

SPECIAL MEETING OF BOARD OF REPRESENTATIVES
HELD MONDAY, JUNE 17, 1963
TO ELECT A SUCCESSOR TO MAYOR J. WALTER KENNEDY

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A Special Meeting of the Board of Representatives of the City of Stamford was held on Monday, June 17, 1963, at 8:00 P.M., in the Cafeteria of the Walter Dolan Jr. High School, Toms Road, in response to a "Call" by the President, Paul D. Shapero.

The President called the meeting to order at 8:15 P.M. (This meeting was broadcast over the radio)

ROLL CALL was taken by the clerk. There were 21 present and 19 absent. The absent members were: Richmond A. Mead, Jr., Patrick J. Scarella, Fred C. Blois, George V. Connors, Paul J. Kuczo, Jr., Stephen E. Kelly, Gerald J. Rybnick, Carmine V. Longo, William G. Hearing, Romaine A. Philpot II, Thomas A. Morris, Ronald M. Schwartz, Hilda S. Clarke, George Russell, Michael Sherman, Frances Lilliendahl, David E. Oppenheimer, Randolph Rogers, Alan H. Ketcham.

The President read the following "call" of the meeting.

TO: ALL MEMBERS OF THE BOARD OF REPRESENTATIVES
SUBJECT: ELECTION OF SUCCESSOR TO MAYOR J. WALTER KENNEDY

I, Paul D. Shapero, President of the Board of Representatives of the City of Stamford, pursuant to Section 202 of the Stamford Charter, hereby call a SPECIAL MEETING of said Board of Representatives, for

MONDAY, JUNE 17, 1963

at the

DOLAN JR. HIGH SCHOOL
CAFETERIA, TOMS ROAD

at 8:00 P.M.

For the following purpose:

TO ELECT A SUCCESSOR TO MAYOR J. WALTER KENNEDY

Paul D. Shapero,
President
Board of Representatives

THE PRESIDENT then said he would read a statement handed to him by Ronald Schwartz. Mr. Cushing objected, and the President said, that out of courtesy to Mr. Cushing, as the only Republican present, he would not read the Minority Leaders' statement, but would file it in the Board records.

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The President then read the Mayor's letter of resignation:

Mr. Paul Shapero, President
Board of Representatives
City Hall
Stamford, Connecticut

Dear Mr. Shapero:

I herewith submit my resignation effective at Midnight, August 5, as Mayor of the City of Stamford, Connecticut.

I respectfully request that the Board of Representatives elect my successor no later than the July 1 meeting of the Board in order that I may work during the next several weeks to have an orderly transferral of responsibility to my successor.

I feel it is very important that I be given the opportunity of working with my successor for several weeks to properly indoctrinate him into the affairs and problems of the office.

Sincerely,

J. Walter Kennedy
Mayor

JWK/gch

THE PRESIDENT recognized Mr. John Nolan, Majority Leader, at this time.

MR. NOLAN nominated William F. Hickey, Jr., as interim Mayor to succeed Mayor J. Walter Kennedy, noting that he had been unanimously recommended by the Democratic City Committee, and declaring that he has established a fine record in political life and that "we all feel he will make a tremendous Mayor."

Mr. Baer and Mr. Gurliacci seconded the Motion.

THE PRESIDENT asked if there were any other nominations and when none were offered, Mr. Nolan moved to have the Board go on record as unanimously endorsing Mr. Hickey. Mr. Shapero said if there were no objections he would order the Clerk to cast one ballot for Mr. Hickey, recording his unanimous election. Hearing no objection, he ordered the ballot cast.

Mr. Nolan called for a voice vote confirming the action, and it passed without dissent. Then, Mr. Baker asked that the record show that there were no abstentions among the 21 members present, and Mr. Shapero asked if there were any. None was declared, and he ordered the record to show that there were none.

Before adjourning, THE PRESIDENT read the following letter from Mr. Mackler giving his opinion as to whether or not a successor can be elected now.

Paul D. Shapero, Esq.
President
Board of Representatives
City Hall
Stamford, Conn.

June 17, 1963

Dear Mr. Shapero:

You have asked for an opinion whether or not a successor can be elected now to fill a vacancy in the Office of Mayor, upon the resignation of the Mayor to take effect as of August 5, 1963. Section 302 of the Charter provides that

"In the event that the office of the Mayor shall become vacant, the Board of Representatives shall, by a majority vote of the entire Board, elect a successor to hold office until the expiration of the term for which the Mayor was elected, with all the powers, authorities, duties and obligations...conferred or imposed on the Mayor."

The question has arisen whether or not an election can be held now since the resignation does not take effect until August 5, 1963.

"The general rule is that a prospective appointment to fill a vacancy sure to occur in a public office, made by an officer who, or by a body which, as then constituted, is empowered to fill the vacancy when it arises, is, in the absence of a law forbidding it, a valid appointment and vest title in the appointee."
67 Corpus Juris Secundum, Officers, S 30, P. 159

In State ex rel. Jewett V. Satti, 133 Conn.

687, 691 the Supreme Court of Errors of Connecticut held:

"The general principles governing prospective appointments probably have not been better expressed than in State ex rel. Eberle V. Clark, 87 Conn. 537, 89 A. 172, 52 L.R.A. (N.S.) 912, where it is said (p. 548) 'The appointment anticipates the event, but is not to become effective until the vacancy occurs. The appointing authority was not bound to wait until the vacancy actually existed before designating his appointee. Expediency and convenience required that the appointment should be so made that when the respondent's term ended the successor might be qualified and prepared to take the office and enter upon its duties at once. While it is well settled that an officer or appointing body clothed with authority to appoint to a public office cannot, in the absence of express authority, make a valid appointment there to, for a term which is not to begin until after the expiration of the term of such appointing officer or body..it is equally well established that such officer or appointing body may make a prospective appointment to fill a vacancy which is sure to occur in a public office within the time during which the appointing officer or body, as then

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constituted will have authority to fill the vacancy....As the vacancy in question was sure to occur during the Governor's term of office, he might, in the manner which he adopted, properly make the appointment, in anticipation of the event."

Since the appointing authority or the electing body in this case is the Board of Representatives and since any action taken at a meeting prior to August 5, 1963 will have occurred during the term of the electing body, the election in advance is permissible within the rule set down by State ex rel. Jewett v. Satti, supra.

Very truly yours,

Isadore M. Mackler
Corporation Counsel

IMM/a

ADJOURNMENT:

There being no further business to come before the Board, upon motion, duly seconded, and carried, the meeting was adjourned at 8:30 P.M.

APPROVED:

Paul D. Shapero
Paul D. Shapero, President
Board of Representatives

Mary J. McCauley
Mary V. McCauley
Clerk, Pro-tem

Note: The proceedings of the above meeting were broadcast over Radio Station WSTC