



**TOWN COUNCIL**  
**Regular Meeting**  
**St. Charles Parish Hall**  
**November 8, 2012**  
**6:00 p.m.**

At 6:00 p.m. Mayor Dora Sullivan, having established a quorum, called to order the Regular Meeting of the Town Council. In addition to Mayor Sullivan, present were Vice Mayor Bannon, Councilmen Godwin, Sullivan, Veber and Wendell and Councilwoman Natali. Also in attendance were Councilman-Elect Bennett, Town Manager Heather Arcos, Assistant Town Manager Bob Panek, Code Official Jeb Brady, Town Planner Tom Bonadeo and Town Clerk Libby Hume as well as the Department Heads and approximately 17 members of the public.

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

Mayor Sullivan addressed the attendees stating that some changes would be made to the Gazette making the Town more easily accessible and knowledgeable and asked them to stay tuned for these exciting changes.

**PUBLIC COMMENTS:**

*Deborah Bender, 300 Fulcher Street*

Please see attached.

*Veann Duvall, 110 Tazewell Avenue*

Ms. Duvall deferred her allotted time to Councilman Wendell.

*Frank Wendell, 515 Monroe Avenue*

Councilman Wendell began by congratulating Councilman-elect Steve Bennett for an impressive Council victory in the recent election along with Mr. Dan Burke for giving the citizens a choice. Councilman Wendell continued to talk about i) the Council's five to one decision two months ago to support the Southern Node of the County's regional wastewater system; ii) Comprehensive Plan statements where the citizens wanted Cape Charles to be self-sufficient and walkable and the importance of adding a sidewalk from the New Roots Garden to Rayfield's Pharmacy; iii) commercial growth in town rather than on Route 13; iv) the poor planning by Council in locating the new wastewater treatment plant in its current location vs. the Keck property; v) other localities that have kept their former schools as public buildings; vi) the code summary report for the old school building from Echelon and the occupancy calculation of 94 occupants; vii) Echelon's plans for an oversized family unit in the gymnasium space; and viii) comments made at the Candidates' Forum regarding the struggle with creating infill housing to make Bay Creek and the Historic District successful. Councilman Wendell concluded by stating that he wanted to go on record that he did not think a 17-unit apartment building, which could be transferred into condominiums after five years, was in keeping with the Town's small town charm that was alluded to in the Town's vision statement.

*Bruce Evans, 645 Tazewell Avenue*

Mr. Evans began by thanking the Council for doing such a good job on how they handled the school and continued with remarks relating to Ms. Bender's comments regarding Council not listening to the citizens. Mr. Evans addressed Councilman Wendell regarding his public comments on items previously voted upon by the Council and his obligations as a new Council member. Mr. Evans concluded by again commending the Council.

The Town Clerk read a letter received from Mr. Wayne Creed of 548 Monroe Avenue into record. Please see attached.

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

**CONSENT AGENDA:**

Mayor Sullivan stated that Ms. Nancy Stern, CEO of Rural Health, was here this evening to give an overview of available services at Rural Health adding that the presentation would be added as the first item under New Business followed by the 2013 July 4<sup>th</sup> Fireworks Display which would be moved from Item 7D to 7B.

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

The Town Council reviewed the minutes of the October 11, 2012 Regular Meeting and the October 11, 2012 Executive Session.

Councilwoman Natali stated that she had contacted the Town Clerk regarding some typographical errors in the October 11, 2012 Regular Meeting minutes.

**Motion made by Councilman Wendell, seconded by Vice Mayor Bannon, to approve the minutes from the October 11, 2012 Regular Meeting as corrected and the minutes from the October 11, 2012 Executive Session as presented. The motion was unanimously approved.**

**REPORT PRESENTATIONS:**

*A. Treasurer's Report:*

Treasurer Kim Coates reviewed the Treasurer's report dated October 31, 2012 which showed \$294,275 in the Bank of America checking account, \$304,338 in the Shore Bank account and \$439,935 in the Local Government Investment & Restricted Funds with the Total Cash on Hand at \$1,038,547. The report also showed Total Cash Held in Reserve at \$354,758. Kim Coates reviewed the Tax Collection Comparison for Fiscal Years (FY) 2012 and 2013 which showed that \$20,852 more was collected in FY 2013 as of October 31<sup>st</sup> with increases noted for meals tax and transient occupancy tax. Kim Coates added that the real estate and personal property tax bills were mailed the end of October and first of November with due dates of December 5, 2012.

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

*B. Planning Commission and Boards:*

Town Planner Tom Bonadeo reported the following: i) The Planning Commission met on November 6<sup>th</sup> and reviewed a conditional use permit application from South Port Investors. A Public Hearing was scheduled for December 4, 2012; ii) The Historic District Review Board met on October 16<sup>th</sup> and approved a modification to a large accessory building which is part of the Fig Street Inn located at 711 Tazewell Avenue. The Hotel Cape Charles was expected to be on the November 20<sup>th</sup> agenda; iii) The Wetlands Board met on November 2<sup>nd</sup> and approved the revised wetlands mitigation. The original permit was issued approximately four years ago and the Army Corps requested additional wetlands

mitigation. There was a ten-day waiting period before a new permit could be issued by the Corps; and iv) Approximately 4,400 cubic yards of sand was lost at the beach. About 18" in depth was lost around Jefferson Avenue. This loss was less than Hurricane Irene.

C. *Other Departmental Reports:*

Councilman Wendell asked a number of questions of Code Official Jeb Brady regarding his Code Summary Report for Echelon Resources which was previously provided to Council for review but not included in the Code Enforcement monthly report.

There were no questions regarding any of the monthly Departmental Reports.

**OLD BUSINESS:**

A. *Central Park Restrooms:*

Heather Arcos stated that Council had approved a plan for the Town to partner with the Citizens for Central Park (CCP) to build permanent restrooms in Central Park. CCP received a grant of \$20K from the Eastern Shore of Virginia Community Foundation and the Town Council allocated \$15K in the FY 2013 budget as the Town match for the project. CCP contacted six contractors to ascertain interest in the project, limiting their proposal process to local contractors since those off the Eastern Shore did not prove competitive in the Harbor Bath House design-build competition. CCP conducted individual meetings with the four interested contractors and proposals were received from Boytos & Boytos, Manning Construction and QS. QS provided the best value proposal within the \$35K budget. CCP has requested disbursement of the allocated funds to enable them to move forward with contract award to QS. CCP anticipated completion by early spring 2013.

**Motion made by Vice Mayor Bannon, seconded by Councilman Godwin, to authorize disbursement of the allocated \$15K to the Citizens for Central Park for the completion of the Central Park Restrooms. The motion was approved by unanimous consent.**

**NEW BUSINESS:**

A. *Nancy Stern, Rural Health Presentation:*

Ms. Stern informed Council that Rural Health was a 501(c)3 corporation in operation since 1976 serving all residents of the Eastern Shore with locations in both Accomack and Northampton Counties. Rural Health was not a free clinic and 37% of their patients were fully insured. All patients pay a co-payment – about \$20 for a medical visit and \$30 for a dental visit. Uninsured individuals apply each year for assistance.

Mayor Sullivan stated that she was a patient and was impressed with the equal quality of care given to everyone.

Councilwoman Natali asked if Rural Health could provide emergency care services. Ms. Stern responded that they were an outpatient, primary care facility.

There was some discussion regarding the ability to get people to move to Cape Charles with emergency care services moving 40 miles north.

B. *2013 July 4<sup>th</sup> Fireworks Display:*

Jeb Brady stated that the 4<sup>th</sup> of July fireworks display was a well-attended event and this year's show was the best the Town had ever seen. In the past, the Cape Charles Volunteer Fire Company (CCVFC) shot off the fireworks, but due to new State regulations a certified pyro technician must be used to perform any fireworks shows in the Commonwealth of Virginia. Last year's contractor, Bay Area Fireworks from Farmingdale, NY had committed to providing the Town with another show for 2013 at a cost of \$16,500, a 10% increase

over this year's price of \$15K, due to rising insurance costs and costs of transporting fireworks to the events. Another quote was sought from Pyrotecnico, the company that provided fireworks to the CCVFC, but an email was received stating they were not interested in submitting a quote at this time. \$10K was allocated in the FY 2013 budget under the Town Manager's budget and \$5K was allocated in the Harbor budget. The remaining funds could be taken from the contributions area included in the Town Manager's budget. Jeb Brady added that Community Events / Recreation Coordinator Jen Lewis collected approximately \$2,800 in vendor fees from various events and some of this money could be used to offset the expense. Last year, the Town solicited assistance from Northampton County and the Cape Charles Business Association (CCBA). \$1K was received from the CCBA. The Town also received a donation from NMA Federal Credit Union. Letters would be sent to organizations again this year asking for assistance. To secure this quote, the contract must be signed by November 15, 2012 and a deposit of \$8,250 was required. The remaining amount must be paid 30-days prior to the show date.

There was some discussion regarding ideas to increase financial assistance for the fireworks displays. Jen Lewis stated that last year, 200 letters were mailed and only NMA Federal Credit Union donated towards the show. It was suggested that the vendor fee, currently \$50, could be increased.

**Motion made by Councilwoman Natali, seconded by Vice Mayor Bannon, to authorize the Town Manager to accept the proposal from Bay Area Fireworks for \$16,500 for the 4<sup>th</sup> of July 2013 fireworks show.**

C. *Hurricane Sandy Damage Update:*

Heather Arcos thanked the Public Works crew, Northampton County and CCVFC for their hard work in preparation for the arrival of Hurricane Sandy and continued to report the following damage: i) The Town Harbor sustained damage with an estimated cost of \$6K. A detailed report was included in the Harbor's monthly report; ii) The pier sustained considerable damage to the old section. Boards were lost and joists needed to be reinforced. The pier would remain closed until a structural engineering evaluation could be completed; iii) There was beach erosion primarily at the north end of the beach and there was minor damage to the bulkhead at Jefferson Avenue; iv) One building of the Sea Breeze Apartments was deemed uninhabitable and the Sea Breeze Management provided alternate housing for the displaced residents. The building had been temporarily stabilized and the owners were working with the Code Official regarding repairs to the structure; v) Bay Creek reported damage to the Nicklaus and Palmer golf courses. Many trees were down and their beach sustained some erosion; and vi) There had been some minor reports of missing shingles on houses and trees down in Town. As of this time, the State of Virginia had not yet been declared for federal assistance. If approved, the Town could qualify for assistance for the pier and beach.

The County's emergency alert system was used for the first time and proved to be a very effective system. The Town's procedures for getting information to the citizens during and after a storm were being reviewed and changes would be put in place in the near future.

The Public Works crew was working diligently to clean up the Town's streets and property.

Councilwoman Natali complimented the Town, emergency workers, etc. for an outstanding job before, during and after the storm.

D. *Community Needs Advisory Committee:*

Heather Arcos stated that the Town purchased the former Bank of America building and properties and the first floor was slated for use as the new Library which would double their current space and provide handicap access to the Library. The current library building was in good shape, needing only minor repairs such as exterior painting and ADA compliance if repurposed for public use. At the September 13<sup>th</sup> Town Council Regular Meeting, Steve Bennett addressed the Council suggesting the establishment of an advisory committee to identify the needs of the community and inventory the existing assets to allow the Town to better design the physical spaces which would be available and better define the programs necessary to fill the unmet needs. Mr. Bennett offered to chair the committee and help recruit other citizens to serve pending Council's approval. The Mayor requested the establishment of this advisory committee whose responsibilities would be as described by Mr. Bennett and also to evaluate the exiting library space for public use and provide recommendations to Council. The committee would include Jen Lewis as the staff liaison.

There was some discussion regarding the size of the committee and its intent. The committee should be comprised of six or seven citizens of various age groups. Councilwoman Natali stated that certain people have spoken consistently about the needs of the youth and elderly and suggested that Ms. Dianne Davis be contacted to possibly serve on this committee. Councilman Wendell expressed his interest in serving on the committee.

**Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to authorize the formation of a Community Needs Advisory Committee with Steve Bennett as the chair and Jen Lewis as the staff liaison. The motion was approved by unanimous consent.**

E. *Bagwell Oil Fuel Services Contract Extension:*

Heather Arcos stated that on November 8, 2010, the Town awarded a contract effective December 1, 2010 to Bagwell Oil Company for all fuel services for the Town. The contract was for one year with the option to renew for three additional years. In November 2011, the Town awarded the first of three possible contract extensions. The current contract would expire on November 30, 2012. The Town was satisfied with the services provided by Bagwell Oil Company and would like to exercise the right to renew at current fuel prices with no increase for another year.

**Motion made by Vice Mayor Bannon, seconded by Councilman Wendell, to authorize the Town Manager to execute a one-year contract extension with Bagwell Oil Company to provide fuel services to the Town. The motion was approved by unanimous consent.**

F. *Cape Charles Volunteer Fire Company Allocation for Truck Payment:*

Heather Arcos stated that in the FY 2013 budget, the Town allocated \$18,600 as a general contribution to the CCVFC in order to pay their annual equipment loan and help offset insurance expenses. The CCVFC had requested disbursement of the allocated funds to pay the annual equipment loan payment of \$14,567.56 which was due on December 13, 2012 with the remainder used towards the annual insurance payment of \$18,850.

Councilman Veber thanked the CCVFC for all they did for the community and expressed his appreciation.

CCVFC President Steve Wilson thanked the Council for their financial assistance and announced that the annual Toolmania was scheduled for the upcoming weekend.

**Motion made by Councilman Veber, seconded by Councilman Godwin, to authorize the Town Manager to disburse \$18,600 to the Cape Charles Volunteer Fire Company to pay**

**their equipment loan payment and insurance expenses. The motion was approved by unanimous consent.**

*G. Enterprise Zone:*

Tom Bonadeo explained that the Enterprise Zone was established to encourage commercial investment and job creation and that there were two types of grants available – real property improvement grants and job creation grants. Tom Bonadeo reviewed details for each type of grant. The program was administered by Northampton County and each year the Town worked with the County to review and possibly modify the map. Tom Bonadeo reviewed the current and proposed maps and stated that the recommended change was a portion of Bayside Village which was zoned Village District. The Village District was a mixed use area that could benefit from inclusion in the zone. There was no cost to the Town for this change and there was no cost to the Town for funding the grants. The Town would benefit from increased real estate taxes for the improved property and increased payroll. Bayshore Concrete still took advantage of grants through this program. Other businesses in Town such as Kelly's, Hotel Cape Charles and Hotel Blue had also taken advantage of the program.

Councilman Godwin asked if other areas of Town could be included in this zone. Tom Bonadeo asked Councilman Godwin to call him tomorrow to discuss this issue and possibly add areas to this year's request.

*H. Support for Creating Prosperity Through Preservation Act:*

Heather Arcos stated that since 1978, federal incentives for historic rehabilitation, including federal historic tax credit that became effective 1982, had rehabilitated more than 38K buildings, created 2.2M jobs and leveraged nearly \$100B in private investment nationwide. Over the past 10 years, a number of projects in Cape Charles received assistance with federal historic tax credits.

A letter was sent by Mr. Michael Phillips from the National Trust Community Investment Corporation, to the Mayor requesting the Town's support of the Creating Prosperity Through Preservation Act (CAPP Act) to the Virginia Congressional Delegation. The bill modernized the Federal Historic Tax Credit. The CAPP Act would position the credit to be an even greater job creation and economic development engine and would make the 20% historic tax credit easier to use and more accessible. Cape Charles could be a huge winner with the passage of the CAPP Act because the credit would increase from 20% to 30% for deals less than \$5M.

**Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to authorize the Town Manager to contact Mr. Michael Phillips, National Trust Community Investment Corporation, expressing the Town's support of the CAPP Act. The motion was approved by unanimous consent.**

**ANNOUNCEMENTS:**

- November 10, 2012 – WHRO Reception at Hotel Cape Charles, 5:30 PM
- November 12, 2012 – Town Offices Closed in Observance of Veterans' Day
- November 15, 2012 – Town serving Thanksgiving dinner to residents of Heritage Acres
- November 15, 2012 – Town Council Work Session, 6PM
- November 21, 2012 – Town Offices Closing at Noon for Thanksgiving Holiday
- November 25, 2012 – The Shanty Restaurant closing for the winter. Will be reopening in March 2013. The Shanty had a great summer and exceeded expectations.
- November 22-23, 2012 – Town Offices Closed for Thanksgiving Holiday
- December 13, 2012 – Town Council Regular Meeting, 6PM

- December 17, 2012 – Hearing for Old School Cape Charles vs. Town of Cape Charles lawsuits, 11AM
- December 20, 2012 – Town Council Work Session, 6PM

Councilman Veber congratulated Steve Bennett adding that he would do a good job for the Town. Councilman Veber went on to thank Mr. Dan Burke for running for Council and recommended Mr. Burke for the Planning Commission if he was willing to serve. Councilman Veber continued to state that he was very proud for the achievements, even though people disagreed with the Council, and believed everyone on the Town Council over the last eight years did the best for the Council and the Town. Councilman Veber thanked everyone for their support of him and wished everyone continued success adding that he would give his total support to the Council.

Heather Arcos announced that Public Works/Public Utilities Director Dave Fauber was exploring recycling options which would be reviewed by the Town Council at a future work session.

Mayor Sullivan thanked the attendees for coming and welcomed Mr. Steve Bennett back to the Town Council.

**Motion made by Vice Mayor Bannon, 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  
November 8, 2012  
Comments Provided in Writing**

*Deborah Bender, 300 Fulcher Street*

I am here tonight as the public spokesperson for Old School Cape Charles, LLC. I am not the only person who is concerned about the issues that I am raising. I am not alone in my concern about the way that our old school property has been handled and the continuing disregard for us.

I want to thank you for bringing the issue of tax credits raised by Mr. Phillips to our attention. We are also concerned about tax credits. We have written an open letter to Mr. Phillips that I am providing to you tonight and to anyone here who wishes to see it.

We are not prepared to see our old school made into an apartment house at the expense of our basketball court, our parking for the playground, park and the other uses that the school might have for the public good.

We are very concerned that Mr. Bennett has offered to chair a committee to decide what to do with the old library and other property of this community. Mr. Bennett has said consistently that he does not see the old school as having any use except to be given away to a developer. We believe that if Mr. Bennett does not see the value of the old school in the park that he is not a proper candidate to chair a committee about town property.

If a committee is chosen, someone else needs to be in charge of it. We understand that you are not used to taking input from citizens. We hope that will change over time.

We have contacted our political representatives the Department of Historic Resources, and the Office of Fair Housing about the Echelon plans for our old school.

These plans for our school are not in keeping with the Secretary of the Interior's Guidelines for rehabilitation of historic properties.

We will continue to raise our issues with you and will deal with it through the legal channels as necessary. It is unfortunate that you, as representatives of us, feel that you can trample our wishes for the benefit of a private developer.

Our town should not be a Disney Land for tourists while ignoring the needs of the people living here. Whether we are rich or poor we should all have a place at the table.

*Wayne Creed, 548 Monroe Avenue*

Thank you Honorable Mayor Sullivan and Town Council for taking the time to read this letter:

This is the town of Cape Charles. A town that has made numerous claims over the years that it could not afford to rehabilitate our historic Old School, and turn it into something that could be used by everyone in the community. This is the same Cape Charles, where its town manager has just signed part 1 and part 2 of a rehabilitation tax credit application on behalf of Echelon Resources.

To our west is another town, similar in size, yet one not known for divisiveness and rancor, but for its ability to work with all its citizens to preserve their history, and to create a notion of community. This town is Wakefield, Virginia. Rather than ignoring its citizens, especially grass roots community groups, the town instead embraces them. The Wakefield Foundation is a non-profit, tax-exempt corporation organized to preserve and restore the former Wakefield High School Building and to administer programs and activities for the well-being of the Wakefield community and surrounding areas. Their town views the Wakefield Foundation not as annoying bumpkins, but instead embraces them as a catalyst that brings the community, no matter what race or economic standing, together on a regular basis.

The Wakefield Foundation is so engrained in the fabric of their culture, the name is used interchangeably by folks in town, describing both the restored Wakefield High School building and the volunteer group dedicated to keeping the

center open. The school was built in 1919 (ours 1912), and educated the town's children from first through 12th grades until 1964. It served as an elementary school until Sussex County closed it in 1984 (ours closed in 1987). A group of town residents purchased the building a few years later to save it from demolition. They had a vision to turn it into a community center for the people in Wakefield. Today, it would be hard to imagine Wakefield without the Foundation and the community center.

The school's calendar of events is packed with family reunions, town meetings, holiday events, karate classes, adult education programs, and art shows. The building is also home to the Troxler Memorial Library, the local branch of the Blackwater Regional Library System (they did not use tax money earmarked to protect their drinking water to purchase a commercial property).

Several of the building's rooms are available for rent, as well as the public auditorium, gallery and conference room. John Tyler Community College offers a Certified Nursing Assistant class- both Spring and Fall Session, and Sussex County sponsors GED, as well as English as a Second Language (ESL) classes.

At the core, isn't that what that what Old School Cape Charles was trying to do by creating a multi-purpose space in the school. How does Wakefield, with only 901 full-time residents, do it? During the last election, both candidates shamefully indicated that they would not spend a dime of taxpayer money on the Old School. Really? With a five million dollar budget, we can't scrape up \$30,000.00 a year for maintenance? One has to ask, how did little Belle Haven accomplish a public-private partnership with ESO to save their school? Given all the work the Town is doing on Central Park and now the walking trail (how much public tax money has gone into these projects?), shouldn't our historic school be the anchor for all that public space rather a fenced off private residence?

Depending on what the eventual outcome is regarding the Echelon deal, one day, we may find ourselves back to square one. If that happens, I am oddly optimistic that the Town, and its citizens, might be able to adopt the Wakefield way, and work together on this. Despite what we've been thinking, the Old School is actually in great shape, and is structurally sound. Asbestos abatement is a non-issue. The task of turning it into a multi-purpose community service and event location, anchoring our park and walking trail, is not that daunting. It will require a commitment from the town and its citizens to work together, with each willing to contribute time and money to the endeavor. There are working models for us to use to accomplish this.

Next week, A Piece of Eden opens at the Palace Theater. A line, spoken by John Savage, continues to haunt me as we struggle over the fate of the old school, "no plot of earth will stay paradise for long if all its inhabitants do not share the same vision of its future." We all have such a limited time left here, and it is worth asking, just what is our vision of the future? What will we leave behind for the next generation? What will they say about us once we are gone?