



# TOWN COUNCIL

## Regular Meeting

August 9, 2012

St. Charles Parish Hall

6:00 PM

1. Call to Order
  - A. Roll Call
  - B. Establish quorum
2. Invocation and Pledge of Allegiance
3. Public Comments (3 minutes per speaker)
4. Consent Agenda
  - A. Approval of Agenda Format
  - B. Approval of Minutes
5. Report Presentations
  - \*A. Treasurer's Report
  - B. Town Manager Report
  - C. Planning Commission and Boards
  - D. Other Departmental Reports
6. Old Business – None
7. New Business
  - A. Randy Custis Park Update
  - \*B. Professional Services Contract for Phase II of Cape Charles Multi-Use Trail
  - \*C. Reappointment of Library Board Member
  - \*D. Regional Wastewater System Confirmation
  - E. Town Ordinance – Boat Trailer Parking
9. Announcements
  - August 23, 2012 – Town Council Public Hearing & Special Meeting @ 6PM
  - September 2, 2012 – Labor Day Picnic in Central Park
  - September 3, 2012 – Town Offices closed in observance of Labor Day
  - September 13, 2012 – Town Council Regular Meeting @ 6PM
10. Adjourn at 8:00 P.M.



**DRAFT**  
**TOWN COUNCIL**  
**Regular Meeting**  
**St. Charles Parish Hall**  
**July 12, 2012**  
**6:00 p.m.**

At 6:00 p.m. Mayor Dora Sullivan, having established a quorum, called to order the Regular Meeting of the Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Godwin, Sullivan and Wendell and Councilwoman Natali. Also in attendance were Town Manager Heather Arcos, Assistant Town Manager Bob Panek, Public Works/Public Utilities Director Dave Fauber and Town Clerk Libby Hume as well as the Department Heads and approximately 20 members of the public.

Mayor Sullivan gave the invocation followed by the recitation of the Pledge of Allegiance.

Mayor Sullivan presented Jimmy Pruitt birds as gifts to the outgoing Council members.— Mr. Larry Veber who served from July 1, 2008 through June 30, 2012; Mr. Bruce Evans who served from July 1, 2002 through June 30, 2012; and Mr. Steve Bennett who served from July 1, 2008 through June 30, 2012. Mayor Sullivan thanked the gentlemen for their years of service to the Town.

**PUBLIC COMMENTS:**

*Mary Ann Roehm, 27406 Allure Way, on behalf of the Arts Enter*

Ms. Roehm informed the Council that the National Endowment for the Arts (NEA) announced 80 Our Town Grant awards which were made to partnerships that included a non-profit art organization and a local government entity. Through "Our Town" the NEA supported creative place making projects that helped transform communities into lively, beautiful and sustainable places with the arts at their core. Arts Enter in partnership with the Town of Cape Charles, Citizens for Central Park and Cape Charles Business Association received an award of \$50K. The project partners were committed to engaging the community to work together on an arts plan that would establish the Town as an arts and cultural destination. Cape Charles and Roanoke were the only grant recipients from Virginia. There were 317 applications. Ms. Roehm continued to state that at the heart of the project was the creation of a broad based arts plan that would complement the Cape Charles Comprehensive Plan, the Community Trail Master Plan and the Cape Charles Harbor Plan. Ms. Roehm publicly thanked the Town and the other partners for their support and added that she looked forward to implementing plans that would continue to make Cape Charles more vibrant and robust in the coming years. The original request to the NEA was \$75K as part of a total project budget of \$175K. The first meeting to discuss the modifications of the proposal was scheduled for Tuesday, July 17<sup>th</sup>, and the Arts Enter looked forward to moving ahead together on this project.

*Howard Stiles, 525 Madison Avenue*

Mr. Stiles deferred his allotted time to Councilman Frank Wendell.

*Jim Stallings, 525 Madison Avenue*

Mr. Stallings deferred his allotted time to Councilman Frank Wendell.

*Kim Starr, 115 Mason Avenue, Unit 201*

Ms. Starr deferred her allotted time to Councilman Frank Wendell.

*Drew Harman, 104 Madison Avenue*

Mr. Harman deferred his allotted time to Councilman Frank Wendell.

*Katie Wendell, 115 Mason Avenue, Unit 201*

Ms. Wendell deferred her allotted time to Councilman Frank Wendell.

*Frank Wendell, 515 Monroe Avenue*

Councilman Wendell began by thanking the citizens of Cape Charles for electing him and Councilman Godwin and added that it was an honor to serve the Town again after having served the Town for twelve years previously. Councilman Wendell stated that he knew what the outgoing members had sacrificed in order to serve the Town of Cape Charles. Councilman Wendell stated that he wanted to continue to address the disingenuousness on behalf of the Town Council and staff in regards to the Echelon proposal and whether or not we had public space, whether or not they were negotiating as long as stated and why the Town was not following the lawyer's advice when it came to repurchase rights and performance bonds. Councilman Wendell distributed a number of emails which showed some of the negotiation between the Town and Echelon Resources as he continued to address the audience and Council as follows. As far back as January 9<sup>th</sup> of this year there were two scenarios. Scenario B stated that there would be no library in the gym space and included waiver of the tap fees. On January 23<sup>rd</sup>, Edwin Gaskin wrote Bob Panek stating that Echelon was comfortable with Scenario B but had a \$160K funding gap to bridge. On January 30<sup>th</sup>, another email from Edwin Gaskin to Bob Panek stated that there would be 17 units, not 16. Councilman Wendell added that there would be no public space for a library, gymnasium or whatever and the zoning would have to be changed to make the plan work. On February 27<sup>th</sup>, Bob Panek wrote to Edwin Gaskin that Council still preferred Scenario B with no public space. Councilman Wendell reiterated for the benefit of the audience that on February 27<sup>th</sup>, there was no public space being considered. On April 2<sup>nd</sup>, Heather Arcos wrote to Edwin Gaskin and Dave McCormack with four points but point #1 was that Council supported the 17-0 scenario. Councilman Wendell repeated again that there would be no public space. On April 3<sup>rd</sup>, Edwin Gaskin wrote to Heather Arcos with a number of terms including the Town's agreement to 17 residential units. Councilman Wendell stated that by this time, Old School Cape Charles (OSCC) had submitted its proposal and on April 4<sup>th</sup>, the Mayor wrote a letter to OSCC thanking us for our proposal and notifying us that the proposal was rejected by Council stating that a financial pro forma was needed. Councilman Wendell added that, to this day, Council was not releasing Echelon's financial pro forma due to executive session privileges so the public could not see their pro forma. Councilman Wendell continued reading excerpts from the letter, adding that he thought staff was not keeping Council up to date with the information or whether it was more disingenuousness. The letter stated that the Town was continuing its negotiations regarding the school which may include some public space. Councilman Wendell stated that this conflicted with the emails between staff and Echelon. Councilman Wendell stated that he distributed a lot of material regarding fiduciary responsibilities, due diligence and holding the public's trust. Councilman Wendell went on to state that he wanted to know why Council was not following the lawyer's advice and continued with his references to more emails. On April 18<sup>th</sup>, Bob Panek wrote to Edwin Gaskin regarding the revised draft contract. Councilman Wendell stated that the Town's lawyer advised the need for repurchase rights and a performance bond and added as an aside that the Town probably paid a lot for the lawyer's advice. On April 19<sup>th</sup>, Edwin Gaskin wrote to Bob Panek regarding the repurchase rights and performance bond stating that they would be an imprudent waste of their time and prudent capital as well as a misuse of the Town's good faith in their reputation and their quality developers. Councilman Wendell continued to state that Mr. Gaskin saw no reason for Echelon to incur the costs to satisfy the mental curiosity of the Town's external legal counsel. Mr. Gaskin wrote that the Town's external legal counsel was the only one asking for the repurchase rights and performance bond and to agree to the request would be merely to satisfy the heavy-handed approach of the legal counsel and Echelon was not in that business. Mr. Gaskin wrote that if the Town wanted that luxury, the Town should pay for it. Councilman Wendell went on to read that Mr. Gaskin thanked the Council for letting him respond to the request for the repurchase rights and performance bond, to which Councilman Wendell reiterated that the Town's lawyer asked for these points, and continued to read that Mr. Gaskin expressed his agreement in sharing his position in unedited form to the Town Council, to which

Councilman Wendell stated his preference, or edited as staff saw fit. Councilman Wendell stated that this meant that staff would tell Council all or some of it and he did not need staff to edit the response and Councilman Wendell added that this brought us back to the fiduciary and credibility issues. Councilman Wendell went on to refer to an excerpt from the draft minutes of the June Town Council meeting, before the vote to sell the school and seven lots for \$10 and giving Echelon \$150K in tap fees and doing back flips to rezone the property. Councilman Wendell read the excerpt of Councilman Veber's comments where he stated that he did not take his position to represent the citizens of the Town lightly and wanted to talk a little about compromise. Councilman Veber talked about several conversations he had with himself (Frank Wendell), Lisa Harman and Karen Jolly Davis about a compromise which was on the table several months ago where the Town could have had possession of the gym space which could have been converted into a community center where the town could hold meetings, be a place for children to gather and a place for other activities. The Town had an opportunity to have someone else pay to restore the building, put everything together and the Town would have added revenue coming in. Councilman Wendell stated that it was never stated in those terms and Council had agreed to Scenario B longer than a couple of months ago. Councilman Wendell continued reading the excerpt where Councilman Veber had stated that he had asked him (Frank Wendell) and Lisa Harman if they had a benefactor to back the plan and whether the 120-year old Wendell Distributing Company would sign an agreement backing the project, if the Town were to move forward with the renovation of the old school but ran out of funding. Councilman Wendell added that Councilman Veber was asking for a performance bond from the Wendells but Council was not asking for one from Edwin Gaskin. Councilman Wendell went on to state that it was a double standard that Council would not agree to let OSCC move forward to raise money for their project without the Wendells backing the project but agreed to let Echelon move forward without a performance bond. Councilman Wendell reiterated that there was one standard for the local folks and the Wendells and another one for someone from Richmond who had not paid a dollar in taxes to the Town or ate a cheeseburger at Rayfield's. It was a double standard and could be discriminatory. Councilman Wendell stated that he did not know how the Council got all wrapped up in this issue but he was wrapped up in it along with Council. Councilman Wendell added that he would move back to everyone's good buddy Edwin Gaskin and referred to the May 16<sup>th</sup> email from Edwin Gaskin to Bob Panek regarding a citizen complaint. Mr. Gaskin had a full-time job as Economic Development Director for Hanover County. Councilman Wendell stated that he did not like to see his employees doing other jobs while he was paying them by the hour. Councilman Wendell added that Edwin Gaskin got mad when someone called his hand and filed a complaint with Hanover County regarding the use of their taxpayer money. Councilman Wendell stated that he would not bore the audience with too much regarding Edwin Gaskin's email but referred to a statement that said much progress could be borne of controversy provided that the strength of leadership existed to ignore the idiots of the world. Councilman Wendell stated that he had been called an idiot before but he took offense at how this statement called everybody who disagreed with this project moving forward an idiot and added that he felt this was arrogant and he was more offended for everyone else. Councilman Wendell stated that he had a thick skin or would not have agreed to take this job. Councilman Wendell went on to refer to an email from May 11th where Edwin Gaskin wrote to Heather Arcos and Bob Panek stating his concerns regarding the project opposition, interjecting that this was America and the people had the right to descent as part of the First Amendment rights such as the "Community Center Yes" signs, even though other people removed them from private and public property and rights-of-way and added that the rights-of-way were still owned by the property owner or the State would not need a right-of-way. Councilman Wendell went back to the email where Edwin Gaskin expressed his concern in regards to allowing the project opposition to let loose with their insidious plans, interjecting that the community center was considered an insidious plan. Edwin Gaskin continued to state that we could not hog-tie them or ship them off to Gitmo or anything and just had to weather their antics. Councilman Wendell asked whether this was the guy the Town wanted to do business with and added in closing that it was not too late to revisit the contract. Edwin Gaskin submitted a fraudulent application for conditional use by stating that he was the owner of the building when he did not yet own the building. Councilman Wendell stated that he was asking Council a trivia question regarding who currently owned the building.

Heather Arcos replied that the Town owned the building.

Councilman Wendell asked why Edwin Gaskin was filling out a form stating he was the owner and asked whether that was fraudulent or incorrect. Councilman Wendell concluded by stating that he wished Council would reconsider this boondoggle.

Mayor Sullivan thanked Councilman Wendell for his comments and added that she wanted to state for the record that, although all necessary responses were given in writing, she wanted it noted that in a conversation that she had with Councilman Wendell before he was elected to Council and during the negotiations with Echelon, she asked him if he wanted the gym space and he responded "No" and that he wanted the entire building. Mayor Sullivan asked Councilman Wendell if she was wrong.

Councilman Wendell responded that he did personally say that.

*Larry Veber, 507 Tazewell Avenue*

Mr. Veber stated that as a former Council member, he wanted to address what he had heard from Councilman Wendell and the fact that much of it was not true. Mr. Veber added that he personally spoke to Councilman Wendell regarding his willingness to work with OSCC and Councilman Wendell told him, as he also told the Mayor, absolutely not. Mr. Veber stated that he disagreed strongly with Councilman Wendell's remarks.

Councilman Wendell objected to Mr. Veber's comment. Mayor Sullivan reminded Councilman Wendell that he was not to respond to the public's comments.

Mr. Veber continued to state that it was amazing to him that several people had done what they had done to our Town. There was \$2M to \$3M to be spent on this building. When the Cape Charles Christian School was asking for financial assistance of any kind to renovate the building for their school, why didn't the people in OSCC join them to help them make it work? Nothing was done to help them raise money.

Councilman Wendell tried to interject but Mayor Sullivan again reminded him that this was Mr. Veber's three minutes.

Mr. Veber also stated that when he was on Council, he listened to what Councilman Wendell had to say but never jumped in even though a lot of things were said to which he strongly disagreed. Mr. Veber went on to state that there were different towns that were in serious trouble financially and he was not looking to put this Town in trouble. Financially, Cape Charles did not have the money to put \$3M into the school. It was a great idea and that was why he asked Councilman Wendell to get someone to back him. He did not want to see the project only get partially done. Mr. Veber stated that it was really important to him as a citizen of this Town, not as a Council member. Mr. Veber asked the Councilman Wendell if they had the money and the wherewithal and why didn't OSCC come forward to help the Christian School. Absolutely nothing was done. Mr. Veber stated that when he asked Councilman Wendell about this, Councilman Wendell told him that he did not have time to get into it. But the first time in twenty some years when the Town had an opportunity to do something with the building, all of a sudden all heck broke loose. Mr. Veber asked everyone to think where the money would come from if the Town were to do the project. Mr. Veber added that Echelon had been put down a lot and asked Councilman Wendell to do some research but Echelon Resources had successfully done \$80M in historic renovations.

There were no other public comments to be heard nor any written comments submitted prior to the meeting.

**CONSENT AGENDA:**

**Motion made by Vice Mayor Bannon, seconded by Councilman Wendell, to approve the agenda as presented. The motion was approved by unanimous consent.**

The Town Council reviewed the minutes of the June 7, 2012 Public Hearing, the June 7, 2012 Executive Session, the June 14, 2012 Public Hearing, the June 14, 2012 Regular Meeting, the June 28, 2012 Special Meeting, the July 3, 2012 Work Session and the July 3, 2012 Executive Session.

Councilwoman Natali stated that she was absent from two of the meetings so would abstain from the vote.

**Motion made by Councilman Sullivan, seconded by Vice Mayor Bannon, to approve the minutes of the June 7, 2012 Public Hearing, the June 7, 2012 Executive Session, the June 14, 2012 Public Hearing, the June 14, 2012 Regular Meeting, the June 28, 2012 Special Meeting, the July 3, 2012 Work Session and the July 3, 2012 Executive Session as presented. The motion was approved by majority vote with Councilwoman Natali abstaining.**

**REPORT PRESENTATIONS:**

**A. *Town Manager's Report:***

Town Manager Heather Arcos reported the following: i) Several Planning Commission applications had been received and several more were expected. Planning Commission Chairman Bruce Brinkley recently submitted his resignation stating work constraints and the inability to commit the time needed to the Commission. The Town Council would set a meeting next month to review the applicants to fill the vacancies on various boards and the commission; and ii) County Administrator Katie Nunez informed her that there were no updates regarding the HUB Zone designation but the issue had been referred to Congress. Heather Arcos stated that an email was sent to Ms. Sylvia Parks, Senator Scott Rigell's staff person on the Eastern Shore, but to date no response had been received.

Councilwoman Natali suggested that the item regarding the 4<sup>th</sup> of July Celebration from the Town Manager Report be stated publicly to thank the Cape Charles Business Association for their \$1K donation for the fireworks. Mayor Sullivan added that the fireworks display was stupendous and that she heard that the Cape Charles fireworks ranked seventh in the State. Heather Arcos added that NMA Federal Credit Union also contributed financially as well as donating 2K bottles of water for the volunteers. Heather Arcos also thanked all the town staff for all their hard work to make the 4<sup>th</sup> of July celebration a great day in Cape Charles. Many thanks also to the Cape Charles Volunteer Fire Company, Ms. Marie Brady, Councilwoman Natali, Mr. Larry Veber, Ms. Jenni Potts and all the volunteers on hand working behind the scenes. Councilman Sullivan also thanked Bayshore Concrete for allowing the Town to use their property to set off the fireworks.

**B. *Treasurer's Report:***

Treasurer Kim Coates reviewed the Treasurer's report dated June 30, 2012 which showed Total Cash on Hand at \$1,211,172. The report also showed Total Cash Held in Reserve at \$354,683. Tax collections for Fiscal Year (FY) 2012 as of May 31<sup>st</sup> amounted to \$1,050,803.97 for real estate, \$75,763.31 for personal property, \$34,819.00 for machinery & tools, and \$17,870.03 for licenses. Kim Coates stated she performed the temporary close of the fiscal year and the final year-end close was mandated to be done by September 30<sup>th</sup>, but added that she hoped to get the year-end finalized soon. Kim Coates went on to review the FY 2012 Capital Improvement Projects which totaled \$358,504 for the General Fund, \$29,226 for the Water Fund, \$4,349,591 for the Sewer Fund, and \$540,329 for the Harbor Fund.

**Motion made by Councilwoman Natali, seconded by Councilman Sullivan, to accept the Treasurer's Report as submitted. The motion was approved by unanimous consent.**

**C. Recreation Report:**

Community Events/Recreation Coordinator Jen Lewis stated that she did not have any changes to her written report.

**D. Library Report:**

Librarian Ann Rutledge reported that 100 kids signed up for the Summer Reading Program and so far, it had been a terrific summer.

**E. Harbor Report:**

Harbor Master Smitty Dize reported the following: i) He had been busy working on the Inaugural Clam Slam Festival; ii) 300 boats came into the Harbor in June compared to his first year at the Harbor, 2005-2006, when 232 boats came to the Harbor during the entire year; and iii) He and his staff were still working to complete the parking lot.

**F. Public Works/Public Utilities Report:**

Public Works/Public Utilities Director Dave Fauber stated that he did not have any changes to his written report.

Councilman Wendell stated that about a dozen citizens had commented to him about the smell of the new sewage treatment plant and asked whether this smell was the new norm. Dave Fauber stated that the influent coming into the plant was causing the smell and it was a sewage plant to which only so much could be done and the gasses had to be released into the air. Councilman Wendell had numerous questions and comments regarding the smell and whether there was additional grant money to pay for a remedy. Dave Fauber responded that there probably was a remedy which could be cost prohibitive but he would check into the matter to see if anything could be done to mitigate the problem. Assistant Town Manager Bob Panek added that one of the issues was the discharge of the Bay Creek vacuum pump stations which had very low usage. The sewage sat in the pump stations for a while before being pumped to the wastewater treatment plant and became septic. Councilman Godwin asked if there was much odor from the old wastewater treatment plant to which Dave Fauber responded that the odor was worse but not many people drove by it to smell it. Councilman Godwin thanked Dave Fauber for his honest answer.

**G. Code Enforcement Report:**

Code Official Jeb Brady was not in attendance.

**H. Planning Report:**

Town Planner Tom Bonadeo reported the following: i) A recent test of the broadband wireless service had been completed and eight test users showed good results. The Town would be putting out a Request for Proposals in the future for wireless service providers; and ii) When the STIP Park was built, it was discovered that the location of the plotted road was not the actual location of the current road. He had been working with VDOT to get the road re-surveyed. The final road easement had been signed and the road was now shown in the correct location. The affected patrons worked together to get the proper easements and no money actually changed hands.

Councilman Wendell asked Tom Bonadeo whether he had any problems with the discussion at the July 10<sup>th</sup> Planning Commission meeting where Edwin Gaskin signed the conditional use permit application as the owner of the school property when he was not the owner. Mayor Sullivan informed Tom Bonadeo that he did not have to respond as this issue was not part of his department report. Tom Bonadeo stated that the current application only had one space for

“owner” and did not include a space for “applicant.” There were several forms like this one and they were being revised.

I. *Police Department Report:*

Police Chief Charles Brown informed the two new Council members that his monthly report provided information requested by the past Town Council. Chief Brown stated that if there was any other information that Councilmen Godwin and Wendell would like included, to please let him know. Chief Brown added that he hired a new police officer to replace Officer Graham who recently retired. The new officer, Dan Bell, would be starting the police academy on October 26<sup>th</sup> for 17 weeks and would be in field training until that time.

**OLD BUSINESS:**

A. *Wastewater Treatment Plant Status:*

Bob Panek stated that the construction of the new wastewater treatment plant (WWTP) was almost complete. The contractor was working on the punch list items which included mostly architectural and landscaping items.

The steel structures at the old WWTP had been cleaned, demolished and removed. The water plant backwash line had been re-routed from the polishing pond to the old disinfection tanks and the pond had been drained. A contract had recently been awarded to demolish the concrete structures and the polishing pond. The contractor started working on July 11<sup>th</sup> and the work was expected to take about one and a half weeks. Upon completion of this work, the property would be available for South Port Investors for the boat storage.

The design work continued for the reuse system and had been approved by the Department of Environmental Quality.

Councilman Godwin asked whether the WWTP would have less of an odor with increased usage. Bob Panek responded that at the Bay Creek vacuum pump station, the sewage sits in the tank until it filled up and turned septic and with increased usage, the less time it would sit and therefore it would lessen the odor. Councilman Godwin asked whether Bob Panek knew about how many people would be needed to improve the odor. Bob Panek stated that he did not know but there were techniques which could be used to assist with the odor and he would be checking into the matter. Mayor Sullivan asked whether the odor was less in the summer since there were more people in Town. Councilman Wendell stated that the odor was worse in the summer due to the methane gas. Vice Mayor Bannon added that about eight years ago, Bay Creek had informed the Town that they would send water down the lines to flush the system to keep the smell down and asked if this could be done again. Councilman Wendell stated that the system needed to be flushed around 3:00 AM – 4:00 AM when people were not travelling between Bay Creek and the historic part of Town. Councilwoman Natali asked whether the water used was potable or not. Bob Panek stated that either could be used and that he would check into the matter to see what could be done.

Bob Panek concluded his report by stating that about \$14M had been billed to date, all of which had been reimbursed from the Water Quality Improvement Fund and the Virginia Clean Water Revolving Loan Fund. This was about 92% of the contract value and 5% had been held as retainage.

B. *PSA / Regional Wastewater System Update:*

Bob Panek stated that the Northern Node was estimated to cost approximately \$11.3M. The PSA's FY 2012 financial assistance application had been approved by the State Water Control Board for a \$4.0M 0% loan for a 30-year term. Grant funding for the balance was needed to achieve affordable service rates but funding would not be available until FY 2014. The PSA had therefore decided to restructure the sequence to obtain funding from different agencies and

withdraw this year's application for loan assistance. The PSA was working on the application for a USDA Rural Development (USDA RD) grant. For the Southern Node, based on additional surveys, public engagement and engineering analyses, the PSA recommended that no county areas be included. Limiting the service area to the Town of Cheriton would decrease the project cost to about \$7.5M; however, funding agencies indicated that they could realistically fund only one large project in Northampton County. The PSA decided to explore a more limited service area focused on the commercial properties around the US Route 13 and State Route 184 intersection and the preliminary estimate for this project was between \$1.5M to \$2M. The objective was to fund this first phase of the Southern Node primarily with private capital contributions from the commercial property owners and the PSA met with many of the commercial property owners on May 15<sup>th</sup> to explain this approach. The owners expressed some interest in establishing a special tax district to fund the project.

Councilman Wendell stated that he thought the addition of more users would reduce the water bill and added that the residential properties surrounding Cape Charles needed to be included. Councilman Wendell went on to state that he had a problem with creating new commercial businesses on the highway which would dilute the value of the commercial district in Cape Charles. The Comprehensive Plan language was contrary to the creation of commercial businesses on Route 13.

Bob Panek stated that this was not something the Town was doing. It was the plan of the PSA of Northampton County. The Board of Supervisors wanted more commercial businesses. If the Town of Cape Charles was opposed to this idea, it needed to be reported to the PSA.

Councilman Wendell continued regarding his opposition to new businesses outside of Town. Mayor Sullivan stated that the Town had no control over the County. Bob Panek again stated that if the Town was opposed to this plan, it needed to get its opposition on record with the PSA.

Councilman Godwin asked whether any modifications needed to be made to the WWTP to accommodate additional commercial usage. Bob Panek responded that no modifications would be necessary and that if the commercial sewage did not meet the standards, it would be pretreated before being introduced into the WWTP.

Vice Mayor Bannon asked how the new Cheriton Town Council felt regarding this issue. Bob Panek stated that they were supportive of the idea. The estimated rate for Cheriton was approximately \$42 - \$45 per month but a guarantee of over 80% participation was needed to get an affordable rate.

Councilman Wendell again stated that increasing commercial businesses outside of Town was a bad move and would hurt the Shanty at the Harbor and the other restaurants and businesses in Town. If a commercial chain such as Ruby Tuesday's were to open on the highway, it would make it hard for small businesses in Town to remain open. Bob Panek stated that he was just giving the PSA report and if the Town was opposed to the PSA's plans it needed to communicate its opposition to the PSA.

#### **NEW BUSINESS:**

##### **A. *Appointment to Fill Town Council Vacancy and Submit Petition for Special Election:***

Heather Arcos stated in accordance with Code of Virginia § 24.2-228(A), the Town Council needed to appoint a qualified voter of Town to fill the vacancy until a special could be held. The Town Council held a Work Session on July 3, 2012 to discuss the process and possible candidates for this interim seat on Council. The Code of Virginia § 24.2-226 required the governing body to petition the circuit court requesting the scheduling of a special election within 15 days of the date the vacancy occurred. In our case, the vacancy occurred on July 1, 2012. The petition to the circuit court was finalized today requesting a special election be scheduled for

November 6, 2012 and needed to be delivered to Northampton County Circuit Court Clerk Traci Johnson on July 13<sup>th</sup>.

**Vice Mayor Bannon nominated Larry Veber. Councilman Sullivan seconded the nomination.**

**Councilwoman Natali nominated Steve Bennett. There was no second to the nomination.**

**Councilman Wendell nominated Reverend Jim Davis. There was no second to the nomination.**

Councilmen Wendell stated that he had tremendous respect for Larry Veber but in his opinion, with the May election results, the citizens of Town stated that they did not want business as usual and wanted a change of direction. Putting Larry Veber back on the Town Council was business as usual and the people did not want this.

Mayor Sullivan stated that she had a nomination and a second and asked if there was any further discussion regarding the nomination and the second.

Councilman Wendell stated that this was the Town's opportunity to have two African-Americans on the Council to which Mayor Sullivan responded that she was born in Africa.

Mayor Sullivan called for a roll call vote on the nomination to appoint Larry Veber to the Town Council to fill the vacancy until a special election could be held. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Wendell, no. Mr. Larry Veber was appointed to the Town Council by majority vote.

Mayor Sullivan stated that a resolution needed to be adopted to petition the court to schedule a special election on November 6, 2012.

**Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to adopt Resolution 20120712A to authorize the Mayor to petition the court to schedule a special election on November 6, 2012.**

Mayor Sullivan read Resolution 20120712A – Petition to Schedule a Special Election and asked for a roll call vote. Resolution 2012071A was adopted by majority vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Wendell, no.

**B. *Election of Vice Mayor:***

Heather Arcos informed Council that Section 3.6 of the Cape Charles Town Charter outlined that the Town Council elect a vice mayor from its members, by a majority of the members present. Each election year, a new vice mayor was elected at the first regular meeting with the new Council. In July 2010, Councilman Bannon was elected vice mayor for a two-year term.

Councilman Wendell nominated Councilman Godwin for Vice Mayor. Councilwoman Natali seconded and asked Councilman Godwin if he would be interested in serving as Vice Mayor. Councilman Godwin stated that he would not accept the position. Councilwoman Natali withdrew her second.

Councilman Sullivan nominated Councilman Bannon for Vice Mayor. Councilwoman Natali seconded and asked Councilman Bannon if he would be interested in continuing to service as Vice Mayor. Councilman Bannon stated that he would continue to serve in that capacity. There were no more nominations.

Mayor Sullivan asked for a roll call vote. Councilman Bannon was elected Vice Mayor for a two-year term from July 2012 through June 2014. Roll call vote: Bannon, abstained; Godwin, yes; Natali, yes; Sullivan, yes; Wendell, no.

**C. *Council Representative to Harbor Area Review Board:***

Heather Arcos stated that Section 9.7 of the Cape Charles Zoning Ordinance outlined the membership of the Harbor Area Review Board which consisted of seven members appointed by the Town Council with one member from the Town Council, two members from the Planning Commission, one member from the Historic District Review Board and two citizen members. Appointees serving on the Town Council, Planning Commission and the Historic District Review Board would be appointed to a term coinciding with their term on their respective board. Councilman Bennett was the Council representative to the Harbor Area Review Board. Since Mr. Bennett was no longer on Council, another representative needed to be appointed.

Mayor Sullivan asked for volunteers to serve on the Harbor Area Review Board. After some discussion, Councilman Sullivan volunteered to serve on the board.

**Motion made by Councilman Wendell, seconded by Councilman Godwin, to appoint Councilman Sullivan as the Town Council representative to the Harbor Area Review Board. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, abstained; Wendell, yes.**

**D. *Appointments to Industrial Development Authority of Cape Charles-Northampton County:***

Heather Arcos stated that Industrial Development Authority (IDA) of Cape Charles-Northampton County was initiated by resolution adopted June 5, 1972 to administer the Industrial Revenue Bond to finance Shore Memorial Hospital and Heritage Hall until the bond debt was retired. The IDA consisted of seven members who served four-year terms and appointments were made by both the County and the Town of Cape Charles. The Northampton County Board of Supervisors, at their June 12, 2012 meeting, unanimously appointed Dr. Drury Stith and Messrs. William Hughes and Stewart Sturgis to serve on the IDA of Cape Charles-Northampton County for terms of office ending December 31, 2015. The Cape Charles Town Council must also act on the appointment in order for it to become official. Heather Arcos added that a letter was mailed to the Board of Supervisors requesting consideration for the Town to be part in the appointment process in the future.

**Motion made by Councilman Sullivan, seconded by Councilwoman Natali, to accept the appointments of Dr. Drury Stith and Messrs. William Hughes and Stewart Sturgis to the IDA of Cape Charles-Northampton County for terms to expire December 31, 2015. The motion was approved by majority vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, abstained; Wendell, no.**

**E. *Code 42-3 - Adoption of State Law:***

Heather Arcos stated that from time to time, the Code of Virginia was amended to either delete or add new safety tactics to protect those traveling the highways, streets and roads. Changes to penalties and violations were also made. In order for the Cape Charles Police Department to have the authority to enforce these new laws, a new ordinance must be adopted each year accepting any and all amendments to the provisions and requirements set by Code of Virginia in matters of regulation of motor vehicles in the Town of Cape Charles and any penalties for traffic violations.

**Motion made by Vice Mayor Bannon, seconded by Councilman Godwin, to adopt Ordinance 20120712 To Adopt Amendments to the Code of Virginia § 46.2 and Title 16.1, Chapter 11, Article 9 (§ 18.2-278, Et Seq.) and Title 18.2, Chapter 7, Article 2 (§ 18.2-266, Et Seq.), if any, for incorporation into the Cape Charles Town Code Chapter 42-Motor Vehicles and Traffic.**

Councilman Wendell stated he had no problem with protecting the safety of the citizens and brought up the lack of a stop sign at the end of Randolph Avenue at Fig Street. There was a stop sign there for years and he did not understand why it was removed. There was a safety repercussion and he wanted the stop sign put back, especially since there was a lot of golf cart activity in Town and there was a safety issue at this intersection. Heather Arcos explained that the Town did not remove the sign. The Virginia Department of Transportation (VDOT) removed the stop sign after performing a traffic study. Heather Arcos added that if Council felt strongly about this issue, a letter could be sent to VDOT requesting them to revisit the issue. Vice Mayor Bannon stated that he did not feel that it was unsafe. Chief Brown stated that in the past, the Town asked for a four-way stop at that intersection. VDOT performed a traffic study and removed the stop sign from Randolph Avenue going out of Town. Chief Brown added that it was not a safety issue. There was much discussion regarding this issue before it was pointed out that this discussion had no relation to the motion on the table.

**Mayor Sullivan moved for adoption of Ordinance 20120712 as noticed and forewent reading of the Ordinance and asked for a roll call vote. Ordinance 20120712 was approved by majority vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Wendell, no.**

**F. *USDA Rural Development Grant/Loan for Police Car:***

Heather Arcos stated that in June 2011, the Town Council authorized an application requesting \$34K from a USDA RD grant program to purchase a new 4WD Dodge Durango. The purchase of a new police car was included in the FY 2012/2013 budget with the terms as submitted in the June 2011 application. Staff received notification from Ms. Peggy Jordan from the USDA RD that the Town had been approved for a grant not to exceed \$12,750 for a new police car. The purpose of the grant was to assist local governing bodies in obtaining emergency/police vehicles that they would normally not be in a position to obtain. A stipulation of the grant program required the Town to finance the remaining balance of \$15,250 with USDA RD for a total of \$28K. Council reviewed the loan schedule which compared the USDA RD loan to Ford Motor Credit which was who financed the previous police cars purchased/leased by the Town. Heather Arcos stated that Resolution 20120712 needed to be adopted by the Town Council stating its agreement to abide by the covenants and to execute the forms required by the USDA RD. A loan resolution was part of Resolution 20120712.

**Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to adopt Resolution 20120712 authorizing the Town Manager and the Mayor to execute all applicable forms required by the US Department of Agriculture, Rural Development.**

Councilman Wendell stated that the initial grant terms showed 75% grant / 25% Town match, but the final numbers did not appear to the same ratio and asked that this figure be corrected for future reports.

**Mayor Sullivan moved adoption of Resolution 20120712 as noticed and forewent reading of the Resolution and asked for a roll call vote. Resolution 20120712 was approved by majority vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Wendell, no.**

**G. *Water Works Control Panel Engineering:***

Dave Fauber stated that the existing control panel that operated the automatic backwash of the pressurized green sand filters at the water plant was installed in 1993 when the plant was constructed. Soon after installation, the manufacturer redesigned modules that were the "brains" of the operation which made the Town's system obsolete and 20 years later, very difficult to find. Over the years, the design of control panels had changed greatly with the addition of digital displays and touch screen operation making the need for upgrade more necessary each year. The Town advertised a Request for Proposals for the design and installation of a new state-of-the-art control panel for the water plant. Four submittals were

received and after evaluation of the submittals/companies, MC Dean was chosen to design and install the control panel. MC Dean also designed and installed the control panels for the new Wastewater Treatment Plant. In May, the Town Council awarded the contract for \$81K to MC Dean to design, construct and install a new control panel. The FY 2011/2012 Water/Wastewater Fund Budget included a \$120K allocation for the new control panel. This project was a capital project and allocated funds were carried over into FY 2012/2013. GHD, the engineering firm for the Town's water quality improvement project, prepared Task Order #3 for the engineering support regarding the control panel project and their assistance would be an asset to the Town in the highly technical project of replacing the water filter control panel. The total task order amount was \$9K and was included in the total project budget.

**Motion made by Vice Mayor Bannon, seconded by Councilman Wendell, to authorize the Town Manager to execute Task Order #3 with GHD for the engineering support during filter control replacement with a cost not to exceed \$9K. Mayor Sullivan asked for a roll call vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Wendell, yes.**

**H. *Boating Infrastructure Marketing Grant:***

Heather Arcos stated that this item was to authorize staff to submit an application for the Boating Infrastructure Grant (BIG) Program which was funded by the Department of Interior, Fish and Wildlife Service and managed by the Virginia Department of Health. Last year, the Town requested and was awarded \$10K to assist in the development of a marketing campaign designed to attract transient boaters to the Harbor's new transient slips and sanitary facilities. The Town advertised in two regional boating magazines - PropTalk and SpinSheet. The BIG monies were also used to create brochures to highlight the cultural, historic and natural wonders that Cape Charles and Northampton County had to offer. The Town's share for FY 2012 was \$2,700. This funding opportunity was announced for FY 2013 and the Town would like to apply for \$10K to be used for another marketing campaign similar to last year's. The awards would be announced in March 2013. If the Town received an award, the contract would be presented to Council for review and authorization to execute. The Town match would be included in the FY 2013/2014 Harbor Fund Budget.

Smitty Dize added that the numerous boaters had come to the Cape Charles Harbor as a result of the advertisements in the various magazines, rack cards, etc. Mayor Sullivan commented that all the businesses in Town benefited from the Harbor's growth.

Councilman Godwin asked whether the Town and Bay Creek Marina worked together. Smitty Dize stated that the Town Harbor worked well with Bay Creek Marina and often referred boaters to each other depending on the needs of the boater.

Vice Mayor Bannon asked for the total number of slips at the Harbor. Smitty Dize stated that there were 96 slips but a total of 123 docking locations.

**Motion made by Councilwoman Natali, seconded by Councilman Godwin, to approve the submission of an application for the Boating Infrastructure Grant Program Tier 1 for \$10K to be used towards a marketing campaign for the Cape Charles Harbor. Mayor Sullivan asked for a roll call vote. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Wendell, yes.**

**ANNOUNCEMENTS:**

- July 14, 2012 – Chamber of Commerce Gazebo Party, 6PM – 10PM
- July 17, 2012 – Blood Drive, 2PM – 7PM at St. Charles Parish Hall
- July 21, 2012 – Public Information Meeting w/Echelon Resources, 10AM, location to be determined. A Special Edition Gazette will be sent once details have been finalized.
- July 21, 2012 – Old School Cape Charles Crab Feast, 5PM – 10PM at Wendell Distributing
- July 25, 2012 – Town Council Ethics Workshop

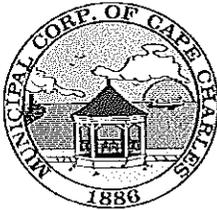
- July 26-28, 2012 – VML Newly Elected Officials Conference. Mayor Sullivan added that this conference was very informative and hoped the two new Councilmen would be attending. Councilman Godwin stated that he was attending, but Councilman Wendell stated that he was not.
- August 3-5, 2012 – First Annual Cape Charles Clam Slam Festival
- August 9, 2012 – Town Council Regular Meeting, 6PM at St. Charles Parish Hall

**Motion made by Councilman Wendell, seconded by Councilman Sullivan, to adjourn the Town Council Regular Meeting. The motion was approved by unanimous consent.**

\_\_\_\_\_  
Mayor Sullivan

\_\_\_\_\_  
Town Clerk

DRAFT



**DRAFT**  
**TOWN COUNCIL**

**Executive Session**  
**St. Charles Parish Hall**  
**July 12, 2012**

**Immediately Following Regular Meeting**

At 8:05 p.m. Mayor Dora Sullivan, having established a quorum, called to order the Executive Session of the Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Godwin, Sullivan and Wendell and Councilwoman Natali. Also in attendance were Town Manager Heather Arcos, Assistant Town Manager Bob Panek and Treasurer Kim Coates.

**Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan and unanimously approved to go into Closed Session in accordance with Section 2.2-3711-A of the Code of Virginia of 1950, as amended for the purpose of:**

**Paragraph 3:** Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Specifically: Real Estate Acquisition Opportunity

**Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali and unanimously approved to return to Open Session.**

Motion to certify to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Wendell, yes.

Mayor Sullivan asked Town Manager Heather Arcos to join the meeting.

**Motion made by Councilman Sullivan, seconded by Councilwoman Natali, to adjourn the Town Council Executive Session. The motion was approved by unanimous consent.**

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Mayor Sullivan

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Town Clerk



**DRAFT**  
**TOWN COUNCIL**

**Executive Session**  
**201 Mason Avenue**  
**July 16, 2012**  
**10:00 a.m.**

At 10:07 a.m. Vice Mayor Chris Bannon, having established a quorum, called to order the Executive Session of the Town Council. In addition to Vice Mayor Bannon, present were Councilmen Godwin, Sullivan and Veber and Councilwoman Natali. Mayor Sullivan and Councilman Wendell were not in attendance. Also in attendance were Town Manager Heather Arcos, Assistant Town Manager Bob Panek and Town Clerk Libby Hume.

**Motion made by Councilman Sullivan, seconded by Councilwoman Natali and unanimously approved to go into Closed Session in accordance with Section 2.2-3711-A of the Code of Virginia of 1950, as amended for the purpose of:**

**Paragraph 3:** Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Specifically: Real Estate Acquisition Opportunity

**Motion made by Councilwoman Natali, seconded by Councilman Godwin and unanimously approved to return to Open Session.**

Motion to certify to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Veber, yes.

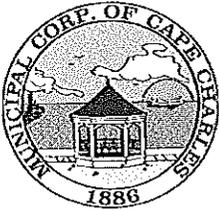
**Motion made by Councilman Godwin, seconded by Councilwoman Natali, to adjourn the Town Council Executive Session. The motion was approved by unanimous consent.**

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Mayor Sullivan

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Town Clerk



**DRAFT**  
**TOWN COUNCIL**

**Executive Session**  
**Town Hall**  
**July 19, 2012**  
**4:30 p.m.**

At 4:30 p.m. Vice Mayor Chris Bannon, having established a quorum, called to order the Executive Session of the Town Council. In addition to Vice Mayor Bannon, present were Councilmen Godwin, Sullivan, Veber and Wendell and Councilwoman Natali. Mayor Sullivan arrived at 4:55 p.m. Also in attendance were Town Manager Heather Arcos, Assistant Town Manager Bob Panek, Treasurer Kim Coates and Town Planner Tom Bonadeo.

**Motion made by Councilwoman Natali, seconded by Councilman Veber and approved by majority vote, with Councilman Wendell opposed, to go into Closed Session in accordance with Section 2.2-3711-A of the Code of Virginia of 1950, as amended for the purpose of:**

**Paragraph 3:** Discussion or consideration of the acquisition of real property for a public purpose, or of the disposition of publicly held real property, where discussion in an open meeting would adversely affect the bargaining position or negotiating strategy of the public body.

Specifically: Real Estate Acquisition Opportunity

**Motion made by Councilwoman Natali, seconded by Councilman Sullivan and unanimously approved to return to Open Session.**

Motion to certify to the best of each member's knowledge (i) only public business matters lawfully exempted from open meeting requirements under this chapter and (ii) only such public business matters as were identified in the motion by which the closed meeting was convened were heard, discussed or considered in the meeting by the public body. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Veber, yes; Wendell, yes.

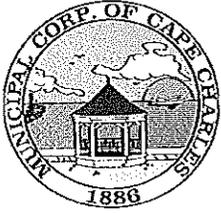
**Motion made by Councilwoman Natali, seconded by Councilman Sullivan, to adjourn the Town Council Executive Session. The motion was approved by majority vote with Councilman Wendell opposed.**

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Vice Mayor Bannon

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Town Clerk



***DRAFT***  
**TOWN COUNCIL**

**Special Meeting**

Town Hall  
July 19, 2012  
5:00 PM

At 5:07 p.m., Mayor Dora Sullivan, having established a quorum, called to order the Special Meeting of Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Godwin, Sullivan, Veber and Wendell and Councilwoman Natali. Also present were Town Manager Heather Arcos, Assistant Town Manager Bob Panek, Town Planner Tom Bonadeo, Treasurer Kim Coates and Town Clerk Libby Hume. There were about 20 members of the public in attendance including members of the Library Board and Friends of the Cape Charles Memorial Library.

Mayor Sullivan explained that the closed sessions were required to prevent disclosing the Town's offer to other potential purchasers, thereby starting a bidding war. Now that the Town Council was voting to accept the Bank's offer and enter into a contract, it could be made public.

Mayor Sullivan announced the business for the evening would be to discuss a real estate acquisition opportunity, its pros and cons and possible uses. After discussion, a motion was needed to adopt Resolution 20120719 - Acquisition of Bank of America property.

Heather Arcos stated that the Town Council had a unique opportunity to acquire the Bank of America building and three additional lots and pointed out the area on a map. Heather Arcos also reviewed the floor plans for the three-story building which was approximately 6,600 SQFT. Heather Arcos stated that the first floor was 3,000 SQFT and could be used possibly for the expansion of the Library. The computer lab could then be housed in the Library vs. the Cape Charles Christian School. The first and second floors were in move-in condition. The third floor consisted of offices which had not been used in years and would need some planning for the uses but could possibly be used for municipal offices. Previously, the former real estate committee assessed the two lots on Randolph Avenue for possible use as a parking lot for the downtown area but the bank was not interested in selling the property.

Heather Arcos went on to state that the Bank of America had agreed to sell the property to the Town for the price of \$200K, plus a maximum of \$8K for due diligence reports. A 10% non-refundable earnest money deposit, which amounted to \$20K, was required within 48 hours of contract signing and closing costs would add another few thousand dollars.

Mayor Sullivan stated that the Council had already discussed the pros and asked if anyone had any cons. Mayor Sullivan asked to go around the table for the Council to express their thoughts.

Councilman Wendell expressed his concern of the Town losing \$28K.

Councilwoman Natali stated that the Town would only lose the money if it backed out of the contract to purchase the property. The Friends of the Cape Charles Memorial Library were thrilled with the idea of moving the Library to the Bank of America building. The study conducted for the Library several years ago stated that even more space was ideal, but this could be an interim step towards the long term goal for the Library. There were many options available.

Councilman Veber added that 3,600 SQFT was more than twice the current space of 1,500 SQFT.

Heather Arcos stated that the Town could move the records currently stored at Bay Storage to the building as well and save about \$2,400 per year.

Councilwoman Natali added that all the furniture, two large vaults and a number of smaller safes were included in the sale. The building was also handicap accessible. There was a possible issue that the bath room would have to be adapted for handicap access. Councilman Sullivan stated that would be easy to accomplish.

Mayor Sullivan stated that the third floor could be used for the Municipal Center.

Heather Arcos stated that the access in the rear was important and an alley could be created to allow access for emergency vehicles.

Vice Mayor Bannon stated that the building, two lots and the alley for \$200K was a deal and that one could not buy a home in Cape Charles for that price. Vice Mayor Bannon went on to state that this was one of the best investments the Town could make and added that it could double the size of the Library and all the computers for the lab would be in the Library vs. the Cape Charles Christian School.

Councilman Godwin stated that he had visited other areas where businesses were located along alleys and added that many of the businesses in the Town only used about half of their space and if the alley were to be opened up, other businesses could go in to the back sides of the buildings.

Councilman Wendell stated that he liked the Library and the idea of expansion was exciting but a bit troublesome. Councilman Wendell commented on Councilwoman Natali's statement about this location being an interim step for the Library and asked what the first floor would be used for when the Library moved. Councilwoman Natali stated that it would be 10+ years before the Library would be moved again. Mayor Sullivan added that the building would always be the Town's property and there were a number of possibilities. Councilman Sullivan stated that at this point, the Town was looking at space to merely expand the Library to a space larger than its current location.

Councilman Wendell asked if the property had a fuel tank and whether the Town had checked into its condition. Bob Panek stated that the Town received an environmental report that showed the tank was in good shape and that it was being used for fuel to heat the building.

Councilman Wendell then asked about asbestos tile. Heather Arcos stated that this would be part of the information provided by the Bank of America. Once the contract was executed, the Town would have 30 days to review the various reports.

Councilman Godwin asked how much it would cost the Town to do all the inspections. Heather Arcos responded that all the inspections had already been done and would be provided by the Bank of America once the contract was executed.

Councilman Wendell asked whether the Code Official had filed a written report of his inspections. Heather Arcos stated that Code Official Jeb Brady had looked at the roof and provided a report.

Vice Mayor Bannon stated that the Council had toured the building earlier this week and had the opportunity to look at everything in the building and added that Councilman Wendell was not in attendance. Councilman Wendell responded that he could not make the meeting and added that the meeting times for Council were not convenient for people who work and should not start until after 6:00 p.m. Councilman Veber stated that this conversation needed to be done at another meeting since it was not the topic of the meeting.

Heather Arcos explained that the Bank of America offer came last Thursday afternoon, July 12<sup>th</sup>, and they wanted the Town's response by July 17<sup>th</sup>. She was able to extend the deadline until this evening so the Council could meet to discuss the issue.

Councilman Wendell stated that he liked the idea of the Town acquiring vs. disposing of property and that it was a stunning building and part of the fabric of Cape Charles. Councilman Wendell added that he saw a pattern developing where the Town was following the Bank of America's process for this deal with this evening's vote to move forward with a 30-day due diligence period all with no written comments from the Town's lawyer. In the private sector, you got legal advice before committing to a deal so you did not lose money. You got the reports first before moving forward.

Heather Arcos stated that legal counsel had reviewed the draft contract and would be adding some State statutory clauses to the contract.

Councilman Veber added that there was no need to accrue attorney fees if the Council was not interested in moving forward. The purpose of this meeting was to discuss whether Council was interested or not.

Councilwoman Natali stated that she understood that if Council decided to move forward tonight, it was to authorize the Town Manager, staff and Mayor to do the due diligence and report back to Council. If all works in the Town's favor, then we would authorize the Mayor to sign the contract and no money changes hands until the contract was signed. Bob Panek corrected that the 30-day due diligence period started after execution of the contract. Council was not voting today to sign the contract as it stood but voting to move forward with the review work with the attorney. The earnest money was due within 48 hours of contract signing.

Councilman Godwin asked what the worst case scenario would be. Bob Panek stated that up to the point of contract signing, there were no consequences. If the Town's attorney added clauses that the bank could not agree to, then nothing had been lost except the legal fees for contract review.

Councilman Wendell asked whether the property would have to be rezoned for a Library. Tom Bonadeo stated that a library was an accepted use in the C-1 Commercial Zone. Councilman Wendell asked whether the future use once the library moved out would be allowed.

Tom Bonadeo explained that four (4) parcels made up the property – the bank building, the parking lot which was 80' deep x 40' wide and two other lots along Randolph Avenue. If needed, the library could be expanded into the current parking lot for an additional 6,000+ SQFT. This was enough to accommodate the future needs of the Library.

Councilman Veber pointed out that the parking lot currently used by the residents, visitors, businesses, etc. was actually owned by the Calomatis family and not by the Town. The two lots on Randolph could be turned into parking for the downtown area.

Councilman Wendell referred to page 18 of the Comprehensive Plan noting that it stated that the Institutional Zone was for government, civic and community uses. The Library would fall under the Institutional Zone but he did not see any Institutional Zones on the Zoning Map. Councilwoman Natali explained that Institutional was not a zone but a designation of uses which was included in a number of zones. Tom Bonadeo added that the institutional designation was included in the C-1, C-2, C-3 and other zones.

Councilman Wendell asked if the Town had an estimate of the amount of money it would take to bring the building into full use, including the parking lots. Mayor Sullivan stated that the Friends of the Library had donors waiting for a building to be chosen. The Library was first, and then the other work for the possible Town offices would be done later.

Councilman Wendell went on to state that the first floor being ready for the Library and computer lab was exciting and asked whether the other work would be done in phases with no tax increases. Mayor Sullivan agreed that there would be no tax increase.

Councilman Veber added that if money were an issue, the current Library building could be sold and the money from the sale could be used to do the work in the Bank of America building. Councilman Wendell stated that the current Library building could be used for other uses as well.

Councilman Godwin asked whether, in the negotiations with the bank, if there was any indication of any others who were interested in the building. Mayor Sullivan stated that there were three other bidders and the Town was offered the opportunity to match the highest bid. Councilman Godwin remarked if another entity purchased the property, they could sell the other lots off and do whatever they wanted to the building. Mayor Sullivan agreed and added that houses could be built on those properties. Councilwoman Natali added that the only way to control what happened to the building and the other lots was for the Town to purchase the property.

Mayor Sullivan asked if there were any other questions.

Councilman Wendell asked if there was a repurchase clause in the Bank of America contract. Councilman Sullivan stated his confusion regarding this question and added that when he purchased his house, there was no repurchase clause and typically contracts did not contain such a clause. Vice Mayor Bannon added that the bank would not want to buy the building back.

Councilman Wendell asked what would happen if the Town bought the building and needed the money for something else. Mayor Sullivan stated that the Town could always sell the building, if needed.

Councilman Wendell stated that water was important and asked about the connection of the wells. Councilwoman Natali stated that the Town had not received the permit so could not do anything at this time regarding the wells. Councilman Wendell asked how the money would be replaced to connect the wells. Bob Panek responded that the connection charges for new connections were designed to pay for expansion and money would be accumulated to connect the wells when needed.

Vice Mayor Bannon suggested that Council move forward with a motion.

**Motion made by Councilman Sullivan, seconded by Councilwoman Natali, to adopt Resolution 20120719 – Acquisition of Bank of America property.**

Mayor Sullivan read Resolution 20120719 and asked for a roll call vote.

**The motion was approved by majority vote. Roll call vote: Bannon, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes; Wendell, no.**

Councilman Veber asked whether the Bank of America could open access to the building for the public to tour the building. Heather Arcos stated that she would talk to the bank representatives.

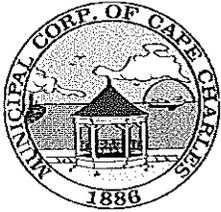
**Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to adjourn the Town Council Special Meeting. The motion was approved by unanimous consent.**

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Mayor Sullivan

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Town Clerk



## **DRAFT TOWN COUNCIL**

### **Work Session**

Town Hall  
July 25 2012  
5:00 PM

At 5:05 p.m., Mayor Dora Sullivan, having established a quorum, called to order the Work Session of Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Godwin, Sullivan, Veber and Wendell and Councilwoman Natali. Also present were Town Manager Heather Arcos, Town Clerk Libby Hume and Messrs. Michael Sterling and Christopher Ambrosio from Vandeventer Black, LLP. There were no members of the public in attendance.

Mayor Sullivan announced the business for the evening would be to hear a presentation by Mr. Michael Sterling regarding Ethics in Government and thanked Messrs. Sterling and Ambrosio for taking their time to give this presentation to the Town Council at no cost to the Town.

Mr. Sterling stated that the Town's Code of Ethics was adopted in 2006 and had been distributed to all Council and Board members on a regular basis. Mr. Sterling continued to state that tonight would be an overview of a number of complicated rules and went on with a presentation of the Town of Cape Charles Code of Ethics, Conflict of Interest Act, Freedom of Information Act and the Virginia Public Procurement Act.

The Conflict of Interest Act (COIA) regulated the financial relationship of employees and officers (and their immediate family members living in the same household) in three general areas: i) bribes and other illegal behavior; ii) financial interests that an employee or official may have in business dealings with the public body – a personal interest in a contract; and iii) level of involvement an employee or official may have in an issue being considered by the public body that involves his or her business, property or personal financial interest – a personal interest in a transaction. The existence of a conflict did not result in automatic disqualification. It depended on the nature of the conflict and may only require certain disclosures which must be done on record. Mr. Sterling stressed that in order to avoid the appearance of impropriety, it could be best to disqualify oneself from discussions. Officials could also request an advisory opinion from the Commonwealth Attorney giving specific details of the situation. Failure to comply with the Conflict of Interest Act could result in jail time.

The Virginia Public Procurement Act (VPPA) was more restrictive than the provisions in the COIA and did not allow for disclosure. The VPPA included immediate family members, regardless of where they lived, and any other person living in the same household.

Mr. Sterling also discussed the issue of confidentiality which was closely tied to ethics and the Freedom of Information Act (FOIA). While most of the Town's business was a matter of public record some things were confidential and officials were expected to preserve the integrity of the confidential information. Disclosure of confidential information could expose the Town to law suits. The individual disclosing the information would also be exposed to a suit and possible loss of office, etc. The Virginia FOIA included many possible reasons for holding closed meetings and many localities hold closed meetings prior to every regular meeting and sometimes afterwards as well. The Virginia FOIA also included over 80 exemptions to preserve confidentiality. An individual member of the Town Council had the same rights as an average citizen in regards to FOIA.

There was discussion with questions and answers throughout the meeting.

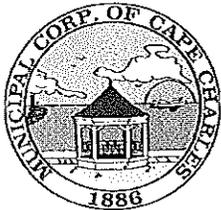
Mr. Sterling stated that municipalities with populations over 3,500 were required to complete annual disclosure statements and suggested that the Town Council review these forms and added that it could not hurt to complete them and have them on file at the Town office even though they were not required. Mr. Sterling concluded by stating that if a possible conflict situation occurred, it was always good to ask the opinion of others and to think things through. The best solution was to request the advisory opinion of the Commonwealth Attorney.

**Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to adjourn the Town Council Work Session. The motion was approved by unanimous consent.**

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Mayor Sullivan

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Town Clerk

DRAFT



**DRAFT**  
**TOWN COUNCIL**  
**Special Meeting**

Town Hall  
July 31, 2012  
6:00 PM

At 6:00 p.m., Mayor Dora Sullivan, having established a quorum, called to order the Special Meeting of Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Godwin, Sullivan, Veber and Wendell and Councilwoman Natali. Also present were Town Manager Heather Arcos, Assistant Town Manager Bob Panek, Town Planner Tom Bonadeo and Town Clerk Libby Hume. There were about 20 members of the public in attendance.

Mayor Sullivan announced the business for the evening would be: A) Review recommendation from Planning Commission regarding the proposed rezoning from Open Space to Residential (R-1) of the area bounded on the north by Madison Avenue, on the east by Plum Street, on the south by parcel 83A3-1-23 and on the west by parcel 83A3-1-287 (lot 287) – the area contains parcels 83A3-1-281 through 83A3-1-286 (lots 281 through 286), a portion of the area that was originally North Park Row, and the old Cape Charles High School building (collectively the “Old School Area”). Schedule a public hearing as appropriate; and B) Review recommendation from Planning Commission regarding the Conditional Use Permit submitted by Echelon Resources, Inc. to rehabilitate and use the Old School Area for an Adaptive Reuse. The proposed Adaptive Reuse included the historic rehabilitation of the Old School Area for use as 17 residential apartment units and surrounding grounds (the “Old School Rehabilitation”) in accordance with applicable guidelines. Schedule a public hearing as appropriate.

*A. Planning Commission Recommendation on Rezoning the Old School Area*

Heather Arcos stated that Council adopted Resolution 20120628 to refer to the Planning Commission the proposed amendment of the zoning map for public necessity, convenience, general welfare, and good zoning practice as well as for consideration of the rezoning of the Old School Area from Open Space (OS) to Residential (R-1). The current zoning of the Old School Area as OS did not allow for the Old School Rehabilitation. The OS zoning district was intended for open air types of activities and did not allow for adaptive reuse. Zoning district R-1 allowed, by conditional use permit, for the Old School Rehabilitation as an adaptive reuse.

On July 26, 2012, the Planning Commission held a public hearing to hear comments regarding the rezoning of the Old School Area followed by a special meeting. Ten citizens spoke during the public hearing. After some discussion, the Commissioners were in agreement that the rezoning was necessary for anything to be done to the former school building other than demolition. The Planning Commission vote was unanimous to recommend that the Town Council approve the rezoning of the Old School Area from Open Space to R-1.

**Motion made by Vice Mayor, seconded by Councilman Veber, to schedule a public hearing for August 23, 2012 at 6:00 p.m. to hear public comment regarding the rezoning of the Old School Area from Open Space to R-1.**

Councilman Wendell stated that the R-3 zone allowed for the density for an apartment building so the project could be done without the need for a conditional use permit and asked why the Old School Area was not being proposed to be rezoned as R-3 vs. R-1. Tom Bonadeo stated that the surrounding area was zoned as R-1 and adaptive reuse was allowed under the R-1 zone definition. There were also other considerations for space issues under the R-3 zone.

Councilman Wendell asked if the R-3 zone allowed for adaptive reuse, to which Tom Bonadeo replied that there was no adaptive reuse clause in the R-3 zone.

Councilman Wendell stated that he did not think it was a good idea to zone an area for a use that was not permitted except by conditional use and added that he felt that it would violate the Comprehensive Plan. Councilman Wendell continued to state that the OS definition was contrived to not allow this 100-year old building. As a municipality, the Town had the ability to change the definition of OS to include the 100-year old building. Tom Bonadeo stated that it was not good business practice to change a definition which was taken from the International Zoning Ordinance as an area without structures or buildings and used by FEMA and numerous other entities.

Councilwoman Natali asked whether it would be considered spot zoning if the Town were to rezone the Old School Area as R-3, in the middle of the R-1 zone to which Tom Bonadeo responded in the affirmative.

Councilwoman Natali went on to state that the Comprehensive Plan placed value on preserving historic buildings and this historic rehabilitation would be in line with the Comprehensive Plan.

Councilman Wendell stated that this building was a 100-year old public building and the use was noteworthy. Mayor Sullivan and Councilwoman Natali responded that the age of the building was what made it a contributing historic structure, not the use.

Councilman Wendell then asked if the school building was not in the park, why were the notices to adjacent property owners sent to residents on Tazewell Avenue. Tom Bonadeo stated that the requirement was to send the notice to at least the adjacent property owners. The Old School Area contained a portion of parcel 23 which abuts South Park Row. Tom Bonadeo continued to state that this area was zoned as residential before being zoned as OS.

Councilman Wendell stated that the Comprehensive Plan described the value of OS and added that the Town was giving up OS vs. protecting it. Tom Bonadeo stated that the Town was not giving up OS because this area was not truly open since the school building could not be counted as OS.

Councilman Wendell concluded by stating that he felt the rezoning was unwise and unnecessary.

With no further discussion, Mayor Sullivan called for a roll call vote.

**The motion was approved by majority vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Veber, yes; Wendell, no.**

*B. Planning Commission Recommendation on Conditional Use Permit Application from Echelon Resources, Inc.*

Heather Arcos stated that on July 26<sup>th</sup>, the Planning Commission heard ten citizens' comments regarding the conditional use permit (CUP) application from Echelon Resources, Inc. for the adaptive reuse to rehabilitate the Old School Area and convert it to 17 residential apartment units and surrounding grounds. After much discussion amongst the Planning Commissioners regarding the CUP application and comments made by the public, the Commissioners voted, by majority vote, that if the Town Council approved the rezoning of the Old School Area, to recommend that the Town Council grant the CUP application submitted by Echelon Resources, Inc. with the condition that the basketball court be relocated. Heather Arcos added that she informed the Planning Commission that the Town Council had discussed relocation of the basketball court but a definite location had not been decided upon.

Heather Arcos continued to state that on July 17<sup>th</sup>, the Historic District Review Board discussed the historic rehabilitation of the building and the proposed use as apartments. The Board agreed with a historic rehabilitation of the building in accordance with the Secretary of the Interior's Guidelines, but did not agree with the proposed use. In its advisory capacity, the Board did not recommend the use of the old school building as apartments and wanted a final review of the plans. Heather Arcos added that as part of the regular process, the Historic District Review Board would be presented with the final plans for their review.

**Motion made by Councilwoman Natali, seconded by Vice Mayor Bannon, to schedule a public hearing for August 23, 2012 at 6:00 p.m. to hear public comment regarding the Conditional Use Permit application submitted by Echelon Resources, Inc.**

Councilman Wendell stated that in looking at the conditional use permit application, this was the third version of the application. Heather Arcos responded that the information on the application was the same but the application form was updated because the previous version did not have an area for application / owner as on other applications used by the Town.

Councilman Wendell asked what standing the applicant had regarding submittal of the conditional use application if they did not own the property. Tom Bonadeo stated that many times, the conditional use permit was associated with the purchase of a property. Especially in cases where the buyers of a property wanted to use a property as a Bed & Breakfast. The buyers would not want to go through with the purchase if the property would not be able to be used as they wished. The conditional use permits, in those cases, would be approved based on the sale of the property.

Councilman Wendell referred to item #6 on the updated conditional use permit application and asked who submitted the disclosure statement signed and notarized

verifying ownership. Tom Bonadeo stated that it was included in Resolution 20120628 which was signed by the Mayor.

Councilman Wendell stated that the only condition recommended by the Planning Commission was the relocation of the basketball court and continued to ask about conditions for repurchase or a pro forma. Tom Bonadeo responded that the Town Council had the ability to set conditions as well, if needed.

Councilman Wendell asked if the Town had received an asbestos abatement plan. Tom Bonadeo stated that asbestos would fall under the Building Code, which would be followed, and not related to this discussion.

Councilman Godwin asked if Council could set a timeframe for relocation of the basketball court. Mayor Sullivan stated that the basketball court was a different issue. Heather Arcos added that this issue could be discussed at a later time.

Councilman Wendell stated that he did not want a basketball court in his backyard and the current location was the best location because the building would block the noise. Heather Arcos reiterated that locations for the basketball court had not been discussed as yet. Mayor Sullivan added that possible locations for the basketball court would be discussed at a future meeting.

With no further discussion, Mayor Sullivan called for a roll call vote.

**The motion was approved by majority vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Veber, yes; Wendell, no.**

**Motion made by Vice Mayor Bannon, seconded by Councilman Veber, to adjourn the Town Council Special Meeting. The motion was approved by unanimous consent.**

\_\_\_\_\_  
Town Clerk

\_\_\_\_\_  
Mayor Sullivan

**Town Manager Report**  
**Highlights**  
**July 13, 2012 – August 2, 2012**

**Echelon Sale and Purchase Contract:**

- On July 26<sup>th</sup>, the Planning Commission held a public hearing to hear public comment regarding i) the rezoning of the Old School Area; and ii) the conditional use permit application submitted by Echelon Resources, Inc.
- A special meeting immediately followed the public hearing and after some discussion, the Planning Commissioners recommended the Town Council approve both the rezoning and conditional use permit application.
- The Town Council met on July 31<sup>st</sup> to review the Planning Commission's recommendations and have scheduled a public hearing and special meeting on August 23<sup>rd</sup>.

**Community Trail Project:**

- The Town Council will review the Engineering/Design Proposal for the Phase 2 – North Peach Street and Washington Ave. The construction of Phase 2 is planned for FY 2014.

**VDOT:**

- Golf Cart Crossing on Route 642: Town staff is working with VDOT regarding the installation of two additional golf cart crossing signs on Route 642. A citizen group will be constructing the golf cart path from the Bay Creek entrance to connect to the Town's existing path on Route 642 into the historic portion of Town
- A \$1M VDOT project is in line to be awarded for the repair/replacement of existing sidewalks in Cape Charles. The work is tentatively scheduled to begin in December.
  - The Town staff is working with VDOT regarding construction of a safe connection from Heritage Acres into Town and will be working with the contractor on estimates to install this section of sidewalk as part of the VDOT project.
- Any signs located in VDOT's right-of-way will be removed by VDOT's staff. A fine is associated with this violation and the signs will not be returned to owners. The signs were removed from the Hump and other areas this week.
- VDOT called to notify the Town of the number of complaints being made by residents of the County regarding the pruning of the Crape Myrtles along Route 13. The subcontractor hired by VDOT has been made aware of the complaints. The pruning may occur on Stone Road and we have shared our concerns and dissatisfaction with the past pruning done by VDOT in Cape Charles.

**Real Estate Delinquent Taxes:**

- The Treasurer is actively pursuing the delinquent taxpayers for collection of the outstanding taxes. We expect to receive a significant portion in August from the three Bay Creek entities.

**Harbor:**

- We met with representatives from the Virginia Dept. of Health and U.S. Fish and Wildlife Service for a site tour of our transient slips and bathhouse facility which is partially funded through the Boating Infrastructure Grant (BIG). They acknowledged our outstanding, well maintained facilities and are recommending an award for our project. The grant program

was established in order to provide an opportunity by states to allow coastal area communities to promote public waterways by providing transient docking and facilities.

#### **NEA Grant, Arts Enter Cape Charles:**

- The Arts Enter, the Town and other organizations have partnered by applying for the National Endowment for the Arts "Our Town Grant" to engage the community to work together on an arts plan to establish the Town as an arts and cultural destination. The Arts Enter received notification that it will be receiving \$50K. This is a huge accomplishment for the Arts Enter, to be a part of this nationally, highly competitive grant. Cape Charles is one of two localities in the State of Virginia to be awarded funding through this grant. The City of Roanoke was the other locality. The Arts Enter and the partners are meeting this month and will provide an update in September, prior to the beginning of the grant period which starts October 1<sup>st</sup>.

#### **Hub Zone**

- An update was received from Congressman Scott Rigell stating the designation for both counties is still in the Committee on Small Business where it awaits a "markup." Unfortunately, it's taking a long time.

#### **Ethics in Government Workshop**

- The Town Mayor, Council and Staff attended a very informative session with our Town Attorney on July 25, 2012. Copies of the presentation are available.

#### **Planning Commission Interest**

- The Planning Commission has 3 vacancies at this time. We have received 6 applications of interest. The Town Council will interview all applicants by the end of the month. A date has not be set.

#### **Newly Elected Councilmen:**

- Councilman Thomas Godwin reported that he enjoyed the Virginia Municipal League Newly Elected Officials Conference in Richmond. The conference was very informative and he was able to network with elected officials from across the State.

#### **Bank of America Building:**

- On July 19, 2012; the Town Council voted to execute a Sales and Purchase Agreement. Upon receipt of the executed contract, the Town's 30-day due diligence period will begin. Town staff has begun their review of various reports provided by the Bank.
- The closing will be scheduled within 30-days after the expiration of the due diligence period.

#### **Topics for Upcoming Work Sessions:**

- Town Code Modifications:
  - Tourism Zone
  - Boat Trailers
  - Compliance Review State Code and Update Town sections
- Personnel Policy Review

# Planning Commission Report for Town Council

**From:** Tom Bonadeo  
**To:** Town Council  
**Date:** August 9, 2012  
**Subject:** Report for Planning Department

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## Planning Commission Meeting – July 26 and August 7

1. The Planning Commission held a special meeting on July 26 to review discuss and render a recommendation on the zoning map amendment for the Old School Area and the Conditional Use Permit for Echelon Resources. The Planning Commission held its regular meeting on August 7 and reviewed the Harbor District zone density as related to the Mason Avenue corridor. The Commission will summarize its recommendation for Council in the very near future. The Commission also reviewed a request for a text amendment to the C-1 zone. The request is to allow residential use on the first floor in the C-1 zone.
2. The Commission worked on the continued improvement of the sign ordinance.
3. The Planner is working on:
  - a. Zoning compliance reviews and enforcements.
    - i. New fences
    - ii. Accessory buildings
    - iii. Home purchases and historic guidelines
    - iv. Political Sign compliance has been exceptionally poor this election. Size and location have both been problematic. Real Estate sign compliance for "Sold" signs is done weekly.
  - b. The Town has received a flyer from VDOT that states their opinion on signs in VDOT right of way. The bottom line is that they are in control and there is a \$100 fine per sign. VDOT plans to remove signs in the ROW. They do not notify the owner and repeat offenders will be fined. This also includes flyers stapled to wooden VDOT sign posts. Only one pole, the pole at the Post Office, is allowed to have posters on it (Zoning Ordinance 4.K.8- Signs Prohibited in all Districts).
  - c. Bank of America building procurement process and review of data.
  - d. The Hotel Cape Charles has been notified in writing that the Zoning Administrator cannot sign the permanent Certificate of Occupancy as the building has not been completed in accordance with the plans. The owner is planning to submit another application to the Historic District Review Board. If the Board and Owner do not reach agreement then the owner can appeal the decision to the Town Council. If Council and Owner cannot agree then the appeal is to the Circuit Court.

## Historic District Review Board Meeting – July 17

1. The Board met to discuss and report on the Historic Rehabilitation of the old Cape Charles School, the rezoning of the related property and a conditional use permit for the adaptive reuse of the building as apartments. The Board agreed that the Historic Rehabilitation was acceptable but did not concur with the use as apartments. No reason was provided for the recommendation.

## Code Enforcement

Month of July FY 2013

### Building Permits Issued/Permit Fees Collected:

Permits this month: 25	
Permits this year: 25	Total permits last year: 218
Total construction this month: \$ 125,046	
Total construction this year: \$125,046	Total construction last fiscal year: \$4,654,387
Permit fees this month: \$2,354.32	
Total permit fees this fiscal year: \$2,354.32	Total permit fees last fiscal year: \$37,034.16
Bay Creek Water/Sewer Tap fees: \$0	
The Colony/Sewer Water Tap fees: \$0	
Marina Village/Marina Village East Sewer/Water Tap fees: \$0	
Bayside Village Sewer/Water Tap fees: \$0	
Old-Town Water/Sewer Tap fees: \$0	
Total Tap fees this year: \$0	Total Tap fees last fiscal year: \$0
Fire Dept. levy this month: \$210.32	
Total Fire Dept. levies this year: \$210.32	Total Fire Dept. levies last fiscal year: \$3,195.93
State levy this month: \$42.04	
Total state levies this year: \$42.04	Total state levies last fiscal year: \$638.20
Miscellaneous Revenue: \$0	

### Existing Structures Code Enforcement Cases:

Total Cases: 27	
New this month: 0	
Closed this month: 0	
Rental Inspections: 7	
Rental C.O's Issued: 0	
Rental Inspection fees collected: \$650.00	
Grass cutting enforcement: 8	
Grass cutting: 6	
Enforcement fees charged this month: \$900	
Enforcement fees charged this year: \$900	Fees charged last fiscal year: \$11,859.56
Enforcement fees collected: \$0	
Enforcement fees collected this year: \$0	Fees collected last fiscal year: \$6,362.53

### Annual Fire Inspections (updated) (Completed)

Total Cases: 92  
Inspections conducted: 0  
Closed this month: 0  
Closed altogether: 92  
Cases unresolved: 0

### Annual Fire Reports (updated) (Completed)

Total Cases: 59  
Received this month: 0  
Closed: 59  
Unresolved: 0

Month of July FY13

**Other items of note:**

1. Completed 24 inspections
2. Conducted 1 zoning clearances
3. Completed 0 courtesy residential inspections
4. Conducted 0 courtesy commercial inspection
5. Conducted 28 E & S control inspections
6. Conducted 0 commercial plan reviews for Erosion and Sedimentation Control.
7. Completed 0 residential plan reviews
8. Issued 0 Public Utilities Shallow Well permits
9. Continued grass enforcement throughout the Town.
10. Continued gaining compliance with all the short term and long term rental properties in the Historic District.
11. Inspected the old Bank of America building roof to check for structural stability.
12. Working on getting an updated list of all the rental properties in the Historic District.
13. Actively working on some Code Enforcement cases on Randolph Avenue.

08/01/12

# Permit/Construction Fee Report

Map Number	Permit#	Type	Date	Address	Work description	Permit Fee	Value
	PP120016	Plumbing	07/10/2012	4 Bay Avenue	Moving Washing Machine to 2nd Floor	\$56.00	\$400
	PE120024	Electrical	07/11/2012	4 Bay Avenue	Installing 2 new circuits	\$56.00	\$500
083A4-0A00-0	PP120017	Plumbing	07/16/2012	2 Fig Street	Adding Plumbing for Chocolate Company	\$84.00	\$1,500
	PP120015	Plumbing	07/09/2012	5 Kings Court	Plumbing permit to obtain C.O.	\$56.00	\$2,500
	PE120023	Electrical	07/09/2012	5 Kings Court	Electrical permit to obtain C.O.	\$56.00	\$2,500
	PB120049	Building	07/19/2012	5 Kings Court	Finish out house for C.O.	\$56.00	\$2,500
	PM120016	Mechanical	07/13/2012	33 Marina Road	New Mechanical for dining area	\$240.80	\$14,000
	PE120028	Electrical	07/25/2012	506 Monroe Avenue	Upgrading to 400 amp service	\$67.20	\$4,500
	PF120004	Fire Suppressio	07/02/2012	301 Patrick Henry Av	Upgrading Fire Alarm System	\$113.65	\$5,147
083A1-0100-53	PE120029	Electrical	07/27/2012	118 Pine Street	New electrical in opened walls	\$56.00	\$1,000
083A1-0100-53	PB120053	Building	07/27/2012	118 Pine Street	Interior alteration	\$56.00	\$1,000
083A3-0201-07	PE120026	Electrical	07/11/2012	102 Randolph Avenue	Upgrading to 200 amp service	\$56.00	\$1,000
	PB120044	Building	07/10/2012	307 Randolph Avenue	Interior Alteration	\$224.00	\$25,000
	PE120025	Electrical	07/11/2012	416 Randolph Avenue	Finish Out Electrical started from orginial pe	\$56.00	\$2,000
	PB120050	Building	07/19/2012	426 Randolph Avenue	New siding to entire structure	\$145.60	\$11,000
	PB120043	Building	07/02/2012	607 Randolph Avenue	residential alteration	\$81.20	\$7,000
	PB120051	Building	07/20/2012	210 Strawberry Street	Tear off / reroof lower roof in back	\$56.00	\$500
083A3-0205-00	PE120027	Electrical	07/11/2012	101 Tazewell Avenue	Upgrading to 200 amp service	\$56.00	\$1,000
083A3-0204-01	PB120052	Building	07/23/2012	102 Tazewell Avenue	4x8 Access Deck on left side of house	\$56.00	\$1,200
083A3-0204-01	PM120015	Mechanical	07/30/2012	102 Tazewell Avenue	Switching out for new mechanical units	\$67.32	\$4,500
	PP120018	Plumbing	07/20/2012	221 Tazewell Avenue	Replacing sewer line	\$56.00	\$2,500
	PB120045	Building	07/18/2012	203 Washington Aven	Tear off/ reroof	\$148.80	\$8,285
	PB120046	Building	07/18/2012	205 Washington Aven	Tear off/ reroof	\$179.29	\$11,008
	PB120047	Building	07/18/2012	207 Washington Aven	Tear off/reroof	\$148.65	\$8,273
	PB120048	Building	07/18/2012	209 Washington Aven	Tear off / reroof	\$125.81	\$6,233
<b>Total Permits:</b>						<b>\$2,354.32</b>	<b>\$125,046</b>

**Total Permits: 25**

PerDateIssued Range from 07/01/2012 to  
07/31/2012

## Revenue Totals by Category/Items

From: 07/01/2012 to: 07/31/2012

<b>Miscellaneous</b>		
Fire Dept Fee	25	\$210.32
<b>Miscellaneous totals</b>	<b>25</b>	<b>\$210.32</b>
<b>Residential</b>		
Valuation Res \$2.5K - \$10K	1	\$60.00
<b>Residential totals</b>	<b>1</b>	<b>\$60.00</b>
<b>State Tax</b>		
STATE TAX.	25	\$42.04
<b>State Tax totals</b>	<b>25</b>	<b>\$42.04</b>
<b>Valuation</b>		
com \$2.5 -10k	3	\$377.91
Com \$2.5 >	1	\$160.08
Valuation Com 2.5K >	1	\$101.47
Valuation Com \$0-\$2.5K	1	\$75.00
Valuation Com >\$10K	1	\$215.00
Valuation Res \$0 - \$2.5K	3	\$150.00
Valuation Res \$0-\$2.5K	10	\$500.00
Valuation Res \$2.5K - 10K	2	\$132.50
Valuation Res > \$10K	2	\$330.00
<b>Valuation totals</b>	<b>24</b>	<b>\$2,041.96</b>
<b>Grand Totals</b>	<b>75</b>	<b>\$2,354.32</b>

## MONTHLY INSPECTION TOTALS

Jeb Brady

Framing	07/02/2012
Slab(Porch)	07/02/2012
Geo Thermal Pre	07/05/2012
Insulation	07/06/2012
Framing	07/06/2012
Footing	07/16/2012
CUT-IN	07/16/2012
Final	07/16/2012
CUT-IN	07/16/2012
Rough-In	07/16/2012
Box Out	07/18/2012
Foundation	07/18/2012
Initial	07/19/2012
CUT-IN	07/19/2012
Final	07/23/2012
CUT-IN	07/23/2012
CUT-IN	07/26/2012
FINAL	07/27/2012
Initial	07/27/2012
Final	07/27/2012
Final	07/27/2012
Initial	07/31/2012
Initial	07/31/2012
Initial	07/31/2012

Total 24

Grand Total 24

InsDateCompleted Range from  
07/01/2012 to 07/31/2012

# Harbor Report

## July, 2012

### Maintenance

1. Basic

### Upcoming, Scheduled Maintenance

1. none

### Capital Projects:

1. We are still placing parking bumpers in the new parking area, this is taking longer than expected due to the increase to our normal business duties.

### Other:

1. Follow us on Face Book (Cape Charles Town Harbor)

### Incidents:

1. Kids throwing rocks a boats
2. Kids jumping off the rails into the water
3. Larger vessels waiting till the last minute to slow down causing a large wake at the floating dock area.

### Notes:

Visit the Tall Ship "Mystic Whaler" – Arrival October 15, 2012 @ 3pm and will be open to the public soon after.

Thanks to all the Sponsors of the Clam Slam:

# Harbor Report

## July, 2012

**Business:**

**Average docking per day/night by category:**

	<u>Rentals</u>	<u>July</u>	<u>June</u>	<u>12/13</u>	<u>11/12</u>
1. Nightly:		6.3	10	6.3	3.1
2. Weekly:		4.5	7.7	4.5	7.1
3. Month/Quart:		11.0	14.0	11.0	4.6
4. Seasonal:		12.9	12.5	12.9	7.6
5. Annual:		38.0	44.0	38.0	36.1
6. Total Rentals,		72.7	88.2	72.7	68.5

**Wharf Fees by Pounds:**

	<u>July</u>	<u>June</u>	<u>12/13</u>	<u>11/12</u>
1. Crabs:	198,720	75,735	198,720	1,261,890
2. Fish:	5,800	12,022	5,800	276,446
3. Conchs:	0	0	0	71,235
4. Horse Shoes:	62,250	5,360	62,250	10,656
5. Gravel:	0	0	0	0
6. Clams	0	0	0	0
7. Oysters	0	0	0	0
8. Conch Pots	0	0	0	0
9. Crab Pots	0	0	0	0
10. Lg. Trap Piles	0	0	0	0
11. Sm. Trap Piles	0	0	0	0
12. Total Pounds:	266,770	93,117	266,770	1,620,227

<u>Waiting List:</u>	<u>6/30</u>	<u>Registered</u>	<u>Removed</u>	<u>7/31</u>
1. 60ft Slips:	2	0	0	2
2. 50ft Slips:	2	0	0	2
3. 45ft Slips:	9	0	0	9
4. 36ft Slips:	6	0	0	6
5. 30ft Slips:	19	0	0	19
6. 24ft Slips:	21	0	0	21
7. 20ft Slips:	11	0	0	11
Total	70	0	0	70

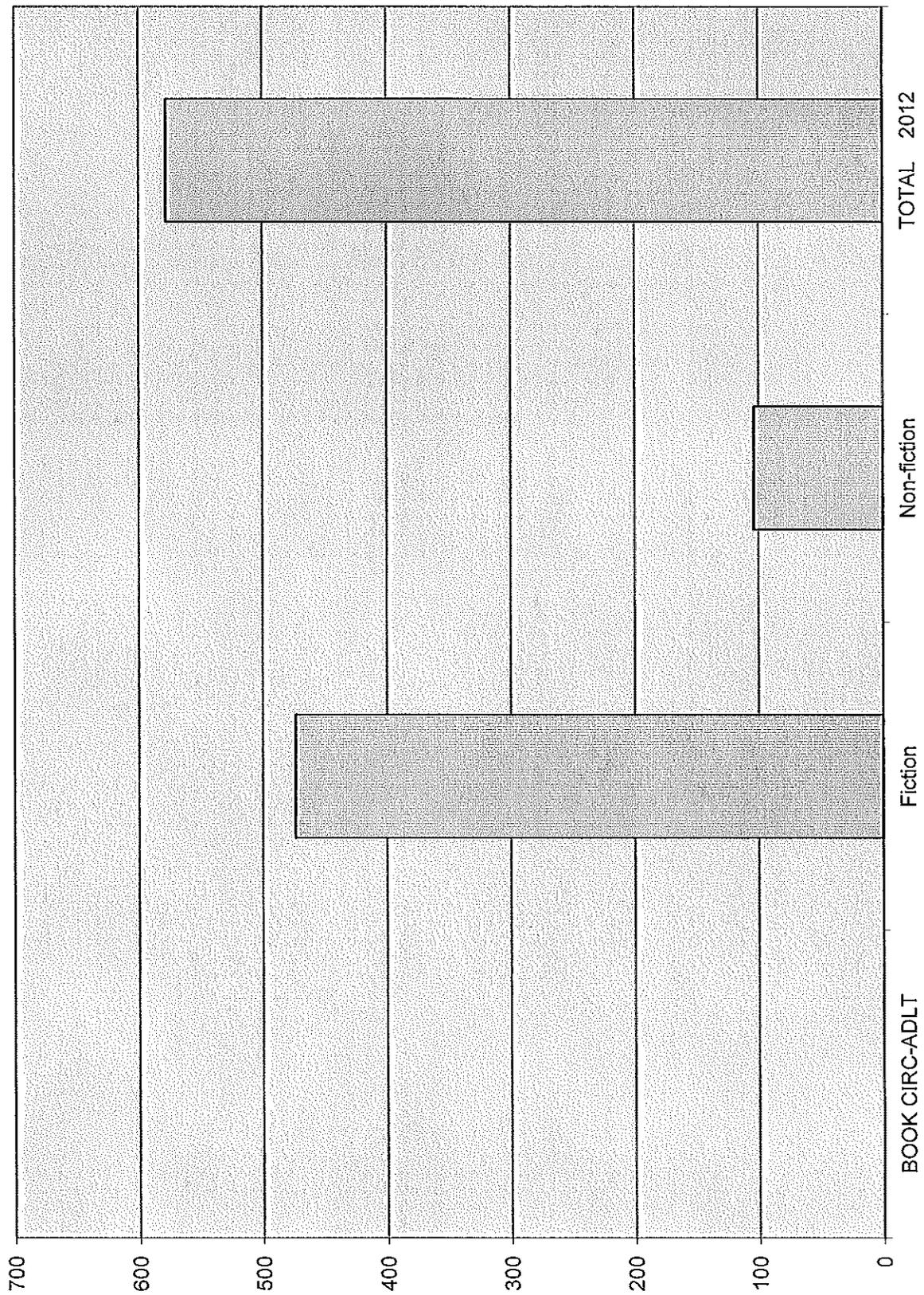
William Smith Dize Jr.  
 Harbor Master  
 August 1, 2012

**Cape Charles Memorial Library**  
**July 2012**  
**Monthly Report Presented by Ann Rutledge**

1. **Toddler/Preschool Storytime** was held on Thursday at 10:30 and a total of 98 children and caregivers attended this month. A total of 161 children attended the **Arts and Crafts** programs held on Tuesday at 10:30.
2. The 2012 **Summer Reading Program, Dream Big-Read** has been a big success this summer with 108 children signing up to read books. This month the Library presented 15 programs for children, with a total attendance of 487.
3. During July we had two special programs at the Library. On July 18 we had **Comedy, Mime, and Magic** presented by Chris Yarlign. This was the first time we had a mime and it was a huge success with over 70 people attending. On July 25 we had **Mother Nature's Traveling Roadshow** presented by Virginia Living Museum at 1:30 and 2:30 with an interesting program on animals. *All special programs are funded by the Friends of the Cape Charles Public Library.*
4. Our displays this month featured books on the Eastern Shore and a display featuring a Shark Discovery Box from the Virginia Living Museum. This display features real objects and specimens, puppets, and other interesting information. A Dinosaur Discovery box will be coming in September. *The Discovery Box was funded by the Friends of the Library.*
5. With proceeds from the Friends Book Sale the Friends of the Library have generously presented the library with a collection of new DVD's both for children and adults. Check out our great selection of DVD's!
6. For additional information about library programs and library related information check out the Cape Charles Memorial Library's **Facebook** page!

Cape Charles Memorial Library

	<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUN</u>	<u>JUL</u>	<u>AUG</u>	<u>SEPT</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>	<u>YTD</u>
<b>INCOME:</b>													
Donations													
Copier/Prt	\$53.40	\$55.10	\$95.29	\$55.00	\$66.00	\$82.00	\$163.30						
TOTAL	\$53.40	\$55.10	\$95.20	\$55.00	\$66.00	\$82.00	\$163.30						
Deposit	\$53.40	\$55.10	\$95.20	\$55.00	\$66.00	\$82.00	\$163.30						
<b>BOOK CIRC-ADLT</b>													
Fiction	474	454	357	430	523	669	974						
Non-fiction	104	125	111	131	87	73	192						
<b>TOTAL 2012</b>	<b>578</b>	<b>579</b>	<b>468</b>	<b>561</b>	<b>610</b>	<b>642</b>	<b>1166</b>						
Books Circ. 2011	783	686	846	867	787	867	833						
<b>BOOKS CIRC-JUV</b>													
Fiction	313	358	399	355	309	596	814						
Non-Fiction	64	103	109	99	16	95	86						
<b>TOTAL 2012</b>	<b>377</b>	<b>461</b>	<b>508</b>	<b>454</b>	<b>325</b>	<b>691</b>	<b>900</b>						
Books Circ. 2011	637	601	601	754	547	680	758						
<b>TOTAL BOOK 2012</b>	<b>955</b>	<b>1040</b>	<b>976</b>	<b>1,015</b>	<b>935</b>	<b>1,333</b>	<b>2,066</b>						
<b>TOTAL BOOK 2011</b>	<b>1420</b>	<b>1,447</b>	<b>1,447</b>	<b>1,621</b>	<b>1,334</b>	<b>1,547</b>	<b>1,591</b>						
<b>Attendance 2012</b>	<b>843</b>	<b>810</b>	<b>802</b>	<b>878</b>	<b>847</b>	<b>1,223</b>	<b>1,618</b>						
Attendance 2011	742	1,048	1236	1,334	1045	1,438	1,355						
<b>Programs 2012</b>	<b>11</b>	<b>15</b>	<b>13</b>	<b>10</b>	<b>10</b>	<b>12</b>	<b>15</b>						
Programs 2011	7	7	5	5	5	16	9						
<b>Prog. Attend 2012</b>	<b>104</b>	<b>164</b>	<b>111</b>	<b>129</b>	<b>76</b>	<b>236</b>	<b>487</b>						
Prog. Attend 2011	274	90	50	51	88	327	144						
<b>Internet use 2012</b>	<b>368</b>	<b>314</b>	<b>373</b>	<b>300</b>	<b>309</b>	<b>499</b>	<b>549</b>						
Internet use 2011	471	401	483	612	572	842	771						
<b>Library Cards 2012</b>	<b>20</b>	<b>11</b>	<b>7</b>	<b>22</b>	<b>14</b>	<b>25</b>	<b>22</b>						
Library Cards 2011	4	12	6	19	10	10	11						



## **PUBLIC WORKS**

### **July 2012**

#### **Dump Fees**

- **Oyster Landfill:** 14 trips, \$449.17; 7 Tons
- **Sludge-** 0

#### **Staff Report**

#### **Completed Projects**

- General Maintenance – All Public Areas
- Beach Work
- Fourth of July Preparation
- Central Park Fountain Repairs
- Removal of Misc. items at Old School
- Assisted Harbor with projects
- Event Set up
- Purchased New Sweeper

#### **In Progress**

- Preparation for Clam Slam Event
- Working with VDOT – Signs in Rights-of-Way and Sidewalk project

#### **Upcoming Projects**

- Assistance with Pine Street Pump Station repairs
- Install shade cover at play ground
- Evaluation of current Town signage

## **PUBLIC UTILITIES**

### **July 2012**

#### **Work Orders Completed**

- Miss Utility Tickets: 15
- Emergency Call Outs After Hours and Weekends: 18  
Man Hours: 46

#### **Personnel**

- Patrick Christman attended a 2 day class for using fluoride in drinking water.

#### **Completed Projects**

- Recertification from the Virginia Environmental Laboratory Assessment Program of our environmental lab at the WWTP.
- Pumping out and cleaning of all wet wells at the pump stations, the sump pit at the old WWTP and the UV tank at the old WWTP.
- Bench scale testing at the Water Plant in connection with TTHMs. Report completed and submitted to the VA Department of Health Office of Drinking Water.

#### **New WWTP**

- 60 day commissioning period continuing. During this time the plant is turned over to Town personnel to begin running the plant. The commissioning period was extended due to improper nitrate probes that were installed and waiting for the correct ones to be delivered on site and installed.

#### **In Progress**

- Collecting flow data looking for sources of inflow and infiltration in the Plum Street Pump Station Basin sewer mains.
- Decommissioning old WWTP.
  - Demolition of concrete structures and removal of polishing pond.
- Closed Circuit TV inspection of the sewer mains.
- Addressing items found during smoke test of sewage system.
- Replacing old water meters.
- Working out details for installation of new water plant controls

#### **Upcoming Projects**

- Connection to Keck Wells
- Water System Flush scheduled for August 8 & 9

Recreation Department  
August 2012 Council Report

1. It has been a great and busy summer. Due to the many programs the Town has been able to offer Jen has missed many of her monthly meetings and will resume back in the fall with the Birding Festival, ESVA Festivals, New Roots Youth Garden and Randy Custis Board. Updates will be reported at that time.
2. Arts and Crafts have been so busy this summer that there has been a break up into two separate groups. This has allowed Jen, Ms. Sharon and Ms. Ann to be more helpful to the children during the activity.
3. July 4 was a great day for the Town. There was the parade to start off the day followed by many family activities throughout the day. The first annual golf cart event was well received by the public.
4. Tie Dye Camp was the biggest camp of the summer yet again. Kids and adults alike came out to tie dye a shirt.
5. Cape Charles Recreation Department scheduled Jennie Lewis from the Wildlife Refuge to come out and do a presentation on bugs. There were enough kids to break up into three different groups for educational and hands on information.
6. Jen, Tom and Jeb participated in a Walkability Tour on July 31. The session was very informative and showed the Town many great options for making the town pedestrian friendly.

 <p>TOWN OF CAPE CHARLES</p>	<b>AGENDA TITLE:</b> Cape Charles Police Department		<b>AGENDA DATE</b> AUGUST 9, 2012
	<b>SUBJECT/PROPOSAL/REQUEST:</b> JULY 2012 Monthly Law Enforcement Statistic		<b>ITEM NUMBER</b>
	<b>ATTACHMENTS:</b> None		<b>FOR COUNCIL:</b> Action ( ) Information ( X )
	<b>STAFF CONTACT (s):</b> Charles Brown Chief of Police	<b>REVIEWED BY:</b> Heather Arcos Town Manager	

The following information is the monthly statistics regarding law enforcement activities for the Cape Charles Police Department.

Calls for Service in Cape Charles: 52

Calls for Service Outside of Cape Charles: 19

10-13 Calls

(A) By Dispatch: 67

(B) By Phone via Officer/Trooper: 02

(C) In Person 02

Felony Arrests: 00

Misdemeanor Arrests: 02

DUI Arrests: 00

Traffic Summons Issued: 39

Traffic Warnings Issued: 09

Parking Tickets Issued: 20

Assisted Northampton County Sheriff's Office: 11

Assisted Virginia State Police: 01

Assisted Other Local Police: 00

Assisted Other Federal Agencies: 00

Assisted Fire & Rescue: 08

Assisted VDOT:

Hours of Training Received & What Type?

 <p>TOWN OF CAPE CHARLES</p>	<b>AGENDA TITLE:</b> Randy Custis Park Update		<b>AGENDA DATE:</b> August 9, 2012
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Update on progress of Randy Custis Park		<b>ITEM NUMBER:</b> 7A
	<b>ATTACHMENTS:</b> None		<b>FOR COUNCIL:</b> Action <input type="checkbox"/> Information <input checked="" type="checkbox"/>
	<b>STAFF CONTACT (s):</b> Jen Lewis	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

In November 2008, representatives from the Randy Custis Park Organization made a presentation to the Town Council regarding the vision of the park in Nassawadox, VA. The purpose of the park is to provide exceptional state-of-the-art sports facilities with a variety of indoor and outdoor activities for the Eastern Shore children and youth.

The organization requested the Town to be an Elite Sponsor for the construction and maintenance of six new fields and programs. The level of sponsorship was \$2K over two years with a \$500 per year contribution. As a sponsor, a field would be named after Cape Charles.

At the December 11, 2008 meeting, the Town Council approved the Town Manager to participate as an Elite Sponsor on behalf of the Town.

**DISCUSSION:**

Bill Custis, Founder, and Larry Giddens, Jr., of Randy Custis Park Organization have requested an opportunity to give the Town Council an update on the progress of the facility.

Jen Lewis, Recreation Coordinator is actively on the board of the Randy Custis Park Organization.

**RECOMMENDATION:**

For information only.

 <p>TOWN OF CAPE CHARLES</p>	<b>AGENDA TITLE:</b> Addendum to Contract for Phase 2 of Cape Charles Multi-Use Trail		<b>AGENDA DATE:</b> August 9, 2012
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Addendum C to Land Studio contract for professional services regarding Cape Charles Multi-Use Trail		<b>ITEM NUMBER:</b> 7B
	<b>ATTACHMENTS:</b> Cape Charles Community Trail Highlights and Addendum C		<b>FOR COUNCIL:</b> Action <input checked="" type="checkbox"/> (X) Information <input type="checkbox"/> ( )
	<b>STAFF CONTACT (s):</b> Heather Arcos	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

The Town Council adopted the Cape Charles Master Trail Plan on September 11, 2007. The final layout and design of the park was approved by Council at the April 2008. The trail plan will be constructed in phases as funding is available.

To date the town trail project has been awarded \$2,031,300 in enhancement funding including the most recent award of \$251K requested in 2011. The funding went towards completion of the Master Trail Plan and Phase 1 – Central Park. The funding available is \$1,077,200.

**DISCUSSION:**

The completion of Phase 2 - North Peach St. and Washington Ave consist of engineering, design and construction. The engineering/design will be completed this year and construction will be planned for FY 2014. Please see attached Trail Highlights.

The Addendum C - Scope and Cost Proposal has been reviewed and approved by the Virginia Department of Transportation (VDOT) Enhancement Program. The scope of work will complete the design, engineering and will provide the Town with the construction documents for implementation in the FY 2014 budget.

The Cost Proposal is attached for your approval. The project was reviewed during our budget planning for FY 13 and is included in our budget.

The cost proposal is for \$95,941.83 with 80% reimbursable by the VDOT program funds currently available to the Town. The Town contribution is \$19,188 which is 20% of the proposal.

**RECOMMENDATION:**

Authorize the Town Manager to execute Addendum C -- for \$95,941.83 to Land Studio PC.

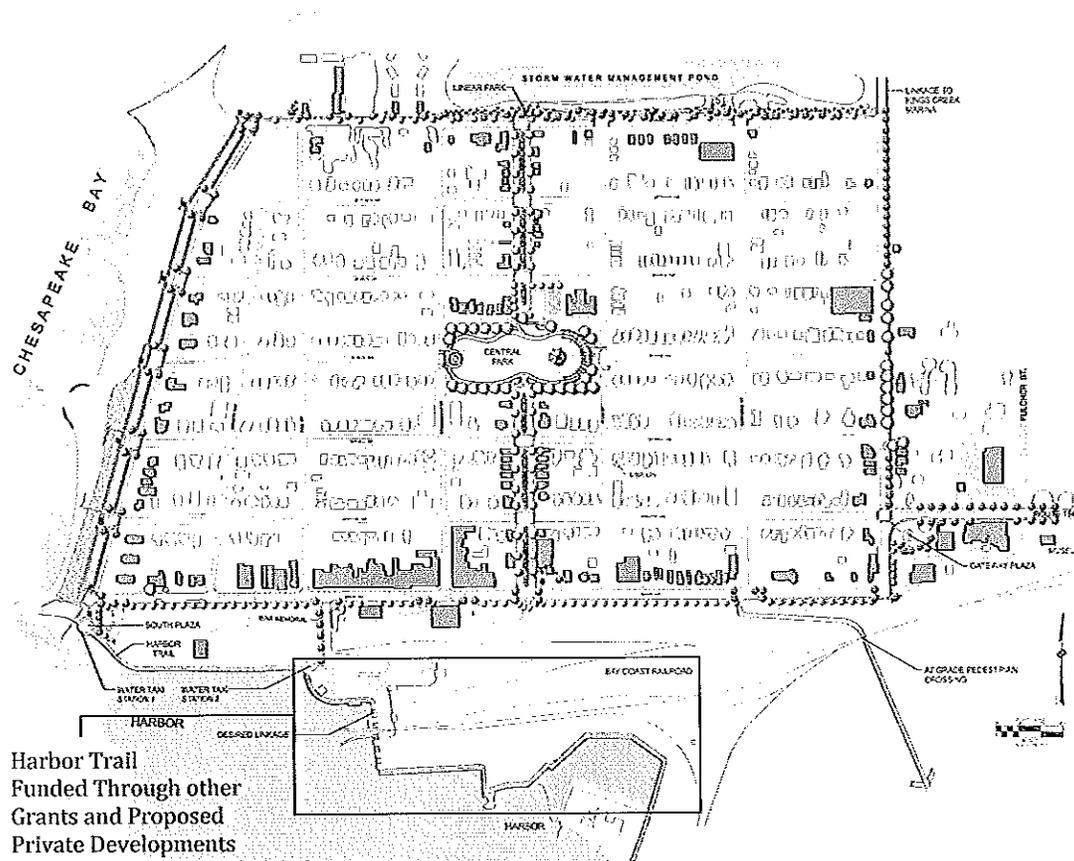
## *The Cape Charles Community Trail Highlights—Linking the town's main destinations*

The Cape Charles Community Trail Network links residents and visitors to the town's many destinations. It also links to and incorporates the bicycle and trail recommendations of adjacent localities and planning district commissions. The plan is a direct result of a detailed analysis with input from many stakeholders and citizens. The proposed community trail network is comprised of trail linkages within its historic core and out into the surrounding area. Once implemented, this system will provide pedestrians and bicyclists safe access to the many destinations in Cape Charles, adding greatly to the uniqueness and attractiveness of the town.

The proposed trail builds on the town's inherent historic quality and character. Cape Charles is going through a rebirth and concurrently developing plans that will help to guide that development in a manner that benefits the town as a whole. The community trail is one piece in bringing forward a rebirth of Cape Charles.

### *Previously Funded Activities*

Enhancement funding to date has been used to develop a comprehensive trail master plan (see attached document), environmental documentation for the entire trail, and design and construction of Phase 1A—Central Park. Funds remain for the design and construction of Phase 1B and partial construction of Phase 2 as identified below. We anticipate the design for Phase 1B and Phase 2 will be complete by July of 2012 and to get the most out of our funding we would like to be able to complete the construction of both simultaneously.



*Cape Charles Community Trail Alignment and funding status by phase.*

## *Funded and Complete: Phase 1A– Central Park Trail*

This central open space has played a key role in the town since its inception. As originally envisioned, this space was to serve as a central open green for town citizens, with wide boulevards radiating from the center of each side, providing convenient park access and town circulation. The implementation of the trail around the outer edge of the park with linkages to each of the wide radiating boulevards to the north, south, east and west celebrates the forethought of the town plan and re-establishes its original concept.

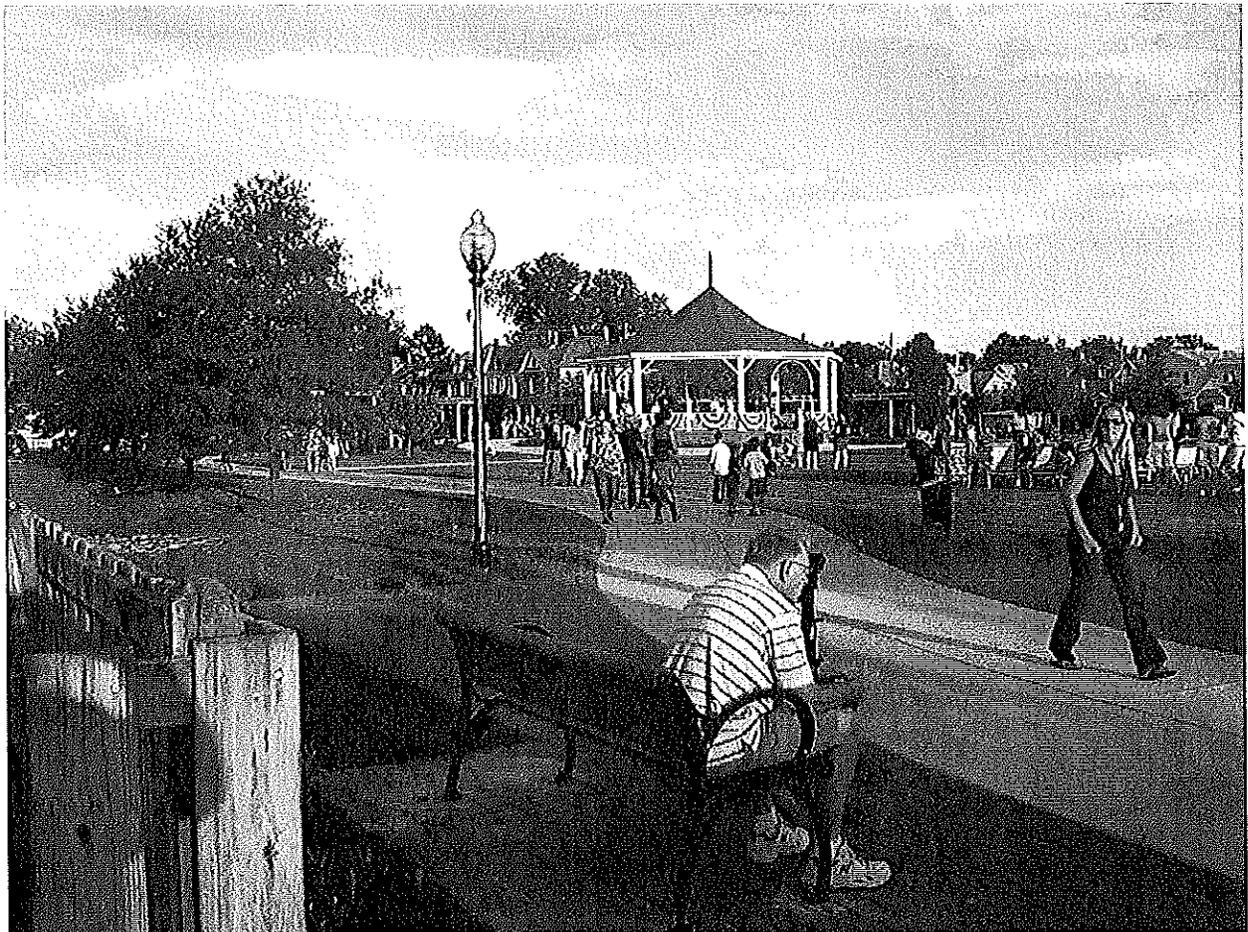


*Trail extending from east node at Plum and Madison Street to north and south Plum Streets.*



*Trail along the south side of the park from Plum Street to Strawberry Street.*

*Trail Linkage from  
Central Park Trail to  
North Peach Street—  
Phase 1B*



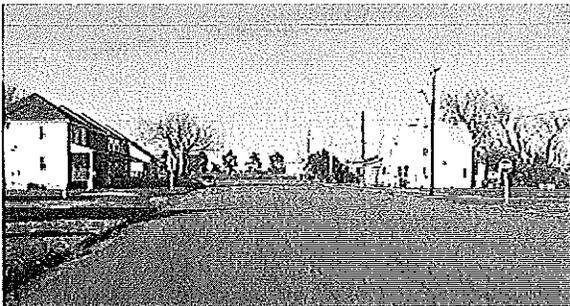
*Park trail extending from the north node, east to Plum Street.*

## *Currently Funded: Phase 1B- North Peach Street*

Phase 1B will make improvements to north Peach Street that will link the park to Washington Avenue. Phase 2 of the trial will link to the town's beach and new marina village (a residential and commercial development further to the north). This section of the trail is very important in the visual and physical linkage of the north side of town to the park and the town's historic main street.

### *Existing Character*

Peach Street runs north-south through the center of town. It is the historically wide north-south street radiating from the central park with a 100-foot right of way. It is surrounded by single family residences. This section currently has narrow sidewalks where present, limited ADA accessibility, and no central median as historically intended.



*Existing northern block of north Peach Street*



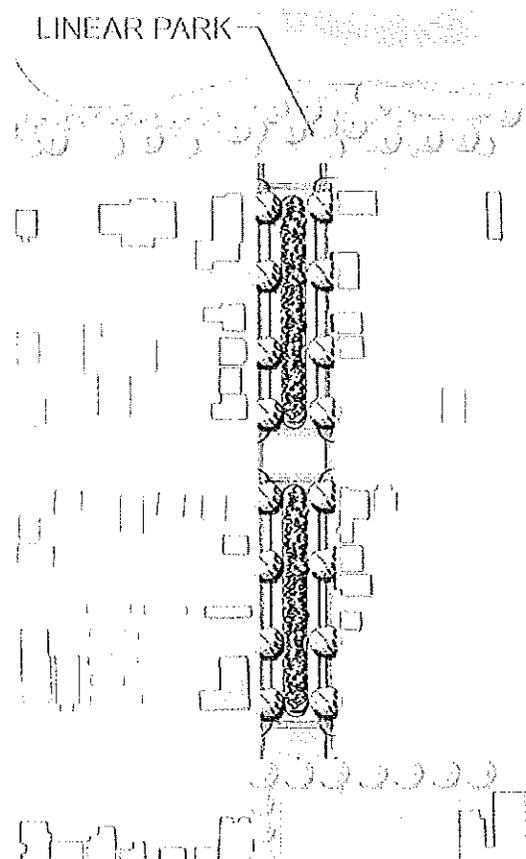
*Existing block of Peach Street south of the park with central median*

### *Trail Alignment*

Much discussion was held about how to ensure that the trail along Peach Street enhances, rather than distracts from, the historic streetscape pattern since that pattern is an important component in the town's historic designation. Out of those discussions, it was concluded that, given the historically wide width of this corridor, making the modification to wider sidewalks through this area would not distract from the original streetscape pattern. It is also recommended that the trail be implemented along both sides of the street, equally balancing the streetscape through this historic area. The recommended trail width along Peach Street will need to be reduced slightly to 8' due to existing conditions. Wide medians are proposed where they currently do not exist, making these blocks consistent with the others and reducing the visual width of the roadway. Space for parallel parking on either side of the roadway should be accommodated to serve adjacent residences.

### *Nodes*

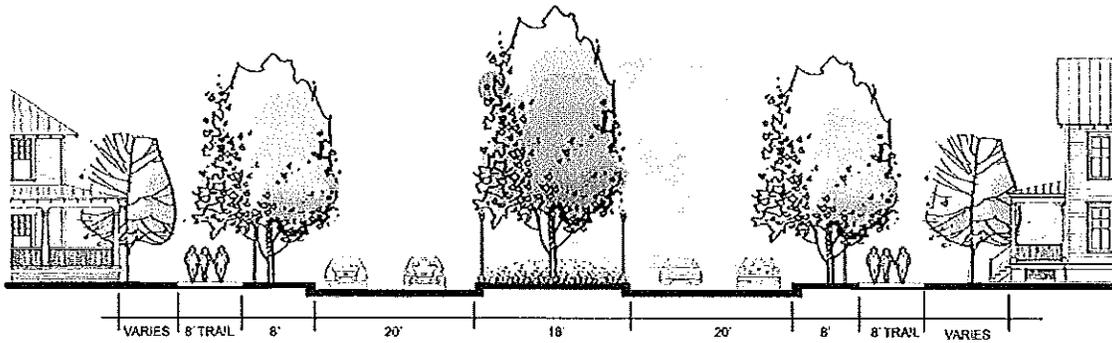
Nodes are proposed at each end of Peach Street. Phase 1A included the node on the south end of Peach Street linking it to the northern edge of the park. This node is important, serving as a gateway to the central park and key element in attracting adjacent individuals into the central open space. The node at the north end of Peach Street will be done with a Phase 2—Washington Avenue.



*Proposed North Peach Street Trail Improvements*



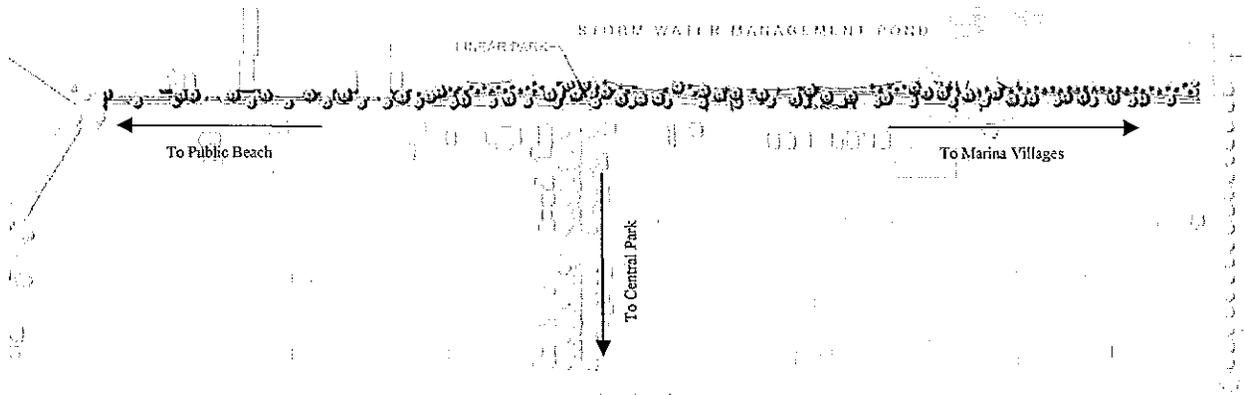
*Conditions at the intersection of Peach Street and the parks northern node prior to improvements in the Park (Phase 1A). A trail connection now exists linking to the park. See the top image on page 3.*



*Proposed typical section along Peach Street*

## ***Partially Funded: Phase 2— Washington Avenue***

Washington Avenue forms the northern boundary of the original town grid. This phase will link residents in the northern portion of town to the central park, the public beachfront, and the northern marina village.



*Public Beach*



*Central Park*



*Marina Village*

### *Existing Character*

A large open area has been left to the north of Washington Avenue spanning much of the roadway except at its westernmost end. Residential homes dominate much of the land to the south of the roadway. There currently are no pedestrian accommodations on either side of Washington Avenue. This is a popular route for northern residents to reach the public beachfront and central park. On many occasions individuals have been seen walking, running, and pushing strollers within the roadway.



*Existing open space along Washington Avenue looking west from the North Peach Street Intersection.*

### *Trail Alignment*

The 10 foot wide trail along Washington Avenue is proposed on its northern side to take advantage of existing open space and preserve the historical integrity of the streetscape pattern on its southern side. One node is proposed along Washington Avenue at its intersection with Peach Street, the wide northsouth street radiating from the central park. Decorative crosswalks signify the importance of this intersection and highlight the trails presence along Peach Street to the town's central park.



*Existing open space along Washington Avenue looking east from the North Peach Street Intersection.*



*Washington Avenue and Peach Street intersection looking south down Peach Street toward the central park.*



## **Addendum C to contract dated March 22, 2007**

December 21, 2010 (Revised December 1, 2011)

Heather Arcos, Town Manager  
Town of Cape Charles  
Municipal Building  
2 Plum Street  
Cape Charles, Virginia 23310

**RE: Scope and Cost Proposal for Cape Charles TEA-21 Multi-Use Trail  
North Peach St and Washington Ave - Phase 2  
Land Studio Project No. 10031**

Dear Mrs. Arcos,

This letter will serve as our proposal and agreement to provide the professional landscape architectural and site engineering services for the preparation of the site plan and civil engineering necessary for trail related improvements along North Peach Street and Washington Avenue as laid out in the trail master plan. We are pleased to have the opportunity for providing these services and assure you of our interest and best professional effort consistent with the normal standard of care practiced by professional landscape architects.

If this proposal does not meet your scope of service expectations, please call me so that we have an opportunity to negotiate and resolve any issues with this agreement.

### **Project Description**

The Town of Cape Charles is seeking continued assistance in the implementation of its community trail as depicted in the Cape Charles Community Trail Master Plan. The following lump sum scope of work is specifically for the design and engineering of Phase 2 – North Peach Street and Washington Avenue. A public design process will be utilized to guide the coordination/preparation of the design development plans and construction documents for the trail alignment, amenities, grading, and landscape of the multi-use trail.

### **Scope of Work**

Land Studio pc will develop construction documents for implementation of the multi-use trail along North Peach Street and Washington Avenue of the Cape Charles Community Trail Master Plan. Land Studio pc and/or its consultants will specifically provide the following services:

- **Topographic and Boundary Survey.** We will prepare a topographic survey to include the entire VDOT right of way along North Peach Street from Madison Avenue to Washington Ave, a distance of approximately 700 feet, and the north side of Washington Street between Bay Avenue and Fig Street from the center of the roadway to the right of way on the line. The open area north

of the right of way to the fence line will also be included. The survey will include the location of all existing structures and trees. All utilities located within the area of concern (sanitary, storm, electric, water, telephone, etc.) will be located and rim elevations and pipe invert elevations will be so noted. Our fees also include the cost for easement plats should they be needed or desired along the north edge of the Washington Avenue right-of-way for placement of the trail and/or its amenities.

- **Conceptual Plan and Layout Scheme (30% Submittal).** A public design process will be utilized to guide the coordination/preparation of the design development plans and construction documents for the multi-use trail alignment and its amenities. The preliminary layout will be submitted for review and comment.
- **Geotechnical Services.** We will provide four (4) soil borings and Field Permeability Tests to determine the general subsurface soil conditions by drilling hand auger borings and evaluating the soil conditions at the boring locations with respect to the design and construction of proposed pavement and drainage features. The four borings will be done along the north side of Washington Avenue. We will also do one (1) pavement core in North Peach Street.
- **Utility Design.** Investigation of utility requirements and design services for connecting water services and the stormwater requirements for the increase in impervious area will be performed. Review of existing water service in the area to review their adequacy for the site and the use for water fountains, and other trail features. We assume the existing infrastructure and mains will be adequate for all utility tie-ins. We will prepare all documentation required by the town of Cape Charles, Northampton County and VDOT for site plan submittals to include the analysis and calculation for each of the utility systems to include water service demands and preliminary storm water management computations.
- **Preparation of a civil engineering site plan (60% Submittal).** The site plan will include erosion and sedimentation control plan, a site demolition and clearing plan, parking and pedestrian access design elements, hardscape plan, site layout and grading, utilities, and drainage.
- **Lighting Plan.** We will coordinate the preparation of a lighting plan for the multi-use trail utilizing the same fixtures as in Phase 1A.
- **Planting Plan.** We will provide a planting plan to complement the site plan in conjunction with town and VDOT ordinances and/or requirements. We will adhere to all of Cape Charles' adopted tree policies and regulations such as the Master Tree Plan and Tree Conservation and Preservation Ordinance.
- **Preparation of Final Site Plan (90% and 100% Submissions).** We will provide all information, research, computations and calculations as stipulated by the Town, VDOT, and Northampton County. Site plan improvements will be prepared to the Town of Cape Charles and VDOT's standards, details, and guidelines.
- **Storm Water Pollution Prevention Plan (SWPPP).** The Virginia Stormwater Management Program (VSMP) General Permit for Discharges of Stormwater from Construction Activities (VAR10) Registration Statement and Stormwater pollution Prevention Plan (SWPPP) for the project will be prepared.
- **Submittal Preparation.** We will prepare all plans and specifications including compiling all sheets and prepare the specifications as per VDOT format for federal grant projects.

- **Cost Estimating.** We will provide construction cost estimates at all submittals and final bid plans. We will develop Add Alternates as needed to stay within the project budget.
- **Bidding Services.** We will prepare the bid package as required by the Town and VDOT. Prepare up to 20 sets of Bid Plans for distribution, prepare the addenda, attend a pre-bid meeting, coordinate the public bid opening, and make a recommendation for award and submit to VDOT.
- **Project Management.** We will coordinate with you and VDOT representatives all required project tasks related to VDOT processes for Transportation Enhancement Grants and site plan review.

Land Studio will provide up to 20 copies of plans plus all back-up information on utilities and drainage for each review by the reviewing agencies. We anticipate two or three reviews. The owner will also receive copies of each submittal plus digital copies, if required or preferred. All miscellaneous expenses such as mileage, printing, mailings, and photographs are included as a line item in the Basic Services and included in the lump sum fees. All review fees, permit fees, and other scheduled fees will be paid by the owner. If desired, Land Studio will pay the review fees and request reimbursement in accordance to the Fee Schedule.

## Fee Schedule

Lump Sum fees for the services are as follows:

• Topographic and Boundary Survey .....	\$ 6,585.00
• Easement Plat .....	\$ 400.00
• Conceptual Plan and Layout Scheme (30% Submittal).....	\$16,002.06
• Geotechnical Services .....	\$ 3,955.00
• Utility Design.....	\$ 2,630.88
• Preparation of a civil engineering site plan (60% Submittal).....	\$17,392.95
• Lighting Plan.....	\$ 2,320.00
• Planting Plan .....	\$ 3,520.00
• Preparation of Final Site Plan (90% and 100% Submittals) .....	\$14,527.49
• Storm Water Pollution Prevention Plan .....	\$ 1,620.00
• Submittal Preparation .....	\$ 6,875.28
• Cost Estimating .....	\$ 4,134.27
• Bidding Services .....	\$ 3,172.90
• Project Coordination/Management.....	\$ 9,800.00
	Subtotal (Lump Sum Fees).....
	\$92,935.83
• Reimbursable Expense Estimate (see below for detail).....	\$ 3,006.00
	<b>Total ....</b>
	<b>\$95,941.83</b>

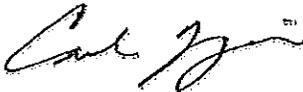
## Additional and Excluded Services

Additional services, including but not limited to the following, are not provided under the terms of this agreement but can be provided at your request or concurrence.

- Completion of an Environmental Assessment of Environmental Impact Statement documents.
- Preparation of ALTA survey, plats, or additional survey documentation.
- Traffic Impact Study (Not expected to be required with this project.)
- Investigation and preparation of environmental documentation. (Not expected to be required.)
- Soil and groundwater sampling; flagging of jurisdictional wetlands and/or waters of the U.S.; completion and/or submittal of wetland and/or water quality permit applications; survey of wetlands and/or waters of the U.S. on the property; stream and/or wetlands functional assessments, compensation site selection, design and/or construction documents; detailed sediment and water quality studies; additional cultural resources or protected species investigations.
- Irrigation system design. We understand that if irrigation is required, the Owner will secure these services during the construction phase. We will provide any drawings or files necessary to complete this task by your irrigation contractor.
- Pump Station Capacity Analysis or Pump Station Improvements Plan. We assume the local downstream pump station will be adequate for the site re-development and will not require an analysis other than identifying the expected flows from the site.
- Application Forms and Permitting: If desired, we can assist the Contractor and Owner in the preparation and collection of all site construction permits as required by the Town of Cape Charles and/or VDOT to include but not be limited to E& S permits, water tap and sewer permits, right of way encroachment permits, and land disturbance permits. Our services will include working through site plan approval but we assume the construction permits will be secured by your contractor and we would not be needed to assist in completing these tasks.
- Construction layout, construction inspections, shop drawings review, preparation of record drawings, and other construction based services as the Owner's representative. We will be please to provide these services as needed and will negotiate a scope of services and fee with the Owner at an appropriate time.
- Changes to approved concepts or plans necessitating redoing the design, plans, or specifications.
- Any other services not included in or in excess of the scope of services items that are provided by Land Studio at your request or concurrence.

General Terms and Conditions and our rate schedule are attached. We look forward to continuing a relationship with the Town of Cape Charles. To execute this agreement, please indicate such by signature. Thank you.

Sincerely,



Carol Rizzio, CLA, AICP  
Land Studio pc

ACCEPTANCE OF CONTRACT

The undersigned Owner and Contractor affirm, acknowledge and agree to be bound by all the terms and conditions of the foregoing contract. This contract serves as Addendum C to the original contract dated March 22, 2007.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2012

Contractor: Land Studio pc

Mailing Address: P.O. Box 10801

Norfolk, VA 23513

Telephone Number: 757-858-8585

Fax Number: 757-858-2070

Name and Title of  
Person Authorized to  
Sign for Contractor: Carol Rizzio, AICP, CLA

Signature: 

Owner: Municipal Corporation of Cape Charles

Mailing Address: 2 Plum Street

Cape Charles, VA 23310

Telephone Number: 757-331-3259

Fax Number: 757-331-4820

Name and Title of  
Person Authorized to  
Sign for Contractor: \_\_\_\_\_

Signature: \_\_\_\_\_

## Hourly Rate Schedule

Effective January 1, 2011

Category	Hourly Rate	Overtime
Project Landscape Architect.....	\$95.00	Same
Project Planner.....	\$95.00	Same
Landscape Architect I.....	\$50.00	\$60.00
Technician 1 .....	\$50.00	\$60.00
Administrative Assistant.....	\$30.00	\$36.00

## Reimbursable Expenses

Mileage.....	\$0.55/mile
8.5" x 11" Black/white photocopies.....	\$0.10/page
8.5" x 11" Color Copies.....	\$1.05/page
Color Scanning .....	\$4.00 SF
Color Printing .....	\$7.00 SF
24 x 36 B?W prints .....	\$1.50/per sheet
Compact Disk (CD) record.....	\$5.00/Each
External Printing, courier, overnight deliveries, etc .....	Actual Cost
Consultants .....	Actual Cost

## Reimbursable Expense Estimate

TRAVEL (20 trips)	1620	Miles @	\$ 0.50	/Mile	\$ 810.00
TOLLS (20 trips)	20	Trips	\$ 17.00	/Trip	\$ 340.00
PRINTING & SUPPLIES					
8.5 x 11 B&W Copies	500	Copies @	\$ 0.10	/Each	\$ 50.00
8.5 x 11 Color Copies	100	Copies @	\$ 1.05	/Each	\$ 105.00
24 x 36 B&W Plan Sheets	750	Copy @	\$ 1.50	/Each	\$ 1,125.00
Presentation Color Printing	24	sqft @	\$ 8.50	/sqft	\$ 192.00
Presentation Color / Mounted / Laminated	24	sqft @	\$ 13.50	/sqft	\$ 324.00
Postage / Fed Ex / UPS	4	Deliveries	\$ 15.00	/Delivery	\$ 60.00
<b>SUB TOTAL - REIMBURSABLE EXPENSES</b>					<b>\$ 3,006.00</b>

## General Terms and Conditions

1. *Cooperation and Client's Obligations.* The Client agrees to cooperate and to give all reasonable assistance to Land Studio pc in providing information and access to resources for expediting services to be performed on this project. Land Studio pc does not accept responsibility for assuring that the site is clear of hazardous materials. In the event that detailed design development services of the products produced by Land Studio are desired, Land Studio shall be given the right of first refusal to perform such duties.
2. *Ownership of Documents.* All sketches, drawings, tracings, computations, notes, reports, plans, and other original documents are instruments of service and shall remain the property of Land Studio. These instruments of service are to be used solely for this specific project. Land Studio shall retain all legal rights to the use of the instruments of service and shall retain full protection under U.S. copyright law. Reuse of any of the instruments of service of Land Studio by the Client on extensions of the property, or on any other project, without the written permission of Land Studio, shall be prohibited.
3. *Publicity.* Client agrees to include Land Studio pc's name on the job sign at the construction site, if applicable, and in any publication or press coverage relating to Land Studio pc's work. Land Studio pc may include information about and images of the project(s) in its portfolio. Land Studio agrees not to disclose any confidential information associated with the project(s).
4. *Period of Offer.* Land Studio's proposal to provide professional services must be accepted within forty-five (45) days of the date of the proposal and acceptance will serve as Land Studio's Notice to Proceed. Any extension of this forty five (45) day period may only be extended by mutual written agreement of both Land Studio and the Client.
5. *Clients Authorized Representative.* Client will specify in writing his authorized representative who will correspond with Land Studio on the Client's behalf. Land Studio will, upon initiation of this project, specify the Project Manager who will act on its behalf and communicate with the Client's representative.
6. *Fees and Compensation.* The scope of services is based on assumptions made prior to starting the project. Unanticipated additional services may be needed that are not covered within the scope. In the event the Client requests Land Studio to perform additional services not included in the Scope of Work herein, the Client agrees to compensate Land Studio for such services in accordance with the current Hourly Rate Schedule in effect at the time the service is performed. The unbilled portion of lump sum fees may be increased on each anniversary of the Client's acceptance of Land Studio's proposal letter to compensate for rising pay scales, changed conditions, and other costs. The schedule of fees does not include fees or charges due to governmental agencies for the review and approval of plans or plats. Upon notification by Land Studio, the Client shall promptly furnish such fees to the appropriate governmental agencies, so that the documents may be submitted in a timely manner.
7. *Reimbursable Expenses.* The Client shall pay Land Studio for all reimbursable expenses incurred by Land Studio in connection with the performance of professional services for the Client. Printing, mileage, and photocopying shall be invoiced in accordance with our prevailing Rate Schedule. Other direct costs including but not limited to submittal fees, photographic expenses, deliveries and external printing services will be billed at 1.10 times actual cost.
8. *Payment Terms.* Land Studio shall submit monthly invoices to the Client based on the estimated percent completion for lump sum or fixed fee elements of the contract, and for actual time spent on hourly rate tasks at prevailing rates. Any sums quoted in Land Studio's proposal as estimates are estimates only and the Client will pay for all services actually rendered whether the sum is less than or exceeds the estimated amount. Payment shall be due upon receipt of the invoice. The fee schedule is based on the prompt payment of bills and the orderly and continuous progress of the project. If payment is not received within thirty (30) days of the billing date, one and one-half percent (1.5%) of the billed amount will be added for each 30 days that the bill is outstanding from the original invoice date. If any invoice is not paid within sixty (60) days of the original date, Land Studio will be entitled to stop work under this agreement until satisfactory arrangements for payment have been made. The Client expressly agrees that the failure of other parties to compensate it for services rendered on this project shall not be cause for the Client to withhold fees due Land Studio in accordance with this agreement. Additionally, Land Studio reserves the right to refuse to provide to the Client or on the Client's behalf, any drawings or documents prepared by Land Studio for the Client under this or any other agreement with the Client until all delinquent invoices are paid in full. If Land Studio does not receive notification in written form, within thirty (30) days of the date of a disputed invoice, the invoice will be deemed to be correct. All payments made on account should specify the invoice numbers being paid. If payments are received that do not indicate the invoices being paid, Land Studio will apply payments against invoices at its discretion.

9. *Coordination between Client and Land Studio.* The Client and Land Studio agree to give prompt written notification to the other of any development or occurrence that might adversely affect the scope or timing of services, or any defect in the final work submitted by Land Studio as they are detected. Land Studio is not liable for damages caused by delays in performance in the services which arise from events beyond our control. Land Studio will perform its services in accordance with the time schedule set forth herein, but will not be responsible for the failure of others to meet commitments or for any other reason beyond Land Studio's reasonable control. Neither party shall be in default or otherwise liable for any delay in or failure of its performance under this Agreement if such delay or failure arises by any reason beyond its reasonable control, including any act of God, natural disasters, any acts of the common enemy, terrorist acts, failures in transportation or communications, or any act or failure to act by the other party; provided, however, that lack of funds shall not be deemed to be a reason beyond a party's reasonable control. The parties will promptly inform and consult with each other as to any of the above causes which, in their judgment, may or could be the cause of a delay in the performance of this agreement.
- Opinion of probable Construction Costs.* In providing an opinion of the probable construction cost, the Client understands that Land Studio has no control over the contractor's method of pricing nor the cost of labor, equipment, or materials. Construction costs are defined as the total actual cost or estimated cost to the Client of all elements of the project designed or specified by Land Studio excluding fees. The opinion of probable construction costs provided by Land Studio under the terms of this contract is made on the basis of Land Studio's professional qualification and experience. Land Studio makes no warranty, expressed or implied, as to the accuracy of its opinion of probable construction costs as compared to bids or actual costs. Land Studio assumes no responsibility for any project or construction cost estimates or opinions given herein as we have no control over the cost of labor, materials, equipment, or services furnished by others, or over competitive bidding or market conditions.
10. *Warranty; Disclaimer.* Land Studio will perform the services in conformance with generally accepted standards of good practice, with this Agreement, and with all applicable local, state and federal laws and regulations governing the performance of such services. **EXCEPT FOR THE FOREGOING REPRESENTATIONS AND WARRANTIES, LAND STUDIO MAKES NO WARRANTIES, EITHER EXPRESS OR IMPLIED, AND DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF IMPLIED MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**
11. *Professional Services Liability.* Land Studio's responsibilities in performing serviced hereunder shall be limited to the scope of work and scope of services to be performed as set forth in the agreement, and Land Studio, its agents, and/or employees, shall have no liability of any kind to Client, its agents or any persons having contractual relationships with Client for any acts, errors and omissions of Land Studio, its agents, and employees, which does not fall within the scope of work and scope of services to be performed. Client further agrees to limit Land Studio's liability to the Client due to Land Studios negligent acts, errors, or omissions, such that the total aggregate liability of Land Studio to all those named shall not exceed \$50,000 or Land Studio's total fee for services rendered on this project, whichever is greater. Neither party to this Agreement shall be liable to the other for any indirect, special, consequential, incidental or punitive damages.
12. *Meeting and Conferences.* Land Studio will attend all meetings and conferences required by the Client or their representative(s). Furthermore, Land Studio will meet with any public agencies that might be involved in the development of the project on an as-needed basis. Since Land Studio cannot forecast the scope and nature of these meetings and conferences, we will perform the work and be compensated therefore as additional services in the manner provided for in Paragraph 6.
13. *Assignment.* This agreement shall not be assigned by either party without prior written consent of the non-assigning party.
14. *The Laws of the State of Virginia* shall govern the validity, performance, and enforcement of this agreement.
15. *Invalid Provisions.* If any provision of this Agreement is found to be invalid or unenforceable, the provision shall be construed and applied in a way that comes as close as possible to expressing the intention of the parties with regard to the provisions and that saves the validity and enforceability of the provision.

 <p>TOWN OF CAPE CHARLES</p>	<b>AGENDA TITLE:</b> Reappointment of Library Board Member		<b>AGENDA DATE:</b> August 9, 2012
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Reappointment of Library Board members		<b>ITEM NUMBER:</b> 7C
	<b>ATTACHMENTS:</b> None		<b>FOR COUNCIL:</b> Action <input checked="" type="checkbox"/> (X) Information <input type="checkbox"/> ( )
	<b>STAFF CONTACT (s):</b> Heather Arcos, Town Manager	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

The Library Board meets monthly and consists of seven members each serving four-year terms.

**DISCUSSION:**

Michael Flanagan serves on the Library Board and his term expired August 8, 2012. He expressed his interest in continuing his service on the Library Board for another term.

**RECOMMENDATION:**

Staff recommends Council reappoint Mr. Michael Flanagan to the Library Board for another four-year term.

 <p>TOWN OF CAPE CHARLES</p>	<b>AGENDA TITLE:</b> Public Service Authority (PSA) & Regional Wastewater System.		<b>AGENDA DATE:</b> August 9, 2012
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Confirm that Cape Charles is willing to provide wastewater processing services to the PSA.		<b>ITEM NUMBER:</b> 7D
	<b>ATTACHMENTS:</b> PSA letter of 7-18-2012 Work Session Presentation of 6-24-2010		<b>FOR COUNCIL:</b> Action (X) Information ( )
	<b>STAFF CONTACT (s):</b> Bob Panek	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

On June 28, 2010, the four participating Towns and the County adopted ordinances approving the joinder of the Towns to the existing, but dormant, Eastern Shore of Virginia PSA. The reformed PSA has assumed responsibility for the Northern and Southern Node projects initiated by the Towns and County Utilities Project Management Team. The Town of Cape Charles principal interest is the Southern Node project, which seeks to bring wastewater service to the Town of Cheriton and the surrounding area and would utilize the Cape Charles Wastewater Treatment Plant for processing. Because of the lack of grant funding, the PSA is now focusing on implementing the first phase of the project to serve commercial properties around the US 13/SR 184 intersection.

**DISCUSSION:**

During the bi-monthly update of PSA activities at the July 12, 2012 Council Meeting, Councilman Wendell questioned the desirability of utilizing the Cape Charles plant to process the flow from the new service area. Since planning for the project is continuing, on July 18, 2012 the PSA requested confirmation that the Town is willing to provide treatment service for areas outside Town boundaries (letter attached).

Town Council previously considered this issue at their Work Session of June 24, 2010 and expressed a willingness to proceed in this manner, principally due to the beneficial affect on existing monthly service rates (Work Session Presentation attached). This approach has been reflected in the Preliminary Engineering Report, financial assistance application, and during discussions with state and federal agencies.

Incorporating the originally envisioned Southern Node service area would reduce existing rates by about 15%. The affect of the currently planned first phase would be smaller, but it would be a start toward garnering the economy of scale associated with regionalization.

Without confirmation that Cape Charles is still willing to provide processing services, the PSA will need to seek other alternatives, such as a stand-alone plant or pumping to the Bayview community plant.

**RECOMMENDATION:**

Discuss the issue and communicate a position to the PSA.

**Eastern Shore of Virginia Public Service Authority  
PO Box 66  
Eastville, Virginia 23347**

July 18, 2012

The Honorable Dora Sullivan  
Mayor, Town of Cape Charles  
2 Plum Street  
Cape Charles, VA 23310

Dear Mayor Sullivan,

At the Town Council Regular Meeting of July 12, 2012, Councilman Wendell questioned the desirability of utilizing the Cape Charles wastewater treatment plant to process the flow from the planned Southern Node of the regional wastewater system. As you know, the Public Service Authority (PSA) is exploring an initial phase focused on servicing the commercial properties around the US 13/SR 184 intersection. The original planning for the Southern Node envisioned servicing the Town of Cheriton (predominantly a residential mix), but this is unattainable at this time due to the unavailability of sufficient grant funding.

The Preliminary Engineering Report for the Southern Node determined that utilizing the Cape Charles plant, and purchasing treatment service from the Town, would be more cost effective than building another treatment plant. As the Cape Charles plant is only at about 60% of design capacity, the additional revenues would have a significant beneficial affect on service rates paid by existing Cape Charles customers. This is consistent with the goal of creating economies of scale through regionalization of services.

The Town has previously expressed the willingness to provide treatment service, assuming negotiation of price that was acceptable to both parties. The PSA would like confirmation that the Town is willing to provide treatment service for areas outside Town boundaries before proceeding with additional planning efforts for the Southern Node.

Sincerely,  
  
Bob Panek  
Chairman

Cc:  
Chairman, Northampton County Board of Supervisors  
Executive Director, ESVAPSA  
Town Manager, Town of Cape Charles

## ESVA Public Service Authority Regional Wastewater System

Town of Cape Charles  
Council Work Session  
June 24, 2010

### New CC WWTP Debt Service

- \$5.4M @ 0%, 20 year term
- \$270,000 per year
- \$22,500 per month
- \$18.75 per customer (1,200 CC only)
- Or, \$13.24 per customer (1,700 south node)

## New South Node Debt Service

- \$6M for new collection system, pump station and forcemain to CC WWTP.
- 80% grant/20% loan
- \$1.2M @ 3.5%, 20 year term
- \$83,520 per year
- \$6,960 per month
- \$13.92 per customer (500 Cheriton, etc.)
- Or, \$4.09 per customer (1,700 south node)

## Total Debt Service

- Based on 1,700 south node customers
- CC WWTP = \$13.24
- Regional infrastructure = \$4.09
- Total = \$17.33
- For comparison, CC only = \$18.75

## Operating Cost

- CC system is about \$500,000 per year.
- 1,200 customers = \$34.72 per month, avg.
  
- Add 10% for south node system, or \$550,000 per year.
- 1,700 customers = \$26.96 per month, avg.

## Total Cost

- CC only  
Operating cost = \$34.72  
Debt service = \$18.75  
Total = \$53.47, avg.
- South Node Regional  
Operating cost = \$26.96  
Debt Service = \$17.33  
Total = \$44.29, avg.

## Why a PSA?

Question: Can't CC, Cheriton and the County regionalize without a PSA?

Answer: Yes, but certain advantages would be lost. The grant/loan agencies favor a broader regional approach (county wide) and the PSA structure of governance. A partnership, vice PSA, would likely result in less favorable grant/loan terms, making the system more costly to the rate payers.

## Why a PSA?

Question: Does CC need to give their system to the PSA?

Answer: No. CC can keep ownership of their system and sell services to the PSA. Many ownership and service alternatives can be considered. It is important that costs be equitably reflected in the rates. Down the road, transfer of ownership probably makes sense.

## Why a PSA?

Question: Can't the PSA incur large debt for which the citizens, including those not receiving service, would be responsible?

Answer: This is highly unlikely. Institutions will lend money to the PSA only if the business plan shows the debt can be repaid through reasonable user rates and connection charges.

## Why a PSA?

Question: Why join if CC can sell services?

Answer:

- Reinforces the regional approach; strength in numbers.
- CC gets a seat at the table; leadership.
- Greater potential to streamline operations.
- Signals cooperation for infrastructure needed to enable targeted economic development; rising tide floats all boats.

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Council Work Session  
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 <p>TOWN OF CAPE CHARLES</p>	<b>AGENDA TITLE:</b> Town Code Review – Boat Trailer Parking and/or storage on the street.		<b>AGENDA DATE:</b> August 9, 2012
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Review past actions and current issues.		<b>ITEM NUMBER:</b> 7E
	<b>ATTACHMENTS:</b> Summary of Ordinances From Other Localities and Current Cape Charles Ordinance		<b>FOR COUNCIL:</b> Action ( ) Information (x )
	<b>STAFF CONTACT (s):</b> Tom Bonadeo - Heather	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

Town staff has received numerous complaints regarding the parking and/or storage of boats on the street. As staff researched these complaints several issues emerged.

- In 2008 the “42” code was revised and section 63 was deleted. This section only allowed “vehicles” to be parked on the street for 48 hours. Trailers are vehicles.
- Section 90 was not deleted and specifically lists boat trailer parking as limited to 48 hours only. The 48 hour time limit is difficult to enforce and is not boater friendly to those who visit for a week with their boats.
- Other towns and cities with large boat and tourist populations restrict all boat parking on the street.
- The problem requires discussion of current and future policy for the parking and/or storage of boats in Cape Charles.

**DISCUSSION:**

Review where we stand today and how other similar cities and towns stand on this policy. Boat owners in Cape Charles do have storage options at Cape Charles Marine, Bay Storage and our Town Harbor. Other towns have these options on their websites and offer similar short term boat parking.

**RECOMMENDATION:**

Recommend discussion of boat parking and/or storage on the street. In light of the public complaints and the enforcement issues set a work session and staff will prepare code modification per Council direction.

## **Boats and Trailers**

A few examples of Ordinances from other localities

1. The City of Virginia Beach does not allow parking of boats and trailers on streets or in front of houses, even driveways. They must be stored behind the house or off site.
2. Town of Ocean City, MD does not allow parking of boats in the streets or alleys from May through October. The volume of boats allows them to offer a public lot where visitors can park their boats for a fee.
3. Town of Onancock does not allow any boat parking on streets. They have designated spots at the harbor to park a boat trailer.

### **Current Cape Charles Ordinance**

#### **Sec. 42-90. - Parking, storage or use of major recreational or mobile living equipment.**

- (a) For the purpose of this section, major recreational or mobile living equipment includes travel trailers, coaches, motorized dwellings, tent trailers, boat trailers, amphibious houseboats and the like and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.
- (b) No major recreational or mobile living equipment shall be parked, stored or used except in approved locations and under the following restrictions and limitations.
  - (1) No such equipment shall be parked in any public street or public right-of-way for more than 48 hours.
  - (2) No such equipment shall be used for living, sleeping or housekeeping purpose except in locations lawfully established for such use; and
  - (3) In districts zoned single-family, two family, or multi-family, major recreational equipment shall be stored only as a use accessory to a permitted principal use.
- (c) Where there are conflicts between this section and other regulations, the provisions of this section shall govern.

*(Ord. of 2-8-00; Ord. No. 2008-06-12A, 6-12-08)*