

# TOWN COUNCIL

## Regular Meeting

July 12, 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. Town Manager
  - B. Treasurer's Report
  - C. Recreation Report
  - D. Library Report
  - E. Harbor Report
  - F. Public Works/Public Utilities Report
  - G. Code Enforcement Report
  - H. Planning Report
  - I. Police Department Report
6. Old Business
  - A. Wastewater Treatment Plant Status
  - \*B. PSA / Regional Wastewater System Update
7. New Business
  - \*A. Appointment to Fill Town Council Vacancy
  - \*B. Election of Vice Mayor
  - \*C. Council Representative to Harbor Area Review Board
  - \*D. Appointments to Industrial Development Authority of Cape Charles-Northampton County
  - \*E. Code 42-3 – Adoption of State Law
  - \*F. USDA Rural Development Grant/Loan for Police Car
  - \*G. Water Works Control Panel Engineering
  - \*H. Boating Infrastructure Marketing Grant
9. Announcements
  - July 25, 2012 – Town Council Ethics Workshop
  - July 26-28, 2012 – VML Newly Elected Officials Conference
  - August 3-5, 2012 – First Annual Cape Charles Clam Slam
  - August 9, 2012 – Town Council Regular Meeting @ 6PM
10. Adjourn at 8:00 P.M.



**DRAFT**  
**TOWN COUNCIL**  
**Public Hearing**  
**Town Hall**  
**June 7, 2012**  
**6:00 p.m.**

At 6:05 p.m. Mayor Dora Sullivan, having established a quorum, called to order the Public Hearing of the Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Bennett, Evans, and Sullivan. Councilwoman Natali and Councilman Veber were not in attendance. Also in attendance were Councilmen-Elect Donald Clarke and Frank Wendell along with Town Manager Heather Arcos, Town Treasurer Kim Coates and Town Clerk Libby Hume. There were two (2) members of the public in attendance.

Mayor Sullivan announced that the evening's Public Hearing was to hear public comment on the proposed Fiscal Year (FY) 2012/2013 Budget.

Town Manager Heather Arcos introduced the new Town Treasurer, Kim Coates, and welcomed her to the Town. Ms. Coates would give her first Treasurer's Report at next week's Town Council Regular Meeting.

Heather Arcos continued to state that the notice for the public hearing was published in the Eastern Shore News on May 23 and 30, 2012. Per the Code of Virginia, § 15.2-2503, the Town Council held several Work Sessions to prepare the budget for FY 2012/2013, including all contemplated expenditures and estimated revenues. A copy of the budget was available for review this evening. The proposed budget included the amount appropriated for the preceding fiscal year, the amount appropriated for the current fiscal year, and the contemplated expenditures and estimated revenues for the upcoming fiscal year. Also included was the audit report for the preceding fiscal year, July 1, 2010 through June 30, 2011. The audit report included the amount actually expended for that fiscal year and the balance sheet.

Per the Code of Virginia, § 15.2-2506, a synopsis of budgeted revenues and expenditures was published in the Eastern Shore News. The synopsis included proposed tax rates and other fees. Copies of the synopsis were also available on the table.

Heather Arcos continued to review highlights of the proposed total budget of \$7,747,184 as follows:

1. All Funds as proposed: i) All employees would receive a 1% Cost of Living increase as of July 1<sup>st</sup>; ii) The Virginia Retirement System Contribution Rate was 8.79%; and iii) The General Assembly mandated all employees pay a 5% Member Contribution to the Virginia Retirement System and required localities to provide a 5% salary increase to affected employees to offset this cost.
2. General Fund: i) The General Fund was balanced at \$1,975,356 with a zero real estate tax increase; ii) The Utility Clerk and Accounting Clerk positions were consolidated for FY 2012/2013; iii) The part-time Library Assistant position hours were increased during the months of June through August; iv) A new part-time position in the Building Department was included in the FY 2012/2013 budget; and v) A contribution to the Cape Charles Volunteer Fire Company for \$18,600 was included in the Town Manager's budget as part of the \$63,025 total contributions to other entities.

3. Capital Projects: i) A new street sweeper for Public Works for \$20K; ii) Community Trail Phase 2 - North Peach Street for \$96K. 80% of the cost was funded by the VDOT Enhancement Grant and the net cost to the Town would be \$19,200; and iii) Central Park Restrooms. The Town's portion of this project was \$15K. The Citizens for Central Park received a \$20K grant for this project and would pay for any expenses above \$35K.
4. Harbor Fund: i) The Harbor Fund was balanced at \$2,047,874 and included an increase in the number of seasonal employees; and ii) The Harbor received a Virginia Port Authority Grant award of \$500K which was allocated to complete one (1) of three (3) planned breakwaters for the entrance to the Harbor.
5. The Sanitation Fund was \$188,300.
6. Water and Wastewater Fund: i) The Water and Wastewater Fund was balanced at \$3,535,654; ii) The water rate was decreased by \$3.45; iii) Staffing of the Water Plant was decreased from three (3) full-time employees to two (2) full-time employees with maintenance responsibilities to be shared between the water and wastewater plants; iv) The wastewater rate was increased by \$3.45. A rate study will be done after the closure of the old wastewater plant and acceptance of the new plant and the rate may have an additional increase at that time due to the overall increase in expenses to operate the new wastewater treatment plant; v) Capital Projects include the connection of two (2) wells, softener media for the water plant, a utility trailer to be shared by the water and wastewater departments, stainless steel walkways and racks for the water plant, a replacement vehicle for the wastewater department, completion of the new wastewater treatment plant, and an Asset Management System for the water and wastewater plants.

The Town Council would consider approving the budget and making appropriations for the expenditures at their meeting on June 14, 2012.

Councilman Bennett stated that he would like the record to show that the proposed increase in the wastewater service fee would go toward funding operations and maintenance of the wastewater treatment plant and not condominiums.

The meeting was opened up for public comments.

**PUBLIC COMMENTS:**

*Frank Wendell, 515 Monroe Avenue*

Mr. Wendell stated that he had a few comments and began by stating that virtually every department had an increase on the expenditure side and added that the amount of increase seemed to be about \$18K that was probably for the part-time position for the building department to man the office while Jeb Brady was in the field. Mr. Wendell wondered whether the Town covered cell phones and added that at the last budget meeting he attended Councilman Bennett voiced his opposition to this new position. Mr. Wendell added that his personal feelings were that with cell phones and the number of other personnel in the office during business hours, someone could have an appointment book and take notes for the Building Department. The idea that someone was sitting in the office in case someone showed up unannounced for a visit. Appointments should be coordinated. The thought that you have someone sitting there waiting for an unannounced visit at \$18K when that \$18K could be used for other expenses in another area of the budget. Mr. Wendell added that he did not think this was sound business practice. The Town's Administration budget was roughly twice that of the Town of Onancock. Mr. Wendell stated that he knew Cape Charles was not Onancock but we could learn from other

entities doing similar things. Mr. Wendell continued to state that he would hope the Town would hold the line on Administration but that had not happened and every department, on the expenditure side, had gone up and things were getting more expensive. He stated that there should have been no net increase in expenses. Mr. Wendell went on to comment on the \$18K to the fire department with a total of \$63K in contributions to other entities and expressed his curiosity regarding the other contributions. Heather Arcos provided Mr. Wendell with a copy of the breakdown of contributions. Mr. Wendell stated that he felt the Town had a taxing problem and a spending problem. With the idea of increased taxes with a proposed community center, the Town should be sharpening their pencils and whittling down on expenses and the adding of unnecessary employees. In the private sector, they look at who has excess time on their hands and whether duties could be shifted over before hiring people. He did not feel this was discussed enough and commended Councilman Bennett for opposing the increase in the Building Code Department but Councilman Bennett needed to do more to campaign amongst the other Council members. Mr. Wendell stated that he was glad to see the water rate increase was not to fund the condos but if Council wanted to cut the rates and create a \$150K - \$160K vacuum for a 50-90% reduction for a developer then that puts added pressure on the other customers who were paying the bills when the Town needed to upgrade the system.

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

**Motion made by Vice Mayor Bannon, seconded by Councilman Bennett, to adjourn the Town Council Public Hearing. The motion was approved by unanimous consent.**

Mayor Sullivan thanked everyone for coming.

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Mayor Sullivan

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Town Clerk



**DRAFT  
TOWN COUNCIL**

**Executive Session**

**Town Hall**

**June 7, 2012**

**Immediately Following Public Hearing**

At 6:20 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 Bennett, Evans and Sullivan. Councilman Veber arrived at 6:30 p.m. Councilwoman Natali was not in attendance. There were no members of staff in attendance.

**Motion made by Vice Mayor Bannon, seconded by Councilman Bennett 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 1:** Discussion, consideration, or interviews of prospective candidates for employment; assignment, appointment, promotion, performance, demotion, salaries, disciplining, or resignation of specific public officers, appointees, or employees of any public body; and evaluation of performance of departments or schools of public institutions of higher education where such evaluation will necessarily involve discussion of the performance of specific individuals.

Specifically: Town Manager Contract

**Motion made by Vice Mayor Bannon, seconded by Councilman Bennett 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; Bennett, yes; Evans, yes; Sullivan, yes; Veber, yes.

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

**Motion made by Councilman Bennett, seconded by Councilman Sullivan, to amend the Town Manager's employment agreement, effective upon signing by the Mayor, to extend the term for an additional four (4) years, and to delete language in Paragraph 7 limiting Town Manager's right to severance. Mayor Sullivan asked for a roll call vote. Roll call vote: Bannon, yes; Bennett, yes; Evans, yes; Sullivan, yes; Veber, yes.**

**Motion made by Vice Mayor Bannon, seconded by Councilman Bennett, 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**  
**Public Hearing**  
**Palace Theatre**  
**June 14, 2012**  
**6:00 p.m.**

At 6:00 p.m. Mayor Dora Sullivan, having established a quorum, called to order the Public Hearing of the Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Bennett, Evans, Sullivan and Veber, and Councilwoman Natali. Also in attendance were Councilman-Elect Frank Wendell, Town Manager Heather Arcos, Assistant Town Manager Bob Panek, Town Clerk Libby Hume and Michael Sterling of Vandeventer Black LLP. There were approximately 90 members of the public in attendance.

Mayor Sullivan announced that the evening's Public Hearing was to hear public comment regarding the proposed sale of the former school to Echelon Resources, Inc.

Mayor Sullivan welcomed everyone in attendance and stated that everyone was welcome to sign up to speak for three minutes or to defer their three minutes to another speaker. Mayor Sullivan asked everyone to keep their comments civil and stated that they would be removed from the meeting if they were not. Mayor Sullivan also asked that there be no signs. Mayor Sullivan stated that not everybody agreed on everything and that this was probably the second time in her years as mayor that she did not agree with the Council but she respected and trusted the Council. Council did not always agree but they always had the best interests of the Town in mind.

Heather Arcos stated that the Assistant Town Manager Bob Panek was going to provide some information regarding the sale of the former school to Echelon Resources.

Assistant Manager Bob Panek gave some opening comments and clarified information regarding the sale of the former Cape Charles School. (Please see attached.)

**PUBLIC COMMENTS:**

*Deborah Bender, 300 Fulcher Street*

Ms. Bender stated that the fact that we were here tonight at this meeting was ridiculous. Don Clarke was a former Town Councilman who resigned to take over as Town Manager and brought this Town back out of debt. Don Clarke was very excited about the Community Center and even requested having signs supporting it in his yard. Don Clarke ran for Town Council again and easily won. Ms. Bender stated that we were here, business as usual and added that the Mayor and Council should be ashamed of themselves and that this meeting should have been postponed. This directly went towards the character of the Mayor and the six current Council members. Ms. Bender stated that they should show some respect. Don Clarke had just passed away. Ms. Bender added that the Mayor and Council were determined to shove this vote through as quickly as possible to accommodate Echelon. Why?

*Andrew Follmer, 9 Kings Bay Drive*

Mr. Follmer stated that he was here to argue for the good of the Town, something that both sides seemed to have lost sight of as they dug their feet in regarding this issue. The Echelon development might be a good thing for this Town. Mr. Follmer stated that he was involved in a project in Washington DC that converted a civil war era school into apartments that became the anchor for a neighborhood renaissance. However, the developer of that property had to

compete against various public and private groups for that concession. Opening this process up in this way may not be required by law but it is by the standards of good governance and this should have been the first step in the Town's due diligence. The developer knew that this was standard practice for the concession of public property and any pressure to the contrary should have been a huge red flag. It was inarguable that the recent Town Council election was essentially a referendum on this issue. As such, it would be unprincipled and undemocratic to proceed with the vote until the new Council was seated. Mr. Follmer stated that he was not arguing for Old School Cape Charles but to anyone who would flout the democratic principles and process, anyone who would be complicit in proceeding with a vote at this time, should go home and take down their American flag because they dishonored what it stood for. Mr. Follmer added that while he thought that a community center would be a great asset to our town, he could not support the organization Old School Cape Charles. Mr. Follmer stated that he was a champion of grassroots movements and applauded the members for getting involved in this issue. He doubly applauded the members for putting candidates up for election and winning. This was a very impressive display of our system at work and we should all learn from it. But the group lost legitimacy when they went beyond demanding their voice be heard to stealing the voice of others and that was what was done every time the group put a sign up on someone else's property without their permission and the group blanketed every empty lot and every empty house and a lot of occupied houses with their signs without the owner's permission. The main reason he was unlikely to give his support to Old School Cape Charles and trusting them with the community asset like the school was the damaging way they covered this town with inflammatory signs designed to ensure that the thousands of first time visitors that were here for the Tall Ships got the impression before they even exited their cars or talked to a single Cape Charles resident that we were a town divided by discrimination and corrupt government. The group was not raising community awareness. These visitors did not vote and with a first impression like that, he doubted that they would choose to join the community. The good of this town dictated that we put our best foot forward last weekend but instead the group decided to use the opportunity to stick it to their opponents on this issue and the good of the town be damned. That was not insisting on your rights. That was insisting on having your way which was very different. Mr. Follmer stated that he felt that enough damage had been done over this issue already and starting tonight, he wanted to see some constructive, responsible adults, step up and agree on a way forward regarding this issue.

*Maggie Spagnuolo, 114 Randolph Avenue*

Ms. Spagnuolo stated that she was in favor of the sale of the school to Echelon.

*Andy Spagnuolo, 114 Randolph Avenue*

Mr. Spagnuolo stated that he also supported sale of the school to Echelon. In terms of economics and demographics he did not see how Council could vote otherwise.

*John Burdiss, 117 Mason Avenue*

Mr. Burdiss stated that many of the attendees were familiar with the article that was published in the Eastern Shore News last week so he was not going to share the details of that. However, his estimates were based on his education, his background and included his service on Town Council for four years and renovating a 10K square foot building that was in much the same condition as the school. His estimates were reasonable and he stood by them. Mr. Burdiss stated that what he had not seen regarding the community center was any verifiable facts, only opinions. There were some specific purposes that a community center was supposed to serve. Exactly who would it serve and what justified the alleged need? For example, Mr. Burdiss stated that he understood there were less than 100 children who lived in town and maybe as few as 65 to 75. Mr. Burdiss asked again who were the users and what were the purposes and for what cost would this be operated. Why hadn't the promoters taken the time to review the specifics

studies done in 2005 or about that time? As he recalled, it was estimated as much as \$4M to renovate the school into a Municipal center. Why don't the promoters know that the area was in a flood zone and one of the reasons that the Council at that time declined to approve this plan was because of the flooding which was a public safety issue and also because of the cost. How were the promoters proposing to pay for any part of the renovation or any part of the operating costs? There was not a single verifiable fact offered. Why didn't the supporters recognize that the building was built not to be a community center but it was built to be a school with teachers or monitors in every room? The gym was not even close to being regulation size. What facts had been provided showing that it would be remodeled cheaper vs. building a new community center, if needed and if affordable. It could be built later to serve our needs and in a way that it could be operated properly. Where did the supporters get the idea that the water bills were being increased to pay for condos? We had already heard about this earlier so he would not reiterate that point. Where the financial data that showed that the Onancock situation was like or different from ours and whether it was working? Did the supporters know that private businesses leased space in the Onancock School? Mr. Burdiss concluded that without any concrete plans, the supporters wanted to kill the only deal that he knew about in the fourteen years that he had been living in Town; a deal that could actually work and save the historic structure.

*John Schulz (for Linda Schulz), 616 Tazewell Avenue*  
Please see attached for Ms. Schulz' comments.

Mr. Schulz added that after spending a number of years examining, reporting on and being engaged in the nuclear arms control debate in Washington DC, an axiom that was put forth, and after seeing signs in this town that were factually incorrect, was that in a debate you were entitled to your own opinion but were not entitled to your own facts. What we heard tonight from Mr. Panek were the facts. They were indisputable, accurate and non-controversial. If you heard otherwise, someone was lying to you.

*Brock Stiles, Madison Avenue*

Mr. Stiles deferred his allotted time to Mr. Kevin Martingayle.

*Mike Belote, Madison Avenue*

Mr. Belote deferred his allotted time to Mr. Kevin Martingayle.

*Chad Davis, 5 Randolph Avenue*

Mr. Davis deferred his allotted time to Mr. Kevin Martingayle.

*Kevin Martingayle, Attorney representing Old School Cape Charles*

Mr. Martingayle stated that he wanted to stress a few points that had been lost as this issue had been debated over time. Mr. Martingayle stated that he had a hard time understanding as the plan was analyzed how this was consistent in any manner with the Comprehensive Plan. No one has yet cited any part of the Comprehensive Plan that was consistent with the idea of selling or giving away this landmark for \$10. The Comprehensive Plan stressed the desire to preserve open space of which this was a part. Everyone had seen the map where this property was listed as part of the open space which included the town park which was so wisely set aside for the future generations. This school was adjacent to the park and was in existence when the open space was drafted and put into the map. That meant that it was always intended that this building would be included as open space. Unfortunately, at the time the map was created, there was no definition of open space provided explaining what was intended to be open space. We knew that it was intended to be included because it was there when the map was drawn. It was always intended to be kept as part of the park and used by the public. The Comprehensive Plan

listed acquiring or building a new Municipal center and community center as priorities. Developing recreational centers was listed as a priority. Supporting partnerships with organizations to increase and improve cultural and art programs, such as what had been done with the Onancock school, was listed as a priority. Maintaining the character of the surrounding residential areas was listed as a priority. If the Town was going to have a Comprehensive Plan, Mr. Martingayle urged the Town Council to follow it and ask themselves whether selling a landmark for \$10 was consistent with preserving this Town's history and the Comprehensive Plan. There had been a lot of discussion regarding the need to preserve this building because it was in a state of disrepair and if that was the case, it fell back on the Town itself. Article III, section 3 stated that buildings were not allowed to fall into disrepair and the owner was responsible for that. Everyone living in the Town had to live with the consequences of Article III, section 3 and had been told from time to time to fix their property to maintain or repair it. The Town needed to play by the same rules. There was no exemption for the government. If this was a self-created crisis, Council needed to find a way to get out of it. The Town needed to have the same expectations on themselves that was put on everyone else. Mr. Martingayle went on to comment on the contract stating that there were provisions in the contract that he hoped would cause concern. There was a six month review period giving the developer the sole discretion to back out if they wanted to do so. There was no corresponding period for the Town. If the developer did not know after all this time whether this was an economically feasible project, why did it take another six months? There was a problem with such a long review period after all this time and opportunity to inspect the property, the market opportunities, and financing, etc. There was an assertion that the water use would be similar or identical between 17 apartments or condominium units which would be occupied 24 hours per day as opposed to a community center and Mr. Martingayle argued that this was not true and there were no facts that would back that statement up. No one was going to live in the community center, no one would be there overnight and there would only be periodic events as with any community center. Comparing the two deals was important. \$10 for a permanent sale to get rid of asbestos and see the building renovated. The Town would lose ownership and lose control of the property. It would be privately used on the inside and there would be no right to public access. The outside would be preserved but that would be all. Old School Cape Charles' proposed to pay the Town ten times the amount of money for 40 years, get rid of the asbestos, the Town retained ownership and control, and the building would be publicly used inside and outside. Comparing the two deals beside each other, it started to look strange and arbitrary if the Town moved forward with the sale and to lose the building forever compared to the opportunity to keep it and lease the property to a group committed to preserving this landmark forever for the benefit of this town. Mr. Martingayle continued to state that he heard someone complaining about the level of discussion and he responded by stating that democracy was loud, messy, disagreeable and it was what this nation was founded on. Mr. Martingayle stated that he was sorry that some people did not like it and wished that we could always get along but that was not realistic. Hopefully, we would not degenerate into name calling but the fact was that people got upset when they saw their landmarks, their heritage and their history threatened. It should not surprise anyone that this high school sitting beside the park waiting to be used somehow as a public building like it had been for over 100 years that feeling would run hot when the landmark was threatened. Was the Council prepared to live with themselves when children went up to the building, to tell them it used to be a high school but you could not go inside it? If the property was developed and it did not work out, once it was already renovated into condos the character was lost and there would be no going back. If Council gets rid of the landmark, be prepared to understand that it was forever. Mr. Martingayle stated that he grew up in Richmond which had done a pretty good job of preserving landmarks. He went to Hampden Sydney College, the tenth oldest school in the nation, and the second oldest in Virginia. He went to law school at UVA, another place that had tried to preserve its landmarks and its character. Mr. Martingayle stated that he was really impressed the first time he came to Cape Charles, just like he was impressed

with all the other towns on the Eastern Shore, it had done such a wonderful job of preserving history. The Eastern Shore used to have lots of little high schools which had been consolidated into three modern looking buildings which was part of the economic reality of public education but we were stuck with the obligation. Council was not stuck with the obligation of giving away a public landmark for \$10. Council had the luxury of committed local citizens who were prepared to do whatever it took to raise the money to renovate this building to make it available publicly. The group did not get anything out of it and there was no profit motive. The group would only have the satisfaction of seeing the building preserved for themselves and for the future. Mr. Martingayle urged Council to either vote this down or put this off until they had the opportunity to give full consideration to the lease opportunity and to negotiate or to solicit other proposals from other groups. Maybe the Town was not bound by the language of the Public Procurement Act, but this violated the spirit of the Public Procurement Act to proceed in this fashion. There was no need to race forward and Mr. Martingayle urged Council to pull back and either delay this decision or vote it down and keep the Town's history.

*Frank Wendell, 515 Monroe Avenue*  
Please see attached.

*Marita Patterson, 15 Carissa Court*  
Ms. Patterson stated that she was not going to give a speech and added that she thought Council should sell the school.

*Don Bender, 300 Fulcher Street*  
Mr. Bender stated that he was for saving the school.

*Veann Duvall, 110 Tazewell Avenue*  
Ms. Duvall deferred her allotted time to Mr. George Southern.

*George Southern, 104 Monroe Avenue*  
Mr. Southern began by stating that the Mayor and Council had heard from him quite a bit lately but added that tonight he had something to say that they had not yet heard from him. Mr. Southern thanked the Mayor and Council for their service, sitting through long meetings week after week, hearing people complain which did not sound like much fun. It was obvious that they did not do it for the money so the only reason he could see they did it was to serve their community. Mr. Southern addressed Mayor Sullivan specifically stating that his heart was gladdened when she opened the meeting by saying that although the Council members were in favor of giving away the property, she was not in favor of it. Mr. Southern added that the Mayor was the leader of this Town and told Mayor Sullivan that if she, in her heart, did not think it was right; she did not have to sign the contract. It did not matter how the Town Council voted. Mr. Southern asked the Mayor to contemplate that option. Mr. Southern went on to state that recently, he had a long talk with one of the members of Council about the proposed give-away of the school and was informed that he needed to become better informed. Mr. Southern stated that he had talked to a lot of Town residents and he and his wife visited the County Courthouse in Eastville and spent an afternoon studying the property records. He had also studied the various documents prepared by the Town staff. Mr. Southern stated that his conclusion was that the Mayor and members of Town Council had been poorly served by their staff. A significant amount of information prepared and circulated by the Town staff was simply false. He was also not pleased that at the beginning of this public hearing, before anyone had a chance to speak, the citizens were subjected to 10-15 minutes of rebuttal from the Assistant Town Manager and he did not believe that was the protocol for a public hearing. The citizens heard the rebuttal before the people were able to make their points. Mr. Southern again stated that a significant amount of information prepared and circulated by the Town staff was simply false and added that he was

going to back that statement up. Mr. Southern remarked about the Frequently Asked Questions that were prepared by Town staff and circulated in the Gazette and commented regarding the statement that the school was not part of Central Park and the zoning map erroneously indicated it as Open Space and this would be corrected adding that the zoning map was not an error. The school and the land that was now Central Park had for 100 years been one piece of property. Mr. Southern suggested people go to the courthouse and read the deeds. In 1987 the Cape Charles School Board deeded the property to the Northampton County School Board which included all the property which was now Central Park and the school. In 1993 Northampton County deeded the property back to the Town of Cape Charles which again included all the property which was now Central Park and the school. More recently, the Town devised a zoning map and all the property which was now Central Park and the school was zoned Open Space. Why did the Town zone the former school building as Open Space? Mr. Southern stated that it was done obviously because the school was on public park land and added that parks could have buildings and still be zoned as Open Space. Mr. Southern continued to state that the Town staff stated that the zoning map indicated as Open Space and it would be corrected. Town staff had no authority to "correct" this. If public property, which for 100 years been Open Space, was going to be changed to Residential, only the Planning Commission and Town Council could do that and Council had already heard the citizens' opposition to that idea. Mr. Southern stated that last week he requested copies of the applications to rezone the school to residential property and to permit an apartment house to be built on the property but the Town Planner could not provide him with a copy of the application until after the public hearing was over and what he finally gave him was incomplete and he doubted that any member of the Planning Commission or Town Council had even seen the application. The answers to most of the questions were blank or showed "see staff work" and did not include the required list of adjacent property owners. Mr. Southern stated that he had more to say and would address his other comments at the regular Town Council meeting.

*Dorie Southern, 104 Monroe Avenue*  
Please see attached.

*Sophie Harvey, 123 Peach Street*  
Ms. Harvey deferred her allotted time to Mr. Erin Harvey.

*Erin Harvey, 123 Peach Street*  
Mr. Harvey stated that he had lived in Cape Charles for six years and added that he had been listening to all the discussions over the last several months and wanted to know why we were still discussing two different unsolicited proposals for the old high school – one from Echelon Resources and one from Old School Cape Charles. The school building was a large, historically significant asset with a huge potential future use whether as an apartment building, as community space or some combination of the two. Mr. Harvey asked why the Town Council had not taken the time to solicit competing proposals for something as important and unique as this. One of the proposals is the safe bet with very little in return and the other gave us everything we could possibly want but relied on a few dreams coming true. Mr. Harvey stated that surely there were other potential choices between the two extremes that we currently have. Another developer could have a plan to profitably build just 12 apartments instead of 17 and give the remaining space back to the Town. Mr. Harvey added that he would love to see an indoor gymnasium for basketball and volleyball during the dreary winter months. It would be a great asset to the community inviting more people to actually buy homes and live here full time. There were also many other possibilities for the community space depending on how much space was offered by the best bid. Did Council really believe that there was only one developer in the country with the knowledge and business savvy to produce a profit from a free gift such as the one being given to Echelon? Did Council really believe that Echelon's unsolicited proposal

pushed the limits of their own calculations of costs vs. income? Why not let Echelon compete with other companies and give the high school to whichever entity that could offer the most back to the Town? Paying to rebuild the basketball court across the street should be a "no brainer" just to get started. Instead of the Town staff working to explore these possibilities with other developers, it appeared that most of the energy and effort put forward over the last few months had been done for free by the passionate local citizens involved in Old School Cape Charles trying to figure out how to create the best possible future for this old building of ours. Mr. Harvey stated that he understood that the Council members served primarily as a community service without much compensation for their time, adding that he appreciated their service to the community, but they had a staff that was paid very well with tax dollars. Staff was paid to do this work and it seemed that the tail was wagging the dog and that a few staff members were directing the Council when Council should be directing the staff. Mr. Harvey asked Council to please direct the Town staff to spend their energy in trying to seek out the best possible solution for the old high school rather than spending their energy trying to preserve the single unsolicited proposal and fight back against well-meaning citizens. Mr. Harvey also asked Council to direct the staff to encourage other developers to offer proposals that would include giving space back to the Town in exchange for the building. In six months' time, we could make a more educated, informed decision between the proposals from Echelon, Old School Cape Charles and whatever other developers or investors who might have an interest in the multi-million dollar historic building for \$10. Until there were real choices laid out before you, an informed vote could not be made about this one proposal.

*Roger Munz, 315 Harbor Avenue*

Mr. Munz stated that his purpose this evening was to appeal to the Mayor and Town Council to slow down this train wreck and added that he did not think there was a finite timeframe for the Town Council to take action on the park options and if there was one, there should not be one. The park property should remain as Open Space. The Town administration had an obligation to follow the Master Plan and not to deviate from it. What use the school would ultimately be used for had yet to be decided and perhaps a referendum in September was in order rather than the few people at the public meetings. There was no need to rush into this matter to make decisions. This issue was of great concern to the Town and the people in it. Mr. Munz again asked Council to slow down and take more time to make their decision. It was too important of a matter. Mr. Munz asked Council to table the action tonight. Mr. Munz went on to state that he had seen a copy of the Echelon purchase contract which favored the developer completely. Mr. Munz asked what changes were made by the Town's attorneys. Mr. Munz also asked whether this was a real estate transaction or a political decision. Mr. Munz went on to state that he believed the contract could not be voted on tonight because there was an illegal clause in place. This Council could not obligate a future Council to guarantee a specific action in the future. Mr. Munz concluded by again asking Council to postpone any action until all the i's had been dotted and all the t's had been crossed.

*Ed DeAngelis, 108 Saratoga Place*

Mr. DeAngelis stated that he had lived in Town long enough to become a "been here" and had seen the Town go from its knees to where it was at today through the actions of a lot of people in this room. Mr. DeAngelis stated that what saddened him was, as Andrew Follmer brought up earlier, the signs in our Town. It was appalling this weekend. Mr. DeAngelis stated that he worked with the Cape Charles Business Association and had several visitors to the Town ask about the signs and before leaving tonight, he wanted an explanation because the signs identified all of us. These were advertisements that were uncalled for. Mr. DeAngelis went on to state that he was not against a community center and thought that the Town should have one, but not in the old school building. Where was the compassion of the alumni of the old school when the

building started to go into decline? Mr. DeAngelis concluded by stating that perhaps we could get some answers to these questions this evening.

Town Clerk Libby Hume read 21 letters which were submitted prior to the meeting. The letters were from Ms. Norma P. Spencer of Cheriton and a school alumni, The Friends of the Cape Charles Memorial Library, Mr. Denis Pickron of 501 Monroe Avenue, Mr. & Mrs. David Gay of 506 Monroe Avenue, Ms. Heather Banks of 1 Moon Court, Mr. Rob Smithwick of 11 Kings Bay Drive, Ms. Nancy Smithwick of 11 Kings Bay Drive, Ms. Linda Buskey of 100 Arnies Loop, Ms. Elizabeth Luettinger of 5 Tazewell Avenue, Mr. Evan and Ms. Vanessa Cox of 9 American Court, Mr. Jimmy and Ms. Etta K. Pruitt, Ms. Lisa Harman of 104 Madison Avenue, Mr. Frank and Ms. Emily Cullen of Churchill Downs, Mr. Randy and Ms. Joanne Warren of 8 Madison Avenue, Mr. William Girtman of 114 Old Course Loop, Mr. Ron Wrucke of 508 Arnies Loop, Ms. Ann Berg of 203 Churchill Downs, Ms. Mary Ann McDevitt of 644 Monroe Avenue, Ms. Patricia Buckley of 4 Perny Court, Ms. Jean Smith of 27 Kings Court, and Mr. John Evans a property owner in Cape Charles. (Please see attached.)

*Roger Munz, 315 Harbor Avenue*

Mr. Munz thanked the Mayor for the additional time and stated that one thing that bothered him was that Council was trying to make a decision on something that was very nebulous. We did not know what it was. We knew the concept had not seen it. When Mr. Tavi wanted to develop his property along the Harbor, pictures, diagrams and land use plans were provided. We did not have any of that tonight. How could Council make a decision as important as this without having any visual idea of what the developer intended to do. The developer needed guidance from the Historic District Review Board and a number of other things but we did not have the slightest idea of what their intentions were. The developer could have some slight rendering of what they intended to do unless they expected the Town to do that for them also. Mr. Munz stated that he thought it was wrong for Council to vote on something when they had no idea what it was.

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

**Motion made by Vice Mayor Bannon, seconded by Councilman Bennett, to adjourn the Town Council Public Hearing. The motion was approved by unanimous consent.**

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Mayor Sullivan

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Town Clerk

**Town Council Public Hearing**  
**June 14, 2012**  
**Comments Also Provided in Writing**

Introduction given by Bob Panek

The Public Hearing this evening is to hear comments concerning finalizing the sale of the former school, per the Resolution adopted by Council at their May 10, 2012 meeting. The first Public Hearing concerning the sale of the former school was held on February 9, 2012. Council approved an ordinance authorizing the sale on that date. Additionally, a Public Information Session was held on March 10, 2012. Before the Council hears public comments, we would like to address three points:

1. This Hearing is **not** for the re-zoning of the property. An additional Public Hearing will be held in July for the zoning and conditional use permit matters after the required notices have been provided.
2. Some members of the public have voiced the opinion that the sale of the former school property is improper under Virginia law because competitive bids were not solicited and that appropriate value is not being received. This is incorrect. Real estate transactions, both sales and leases, are not governed by the Virginia Public Procurement Act; they are governed by separate provisions of the Code of Virginia.

The Virginia Public Procurement Act is codified in Sec. 2.2-4300, et seq., and applies to the **procurement of goods and services by a public body**. Unless otherwise authorized by law, the procurement of goods and services shall be by competitive sealed bidding or competitive negotiation.

**The sale of public real property is not the same as the procurement of goods and services.** Section 15.2-1800 of the Code of Virginia provides that, "Subject to any applicable requirements of Article VII, Section 9 of the Constitution, any locality may sell, **at public or private sale**, exchange, lease as lessor, mortgage, pledge, subordinate interest in or otherwise dispose of its real property, ... provided that no such real property, whether improved or unimproved, shall be disposed of until the governing body has held a public hearing concerning such disposal."

Section 15.2-2100 requires such sale to be made by an ordinance approved by at least three fourths of the members elected to the governing body. This section also requires that the **lease of public property in excess of five years be made pursuant to advertising for public bids**. This is the procedure the Town followed for the lease of the first floor of the municipal building to the Fire Company, Harbor Parcel 12 to South Port, and a part of the Harbor West Dock to the Hungry Crab. **The sale of real property does not require public bidding.**

How, then, can the Town judge the value of the property without competitive bidding? **An economically viable capital investment is dependent on the income stream that can be generated by it.** The former school property currently does not generate taxes or any other form of revenue. The Town has had two engineering studies completed to determine the capital cost of rehabilitating the property for public use. **These studies concluded that the cost of rehabilitation would be more than \$2 million.** Additionally, the Town worked with the Virginia Department of Housing and Community Development and the Accomack - Northampton Planning District Commission to study whether the property could be rehabilitated using both historic tax credits and publicly subsidized financing and then leased as workforce housing. **The projected rental income stream from workforce housing would barely support operating costs, including debt service.** Given this situation, the pre-rehabilitation value of the property is very low.

The pro forma developed by Echelon Resources demonstrates the same thing, given the need to invest similar amounts to perform an historic rehabilitation of the building.

3. One provision of the proposed contract with Echelon is to reduce the water and sewer connection charges by 50%. There have been signs posted around Town with the message, "Don't raise my water bill to pay for more condos." Although the developer is not planning the condominium form of ownership, this appears to be a reference to the proposed 50% reduction of water and sewer connection charges. However, **reducing the connection charges has no effect on the monthly water and sewer service fees.**

Eighty six percent (86%) of the water and sewer connection charges consist of facility fees designed to pay for the capital costs of providing water and wastewater treatment capacity. The remaining fourteen percent (14%) is a connection fee to help maintain these systems. We currently utilize only about 60% of the treatment capacity of our water and wastewater systems. **Connection charges are required when new buildings are built in order to pay for future capacity expansion. They are not included in the monthly rates charged to existing customers.**

**The former school building is already connected to the systems and the estimated treatment demand generated by 17 efficiency and one bedroom apartments is very similar to that generated by the former school; less than 1% of capacity.** Collecting 50% of the established charge is reasonable to provide for any contingencies.

**However, use of the building as a community center instead of apartments will almost certainly result in an increase in water and sewer bills.** If the building is converted to apartments, the Town will collect from the private sector \$15,300 per year at current minimum rates (\$75x17x12=\$15,300). This revenue would be forgone if the building was converted to a community center. However, water usage would be similar and the Town would absorb the water and wastewater costs. **This would translate into higher rates for all residential and commercial property customers, just as other net operating costs of a community center would translate into higher tax rates.**

In fact, a lease proposal from Old School Cape Charles received this past Tuesday would require the Town to absorb the costs of:

- electricity and heat for one year
  - property insurance for at least 5 years.
  - water and sewer service for up to 14,367 gallons per month for 40 years
- and, to not collect any taxes from use of the property.

The Council will now hear public comments concerning finalizing the sale of the former school property.

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John Schulz (for Linda Schulz), 616 Tazewell Avenue

I am in favor of selling the Old Cape Charles High School building for the following reasons:

1. There is clearly no viable source of money for renovation or ongoing operations or maintenance of a local community center.
2. After decades of deterioration, the façade of this historic building will be preserved, and the building itself will be put to useful purpose.
3. The building will be used to provide moderate priced housing for the community, attracting a minimum of 16 new residents to help support businesses in Cape Charles.

I have been impressed with the energy generated by this effort to improve the quality of life in Cape Charles. I hope that we can find a way to channel this energy in a more productive direction, specifically toward finding money to expand our wonderful public library, which is bursting at the seams. This is an already existing institution and ongoing enterprise that, with a larger and well-designed facility, could be the community center the town needs. Indeed, the library stands in stark contrast to the current high school which has been closed and now has lain moribund for many years. Coincidentally, the library has done a feasibility study that included a move to the high school and it was determined that the high school building was not appropriate.

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Frank Wendell, 515 Monroe Avenue

To Mayor Sullivan, Town Council, Town Staff and my fellow Councilman-elect Tom Godwin, and to the memory of the recently deceased Don Clarke.

I am here before you tonight to again voice my opposition to the proposed sale of our 100-year old historic Cape Charles High School building to Echelon Resources, Inc.

I would like to address the scare tactic of a tax increase circulated by the Town Council and staff. When I first learned of the Echelon proposal I shortly thereafter drove up to Onancock to investigate the Community and Cultural Center that the Friends of Onancock School have been operating for approximately six years. I sought out the Onancock town manager and asked him if Onancock's community center had caused any tax increase in their town and I was told that indeed there was NO tax increase caused.

Old School Cape Charles LLC has presented the town with a potential lease agreement that is patterned after the Onancock lease. Funding for the Cape Charles Community Center includes:

- Seeking grant funds
- Selling historic tax credits
- Corporate donations
- Private donations
- Fundraising efforts
- Volunteer labor
- Contractor bartering, and
- Support and partnership with the Town of Cape Charles as referenced on p. 45 of our Comprehensive Plan.

NOWHERE is there a reference or call for taxes to be increased. The tax increase is just a scare tactic of the pro-Echelon, anti-Community Center naysayers.

HOWEVER, I would like to go on record tonight to say that I, Councilman-elect Frank Wendell, will vote AGAINST any tax increase that is in any way directly the result of the town and Old School Cape Charles LLC moving forward with an adaptive reuse of our school that is truly in the best interest of the people of Cape Charles.

So, AGAIN, I will oppose any tax increase associated with the Community Center. The people of Cape Charles already pay enough taxes. We pay town taxes, we pay county taxes, we pay state taxes, we pay federal taxes, and we also pay the INFAMOUS Cape Charles water bill! The proposed Community Center can become a reality without any tax increase. If they can do it in Onancock, we can also have a community center in Cape Charles.

Community Center YES, tax increase scare tactic NO. Let's work together for a community center in the heart of our town. Let's start working on our new historic Cape Charles Community Center tomorrow!

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Dorie Southern, 104 Monroe Avenue

I am Dorie Southern. I live at 104 Monroe Avenue in the Historic District approximately two blocks from the old school in the park. I am concerned that Town Council is discounting the value of this property and wishes to dispose of it as a liability. I consider that a huge mistake that could cause irreparable damage to property values in the Historic District. The school is zoned open space with the park and has been linked to the park since it was built in 1912.

I am providing an article entitled, "The Impact of Parks and Open Space on Property Values," with this statement. I have already given it to the mayor. I do not have time to read it now. In a nutshell it says that parks and open space increase property values and hence tax revenues more than additional housing. The article suggests that towns should purchase property for parks and open space.

Although I read that it took a lawsuit to get the park and school returned to the town in 1993, I have been unable to find any records of the lawsuit. But we all know that lawsuits are expensive and are hardly an economical use of town funds.

At the public hearing last week about a zoning change and conditional use permit requested for this deal to go forward, person after person spoke about the need for Council and the planning commission to

spend time considering what we were telling them about what townspeople want. The planning commission took that to heart and tabled the proposed changes for further study.

Now I will tell you about how developers work where I come from. First, if a developer wishes to put a development in that requires a conditional use permit, the developer submits the application, not the town. The neighborhood has to be informed. The developer presents drawings and plans to a town hall meeting. The community provides input and makes stipulations. Giving away parkland would be unheard of where I come from. It may be suggested, but it does not happen.

Now let's hear about Edwin Gaskin. We invited him to come tonight, but I do not know if he is here. Mr. Gaskin was introduced to Cape Charles by an unknown (to us) individual. Mr. Gaskin is the president of a two-person real estate development firm in Richmond. He began speculating in real estate in 2004 after having worked in various positions with the city of Richmond, ending as Deputy Director of Economic Development.

His real estate developing was such a raging success that in September 2011 he went to work for Hanover County as Director of Economic Development. One of his developments in Richmond, Ginter Place, finished in 2008 had 15 of its 69 condos sold in February 2012.

The proposed contract with Echelon Resources is written solely to the benefit of the developer. Where is the concern for the people who live in the Historic District, the people who use the basketball court, and the people who have property adjacent to the school? All of us are left out.

If it approves this contract, Town Council is going to ride headlong into a lawsuit and waste precious town resources that could be better spent contributing to the repair of our school making it into a state-of-the-art-building for the town.

We can turn this old building into a new/old structure that recognizes its history while moving forward into the new approaches to energy and space utilization. We could have a green roof and solar panels. Perhaps we can pursue other options for renewable energy, space utilization, and recognition of the history and ecology of our town. It will take lots of work to bring a community center to fruition. It will not take raising our taxes. We can do it in stages.

We need to invite our children and young people to be part of this endeavor. We need them to see that they can be part of the solution to the challenges that they will face. We need them to have access to computers and other learning opportunities as well as physical exercise in the gym or the basketball and tennis courts. We should invite Northampton County residences to join us. They have already offered to help pay for it.

Please do not approve this boondoggle of a contract.

It appears that scare tactics are being used to make townspeople think that their taxes will skyrocket if we do not sell the school. Why is no one talking about the absolute unmitigated waste of giving away a school, a basketball court and all the parking for the park?

Is that not a cost to the town? Of course it is.

The people of Cape Charles need to take matters into our own hands and find out how our tax money is being spent. We need to open up this government. I have asked for budget information but have been too busy to make heads or tails of it yet. But I do intend to find out whether our town is using our tax money efficiently.

I am pleased that our town will spend money to keep the beach clean for our summer guests, that we have a new harbor for boaters. But we also have a community and need a community center.

I just have one more thing to say to you Council members tonight. If you are unable or unwilling to take on the responsibilities of your office, one of which is seeing to the maintenance of town property and your solution is to sell town property instead, resign now. Do not wait another minute.

We will put our heads together and find candidates who are willing to do the work that it takes to make our town a place where people live, work, and play – not Disney World.

### Comments submitted in writing prior to the June 14, 2012 Public Hearing and Regular Meeting

Dear Mayor Sullivan and Members of the Cape Charles Town Council,

I want to thank you for making the first positive decision regarding the fate of the Cape Charles High School building. For 19 years we have watched the building disintegrate and now you have found a way to preserve it as a historic building. This decision is smart and economically sound as the outside of the building will remain but the inside will be rehabilitated by a company that will contribute financially to the town treasury. This decision will relieve the Cape Charles tax payers of the cost of maintaining and rehabilitating the building and running programs in it.

For those of us who are alumni, parents of alumni, and former employees of Cape Charles High School the memories of those school days, the teachers, the students and the town people who supported the school so passionately will never die. Those memories live in our hearts – they live in our lifelong friendships and they come alive in our reunions. It is not the building that is important – it is the dedication of the people of Cape Charles who gave their all to keep the school going for as long as they could. I shall always be grateful that I was one of the fortunate people who lived in and was educated by the Town of Cape Charles. Many of us say how very fortunate we were to have had that experience – it is no longer available and we realize the value of what we received.

Again, I thank you for being fiscally responsible and yet concerned enough to maintain the school history that is so important to Cape Charles. Regretfully, I am no longer a resident of Cape Charles, but I am a proud Cape Charles High School alumni. I am happy that I will still be able to see the building I went to school in. I feared that the lack of interest in the school would result in it being bulldozed because of its condition. Your decision will keep the school history alive.

Sincerely yours,  
Norma P. Spencer

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*Friends of the Cape Charles Memorial Library*

*P.O. Box 27*

*Cape Charles, Virginia 23310*

*library@capecharles.org*

June 4, 2012

Letter to the Town Council of Cape Charles

From: Alice Morehouse, President of the Board of the Friends of the Cape Charles M

RE: Proposed Redevelopment and Use of the Former High School Building



The Board of the Friends of the Cape Charles Memorial Library is in full support of the proposal to redevelop the former high school property into housing. The Friends believe the Town Council should take advantage of the opportunity to redevelop the property now and that they would be remiss in their duties if they let this opportunity pass in this difficult economic climate.

The Friends do not support any proposals that would include the library as part of a non-housing redevelopment of the high school property.

In 2010, with the Town Council's approval, the Friends and the Library Board developed a plan for a new library facility. That plan was completed in August and presented to the Town Council in November. The Town Council approved the plan in the spring of 2011 and we continue to work together to find a location for a library. That plan uses the data from prior studies, applies the library Standards of the Commonwealth and considers other needs in the community.

The 2010 plan quantifies the space needs for traditional library functions but the authors went further in their thinking to consider other needs in the Town. The plan includes space for public meetings, for programs and movies, leisure seating for adults, children and young adults, play areas, display space, computer and work stations, music and video viewing areas. In that planning process the Friends reviewed prior studies related to the old high school building and concluded that the facility was not well suited for modern library purposes for two reasons. First and foremost the facility is in a sad state of disrepair and its layout and size did not lend itself to use as a library.

The Friends understand the desire for a place for young and old to gather. The Friends believe that the Cape Charles Memorial Library is that place and that the plan provides space to meet those needs.

Again, the Friends strongly believe that the private proposal to redevelop the high school is an opportunity the Town should not let slip by. The Friends would also ask those individuals who are interested in the development of a community center to join with us to find a location for the library, to help raise funds to make the library a reality and to encourage the Town Council to find a location so the library project can move forward.

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To the City Manager of Cape Charles,  
Heather,

I want to go on record as opposed to the proposed sale of the old Cape Charles High School to a developer for the expected development of apartments on the property. I suppose the closer one lives to the high school the more relevant the quality of this potential development is to a resident of Cape Charles. My family has lived across Plum Street from the high school for the last 12 years and we have seen this area progress from the tawdry days when trails of residents walked down Plum Street to the liquor store and staggering back home, to the obscenities of the boys and girls club gone out of control, to the current beautiful central park with the lovely tennis court and playground consistent with the lifestyle of a small American town. We are very pleased with the gradual sustained improvement in the quality of life in Cape Charles and I am committed to fight any proposal that could put this progress at risk.

I believe that a financially effective solution in balance with tight controls over the use of the property is the best solution for the town and for my family. The problem I have with the token sale of the property to a developer who has no interest in Cape Charles except for maximizing his financial gain - is the lack of understanding of what the developer proposes and the lack of controls the town might retain over the developer to ensure that the development is consistent with the progress and goals of Cape Charles so near the Central Park.

I believe the attempt to rush this deal through a lame duck town council is not in the best interest of our community and I don't believe this might be the best and final offer from an outside developer. I have seen larger properties in town reallocated as high quality condos as well as section 8 housing. It should be in every town-person's best interest to lean toward the former type of development rather than the latter.

My suggestion is to wait for a better offer or to figure out how to make the property useful for the whole community as we have done with the park.

The town council works for the town, and with so many in the town opposed to 'getting rid of a problem' in lieu of working towards a solution that would benefit everyone and avoiding a risk the town would have no control over is a much better direction, in my opinion.

Rushing to closure on a deal that is opposed by so many in town and that does not appear to have any controls over the developer is not in the best interest of the community and will continue to create dissension within the community for years to come.

Sincerely,  
Denis Pickron  
501 Monroe  
Cape Charles, Va.  
202-441-1261

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To the City Manager of Cape Charles,  
Heather,

I am on business travel this week but would appreciate it if you would please read this at the Meeting on Tuesday, June 5, 2012 Thank you.

I want to go on record as opposed to the proposed sale of the old Cape Charles High School to a developer for the expected development of apartments on the property. Over the past 10 years I have seen Cape Charles grow into the quaint country village that come-here's and from-here's have always desired. It wasn't too long ago that people were afraid to walk the streets. Unemployment and drugs were sucking the life out of this town. Most of the houses and stores were neglected and falling down.

But then, as if by a miracle, a few people with vision saw the potential of Cape Charles. They decided to invest in this place with their time, money, blood, sweat and tears to restore our town to its former glory. In the early days of renewal we celebrated the positive changes with community parties - the Renovators Ball and the Harbor Parties. There is a spirit here that helped Cape Charles come back to life. We all worked together to make this happen and we should be pleased with what we have done.

I am proud of what this little town has become. Every year it gets better. More families arrive each summer to enjoy our park, playground, tennis and basketball courts, fishing, boating, swimming, dining and our incredible quality of life that city folks can't imagine still exists in America.

Cape Charles is a historic landmark and at it's center, it's heart, is a 100 year old school building. Surrounding that building are recreational facilities the Playground, Tennis Courts, Basketball Courts and Skateboard Park which are enjoyed by many in the community as well as those who come here for summer vacations. These are the things that make our community great and cause others to want to seek us out, to buy a house, to raise a family or to enjoy their retirement years with us.

Now comes Echelon, an unknown group of developers who have no vested interest in the community. They like what they see in Cape Charles and they want a piece of it. They don't live here or own property here. But they know Cape Charles is on the rise, that they will make a lot of money and not have to deal with what they leave us. They also know they can get 7 building lots (conservatively priced at \$50,000 each) a value of \$350,000 and concessions on the water and sewage hookup (a reduction of up to 90% of the fee) a value of \$229,000 plus the Playground, Tennis Courts and Basketball Courts for a total of \$579,000 (Not including the value of the school building worth about \$500K) for \$10.00. Some deal - Ten bucks for \$1,000,000.00 value?

And what will the town have when it is completed - an 18 unit apartment complex in the middle of a single family and duplex community; The loss of our recreational facilities; Possibly 36 more cars in the neighborhood. This is incompetent planning and should be opposed by all.

When was the last time the town council wanted to reduce water or sewage bills? When was the last time they offered to lower property taxes? So why the big rush to push this deal through with Echelon? It seems from all the controversy that there are a great many folks who are not in favor of this deal. Yet there are some on the town council who feel they must vote in favor of it and that they must do it now.

With such a volatile issue, wouldn't it be more prudent to have a referendum and let the citizens decide what to do with our asset? Spare us the bad feelings and law suits that will undoubtedly come if this vote favors Echelon.

Sincerely,  
David & Karen Gay  
506 Monroe  
Cape Charles, Va.  
240-252-8407

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From: Heather Banks, 1 Moon Court, Cape Charles, VA

I am in favor of having the Echelon company purchase the old Cape Charles School building and rehabilitate it into something that will provide a tax basis for the Town of Cape Charles.

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Cape Charles Town Council,

I support the sale of the old Cape Charles School to Echelon Resources Inc. for development. It's my opinion that with such economic uncertainty, allowing that space to be developed into residential space will increase tax revenues, shoppers in our stores, and promoters of our town, as opposed to increasing taxes and use of town resources causing an untimely drain on our already stressed local economy.

Rob Smithwick

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"I support the sale of the Cape Charles School to Echelon for historic rehabilitation into condominiums. It is the only option that makes sense for taxpayers and our town."

Nancy Smithwick  
11 Kings Bay Drive  
Cape Charles, VA 23310

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My name is Linda Buskey. My address is 100 Arnies Loop, Cape Charles, VA.

I think the Town Council should sell the Old Cape Charles High School.

Linda Buskey  
Sales Manager  
Bay Creek Resort Realty  
3335 Stone Road  
Cape Charles, VA 23310

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When we first heard that someone was interested in renovating the old school building into apartments we thought, "How lucky for Cape Charles and its citizens." Then we started hearing about turning the building into a Community Center. We've been here 10 years and this is the first time we have heard anything about anyone wanting to renovate the building for a Community Center. We have both read a paper given to use by one of the store owners on Mason in support of the Center. We felt we needed additional information to back up a number of the statements made. We then read an email on the subject and we are back where we started. We feel Cape Charles and its citizens are very lucky that someone wants to take on this large and complex project and renovate the school building for apartments. Financially it makes sense and we hope reason will prevail.

Evan and Vanessa Cox  
9 American Court  
Cape Charles, VA

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My name is William Girtman and my address is 114 Old Course Loop, Cape Charles. I strongly feel the Town Council should sell the old high school.

Sincerely,  
William Girtman

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June 7, 2012

Members  
Cape Charles Town Council  
2 Plum Street  
Cape Charles, VA 23310

Dear Members of Council:

This letter is to express my support of Cape Charles Town Council and I hereby request Council to proceed with the sale of the former Cape Charles High School building to Echelon.

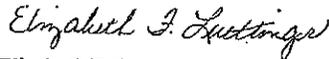
I attended school in Cape Charles for twelve years and have many fond memories of fellow students, faculty and staff. However, just as the congregation is the "church," not the building in which services are held, the same holds true for a school. The building is not the school. Emotions always run high in matters such as this, but emotions should not rule.

Having previously served on Town Council for eight years, I remember serious difficulties during that time. I care not to recall specific details, but will always carry with me the knowledge that personal thoughts, opinions and judgments must be set aside when considering matters affecting those whom I was elected to serve.

While living in Richmond over three decades ago, I frequently passed a school building which had been converted into housing and the transformation continues to be beautifully maintained. What a great way to preserve such a valuable asset. The situation at hand is similar. Only private enterprise can make what will surely be an enormous investment, without having the financial burden being placed on the small population of Cape Charles.

It is my hope, after weighing all the facts of this issue as well as what is in the long-term best interest of the citizens of the Town of Cape Charles, that Council will move forward with the sale of the school building to Echelon.

Sincerely,



Elizabeth F. Luettinger  
5 Tazewell Avenue  
Cape Charles, VA 23310

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Dear Town Council and Mayor Sullivan,

I am writing to you because I could not be there tonight with Old School Cape Charles, but would like to express again my opposition to the sale of the Historic Cape Charles High School property. At this point I'm not sure what I can say that would change your minds but I will try. As you have seen, our group has worked endlessly trying to save this property. This is just a small example of what we are capable of. Just imagine if we were all working together, using all of our talents and resources, to provide another asset for the town that we could use and celebrate like so many of the other wonderful projects that this community has created. Stop this madness! Bring this community back together! Listen to the citizens who depend on you to make the best decision for their future. Vote NO to sell OUR property!

Sincerely,  
Lisa Harman

\*\*\*\*\*

Good Evening to All,

Very often in politics, we are presented with opposing ideas and forced to make a choice as if they are the only choices possible. This is rarely, if ever, true.

We live in Bay Creek and are not inherently against a community center. We love what the town has done with the beach, harbor, fishing pier, central park, etc.

We believe the Echelon Project should go forward for the many reasons stated by others. We also believe that the former high school is an inappropriate building for a community center, again for the reasons already articulated by others.

If the town wishes to entertain additional services, we feel a new library would be more appropriate than a community center although we could see a community center evolving from a new library. We have not seen the quantity and quality of information required to make a decision on a community center.

We urge the Council members to accept the Echelon proposal.

Thank you,  
Emily and Frank Cullen  
Churchill Downs

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June 14, 2012  
10:45 AM – hand delivered

Joanne & Randy Warren  
8 Madison Avenue

As 82 year residents of the Town of Cape Charles, we strongly support the sale of the school!

The building will remain an empty eyesore until funds are available for repair and maintenance and we do not expect to live that long!

\*\*\*\*\*

My name is Ron Wrucke; I live at 508 Arnies Loop, Cape Charles.

I've been following the arguments pro/con regarding turning the old school into a Community Center. That's got to be a mistake for the town, even if we could afford to rehab the facility. I'm an engineer and worked as a consultant for 30 years in facility design and construction. We often worked with sites, including buildings, that required remediation. The remediation of old buildings was always a money pit; an economic Pandora's box. It seems like every time our client wanted to restore an old building, it was an economic disaster. We would prepare the site histories, conduct environmental sampling, develop remediation plans and initiate the cleanup ... and there were always unanticipated expenses that destroyed out budgets. Invariably, it would have almost always been much cheaper just to demolish the old building.

Remediation of the old school to a useful condition is not the way to go, especially if the Town is putting up the money. Sell it, leave it go and if there are subsequent benefits to the town because of taxes, count your blessings. If there is no economic benefit from the sale of the school, count your blessing anyway and be glad we didn't go down the remediation road while incurring the costs that would result from such an action.

Ron Wrucke

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My name is Ann Berg and I live at 203 Churchill Downs. My vote is to sell the school.

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"My name is Mary Ann McDevitt. My address is 644 Monroe Avenue, Cape Charles, VA.

Town Council should sell the Old Cape Charles High School. We already have a community center, the firehouse. I do not feel that renovating the Cape Charles High School for use as a community center makes sense economically.

\*\*\*\*\*

My name is Patricia Buckley. I reside at 4 Perny Court, Cape Charles.

I support the sale of the school. The building is not appropriate for a community center for our 1000 residents, only 10% of whom are children. Our population is too small to support this type of facility. Property owners in the Town of Cape Charles already pay a premium of 37% relative to county residents. These funds provide services that are used by many county residents. In addition, the Town uses fewer of the county resources because we duplicate many of the county functions reducing the overall cost to the county. Adding a community center in the Town would only increase this inequity as it would not be viable without opening it to all comers.

I recommend that those citizens who would like to see a community center focus their efforts at the county level. In most communities, the public schools provide a center for community activities. Ours are empty after the students go home. We are already paying for the maintenance and operation of these public schools as well as the bond issues to build them. Using them as community centers would be fiscally responsible maximizing the utility of these facilities.

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My name is Jean Smith. I reside at 27 Kings Court. I think the Town Council SHOULD SELL the old Cape Charles High School.

Thank you,  
Jean L. Smith

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Dear Town Clerk, Town Council,

Whether you decide to read this email into the minutes or not will be your decision, but as a 15-year homeowner in Cape Charles I respectfully wish to express my opinion regarding the future of the Cape Charles High School building.

- I do not support a Community Center in this building. We do not have the funds to restore the building nor maintain it as a Community Center.
- I do not support selling the building that it may be turned into apartments. I am a landlord and have three very nice units in Belle Haven and Exmore - two towns with more populace and jobs than the Cape Charles area. Over the dozen years I have had these properties it has become increasingly more difficult to find tenants who have jobs and can afford to pay a modest rent.
- I believe there is a third alternative solution to the question: Tear the school building down. Build nice restroom facilities on the lot and a small concession stand to support the growing number of events in Central Park. The concession stand could be designed for expansion if future events warranted it.

Thank you for allowing me to voice my opinion.

John Evans  
Human Resources / Operations Manager  
ENGEL Machinery, Inc.  
3740 Board Road  
York, PA 17406



**DRAFT**  
**TOWN COUNCIL**  
**Regular Meeting**  
**Palace Theatre**  
**June 14, 2012**

**Immediately Following Public Hearing**

At 7:20 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 Bennett, Evans, Sullivan and Veber, and Councilwoman Natali. Also in attendance were Councilman-Elect Frank Wendell, Town Manager Heather Arcos, Assistant Town Manager Bob Panek, Town Clerk Libby Hume and Michael Sterling of Vandeventer Black LLP. There were approximately 90 members of the public in attendance.

Councilwoman Natali gave the invocation followed by the recitation of the Pledge of Allegiance.

Mayor Sullivan announced that the Installation of New Council Members was being postponed to a later date.

**PUBLIC COMMENTS:**

*Brock Stiles, Madison Avenue*

Mr. Stiles deferred his allotted time to Mr. Kevin Martingayle.

*Mike Belote, Madison Avenue*

Mr. Belote deferred his allotted time to Mr. Kevin Martingayle.

*Chad Davis, 5 Randolph Avenue*

Mr. Davis deferred his allotted time to Mr. Kevin Martingayle.

*Kevin Martingayle, Attorney representing Old School Cape Charles*

Mr. Martingayle stated that he wanted to comment on an issue raised by another speaker earlier this evening regarding the fact that the developer had not met with the people to give a presentation regarding the planned project. Mr. Martingayle added that he lived in a city with a population of 435K and had attended many Virginia Beach City Council meetings regarding development projects and had never seen or heard of an instance where the developer did not meet with all the neighbors and give a presentation regarding their plan, especially when there was so much opposition and particularly when it was regarding such an important landmark. Mr. Martingayle stated that this was not normal. It was our Town and our landmark. If developers do it for big cities, couldn't they do it here in Cape Charles? Didn't they respect the Town enough to come make a presentation? Mr. Martingayle continued to state that he had looked at the documents which were distributed showing some of the developer's other projects and there was no address on the documentation. There was no address listed on the developer's website. Mr. Martingayle stated that he looked up the address in the contract and it was in Montpelier which was north of Richmond. When he pulled up the picture on the Internet, it looked like a residence in the country, not a real business and asked if anyone had ever visited the headquarters of this business to which the Town was entrusting the over 100-year old building. Mr. Martingayle asked if Council had met personally with the developer, if there was a personal guarantee in the contract, had Council seen a financial statement and commitment letters from banks, had Council done the homework to make sure they were fully satisfied that there was an equal commitment on the other side of this deal. Mr. Martingayle added that we knew Council was committed to this Town and the welfare of its citizens, regardless of how they would vote on this issue, and currently there was a disagreement with the citizens over whether this was the right deal. Has Council done enough homework on the deal to make sure they were comfortable with the terms and on this company to make sure they

were legitimate and whether there were people standing behind the company who were fully committed to the project? Until all this homework had been done, this matter was not right for a vote. Mr. Martingayle stated that he attended the June 5<sup>th</sup> public hearing and meeting regarding zoning and the conditional use permit and the Planning Commission wisely tabled the issue. A young man who had recently graduated from high school spoke at the meeting and pointed out that there were so few recreational opportunities in Town for the young people and he spoke very eloquently and from the heart for the youth. Tonight's public hearing was opened with a presentation by Town staff stating that there were not enough kids in Town to justify a community center or recreational opportunities. Mr. Martingayle stated that he knew there was nobody in Town that believed that and he did not believe anyone could seriously say that if there were only 50 or 60 kids, the Town should not worry about it. Mr. Martingayle added that he worried about it and he did not even live here. The Town Council could not possibly believe that this was good governance. Mr. Martingayle continued to state that he had previously pointed out that this was a self-created crisis much like a lifeguard creating a rescue situation just so they could go out and perform the rescue to take credit for it. This building was in disrepair because the County and the Town did not take care of it, but Council could not turn around and take this offer from the developer because with the condition of the building, this was the only solution. Mr. Martingayle asked Council not to think in that kind of circular argument and not go in that direction. Mr. Martingayle went on to state that, finally, he wanted to talk about some points in the contract which were troubling. Page 3 of the document allowed the developer the right to decide in its "sole and absolute discretion" whether or not to go forward after the review period. The Town could do everything that it was supposed to do and make all the necessary approvals but the developer had the sole and absolute discretion within the six month review period to pull out of the deal. It did not have to be reasonable or explained and Mr. Martingayle stated that he did not view that as being fair. Page 5, paragraph 6 stated that the Seller would rezone the property to allow for multi-family residential use. Once the contract was executed, the Town would be committed to rezoning the property to allow for this project. This meant that what the Planning Commission put off did not matter because the contract would make the commitment on the Town and the Town would be contracted to do the rezoning. This was the last opportunity to pull back. Once the historic building was handed over, the Town could not get it back. The Town could slow down since there was not an emergency. This was not a situation where this was a one-time opportunity. There were other people who would do this project. Mr. Martingayle stated that his final point was that several years ago, the Virginia Department of Historic Resources was created along with a tax program which essentially gave back 50¢ for every dollar spent to renovate older buildings. It was a great program and allowed the Norva to reopen in downtown Norfolk as a concert venue after sitting empty for years. The National in Richmond sat empty for decades and was in horrible condition but was now a concert venue. Delegate Ward Armstrong from the western part of the State was one of the architects of the program and spoke at the grand opening of the National about how he was able to renovate his office and preserve an old building to keep it in character with other buildings around it. There was money and tax opportunities available that the Town could take advantage of or that Old School Cape Charles LLC could take advantage of that made this project doable. That was why developers were running around making these deals because there was money available to them so they could make a big profit off these kinds of deals. It also gave the Town an opportunity. The Town did not have to take their deal but could do its own deal which it could control. If the Town did not want to do business with Old School Cape Charles LLC, then it should find another path, but the Town did not have to give the school away. Council was doing a disservice if they had not talked to the Virginia Department of Historic Resources prior to casting this vote. Mr. Martingayle stated that a friend of his, Mr. Bill Reed, who was the developer of the Norva and worked on the Virginia Beach Amphitheater, the Portsmouth Amphitheater, and the National in Richmond, told him that anyone on the Town Council who wanted information on who to talk to in the Virginia Department of Historic Resources should contact him. Council was undoubtedly at the fork in the road but once they went down one of the paths, they could not turn back, but if Council went down the path of thinking about this further they could make sure they were making the wisest decision. Council could come back to this decision regarding the sale but Mr. Martingayle stated that he felt other attractive opportunities and alternatives would be found. Council needed to at least do

themselves and all the citizens a service of making sure to fully investigate who the Town was going to be doing business with and have models, designs and a detailed presentation as well as fully investigate the opportunities with the Virginia Department of Historic Resources. Tonight was not the night to sell a landmark for \$10.

*Frank Wendell, 515 Monroe Avenue*

Mr. Wendell asked for a show of hands on Council and staff of who had made a trip to Onancock to investigate how they had been able to accomplish a community center for six years without any tax increase. Had anyone talked to Onancock's Town Manager?

Mayor Sullivan stated that she had visited the Town and spoken with the Town Manager. Councilman Evans stated that he had spoken to people in Onancock.

Mr. Wendell thanked the Mayor and went on to ask where the due diligence was that the public officials owed the citizens of the Town, if in four months, they could not make a 45 minute drive north. How could the Town Council, in good conscience, vote to give away the building without investigating the Onancock community center? Onancock's administration budget was about \$300K. It was available online. Cape Charles' administrative budget was about \$600K. Onancock's population was 1,500 compared to Cape Charles' population of about 1K. Mr. Wendell continued to state that when he went to Onancock and talked to the Town Manager, he was told that Onancock had 15 full time employees. 1,500 people, 15 full time employees. Cape Charles had 27 full time and 6 part time employees. Mr. Wendell added that he felt that people could now get the picture of how Onancock ran their town and had money and energy for things like a community center and why Cape Charles did not and added that he planned to see that changed. Mr. Wendell went on to state that when the Town opened the new community center, he planned to see a room dedicated to the memory of Don Clarke who was one of the first people to approach him in support of the community center effort. Mr. Wendell continued to state that he had heard a lot of talk about the sad state of disrepair of the building and asked why the building code was not consistently applied. Six years ago when the building was abandoned, why wasn't any maintenance done? The Building Code was designed to preserve the building. Council did not need to rush to Echelon to preserve the building. Mr. Wendell concluded by asking Council to please not give the school away.

*Deborah Bender, 300 Fulcher Street*

Ms. Bender stated that her husband had lived in Cape Charles almost all of his life. His grandfather built all the houses on Benders Row and his great grandfather cleared Hollywood Farm, which was now Bay Creek. The community center was important to the Town, to the children and to the adults. Ms. Bender added that it seemed to her that half of the Council did not even know what the laws were. Council did not know about the tax credits and no one even bothered, with the exception of Mayor Sullivan, to go to Onancock. Onancock seemed to operate with a whole lot less money and a whole lot less employees and they had more people living there and Ms. Bender added that she used to live in Onancock for almost 20 years. Ms. Bender concluded by reiterating that the Town needed a community center.

*Don Bender, 300 Fulcher Street*

Mr. Bender deferred his allotted time to Mr. George Southern.

*Veann Duval, 110 Tazewell Avenue*

Ms. Duvall deferred her allotted time to Mr. George Southern.

*George Southern, 104 Monroe Avenue*

Mr. Southern stated that before returning to his previous remarks, he wanted to say that he heard a lot of comments, pro and con, about taking action tonight. Mr. Southern stated that he respected everyone's opinion on that subject but his beef was when so called facts were presented that were not facts which could easily be refuted. That was why he was standing here tonight. Mr. Southern continued to state that another case had come up. As he stated previously, he did not think it was

proper for a public hearing to begin with a 15 minute one-sided presentation by paid staff which his taxes were paying for. One of the things stated was that tonight's meeting had nothing to do with zoning. Zoning was not going to be voted on or considered tonight. Now, a paid attorney explained to everyone that if Council were to vote to approve this contract tonight, it was obligating the Town to change the zoning because it was in the contract. This was absolutely the opposite of what the citizens were told by staff an hour ago. Mr. Southern stated that he would now return to the problems with staff reports. A letter came from the Vice Chairman of the Board of Supervisors of Northampton County to Mayor Sullivan dated April 2<sup>nd</sup>, expressing interest in the idea of a community center, making the point that the County had no community center, and offering to at least develop a dialogue to see how County taxes could support a community center in Cape Charles. Mr. Southern stated that for those people who state that they did not want the County people to come use our facilities, he wanted to remind them that the County people were already doing that and the Town was subsidizing them completely. Shouldn't the Town at least be receptive to an offer from the Board of Supervisors of Northampton County to inject some money into the Town's public facilities? Mr. Southern stated that the Mayor responded on April 27<sup>th</sup> stating that the Town respected the thoughts of the Board of Supervisors, but the Town Council and staff had put in numerous hours studying the situation and reviewing plans that were developed over the years and the estimated cost of performing a historic restoration of the school building was prohibitive at \$2M - \$4M. One exterior wall collapsed as a result of the earthquake last year and the estimate to repair that wall alone was approximately \$200K. Mr. Southern went on to state that it sounded terrible that a wall collapsed and added that he walked around the building and did not see the collapsed wall. He looked closer and no wall collapsed. What actually happened, presumably as a result of the earthquake, was the brick veneer on a small portion of the building between two windows at the backside, where the old police department was, fell off and there was a pile of bricks on the ground. Mr. Southern presented the Mayor with a picture that he took with his iPhone yesterday and asked that she circulate it to members of the Council. Mr. Southern stated that he showed the picture to a professional contractor today, who he had observed repairing old brick structures, and asked him what his best estimate would be to repair this brick wall and then double it. The contractor told him that he was unsure of the structural basis of the whole thing so he wanted to err on the high side. The contractor informed him that the building he was currently working on was re-bricked in a lot of areas and it cost about \$25K. Mr. Southern stated that he would double that cost to \$50K, but the Mayor wrote to the Deputy Supervisor that the estimate was approximately \$200K. Mr. Southern asked whether the person supplying the estimate was a professional or whether it was a staff member who just came up with a figure out of his head. Mr. Southern went on to ask why only one estimate was obtained. Wasn't this a perfect example of why the Town needed to get more than one bid? If the Town was going to do something with the building, more than one bid was needed and it was a standard rule of thumb to go with three. Council needed to act professionally on behalf of the Town's people. Mr. Southern continued to state that he was very disturbed about the staff report that stated that turning the school into an apartment building was not in conflict with the purposes of the Comprehensive Plan. The staff report was completely wrong. Mr. Southern read from page 44 of the Comprehensive Plan which stated that Growth of the Town would require an increase in space for community services, therefore, the Town plans included the restoration of the Cape Charles school as an adaptive reuse to preserve the structure, establishing a community center, relocating the library to a larger space with adequate provision for increased patronage, meeting rooms and technology, and relocating the Town offices including space for the Town archives and the police department. Mr. Southern asked the Town Council not to give up the public space. This Town was growing. If the Town was not going to use it this year or next year, it needed to preserve the building by spending the \$25K - \$50K to repair the brick veneer that fell down, stabilize the building, and hold it for future use.

*Dorie Southern, 104 Monroe Avenue*

Ms. Southern stated that she was asking about Mr. Gaskin who was the proposed savior and checked on the Internet. Mr. Gaskin was the president of this two-person company, Echelon Resources, which he worked on from 2004 to 2011 when he took a day job as the Director of Economic Development for Hanover County. Maybe he was not here because he was busy with his

day job and maybe the people who work for the Town of Cape Charles could be busy with their day job doing what they should be doing and not be doing the work that Mr. Gaskin should be doing like applying for zoning changes and conditional use permits and so forth. That was Mr. Gaskin's job, not staff's job. Ms. Southern went on to state that we knew the contract was for the benefit of Echelon and added that if Council approved the contract, it would lead headlong into law suits and waste precious time, money and energy that could be spent taking care of the needs of the Town, the school and whatever should be done to the school. The Town could turn this building into a really useful property for our Town in whatever way with input from everybody. If anyone on Council was not interested in the best interest of this Town, she asked that they just resign from Town Council and the citizens would find someone that was interested in looking after the interests of this Town. Ms. Southern moved on to comment on the budget and stated that because she had heard that the Town could not afford anything she wanted to put the Council on notice that she was going to check into what was going on with the budget and people in this Town were going to know why we were spending so much more than Onancock on administration and we still state that we could not afford to do the things we needed to do. Why? Ms. Southern stated that bottom line, this was not Disney World. This was a Town. Let's have a community center.

*Ginger Strong, 7 Carissa Court*

Ms. Strong deferred her allotted time to Mr. Paul Strong.

*Paul Strong, 7 Carissa Court*

Mr. Strong stated that he and his wife moved to Cape Charles about a year and a half ago after building a home here, retired here and now lived here full time and planned to live here the rest of their lives and added that they loved the Town. Mr. Strong stated that he had talked to many people in Town about the issues of Cape Charles, the old high school and the community center and had also read the letter in the Eastern Shore News by John Burdiss and the more recent letter by Ms. Southern which was published yesterday. Mr. Strong stated that he thought Mr. Burdiss, in particular, summarized the issues very well relative to the proposed sale of the high school and he agreed completely with Mr. Burdiss' conclusions. Mr. Strong agreed that the old high school should be preserved and restored if at all possible and he believed that the sale to Echelon was the only scenario which would likely lead to that happening. Mr. Strong went on to state that he feared if the sale did not occur, the only realistic option left to the Town would be to ultimately demolish the school. The best way to save the high school was to sell it to Echelon and have them renovate it at their expense which would be considerable. Feasibility studies had been done and those studies were public and were available in the Town Hall. They showed that to stabilize and renovate the school would be prohibitively expensive for this Town. Unfortunately, the school was continuing to deteriorate and we did not have the luxury of waiting a few more years in hopes that things would somehow get better. Mr. Strong added that it seemed to be a true tragedy that our Town had become so deeply divided on this issue. We really needed to find a way to disagree with one another and yet remain friends. No one should have to be reminded that we probably all wanted what was best for Cape Charles. Even though we might disagree on what that was, we should all be willing to accept the decisions that were made legitimately after a full and rational debate. We should at this point be able to smooth our ruffled feathers and move on together no matter what happened here tonight. Mr. Strong added that he hoped and expected the Council to proceed with the sale tonight to Echelon and the fact that this was a "lame duck" Council did not diminish its legal authority or even its ethical responsibilities to proceed with this sale if they were convinced it was in the best interest of this Town. Mr. Strong stated that he doubted whether anyone in Town knew the facts surrounding this issue better than the Council members and he had absolutely no question about their honesty and integrity and he had met and talked with them all. The suggestion that there had been "backroom dealing" along with the resulting implications that members of this Council might have some ulterior motive for doing this, were ludicrous. Mr. Strong went on to state that if the Council did indeed proceed with the sale, he hoped we could move forward to figure how we could best get a good, affordable community center for the Town and he felt there would definitely be a better, less expensive way to do that than to convert the old school into one. Mr. Strong stated that he wanted to add a personal note relative to incoming Council member Frank

Wendell who appeared to be at or near the center of this controversy. A few days before the recent election, he met with Frank Wendell along with several other interested people and he found Frank Wendell to be intelligent, sincere, and passionate and he knew that Frank Wendell would fight for what he believed was the best for Cape Charles. Mr. Strong stated that he became convinced that Frank Wendell was not a one issue candidate as many believed him to be. They discussed several other issues that night that Frank Wendell took an interest in and had significant knowledge of and he also presented what appeared to be a good record of his past service to Cape Charles. Mr. Strong went on to state that he voted for Frank Wendell, not because he agreed with the school issue, but because he felt that Frank Wendell would stimulate good, healthy discussion on the Council by frequently bringing up opposing views. That night, Frank Wendell was asked about the possibility that the sale of the school would succeed despite his opposition, and he answered that he would then work actively with the Council to pursue alternative sites for a community center. Mr. Strong stated that one reason he was telling everyone that he voted for Frank Wendell was to make it clear that not every vote for Frank Wendell in the recent election represented a vote against the sale of the school. Mr. Strong stated that in summary, he recognized that there were many good people who he liked and respected who opposed the sale of the old high school but he also believed that this Council had fully and adequately researched the pros and cons of such a sale and he urged Council to now proceed with what he thought was the only decision that had a realistic chance of saving the school.

*Tim Krawczel, 409 Nectarine Street*

Mr. Krawczel stated that he was opposed to the sale of the school for residential purposes. When he came to Cape Charles in 2005, the school and the harbor were about in the same shape. What was now Central Park was still lined off for a football field and the Town Harbor was just a shanty. Mr. Krawczel went on the state that we had all seen what had happened at the Town Harbor. That did not happen because of the genius and talent of the staff, adding that he was not disparaging the staff, but it happened because of the taxpayers of the State of Virginia making the money available and everybody in this room owned the Town Harbor. The opportunity had come and was there for the Town Harbor. The opportunity to renovate the school was not there now but could come some day in the future. If this sale were to happen, the school was lost. Mr. Krawczel continued to state that his second point was procedural and that tonight was not the last word on the school. The zoning was not in place and had been tabled. Mr. Krawczel stated that the copy of the contract that he saw stated that the Town would take care of the zoning. This Town Council was going to be in office for 16 more days and he did not believe this Town Council could lawfully obligate a future Town Council to a zoning decision. If Council were to go forward, the Town would see more contentious meetings in the months to come, more posturing, and more profiling. Mr. Krawczel went on to state that he voted for people to represent him and they would come into office in 16 days and added that this was going to go on one way or the other but asked Council to do things gracefully and let the new Council review the pros and cons and let fresh minds study the issue and make the decision. Two years from now, there would be another election and it would be somebody else's turn. Right now it was Frank Wendell and the new Council's turn to deal with this and they would deal with it one way or the other. Mr. Krawczel asked again for Council to leave the decision to the new Council and give them the same faith that the citizens have given the current Council over the last two years.

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

**CONSENT AGENDA:**

Mayor Sullivan stated that the Departmental Report Presentations would not be given this evening with the exception of the Town Manager and Treasurer Reports.

**Motion made by Councilman Veber, seconded by Councilman Sullivan, to approve the agenda as amended. The motion was approved by unanimous consent.**

The Town Council reviewed the minutes of the May 8, 2012 Executive Session, the May 10, 2012 Public Hearing, the May 10, 2012 Regular Meeting, the May 17, 2012 Executive Session, the May 17, 2012 Work Session, the May 24, 2012 Special Meeting and the May 24, 2012 Executive Session.

Councilwoman Natali stated that she thought the language regarding the motion and vote on page 5 of the May 10, 2012 Regular Meeting minutes was unclear and suggested it be amended to read "Resolution 20120510 – Sale of Former School was adopted by the Town Council by unanimous vote authorizing a public hearing be scheduled and held for the sale of the former school."

Councilman Veber stated that he was absent for two of the meetings so would abstain from the vote.

**Motion made by Vice Mayor Bannon, seconded by Councilman Evans, to approve the minutes of the May 8, 2012 Executive Session, the May 10, 2012 Public Hearing, the May 17, 2012 Executive Session, the May 17, 2012 Work Session, the May 24, 2012 Special Meeting and the May 24, 2012 Executive Session as presented and the minutes of the May 10, 2012 Regular Meeting as amended. The motion was approved by majority vote with Councilman Veber abstaining.**

**REPORT PRESENTATIONS:**

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

Town Manager Heather Arcos reported that Tall Ships at Cape Charles was held this past weekend and it was a wonderful weekend for everyone with over 7K visitors. Heather Arcos thanked the Town Council, the Northampton County Board of Supervisors, the other towns, Eastern Shore Festivals, the Town's businesses, Town staff and all the volunteers that helped make the Tall Ships at Cape Charles such a great success.

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

Heather Arcos introduced the new Town Treasurer, Kim Coates, who joined the Town staff on May 30<sup>th</sup>.

Town Treasurer Kim Coates reviewed the Treasurer's report dated May 31, 2012 which showed \$73,080 in the Bank of America checking account, \$253,961 in the Shore Bank account and \$439,598 in the Local Government Investment Pool ("LGIP") with a Total Cash on Hand of \$766,639. The report also showed \$97,076 in the Restricted Cash Balance LGIP – Rural Development and \$257,589 in the US Bank – VRA Interest Free Loan with a Total Cash Held in Reserve of \$354,667. Kim Coates stated that pending grant reimbursements included \$539,000 which would be deposited into the Harbor Fund and \$120,000 which would be deposited into the Wastewater Fund totaling \$659,000.

**Motion made by Councilman Bennett, seconded by Vice Mayor Bannon, to accept the Treasurer's Report as submitted. The motion was approved by unanimous consent.**

**OLD BUSINESS:**

**A. *Echelon Sale and Purchase Contract:***

Assistant Town Manager Bob Panek stated that this item was regarding the approval of an ordinance for the sale of the former school building per the draft contract that had been reviewed. The public hearing was held earlier this evening and public comments were received.

Mayor Sullivan read Ordinance 20120614 – Sale of Former School.

**Motion made by Vice Mayor Bannon, seconded by Councilman Veber, to continue discussion at this time regarding the sale of the former school. The motion was approved by unanimous consent.**

Councilman Veber stated that he wanted to be the first to speak, adding that he did not take his position to represent the citizens of the Town lightly and he wanted to talk a little about compromise. Councilman Veber stated that he had talked to Frank Wendell on a number of occasions, as well as with Lisa Harman and Karen Jolly Davis about a compromise which was on the table a few 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, it could be a place for children to gather and a place for other activities. The Town had the opportunity to have someone else pay to restore the building, put everything together and the Town would have added revenue coming in. Councilman Veber added that those that have done rehabilitations knew these projects usually cost twice the estimated cost. He had offered this option to the individuals numerous times as recent as today and he did not understand why we were in this position when we could have had it all. Councilman Veber added that the Town did not have the money which was why nothing had been done regarding the building in 20 years. Councilman Veber stated that he had asked Frank Wendell and Lisa Harman if they had a benefactor who would back this plan and whether the 120-year old Wendell Distributing Company would sign an agreement, if the Town were to move forward with the renovation of the old school but ran out of funding, that Wendell Distributing would back the Town in this project. He was told by Frank Wendell and Lisa Harman that they did not have a benefactor and Wendell Distributing would not guarantee to assist with the funding of the project. Councilman Veber stated that he would be leaving the Council shortly but would not vote for a plan that would cost the Town and its citizens millions of dollars. Councilman Veber stated that he was glad that everyone received a copy of the letter from Mr. Martingayle and read the last sentence which stated "Please understand that any vote on June 14 to sell or dispose of the school property would virtually guarantee this matter proceeding to court." Councilman Veber added that he had never heard of anyone on the Town Council suing the Town and Council and did not understand it. Councilman Veber stated that recently there was a lawsuit against the Town that cost \$64,800 for the Town to defend ourselves and nothing happened because it was settled. He added that he was not looking to put the Town in that kind of financial bind and felt that it was important that the citizens heard from the Council why we were looking at some of these decisions. Councilman again stated that compromise was important and there was no compromise regarding this issue with anyone involved in the community center but he stated that he guaranteed that he would have voted to turn the gym into a community center. He thanked the Mayor for the opportunity to speak.

Councilman Bennett stated that he had a statement that he would like to read and proceeded as follows "We've heard and read much from the Old School Cape Charles LLC. I would like to remind everyone that the Council does not operate in a vacuum, nor do we consider any item on its own merit. Everything we discuss has to be balanced against everything else we're doing as a town and everything else we're considering as a town. For the 20 or so of you who have appeared meeting after meeting I want you to know that I've heard you. Each time you've spoken I've listened and considered my opinion in light of what has been said. I've also spoken to many others, some of whom have spoken or written and quite a few others who have not. A lot of people I talk with are confused as to what is happening and why. This is in many cases due to the misinformation that has been spread by some of the proponents of the Old School Cape Charles group. Each time as I weigh the pros and cons of these opinions I reach the same conclusion - the sale of the school to Echelon Resources is in the best interest of the Town. This has not been a quick process and has not been entered into without a great deal of thought, research and work. There has been no rush to "give" the school to Echelon. We have met with Echelon, deliberated, discussed, weighed the options, talked to references, held public information sessions, negotiated and have not come to this decision lightly. The Echelon proposal has full financial backing and is in keeping with the Town's Comprehensive Plan. You

can read pieces of it any way you want. A historic restoration and adaptive reuse of the building is in the Comprehensive Plan. It was what Mr. Martingayle spoke of, it is in keeping with that and that is exactly what they are proposing. Prior to Echelon submitting their proposal, I had not heard a single request for a community center in my time on Council. If there truly is a desire for a community center I would appeal to the Old School Cape Charles group to continue their efforts, but for a facility that makes better sense. The high school, in my opinion, is not the right building. There is another school in Town however, just over the Hump, which is in desperate need of saving, and much more historically significant. The proposals offered by Old School Cape Charles, for many reasons, have almost no chance of success in the high school. Unfortunately, the best option to selling and restoring the school, and one that is gaining traction as I speak to people in Town, as you've heard three or four times tonight, is the demolition of the building and incorporating the land into Central Park. Any decision we make as a Council is not going to be popular with all 1,000 of us in this Town. But we were elected to make those decisions on behalf of the entire Town's population. I do not make decisions on emotion and some of the emotional negativity we've heard on this issue is unfortunate. This isn't an emotional decision. It is a business decision and one we have investigated fully in hopes of best serving the majority of our residents' needs."

Mayor Sullivan stated that before moving on, she wanted to clarify when she asked for a motion, it was for a motion for the Echelon sale and purchase contract and she did not fully state that. There was some discussion regarding the Mayor's statement. Town Clerk Libby Hume stated that Vice Mayor Bannon's motion was for discussion on this issue. Mayor Sullivan stated that discussion would continue.

Vice Mayor Bannon stated that he was lucky enough to be elected a number of times and added that he was a Virginian by birth and saw the Town as a gem 24 years ago when he first came here. Don Clarke came to Town shortly afterwards. This past Monday, during the Tall Ships at Cape Charles, Don Clarke had asked him if he believed what had happened to this Town, the Harbor, the beach and Central Park over the last 24 years. Vice Mayor Bannon continued to state that he thought the Town staff had been attacked unjustly and people had been making Council feel that they were raving idiots from the lawyer all the way down. Council had pondered and pondered always hoping that something would happen to the school. Nobody wanted the school. In his last six years on Council, we had the Harbor which was spectacular, we had a beach which we keep replenishing, we had Central Park, we had cleaned the Town up but the school sat there like a broken princess. There was no money. He read through the proposal from Old School Cape Charles and it was all hope. Grants were few and far between. Unless they had a miracle worker in Richmond with some money or a presidential candidate in their pocket, it was not going to happen. Vice Mayor Bannon stated that he, with a clear conscience, helped organize the Central Park, voted on Central Park, voted on the Harbor, and the beach and with a clear conscience had to vote yes to the sale of the school. Vice Mayor Bannon apologized if the people thought he was a bumpkin and added the rest of the Council and our staff was above reproach.

Councilman Sullivan stated that for the past nine months, Council had been listening to presentations about the unsolicited proposal, reviewing staff reports, listening to comments from people both positive and negative, and as mentioned by Vice Mayor Bannon, a great deal of time had been spent pondering what it was that Council was going to have to do with the decision to be made tonight. Councilman Sullivan stated that he could not, with a clear conscience, put a financial burden of this size on the people of this Town. There was no other explanation - he just could not do it. Councilman Sullivan added that he was not against having a community center. He thought it would be great, but not there and not now.

Councilwoman Natali stated that she had listened intensively and respectfully to everyone and had read every email that had been submitted and had considered everything keeping in mind the best interest of the entire town. Councilwoman Natali stated that in good conscience, she

could do nothing but vote to give Echelon a chance to rehab that property and pointed out that in the contract with Echelon, they had one year to complete the renovation. In one year of contract acceptance, if they were dismal failures as some of the citizens purport, the Town would not have lost a lot of time and the group would have time to raise money and take the school back after that and go forward. Councilwoman Natali stated that she believed that Echelon would do as they proposed and they had the financial backing to do it. The Town did not have the money and the implication was that the Town had done nothing to the school for years which was not true but the Town could not do enough to make a significant difference. The Town had done some patchwork and repairs over the years for \$20K, \$30K or \$40K when we could and it kept the building where it was now and prevented it from deteriorating any further and this was the best option that she could see for the Town.

Councilman Evans stated that he had been more vocal than a lot of the other Council members in considering all of the constituents in this Town and he thought that selling the school to Echelon was, by far, the best option and he had not wavered from that. Councilman Evans added that he had listened to everyone and he was the one that George Southern talked to for 45 minutes. He had also talked to Frank Wendell numerous times. Council had considered this over and over and added that he did not think there was anyone in this Town who was more passionate about the historic resources we have in here and the financial asset they were to this Town. The feel and the look, and flavor of this Town was what made him come here and that was why the Town was starting to grow now. When people looked at the results of the new sewage treatment plant which cost \$17M and the Town only had to finance \$5M, that was because of our staff that some of the citizens would like to see cut. When you see the money coming from the Virginia Port Authority, that was because of our staff. When you see the park and what was there, that was because of our staff and the research they do. Before anyone, including Frank Wendell, thinks about going in and cutting jobs, you needed to know what they do and how much they do and the endless hours they worked. The reason this Town was moving forward more so than Onancock was because of our staff and the fact that the Council depended on them to provide information so Council could make decisions. That was why we had the boards and commissions that we did. The reason our payroll was probably more than people thought it should be was because the Town provided a living wage for our employees. The Town provided benefits probably like no other town on this Shore. If anyone talked to any of the employees, they would tell you they loved working for this Town. They would tell you that they absolutely admired and respected their supervisors. For anybody to come in and state that the dollar amount was too high or too low needed to study the facts. Councilman Evans stated that he saw the Echelon situation as a great opportunity to maintain and hold on to a great historic asset. As someone from the public said earlier, it was not the place for a community center. That was why there was a teacher or monitor in every room and hallways. Councilman Evans added that the memories of that school and what happened there were not going to go away because the building was sold. The memories would stay with everyone forever. The school was going to be restored to its original grandeur. Councilman Evans asked everyone to think about all the mud that had been drug out like the discrimination sign that was brought in earlier and asked what that was. Would the citizens go to any length to get their way? It appeared that way. This was the best option for the school. Did the Town need a community center? Absolutely. What other small town with a population of less than 1K had a recreational director? What other small town had an Arts Enter which was a non-profit organization that provided activities for people? What other small town had the New Roots group that was put together by Laurie Klingel, Roberta Newman, Chuck Little, and our recreational director, to provide for our children? For the Town to invest in the old school building for a community center was the wrong thing to do. If there was an urgency for a community center, the Town had two empty grocery stores which could be leased and converted easier than the school building. The Town also had a historic museum which most towns of this size did not have. Why couldn't all these things be joined together? There was no reason why a child could not walk from one location to the other since they were all close enough. The Town could not afford a community center. This place, the Palace Theatre, as

great as it was, was hanging on by the skin of its teeth. It took \$300 per day to run this building and the programs held here. What would it take to run the school building with 22K square feet? To heat it and cool it and have someone in every room to make sure things were not going on that children naturally do? Councilman Evans stated that no one here was against children. We had the New Roots program and a mentor program where people volunteer their time to work with children. Yes, we needed everything but the school building was not the place. Councilman Evans concluded by stating that when the roll call comes, he would vote to sell the school to Echelon.

**Motion made by Councilman Bennett, seconded by Councilman Sullivan, to adopt Ordinance 20120614 to finalize the sale of the school to Echelon Resources, Inc. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes.**

**NEW BUSINESS:**

**A. Fiscal Year 2012/2013 Proposed Budget:**

Heather Arcos stated that the Town's budget consisted of four separate funds – the General Fund, the Harbor Fund, the Sanitation fund and the Water/Wastewater Fund. The General Fund was supported by real estate taxes, other taxes and other revenues. The Harbor, Sanitation and Water/Wastewater Funds were Enterprise Funds and should be self-sustaining through fees for services and other charges. Pursuant to § 15.2-2503 of the Code of Virginia, the Town Council and staff held numerous work sessions since February to prepare the budget for Fiscal Year (FY) 2012/2013 and as a result of the work sessions, Resolution 20120614 included the summary of estimated revenues and expenditures by fund for the proposed budget. The Public Hearing on the proposed FY 2012/2013 budget was held on June 7, 2012 pursuant to § 15.2-2506 of the Code of Virginia and comments were received.

**Motion made by Vice Mayor Bannon, seconded by Councilman Veber, to adopt Resolution 20120614 – Approving the Budget for Fiscal Year 2012/2013 and Making Appropriation for the Fiscal Year.**

**Mayor Sullivan moved for adoption of Resolution 20120614 – Approving the Budget for Fiscal Year 2012/2013 and Making Appropriations for the Fiscal Year, as noticed and forewent reading of the Resolution. Resolution 20120614 was adopted by unanimous vote. Roll Call Vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes.**

**B. Resolution in Support of New Health and Emergency Care Facility:**

Mayor Sullivan stated that she had been working on this issue regarding the hospital for two years. Plan A was to stop Riverside Shore Memorial Hospital from moving. In December 2009, the Town Council adopted Resolution 20091210B Confirming Support of the Town of Cape Charles to Retain Riverside Shore Memorial Hospital in Northampton County but in 2010, Riverside Shore Memorial Hospital announced its intention to relocate the hospital to Accomack County. In March 2011, Northampton County requested the Town's support in opposing Riverside Shore Memorial Hospital's Certificate of Public Need stating that it was detrimental to the public health and safety of the citizens of the Town and County and the Town adopted Resolution 20120322 In Opposition to Riverside Shore Memorial Hospital's Certificate of Public Need #7820. In August 2011, the Commissioner of the Virginia Department of Health approved the relocation of Riverside Shore Memorial Hospital to Accomack County. Plan B was to bring another medical facility to the County and a group was organized consisting of a number of concerned parties to approach hospital groups in an effort to bring a new medical facility to Northampton County and written support from local governing bodies would strengthen the group's position in discussions with various hospital groups to help define the need and location for a new health and emergency care facility in Northampton County to provide for the health and safety of the citizens of the Town of Cape Charles and lower Northampton County.

Mayor Sullivan read Resolution 20120614A Confirming the Support of the Town of Cape Charles for a New Health and Emergency Care Facility in Northampton County, Virginia.

Councilman Veber stated that he had watched for the last two years what had been done by the Mayor and Town staff and seeing the hard work and what had been done and added that he had a strong feeling regarding that in hearing what some people said about the staff sitting there doing nothing. Councilman Veber stated that those people who thought that way needed to go to Town Hall and spend a day with somebody to see what they do all day. Councilman Veber continued to state that he commended the Mayor for starting this group and campaign regarding getting a health care facility but he also commended the paid staff for all their work on this issue as well.

**Motion made by Councilman Bennett, seconded by Councilman Veber, to adopt Resolution 20120614A Confirming the Support of the Town of Cape Charles for a New Health and Emergency Care Facility in Northampton County, Virginia. The motion was approved by unanimous vote. Roll Call Vote: Roll call vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes.**

*C. Virginia Retirement System Resolution – Employer Retirement Contribution Rate:*

Heather Arcos stated that the Town had been a member of the Virginia Retirement System (VRS) since January 1989 and in the past, the Employer Retirement Contribution Rates had been set by the VRS. This year, local governing bodies had a choice to pay the rate certified by the VRS Board of Trustees for the 2012-2014 biennium or an alternate rate which was the current Board-certified rate for 2011-2012. This change was intended to offer localities some budget relief for the coming fiscal year however did not change the Board-certified rate or the annual required contribution. Opting for the alternate rate would result in a higher calculated contribution rate for the future to compensate for the lower rate for the 2012-2014 biennium. During discussions for the FY 2012/2013 Budget, the Town elected to pay the VRS Board-certified rate of 8.79% and a resolution must be adopted and submitted to the VRS by July 1, 2012.

**Motion by Vice Mayor Bannon, seconded by Councilwoman Natali, to adopt Resolution 20120614B Employer Contribution Rates for Counties, Cities, Towns, School Divisions and Other Political Subdivisions.**

**Mayor Sullivan moved for adoption of Resolution 20120614B Employer Contribution Rates for Counties, Cities, Towns, School Divisions and Other Political Subdivisions, as noticed and forewent reading of the Resolution. Resolution 20120614B was adopted by unanimous vote. Roll Call Vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes.**

*D. Virginia Retirement System Resolution – Member Contributions By Salary Reduction:*

Heather Arcos stated that in 2005, the Town opted to contribute both the employer and employee contributions to the VRS as an added fringe benefit as part of the FY 2006 Budget. On April 18, 2012, the Virginia General Assembly approved legislation requiring all employees of a county, city or town to pay a 5% member contribution on a salary reduction basis in accordance with § 414(h) of the Internal Revenue Code. The bill allowed governing bodies to phase in the member contributions in each of the next five years for existing employees but employees hired after July 1, 2012 would be required to pay the full 5%. The Virginia General Assembly also approved language in § 51.1-144.G.2 requiring localities to provide an increase in total creditable compensation, effective July 1, 2012, to each affected employee to offset the cost of the member contributions. During discussions for the FY 2012/2013 Budget, the Town opted for the entire 5% effective July 1, 2012 vs. phasing in the amounts over a five year period. A resolution must be adopted and submitted to the VRS by July 1, 2012.

**Motion by Councilwoman Natali, seconded by Councilman Sullivan, to adopt Resolution 20120614C Member Contributions by Salary Reduction for Counties, Cities, Towns, and Other Political Subdivisions.**

**Mayor Sullivan moved for adoption of Resolution 20120614C Member Contributions by Salary Reduction for Counties, Cities, Towns, and Other Political Subdivisions, as noticed and forewent reading of the Resolution. Resolution 20120614C was adopted by unanimous vote. Roll Call Vote: Bannon, yes; Bennett, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes.**

**E. *Contract Award for Concrete Demolition of the Old Wastewater Treatment Plant:***

Heather Arcos stated that the new wastewater treatment plant (WWTP) had been accepting 100% of the town's flow for over a month. Staff advertised an Invitation for Bids for the demolition and removal of the concrete structures and bulldozing/grading of the polishing pond. One bid was received from Brittingham Bulldozing & Excavating for \$19,100. The Town had budgeted \$288,650 for closure of the old WWTP and so far the Town had expended \$23,424 for engineering, steel demolition and removal, piping and other parts. The contract for concrete demolition and removal was for \$19,100. Additional work would include fencing around the former disinfection and aeration structure now used for settling of the water plant backwash, and grading and seeding. The estimated total for the closure project was approximately \$70K.

Councilman Bennett complimented the staff for saving that much money on this project.

**Motion made by Councilwoman Natali, seconded by Councilman Bennett, to authorize the Town Manager to execute a contract with Brittingham Bulldozing & Excavating for the concrete demolition at the old wastewater treatment plant for \$19,100 subject to approval by the Department of Environmental Quality. The motion was approved by unanimous vote.**

**ANNOUNCEMENTS:**

- June 28, 2012 – Town Council Work Session @ 6PM
- July 4, 2012 – Town Offices closed for the 4<sup>th</sup> of July
- July 4, 2012 – 4<sup>th</sup> of July Celebration
- July 12, 2012 – Town Council Regular Meeting @ 6PM

Councilman Evans stated that it was a great experience to serve this Town on the Council for the last 10 years. He chose not to run this time but the 10 years that he had served was sometimes like a roller coaster ride. At times he was so angry with everyone but everyone talked it over and even though we did not always agree with each other, we buried the hatchet and remained friends. Councilman Evans added that he served on the Planning Commission for 16 years and that was the greatest group of researchers that he had ever seen.

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

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Mayor Sullivan

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Town Clerk

**Town Council Regular Meeting  
May 10, 2012  
Public Comments**

Frank Wendell, 515 Monroe Avenue

To Mayor Sullivan & Town Council:

I am here again tonight in opposition to the unsolicited proposal submitted by Edwin Gaskins of Echelon Resources, Inc., which asks that you the current Town Council "sell" our 100-year-old Historic Cape Charles High School for \$10.00.

I have observed this and recent past Councils' continued violation of the spirit and intent of our Building Municipal Code with regard to our school building. I have also observed this and recent past Councils' continued violation of spirit and intent of our Comprehensive Plan Vision Statement and Section III D.5, Page 44 of the Public Services and Programs Section with regard to our school building.

Now, I observe you the current Council trying to "railroad" through Edwin Gaskins' proposal with a "lame duck" Council in a reckless and potentially unlawful manner which, in my opinion, violates the Town's Code of Ethics Preamble and Section 1 of that as well as the Laws of the Commonwealth of Virginia. I simply am not going to allow this Council to continue to ignore the will of the town's people.

I did not choose this fight, it chose me. So make no mistake when it comes to the 100-year-old Cape Charles High School Building, the former home of the Cape Charles Indian. I, Frank Wendell, have always been ready to fight for Cape Charles. Now, I am fighting for the opportunity for our citizens to have a multi-purpose Community Center, while you, the Cape Charles Town Council seem to be fighting for Edwin Gaskin and Echelon Resources. I do not understand how Edwin Gaskin who is neither a citizen nor a taxpayer in our Town has come to have so much influence over you. This level of influence seems to be so pervasive that the Council has continued to ignore over 350 of our fellow Cape Charles residents and taxpayers who have signed the Old School Cape Charles petition asking only for equal and fair treatment. Treat us the same as Edwin Gaskin and give us equal time to refine our plan and dream of a Community Center.

I would much prefer to work together with the Cape Charles Town Council as we move forward in the development of a Community Center Plan. However, to do that, you must give us equal time to develop this process.

I have submitted to Mayor Sullivan a potential Lease Agreement patterned after the one between the Friends of the Onancock School and the Town of Onancock to serve our Community as a guiding document.

Mayor Sullivan, I love this Town and our wonderfully, diverse community too much to give anything less than my best efforts going forward with the Community Center concept. I sincerely hope that you and the Town Council can learn to feel the same way. Let us work together for a better Cape Charles for all its citizens!

Sincerely,  
Frank Wendell  
Residence: 515 Monroe Avenue  
Contact Frank Wendell via email at  
[Frank.Wendell@verizon.net](mailto:Frank.Wendell@verizon.net)

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Daniel Burke, 516 Madison Avenue

Dear Mayor, Council members and Town Manager:

I am again taking this time to reiterate my opposition to council's intent to convey our old high school to Echelon Resources.

1. The town council has seen fit to restrict the flow of specific information regarding this issue. I suspect the council does not have detailed specifications on this project and is entering into this agreement based on undocumented, general statements.
2. The information made public to this point, that a broker is going to restore and convert the high school into 16 one bedroom apartments sounds like wild speculation from another time. If this was 2005 maybe it would have a chance. I have worked closely with real estate appraisers in the last year. They all say those days are gone, not to return anytime soon. Think about how much has changed in the last 7 years. Even if you assume full rental, and in this market that would be an enormous assumption, financially it can't work. So there must be another angle. What is that angle? Is it cashing in historic credits, huge tax breaks and impact fee waivers? No one seems to know, or if they do, no one is willing to publish it.
3. The committee to save the high school asked the council to table this project for 6 months and give others time to research alternatives. This would have been a fair and moral thing to do. To date that request has been ignored.

While council is within its legal rights to ignore this request and the council is within its rights to meet in secret, it creates an environment of distrust that is more pervasive than you may think. I believe that distrust was made evident in the recent election and will show up again in future elections. Again, we ask that you table the Echelon project for 6 months.

Thank you for your time and attention.

Daniel Burke

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Chuck Little, 8 Randolph Avenue

I first came to the Eastern Shore and Cape Charles with my sisters years ago and we just roamed around lower Northampton County for a day. We thought about buying a lot or two at Arlington Plantation. There were two on the bay that were either \$74K each or \$74 for the pair, I can't remember. Cape Charles was in the throes of its decline and there weren't any signs of a revival. The next time I came to the shore was the mid-80s. My daughter and I camped, paddled and fished at Kiptopeke State Park. I needed some socks so we came into Cape Charles and I was able to buy what I needed at Fresh Pride. Cape Charles was a little worse off than on my previous trip with my sisters.

I was selling homes for Dick Foster in Virginia Beach in the mid-80s and told him that if he ever did the job on the shore he had been dreaming about I wanted to come over and run it for him. I made numerous trips with him before he actually purchased the bay Creek property from Brown & Root and started commuting to what was to become Bay Creek in mid-1999 as the development of the first golf course and infrastructure began. I moved to Cape Charles in July of 2000.

At that time, there was a rundown marina on King's Creek with shallow depth, a town harbor in dire need of maintenance and enhancement, a beach that was mostly eroded away, mostly empty store fronts and dilapidated buildings on Mason Avenue, many dozens of houses in total disrepair

in the town, and a mostly unused park in the middle of town that housed an old school in serious need of repair.

Fortunately for some and unfortunately for others, Bay Creek and the town started to boom from a real estate standpoint. I was still the sales director at Bay Creek in 2002 and we closed \$27,000,000 in sales, mostly to speculators and future retirees who hoped to build their retirement homes in a few years. Houses were being gobbled up in town, cosmetically enhanced and resold for some exorbitant profits. Not many of the homes were being bought by people who planned to live in them. Some of the buildings on Mason Avenue were being rehabilitated.

It looked like Cape Charles was on its way. The old Kings Creek Marina was gone and replaced by a modern facility with shops and restaurants and a few dozen new homes. The town harbor has not only been enhanced but improved to become a real source of pride for the community, the beach has been replenished and off shore breakwaters put in place to protect it, many of the buildings on Mason Avenue have been restored and now house businesses, many houses have been restored and we have a Central Park that is also a source of pride for the town and an old school still in serious need of repair. There's a fishing pier that wasn't there when I came to town.

Because of the collapse of the real estate market, Bay Creek has been struggling at best. Many speculators who had purchased lots in Bay Creek and in town and old houses with the expectation they would be able to turn a profit have lost their investments and properties have gone into foreclosure and real estate prices have plummeted.

But if you drive around town now you will see numerous houses being restored. Not just cosmetically prettied up for resale, but restored to their glory days condition by owners who plan to keep them. We have a tall ship initiative bringing ships and tourists to town. My vacation rental business is booming beyond my wildest dreams and I'm pretty sure the town is going to be full of vacationers all summer long. Bay Creek has turned us into a wedding destination bringing in thousands of guests each year.

The Cape Charles Hotel on Mason is nearly complete and has actually already housed guests. It has been redone beautifully. Incidentally, it has been redone by a group from Richmond who paid \$500,000 for it and have invested over \$2,000,000 in it. The reason they have been willing to do that is because they believe in Cape Charles and what it is going to become.

Bay Creek, even though it has been struggling, will come back. The beach club should be started soon and be open next summer and I'm pretty sure its opening will stimulate sales and construction in Bay Creek bringing back some of the prosperity that escaped us in the collapse.

We have space within the boundaries of Cape Charles, mostly in Bay Creek for thousands more residents and likely will come. It is a matter of time. I think we are on the verge of having a sane, stable resurgence in the town and in Northampton County and we will all benefit from it.

The old school was the heart and soul of the town and served as an unstated community center when it was open. It is of significant importance to the many people in the area who have spent their lives here. I have no personal attachment to it but I can understand what it means to the people who lived here when the school was in use. We only have a few hundred new residents in Cape Charles and it is understandable that they do not have a similar attachment to the school but not everything is about the money.

I believe it is also fair to say that none of you on council truly consider 17 apartments the highest and best use for the old school. Echelon has been very successful restoring numerous other historic buildings but they did so in places that had numerous historic buildings in need of restoration or demolition.

Considering all that this town has accomplished in the 12 years that I have lived here and considering that the Cape Charles Hotel has been accomplished without the town giving away its birthright, it seems that this council should suck it up and do the right thing instead of what seems to be the economically sound thing in the short term. When we have 3,000 or 4,000 residents and 100s of kids, you don't want to look back and say, "Darn, I wish we had listened to them."

Cape Charles will survive, Cape Charles will thrive. 17 one or two bedroom apartments are not going to be the determining factor. Get your thinking outside the box. Get proactive and make it happen. We can do it.

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**Public Comments submitted via email**

**From:** Roger Day [mailto:dayr222@yahoo.com]  
**Sent:** Friday, April 13, 2012 1:11 PM  
**To:** clerk@capecharles.org  
**Subject:** Cape Charles Historic High School Disposition



Town Clerk,

I hereby request that this letter be read at the next town council meeting and added to the town council minutes.

I oppose the give-away to developers of Cape Charles real property, comprising the historic Cape Charles High School and seven lots, worth hundreds of thousands of dollars. I believe that the Town of Cape Charles cash assets in hand and its annual budget are sufficient to maintain and support the above real property as a multiuse town center. Possible uses could include (a) housing the Cape Charles Police Department, (b) importantly, a senior citizens center, and (c) a youth center, which is badly needed in our town. I suggest that unused space upstairs might be rented out as offices or to businesses to help defray maintenance expenses. A town center director would have to be hired, but Cape Charles is a town of volunteers and much of the additional staffing could be filled by volunteers.

The "Old School Cape Charles" (OSCC) citizens group should be given at least six months to provide adequate planning and funding documentation. I also ask the Mayor and Town Council to fully support the OSCC in applying for grant money to help in the OSCC's effort.

I ask the Town Council and Mayor to accommodate themselves to the needs of the Cape Charles citizens and voters, instead of supporting developers of unneeded additional housing. I will closely watch your votes on this issue, whether your decision was made at the April 12 town council meeting or later.

Most Sincerely,

Roger W. Day, PhD  
523 Randolph Avenue  
Cape Charles, VA 23310

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**From:** Julia Jolly [mailto:julesbtp@hotmail.com]  
**Sent:** Wednesday, May 09, 2012 12:17 PM  
**To:** clerk@capecharles.org  
**Subject:** for the May 10 town council meeting

Dear Town Clerk,

Please read this letter into the public record at the May 10 town council meeting.

I'm writing in reference to the upcoming vote to sell the old Cape Charles school for \$10 to an out of town developer to build apartments rather than develop the historic structure for town use in spite of overwhelming public outcry against it.

So many things in that previous sentence baffle me and make me wonder what exactly the Town Council is thinking. Let's look at the following points:

1. We're considering selling a property valued at around \$700,000 in the current (dismal) market for TEN DOLLARS? I was under the impression that we are in a recession. If the Town Council decides that the public does think that this property should be sold, wouldn't it make sense to put the contract out to bid to see if we can top that amount? How about this? I formally offer you \$20 for the property. I've just doubled your income.
2. In a recession, in a historically impoverished county, we're offering one of the largest construction jobs that would be available to a company from Richmond? Are Northampton County unemployment rates not at all time highs? Why are we not employing a local company and providing a necessary boost to the town and county economy?
3. Apartments? You think we need more apartments in town? The entire town is filled with residential properties that no one has been able to sell in this market. The condos and apartments built in the last few years sit mostly empty because we've priced the lower and middle income residents out of our community. If you add all the empty Bay Creek houses, how much of Cape Charles is currently vacant?
4. In the past decade, Cape Charles has consistently made building and zoning decisions aimed at "cleaning up" and gentrifying the area. While I understand the impulse to make our town more desirable to tourists, what's actually happened is that we've whitewashed the area into blandness. There are plenty of places to stay in town, but nothing to do. While tourists might be content to eat at restaurants, do a little shopping, and then sit on the beach, that's not a sustainable lifestyle for the year-round residents. The residents need a community center. They need the only park in town. This need is no more prevalent than among the children and teenagers. By removing every possible venue where teenagers might hang out because of the perception that teens are up to no good, you've actually guaranteed that they will be. Without any moderated activities or any safe places to gather, teens will turn to drugs because they are bored. Then those teens grow up, go to college, and when the time comes to choose where they themselves will raise their children, they don't come back to Cape Charles because they know that there's nothing for their kids to do. So we end up with an aging community, no young people to sustain our tourism trade jobs, and a bunch of empty summer homes. Let's stop that trend by utilizing the beautiful, historic building we already have.
5. The public has already considered this proposal and overwhelmingly stated that they are against it. You are public officials charged with serving the will of your constituents. Anything other than that is an abuse of power and grounds for removal from office.

I urge the council to vote as their constituents demand and not make a mistake that will lead our great town down a path towards being a dusty row of vacant homes.

Best,  
Julia Jolly  
5 Randolph Ave.

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**From:** Cindy Grissom [mailto:mcgrissom@baycrk.net]  
**Sent:** Wednesday, May 09, 2012 1:46 PM  
**To:** clerk@capecharles.org  
**Subject:** Proposed Community Center - Opposition

Ms. Hume,

Please read our comments into the Minutes. We wish to state our opposition to the proposed Community Center for the following reasons:

1. A thin majority are in favor of the Community Center, however, a limited number are actually willing to increase their taxes to fund the multimillion improvements required.
2. The town's debt burden is already high in light of the waste water treatment facility. Further, most citizens have not experienced the financial impact, as we await the looming rate increases needed to fund the project debt service.
3. The Community Center will likely incur annual operating losses over and above the debt service for its improvements, which requires even more taxes from the citizens.
4. Whereas, the proposed apartment construction by Echelon actually increases the real estate tax base, rather than adversely impacting the City's annual operating budget.

*Cindy and Monte Grissom*  
(757)685-1467  
[mcgrissom@baycrk.net](mailto:mcgrissom@baycrk.net)

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**From:** Scott D. Banks, DC [mailto:sbanksdc@dceducation.com]  
**Sent:** Wednesday, May 09, 2012 4:05 PM  
**To:** clerk@capecharles.org  
**Subject:** Opinion for town council meeting

I would like to express my support for proceeding with the sale to and rehabilitation project for the old school by E. Echelon Company. The idea of a community center is appealing but not financially wise at this time. We would be much better served having a significant asset on the town tax rolls at this point versus a liability that would in all reality occur with a community center.

Sincerely

Scott D. Banks  
1 Moon Ct  
Cape Charles

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**From:** Peter Lawrence [mailto:casscon@baycrk.net]  
**Sent:** Wednesday, May 09, 2012 4:36 PM  
**To:** clerk@capecharles.org  
**Subject:** against the Community Center

To the Council,

This is a bad idea at this particular time. First, as I understand it, there is no formal group and no formal proposal from the folks who want to save the school. If there's not a guarantee from one or more of their supporters to back the renovation and operating costs, I've heard the burden could fall on the taxpayers to the amount of between \$2-4 million.

I'm not prepared to have my property taxes raised to support that project when there are other dramatically more pressing needs like construction and operation of a free standing emergency department in this area. With the hospital moving, this should be an issue that the Council and citizens really focus on.

If the Echelon proposal is accepted, the Town will be relieved of a potential liability of approximately \$500,000 to remove the asbestos and lead in the building and demolish it. It also means we go from a non performing Town asset to one that over time will generate needed new property tax revenue and hopefully attract additional residents to Town to help support our current businesses.

Over time, the group that supports the community center can get formally organized and raise funds to build and operate a community center somewhere else. It can be built in the image of the current school if they wish.

Nothing wrong in principal with the community center but when our economic future is this uncertain, the significant downside risk is not warranted. Thank you for the opportunity to express my thoughts on this issue. They may be read into the record if desired.

Peter C. Lawrence  
7 American Ct.  
Cape Charles, VA 23310

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**From:** Sue Pruitt [mailto:essuzyq@verizon.net]  
**Sent:** Wednesday, May 09, 2012 7:27 PM  
**To:** clerk@capecharles.org  
**Subject:** C. C. School

I am writing in regard to the selling of Cape Charles School. It is the most unheard of giving the Cape Charles School to Echelon for \$10.00. I am strongly opposed to this matter. The whole council and others have lost their feeble minds. You are too lazy to try to come up with funding for the school. If it was Mr. Foster or the railroad, I am sure you would find a way to save it. I am totally against Echelon. Here you have a nice Central Park and going to ruin it by putting apartments. I am truly upset by this whole matter. S. Pruitt

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-----Original Message-----

**From:** Bill Neville [mailto:bneville41@comcast.net]  
**Sent:** Wednesday, May 09, 2012 7:59 PM  
**To:** clerk@capecharles.org  
**Cc:** Junius; Frank Wendell  
**Subject:** Cape Charles School

Although I no longer live in Cape Charles, I grew up there and still have a strong attachment to the town. I am a member of the Cape Charles Historical society and do everything I can to support the town. Over my 70 years I have see the town when it thrived with railroad activities, I also watched with sadness as it declined with the moving of the ferries and the railroads decline. As I grow older my memories of the lifestyle I and my family and friend experienced convinces me that while you

can't return to the past, you can strive to return to that way of life in many ways. I believe that the return to that slower, more friendly lifestyle appeals greatly to many people. What I have seen over the past few years convinces me that Cape Charles is moving in that direction and people local and otherwise see that and are strongly attracted to it. They like a small town with a close sense of community. I see many people who have moved to Cape Charles and strongly support our town with their commitment of time and effort. I think of what a great community asset we have in people such as Butch and Nancy Vest and many others and what their impact has been. That support I believe is because of what they see in our town and its potential. I believe the town has begun over the past few years to recognize and start to capitalize on much of our potential with the harbor project and our small town appeal. Sometimes the choices that are before us in promoting our town are not always as obvious as they appear. I think that a very essential part of our appeal is related to connections with the past and a sense of continuity. With all of this said I would like to urge the council to take a longer prospective on what is at stake with the school issue and give the Old Cape Charles School Group a chance to develop and present their proposal. I have witnessed what an inspired and dedicated group is capable of and don't think this group should be denied their chance to show what they are capable of.

I respectfully request that this be read into the public record at the May 10 council meeting.  
Sincerely,  
Bill Neville

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-----Original Message-----

From: pagebrad@aol.com [mailto:pagebrad@aol.com]  
Sent: Wednesday, May 09, 2012 9:00 PM  
To: clerk@capecharles.org  
Subject: School

Clerk of Cape Charles - I am not in favor of the school being sold. Please post my vote in the Town Records and also post that I think more time should be allotted to raise money for its renovation and made a source for community activities. Thank you so much.

C. Page Bradford, Jr.  
804-539-2686. Cell

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**From:** B Dalinsky [mailto:bdalinsky@yahoo.com]  
**Sent:** Thursday, May 10, 2012 12:34 AM  
**To:** clerk@capecharles.org  
**Subject:** Comments Re: "Item 6. E. Echelon Sale and Purchase Contract"

I am a citizen of Cape Charles interested in the decision-making process concerning the disposition of the public property known as Cape Charles High School. Apparently, there are two proposals for the future development of this property: the first is to provide the property to a private sector contractor who would develop it into private living quarters for public rental; and the second is to convert the property at public expense into a community center.

Before any decision is rendered, the parties involved should prepare and provide Economic Impact Statements through the Board for public review. The citizenry needs to know for each proposal how development will proceed, how it will be funded, and the short and long term effects for the tax payers. Cape Charles needs projects that will generate revenue for our economy and increase our tax base. My initial reaction to these proposals is that private development of the property at private expense will aid our economy more than the development of the property at public expense.

However, the information provided in Economic Impact Statements should validate the final decision in this matter.

Arnold B. Dalinsky  
4 Crystal Lake Court  
Cape Charles

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**From:** Heather Banks [mailto:hbanks@baycrk.net]  
**Sent:** Thursday, May 10, 2012 9:44 AM  
**To:** clerk@capecharles.org  
**Subject:** E. Echelon Sale and Purchase Contract

To: Libby Hume, Town Clerk Cape Charles, VA  
From: Heather Banks, 1 Moon Court, Cape Charles, VA

Please read the following into the minutes of the Town Council meeting May 10, 2012:

There are some who have a sentimental attachment to the old Cape Charles School building and want to have it saved by the town to be used as a community center. However, unless they have a way to pay for the building to be rehabilitated not using taxpayers' money and also a way to provide a tax basis for the town, it is not in the town's best interest at this time.

I am in favor of having the Echelon company purchase the building and rehabilitate it into something that will provide a tax basis for the town.

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**From:** George Savage [mailto:vgsavage@verizon.net]  
**Sent:** Thursday, May 10, 2012 9:54 AM  
**To:** clerk@capecharles.org  
**Subject:** school

Thru its history and without any question, Cape Charles School and School grounds have had the greatest impact on everyone raised and educated in Cape Charles. We feel every avenue should be explored before destroying and every effort should be made to preserve.

Thank you, Virginia and George Savage, Jr.

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**From:** Wayne Creed [mailto:waynepcreed@yahoo.com]  
**Sent:** Thursday, May 10, 2012 11:12 AM  
**To:** clerk@capecharles.org  
**Subject:** Letter to Mayor and Council

Hi Libby, I can't make the meeting due to previous engagements, yet wanted to send this letter instead.

Thank You,  
Wayne Creed

Thursday, May 10, 2012

Honorable Mayor and Town Council:

I am writing this note in hopes that Council will avoid voting on the sale of Cape Charles High School tonight, May 10<sup>th</sup>. The Mayor and Council should be aware that to do so would be in clear violation of Virginia Code 15.2-1800, in that there has never been a public hearing on the topic of the sale of the old school to Echelon of Richmond, Virginia. The hearing on February 9<sup>th</sup> only dealt with whether or not negotiations with the developer should continue, and never touched on the terms of the sale. To move forward without this public hearing is in violation of Virginia code.

Missing in action is also the terms of the potential contract for members of the public. Virginia code 2.2-3707 requires that at least one copy of all agenda packets must be furnished to the public body for inspection. As of yet, we are unaware of any such materials.

More egregiously, the Town violated the Freedom of Information Act by withholding the contract from the public. It is apparent from this Virginia Supreme Court Ruling that the Town was in violation (improperly invokes contract negotiations clause) when they closed the sessions, see: <http://dls.state.va.us/pubs/briefs/Brief44.pdf>

In regards to the zoning changes needed to move forward with the Echelon deal, the Town failed to provide Improver Notice for Zoning Changes. Virginia code 15.2-2204 requires that if a proposed amendment (in this case the Conditional Use Permit and Zoning Map Amendment) affects 25 or fewer parcels, the planning commission must deliver notice to all property owners adjacent to the school. I am not aware that any of this ever happened.

In an effort to fast track this sale to Echelon, the Town has violated the spirit of the law. By not receiving other bids, the town did not pursue the best possible deal for the taxpayers of the town. Virginia code 2.2-4300 means to insure that procurement should be fair, and above all should avoid the appearance of impropriety. Recent Freedom of Information Requests have revealed a Mayor, Council and Staff that are far too cozy with just one developer, and back room, behind the scenes actions meant to fast track this sale have indeed created an appearance of impropriety.

Given these items, I would respectfully request that Town Council remove the sale of the school to Echelon on May 10, 2012. It is time to crack the shell and open this deal up to the light of day. This is a very important matter, and should not be taken lightly, or rushed into blindly like a fool in love. For the sake of the town, our history, and our future, let us not clutch onto the first unsolicited bid, and instead, really break this project into its component parts, and review the real numbers involved in each specific alternative. This is a project for a new, fresh council, and should not be decided by what for all intents and purposes is a lame duck session. It was the belief of the Mayor, Council and Staff that they could push this deal through in the darkness and cold of winter, and the slumbering dogs of Cape Charles would never notice. Last week's elections confirmed instead that we are awake and our eyes are wide open.

Thank you for your time and consideration,

Wayne Creed  
548 Monroe Ave.

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**From:** John W. Burdiss [mailto:johnburdiss@baycrk.net]

**Sent:** Thursday, May 10, 2012 5:26 PM

**To:** 'Town Clerk'; clerk2@capecharles.org

**Cc:** 'Heather Arcos'; 'Dora Sullivan'; 'Steve Bennett'; 'Mike Sullivan'; 'Larry Veber'; 'L. G. "Chris" Bannon'; 'Joan Natali'; stay@capecharleshouse.com

**Subject:** Comments to be read into the record at tonight's Town Council Meeting (05/10/2012)

**Importance:** High

Libby,

Cela and I are leaving shortly for MD for business near DC and also Annapolis tomorrow and we cannot attend the meeting tonight.

Thanks,  
John

**Would you please read the following into the record for me?**

Here's why selling the School makes sense

First, who could be opposed to having a "Community Center" - no one? However, all of the arguments for that center and against the possible sale are based on emotion, false assumptions and a lack of logical and responsible financial grounding.

1. So the 7 lots are worth \$100k each; according to whom? And, this is the key, to sell the "lots" you have to first tear the school down.
2. As to operating in the shadows and secrecy. Municipal Governments all make perfectly legal and logical use of closed session meetings. If I want to deal with anyone as a private citizen with another private citizen, our dealings are "private". The Town Council, elected to serve as fiduciaries for all citizens and of the Town's "assets" may choose to consider bids like Echelon's in closed session so as not to allow 3<sup>rd</sup> parties to take advantage of Echelon's bid; just like dealings between 2 private parties occur.
3. If the Council determines that it is in the best interest of the Town (which is their proverbial gold standard), then the Council can and should approve the sale.
4. Echelon may be able to leverage its investment by obtaining tax credits, however, this is quite common practice and to obtain the credits, Echelon must first complete the project.
5. Those who say we don't need more housing are ignoring Echelon's and everyone's right to build anything that is acceptable and take the economic risks.
6. Others have less politely said they fear the project will turn into low income housing, but you don't see that said out loud as it undermines the mantle purity and equality that the save the school crowd claims.
7. There is no substance and there are no facts to support any ideas that grant or other free funds are available to rehab the structure.
8. It is absurd to think that once rehabbed - even if it cost the Town \$0 that the facility could be self-sustaining based on user fees or County help.
9. As to tax increases. We now pay \$.1828 per hundred dollars of assessed value. Based on current assessments, each \$.01 of R/E taxes raises about \$58k.
10. IF - big IF - the Town could rehab the building for use as a community center for \$2 million; that would cost the Town about \$133k/year to amortize that over 20 years at 3%. Put in higher amounts to rehab or higher interest rates and that amount is larger. That payment equates to about 2.3 cents in new taxes or an increase of 12.5%.

11. NOW let's talk about use and costs. First, this is a school building, not built to be a "community center." The gym is not regulation size and to make it a functional, acoustically useful meeting room would eliminate most "sports" functions - like basketball.
12. IGNORING that the building would be difficult to adapt, what will it cost to run it?
13. Well, in addition to utilities, insurance and maintenance, a reasonable plan would be to build cash reserves to replace/rehab this building in the future, so let's just say those things might total \$60k/year; that's another \$.01 increase or 5.5% more.
14. To be useful and worthy of spending millions to rehab, the facility would need to be open many hours each day, every day of the week. So, let's say it is open 8 to 8 Monday through Saturday and 1 to 8 on Sundays. That's about 80 hours per week when someone must keep up with the sprawling 22,000 SF.
15. I would estimate that the costs of the staff necessary to run all the programs desired, provide onsite supervision, and to schedule and promote the programming would be \$175k to \$200k/year, or another \$.03 to \$.035/cents in taxes, or an increase of 16% to 19%.
16. So, to cover all these costs - debt service, upkeep & operation the total would be nearly \$400k/year; that would require a tax increase of about \$.069, which divided by the current \$.1828 rate is nearly a 38% increase.
17. Moreover, no costs have been added in the above totals for addition public safety issues - Police - or administrative work by Town staff not directly involved in the community center. That could certainly add another \$58k/year or more, or another \$.01, which would be another 5.5% increase, bringing the total to approximately a 43% tax increase.
18. Lastly, it is a forgone conclusion that much of the use of the center would come from residents who don't live in Cape Charles. So if the County wants to help out, let the County build a community center for all County taxpayers to support, not just those of us in Cape Charles who, by the way, pay County taxes just like everyone who lives outside of our Town's limits.

John W. Burdiss, Esq.  
117 Mason Ave., Suite E  
Cape Charles, VA 23310

Phone: 800-820-4594 or 757-331-4331  
Fax: 757-331-1930  
Email: [johnburdiss@baycrk.net](mailto:johnburdiss@baycrk.net)  
Website: [www.johnburdiss.com](http://www.johnburdiss.com)

Licensed in Virginia (Bar # 70851) & West Virginia (Bar # 10352)



**DRAFT  
TOWN COUNCIL**

**Special Meeting**

Town Hall  
June 28, 2012  
5:00 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 Evans, Sullivan and Veber and Councilwoman Natali. Councilman Bennett was not in attendance. Also present was Councilman-Elect Wendell, Town Manager Heather Arcos and Town Clerk Libby Hume. There were six (6) members of the public in attendance.

Mayor Sullivan announced the business for the evening would be to discuss and adopt a resolution for referral of i) zoning map amendment for lots 281 through 286 and a portion of what was originally North Park Row from Open Space to R-1; and ii) conditional use permit for adaptive reuse of 17 apartments.

Heather Arcos stated that the Town Council, by Ordinance 20120614, approved the sale of the Old Cape Charles High School building and surrounding grounds to Echelon Resources, Inc. who intended to complete a historic rehabilitation of the building in accordance with the Secretary of Interior guidelines and under regulations of the Virginia Department of Historic Resources as an adaptive reuse for 17 efficiency and one-bedroom apartments. Such an adaptive reuse would require a conditional use permit (CUP) in the R-1 zone. The location was currently zoned Open Space (OS) which did not have the proposed adaptive reuse as a permitted or conditional use. A rezoning to R-1 and issuance of a CUP would be required. In addition to single family residential, the R-1 zone permitted schools and Municipal community centers, churches, parks and playgrounds by right, and allowed neighborhood community centers and adaptive reuse with a CUP. Rezoning of lots 281, 282, 283, 284, 285, 286 and a portion of the area that was originally North Park Row was required. In accordance with Virginia Code Section 15.2-2286.A.7, whenever public necessity, convenience, general welfare or good zoning practice required, the town Council could amend, supplement or change the regulation, district boundaries or classifications of property. Staff recommended referral of the matter of rezoning to R-1 to the Planning Commission for a recommendation following public hearing. Staff further recommended that, once filed, Council refer to the Planning Commission an application for a CUP for the rehabilitation of the old Cape Charles School to apartment units as an adaptive reuse. A necessary condition of the CUP would be for Council to grant the rezoning to R-1. The Planning Commission's next meeting was scheduled for July 10<sup>th</sup>. The date was changed due to the July 4<sup>th</sup> holiday.

**Motion made by Vice Mayor Bannon, seconded by Councilman Evans, to adopt Resolution 20120628 to refer the proposed amendment of the zoning map and related conditional use permit as to the property generally located at the corner of Madison Avenue and Plum Street to the Planning Commission.**

Mayor Sullivan read Resolution 20120628 and asked for a roll call vote.

**Roll call vote: Bannon, yes; Evans, yes; Natali, yes; Sullivan, yes; Veber, yes. The motion was unanimously approved.**

**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



# **DRAFT TOWN COUNCIL**

## **Work Session**

Town Hall

June 28, 2012

Immediately Following Special Meeting

At 5:25 p.m., Vice Mayor Chris Bannon, having established a quorum, called to order the Work Session of Town Council. In addition to Vice Mayor Bannon, present were Councilmen Evans, Sullivan and Veber and Councilwoman Natali. Mayor Sullivan and Councilman Bennett were not in attendance. Also present were Councilman-Elect Wendell, Town Manager Heather Arcos, Town Clerk Libby Hume and Ms. Cela Burge and Mr. Steve Smith representing South Port Investors. There were five (5) members of the public in attendance.

Vice Mayor Bannon announced the business for the evening would be to hear an update from South Port Investors.

Heather Arcos welcomed Cela Burge and Steve Smith.

Cela Burge informed Council that she was here to provide an update about what was going on at South Port adding that she represented South Port Investors from time to time along with other attorneys. Cela Burge continued to state that she would give highlights of some construction issues; information regarding investments even though the names of the specific entities could not be shared at this time; and review a couple of constraint issues. This would be more of a status conference vs. a formal presentation.

Cela Burge continued as follows:

- There were four (4) tenants with letters of intent. A couple of them were currently working with the Virginia Economic Development Partnership.
- Two individuals were putting together an Operating Company regarding the travel lift, repairs, etc.
- South Port Investors was maintaining ownership and involvement as required by the Town.
- Site plans for lots 12, 19 and 20 had been submitted and reviewed by Town staff and third parties. Comments were received from the Town staff last week and earlier this week. The issues were not significant and were being worked on by Don McClennan who hoped to turn it around right away.
- Sullivan's Floating System was manufacturing the dock way which was expected to be here in a couple of months. This was the same company used by the Town for the floating docks.
- The investor tenants would help with the cost of getting the bulkhead installed.
- The utility work on lots 12 and 19 was being finalized.
- There was one possible change. An operator investor suggested that the repair shop be moved to lot 17 with the same design. If this happened, South Port would bring the plans back through the proper channels.
- South Port may request a temporary wave attenuator until the offshore breakwaters could be installed. Lifting boats out of the water could be a very delicate situation and South Port wanted to be careful regarding damages to boats being lifted out of the water.

Vice Mayor Bannon stated that the Town just received notification of a grant award from the Virginia Port Authority (VPA) towards the installation of the next section of breakwater and

asked whether South Port had discussed a possible contribution towards the expense. Cela Burge stated that she had not heard any discussion regarding this issue.

Heather Arcos stated that she was planning to schedule a meeting with the Harbor stakeholders to notify them of the VPA grant award and to discuss possible contributions, etc.

Cela Burge continued as follows:

- The construction would go as follows:
  - Site plan and permit issuance.
  - Investors
  - Walkway and floating dock installation
- The biggest part was the infrastructure and the cost of utilities was expensive and could be prohibitive in some cases.
  - This would be one of the first new lines to the new wastewater treatment plant (WWTP).
  - South Port would prefer one trunk line into the former STIP Park with service lines run to individual businesses vs. a spaghetti network of individual lines to each business from the WWTP.
  - The line would require a pump station and South Port would like the Town Council to consider the following:
    - The STIP Park represents the only industrial park in the county and has access to water and the railroad.
    - South Port would like everyone to work together to get the lowest possible cost and asked for the support of the Town.
    - South Port was not asking for Town funding, only its support.
    - South Port was looking for available State and Federal resources.
  - Infrastructure to all of the area was important as a long term solution for future growth.
    - Gallagher property.
    - Bayshore Concrete.
    - Bay Creek Resort.
    - Etc.
  - South Port was looking at the area over the long term.

Vice Mayor Bannon asked when South Port could start construction. Cela Burge stated that the site plan needed to be approved first.

Vice Mayor Bannon asked whether all the permits had been received. Cela Burge stated that the revised permit required by the Army Corps of Engineers was submitted last week.

Heather Arcos asked about the subdivision plan. Cela Burge stated that South Port was working on the subdivision plan.

Frank Wendell asked when the site plan would be approved. Cela Burge stated that South Port had received the Town's comments and Don McClennan was working on the responses. Frank Wendell asked Heather Arcos when she thought the site plan would be approved. Heather Arcos stated that the responses needed to be received from South Port. Upon receipt of the responses, staff would review them again. Staff had met several times with Don McClennan. Cela Burge added that Don McClennan indicated that he was working on everything and would submit it to the Town as soon as possible.

Councilman Veber asked if any other businesses were expected to go into the building purchased by Waco Chemicals. Cela Burge stated that she was unaware of any other businesses going into

the building at this time. Councilman Evans stated that he recalled that Waco intended to move a major part of their company here at some point.

Cela Burge stated that there had been some rocky and dry periods of communication between South Port and the Town and that was not South Port's desire. That was why she was asked to come here this evening to give an update of their progress. Cela Burge added that she was willing to come to Council at any time if they had any questions. South Port wanted to work together with the Town for a better solution for everyone to make the project more cost effective and more efficient. They wanted the best overall solution. Otherwise, it would not be financially feasible.

Vice Mayor Bannon welcomed Northampton County Supervisor Oliver Bennett who arrived at 5:45 p.m.

Councilwoman Natali mentioned the Technology Zone, Enterprise Zone and the HUB Zone if the County could get the designation back. Cela Burge stated that she read the ordinance regarding the Technology Zone and was looking at the available incentives. South Port's intention was to pursue the Technology Zone incentives.

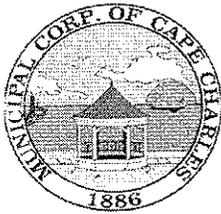
Heather Arcos stated that the County was working on the HUB Zone but the loss of designation was a result of the 2010 Census data. She had not received an update recently and would check with the County Administrator.

Vice Mayor Bannon and Heather Arcos thanked Cela Burge and Steve Smith for coming this evening.

**Motion made by Councilman Sullivan, seconded by Councilman Veber, and unanimously approved to adjourn the Town Council Work Session.**

\_\_\_\_\_  
Vice Mayor Bannon

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



# **DRAFT TOWN COUNCIL**

## **Work Session**

Town Hall

July 3, 2012

5:00 PM

At 5:00 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 and Wendell and Councilwoman Natali. There was one vacancy on the Council. Also present were Town Manager Heather Arcos and Town Clerk Libby Hume. There were four (4) members of the public in attendance.

Mayor Sullivan announced the business for the evening would be A. to discuss possible candidates to fill the Town Council vacancy; and B. to hear a presentation by Mr. Jon Dempster regarding a marketing opportunity.

### *Discussion of Candidates to Fill the Town Council Vacancy*

Town Manager Heather Arcos stated that 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 election could be held. This issue would be on the July 12, 2012 Town Council Regular Meeting agenda as an action item to make the interim appointment to fill the vacancy on the Town Council. The Code of Virginia § 24.2-226 required the governing body to petition the circuit court requesting the scheduling of a special meeting within 15 days of the date the vacancy occurred and in our case, the vacancy occurred on July 1, 2012. A draft petition was referred to legal counsel for their review and needed to be sent to Northampton County Circuit Court Clerk Traci Johnson on July 13, 2012. The Council needed to discuss potential candidates for this interim seat and be prepared to make an appointment at the July 12, 2012 Town Council Regular Meeting. No action would be taken this evening.

Mayor Sullivan stated that she did not have a vote but her opinion was, for consistency sake, was to choose one of the other two candidates that ran for office in the last election.

There was some discussion regarding the filling of previous vacancies in the Council as well as the choosing of Vice Mayors in the past.

Councilwoman Natali stated that there was a history of nominating the next highest vote winner or the following highest vote winner to fill past vacancies.

Vice Mayor Bannon stated that he felt that the next highest vote winner should be appointed because it was the will of the citizens.

Councilman Wendell stated that the last election was a contested election with a hot issue and served as an unofficial referendum of the citizens and added that he felt it was obvious by the votes and the election results that the citizens wanted change and voted out the incumbent candidates. Councilman Wendell went on to state that he had talked to Reverend Jim Davis who was interested in service on the Town Council and planned to nominate Reverend Davis as a candidate for this vacancy. It was the will of the people to have a fresh Council.

Mayor Sullivan asked Councilman Godwin for his opinion. Councilman Godwin stated that coming into the meeting, he felt that the people had decided and Larry Veber was the next highest vote winner. Councilman Godwin added that prior to the election, he had spoken with Reverend Jim Davis who told him that he did not want to run for the Town Council again, but Councilman

Wendell just stated something different. Councilman Godwin stated that he felt that the whole past Council was good and it was the fairest thing to go with Larry Veber to fill the vacancy.

Mayor Sullivan agreed that the past Council was a good, working Council. Everybody talked to each other and agreed to disagree on occasion. Mayor Sullivan stated that she spoke with many of the Council members on a daily basis and for the Council to work as a whole, they all needed to talk to each other and respect each other even if they did not always agree with each other.

Councilman Godwin stated that he had a great respect and friendship with Reverend Jim Davis but felt that the right thing to do was to appoint Larry Veber to fill the vacancy.

Councilman Wendell stated that Larry Veber did not win because there were other candidates to choose from.

Councilman Sullivan reminded the other Council members that this appointment was only for a "caretaker" of the seat until a special election could be held. The public would make the final decision during the special election.

Councilman Wendell asked about dates for the special election. Town Clerk Libby Hume stated that she had spoken with the Northampton County Registrar who told her that the date of the special election was determined by the circuit court judge and would coincide with an upcoming election. Possible dates were November 2012, November 2013 or May 2014. If the special election were set for November 2012, the deadline for candidates to declare would be mid-August. It was unsure whether there was enough time for the preliminary work to be done to get everything organized by that date. A petition would be filed with the circuit court clerk on July 13, 2012 and the Town could include their preference of dates but the decision would still be up to the judge.

Mayor Sullivan asked Councilman Sullivan for his opinion. Councilman Sullivan stated that he would choose Larry Veber.

Mayor Sullivan asked Councilwoman Natali for her opinion. Councilwoman Natali stated that she would prefer either Larry Veber or Steve Bennett to be appointed but added that she leaned toward Steve Bennett because of his technical way of thinking and his attention to detail especially regarding financial matters. Larry Veber saw more of the big picture which was an asset, but she liked the detail level of Steve Bennett and added that she was looking at the best interest of the Town.

Mayor Sullivan asked Vice Mayor Bannon for his opinion. Vice Mayor Bannon stated that he would choose Larry Veber.

Councilman Wendell stated that he was also looking at the best interest of the Town so that was why he would vote for Reverend Jim Davis who also had prior Council experience.

Councilwoman Natali stated that Reverend Davis could have run for Council in the last election but did not and she felt that the choice should be between the candidates that ran for election, which both Larry Veber and Steve Bennett did.

Mayor Sullivan stated that the Town Council Regular Meeting would be held on July 12<sup>th</sup> and asked the Council members to be prepared to appoint someone to fill the vacancy and added that Council did not always have to agree with everything that was done, but they needed to discuss things and respect each other.

*Marketing Opportunity Presentation by Jon Dempster*

Heather Arcos stated that it was approaching 5:25 p.m. and Mr. Dempster had not arrived as yet and had not provided her with requested information prior to this meeting.

Mayor Sullivan stated that if Mr. Dempster were to provide the requested information, Heather Arcos could forward it to the Council.

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

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

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

DRAFT



**DRAFT  
TOWN COUNCIL**

**Executive Session**

**Town Hall**

**July 3, 2012**

**Immediately Following Work Session**

At 5:25 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 and Wendell and Councilwoman Natali. Mayor Sullivan was not in attendance and there was one vacancy on the Council. Also in attendance were Town Manager Heather Arcos and Assistant Town Manager Bob Panek.

**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 Councilman Godwin, 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.

**Motion made by Councilman Sullivan, seconded by Councilman Godwin, to authorize the Town Manager to move forward as discussed in closed session. The motion was approved by unanimous consent.**

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

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Vice Mayor Bannon

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Town Clerk

**Town Manager Report**  
**Highlights**  
**June 15, 2012 – July 5, 2012**

**2011 Drinking Water Consumer Confidence Report:**

- The 2011 Drinking Water Consumer Confidence Report was delivered to all residences and businesses in Town the end of June.
- The report has also been posted on our website on the Public Utilities page.

**Echelon Sale and Purchase Contract:**

- An ordinance was adopted to sell the school per the contract conditions.
- On June 28<sup>th</sup> – Council by resolution referred the zoning map amendments and conditional use permit to the Planning Commission.
- The Planning Commission will take up at their July 10<sup>th</sup> meeting.

**South Port Investors:**

- An update was given to Council on June 28<sup>th</sup> with regard to the status of tenants, site plan reviews, construction, infrastructure and cost of utilities. The update was very informative with construction anticipated to begin very soon. Council will continue to be briefed on the status of the projects moving forward.

**Community Trail Project:**

- The professional services contract will be awarded to Land Studio in August 2012; approval has been made by VDOT in order to move forward with the Design and Planning for the Phase 2 Peach Street connection from the park. This project is a FY13 Capital Project.

**FY12-FY 13 Summary of Budget:**

- A summary of the approved budget including new employees and information will be sent to all gazette subscribers and posted on the Town Web page. Please be on the look out over the next month.

**Eastern Shore of Virginia Festivals / Tall Ships Cape Charles:**

- The Tall Ships weekend was outstanding!
- It was estimated that over 7,000 visitors came to Town for this event.
- ESVA Inc. did a great job organizing everything for the weekend.
- A huge thank you to the Town staff, the County, other towns, VDOT and the other organizations for all the hard work put into making the weekend such a great event for everyone!

**VDOT:**

- Golf Cart Crossing on Route 642: A golf cart crossing sign was installed on Route 642 and Staff is working with VDOT for placement of two additional crossings; the entrance of Bay Creek and in front of the Rosenwald School to connect to the town golf cart path.
- 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 for this fall.

## **Recreation Department July 2012 Council Report**

1. The 2012 Summer Programs have started out with a huge turn out from children in town as well as folks on vacation. Anne, Sharon and Jen have been working together with camps, arts and crafts, movies and several other fun activities.
2. The first mini camp on June 20 had around 30 children. The children went on a nature walk through town and collected bugs, shells and even a few firecrackers. There was a stop off to visit the Mayor where she gave a small talk about sea glass.
3. The New Roots Youth Garden summer camp has been doing well. The kids have been planting, weeding and harvesting vegetables. They have tried some really great healthy foods that they may not have been as likely to try in other environments. Thank you to Kathy Bonadeo and Tammy Holloway for being wonderful leaders in this program.
4. Tall Ships was a huge success. Jen saw many familiar and many more unfamiliar faces pass through on that weekend.
5. Thanks to Ms. Sharon everyone can view all the fun activities on our website and in the library. There is one new addition – Jennie Lewis will be joining us to do a demonstration on bugs in Central Park on July 25 at 9:00 a.m.

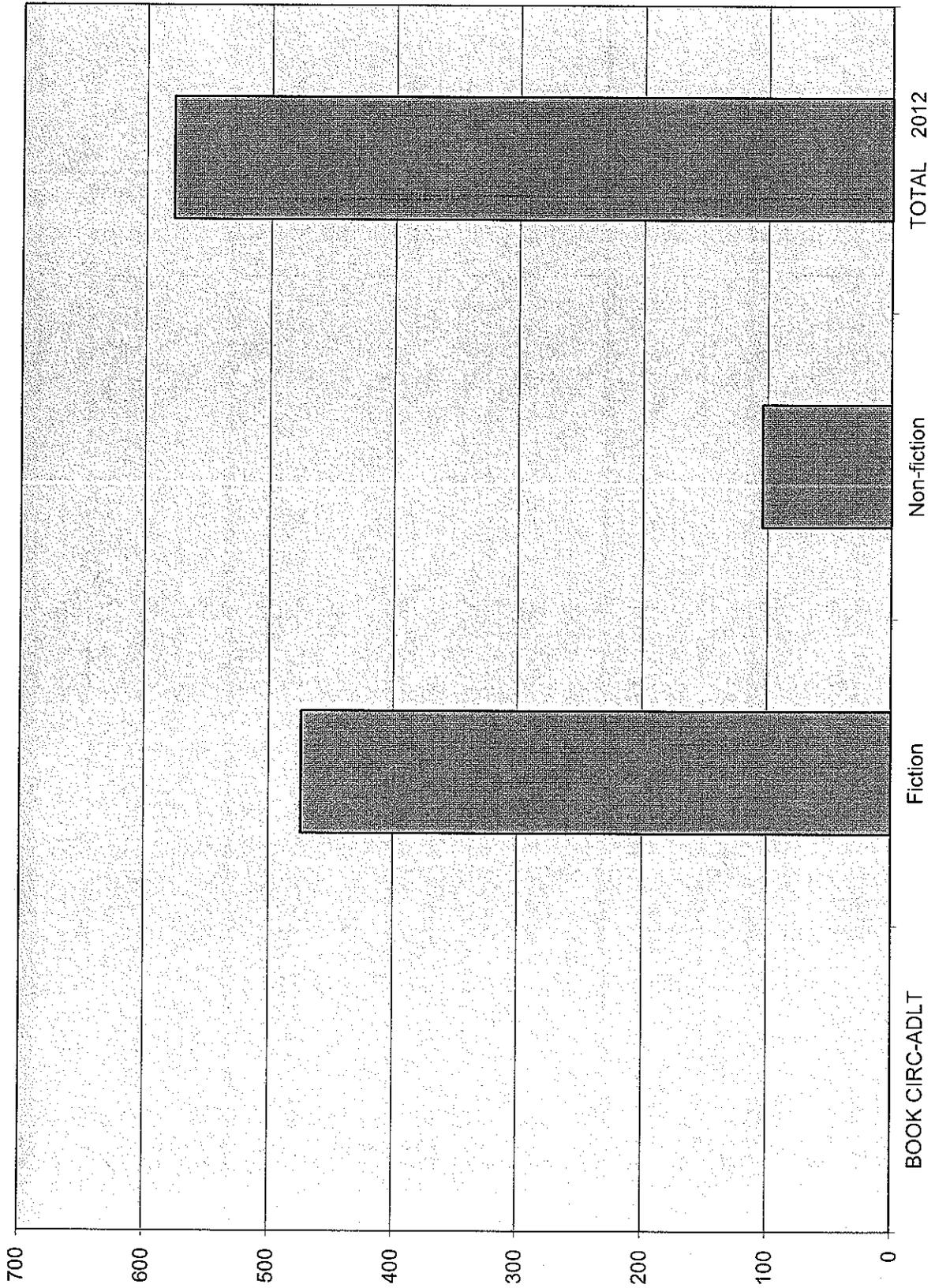
## **Cape Charles Memorial Library**

**June 2012**

Monthly Report Presented by Ann Rutledge

1. **Toddler/Preschool Storytime** was held on Thursday at 10:30 and a total of 70 children and caregivers attended this month. A total of 71 children attended the **Arts and Crafts** programs held on Tuesday at 10:30.
2. The 2012 **Summer Reading Program Dream Big-Read** began on Wednesday, June 13 and we have had 91 children to sign up to read books this summer. Each week we offer 3 programs for children; Crafts on Tuesday at 10:30, Movie Night on Wednesday at 5:00 and Storytime on Thursday at 10:30. Once a month we also offer bedtime Stories at 7:00 as well as our specials programs.
3. The displays for the month of **June** featured the 2012 Summer Reading Program incentives and a display of magic books in honor of our first special program of the summer, magician Rob Wescott.
4. On June 25 magician Rob Westcott presented his ever popular magic show to a packed house!
5. For additional information about library programs and library related information check out the Cape Charles Memorial Library's **Facebook** page!





# Harbor Report

## June, 2012.

### Maintenance

1. Replaced 3 Digital read out Computer boards on the fuel pumps
2. Replaced 2 Pump Handle switches on the fuel pumps
3. Public Utilities replaced the grinder pump in the sewer tank for the office.
4. Basic maintenance on flower beds.

### 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: None

### Notes:

**Inaugural Cape Charles Clam Slam** – The first weekend of August – More Details to Come.

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

# Harbor Report

## June, 2012.

**Business:**

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

<u>Rentals</u>	<u>June</u>	<u>May</u>	<u>11/12</u>	<u>10/11</u>
1. Nightly:	10	6.5	3.1	1.6
2. Weekly:	7.7	15.9	7.1	7.0
3. Month/Quart:	14.0	11.5	4.6	8.1
4. Seasonal:	12.5	15.0	7.6	7.1
5. Annual:	44.0	41.0	46.1	32.8
6. Total Rentals,	88.2	89.9	68.5	57.8

**Wharf Fees by Pounds:**

	<u>June</u>	<u>May</u>	<u>11/12</u>	<u>10/11</u>
1. Crabs:	75,735	351,270	1,261,890	1,419,795
2. Fish:	12,022	2,800	276,446	534,616
3. Conchs:	0	1,620	71,235	90,317.5
4. Horse Shoes:	5,360	0	10,656	7,960
5. Gravel:	0	0	0	1,000,000
6. Clams	0	0	0	18,000
7. Oysters	0	0	0	12,000
8. Conch Pots	0	0	0	14,000
9. Crab Pots	0	0	0	121,920
10. Lg. Trap Piles	0	0	0	0
11. Sm. Trap Piles	0	0	0	21,280
12. Total Pounds:	93,117	355,690	1,620,227	3,239,888.5

<u>Waiting List:</u>	<u>5/31</u>	<u>Registered</u>	<u>Removed</u>	<u>6/30</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:	10	1	0	11
<b>Total</b>	<b>69</b>	<b>1</b>	<b>0</b>	<b>70</b>

William Smith Dize Jr.  
 Harbor Master  
 July 1, 2012

## **PUBLIC WORKS**

**June 2012**

### **Dump Fees**

- **Oyster Landfill:** 12 trips, \$364.77; 6 Tons
- **Sludge-** 4 Tons

### **Staff Report**

#### **Completed Projects**

- Sprayed for weeds
- Groomed beach
- Fourth of July Preparation
- Painted floor and benches at the Beach gazebo.
- Park Water Fountain repairs again.
- Repaired vandalized bunting at the central park gazebo.
- Started cleaning out school of items we want to keep.
- Contacted Diebold to move security cameras from school to Mason Avenue pump station for security

#### **In Progress**

- Working with FEMA and our Virginia Municipal League Insurance agent for funds to repair the old school and the Pine Street Pump Station earthquake damage.

#### **Upcoming Projects**

- Repairs to old school and Pine Street Pump Station.
- Install shade cover at play ground

## **PUBLIC UTILITIES**

**June 2012**

### **Work Orders Completed**

- Miss Utility Tickets: 18

### **Personnel**

- Laid off Water Plant Operator, Bobby Zabita due to budget cuts.

### **Completed Projects**

- Recertification from the Virginia Environmental Laboratory Assessment Program of our environmental lab at the WWTP.

### **New WWTP**

- 60 day commissioning period continuing. During this time the plant is turned over to Town personnel to begin running the plant.

### **In Progress**

- Collecting flow data looking for sources of inflow and infiltration in the Plum Street Pump Station Basin sewer mains.
- Engineering for connection to Keck Wells. Draft Preliminary Engineering Report (PER) has been submitted to the Department of Health office of Drinking Water.
- Decommissioning old WWTP.
- Signed contract for demolition of concrete structures.
- Signe contract for Closed Circuit TV inspection of the sewer mains.
- Addressing items found during smoke test of sewage system.
- Replacing old water meters.

### **Upcoming Projects**

- Connection to Keck Wells
- Closed circuit TV inspection of sewer lines.
- Install new water plant controls

## Code Enforcement

Month of June FY 2012

### Building Permits Issued/Permit Fees Collected:

Permits this month: 17	
Permits this year: 218	Total permits last year: 221
Total construction this month: \$ 57,195	
Total construction this year: \$4,654,387	Total construction last fiscal year: \$4,263,030
Permit fees this month: \$1,328.05	
Total permit fees this fiscal year: \$37,394.16	Total permit fees last fiscal year: \$47,421
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: \$52,350
Fire Dept. levy this month: \$109.65	
Total Fire Dept. levies this year: \$3,195.93	Total Fire Dept. levies last fiscal year: \$3,797.81
State levy this month: \$21.93	
Total state levies this year: \$638.20	Total state levies last fiscal year: \$760.55
Miscellaneous Revenue: \$0	

### Existing Structures Code Enforcement Cases:

Total Cases: 27	
New this month: 1	
Closed this month: 0	
Rental Inspections: 2	
Rental C.O's Issued: 0	
Rental Inspection fees collected: \$100	
Grass cutting enforcement: 12	
Grass cutting: 8	
Enforcement fees charged this month: \$1,200	
Enforcement fees charged this year: \$11,859.56	Fees charged last fiscal year: \$7,351.98
Enforcement fees collected: \$1,407.75	
Enforcement fees collected this year: \$6,362.53	Fees collected last fiscal year: \$2,768.58

### 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 June FY12

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**Other items of note:**

1. Completed 44 inspections
2. Conducted 0 zoning clearances
3. Completed 0 courtesy residential inspections
4. Conducted 0 courtesy commercial inspection
5. Conducted 28 E & S control inspections
6. Conducted 1 commercial plan reviews for Erosion and Sedimentation Control.
7. Completed 0 residential plan reviews
8. Issued 0 Public Utilities Shallow Well permits
9. With new Budget Cycle starting July 1 the office been working on a job description and ad for part time Code Clerk/Administrative Assistant.
10. Received some complaints on two houses on Randolph Avenue that have been neglected. Have started the violation process to get owners to comply with ordinances.
11. Continued grass enforcement throughout the Town.

07/03/12

# Permit/Construction Fee Report

Map Number	Permit #	Type	Date	Address	Work description	Permit Fee	Value
	PM120013	Mechanical	06/15/2012	108 Bay Avenue	Replacement Air to Air Heat Pump	\$152.85	\$12,295
	PM120012	Mechanical	06/15/2012	204 Bay Avenue	New Mechanical for upstairs	\$184.00	\$7,500
	PF120003	Fire Suppresio	06/25/2012	1134 Bayshore Lane	Fireworks Display July 4, 2012	\$0.00	\$100
	PB120042	Building	06/29/2012	833 Heritage Acres Co	Tear off/rooof 16 square feet	\$84.00	\$900
	PM120014	Mechanical	06/27/2012	29 Kings Bay Drive	Mechanical Work for C.O.	\$69.44	\$3,700
	PB120040	Building	06/08/2012	204 Madison Avenue	Reroof	\$61.60	\$3,500
	PB120039	Building	06/07/2012	33 Marina Road	Food Tent for Tall Ships Weekend	\$56.00	\$100
083A3-0100-62	PF120002	Fire Suppresio	06/11/2012	203 Mason Avenue	Upgrading Suppression System to comply w	\$84.00	\$2,200
	PE120013	Plumbing	06/14/2012	235 Mason Avenue	Plumbing for 3 compartment sink	\$84.00	\$2,500
083A3-0100-62	PE120019	Electrical	06/14/2012	235 Mason Avenue	Adding Circuits for Food Prep Area	\$84.00	\$2,500
	PT120003	UST/ AST	06/11/2012	704 Monroe Avenue	Removing Old UST and replacing with new	\$56.00	\$1,000
	PE120021	Electrical	06/20/2012	5 Park Row	upgrading to 200 amp service	\$56.00	\$1,500
	PE120022	Electrical	06/26/2012	530 Randolph Avenue	Upgrading 200 amp service	\$56.00	\$1,800
083A3-0100-38	PB120041	Building	06/28/2012	545 Randolph Avenue	TEAR OFF/REROOF OVER CAR GARAGE	\$84.00	\$1,500
	PE120020	Electrical	06/15/2012	409 Tazewell Avenue	New Wiring for Interior Alteration	\$95.20	\$9,500
083A3-0100-38	PM120011	Mechanical	06/19/2012	409 Tazewell Avenue	Replacing Mech Equipment	\$57.68	\$2,800
083A3-0100-38	PP120014	Plumbing	06/26/2012	409 Tazewell Avenue	New Plumbing for Alteration	\$63.28	\$3,800
<b>Total Permits:</b>						<b>\$1,328.05</b>	<b>\$57,195</b>

PerDateIssued Range from 06/01/2012 to  
06/30/2012

## MONTHLY INSPECTION TOTALS

Jeb Brady

Initial	06/01/2012
Initial	06/05/2012
SLAB ROUGH IN	06/06/2012
FINAL	06/06/2012
FINAL	06/06/2012
Final	06/07/2012

Total 19

David Fauber

Final	06/08/2012
Tank in Place	06/08/2012

Total 2

Jeb Brady

Rough-In	06/12/2012
Framing	06/12/2012
Final	06/13/2012
Final	06/13/2012
Final	06/14/2012
Final	06/14/2012
Final	06/14/2012
before closure	06/14/2012
Final	06/14/2012
Final	06/14/2012
Final	06/14/2012
Initial	06/18/2012
Final	06/19/2012

## MONTHLY INSPECTION TOTALS

Initial	06/20/2012
Rough-In	06/20/2012
Slab	06/22/2012
Final	06/22/2012
Final	06/22/2012
Final	06/22/2012
Rough-In	06/22/2012
Final	06/25/2012
Final	06/25/2012
Final	06/25/2012
Rough-In	06/25/2012
Rough-In	06/27/2012
Final	06/27/2012
CUT-IN	06/27/2012
Final	06/27/2012

Total 28

Grand Total 49

InsDateCompleted Range from  
06/01/2012 to 06/30/2012

## Revenue Totals by Category/Items

From: 06/01/2012 to: 06/30/2012

Miscellaneous		
Fire Dept Fee	16	\$109.65
<b>Miscellaneous totals</b>	<b>16</b>	<b>\$109.65</b>
Residential		
Valuation Res \$2.5 >	1	\$62.00
Valuation Res \$2.5K - \$10K	1	\$85.00
<b>Residential totals</b>	<b>2</b>	<b>\$147.00</b>
State Tax		
STATE TAX.	16	\$21.93
<b>State Tax totals</b>	<b>16</b>	<b>\$21.93</b>
Valuation		
After fact permit admin fee	1	\$100.00
Com \$0 - \$2.5K	3	\$225.00
Valuation Com \$0-\$2.5K	2	\$150.00
Valuation Res \$0-\$2.5K	4	\$200.00
Valuation Res \$2.5K - 10K	4	\$238.00
Valuation Res > \$10K	1	\$136.47
<b>Valuation totals</b>	<b>15</b>	<b>\$1,049.47</b>
<b>Grand Totals</b>	<b>49</b>	<b>\$1,328.05</b>

**Code Enforcement  
Totals for FY 2012**

**Building Permits Issued/Permit Fees Collected:**

Permits this year: 218	Total permits last year: 221
Total construction this year: \$4,654,387	Total construction last fiscal year: \$4,263,030
Total permit fees this fiscal year: \$37,394.16	Total permit fees last fiscal year: \$47,421
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Total Tap fees this year: \$0	Total Tap fees last fiscal year: \$52,350
Total Fire Dept. levies this year: \$3,195.93	Total Fire Dept. levies last fiscal year: \$3,797.81
Total state levies this year: \$639.20	Total state levies last fiscal year: \$760.55

Code Enforcement Performed 850 Inspections this Fiscal Year.

# Revenue Totals by Category/Items

From: 07/01/2011 to: 06/30/2012

<b>Miscellaneous</b>		
After fact permit Admin fee	2	\$200.00
E/S Agreement in lieu of plan	1	\$150.00
Fire Dept Fee	200	\$3,195.93
<b>Miscellaneous totals</b>	<b>203</b>	<b>\$3,545.93</b>

<b>Residential</b>		
Valuation Res \$2.5 >	1	\$62.00
Valuation Res \$2.5K - \$10K	11	\$646.25
<b>Residential totals</b>	<b>12</b>	<b>\$708.25</b>

<b>Review</b>		
Landscape Plan Review	1	\$100.00
Residential Building Plan Revi	1	\$200.00
Residential Site Plan Review	1	\$150.00
<b>Review totals</b>	<b>3</b>	<b>\$450.00</b>

<b>Shallow Well</b>		
Well Inspection	2	\$200.00
<b>Shallow Well totals</b>	<b>2</b>	<b>\$200.00</b>

<b>State Tax</b>		
STATE TAX.	199	\$639.20
<b>State Tax totals</b>	<b>199</b>	<b>\$639.20</b>

<b>Valuation</b>		
After fact permit admin fee	2	\$200.00
Assembly, restaurants, bars, etc- 5B	1	\$2,967.55
Com \$0 - \$2.5K	14	\$1,050.00
com \$10k +	1	\$365.00
com \$2.5 -10k	2	\$170.00
Com \$2.5 >	1	\$452.50
Com Bldg Plan Review Fee	1	\$250.00
comm > \$10k	4	\$4,620.15
Commercial Site Plan Review	1	\$150.00
Garage- 5B	1	\$580.00
Residential decks & porches- 5B	1	\$316.51

Residential, one and two family- 5B	1	\$4,860.29
Valuation Com 2.5K >	3	\$580.00
Valuation Com \$0-\$2.5K	7	\$525.00
Valuation Com \$2.5 >	1	\$925.00
Valuation Com \$2.5-10K	2	\$227.50
Valuation Com \$2.5K >	2	\$150.00
Valuation Com >\$10K	1	\$183.50
Valuation Res \$0 - \$2.5K	9	\$450.00
Valuation Res \$0-\$2.5K	49	\$2,450.00
Valuation Res \$2.5K - 10K	55	\$3,574.81
Valuation Res \$2.5K-\$10K	5	\$558.50
Valuation Res > \$10K	29	\$6,244.47
<b>Valuation totals</b>	<b>193</b>	<b>\$31,850.78</b>
<b>Grand Totals</b>	<b>612</b>	<b>\$37,394.16</b>

# Planning Commission Report for Town Council

**From:** Tom Bonadeo  
**To:** Town Council  
**Date:** July 12, 2012  
**Subject:** Report for Planning Department

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## Planning Commission Meeting – July 10

1. The Planning Commission held its regular monthly meeting Tuesday, July 10 due to the July 3 conflict with the Holiday.
2. The Commissioners tabled the rezoning and CUP request to further study the requirements. Both the rezoning and the CUP is on the agenda to review and set a public hearing.
3. The Commission worked on the continued improvement of the sign ordinance.
4. The Harbor District review was also delayed until the July meeting. We are waiting for some final information to complete and application.
5. 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.
  - b. Beach survey for the spring shows much improved dune system. Sand was moved and added to the beach. The walkways at Tazewell and Randolph have been dug out of the moving dune and the sand redistributed along the beach. Fence has been installed to control people from walking in the dune.
  - c. Plans for Route 184 and Route 13 landscaping with VDOT have been completed on the south side. Watering has been required to keep the trees and plants alive this spring. VDOT has installed new posts for the traffic lights and one is within a few feet of the new Town sign. We have reviewed the situation and moving the sign at this time will not improve the visibility. After installation of the North side landscaping, new signs and sign locations should be reviewed.
  - d. The parking area for the harbor has been covered with shells. The parking layout will allow for about 52 spaces. This is just enough for the restaurant, the permanent slip holders and the concession for the Jet Ski rentals that has moved to A dock from the inner harbor. The final parking spaces will be laid out after the Tall Ships weekend.
  - e. The Bank of America building bid date has passed and some bids were received. Since it is a sealed bid process there won't be advertised numbers. The Town is staying close to the process.

**Historic District Review Board Meeting – No meeting this month**

 <p>TOWN OF CAPE CHARLES</p>	<b>AGENDA TITLE:</b> Cape Charles Police Department		<b>AGENDA DATE</b> JULY 12, 2012
	<b>SUBJECT/PROPOSAL/REQUEST: JUNE 2012</b> 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: 57

Calls for Service Outside of Cape Charles: 21

10-13 Calls

(A) By Dispatch: 78

(B) By Phone via Officer/Trooper: 00

(C) In Person 00

Felony Arrests: 00

Misdemeanor Arrests: 02

DUI Arrests: 00

Traffic Summons Issued: 17

Traffic Warnings Issued: 08

Parking Tickets Issued: 03

Assisted Northampton County Sheriff's Office: 17

Assisted Virginia State Police: 04

Assisted Other Local Police:

Assisted Other Federal Agencies

Assisted Fire & Rescue: 02

Assisted VDOT:

Hours of Training Received & What Type? NONE

 <p><b>TOWN OF CAPE CHARLES</b></p>	<b>AGENDA TITLE:</b> Wastewater Treatment Plant (WWTP) Status		<b>AGENDA DATE:</b> July 12, 2012
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Update on construction of new plant and decommissioning of old plant.		<b>ITEM NUMBER:</b> 6A
	<b>ATTACHMENTS:</b> None		<b>FOR COUNCIL:</b> Action ( ) Information (X)
	<b>STAFF CONTACT (s):</b> Bob Panek	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

The Town awarded a \$14.7M contract for construction of the new WWTP to W.M. Schlosser Company in September 2009. Four change orders have been executed: \$164K for over-excavation of unsuitable material; \$177K for modifications to enable effluent reuse; \$34K for miscellaneous items; \$40K for miscellaneous items. These change orders bring the contract value to \$15.2M. One additional change order is anticipated before contract close-out. The total project is estimated at \$19.2M, including design, engineering, construction management and inspection. We are funding the project as follows:

1. \$6.0M - Virginia Clean Water Revolving Loan Fund (VCWRLF) principal forgiveness loan (equivalent of a grant), underwritten by the American Recovery and Reinvestment Act (ARRA) of 2009 (Federal stimulus).
2. \$8.0M - Water Quality Improvement Fund (WQIF) grant.
3. \$5.2M - VCWRLF zero-interest loan.

**DISCUSSION:**

As of the June 2012 progress meeting, construction is about 97% complete and about 200 days behind schedule. We are about 125% into the length of the contract. The Department of Environmental Quality (DEQ) has issued the Certificate to Operate and the new plant has been treating all wastewater flow since April. The quality of the treated effluent has been excellent, meeting or exceeding all regulatory standards. The contractor is working on the remaining items and plans to achieve final completion in August.

The steel structures at the old WWTP have been cleaned, demolished and removed. The water plant back wash line has been re-routed from the polishing pond to the old disinfection tanks and the pond has been drained. A contract was recently awarded to demolish the concrete structures and the polishing pond. We are planning to complete this work by the end of July.

We have had one introductory fraud prevention visit from the U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG), and ARRA compliance inspections by both the DEQ and the EPA. We are now undergoing a full ARRA funding compliance review by the EPA OIG. We are continuing to enforce the requirements of the ARRA.

We have had eleven interim project evaluations by DEQ. No significant issues have been raised.

About \$14M has been billed to date, all of which has been reimbursed from WQIF and VCWRLF. This is about 92% of the contract value.

**RECOMMENDATION:** Provided for information only.

 <p><b>TOWN OF CAPE CHARLES</b></p>	<b>AGENDA TITLE:</b> Public Service Authority (PSA) & Regional Wastewater System.		<b>AGENDA DATE:</b> July 12, 2012
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Provide an update on the PSA and potential regional wastewater system.		<b>ITEM NUMBER:</b> 6B
	<b>ATTACHMENTS:</b> PSA letter to commercial property owners.		<b>FOR COUNCIL:</b> Action ( ) Information (X)
	<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 State Corporation Commission approved the revised charter, ten new Board Members were sworn in, and the PSA has been meeting monthly. The PSA has assumed responsibility for the Northern and Southern Node projects initiated by the Towns and County Utilities Project Management Team under Department of Housing & Community Development (DHCD) planning grants.

**DISCUSSION:**

The Preliminary Engineering Report (PER) for the first phase of the Northern Node (Exmore and the Nassawadox medical community) has been completed. This project will cost about \$11.3 million. The PSA's FY 2012 financial assistance application has been approved by the State Water Control Board: \$4.0 million, 0% interest, 30 year term. However, grant funding for the balance is needed to achieve affordable service rates. A grant from the U.S. Department of Agriculture, Rural Development is key to making the project work and, unfortunately, funding will not be available until FY 2014. The PSA has therefore decided to restructure the sequence to obtaining funding from the different agencies and withdraw this year's application for loan assistance. The PSA is working on the application for a USDA RD grant.

Based on additional surveys, public engagement and engineering analysis, the PSA recommended to the BOS that no county areas be included in the Southern Node project. Limiting the service area to the Town of Cheriton would decrease the project cost to about \$7.5 million. However, the funding agencies have indicated that they can realistically fund only one large project in Northampton County. Therefore, the PSA has decided to explore a more limited service area focused on the commercial properties around the US 13/SR 184 intersection. The preliminary estimate for this project is between \$1.5 million to \$2 million. The objective would be to fund this first phase of the Southern Node primarily with private capital contributions from the commercial property owners. The PSA met with many of the commercial property owners on May 15 to explain this approach. The owners expressed some interest in establishing a special tax district to fund the project.

Attached is a follow-up letter from the PSA to the property owners providing additional information and requesting submission of additional data to further explore this approach.

**RECOMMENDATION:**

Provided for information only.

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

June 14, 2012

This is a follow-up to my letter of May 5, 2012 and the Eastern Shore of Virginia Public Service Authority (ESVAPSA) meeting of May 15, 2012, concerning efforts to bring a regional wastewater system to lower Northampton County, focusing on the commercial sector. There was a general consensus to continue these efforts and to develop additional information to guide the approach.

ESVAPSA indicated that additional information would be provided concerning the capital cost of installing the system:

- Preliminary estimates range from \$1.5 million to \$2.0 million, including design and engineering.
- Assuming an interest rate of 3.25% and a term of 20 years, debt service would average annually approximately \$134,125.00.
- For a term of 30 years, it would average annually approximately \$100,250.00.
- The total assessed value of commercial properties in the proposed service area is \$19,280,500.00. Therefore, the share of debt service would be \$740.05 for every \$100,000 of assessed value under the special tax district approach assuming a 20 yr. debt service schedule or \$553.14 for every \$100,000 of assessed value for a 30 yr. debt service schedule. Enclosed is a chart that shows the projected tax impacts.

As discussed at the meeting, total operating costs cannot be estimated until projections of wastewater flow are available and an agreement for processing is negotiated with Cape Charles.

We would like to get the following information from you so that we can continue our planning efforts. Please complete the second page and return same to the address shown above.

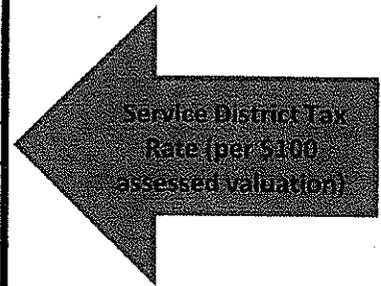
Bob Panek, Chairman

- What is the estimated monthly wastewater flow for your existing or planned facilities?
- Are you in favor of a special tax district to fund the debt service for the capital cost of the system?
- Are you in favor of an initial connection charge to lessen recurring debt service needs?
- If you do not currently have a facility on your property, are you interested in a voluntary availability agreement with a modest monthly charge to be credited against a future connection charge?
- Do you see the need for future central water service in the proposed service area?
- Do you have a permitted well on your property that could become part of this system? If so, what is the permitted capacity?

Please provide the above information to the County Administrator/Executive Director of ESVAPSA at the above address at your earliest convenience.

If you have any questions, please contact either Katherine Nunez, [knunez@co.northampton.va.us](mailto:knunez@co.northampton.va.us), or Bob Panek, [bob.panek@capecharles.org](mailto:bob.panek@capecharles.org).

ASSESSED VALUATION OF PROPERTY	SERVICE DISTRICT ANNUAL TAX	
	Based on 20 Year Debt Schedule (Assumes a \$2 million loan at 3.25% interest rate)	Based on 30 Yr Debt Schedule (Assumes a \$2 million loan at 3.25% interest rate)
	\$ 0.7401	\$ 0.5531
50,000	\$ 370.03	\$ 276.57
100,000	\$ 740.05	\$ 553.14
200,000	\$ 1,480.11	\$ 1,106.29
300,000	\$ 2,220.16	\$ 1,659.43
400,000	\$ 2,960.21	\$ 2,212.58
500,000	\$ 3,700.27	\$ 2,765.72
600,000	\$ 4,440.32	\$ 3,318.87
700,000	\$ 5,180.37	\$ 3,872.01
800,000	\$ 5,920.43	\$ 4,425.15
900,000	\$ 6,660.48	\$ 4,978.30
1,000,000	\$ 7,400.53	\$ 5,531.44
1,100,000	\$ 8,140.59	\$ 6,084.59
1,200,000	\$ 8,880.64	\$ 6,637.73
1,300,000	\$ 9,620.69	\$ 7,190.88
1,400,000	\$ 10,360.75	\$ 7,744.02
1,500,000	\$ 11,100.80	\$ 8,297.17
1,600,000	\$ 11,840.85	\$ 8,850.31
1,700,000	\$ 12,580.91	\$ 9,403.45
1,800,000	\$ 13,320.96	\$ 9,956.60
1,900,000	\$ 14,061.02	\$ 10,509.74
2,000,000	\$ 14,801.07	\$ 11,062.89
2,100,000	\$ 15,541.12	\$ 11,616.03
2,200,000	\$ 16,281.18	\$ 12,169.18
2,300,000	\$ 17,021.23	\$ 12,722.32
2,400,000	\$ 17,761.28	\$ 13,275.46
2,500,000	\$ 18,501.34	\$ 13,828.61
2,600,000	\$ 19,241.39	\$ 14,381.75
2,700,000	\$ 19,981.44	\$ 14,934.90
2,800,000	\$ 20,721.50	\$ 15,488.04
2,900,000	\$ 21,461.55	\$ 16,041.19
3,000,000	\$ 22,201.60	\$ 16,594.33



 <p><b>TOWN OF CAPE CHARLES</b></p>	<b>AGENDA TITLE:</b> Interim Appointment to Fill Town Council Vacancy		<b>AGENDA DATE:</b> July 12, 2012
	<b>SUBJECT/PROPOSAL/REQUEST</b> Interim appointment to fill vacancy on Town Council until Special Election can be held		<b>ITEM NUMBER:</b> 7A
	<b>ATTACHMENTS:</b> Code of Virginia Sections 24.2-228, 24.2-226 & 24.2-682		<b>FOR COUNCIL:</b> Action ( ) Information (X)
	<b>STAFF CONTACT (s):</b> Heather Arcos	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

On May 1, 2012, an election was held and Donald L. Clarke was elected as a council member for the Town. His term of office would be effective July 1, 2012. On June 13, 2012, Donald Clarke passed away.

In accordance with Code of Virginia § 24.2-228(A), the Town Council needs to appoint a qualified voter of Town to fill the vacancy until a special election can be held.

**DISCUSSION:**

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 requires the governing body to petition the circuit court requesting the scheduling of a special meeting within 15 days of the date the vacancy occurred. In our case, the vacancy occurred on July 1, 2012. A draft petition has been referred to legal counsel for their review and needs to be delivered to Northampton County Circuit Court Clerk Traci Johnson on July 13, 2012.

**RECOMMENDATION:**

Staff requests Council to appoint a qualified individual to fill the vacancy on the Town Council until a special election can be held.

 <p>TOWN OF CAPE CHARLES</p>	<b>AGENDA TITLE:</b> Vice-Mayor Election		<b>AGENDA DATE:</b> July 12, 2012
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Election of Vice-Mayor		<b>ITEM NUMBER:</b> 7B
	<b>ATTACHMENTS:</b> None		<b>FOR COUNCIL:</b> Action (X) Information ( )
	<b>STAFF CONTACT (s):</b> Heather Arcos, Town Manager	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

Section 3.6 of the Town Charter states that:

“The Town Council shall elect from its members, by a majority of the members present, a vice mayor. During the absence or inability of the mayor to act, the vice mayor shall possess the powers and discharge the duties of the mayor. While serving in the place of the mayor, the vice mayor may vote as a member of the town council.”

**DISCUSSION:**

Each election year, a new vice mayor has been elected at the first regular meeting with the new Council.

In July 2010, Councilman Bannon was elected vice mayor for a two year term.

**RECOMMENDATION:**

Staff recommends discussion and election of a vice mayor to serve from July 2012 through June 2014.

 <p><b>TOWN OF CAPE CHARLES</b></p>	<b>AGENDA TITLE:</b> Town Council Representative to Harbor Area Review Board		<b>AGENDA DATE:</b> July 12, 2012
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Appointment of Town Council Representative to Harbor Area Review Board		<b>ITEM NUMBER:</b> 7C
	<b>ATTACHMENTS:</b> None		<b>FOR COUNCIL:</b> Action ( X ) Information ( )
	<b>STAFF CONTACT (s):</b> Heather Arcos, Town Manager	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

On September 11, 2007, the Town Council approved new sections to the Cape Charles Zoning Ordinance establishing the Harbor Area Review Board. Section 9 outlines the purpose of the Harbor Area Review Board to “specifically preserve and protect historic places and areas in the Town through the control of demolition of such places and through the regulation of architectural design and uses of structures in such areas.”

Section 9.7 of the Cape Charles Zoning Ordinance outlines the membership of the Harbor Area Review Board as follows:

“The members of said Harbor Area Review Board will be appointed by the Town Council. The Membership shall consist of seven citizens. One member shall also be a member of the Town Council, two members shall also be members of the Planning Commission, and one member shall also be a member of the Historic District Review Board.”

Appointees also serving on the Town Council, Planning Commission or Historic District Review Board shall be appointed to a term coinciding with their term on their respective board.

**DISCUSSION:**

Upon his election to Council in 2008, Councilman Steve Bennett was appointed as the Town Council representative to the Harbor Area Review Board. He was previously appointed to the Board as a citizen representative when the Board was originally established.

Councilman Bennett’s term on Town Council expired on June 30, 2012 and another representative from Council needs to be appointed to the Harbor Area Review Board.

**RECOMMENDATION:**

Staff recommends discussion and appointment of a representative from Council to the Harbor Area Review Board.

 <p><b>TOWN OF CAPE CHARLES</b></p>	<b>AGENDA TITLE:</b> Appointments to the Industrial Development Authority of Cape Charles-Northampton County		<b>AGENDA DATE:</b> July 12, 2012
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Confirm Northampton County's Appointments to the Industrial Development Authority of Cape Charles-Northampton County		<b>ITEM NUMBER:</b> 7D
	<b>ATTACHMENTS:</b> Appointment Letters from Northampton County		<b>FOR COUNCIL:</b> Action (X) Information ( )
	<b>STAFF CONTACT (s):</b> Heather Arcos	<b>REVIEWED BY:</b> Heather Arcos Town Manager	

**BACKGROUND:**

The 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 is retired. This IDA is to be dissolved upon retirement of its debt.

Members of the IDA serve a term of four (4) years. They meet annually to review the outstanding debt and appointments/reappointments are made by both the County and the Town of Cape Charles. A total of seven (7) members serve on the board.

**DISCUSSION:**

The attached letters show 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.

As this IDA affects both Northampton County and the Town of Cape Charles, the Cape Charles Town Council must also act on the appointment in order for it to become official.

**RECOMMENDATION:**

Move to accept the appointments of Dr. Drury Stith and Messrs. William Hughes and Stewart Sturgis to the Industrial Development Authority of Cape Charles-Northampton County for terms to expire December 31, 2015.



*Libby*

Board of Supervisors of Northampton County  
P.O. Box 66 • Gastville, Virginia 23347

Katherine H. Nunez  
County Administrator

PHONE: 757-678-0440  
FAX: 757-678-0483

June 13, 2012

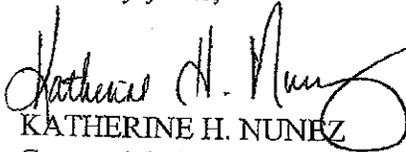
Dr. Drury Stith  
P. O. Box 820  
Nassawadox, Va 23413

Dear Dr. Stith:

At its meeting of June 12, 2012, the Northampton County Board of Supervisors unanimously appointed you to serve on the Industrial Development Authority of Cape Charles-Northampton County for a term of office ending December 31, 2015. As you may know, it is necessary for the Cape Charles Town Council to also act on your appointment in order for it to become official. Following the Town Council's concurrence, it will be necessary for you to report to the Clerk of the Circuit Court who will administer your oath of office.

As County Administrator, I would like to take this opportunity to personally congratulate you on your appointment and if you have any questions or concerns, I am available at your convenience.

Sincerely yours,

  
KATHERINE H. NUNEZ  
County Administrator

Cc: Heather Arcos, Cape Charles Town Manager  
Traci Johnson, Clerk of Court

RECEIVED JUN 14 2012

BOARD OF SUPERVISORS  
Oliver H. Bennett, Chairman  
Willie C. Randall, Vice Chairman  
Richard L. Hubbard  
Larry LeMond  
Laurence J. Trala



Board of Supervisors of Northampton County  
P.O. Box 66 • Eastville, Virginia 23347

Katherine H. Nunez  
County Administrator

PHONE: 757-678-0440  
FAX: 757-678-0483

BOARD OF SUPERVISORS  
Oliver H. Bennett, Chairman  
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June 13, 2012

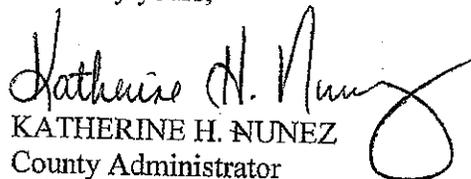
Mr. William Hughes  
23067 Fairview Road  
Cape Charles, VA 23310

Dear Mr. Hughes:

At its meeting of June 12, 2012, the Northampton County Board of Supervisors unanimously appointed you to serve on the Industrial Development Authority of Cape Charles-Northampton County for a term of office ending December 31, 2015. As you may know, it is necessary for the Cape Charles Town Council to also act on your appointment in order for it to become official. Following the Town Council's concurrence, it will be necessary for you to report to the Clerk of the Circuit Court who will administer your oath of office.

As County Administrator, I would like to take this opportunity to personally congratulate you on your appointment and if you have any questions or concerns, I am available at your convenience.

Sincerely yours,

  
KATHERINE H. NUNEZ  
County Administrator

Cc: Heather Arcos, Cape Charles Town Manager  
Traci Johnson, Clerk of Court



**Board of Supervisors of Northampton County**  
P.O. Box 66 • Fastville, Virginia 23347

*Katherine H. Nunez*  
County Administrator

PHONE: 757-678-0440  
FAX: 757-678-0483

BOARD OF SUPERVISORS  
*Oliver H. Bennett, Chairman*  
*Willie C. Randall, Vice Chairman*  
*Richard L. Hubbard*  
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June 13, 2012

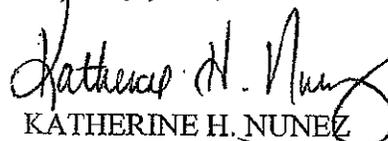
Mr. Stewart E. Sturgis  
P. O. Box 1472  
Exmore, VA 23350

Dear Mr. Sturgis:

At its meeting of June 12, 2012, the Northampton County Board of Supervisors unanimously appointed you to serve on the Industrial Development Authority of Cape Charles-Northampton County for a term of office ending December 31, 2015. As you may know, it is necessary for the Cape Charles Town Council to also act on your appointment in order for it to become official. Following the Town Council's concurrence, it will be necessary for you to report to the Clerk of the Circuit Court who will administer your oath of office.

As County Administrator, I would like to take this opportunity to personally congratulate you on your appointment and if you have any questions or concerns, I am available at your convenience.

Sincerely yours,

  
KATHERINE H. NUNEZ  
County Administrator

Cc: ✓ Heather Arcos, Cape Charles Town Manager  
Traci Johnson, Clerk of Court



TOWN OF  
CAPE CHARLES

**AGENDA TITLE:** Code 42.3 – Adoption of State Law

**AGENDA DATE:**  
July 12, 2012

**SUBJECT/PROPOSAL/REQUEST:** 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

**ITEM NUMBER:**  
7E

**ATTACHMENTS:** Ordinance 20120712

**FOR COUNCIL:**  
Action (X)  
Information ( )

**STAFF CONTACT (s):**  
Charles Brown, Police Chief

**REVIEWED BY:**  
Heather Arcos, Town Manager

**BACKGROUND:**

Each year a new ordinance must be passed accepting any and all amendments to the provisions and requirements set by State Code in matters of regulation of motor vehicles and traffic in the Town of Cape Charles and any penalties for traffic violations.

**DISCUSSION:**

From time to time, the State Code is amended to either delete or add new safety tactics to protect those traveling the highways, streets and roads. Changes to penalties and violations are also made. In order to have the authority to enforce these new laws, an amendment to the Town Code must be made that adopts any changes.

**RECOMMENDATION:**

Adopt proposed 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 by roll call vote.

**ORDINANCE NO: 20120712**

**AN ORDINANCE 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**

**WHEREAS**, it is necessary to follow the guide set by the Code of Virginia to protect the safety and welfare of residents and guests of the Town of Cape Charles;

**WHEREAS**, from time to time, the Code of Virginia is amended to protect those traveling the highways, streets and roads of the Commonwealth;

**WHEREAS**, in order to have the authority to enforce these new laws, the Town Council of the Town of Cape Charles must adopt any and all amendments made by the Commonwealth of Virginia; therefore

**BE IT ORDAINED:** That pursuant to the authority of the Code of Virginia, 1950, as amended, § 46.2-1313, all of the provisions and requirements of the laws of the State contained in Code of Virginia, Title 46.2 and Code of Virginia, Article 9 (§ 18.2-278 et seq.) of Chapter 11 of Title 16.1, and of Article 2 (§ 18.2-266 et seq.) of Chapter 7 of Title 18.2 into ordinances as in force and effect on the date of the adoption of this Code, and as amended in the future, except those provisions and requirements the violation of which constitutes a felony, and except those provisions and requirements which, by their very nature, can have no application to or within the town, are hereby adopted and incorporated in this chapter by reference and made applicable within the Town. References to "highways of the state" contained in such provisions and requirements hereby adopted shall be deemed to refer to the streets, highways and other public ways within the Town. Such provisions and requirements are hereby adopted, *mutadis mutandis*, and made a part of this chapter as fully as though set forth at length herein. It shall be unlawful for any person within the Town to violate or fail, neglect or refuse to comply with any provision or requirement which is adopted by this section; provided, that in no event shall the penalty imposed for the violation of any provision or requirement hereby adopted exceed the penalty imposed for a similar offense under the Code of Virginia.

\*\*\*\*\*

Adopted by the Town Council of Cape Charles on July 12, 2012.

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

ATTEST:

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



TOWN OF  
CAPE CHARLES

**AGENDA TITLE:**

USDA Rural Development Grant /Loan Resolution for Police Car

**AGENDA DATE:**

July 12, 2012

**SUBJECT/PROPOSAL/REQUEST:** Adoption of Resolution 20120712 to accept the terms of the USDA RD Grant/Loan for a new police car.

**ITEM NUMBER:**

7F

**ATTACHMENTS:**

Resolution 20120712 and supporting documents

**FOR COUNCIL:**

Action (X)

Information ( )

**STAFF CONTACT (s):**

Heather Arcos

**REVIEWED BY:**

Heather Arcos, Town Manager

**BACKGROUND:**

In June 2011, the Town Council authorized the application requesting \$34,000 for a US Department of Agriculture - Rural Development (USDA RD) Grant program to purchase a new 4WD police car. The grant terms are 75% Grant / 25% Town Match.

The purchase of a new police car is included in the FY 2012/2013 budget with the terms as submitted in the application in June of 2011.

**DISCUSSION:**

Staff received notification from Peggy Jordan, Area Specialist with USDA RD that the Town has been approved for a grant award not to exceed \$12,750 for a new police car. The purpose of this grant is 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 requires the Town to finance the remaining balance of \$15,250 with USDA RD for a total of \$28K for a new police car. A loan schedule is attached for your information.

Resolution 20120712 is required to be adopted by the Town Council stating its agreement to abide by the covenants and to execute the forms required by the US Department of Agriculture, Rural Development. The loan resolution is a part of Resolution 20120712.

**RECOMMENDATION:**

Adopt Resolution 20120712 by roll call vote and authorize the Mayor to execute all applicable forms required by the US Department of Agriculture, Rural Development.

**RESOLUTION 20120712  
OF GOVERNING BODY OF  
THE TOWN OF CAPE CHARLES**

The governing body of the Town of Cape Charles, consisting of \_\_\_\_\_ members, in a duly called meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2012 at which a quorum was present RESOLVED as follows:

**BE IT HEREBY RESOLVED** that, in order to facilitate obtaining financial assistance from the United States of America, United States Department of Agriculture, Rural Development (the Government) in the purchase of a police vehicle and equipment to serve the community, the governing body does hereby adopt and abide by the covenants contained in the agreements, documents, and forms required by the Government to be executed.

**BE IT FURTHER RESOLVED** that the Town Manager of the Town of Cape Charles be authorized to execute on behalf of the Town Council the above-referenced agreements and to execute such other documents including, but not limited to, debt instruments and security instruments as may be required in obtaining the said financial assistance.

This Resolution, along with a copy of the above-referenced documents, is hereby entered into the permanent minutes of the meetings of this Board.

The Town of Cape Charles

By: \_\_\_\_\_

Attest: \_\_\_\_\_

**CERTIFICATION**

I hereby certify that the above resolution was duly adopted by the Town Council of the Town of Cape Charles in a duly assembled meeting on the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Secretary/Clerk

USDA  
Form RD 1942-47  
(Rev. 12-97)

LOAN RESOLUTION  
(Public Bodies)

FORM APPROVED  
OMB NO. 0575-0015

A RESOLUTION OF THE Town Council

OF THE Town of Cape Charles, Virginia

AUTHORIZING AND PROVIDING FOR THE INCURRENCE OF INDEBTEDNESS FOR THE PURPOSE OF PROVIDING  
A PORTION OF THE COST OF ACQUIRING, CONSTRUCTING, ENLARGING, IMPROVING, AND/OR EXTENDING ITS

Police Vehicle

FACILITY TO SERVE AN AREA LAWFULLY WITHIN ITS JURISDICTION TO SERVE.

WHEREAS, it is necessary for the

Town of Cape Charles

*(Public Body)*

(herein after called Association) to raise a portion of the cost of such undertaking by issuance of its bonds in the principal amount of  
\$15,250.00

pursuant to the provisions of Virginia Code 15.2

; and

WHEREAS, the Association intends to obtain assistance from the Rural Housing Service, Rural Business - Cooperative Service, Rural Utilities Service, or their successor Agencies with the United States Department of Agriculture, (herein called the Government) acting under the provisions of the Consolidated Farm and Rural Development Act (7 U.S.C. 1921 et seq.) in the planning, financing, and supervision of such undertaking and the purchasing of bonds lawfully issued, in the event that no other acceptable purchaser for such bonds is found by the Association:

NOW THEREFORE in consideration of the premises the Association hereby resolves:

1. To have prepared on its behalf and to adopt an ordinance or resolution for the issuance of its bonds containing such items and in such forms as are required by State statutes and as are agreeable and acceptable to the Government.
2. To refinance the unpaid balance, in whole or in part, of its bonds upon the request of the Government if at any time it shall appear to the Government that the Association is able to refinance its bonds by obtaining a loan for such purposes from responsible cooperative or private sources at reasonable rates and terms for loans for similar purposes and periods of time as required by section 333(c) of said Consolidated Farm and Rural Development Act (7 U. S. C. 1983 (c)).
3. To provide for, execute, and comply with Form RD 400-4, "Assurance Agreement," and Form RD 400-1, "Equal Opportunity Agreement," including an "Equal Opportunity Clause," which clause is to be incorporated in, or attached as a rider to, each construction contract and subcontract involving in excess of \$ 10,000.
4. To indemnify the Government for any payments made or losses suffered by the Government on behalf of the Association. Such indemnification shall be payable from the same source of funds pledged to pay the bonds or any other legal permissible source.
5. That upon default in the payments of any principal and accrued interest on the bonds or in the performance of any covenant or agreement contained herein or in the instruments incident to making or insuring the loan, the Government at its option may (a) declare the entire principal amount then outstanding and accrued interest immediately due and payable, (b) for the account of the Association (payable from the source of funds pledged to pay the bonds or any other legally permissible source), incur and pay reasonable expenses for repair, maintenance, and operation of the facility and such other reasonable expenses as may be necessary to cure the cause of default, and/or (c) take possession of the facility, repair, maintain, and operate or rent it. Default under the provisions of this resolution or any instrument incident to the making or insuring of the loan may be construed by the Government to constitute default under any other instrument held by the Government and executed or assumed by the Association, and default under any such instrument may be construed by the Government to constitute default hereunder.
6. Not to sell, transfer, lease, or otherwise encumber the facility or any portion thereof, or interest therein, or permit others to do so without the prior written consent of the Government.
7. Not to defease the bonds, or to borrow money, enter into any contract or agreement, or otherwise incur any liabilities for any purpose in connection with the facility (exclusive of normal maintenance) without the prior written consent of the Government if such undertaking would involve the source of funds pledged to pay the bonds.
8. To place the proceeds of the bonds on deposit in an account and in a manner approved by the Government. Funds may be deposited in institutions insured by the State or Federal Government or invested in readily marketable securities backed by the full faith and credit of the United States. Any income from these accounts will be considered as revenues of the system.
9. To comply with all applicable State and Federal laws and regulations and to continually operate and maintain the facility in good condition.
10. To provide for the receipt of adequate revenues to meet the requirements of debt service, operation and maintenance, and the establishment of adequate reserves. Revenue accumulated over and above that needed to pay operating and maintenance, debt service and reserves may only be retained or used to make prepayments on the loan. Revenue cannot be used to pay any expenses which are not directly incurred for the facility financed by the Government. No free service or use of the facility will be permitted.



# Loan Schedule

Lender name: USDA

Vehicle Price \$28,000 - \$12,750 USDA Grant

	Values
Vehicle Price	\$ 28,000.00
USDA Grant	\$ (12,750.00)
USDA Loan Amount	\$ 15,250.00
Annual interest rate	3.375%
Loan period in years	5
Number of payments per year	12
Start Date of Loan	9/1/2012
End Date of Loan	9/1/2017

Town of Cape Charles must finance with USDA to be eligible for grant

Loan summary	
Scheduled payment	\$ 276.57
Actual number of payments	60
Total Interest	\$ 1,344.28
Total Payments	\$ 16,594.28

Annual Pmt	\$ 3,318.86	Annual Due
Reserve Acct	\$ 332.40	
Total Annual	\$ 3,651.26	

A debt service reserve must be accumulated at a rate of 10% of the monthly debt payment until a sum equal to no less than one annual installment is accumulated = \$27.70 per month or \$332.40 per year.

Lender name: Ford Motor Credit Company

Vehicle Price \$28,000 - \$0 USDA Grant

	Values
Vehicle Price	\$ 28,000.00
USDA Grant	\$ -
Loan Amount	\$ 28,000.00
Annual interest rate	6.00 %
Loan period in years	4
Number of payments per year	12
Start Date of Loan	9/1/2012
End Date of Loan	9/1/2016

Loan summary	
Scheduled payment	\$ 657.58
Actual number of payments	48
Total Interest	\$ 3,563.88
Total Payments	\$ 31,563.84

Annual Pmt	\$ 7,890.96	Annual Due
Reserve Acct	\$ -	
Total Annual	\$ 7,890.96	

 <p>TOWN OF CAPE CHARLES</p>	<b>AGENDA TITLE:</b> Water Works Control Panel Engineering		<b>AGENDA DATE:</b> July 12, 2012
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Engineering Support During Filter Control Replacement, GHD, Task Order #3		<b>ITEM NUMBER:</b> 7G
	<b>ATTACHMENTS:</b> Task Order #3		<b>FOR COUNCIL:</b> Action (X) Information ( )
	<b>STAFF CONTACT (s):</b> Dave Fauber	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

The existing control panel that operates 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 are the "Brains" of the operation which made ours obsolete and 20 years later very difficult to find. Over the years the design of control panels has changed greatly with the addition of digital displays and touch screen operation making the need for upgrade more necessary each year.

Staff advertised a Request for Proposals (RFP) for the design and installation of a new state-of-the-art control panel in the water plant. Prior to the submittal deadline, a mandatory pre-submittal meeting was held. Four (4) submittals were received but one of the companies submitting a proposal did not attend the mandatory pre-submittal meeting. After evaluating the submittals/companies, MC Dean was chosen to design and install the control panel. MC Dean designed and installed the control panels for the new Waste Water Treatment Plant. In May, the Town Council Authorized the Town Manager to enter into a contract for \$81K with 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.

**DISCUSSION:**

The Water Works Control Panel project is a capital project and allocated funds have been carried over into FY 2012/2013.

GHD, the engineering firm for the Town's water quality improvement projects, prepared Task Order #3 for the engineering support regarding the control panel project. (See attached) Their assistance will be an asset to the Town in the highly technical project of replacing the water filter control panel. The total task order amount is \$9,000 and is included in the total project budget.

**RECOMMENDATION:**

Staff requests Council 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.

This is Task Order No.  
3, consisting of 3 pages.

## Task Order

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In accordance with paragraph 1.01 of the Standard Form of Agreement Between Owner and Engineer for Professional Services – Task Order Edition, dated December 1, 2011 ("Agreement"), Owner and Engineer agree as follows:

### 1. Specific Project Data

- A. Title: Town of Cape Charles Water Treatment Plant (WTP); Engineering Support During Filter Control Replacement
- B. Description: The Town seeks to replace the Filter Controls at the Water Treatment Plant. The replacement work, including two PLC based control panels, software development, partial control network and system start-up will be performed by a control system integration contractor. This task order is to provide bid phase and implementation phase engineering services in support of the Integration Contract. Services shall include:
- Review of the System Integration Request for Proposal.
  - Submittal reviews and assistance with the resolution of Integrator Requests for Information (RFIs), as directed by the Town.
  - Assistance with coordination and quality control via site visits and observations.

### 2. Services of Engineer

Based on our project understanding as described above, Engineer has prepared a Scope of Work for engineering support during the Filter Control Upgrade Project. Specific work items will be performed as directed by the Town under the not to exceed price indicated below. Anticipated tasks are as follows:

#### **Task No. 1 – Review of Request for Proposal (Est. 16 mH)**

Description: The Engineer will review and comment on the existing RFP and the subsequent response. The Engineer will provide a recommendation on supplemental information or Integration services that may be required for a complete control system replacement. Task will also include other work as required to properly identify the required Integrator Scope of Work.

Deliverable: Engineer will draft a supplemental information request for items not fully addressed in the Integrator's response to the RFP.

#### **Task No. 2 – Submittal Review and RFI Responses (Est. 22 mH)**

Description: The Engineer will review relevant shop drawings, wiring diagrams, work plans and schedules, as required. The Engineer will provide technical support for Integrator generated RFIs.

TASK ORDER No. 3

No technical specifications were provided for this upgrade. Workmanship and materials will be evaluated as compared to industry standard practice and past work performed by the Town. This Proposal is based on the assumption that a maximum of four (4) RFIs will be submitted by the Integrator.

Deliverables: The Engineer will provide written responses to RFIs and technical submittals.

**Task No. 3 – Site Visits (Est. 32 mH)**

Description: This task will cover site activities related to project quality assurance. Activities may include witnessing of field and factory tests, field observations of Integrator provided equipment, and start-up assistance. This proposal is based on the assumption that a maximum of four (4) on-site days will be required.

Deliverables: Engineer will maintain informal reporting of daily activities. Emails, memos and conference records will be maintained for documenting daily activities.

3. **Owner's Responsibilities**

A. Owner shall have those responsibilities set forth in Article 2 and in Exhibit B of the Agreement.

4. **Times for Rendering Services**

A. Tasks will be coordinated with the schedule developed by the Integrator. For the purpose of pricing this proposal, it is assumed all work will be completed before March 31, 2013.

5. **Payments to Engineer**

A. Owner shall pay Engineer for services rendered as follows:

<i>Category of Services</i>	<i>Compensation Method</i>	<i>Sum Compensation for Services</i>
<i>Tasks 1 through 3</i>	<i>A. Hourly not to Exceed</i>	<i>\$9,000</i>
<i>Total Task Order Amount</i>		<i>\$9,000</i>

B. The terms of payment are set forth in Article 4 of the Agreement and in Exhibit C.

6. **Consultants:** None.

7. **Other Modifications to Agreement:** None

8. **Attachments:** None

9. **Documents Incorporated By Reference:** None

TASK ORDER No. 3

Terms and Conditions: Execution of this Task Order by Owner and Engineer shall make it subject to the terms and conditions of the Agreement (as modified above), which Agreement is incorporated by this reference. Engineer is authorized to begin performance upon its receipt of a copy of this Task Order signed by Owner.

The Effective Date of this Task Order is June 18, 2012.

OWNER: TOWN OF CAPE CHARLES

ENGINEER: GHD Inc.

By: \_\_\_\_\_

By:  \_\_\_\_\_

Name: \_\_\_\_\_

Name: Vincent Maillard

Title: \_\_\_\_\_

Title: Service Group Manager

Engineer License or Firm's  
Certificate No.

State of: VA 0402047392

DESIGNATED REPRESENTATIVE FOR TASK  
ORDER:

DESIGNATED REPRESENTATIVE FOR TASK  
ORDER:

Name: Dave Fauber

Name: David Weber

Title: Staff Consultant or Director of  
Public Works & Utilities

Title: Project Engineer

Address: 2 Plum Street  
Cape Charles, VA 23310

Address: 16701 Melford Boulevard, Suite 330  
Bowie, MD 20715

E-Mail  
Address: Dave.fauber@capecharles.org

E-Mail  
Address: David.Weber@ghd.com

Phone: 757.331.3259 ext. 17

Phone: 240-206-6864

Fax: 757.331.4820

Fax: 240-206-6811

 <p>TOWN OF CAPE CHARLES</p>	<b>AGENDA TITLE:</b> Boating Infrastructure Grant - Marketing		<b>AGENDA DATE:</b> July 12, 2012
	<b>SUBJECT/PROPOSAL/REQUEST:</b> Authorize Staff to submit an application for grant funds		<b>ITEM NUMBER:</b> 7H
	<b>ATTACHMENTS:</b> None		<b>FOR COUNCIL:</b> Action (X) Information ( )
	<b>STAFF CONTACT (s):</b> Smitty Dize	<b>REVIEWED BY:</b> Heather Arcos, Town Manager	

**BACKGROUND:**

The Boating Infrastructure Grant Program is funded by the Department of Interior, Fish and Wildlife Service and managed by the Virginia Department of Health.

The Sportfishing and Boating Safety Act of 1998. (Public Law 105-178) established the Boating Infrastructure Grants Program (BIG) to provide funding to the 50 States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and the territories of Guam, American Samoa, and the U.S. Virgin Islands for the development and maintenance of boating infrastructure facilities for transient, nontrailerable recreational vessels.

Funding Opportunity Description: Recreational boating is a popular activity and there are approximately 13M registered boats in the U.S. and an estimated 600K are at least 26' long and are considered nontrailerable. The Fish and Wildlife Service expects that approximately \$5.6M will be available for BIG Tier 1 Basic Grants in FY 2013. The maximum Federal cost share is 75% of the total allowable cost up to \$100K.

**DISCUSSION:**

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 has to offer. The Town's share for FY 2012 was \$2,700.

This funding opportunity has been announced for FY 2013 and the Town could like to apply for another \$10K to be used for another marketing campaign similar to last year's. The awards will be announced in March 2013. If the Town receives an award, the contract will be presented to Council for review and authorization to execute. The Town match will be included in the FY 2013/2014 Harbor Fund Budget.

**RECOMMENDATION:**

Staff requests approval to submit the grant application for the Boating Infrastructure Grant Program Tier 1 for \$10K to be used towards a marketing campaign for the Cape Charles Harbor.