



**TOWN COUNCIL  
Regular Meeting  
St. Charles Parish Hall  
October 11, 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 Sullivan, Veber and Wendell and Councilwoman Natali. Councilman Godwin arrived at 6:04 p.m. Also in attendance were Town Manager Heather Arcos, Assistant Town Manager Bob Panek and Town Clerk Libby Hume as well as the majority of Department Heads and approximately 10 members of the public.

Mayor Sullivan asked for a moment of silence to remember Mr. Doug Walker (15-24) who served the community as a fire fighter for 22 years. Mr. Walker passed away on October 9, 2012. The moment of silence was followed by the recitation of the Pledge of Allegiance.

**PUBLIC COMMENTS:**

*Don Bender, 300 Fulcher Street*

Mr. Bender deferred his allotted time to Deborah Bender.

*Deborah Bender, 300 Fulcher Street*

Ms. Bender addressed Council regarding the following: i) A FOIA response she received from the Dept. of Historic Resources where Town Manager Heather Arcos applied to have the school certified as a historic structure for rehabilitation purposes; ii) A list of costs to the Town for work done on the school and Bank of America building totaling \$850K; iii) A couple of days after she brought it to everyone's attention about Echelon advertising on their website for one and two-bedroom apartments in the school building, their website was changed; iv) The Town stated that the building was in such bad condition, but when Councilman Wendell went into the building with some of Echelon's men who were checking the building out, they told Councilman Wendell that the foundation was in great shape, the beams underneath the school were also in good shape and the asbestos could be contained. The worst part of the building was the stairwell where water had been leaking in for years. If the Town had performed general maintenance, the stairwell would be in better shape; and v) The problem was that no one cared about the 100-year old historic school. Ms. Bender concluded by stating that the fight was far from over, the citizens were not going to go away and would be watching every move made by the Town.

*Lenora Mitchell, 309 Tazewell Avenue*

Ms. Mitchell began by talking about when the initial development of the resort community was being proposed and two scenarios of how the venture would impact the community. Brown and Root stated that rich people would come, hang out on their yachts or play golf all day and not get involved in small town politics. Another view came from St. Helena Island, South Carolina who stated that the people would discover Cape Charles and make it their little paradise, taking over the local government and pushing the natives out using tactics such as oppression, domination, repression and coercion. Ms. Mitchell went on to state that the citizens said "no" to discrimination and the Town was one community even though it was split into three districts. The voters spoke on May 1<sup>st</sup> and they would speak again. Council needed to find a way to serve the community inclusively. Ms. Mitchell asked Council to develop a plan to relocate the basketball court adding that she would hate to have the kids come to the court

only to find a yellow tape around the parameters. The citizens' pleas have fallen on deaf ears which made their resolve stronger. Ms. Mitchell continued to state that the citizens were willing to work with the Town if permitted to do so, but if not, would be watching every step and move made by Council.

*Veann Duvall, 110 Tazewell Avenue*  
Please see attached.

*Frank Wendell, 515 Monroe Avenue*

Councilman Wendell stated that the tax credit application was signed and submitted on August 13<sup>th</sup> by Town Manager Heather Arcos and he had a copy of a letter dated September 14<sup>th</sup> from the Dept. of Historic Resources regarding the submission of the Rehabilitation and Tax Credit Application Part 1. Councilman Wendell went on to state that in a FOIA request, he asked for copies of applications made by the Town for grants to keep the school building public over the course of the last 4 - 10 years and was told that there were none. The Town Manager had replied that she was never directed by the Town Council to apply for anything. Councilman Wendell asked under whose direction the application was submitted for Echelon to receive the tax credits and whether Council ever directed staff not to maintain the school because one of the problems, per Echelon's architect, was the ongoing moisture in the school which could have been resolved with caulking the windows. Councilman Wendell stated that compared to the \$349K bath house, caulking at the old school would seem reasonable. Councilman Wendell continued to state that when he went to look at the school, Tom Bonadeo introduced him to the representatives from Echelon who were looking over the school and asked them how they liked the old school and their reply was that it was in great shape and they proceeded to point out the beams, etc. Councilman Wendell asked why the application was not included in the September or October Council packet so Council could be aware that the staff had submitted it on behalf of Echelon.

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

**CONSENT AGENDA:**

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

The Town Council reviewed the minutes of the August 23, 2012 Public Hearing & Special Meeting, the September 11, 2012 Work Session, the September 13, 2012 Executive Session, the September 13, 2012 Regular Meeting, the September 27, 2012 Work Session and the September 27, 2012 Executive Session.

Councilwoman Natali stated that she had contacted the Town Clerk regarding two typographical errors in the September 13, 2012 Regular Meeting minutes.

Councilman Wendell stated that he submitted additional language for the August 23, 2012 Public Hearing & Special Meeting minutes. There was some discussion regarding the language.

**Motion made by Vice Mayor Bannon, seconded by Councilman Sullivan, to approve the minutes from the August 23, 2012 Public Hearing & Special Meeting as presented with the addition of Councilman Wendell's language to the end of the minutes as an addendum. The motion was unanimously approved.**

**Motion made by Councilman Sullivan, seconded by Councilman Veber, to approve the minutes of the September 11, 2012 Work Session, the September 13, 2012 Executive Session, the September 27, 2012 Work Session and the September 27, 2012 Executive Session as presented and the minutes from the September 13, 2012 Regular Meeting as amended. The motion was approved by unanimous consent.**

**REPORT PRESENTATIONS:**

*A. Treasurer's Report:*

Treasurer Kim Coates reviewed the Treasurer's report dated September 30, 2012 which showed \$293,241 in the Bank of America checking account, \$612,058 in the Shore Bank account and \$439,861 in the Local Government Investment & Restricted Funds with the Total Cash on Hand at \$1,344,159. The report also showed Total Cash Held in Reserve at \$354,739. Kim Coates reviewed the Tax Collection Comparison for Fiscal Years (FY) 2012 and 2013 which showed that \$65,287 more was collected in FY 2013 as of September 30<sup>th</sup> with increases noted for meals tax, real estate taxes, and transient occupancy tax.

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

*B. Town Manager's Report:*

Town Manager Heather Arcos reported the following: i) A Candidate Forum, hosted by the Arts Enter, was being held on October 25<sup>th</sup> at the Palace Theatre. Northampton County District 1 Supervisor Willie Randall would be the moderator; ii) Thomas Stratton of the Water Plant was doing better but still unable to work; iii) Heather Arcos thanked Officer Jim Pruitt and Chief of Police Charles Brown for all their work on the ceremony honoring fallen officer Sgt. James Taylor; and iv) The service for Doug Walker would be held on Sunday, October 14<sup>th</sup>, at 2:00 PM at the Cape Charles Volunteer Fire Company.

Councilwoman Natali thanked the Town and the ESVA Festivals organization for doing such a great job for the Birding Festival.

*C. Planning Commission and Boards:*

Heather Arcos stated that Town Planner Tom Bonadeo was attending a meeting at the Eastern Shore Community College regarding the Walkability Tour Report. Cape Charles would be on the front cover of the report which would be posted on the Town's website when received.

Councilman Wendell asked about the sidewalk project and stated that he hoped the Town could find money to extend the sidewalk along Randolph Avenue from Heritage Acres to Fig Street and the Rayfield's parking lot. Heather Arcos responded that the Town was talking with Branscome, VDOT's contractor for this project, and Public Utilities Director Dave Fauber was looking at the safest layout for the sidewalk. Once something definite had been worked out, staff would report back to the Town Council.

Councilman Godwin expressed his concern regarding the quality of work being done by Branscome on the sidewalk project. Dave Fauber informed Council that we would look at the work tomorrow and address the issue with VDOT if necessary.

*D. Other Departmental Reports:*

Librarian Ann Rutledge reported the following: i) Free computer classes were offered every Tuesday morning at 10:00 AM and every other Tuesday evening at 7:00 PM. Word was getting out and the classes were filling up. One attendee came from Onley; ii) The kids'

programs were doing great with a lot of attendees; iii) They were very excited about the new library and lots of positive feedback was being received from the public.

Mayor Sullivan asked if there were any questions regarding the other departmental reports.

Councilman Wendell asked Dave Fauber about the upcoming project to repair the Pine Street Pump Station with a FEMA Grant. Dave Fauber explained that it was determined that the damages to the pump station were caused by the earthquake last year and FEMA was providing approximately \$7,500 to help repair the damage.

**OLD BUSINESS:**

**A. *Contract for Demolition of Wastewater Treatment Plant:***

Assistant Town Manager Bob Panek stated that Council previously approved the award of a contract in the amount of \$19,100 to Brittingham Bulldozing & Excavating for demolition work on the old wastewater treatment plant. Bob Panek explained that the Town avoided significant costs included in the original estimate by awarding a no cost contract for demolition of the steel tanks and structures and by the Public Utilities staff completing the re-routing of the water plant backwash piping in-house. Several problems had arisen as Brittingham's work progressed: i) the polishing pond liner could not be removed by the Public Utilities staff as planned and had to be removed piecemeal as demolition work progressed; ii) additional concrete foundations were discovered under the former steel tanks and needed to be removed; and iii) the polishing pond sediment would not drain properly and needed to be diverted to a temporary drainage impoundment to dry. Brittingham incurred costs totaling \$17,210 to accomplish this work. Bob Panek continued to state that the sediment appeared to have dried sufficiently for grading and seeding and this was estimated to cost about \$6K, bringing the total additional cost for this phase of closure to \$23,210 for a total of \$70,348. After this work was accomplished, there would be some additional costs, mainly for fencing, to finish the closure work. The estimated additional cost would be no more than \$30K. The total cost of demolition would be approximately \$100K and \$289K was included in the Wastewater Treatment Plant Capital Budget for this project. Bob Panek requested that Council approve an amendment to the Brittingham contract for the additional work, not to exceed \$23,210.

There was some discussion regarding the various costs included in the demolition project. Councilwoman Natali stated that she was impressed that the project was able to be completed well below budget. Bob Panek responded that the Public Utilities staff did a great job in cleaning out the tanks, etc.

Councilman Godwin also congratulated staff for doing a great job.

**Motion made by Vice Mayor Bannon, seconded by Councilwoman Natali, to amend the Brittingham Bulldozing & Excavating contract for the additional work discussed, not to exceed \$23,210. The motion was approved by unanimous consent.**

**B. *PSA / Regional Wastewater System Update:***

Bob Panek stated that the PSA was working on the application for a USDA RD Grant for the Northern Node for submission in November. The Southern Node service area was scaled back focusing on the commercial properties around the US 13 / State Road 184 intersection. The preliminary estimate for this project was between \$1.5M to \$2M. The objective was to fund this first phase of the Southern Node primarily with private capital contributions from the commercial property owners. The PSA was following up with several of the property owners regarding a special tax district or capital contribution up

front. Once this process had been completed, the information would be presented to the Northampton County Board of Supervisors.

There was some discussion regarding the service area and the County's zoning of the area.

C. *Resolution to Request VDOT Traffic Study:*

Heather Arcos stated that after discussion at the September 13<sup>th</sup> Regular Meeting, upon request of Council, she contacted the VDOT resident administrator to request either a four-season or summer traffic study of the Randolph Avenue / Fig Street intersection in order to get an accurate picture of the volume of traffic in town. It was confirmed with a VDOT traffic engineer that a traffic study could be done within 30 days and another one could be done after Memorial Day for comparison and measurement purposes. Heather Arcos asked Council to review the Staff Report and attached resolution and discuss the request for multiple traffic studies for the intersection of Randolph Avenue and Fig Street.

There was some discussion regarding this issue and the safety of the residents and visitors traveling through this intersection.

**Motion made by Councilwoman Natali, seconded by Councilman Godwin, to adopt Resolution 20121011 - Requesting a Virginia Department of Transportation Traffic Study for the Intersection of Randolph Avenue and Fig Street.**

**Mayor Sullivan moved for adoption of Resolution 20121011 as noticed and forewent reading of the resolution. The motion was approved by majority vote. Roll call vote: Bannon, no; Godwin, yes; Natali, yes; Sullivan, yes; Veber, yes; Wendell, yes.**

**NEW BUSINESS:**

A. *Cape Charles Trail Project Agreement Amendment:*

Heather Arcos stated that in November 2011, as part of the Phase 2 North Peach Street and Washington Avenue design and construction, the Town submitted an application for a Transportation Enhancement Program Grant in the amount of \$251,878. In June of this year, the Town was awarded \$251K. An amendment (Appendix A) needed to be executed as a formality to accept the money and move forward with the project.

**Motion made by Councilman Sullivan, seconded by Councilman Godwin, to authorize the Town Manager to execute the Amendment to Project Development and Administration Agreement (Appendix A). The motion was approved by unanimous vote.**

B. *Former Bank of America Building Update:*

Heather Arcos stated that the purchase of the Bank of America building was completed on October 5, 2012 and continued to report the following: i) A draft floor plan had been developed; ii) The Town was working with the Friends of the Cape Charles Memorial Library regarding fundraising; and iii) Staff was evaluating the work to be done to the building and going through the furniture to determine the items to be kept. Heather Arcos went on to state that she would continue to give updates to the Council as the Town moved forward with plans to move the Library. Discussion and plans would be made to hold meetings to obtain citizen feedback on the future of the current Library building and its possible uses for meetings, recreation programs, Library annex, etc.

Councilman Veber asked about plans to let the citizens tour the building. Heather Arcos explained that staff was in the process of cleaning the interior of the building which needed to be done prior to permitting anyone inside to tour the space. The work on the building

would be prioritized and would be presented to Council for approval prior to any money being spent.

C. *Former Cape Charles School Update:*

Heather Arcos reported the following: i) Echelon Resources' review and inspection period would end no later than December 26, 2012; ii) The Echelon team, which included architects, contractors and engineers, was evaluating the condition of the building, utilities, zoning and building code requirements; iii) Notification was received on the reassignment of the entity name – Charon Ventures, LLC; iv) Survey had been completed and an engineer was working on the site plan; v) The project architect and engineer had visited the site; and vi) Echelon was working with the Historic Tax Credit Consultant to submit the applications. The Town signed off on Echelon's application verifying that the building was a historic structure.

Heather Arcos continued to state that on August 6, 2012, the Town responded to a lawsuit filed by Old School Cape Charles, LLC and Wayne Creed for an Appeal and Complaint for Declaratory and Injunctive Relief, primarily concerning the sale of the property. On September 24, 2012, Old School Cape Charles, LLC, Wayne Creed, Laura Hickman McSpedden and John L. Hickman filed an Appeal and Complaint for Declaratory and Injunctive Relief against the Town, primarily concerning rezoning of the property. The lawsuit was currently being reviewed by the Town's attorney and the Town would respond by October 16, 2012. A closed session would follow this meeting to discuss the Town's response to this second lawsuit.

D. *Water Plant Control Panel Change Order Request:*

Public Utilities Director Dave Fauber stated that the Town was in the process of updating the water filters and control panel at the water plant. In May 2012, the contract was awarded to MC Dean, Inc. and they were working with GHD, the Town's engineering firm, on the design phase of the new control panel. A back-up to the system was not included in the scope of work under the original contract but was essential to ensure an uninterrupted supply of safe, clean drinking water to the Town's customers and would be difficult and costly to add at a later date. The change order request for the back-up system was for \$20,800 which would bring the total expenditure to \$117,959 out of a total project budget of \$120K.

**Motion made by Councilman Wendell, seconded by Vice Mayor Bannon, to authorize the Town manager to execute Change Order CO-001 to the MC Dean, Inc. contract for \$20,800. The motion was approved by unanimous consent.**

E. *Friends of the Cape Charles Memorial Library Proclamation:*

Heather Arcos stated that October 21 – 27, 2012 was the seventh annual National Friends of Libraries Week, which was an opportunity to recognize and celebrate the Friends of the Cape Charles Memorial Library for their continued help and support through programs and services to the Cape Charles Memorial Library and the community.

Vice Mayor Bannon asked Librarian Ann Rutledge to describe some of the services provided by the Friends of the Library. Ann Rutledge stated that the Friends purchased a movie projector and screen for the Library and purchased the annual movie license for the Library to show movies, purchased 112 DVDs over the last several months, provided funding for special programs, helped with other activities for the children, helped back up staff in the Library, helped with publicity, put on book sales throughout the year and made \$400 from the last one. Ann Rutledge added that the Library could not function without the Friends of the Library.

Mayor Sullivan thanked Councilwoman Natali for bringing this week to Council's attention.

Councilman Natali stated that she and Vice Mayor Bannon were members of the Friends of the Cape Charles Memorial Library.

**Motion made by Councilman Godwin, seconded by Councilman Sullivan, to proclaim October 21 - 27, 2012 as National Friends of Libraries Week and recognize the Friends of the Cape Charles Memorial Library for all they do for the library and community. The motion was approved by unanimous vote. Roll call vote: Bannon, yes; Godwin, yes; Natali, yes; Sullivan, yes; Veber, yes; Wendell, yes.**

**ANNOUNCEMENTS:**

- October 14, 2012 – Service for Doug Walker, 2PM at Cape Charles Volunteer Fire Company
- October 25, 2012 – Candidate Forum, 6PM at Palace Theatre
- October 27, 2012 – Trunk or Treat with Haunted Harbor, 4PM
- October 27, 2012 – Oyster Roast at Wendell Distributing
- October 31, 2012 – Halloween. Trick or Treating until 8PM
- November 6, 2012 – Special Election
- November 8, 2012 – Town Council Regular Meeting, 6PM

**Motion made by Councilwoman Natali, seconded by Vice Mayor Bannon, 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  
October 11, 2012  
Comments Provided in Writing**

*Veann Duvall, 110 Tazewell Avenue*

Those of us who are fighting to save our old school, basketball court and parking for the playground have a few questions for you.

Why are you so eager and so sure that you will be able to close on our school?

Did you know that we have two lawsuits on-going about it?

Are you so sure that you have done the right thing for our town that you are willing to run over the feelings of those who disagree with you?

That might come back to bite you. Perhaps it already has.

You know, and I know, and we all know, that there was no need to remove the entrance to the children's playground before closing on the contract. So why did you do it?

Did it make you happy?

Did it make you feel powerful?

I hope you will think about it as you realize that you are making Cape Charles into a town for old folks. We are not a town that welcomes and values children and youth. You had your little children's play area during the fall festival – only there were no children. Well guess what? There is a reason for that.

You are blind leaders, leading blindly. Your lack of respect for the citizens of this town is obvious in everything you do.

But some of us in this town value children and see value in an old building that you see only as a liability. You are the kind of people who pulled out the old hitching posts around town because they were an inconvenience. Now they are historical makers and treasures for those who still have one.

Do not be too sure that your blind leadership will prevail. You have made a lot of mistakes and sometimes mistakes have a way of catching up with you.