. It does take personnel to operate the system. If you want us to do this, we are going to have to have people in the office to run it and you are going to have to provide those funds. We are at the point where we can start entering data now
- We have a finance director who is doing the job of three people and I think it has caused a lot of the issues through the last six or seven years with the over expenditures. We have no checks and balances. In order for us to get there, we are going to have people who can perform these duties
- There is a lot of work to be done on the audit report. I came and spoke every time the auditors, Mr. Porter, spoke and told us we were over by a certain amount of money and it was allowed to go on for a long time until a resolution was put in place by this Council to prevent that from happening again
- The school has run very smoothly and the school has done what it is supposed to do and it has been monitored I think very efficiently. Ms. Grant agreed. If something happens she will notify us immediately and we find out we have overspent for some unforeseen circumstances. We want to make you aware of it and we want to resolve it and we apologized and we went forward and you have accepted that
- We have been very transparent. I can't promise you in 2008 – 2009 we won't find something that has been wrong this year, but I can promise you now that some of us have control over what is going on in the school system that we are making sure we cross every "t" and dot every "i" to make sure we do things right at the School Board
- It bothers me when I hear comments about this \$660K and that the school is going to have to pay it back. I don't know if the public understands but I want to make it perfectly clear where our money comes from
- It comes from the State, it comes from the Federal government and it comes from the Town. It comes from taxes. We don't generate funds so when people make statements we are going to pay it back and they are members of this Council, I don't how in the world they would ever expect us to do that unless their intention is they want to see the school close down and maybe that is the intention
- The school has no way to pay back funds and all of you should know that

- If you were to say you were going to cut the budget by \$660K, you can close the school. There is no way we could operate as a school system if you cut that from our budget
- I can promise you that we are doing everything to make sure we use your money the way it should be used. Have mistakes been made this year, absolutely. We are correcting them immediately. I knew nothing about a school system when it comes to administration until this year. It has been a learning curve but we have tried to work very hard as a team to make changes
- We sent you our budget and I would respectfully request that we have a meeting of the Superintendent, myself, Mr. Looney, our finance director and your finance director and any questions that you have about it, settle them before it ever comes to a public hearing. We need to work together as a team. Things that have happened in the past regarding the schools and the budget, should stay in the past. All of you know that before people move here, they are going to look and see what kind of school system we have. If we don't have a school system, it will end up being a retirement community

Mr. Kennedy stated he speaks for himself and no one else on this Council. At no time did I say that I expected the school to pay back \$660K dollars. I think I would be naïve to think that it could even happen, but I do think the taxpayers of this Town are owed an explanation. Accountability, that is what I ran on and I will stand by my word. If we are going to do this in an open forum, I want it to be clear. I support the school, but somebody needs to be held accountable for what has happened.

Mr. Trivett responded that he was not pointing a finger even though the paper stated it was you. They quote me saying things that are not the way I said them, but the one thing I will tell you is that yes, I did report the school system to the Virginia State Police and asked for that investigation. I thought it was necessary. I came here for three years and asked the Council to do something. The Town Council basically didn't do anything and allowed it to go on so I went to the State Police and asked for the investigation. The State agreed to do an investigation, but the agent who did the investigation, that is all she can do. She spent countless hours doing that investigation and it is now up to the Commonwealth's Attorney of this County to decide if anybody violated the law and even if they did, it is up to him to decide whether he wants to prosecute. It rests on his shoulders and he alone can make that decision. I agree there should be accountability. There have been members removed from the School Board based on a lot of that. If the Commonwealth's Attorney says he is not going to prosecute anybody that is it. There are not any other avenues. That is the end of it. I know the agent did a very thorough investigation. The auditor also stated that she knew the laws were violated, but even if the law is violated, it still doesn't mean you can get a conviction.

Mr. Kennedy responded if Mr. Atkins says that there is no conviction and no further movement on that, then I will leave it alone, but I will stand by my word.

Mr. Looney from the Colonial Beach School Board reported:

- The Basketball Team became State Champions this year
- Coach Swope chosen as high school league Virginia High School Coach of the Year

- Senior TT Carey emerged as the 3rd highest score in the history of Virginia Basketball behind Moses Malone and Ivan Iverson
- Winter sports awards ceremony will be April 26th
- Schools will be closed for spring break
- Thanked the Mayor for extending the deadline to submit the school budget
- Through March 9th, received revenue of slightly over \$5 ½ million dollars and expenditures were over \$5 million dollars. We are on track to end the year under budget and under revenue
- We approved non-salaried expenditures for April a little over \$119K
- We approved replacing all of the heat pumps. By replacing all of the heat pumps as a group, it costs \$124K with a savings of around \$50K
- We approved replacing 71 old computers at a cost \$42K
- We approved the appointment of Mr. Christopher Kennedy to a position as financial assistant for the remainder of the FY 2008 – 2009 and will begin work on May 20th
- We have a method of notifying parents of school children called Instant Alert which leaves phone or email messages to let people know when schools are closing or when special events are occurring. With the new web system we are going to start next year there is a service provided that can fill in to a large extent that function without charging us the extra money we are paying for the Instant Alert. The system next year will provide email and text messaging as a standard procedure. We found all but 19 students in the school system have access to email and text messaging. We should save about \$3K by doing that
- At the Elementary School, there are two performances of Jungle Book
- There will be a High School Math competition on April 24th at the Rappahannock Community College
- There will be a High School Calculus competition on April 25th at the University of Mary Washington
- The Reality Store is a project provided by the 4H Office which introduces people responsible management of money. They have that at W&L High School and Mr. David Hale observed the project and recommended that we have this offered in our school system in the year 2009 -2010

PUBLIC HEARINGS:

ORDINANCE - #555 – AMENDS THE ZONING ORDINANCE OF THE TOWN OF COLONIAL BEACH ARTICLE 5 “MARITIME COMMERCIAL (MC) DISTRICT” SECTION 5-1 “PERMITTED USES” AND SECTION 5-2 (CONDITIONAL USE PERMIT REQUIRED) TO ADD COMMUNITY FACILITY/OPEN SPACES AS PERMITTED USES AND HOTELS/MOTELS AND ART AND CRAFTS STUDIOS AS CONDITIONAL USES

Mr. Coombes stated Ordinance - #555 is a text amendment amending the Ordinance to put several items in it that did not get in it as much as a year ago. The Maritime Commercial District is a zoning ordinance amendment of the property from Boundary Street south all the way to the Point. There are some 30 pieces of commercial property largely in eight different tracts. It is zoned C-1, which is purely commercial and basically in R-2 which is purely residential. The reason for even dealing with a change was the original request to put a hotel above the old

Parker's Restaurant. The residential neighbors came out in force. In an attempt to reach a happy medium, the Planning Commission as well as the former Council, approved the water related kinds of commercial entities that could go on the existing C-1. In other words, change the C-1 so we don't open it up to gas stations and convenience stores and a whole slew of things, to only water related entities. We had a significant turnout a year ago from the business community. The business community said that is not enough including some of the properties owners who own homes in the C-1. We need to add hotels/motels, inns, and tonight that is what Ordinance #555 does. It sat dormant after it was in the Planning Commission and sent to the Council for the last year. Before we go through the actual rezoning of these properties south of Boundary, from C-1 Maritime Commercial, we need to add these entities in and make the text amendment.

Being no public comment on Ordinance #555, this portion of the public hearing was closed.

ORDINANCE - #567 – PROPOSED REVISIONS OF ARTICLE 18 OF THE COLONIAL BEACH ZONING ORDINANCE – MISCELLANEOUS

Mr. Coombes stated this is another entity that comes from the Planning Commission although we are on schedule with this one. Article 18 of the Zoning Ordinance simply addresses various kinds of miscellaneous items essentially storage facilities, pods, fences, the parking of commercial vehicles, construction trailers etc. We have completely revised this and the Ordinance is here and the redacted Ordinance is behind it so you can see what has been taken out and what has been put in.

Being no public comment on Ordinance - #567, this portion of the public hearing was closed.

Public Hearings closed.

PUBLIC PARTICIPATION:

Being no public participation, this portion of the meeting was closed.

OLD BUSINESS:

There were no matters to discuss in Old Business.

NEW BUSINESS:

AGENDA - #23-09

RESOLUTION – ESTABLISHMENT OF THE TOWN OF COLONIAL BEACH IDENTITY THEFT PREVENTION PROGRAM

WHEREAS, the Town of Colonial Beach wishes to comply with the Fair and Accurate Credit Transactions Act (FACTA) of 2003; and

WHEREAS, the Act requires creditors, including municipalities to establish an Identity Theft Prevention Program to detect, prevent and mitigate identity theft; and

WHEREAS, the Program must be established by May 1, 2009; and

WHEREAS, the Chief Financial Officer shall be responsible for the oversight and continued administration of the Program; and

WHEREAS, the Chief Financial Officer will provide a report on compliance of the Program at least annually to the Town Manager.

BE IT FURTHER RESOLVED, that the Town Council meeting in regular session Thursday, April 9, 2009 hereby approves the establishment of the Town of Colonial Beach Identity Theft Prevention Program.

Ms. Erard stated the establishment of an Identity Theft Prevention Program is required by law for us to adopt. It protects the Town information that we have from identity theft and we would ask that the Council approve it.

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

With no further discussion on Resolution - #23-09, Mayor Rummage called for a vote. Mr. Ridgely **aye**, Ms. Payne **aye**, Mr. Coombes **aye**, Mr. Kennedy **aye**, Mr. Lyburn **aye**, Mayor **aye**, motion carried and the **Establishment of the Town of Colonial Beach Identity Theft Prevention Program was Approved. Ms. King was absent from the vote. Motion Carried.**

AGENDA - #25-09

RESOLUTION – REAPPOINTMENT TO THE COLONIAL BEACH TOURISM ADVISORY COUNCIL

BE IT RESOLVED, that the Town Council meeting in regular session, Thursday, April 9, 2009 hereby reappoints Rosemary L. Higgs to the Colonial Beach Tourism Advisory Council for another four year term; such term expiring March 2013.

Motion was made by Mr. Coombes to approve, second by Mr. Kennedy.

With no discussion on Resolution - #25-09, Mayor Rummage called for a vote. Mr. Lyburn **aye**, Mr. Kennedy **aye**, Mr. Coombes **aye**, Ms. Payne **aye**, Mr. Ridgely **aye**, Mayor **aye**, motion carried and the **Reappointment to the Colonial Beach Tourism Advisory Council was Approved. Ms. King was absent from the vote. Motion Carried.**

AGENDA - #28-09

RESOLUTION – APPROVING ORDINANCE - #555

WHEREAS, on January 10, 2008 the Colonial Beach Town Council referred Ordinance No. #555 to the Colonial Beach Planning Commission for a recommendation consistent with Va. Code Section 15.2-2285;

and

WHEREAS, Ordinance No. #555 proposes to amend Article 5 (Maritime Commercial) of the Colonial Beach Zoning Ordinance by adding community facility/open space as permitted uses, and hotels/motels and arts and crafts studios as conditional uses; and

WHEREAS, on March 6, 2008 the Planning Commission conducted a duly advertised public hearing and voted to recommend approval of Ordinance #555.

NOW THEREFORE BE IT RESOLVED, that the Town Council meeting in regular session, Thursday, April 9, 2009 after a duly advertised public hearing, hereby approves and adopts Ordinance #555.

Mr. Coombes stated it is a text amendment. We are adding one thing in permitted uses and three in conditional uses.

A citizen spoke to say she was confused about when the removal of the Mayor's Office was on the agenda.

Mayor Rummage responded it would come later on the agenda.

Motion was made by Mr. Coombes to approve, second by Mr. Ridgely.

With no further discussion on Resolution - #28-09, Mayor Rummage called for a vote. Mr. Lyburn **aye**, Mr. Kennedy **aye**, Mr. Coombes **aye**, Ms. Payne **aye**, Mr. Ridgely **aye**, Mayor **aye**, motion carried and the **Approval of Ordinance - #555 was Adopted**. *Ms. King was absent from the vote. Motion Carried.*

AGENDA - # 29-09

APPROVING ORDINANCE - #567 - REVISIONS TO ARTICLE 18 OF THE COLONIAL BEACH ZONING ORDINANCE; MISCELLANEOUS

WHEREAS the Colonial Beach Planning Commission developed changes to Article 18 (Miscellaneous) of the Colonial Beach Zoning Ordinance; and

WHEREAS the Colonial Beach Planning Commission conducted a duly advertised public hearing on March 5, 2009 regarding the proposed changes to Article 18 of the Colonial Beach Zoning Ordinance.

NOW THEREFORE BE IT RESOLVED, that the Town Council meeting in regular session, Thursday, April 9, 2009 after a duly advertised public hearing, hereby approves and adopts Ordinance Number 567.

Motion was made by Mr. Coombes to approve, second by Mr. Ridgely.

With no discussion on Resolution - #29-09, Mayor Rummage called for a vote. Mr. Ridgely **aye**, Ms. Payne **aye**, Mr. Coombes **aye**, Mr. Kennedy **aye**, Mr. Lyburn **aye**, Mayor **aye**, motion carried and the **Approval of Ordinance - #567 was Adopted**. *Ms. King was absent from the vote. Motion Carried.*

AGENDA - #27-09

RESOLUTION – REMOVAL OF MAYOR'S OFFICE FROM TOWN HALL

WHEREAS, the Colonial Beach Town Council has employed Val Foulds as the Colonial Beach Town Manager; and

WHEREAS, the Colonial Beach Town Council seeks to promote an efficient workplace; and

WHEREAS, the Colonial Beach Town Charter, the Colonial Beach Town Code, as well as State law designates the Town Manager as the person responsible for the day to day operations and management of the Town; and

WHEREAS, the presence of the Mayor at Town Hall, on a daily basis is interfering with and obstructing the efficient operations of the Town.

NOW THEREFORE BE IT RESOLVED, by the Colonial Beach Town Council that the Mayor shall no longer have an office at Town Hall.

BE IT FINALLY RESOLVED, neither the Mayor, nor any member of Town Council shall undertake actions related to the day to day operations and/or management of the Town, unless specifically authorized by the Town Council or specifically requested by the Town Manager.

Motion by made by Mr. Coombes to approve, second by Mr. Kennedy.

Mr. Coombes stated that for him personally and the Council they can speak for themselves, I am saddened to have to make this recommendation. The Mayor and I have worked together for quite awhile and in 30 years of professional experience as a CEO, I have never had to be involved in this kind of thing. I think it is best for a number of reasons that are stated in the resolution, that at least for the foreseeable future, probably not always under these terms, the Council feels and I feel that it is in the best interest of us and the Mayor and the Town, that the Town close the Mayor's office, only the office, only the physical facility. We have had significant problems. I have heard the Mayor and I commend him for publicly apologizing this evening particularly to the staff. He is to be commended for that, but I think we still need to move forward. In the past, the former Mayor until he went out of office served in the position as Mayor as well as Town Manager. He did that for 22 months. The lines of responsibilities in people's mind get blurred. He was in that office, sometimes working as Mayor, but most as the time he was working as Town Manager. The State Code and the Town Code set out the responsibilities of each of the entities involved in your government. It sets out the Mayor's responsibilities, it sets out the Council's responsibilities, and it sets out the Town Manager's responsibilities. Only this Council, sitting as it is right now, in open session with all of us here, is where the power and the authority lie. It does not lie in any one individual sitting here. Each of us has the same authority and the same power when we sit here. The Mayor has the same power as I do, and vice versa. He is one of seven. To do anything in the Town, it takes an affirmative vote of this group and it has to be a majority. I cannot promise you anything as a Council Member and deliver it. No member sitting up here can do that by him or herself. It is the entity here. Sometimes that distinction gets blurred. The Town Manager by State law and by Town Code is the manager of the Town and is responsible for its operations, not me, not Mr. Kennedy, not Ms. Payne, not the Mayor. The operations are the responsibility of the Town Manager. As a body sitting here, we have oversight. We make decisions, yea or nay based on a majority vote. I think some of the problems still are confusion in terms of the roles, etc. Like Mr. Trivett said, we make mistakes. We go forward and we make sure we don't make the mistakes again. I am not going to belabor the problems as we foresee them. We believe they are real, all of us do and we want very much to help resolve these problems where they lie. These are internal problems. If anyone wants to know what they are, I am not going to discuss them here and I don't think any other Council Member is going to discuss them here, but you are welcome to call, you are welcome to talk to us. You put us here, you pay your taxes as we do and I think we need an adjustment at the moment in order to get back to where we should have been three years ago in terms of responsibility. I was on Council for a long time. We did not always pick the best Town Manager. The applicant pool as I think back in a couple of cases, it was horrendous. We made a mistake. We should have taken another applicant. It is very difficult to bring people into this small Town without paying them the going rate that they would get in a larger Town. We just don't attract them. When you do attract someone right out of graduate school, they don't have the experience. The public officials, us, tend to feel we have to get involved. We are going to entrust the day to day operations of this Town and the management of this Town to the Town Manager. We are not going to delve into those operations unless she asks us to do it. That has been part of the problem. I think it can be corrected, but we feel that we need to make an adjustment and I hope everyone can understand that and will accept that. There is nothing personal involved in it. We need to make an adjustment for the efficient operation of the Town. Thank you Mr. Mayor.

Mr. Kennedy stated he had been sitting here for three years with the Mayor. I have a lot of respect for him and what we are about to do and what we have talked about, there should be no reflection on his abilities to Chair this group. It should have no reflection on his desire to see this Town go forward. This is an operational issue and I believe that Mr. Coombes has said enough, but I had to say this, because Fred and I have been sitting here for three years together and I do respect him. Nobody should read anything into this other than this is the way our Charter is set and this is the way the Town's structure should be.

With no further discussion on Resolution - #27-09, Mayor Rummage called for a vote. Mr. Ridgely **aye**, Ms. Payne **aye**, Mr. Coombes **aye**, Mr. Kennedy **aye**, Mr. Lyburn **aye**, Mayor **present**, motion carried and the **Removal of the Mayor's Office from Town Hall was Approved.** *Ms. King was absent from the vote. Motion Carried.*

CLOSED MEETING:

There were no issues to discuss in Closed Meeting.

OTHER MATTERS:

There were no other matters to discuss.

MOTION TO ADJOURN:

Mayor Rummage called for a motion to adjourn the regular meeting of Town Council.

Motion was made by Mr. Coombes. With no objection from the Town Council, the meeting was adjourned on Thursday, April 9, 2009 at 8:25 p.m. at the Colonial Beach Town Center. *Ms. King was absent from the vote. Motion Carried.*

Respectfully submitted:

Barbara A. Goff,
Town Clerk

Frederick C. Rummage,
Mayor