



TOWN COUNCIL

Work Session

Town Hall

July 3, 2012

5:00 PM

1. Call to Order: Roll Call

2. Order of Business
 - A. Discuss Candidates to Fill Town Council Vacancy

 - B. Marketing Opportunity Presentation – Jon Dempster

3. Motion to Adjourn

 <p>TOWN OF CAPE CHARLES</p>	AGENDA TITLE: Interim Appointment to Fill Vacancy on Town Council		AGENDA DATE: July 3, 2012
	SUBJECT/PROPOSAL/REQUEST Interim appointment to fill vacancy on Town Council until Special Election can be held		ITEM NUMBER: 2A
	ATTACHMENTS: Code of Virginia Sections 24.2-228, 24.2-226 & 24.2-682		FOR COUNCIL: Action () Information (X)
	STAFF CONTACT (s): Heather Arcos	REVIEWED BY: 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:

This issue will 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 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 mailed to Northampton County Circuit Court Clerk Traci Johnson on July 13, 2012.

RECOMMENDATION:

Discuss potential candidates for this interim seat on the Town Council and be prepared to make an appointment at the July 12, 2012 Town Council Regular Meeting.

§ 24.2-228. Interim appointment to local governing body or elected school board; elected mayor.

A. When a vacancy occurs in a local governing body or an elected school board, the remaining members of the body or board, respectively, within 45 days of the office becoming vacant, may appoint a qualified voter of the election district in which the vacancy occurred to fill the vacancy. If a majority of the remaining members of the body or board cannot agree, or do not act, the judges of the circuit court of the county or city may make the appointment. Notwithstanding any charter provisions to the contrary, the person so appointed shall hold office only until the qualified voters fill the vacancy by special election pursuant to § 24.2-682 and the person so elected has qualified. Any person so appointed shall hold office the same as an elected person and shall exercise all powers of the elected office.

If a majority of the seats on any governing body or elected school board are vacant, the remaining members shall not make interim appointments and the vacancies shall be filled as provided in § 24.2-227.

B. When a vacancy occurs in the office of a mayor who is elected by the voters, the council shall make an interim appointment to fill the vacancy as provided in subsection A.

C. For the purposes of this article and subsection D of § 22.1-57.3, local school boards comprised of elected and appointed members shall be deemed elected school boards.

D. The failure of a member of a local governing body or elected school board or mayor to take the oath of office required by § 49-1 before attending the first meeting of the governing body or school board held after his election shall not be deemed to create a vacancy in his office provided that he takes the oath within 30 days after that first meeting.

§ 24.2-226. Election to fill vacancy.

A. A vacancy in any elected local office, whether occurring when for any reason an officer-elect does not take office or occurring after an officer begins his term, shall be filled as provided by § 24.2-228 or for constitutional officers as provided in § 24.2-228.1, or unless provided otherwise by statute or charter requiring special elections within the time limits provided in this title. **The governing body** or, in the case of an elected school board, the school board of the county, city, or town in which the vacancy occurs shall, **within 15 days of the occurrence of the vacancy, petition the circuit court to issue a writ of election to fill the vacancy** as set forth in Article 5 (§ 24.2-681 et seq.) of Chapter 6. Either upon receipt of the petition or on its own motion, the court shall issue the writ ordering the election promptly, which shall be no later than the next general election in November, or in May if the vacant office is regularly scheduled by law to be filled at that time, unless the vacancy occurs within 90 days of the next such general election in which event it shall be held promptly but no later than the second such general election. Upon receipt of written notification by an officer or officer-elect of his resignation as of a stated date, the governing body or school board, as the case may be, may immediately petition the circuit court to issue a writ of election, and the court may immediately issue the writ to call the election. The officer's or officer-elect's resignation shall not be revocable after the date stated by him for his resignation or after the forty-fifth day before the date set for the special election. The person so elected shall hold the office for the remaining portion of the regular term of the office for which the vacancy is being filled.

B. Notwithstanding any provision of law or charter to the contrary, no election to fill a vacancy shall be ordered or held if the general election at which it is to be called is scheduled within 60 days of the end of the term of the office to be filled.

C. Notwithstanding any provision of law or charter to the contrary, when an interim appointment to a vacancy in any governing body or elected school board has been made by the remaining members thereof, no election to fill the vacancy shall be ordered or held if the general election at which it is to be called is scheduled in the year in which the term expires.

§ 24.2-682. Times for special elections.

A. Notwithstanding any charter or special act to the contrary, the following provisions govern the times for holding special elections. **Every special election shall be held on a Tuesday.** No special election shall be held within the 55 days prior to a general or primary election. No special election shall be held on the same day as a primary election. **A special election may be held on the same day as a general election.**

B. A referendum election shall be ordered at least 81 days prior to the date for which the referendum election is called.

C. A special election to fill a vacancy in any constitutional office shall be held promptly and in accordance with the requirements of subsection A.